



**Third Session — Thirty-Second Legislature**  
of the  
**Legislative Assembly of Manitoba**

**STANDING COMMITTEE**  
on  
**STATUTORY REGULATIONS**  
and  
**ORDERS**

33 Elizabeth II

*Chairman*  
*Ms. Myrna Phillips*  
*Constituency of Wolseley*



MG-8646

**VOL. XXXII No. 1 - 8:00 p.m., THURSDAY, 21 JUNE, 1984.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Second Legislature**

**Members, Constituencies and Political Affiliation**

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

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS**

**Thursday, 21 June, 1984**

**TIME — 8:00 p.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Ms. Phillips (Wolseley)**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Evans, Penner, Plohman and Storie.

Messrs. Harper, Mercier, Nordman, Orchard, Phillips and Steen.

**WITNESSES:** Representations were made to the Committee as follows:

Bill (No. 4) The Blood Test Act; Loi sur les analyses du sang;

Mr. Sidney Green, Manitoba Progressive Party;

Mr. Harry Peters, Manitoba Association for Rights and Liberties

Bill (No. 9) An Act to amend The Liquor Control Act:

Mr. D. Perfumo, Executive Vice-President of the Manitoba Hotel Association.

Bill (No. 12) An Act to amend The Public Schools Act; Loi modifiant la loi sur les écoles publiques:

Dr. Linda Asper, the Manitoba Teachers' Society.

**MATTERS UNDER DISCUSSION:**

Bill (No. 4) The Blood Test Act; Loi sur les analyses du sang - amended;

Bill (No. 5) An Act to amend The Highway Traffic Act;

Bill (No. 9) An Act to amend The Liquor Control Act;

Bill (No. 10) An Act to amend The Family Maintenance Act - amended;

Bill (No. 12) An Act to amend The Public Schools Act; Loi modifiant la loi sur les écoles publiques.

\* \* \* \*

**MADAM CHAIRMAN:** I'll call the committee to order. We have a quorum.

Is it the will of the committee to hear the delegations on the bills first? Okay, I'll call Bill No. 4. The first one on the list is Mr. Sidney Green.

**BILL NO. 4 - THE BLOOD TEST ACT**

**MR. S. GREEN:** Madam Chairman, is that how I am mentioned on the list? Could you please indicate how I am designated on your list?

**MR. CHAIRMAN:** As the Manitoba Progressive Party.

**MR. S. GREEN:** Thank you very much. I take it that when somebody comes from the Manitoba Association of Rights and Liberties, they are so identified. When the Hotel Association comes, they are so identified.

**MADAM CHAIRMAN:** Thank you for reminding me.

**MR. S. GREEN:** It's the third time I have had to remind the Chairman, Madam Chairman.

Madam Chairman, this bill that we are dealing with is designed to replace The Blood Test Act which was assented to on July 29, 1980 in the Manitoba Legislature. At the time that bill was passed in 1980, I was sitting where you members were sitting, not where I'm talking from at the present time, but I did speak on that bill in 1980. I would urge honourable members to refer to the Hansard in which those remarks were made, because I believe that they are as valid today as when I made them.

At the time that I spoke on that bill, Madam Chairman, members of the committee, it came up for third reading, I believe it was, and was opposed by two members of the Legislative Assembly, as against something like 41. That's not so unusual; what is unusual is that the people opposing it were myself and the Honourable George Minaker who was a member of the government benches, not only a member of the government benches, but a member of the Treasury Branch.

I think that in the 16 years that I sat in the Legislature and, I think, since that time, there was no government measure that was opposed by a member of the Cabinet and still retained his position within the government; that's my recollection, if it was a government measure. There were free votes in which that occurred, but not when it was a government measure.

My disappointment at the time, and I suppose any politician becomes disappointed when not enough attention is paid to something which he or she considers to be important, my disappointment carried forward from that time to now because I felt that people, neither in the Chamber, nor outside of the Chamber, were paying attention to what was going on. I think that the same lack of interest that was present in 1980 is present in 1984. It's probably this lack of interest that is more frightening than the legislation itself.

Madam Chairman, there has been no attention paid to the second reading of this bill; there will be no attention paid to this committee's deliberations on the bill, because there is a Hydro meeting taking place at the same time. Apparently people have not learned that blood is thicker than water, and they are more interested in the water than in the blood. But I, Madam Chairman, happen to feel that this is the important

thing that is happening tonight, and I wish to register my objection to The Blood Test Act.

My problem is that if I succeeded in getting your attention to what I am saying, and you didn't pass the bill, we would be left with The Blood Test Act as it is now. Therefore I wish to supplement my remarks by saying that it's not simply enough to defeat this bill but one would have to repeal the existing Blood Test Act as well.

In 1980, Madam Chairman, and members of the committee, the Legislature said that where a duly qualified medical practitioner had reason to believe and probable grounds to believe that a person whom he is treating - and I'm not going to quote every word, I'll get into the substance of it - has at any time within the preceding two hours been driving or had care or control of a motor vehicle he may without compulsion as long as he exercises no compulsion take a sample of that person's blood, analyse it and tell somebody else about it.

I think that the essential difference in this new Blood Test Act is that it broadens the number of people who can do it. It says a "practitioner," and a practitioner means a duly qualified medical practitioner, registered nurse, or duly qualified laboratory technologist. Now I just want to indicate, Madam Chairman, just what this act permits before I go into the substance of it.

When I was going to be married I had to take a blood test. I believe that is still the law. It is no longer the law? It's changed. Well then, the change in the law probably felt that it was some infringement in requiring this. At that time my understanding was that it was designed to guard against communicating a venereal disease to another person. But if a person did have to take a blood test for any reason, and since he was doing it without compulsion and with the consent of the person who is getting it, for any reason, the person taking that test could send it to a policeman or a court. That's what this act said, test it for alcohol and send the test to a policeman or court; and the person who came to get the blood test need have no knowledge that that was going to be done, or that it was going to be sent to policeman or court.

I gather, Madam Chairman, and members of the committee, that the ostensible reason for this is that one has to crack down on drivers who have been driving motor vehicles after having consumed alcohol, and that doctors or other people who are listed as practitioners are now afraid - that's not a nice word - are now concerned about turning that material over to a policeman, and I think that is right, even though they know that the person had a high blood count and was driving a vehicle.

The doctors wish to have some immunity from the following set of circumstances. They get somebody in who is dead drunk who they know has been driving. They take a blood test even while that person is undergoing an operation or unconscious, and they see a blood count of well over the acceptable limit - three or four times the acceptable limit - and they would like to give it to a policeman and they can't, and this legislation is designed to permit them to do so.

Well, Madam Chairman, the motivation for that kind of infringement on a person's body may be a very highly honourable one. It could be comparable to somebody knowing that there are drugs in a place and that the

drugs are a scandal and that if he could break the window, get in and take those drugs out, he could prove that there were drugs there; but the law says that in our society we do not let people break into a house without a warrant, but we let them break into your body without your consent.

Now there are reasons, Madam Chairman, for the restrictions that we impose in terms of getting evidence for the conviction for criminal offences and I am not trying to prevent the police from having means of evidence available. I strongly object to the province, which is not the vehicle by which the Criminal Code is enforced - it is enforced by using the administrative agencies of the province but not the legislation of the province - I strongly object to the province moving into that field and moving into it in a way which is dealing with that most vital element of our lives, namely, our bodies and our blood. It is possible, Madam Chairman, that by virtue of not having this act, some guilty person, a person who had been driving while drunk, would not be convicted because the evidence was not available, but we have a saying in the annals of criminal law that, better a hundred guilty people should go free rather than one innocent person should be convicted.

What we are saying is that we are going to make every human being in the province who happens to have been driving to their doctor's office, many having nothing to do, for a checkup. The doctor doesn't have to believe that person was driving a vehicle while drunk. He doesn't have to have the breathalyzer test.

When the breathalyzer first came in, there was considerable dispute as to whether or not this was an infringement of the rights of the individual not to be imposed upon by the state.

There was lots of debate on the question and they finally came up with a compromise and they said that there is no assault on the individual. All you are doing is getting him to breathe into something - actually you have to blow but they said breathe - and you only do it where a peace officer on reasonable and probable grounds, believes that a person is committing, or at any time within the preceding two hours, has committed an offence under 234 - that's a drinking offence.

That's not what this act says. This act says the doctor doesn't have to believe that he was committing an offence to take his blood. It says, where a practitioner, and that includes a registered nurse or laboratory technologist, under any circumstances of the treatment - it has nothing to do with whether he was injured, could have come in for a yearly checkup. If the doctor or the laboratory technician believes that he came there by automobile, not that he was driving while drunk, he can trick the person - in most cases a trick is not required - into yielding a blood test because it says, "without the consent of the person" or "where that consent cannot reasonably be obtained and without using compulsion" which means, if I ask for it, he won't give it to me, therefore I won't ask for it; but while he is lying there I will do it quickly. I will not compel him or if he is unconscious, I will take it.

The practitioner is not bound by the same provision that appears in the Criminal Code. He doesn't have to believe on reasonable and probable grounds that the person was committing an offence within the last two hours, he merely has to believe that that person was driving.

Now I know what's intended, Madam Chairman. What is intended is that, if the person comes in and he's stinking drunk and the doctor believes he was driving a vehicle, the doctor will be able to take a blood test and give it to a policeman. But that's not what the act says, not that it would make it any more acceptable in my mind if that's what it did say, because by this legislation it could be standard procedure for everybody who takes a blood test to have that blood test sent to a police officer and that we have a category of blood tests taken from people for whatever reason, because it doesn't say what the reason says. It just says that you have a test showing whether there was alcohol or drugs.

Now the police have fingerprints which you can't take unless the person is charged with a criminal offence. They also have a blood category where they take the test and file it away, so that some day they know what blood you have for whatever reason. That's what they take fingerprints for. They can only take fingerprints if they charge you with an indictable offence. Then some of them are now so civilized as to say that if you're not convicted, we'll tear them up and give them back to you. Although there is no law to that effect as of yet, I'm hoping that there will be such a law. In this particular case, that is not what the act says.

Now it's not simply, Madam Chairman, what it says, but it's the apathy with which it is looked upon that leads to much worse things. I will read you in this regard - once you say that you can take my blood without my consent and send it to a policeman, where does it stop? You know, hair is sometimes very very important in evidence. Will we say that barbers can take your hair and send it to a policeman?

The fact is that this may be done. A doctor may do it. I have been in court on numerous occasions where hospitals were subpoenaed, came in and gave evidence about blood. It is now subpoenaable. It is not privileged, and it can be obtained if there is a prosecution, but we're not talking about that. We're talking about it as a standard procedure available to give the test. I say, where does it stop?

It stopped in 1980 with a practitioner being a duly qualified medical practitioner. It is now a duly qualified medical practitioner, a registered nurse, or a duly qualified laboratory technologist and, interestingly enough, any employee who helped them. Because you can do it without compulsion, so presumably if the person doesn't know he is compelled to do it, people could be holding him while the test is being taken. These people are now included as people who cannot be saved.

Now, what is sought to be protected by this legislation? A doctor now takes a blood test. He knows what the blood count of his patient was. He feels impelled - although I don't know why he should be but nevertheless it may be a perfectly decent motivation - that that man has killed somebody on the highway; that he's in there stinking drunk; that there might not be evidence of the drunken driving; he is going to give that to a policeman. Madam Chairman, I say that may be a perfectly decent way of acting. He is now worried that he will be sued by the patient. Has it happened? I don't know that the patient would get very far with that kind of lawsuit. He doesn't wish to give that to a court. There is no privilege attached to the doctor if

the Crown subpoenas him and he comes to court. So, what is being protected here?

In the improbable hope that you are protecting that particular case you are invading the very life blood of human beings in our society. If you can do that it doesn't stop there, it goes on. Madam Chairman, regardless of what has been said here about bills of rights and charters, and the fact is that it's view that this would be struck down, but I want to strike it down, not by a court case, I want to strike it down by the will of people to see that it is wrong.

I have here an article that appeared, I believe it's in yesterday's Globe or the day before. The Ontario Medical Association now wishes that legislation be enacted - I'm not reading, I'm paraphrasing. I'll read the headline: "Require that riders of bicycles, tricycles wear helmets - Doctors." It started off with motorcycles, you have to wear a helmet; now it's bicycles, you have to wear a helmet; and tricycles you have to wear a helmet.

It should be illegal to ride a bicycle or even tricycle without wearing a helmet, the Ontario Medical Association have decided. They were the principle movers behind the helmet acts through the country, and they are the principle movers behind this bill. I am indicating to you, Madam Chairman, that what is being interfered with in this case, is far more important than what is ostensibly being protected.

I have a quote out of an American constitutional book, a documentary history of the Supreme Court, and the decisions that came before it on the Constitution. There is some very interesting reading in it on how the Constitution has been more effective in stopping good things than preventing bad ones, but that's not the point that I wish to make here. I want to indicate what happened in a particular case in order to get evidence.

For a dozen years the court operated under the Wolfe rule but the rule did not yield easy answers in all situations. In *Rochan versus California*, the courts reviewed a California State conviction for possession of narcotics. Three deputy sheriffs, having no warrant, entered Antonio Rochan's home and forced their way into his bedroom. Rochan put two capsules in his mouth. The deputies grabbed Rochan and tried unsuccessfully to prevent him from swallowing. They then rushed him to a hospital where a doctor administered a stomach pump, forced Rochan to vomit up the crucial and highly trustworthy evidence.

The court said, "We are compelled to conclude that the proceedings by which this conviction was obtained do more than offend some fastidious squeamishness or private sentimentalism about combating crime too energetically. This is conduct that shocks the conscience, illegally breaking into the privacy of a petitioner, the struggle to open his mouth and remove what was there, the forceable extraction of his stomach's contents. This course of proceedings by agents of government to obtain evidence is bound to offend even hardened sensibilities. They are methods too close to the rack and the screw to permit of constitutional differentiation."

Madam Chairman, I suggest to you that it offends the liberties of our society that we are permitting certain people to offend the bodies of citizens of our society without their consent and removing their blood, because that's what we are doing. The words say "without consent, if the consent cannot reasonably be attained

and without using compulsion." It can be done if it's voluntarily given. They can send it to a policeman and I know that the doctors are only interested in sending it to a policeman if it contains a high alcohol content, but that's not what it says. It says you can take a sample and send it to a policeman or send it to a court.

I say, Madam Chairman, and members of this committee, that as a citizen of the Province of Manitoba I wish to go to my doctor or to my laboratory test with the knowledge that what they take from me they take with my consent and they don't give it to anybody else. They keep it for themselves and for my treatment and if they do give it to somebody else, then the action that I have is trespass - if I've got one - will do me very little good if they show that they did it because I had a tremendous alcohol content and they were worried about protecting others.

I doubt that I could recover more than the sum of \$1.00. I doubt that I'd get a dollar. I don't know where there are cases where doctors have been sued if they pass such information on to a policeman. I think they will say at the present time that they don't unless they're subpoenaed, and if they're subpoenaed, there's no privilege and this act is unnecessary.

So I would urge, Madam Chairman, on the same basis as I did in 1980 and I urge the members tonight on that very same basis, not to pass this bill and take out what you've already got.

Thank you.

**MADAM CHAIRMAN:** Thank you. Are there any questions for Mr. Green?

Thank you, Mr. Green.

The next delegate is Mr. Harry Peters, Manitoba Association of Rights and Liberties.

**MR. H. PETERS:** Yes, Madam Chairman, committee members. I don't think I could be as eloquent as Mr. Green in his objections to The Blood Test Act, but if I could, I would.

On behalf of the Manitoba Association of Rights and Liberties, we object not only to the proposed amendments but to the bill itself. I have prepared, and it appears that it's now being distributed, a four-page brief on this issue. I won't go through it because I believe Mr. Green has made most of the points that we at the Manitoba Association of Rights and Liberties wish to make about this act.

Besides believing that it is an infringement on a person's civil liberties, the rights of privacy, the security of the person, etc., we also believe that it is an ineffective deterrent to the problem it most clearly attempts to address, that is, protecting the public from drunk drivers.

Basically, impaired drivers or drunk drivers are irrational people, and as Mr. Green has made the point and I wish to reiterate it, there are not very many cases where such evidence is going to result in a conviction in the first place. So there is only a very minimal increment in the likelihood that such evidence will bring about a conviction, and failure to have such evidence will result in a failure to get a conviction, since drunks are irrational people, it's hard to believe that they would take into account the effects of The Blood Test Act in deciding whether to drive or not.

For that reason, we don't see the proper balance being established by this legislation, that balance being the rights of individuals, the civil liberties of Canadians and the rights of the public. We don't see the deterrent effect of the act being of any great or large quantity for that reason.

I would also like to make another point. It seems that the breathalyzer itself, which has resulted in hundreds of thousands of convictions, still has not addressed the problem. People still drive when they are drunk. We suggest that the government should take steps in the area of public education. We already have fairly strict laws respecting impaired driving, but there are a lot of people who don't realize the effects of a driving while impaired conviction. A lot of people don't realize you lose your licence automatically. We submit that one thing the government should be doing instead of passing this type of legislation, is broadcasting, advertising the effects of criminal convictions for driving while impaired.

We also feel that policing methods should be changed. We give as one example that if the police want to effectively deter drunk driving, they should stay outside bars at closing time. You might really find this offensive but, believe me, that would lead to a lot more convictions than even the present ALERT system. I understand that it's not public policy in the City of Winnipeg to do this but apparently it's done quite frequently in small towns. I think drunk drivers are lucky in Winnipeg; I don't think they should get that break.

Another thing that the government could do is to encourage the development of neighbourhood bars without huge parking lots as is so common today. Every pub has a huge parking lot for the convenience of its patrons. Usually a motel is associated with the parking lot and that's the rationale for having the parking lot. But on most days the motel goes empty but the bar is filled and when 1:30 comes, everybody goes home in their cars.

So it is a suggestion of MARL that the bill is perhaps wrong-headed and what should be done is the government spend its time and money on education rather than increasing infringements on civil liberties.

Thank you, Madam Chairman.

**MADAM CHAIRMAN:** The Attorney-General.

**HON. R. PENNER:** Yes, I have a couple of questions. I have had the advantage of reading MARL's brief earlier today and hence, in a sense, I am able to ask a couple of questions that have occurred to me and have concerned me.

With respect to the statement - and it's a very sweeping and generalized statement that seems to suggest that all persons who drive while impaired are irrational - how does that, in your view, square with the notion that you are going to teach these irrational people to be rational?

I couldn't quite mesh those two statements. On the one hand, you are saying all people who drive while impaired are irrational, but the way to go about dealing with the problem is by education.

**MR. H. PETERS:** Well, hopefully, the educational effect will be to prevent them from getting drunk in the first

place. I think it's the fact that you are drunk that makes you irrational. If the message is delivered while one is sober, perhaps one will be less inclined to become intoxicated, or confine his intoxicated moments to drinking establishments close to home where he can walk. That's the point. By the time a person leaves a bar and picks up his keys after drinking all night, that person is not rational. You've got to get to him long before that.

**HON. R. PENNER:** So I am not wrong then in understanding that what you are now saying is that it's only when they are drunk that they are irrational, but before that they may be rational and may not.

**MR. H. PETERS:** Yes.

**HON. R. PENNER:** A second question: Could you just refresh my memory, Mr. Peters, on MARL's stand with respect to the ALERT program?

**MR. H. PETERS:** Yes, insofar as the ALERT program is concerned, MARL has taken the position in opposition to the ALERT program.

**HON. R. PENNER:** Thank you. Then could you explain to me - and this will be my last question - on Page 3 of the brief, MARL says, "By waiting outside the bars at closing time and checking those who appear impaired and attempt to drive, the police could create a much more effective deterrence."

How is it proposed that the police should check these people who haven't yet committed an offence, and how is this more civil libertarian than the ALERT program?

**MR. H. PETERS:** I believe the brief says that they appeared impaired.

**HON. R. PENNER:** Yes.

**MR. H. PETERS:** Now, there is no such distinction made in the ALERT program. You get in a line when a police officer tells you to, you wait until they come with their ALERT machines and you blow into it. It doesn't matter whether or not you appear impaired.

**HON. R. PENNER:** Okay, I'll make that assumption with you. A policeman is waiting out there and checking everybody who goes by who has come out of the beverage room and, to the policeperson's subjective view, someone appears impaired and attempts to drive. Now what does the policeperson do?

**MR. H. PETERS:** Well, I am not an expert in police procedure, but I believe he is entitled to stop the person as soon as the person is behind the wheel; I suppose pull him over, turn on the red lights.

**HON. R. PENNER:** Thank you.

**MADAM CHAIRMAN:** Any further questions? Thank you, Mr. Peters.

**MR. H. PETERS:** Thank you and good day.

**MADAM CHAIRMAN:** Dr. Henry Dirks, Manitoba Medical Association. Are there any other delegations that wish to speak to this bill?

Then we move on to Bill No. 5.

Ms. Sybil Shack, Manitoba Association of Rights and Liberties. Is there anyone else who would like to make a presentation on Bill No. 5?

Bill No. 8 . . .

## BILL NO. 8 - THE SECURITIES ACT

**HON. R. PENNER:** Madam Chairperson. On Bill No. 8, I wonder if I could have the indulgence of the committee. Mr. John Thresher of Acres has spoken to me, and they had planned a meeting. I think the members of the Manitoba Bar who are interested in securities law planned a meeting tomorrow to consider the legislation and would like an opportunity to present their brief when this committee next meets. I would ask that indulgence be given.

**MADAM CHAIRMAN:** Mr. Penner, did you speak to Mr. Dooley as well?

**HON. R. PENNER:** Yes.

**MADAM CHAIRMAN:** Did Mr. Dooley wish to speak to this bill?

Mr. Tom Dooley, Equion Securities.

Mr. John Thresher.

**MR. J. THRESHER:** Madam Chairman, members of the committee, I am John Thresher from Acres. I did, in fact, ask Mr. Penner's indulgence previously for an adjournment. I wonder if I might just have five minutes on my brief. I would still like the adjournment, but I would like to make just the point of my brief.

**MADAM CHAIRMAN:** Is that okay, or do you want to hold it until Monday?

**HON. R. PENNER:** I think it should be held. If it's going to be held, it should be held.

**MADAM CHAIRMAN:** We'll come back to this one on Monday then? The committee would rather hold the bill until Monday.

**MR. J. THRESHER:** If that's the committee's wish, then I will abide by that but I am quite prepared just to explain for five minutes why it's perhaps appropriate to hear the start of my brief.

**MADAM CHAIRMAN:** We'll move on to the next bill then, and hold Bill No. 8 until Monday.

**MR. W. STEEN:** Madam Chairman, there may be others with us tonight who can't be with us on another occasion. Perhaps we should ask if there are any persons present that would wish to speak on that bill.

**MADAM CHAIRMAN:** Is Mr. Tom Dooley here?

**MR. T. DOOLEY:** Madam Chairman, yes, and I am content with the motion by the Attorney-General to

leave everything until Monday and deal with the whole issue at that time.

**MADAM CHAIRMAN:** All right, fine. Is there anyone else who would wish to speak on Bill No. 8 tonight, or would they be willing to come back on Monday?

**MR. T. DOOLEY:** Madam Chairman, I would state that Mr. Sandy Riley, who is the Chairman of the Manitoba Bar Sub-section for Securities Law, indicated to me that he was unable to make tonight's meeting. If there were an adjournment, he would most certainly like to address the committee when it meets again. So if he could be kept on the list, he would appreciate it.

**MADAM CHAIRMAN:** Fine, perhaps you could give his name to the Clerk. We'll refer Bill No. 8 to the meeting Monday night at 8:00 o'clock.

### BILL 9 - THE LIQUOR CONTROL ACT

**MADAM CHAIRMAN:** On Bill No. 9, I have Ms. Sybil Shack again, Manitoba Association of Rights and Liberties; and Mr. D. Perfumo, Executive Vice-President of the Manitoba Hotel Association.

Mr. Perfumo.

**MR. D. PERFUMO:** Thank you, Madam Chairman. First of all, I would like to apologize for the salutation or the heading on our brief. It says, "Mr. Chairman." Our apologies.

**MADAM CHAIRMAN:** I'm getting quite used to that, Mr. Perfumo.

**MR. D. PERFUMO:** Thank you for the opportunity to speak to Bill No. 9. We had indicated to the Attorney-General that we had some reservations about the bill, and we intended to lay them out in this brief that you have before you.

On the surface, Bill No. 9 appears, to all intents and purposes, to be a very simple housekeeping bill and in some respects it is.

However, upon closer scrutiny it becomes very apparent that some of the proposed amendments are in direct conflict, and here we emphasize "direct conflict," with the entrenched position of this administration in dealing with other proposed changes to the act such as the elimination of a supper hour closing in beverage rooms.

Firstly, let us take the proposed amendment to Section 161, dealing with the extension of hours in some licensed premises. The amendment proposes that the Commission be granted the authority under certain conditions and for certain specific reasons to extend, without limitation, the hours in which liquor may be sold.

If we interpret the amendment correctly, the Commission could extend these hours at any time during the day, that is to say, prior to regular opening hours and beyond the regular closing hours. What about the time in-between?

More specifically, there is a class of licence - i.e. beverage rooms, which must close between the hours of 6:30 and 7:30 p.m. Will the Commission, under this

proposed amendment, be granted the authority to also extend the hours during that period if it deems it advisable to do so, or will discrimination between classes of people be legislated even further?

The way we see it, the amendment says it's okay to continue with the sale of alcoholic beverages under certain circumstances at any time during the day or night, but absolutely not between the hours of 6:30 and 7:30 in a certain class of licence or, probably more appropriately put, Madam Chairman, to a certain class of people. It's somewhat difficult to understand.

It is also proposed to repeal the present Subsection 163(1), and to substitute therefor a new Section 163(1) which again would give the Commission absolute discretion in prescribing the food-liquor ratio in dining rooms and cocktail lounges. With such a section in the act, the service of meals in these licensed premises will be incidental to the service of liquor and not the main source of revenue derived from that operation, a complete reverse of the present section and in direct conflict and inconsistent with the reasoning given in opposition to eliminating the supper hour closing in beverage rooms.

We see absolutely no need to change the present 50-50 food-liquor ratio. It has worked very well since it was instituted on the recommendation of the Bracken Commission. Furthermore, we are given to understand that only 34 licensed premises out of 1,209 - 34 out of 1,209 - affected by this 50-50 ratio are experiencing a problem meeting this requirement, and most of them very marginally.

We would strongly suspect that the licensees which find it the most difficult to live with this 50-50 ratio are those that operate the newly-established wine bars, which sell high-priced, imported wines while offering minimal food menus. Perhaps a reassessment on their part in their selection of more domestic and less imported wines would probably solve their problem.

We therefore ask, why change the legislation to accommodate 34 out of 1,209, but absolutely refuse to accommodate 296 operations out of 336 licensed hotels in the province? The rationale escapes us.

On a more positive note, Madam Chairman and members of this committee, we wish to state that, if approved, these changes will create even greater competition for our members but if this competition is governed by the same ground rules that apply to them, it will in the end better service the public and true progress will certainly have been achieved.

Some of the citizens of Manitoba do not presently have the same privileges by virtue of the fact that certain types of services during certain times of day are not available to them because of distance and high cost.

From the point of view of service, we believe that the law should be such that as reasonable and as liberal a service should be available to the greatest number of people as possible. Reasonable drinking conditions which have applied to members of clubs, Legions, and to the limited patronage of cocktail lounges should be available to everyone whether they are patrons of beverage rooms in the cities or in the country.

It can be said that the concept of the Bracken Liquor Inquiry, which served to formulate and guide our present liquor act, has certainly brought us a long way from the days of the male only beer drinking establishments.

As times change so do people, therefore, so must we change, certainly not for change sake alone, but

to keep abreast of society and the economy by affording the citizens of Manitoba in all walks of life the opportunity to avail themselves of all the services wherever they may be, rural or urban.

It has been recognized by governments in most provinces of Canada that without a healthy hotel economy it would be a waste of time and money to entice tourists to a province wherein there were not comfortable accommodation and adequate services at a reasonable price. Diversification, maximum use of space available and competitive service in our licensed beverage rooms would certainly eliminate the aforementioned discrepancies in service to some of our own Manitoba residents and ensure that the hotel industry remains relatively economically stable and, in so doing, assure the travelling public of quality and price.

Therefore, Madam Chairman and members of the Committee, we suggest to you that you be consistent when considering amendments to the act. It appears to us that the aforementioned amendments are introduced to accommodate the needs of a very few at the ultimate expense of many. We firmly and seriously believe that. We suggest that at this moment you have the opportunity to prove that indeed you are aware of and concerned of the total industry and not only about a small minority, which it appears is what we're dealing with here.

We further suggest that you have two alternatives. Either you defeat the proposed amendments dealing with hours of operation and the food/liquor ratios; or avail yourselves of this opportunity to further amend the act by giving the Commission the discretion, under the proposed amendment to Section 161(4.2) to institute consistency and fairness by allowing the flexibility to beverage room licensees in remaining open between the hours of 6:30 - 7:30 for those that so desire.

In other words, we are asking you, let's step into the 20th Century like the rest of Canada has.

We thank you for the opportunity of presenting our views and welcome any questions which may be deemed necessary.

Thank you.

**MADAM CHAIRMAN:** Questions for Mr. Perfumo?  
Mr. Penner.

**HON. R. PENNER:** I have a couple of questions to Mr. Perfumo. Your brief in dealing with the discretionary extension of hours failed to note that this is only with respect to certain events of a provincial or national significance - big sporting events or big Ukrainian folk festivals, things of that kind. Are you not aware that's what this amendment is pinned to?

**MR. D. PERFUMO:** Madam Chairman, yes, I believe we say "under certain conditions and for certain specific reasons" without spelling out what's actually in the act. We recognize that it's for specific events, maybe the word should have been "events" instead of "reasons." We apologize.

**HON. R. PENNER:** Thank you. My only other question is this. With respect to the ratio, the food/liquor ratio, you've indicated some concern about that, although it

seemed to be tied more to a question of equity than with the amendment itself. Just taking the amendment itself and recognizing that one doesn't want that ratio to disappear entirely, or control on the ratio to disappear entirely.

I'm advised by the Chief Executive Officer of the Commission and the Commission that what they're really looking at is a 60/40 ratio. If that were put right into the statute, would that change your view of the amendment? That is, would you find the amendment more supportable if it actually put the proposed limit of a maximum 60/40 ratio?

**MR. D. PERFUMO:** In the statute, not in policy, not in regulation, but in the act?

**HON. R. PENNER:** Yes.

**MR. D. PERFUMO:** We are of the opinion, Madam Chairman, to you, Mr. Penner, that this would be much more acceptable. Yes, we have discussed that with Mr. Emerson. Nevertheless, we still subscribe to the theory that if there are only 34 licensed establishments that find it a problem, if indeed that is correct, is it that necessary to make that drastic a change? That's the question we ask.

To single out a whole industry to accommodate a few seems to us, where other areas we are not prepared to make any moves, it seems to us inconsistent but, nevertheless, should it be deemed in consultation with the Commission and this Committee, or whatever the mechanics are, we really don't know, that the change in the 50/50 ratio is required at this time for the betterment of the total industry - now we emphasize this - for the betterment of the total industry. If it's only for 34, we would have to stand opposed to it, but if it's for the betterment of the industry, and if they're so marginal, then why 60/40? Why not 30/70, 45/55, whatever the case may be?

In direct response to your question, it would be much more acceptable were it entrenched in the act, in the statutes, and not in regulation or policy.

Thank you.

**MADAM CHAIRMAN:** Any further questions?  
Thank you, Mr. Perfumo.

**MR. D. PERFUMO:** Thank you very much, Madam Chairman.

**MADAM CHAIRMAN:** Is there anyone else in the public that would like to make a presentation on Bill No. 9?  
Okay, we'll move on to Bill No. 12.  
Dr. Linda Asper, the Manitoba Teachers' Society.

## **BILL NO. 12 - THE PUBLIC SCHOOLS ACT**

**DR. L. ASPER:** Thank you, Madam Chairperson, Committee members. Bon soir.

It's encouraging to see that on the longest day of the year I'm coming up at 9 o'clock. I've had other experiences with many of you around the table at 3 in the morning this year. I think you're being rather considerate in the last two weeks of my term of office as President of the Manitoba Teachers' Society and I thank you.

It's my pleasure this evening to present the position of our organization in relation to Bill 12, An Act to amend The Public Schools Act. We welcome the opportunity as an organization to comment on the provisions of Bill 12. It encompasses in our reading of it, two distinct initiatives, namely, the public disclosure of budgetary statements by school boards; and secondly, the level of provincial financial support for elementary-secondary education during 1984.

It is my intention then to respond to each of these initiatives. We are dealing with them separately since we believe they are two separate items.

The first area then, the public disclosure of budgetary statements. The Manitoba Teachers' Society has urged for many years that school boards in Manitoba be required to make public their annual budgetary estimates of revenue and expenditure. The Canadian system of government requires the budgetary estimates of the Federal Government as well as those of the provincial governments to be released for public scrutiny and public comment as each fiscal year opens. Provincial governments have statutory requirements for the local levels of governments operating within their jurisdiction to make annual budgetary estimates available as public information. The availability, in our opinion, of such information distinguishes open and democratic forms of government accountable to its citizens.

Prior to the introduction of Bill 12 this year, Manitoba school boards have not been required by The Public Schools Act to ensure public access to information in the form of the annual budgetary statements of revenue and expenditure pertaining to the delivery of educational services. The community has found that obtaining information from most school boards indicating revenue and expenditure patterns for public schools has been very difficult, indeed, it has often been impossible.

The Manitoba Teachers' Society upholds the principle that education is an essential public service. Parents and the community at large are entitled to have access to information describing the allocation of funds raised through public taxation for the support of educational programs. Open access to annual budgetary statements describing the funding of educational programs by school boards is vital to the involvement of an informed community in education decision-making. The involvement of a well-informed community in decisions about the delivery of educational services can act to ensure the provision of educational services of high quality.

The Manitoba Teachers' Society endorses the amendments advanced by Bill 12, to Sections 41, Clause 1(e) of The Public Schools Act which direct school division administrators to make annual budgetary statements in their final form as well as the audited financial statements, these available for examination and inspection by any Manitoba citizen.

Our organization welcomes the requirements for this financial information to be released in the form in which it is submitted to the Public Schools Finance Board. Past experience with the limited release of financial information by certain school boards, in response to requests from the community, have indicated a preference on the part of school boards to offer only very wide and general categories of financial accounts. Such vague information has not been useful.

The amendment of Section 41, Clause 1(e), as proposed by Bill 12 will serve to enhance the public accountability of school division administrations.

The Manitoba Teachers' Society supports the requirement for the budgetary statements of the preceding five fiscal years to be available within the offices of school division administrations for public examination. The Society equally supports the requirement for members of the public to be permitted to extract information from the budgetary statements and from the audited statements and to make copies of this information at their own expense. This may be questioned by some people in terms of why the five fiscal years; it is our position that in such a way community at large individuals are able to detect trends, patterns in terms of development; it will enhance long-term planning in terms of educational programs.

It is the hope of the Society that on the enactment of these amendments the Government of Manitoba will notify all school trustees and school division administrators, of their responsibility under the terms of The Public Schools Act to provide budgetary statements for public examination. It will be necessary, in our opinion, for the secretary-treasurer of each school board to be made well aware of this new obligation.

The Society accepts the condition that information related directly to individual employees or to current negotiations in respect to employee salaries and benefits not be subject to disclosure. However, the Society is concerned that some school division administrations might attempt to invoke this stipulation to withhold budget information which it was not the intention of this statutory reference to withhold. The Society would expect the Government of Manitoba to notify school division administration exactly which sections of the FRAME reporting documentation submitted to the Public Schools Finance Board are exempt from disclosure.

The Society understands the final budgets specified in Bill 12 amendments to be that statement of estimated revenue and expenditure determined by each school board between March 1 and March 15 of each fiscal year as directed by Section 186(1) and Section 187 of The Public Schools Act. The Society strongly recommends that a precise definition of the intended meaning of the term "final budget" be added to Section 171, Subsection 1 of The Public Schools Act to provide a reference point, and to avoid misunderstanding and possibly a flurry of court cases.

The Manitoba Teachers' Society would have welcomed the amendment of The Public Schools Act not only to induce a larger measure of public accountability in relation to the budgetary statements, but also to facilitate public planning in relation to the preparation of estimates of revenue and expenditure for public schools. The initial annual budgetary statements are completed by school boards in January as each fiscal year opens for submission to the Public Schools Finance Board on or before February 1st, as mandated by Section 178 of The Public Schools Act.

The public disclosure of these initial budgetary estimates would provide an opportunity for parents and the local community to review the financial plans of the school board for the current year and to comment on these plans. The decision-making process leading to the final allocation of funds for educational programs

would become more open for community input. I must add that we find it rather surprising, given the government's emphasis on community involvement, that this additional step has not been taken in the proposed bill.

The proposed amendment in Bill 12, while a considerable improvement over present circumstances will provide parents and the community at large with evidence of final decisions. The public will be given access to financial information describing a fait accompli for the current fiscal year. The budgetary time frame will not provide an opportunity for informed public discussion about the assignment of education dollars to be made during the current fiscal year.

Therefore, in addition to the proposed amendments to Section 41, Clause 1(e) of The Public Schools Act, the Manitoba Teachers' Society urges this legislative committee to clarify the terms of Bill 12 to require each school board to make public the annual budgetary statement which it submits to the Public Schools Finance Board on or before February 1, as specified by Section 178 of The Public Schools Act of Manitoba. That then, is our position in relation to the first area in the bill.

The second initiative which we see as a separate one, in our opinion, is entirely unnecessary at this time, it deals with the calculation of provincial financial support. The amending of provisions of Bill 12, relative to Sections 172 and 180 of The Public School Act, seek to alter the expenditure formulas placed in The Public Schools Act by Bill 56 of 1981.

For those of you who may recall this bill was introduced by the Honourable Keith Cosens and the formulas in Bill 56 determine the annual total value of expenditure on elementary-secondary education by the Government of Manitoba, as well as the annual value of the provincial allocation to each school division and school district. The formulas in Bill 56 have provided for the indexation of provincial financial support through the use of the annual rate of inflation as a computational factor in the formula.

Our question is why are we tinkering with this in Bill 12? The inflationary factor would require the Government of Manitoba to increase its support to public schools by 5 percent in 1984, an amount of approximately - and I stress approximately - \$24 million. Through Bill 12, the Provincial Government is seeking to abandon the very positive initiative of the Education Support Program to protect educational expenditure from erosion by inflation.

By removing the existing requirements in Section 172 and Section 180 of The Public Schools Act, the calculation of provincial financial support for the fiscal year will ignore the rate of inflation and the erosion of the actual purchasing power of the education dollars being allocated by the Provincial Government. The erosion by inflation of the true value of provincial financial support for elementary-secondary education was the reason for the demise of the education finance system known as the Foundation Program during the 1970s.

The proposed amendments of Bill 12 in this area seek to increase provincial financial support for Manitoba public schools in 1984, not by 5 percent, as would be the case if no amendment of The Public Schools Act were to occur, but by 3 percent, an amount

of approximately \$17 million in current dollars. In constant dollars, reflecting actual purchasing power relative to 1981, the proposed increase amounts to a little more than \$13 million, by our calculations.

While we fully realize the economic conditions which the Provincial Treasury faced in 1982 and '83 - and we have been reminded of that over the past year in terms of our salary negotiations - the Manitoba Teachers' Society does not believe that the essential provision of educational services to young Manitobans should be impaired by restrictive levels of provincial financial support. The Manitoba Teachers' Society does believe that one of the foremost obligations of the Government of Manitoba is to ensure that quality and appropriate educational services are available to all students throughout the province. It has been my experience this year, in visiting approximately 150 schools in this province, that there is an inequality in the services. The social and economic costs of providing less than appropriate levels of educational services to the young people of our province will be high in future years. Added amounts of provincial financial support are urgently required by public schools.

For example, the Manitoba Department of Education called for applications from school divisions in March of this year for provincial funding of compensatory education, programs designed to meet the particular learning conditions of students from disadvantaged socio-economic and cultural backgrounds. The society is aware that the requests received by the Department of Education from school boards for provincial financial support of compensatory programs totalled \$12 million.

In response to those demonstrated needs, the Government of Manitoba appropriated a fraction of the support necessary, only \$2 million. The balance of these compensatory needs will go unaddressed for lack of provincial dollars. The \$7 million that we're talking about in provincial financial support which Bill 12 seeks to hold back from allocation to Manitoba public schools in 1984 could be put to excellent use in funding the compensatory education needs of the disadvantaged students which have been identified by some public schools and as reflected in the submissions that have been made this year.

I would like to stress that term, "the disadvantaged student," because in standing here in front of you tonight I am not talking about teachers' salaries. I'm talking about the children that are in our schools, whether it be in some of our inner city schools, our Northern schools, some of our rural schools, who are going to suffer from the lack of this availability of the \$7 million. We have such issues as migrancy, unemployment, which is affecting the education of these children. We have the need for special programs in some of the areas due to such factors as unemployment. So we're not asking, I think in this case, as an organization, for special treatment; we're asking for things to be left as they are in relation to the second area of Bill 12.

We have been witness to the funding for the Health Services, the Day Care Services being at the 6 percent level this year as a result of a decision made. What we are asking for here, in terms of education, is to leave that aspect of the legislation alone at the 5 percent level for 1984. We are currently in the midst of an Educational Finance Review with Dr. Nicholls and we

expect to have some developments as a result of that for the future. Let us leave 1984 as it is with the 5 percent level of funding.

Our organization urges you then, as a committee, not to adopt the proposed amendments to Section 172 and Section 180 of The Public Schools Act. We do however support the amendment to the area related to public disclosure of the school board budgets.

I'd like to thank you then for your attention and consideration of our views.

**MADAM CHAIRMAN:** Are there any questions for Dr. Asper?

The Minister of Education.

**HON. M. HEMPHILL:** I just had one or two questions, Dr. Asper. I certainly don't have any trouble understanding that education would have liked to have received 5 percent, or any group that's being funded would like to have received a higher percentage than they did. But in relation to your comments about the lack of giving 5 percent and relating it to the compensatory program, particularly, which you seem to be doing, I'm wondering if you know of any other provinces or very many other provinces in the country that even recognize socio-economic factors, such as the ones you described, migrancy, unemployment, low education of parents, even recognize them in funding formula and allow schools to have special programs. In other words, I guess the point I am making is that this . . .

**A MEMBER:** Question.

**HON. M. HEMPHILL:** Okay, question.

My question is, do you know of anybody else, any other Department of Education or government that gives any funds at all to deal with these issues in the public school system?

**DR. L. ASPER:** I am trying in my mind to go across the country, and certainly some of the provinces are facing severe difficulties in terms of educational funding. I like to think, however, because I live in Manitoba that we have a more enlightened approach and greater recognition of these areas. Offhand, I cannot think of an example to give you that comes to mind.

**HON. M. HEMPHILL:** I guess my question is, is it fair to say that the Province of Manitoba may be the only province in the country that recognizes this is a need and gives a grant for a program in the schools for high-risk disadvantaged kids through the compensatory program?

**DR. L. ASPER:** I have been informed by Glen . . . , our research analyst, who does a lot of the work in this area, that in terms of his information Alberta does provide some compensatory funding for the disadvantaged, but that would appear to be the only case that he is aware of.

**HON. M. HEMPHILL:** Yes, we are very unique then in even providing funds and recognizing this is a need for the school system.

**MADAM CHAIRMAN:** Ms. Hemphill, was that a question?

**HON. M. HEMPHILL:** No, it was a statement, Madam Chairman, I withdraw it.

**MADAM CHAIRMAN:** Mr. Manness.

**MR. C. MANNES:** Thank you, Madam Chairman. I would like to ask Dr. Asper a couple of questions under the Disclosure of Budgetary Statements section of her brief. Specifically on the top paragraph, Page 2, Dr. Asper you make the statement that "the community has found that obtaining information from most school boards indicating revenue and expenditure patterns for public schools has been very difficult; indeed, it has often been impossible." Why has this been the case?

**DR. L. ASPER:** Well, it's sometimes hard to guess, Mr. Manness, the intrigues of the school trustee's mind or the division office administrator as to why they refuse. It may be a tradition in that particular area; it may be a hesitancy to want to get into a dialogue with a local taxpayer. There could be any number of reasons as to why it hasn't been done.

**MR. C. MANNES:** Well, could one of the reasons, specifically in urban divisions, large school divisions, be 400- or 500- page detailed budgets? Could that be a cause in itself? I am not arguing against disclosure of that type of information at all, but I am questioning whether that may be a reason.

I know that some people requested of the Minister of Education the latest health curriculum. I can see why the Minister of Education couldn't provide that to everybody, that was very very large in size. Do you feel that the volume of information could have been one of the factors?

**DR. L. ASPER:** I think we are advocating that it be at the person's individual expense and I think that would overcome the cost involved. But it's been my experience, at any rate, as an individual that if I have reason - and I think there are people in the community who would agree with me - if I have reason to want to question or be an advocate for either a program that should be available to our children, to our students, prepared to look at the 500 page document. After all the trustees who do examine these documents, peruse them, are elected from that community of people who are making these requests and it is certainly within the realm of those people to understand the 500-page documents.

I would think that the cost would be one of the hindrances for some people.

**MR. C. MANNES:** Have there been a large number of school divisions throughout the province that have withheld detailed information that was available in final budgets, specific information from individuals, and is there some group of school divisions or has it occurred in all school divisions at one time or another? Could you give me some idea of where we stand right now before this bill was introduced?

**DR. L. ASPER:** Well, as an organization we have had reason to compile information regarding school board

budgets, particularly in the last years, two, three years, due to the educational finance review. We have found it very difficult to obtain information.

Our elected officials at the local level, division association presidents, have also found it very difficult to get information. As an organization, that has been a complaint that we have had with school boards, particularly in the last three years.

**MR. C. MANNESS:** Thank you for that answer, Dr. Asper. I notice your brief makes reference to the community, all individuals of the community, and now in your latest answer, you talk specifically about your association having some difficulty in deriving information.

My question specifically to you, have you had other people outside of your association who have come to you and asked the Teachers' Society to lobby on their behalf? Have you seen other people in the community who had difficulty attaining information, people outside your association?

**DR. L. ASPER:** The answer to that is, yes. For example, I had a woman on the phone this morning from a community close to Winnipeg who phoned me and wanted to know what rights she had to get some information from her board, and it just happened to be appropriate with what I was dealing with tonight.

I think you should also recall that most of our teachers are members of the local community, particularly in the rural areas. They are active participants in that community and, as such, are active members on parent councils, are active members on community advisory committees. So we are really dealing with the whole group of community, including our members. All partners in this have had difficulty in getting information.

**MR. C. MANNESS:** Just to set the record straight, Dr. Asper. I didn't attempt to set aside the members of the Teachers' Society from the general community. I think I forwarded my remarks to actually say exactly the opposite.

Dr. Asper, can you tell me why five fiscal years of information might be necessary? You made some reference to this in your remarks.

**DR. L. ASPER:** One of the concerns that we have had is long-range planning in terms of school board budgets, and it has been our experience in some of the areas of the province that there is a lack of long-range planning.

It would be our position that either individuals or groups within the community that are interested and looking at a pattern of decision making when it relates to school board budgets, looking at the trends in terms of that area of the province, that it would be beneficial to have a snapshot of a five-year period.

Now five years is there because of what has been proposed. We agree with five years; it could be six if you want from our point of view. The point is that you have a time frame that is going to allow for trends to show up; for example, what has happened in terms of the funding of a Core French or basic French program in a certain school division in the last five years? Are there specific concerns that arise because of the pattern

of decision making, the staffing, the resources in that area. You can look at something very specific related to that if you have a five-year history of it.

**MADAM CHAIRMAN:** Mr. Manness.

**MR. C. MANNESS:** Dr. Asper, you indicate that once the new system of reporting and auditing comes into place, the general . . .

**MADAM CHAIRMAN:** Excuse me, Mr. Manness, I'm having a very hard time hearing you. Could you either speak into the mike or a little louder?

**MR. C. MANNESS:** I'm asking Dr. Asper whether she has seen the FRAME reporting system and whether or not that particular accounting system will provide all the exemptions, the safeguards necessary to employees, particularly through the smaller school divisions in the province? I'm thinking of circumstances where there may be not one but two or three salaries that are categorized under a specific line of the new reporting procedure.

I'm wondering, although the legislation makes reference to an individual employee, whether she shares my concern that if there are two or three people's salaries lumped in a single line, that the privacy surrounding their remuneration is lost.

**DR. L. ASPER:** I don't think that we would share too much of a concern related to that. In my experience, collective agreements, for example, where you have the various positions with, let's say, a Clerk I in the school system, Mr. Manness, are public knowledge. They're posted on bulletin boards and so when it comes down to a very specific item like that, I think that it already is information that's available.

For example, when we post a job in a school division, you would have the salary stated in most cases according to the collective agreement, and it's readily available. I don't think I would have a concern related to that.

**MR. C. MANNESS:** On page 5, Dr. Asper, you lead up to your final conclusion that you would like to see an amendment come forward that would make available to all people, the preliminary budget of the school divisions.

I'm wondering how you feel this will make the tasks of an elected trustee any easier. I ask you also whether you feel that, as opposition MLAs, we should have input into the initial drafting of the Estimates that are laid before the House.

**DR. L. ASPER:** Well, I served a term as school trustee in my neighbourhood and I went through this process for three years. I think it would have been very valuable as a school trustee to have had a stage in the budget process where I could interact with people in the community on some of the priorities that we had to establish as a school board, particularly in this day and age where you have to make some very difficult decisions as school trustees, you may be able to head off some of the crises that you have in decision making in the final draft, in the final budget, by having that

dialogue in the first weeks or first months of it where you have to make choices in staffing.

So I would see that operating very effectively, given that you know the groups or the individuals in the community, and using the resources of your parent councils or whatever community advisory committee system you have. If there is that open dialogue and honesty that takes place in the discussion, I think, as a school trustee, he/she would find it very useful.

**MR. C. MANNES:** Well, Dr. Asper, maybe we can discuss that in greater detail another time.

I have one other question as regards the final portion of your brief dealing with the calculation of provincial financial support. I've been led to believe by a press release and by the Minister and numerous public statements that she feels that, indeed, the public school system has received a 5 percent increase in support from the province. As a matter of fact, even the universities within the province have indicated the public school system has received a 5 percent increase. Can you, from your viewpoint, in your analysis - you obviously totally object to that comment, I would take it.

**DR. L. ASPER:** Well, far be it from me to object in terms of the Minister of Education, but our research in this area and what my advisors tell me in terms of the work that has been done in the last few months, we are running at a 5 percent rate of inflation. In other words, we need 105 percent if we're going to stand still this year with what we've been able to do last year. If you amend this legislation, we're only going to get 103 percent, therefore, we're going to lose that 2 percent.

I'm advised that possibly what you're referring to, Mr. Mannes, is that the Estimates of the entire Department of Education are up 5 percent, but as we all know, the grants are only 3 percent.

**MR. C. MANNES:** Well, that may be, Dr. Asper, and I'm sure if that is the view and the accurate comment, the Minister will indicate.

**MADAM CHAIRMAN:** Mr. Mercier.

**MR. G. MERCIER:** Dr. Asper, I thank you for your brief. I ask you a question about a statement on Page 2 of your brief. You say "open access to annual budgetary statements describing the funding of educational programs by school boards is vital to the involvement of an informed community in education decision making."

How can the community become involved if their only entitlement is to the final budget - after it's finalized?

**DR. L. ASPER:** That's one of the areas we've questioned. We advocate in here that you go further and that you have the preliminary budget available before February 1 to account for that step because, in effect, with what is being proposed here, it is a step forward, but our position is that it's not enough because the community will have the final document as the information without that involvement.

**MR. G. MERCIER:** Dr. Asper, the amendment which indicates that the final budget for the current year has

to be available for examination by inspection, does that imply or have the effect, in your opinion, of making all of the previous budgetary information up to that point not available for examination?

**DR. L. ASPER:** That has been our experience in some areas, yes.

**MR. G. MERCIER:** You refer on Page 5 to the initial annual budgetary statements that are submitted to the Public Schools Finance Board. In your experience, has that document been approved by the school board at that stage to be submitted to the Public Schools Finance Board?

**DR. L. ASPER:** My experience is that often, yes, you have had the first going through.

**MR. G. MERCIER:** And it has been approved by the board at that point in time?

**DR. L. ASPER:** I believe so. There may be some who are more familiar with this who would correct me, but that was my experience.

**MR. G. MERCIER:** Up to that point in time there has been no public discussion of the budget?

**MADAM CHAIRMAN:** Dr. Asper, I can't get a nod on Hansard, could you . . .

**DR. L. ASPER:** In some cases, no. In some cases, some boards will have provision for open meeting but, in other cases, you go as far as not being able to get the information even after the final budget. Those are the situations that we've been concerned about.

**MADAM CHAIRMAN:** Mr. Mercier.

**MR. G. MERCIER:** Are school boards required to hold public open meetings on their budget, or at what stage does that take place?

**DR. L. ASPER:** I'm just going to ask for some advice here from our research analyst. The meetings are but I am told and, again, it has been the experience of many of our people, you're dealing with budget codes and not necessarily the information as a spectator to the process. So you wouldn't have the details.

Another way in which it may be handled is that you're dealing with very general areas, and you wouldn't get into the specifics as a spectator to the process.

**MR. G. MERCIER:** At what stage are members of the public entitled to make representations on the budget?

**DR. L. ASPER:** I guess, at the stage that they're aware of what there would be to make representation. In some cases which are the ones that we're referring to, in our experience, they never become aware because they don't have the information so they never get the opportunity to make the representation.

**MR. G. MERCIER:** Having gone through a process at the city council level where the budgets are made public

at a very early stage in the proceedings and, in fact, discussed in the communities by community committees and by the standing committees at a very early stage and where public representations are able to be made, I find it difficult to accept that these budgets are not available . . .

**MADAM CHAIRMAN:** Are you debating, Mr. Mercier, or asking a question?

**MR. G. MERCIER:** . . . no, I'm not, just a short preamble, following the example of the Minister.

**MADAM CHAIRMAN:** Do you have any more questions?

**DR. L. ASPER:** Do you want me to answer?

**MR. G. MERCIER:** I'm trying to elicit from Dr. Asper some information as to what would be a more practical stage for public information to be disseminated about the budget, so that the public could become involved at an earlier stage before it is finalized. Your view is that the initial budget that's submitted in January to the Public Schools Finance Board is the one that should be available.

**MADAM CHAIRMAN:** Dr. Asper.

**DR. L. ASPER:** That's the position we've taken, which would allow approximately two months for any community input, discussion.

**MR. G. MERCIER:** In the amendment, there's an exclusion with respect to information that may be related directly to an individual employee. Is that supposed to exclude information as to an employee's salary? Does it go further?

**DR. L. ASPER:** We were trying to be sensitive to such things as a salary negotiation that might be going on between, let's say, the board and its superintendents. That would be one example.

You may have a school board that is involved in an out-of-court settlement, for instance. The nature of the situation is that it's delicate, and you don't want to interfere with that process. So those would be some examples. We are being sensitive to those types of situations.

**MR. G. MERCIER:** There are two situations that are referred to in the amendment. One is information that may be related directly to any individual employee or to any current negotiations in respect of employee remuneration or benefits. I think we all agree that sort of information has to be kept confidential - the second part. But the first part, does that relate to - is your interpretation that an individual employee's remuneration would not be available?

**DR. L. ASPER:** I think that in most cases you do have that public through the collective agreements, but you may be into - and I'm giving you some examples that come to my mind in terms of information related to an individual employee to do with a personnel case -

the evaluation process. I think the nature of that may be very confidential.

**MR. G. MERCIER:** Do you have any objection to making the salary of individual employees of a school board public information, as they are provincially through the Public Accounts?

**DR. L. ASPER:** No.

**MADAM CHAIRMAN:** Mr. Manness.

**MR. C. MANNESS:** Just one final question, Madam Chairman, I'm wondering if Dr. Asper has some ideas as to how the mechanics would work as far as bringing forward community discussion, given that any member of the community could and would have the preliminary budget as of the end of January. At whose call would a public meeting be made available to the community? Would you see any individual wanting to make representation to the budgetary committee, feeling free to go to any forthcoming board meeting, or would you see a series of public meetings located throughout the school division at various locations? I'm just trying to feel for the mechanics of bringing forward the community discussion.

**MADAM CHAIRMAN:** Dr. Asper.

**DR. L. ASPER:** I guess there could be several forums. It would depend in my mind on the traditions, the nature of the community, the distances. For example, you may have a parent who is very concerned about an enrichment program, a gifted program being cancelled, and the parent would become aware of it through the reading of the draft budget. So that individual parent may decide to respond directly to the board, make presentation on that. In some school divisions, you will have a network that's already in place.

For example, you will have a parent council that is made up of the presidents or designates of each parent council in the schools in the division. That network is used for other issues, and it certainly could be used for this within the two-month time frame. Those would be two examples that come to my mind of either the network with representatives, or the individual who would have a particular interest in an individual, specific item. I'm sure there are other means that are already in place.

I don't see that as being a problem. There is the interest in this, and there is a concern, I think, with some of the decisions that are being made. I think there's a genuine wish to have input into some of the choices that are made today, given the limitations in funding, where difficult choices have to be made.

**MADAM CHAIRMAN:** Any further questions? I'd like to thank you, Dr. Asper, on behalf of the committee.

Are there any other presentations on Bill No. 12? Are there any other presentations on any of the other bills referred to this committee?

Is it the pleasure of the committee to proceed now with Bill No. 4?

Mr. Penner.

**HON. R. PENNER:** I'd like to propose, by way of procedure, that we go through the bills with the exception of Bill 6, you know, see how far we get.

Bill 6, neither the Minister nor the critic is here. Bill 8, you'll recall that we are giving an opportunity to a group to make presentation on Monday. Bill 9, in light of some of the representations made by the Hotel Association, I would like to consider one or two aspects of Bill 9 a bit further, and would ask that 6 and 8 and 9 be left until Monday, and we go through 4, 5, 10 and see how far we get.

**MADAM CHAIRMAN:** Mr. Manness.

**MR. C. MANNES:** I'm wondering, Madam Chairman, if we could begin with Bill 12 or is there some reason that we can't? I would like to go back to the other committee as quickly as possible. If there is some reason that we can't . . .

**HON. R. PENNER:** I have no objections.

**MR. D. ORCHARD:** I'll like to go to that committee too, Madam Chairperson.

**MADAM CHAIRMAN:** Madam Minister.

**HON. R. PENNER:** Madam Minister, we want to do Bill 12 first.

**MADAM CHAIRMAN:** Is that agreeable with the committee then?  
Mr. Mercier.

**MR. G. MERCIER:** Madam Chairman, first of all, if Bill 9 is going to be deferred for consideration which is fine with me, perhaps the Clerk could distribute some amendments that I was going to propose that the Attorney-General might consider over the weekend before Monday.

**MADAM CHAIRMAN:** Is that agreeable?

## BILL 12 - THE PUBLIC SCHOOLS ACT

**MADAM CHAIRMAN:** Is it the will of the committee to go page-by-page or clause-by-clause? Clause-by-clause.

Clauses 1 to 6 were each read and passed. Preamble—pass; Title—pass. Bill be reported.

## BILL 4 - THE BLOOD TEST ACT

**HON. R. PENNER:** There's a proposed amendment.

**MADAM CHAIRMAN:** Clause 1—pass; Clause 2 - Mr. Plohman.

**HON. J. PLOHMAN:** Madam Chairperson, I would like to move

THAT Sections 2 and 3 of Bill 4, The Blood Test Act, be amended by adding thereto immediately after the word "owner" where it appears in Clause 2(c) thereof and in Clause 2(d) thereof and in Clause 3(c) thereof and in Clause 3(d) thereof, in each case the words "or operator."

**MADAM CHAIRMAN:** Clause 2, as amended—pass; Clause 3, as amended—pass; Clause 4 - Mr. Mercier.

**MR. G. MERCIER:** I want to simply make a point for the record that we have a situation on this bill where Dr. Dirks of the Manitoba Medical Association did not appear, but obviously indicated that he wished to appear. On an evening like tonight, it may very well be that he ran into some difficulty in getting here. I'm just wondering whether the committee should today be passing any bills where people had indicated that they wished to appear but didn't turn up. I think there may very well be some reasonable reasons why people didn't make it here tonight.

**MADAM CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** If it's any help to the member, I can indicate that I think I have on file a letter from the MMA strongly supporting the bill.

**MR. G. MERCIER:** I expect that's probably the case, but I raise it not only with respect to this bill but all of the other bills where people had indicated they wished to appear. I don't think there is any particular rush for the committee to pass any bill tonight when we're going to be meeting again on Monday. The Clerk's Office could check with these people to find out whether they still wish to appear.

**HON. R. PENNER:** I just note that, aside from Dr. Dirks of the MMA - and, as I say, I have received a letter from the MMA, in fact, I have it here. "The MMA fully supports such changes, and would be willing to assist your department to encourage the passage of the proposed amendments." So I don't think there is a problem there. It's signed by the President of the MMA.

The only other person who didn't appear was Sybil Shack of MARL, and there was a MARL representative here who didn't ask that indulgence. I think we should proceed.

**MR. G. MERCIER:** Madam Chairman, I appreciate then if the Attorney-General has some written recommendation from the Manitoba Medical Association that it would be in order to proceed, but where we don't know what the person, for example, Ms. Shack was going to say about some of the bills, it probably would be appropriate to hold them over.

**MADAM CHAIRMAN:** Is it the will of the committee to proceed?

Mr. Orchard.

**MR. D. ORCHARD:** Madam Chairman, I just want to make sure I understand what the amendment is going to achieve in looking at it. What's the overview of what the addition of "or operator" does? If it was explained, I'm sorry, I missed it.

**HON. R. PENNER:** I'll just ask Legislative Counsel to explain it. I can explain it as well, but not with the same authority or dignity that Legislative Counsel can.

**MADAM CHAIRMAN:** Mr. Tallin.

**MR. R. TALLIN:** There was a letter written to the Attorney-General, commenting that in some cases the

owner of the hospital was not actually the operator of the hospital. That is, the board of the hospital ran the hospital, but the owner was perhaps the municipality or some other trustee that actually had title to the hospital. So they suggested that something other be added to it, and the words we came up with were "the owner or the operator of the hospital," so that, in those kind of cases both the operator and the owner would be exempt from the liability.

**MADAM CHAIRMAN:** Shall we proceed? Is it the will of the committee to proceed? Clause 4—pass; Clause 5—pass; Clause 6—pass; Preamble—pass; Title—pass; Bill be reported.

Bill No. 5.

**MR. D. ORCHARD:** Before we proceed with 5, Mr. Mercier's comment was appropriate here where Ms. Shack couldn't be here to speak. Does the Attorney-General have any correspondence which he could share with the committee as to MARL's position on Bill 5?

**HON. R. PENNER:** I'll ask the Minister of Highways to comment.

**MADAM CHAIRMAN:** Minister of Highways.

**HON. J. PLOHMAN:** Madam Chairperson, I have not received any correspondence from Ms. Shack although, just commenting on the request that was made, I don't know of any roads that are impassable here today and I haven't received any calls or any messages that Ms. Shack was interested in coming forward. MARL was here and they had not indicated in any way that they intended to come forward, or would like us to delay it so that they could come forward at another time.

**MADAM CHAIRMAN:** Mr. Johnston.

**MR. F. JOHNSTON:** The Minister says he doesn't know of any roads that were impassable, Madam Chairperson. I can tell you that the St. James subway was flooded and a line of cars took at least a half an hour to get through; Osborne was probably worse than the St. James underpass; Broadway street was level and over the sidewalks three quarters of the way down; Grant, as the member says. The Minister may not have been out during the supper hour in that downpour but I assure you that there was a lot of trouble moving around in the city.

**MADAM CHAIRMAN:** Mr. Orchard.

**MR. D. ORCHARD:** I just want to remind . . .

**MR. F. JOHNSTON:** I might say the power was off in about a third of the city.

**MR. D. ORCHARD:** Thank you, Madam Chairperson. I just want to point out to the Minister that he doesn't have the authority for the roads in Winnipeg and naturally would not know whether there was a problem or not.

**MADAM CHAIRMAN:** Mr. Mercier.

**MR. G. MERCIER:** Madam Chairperson, in fact when coming to the committee I deliberately drove around the subways on Pembina Highway and Osborne, Pembina Highway was flooded. I would think it's inappropriate to proceed with a bill where a person wished to make public representations and didn't appear on a night like tonight.

**MADAM CHAIRMAN:** Mr. Plohman.

**HON. J. PLOHMAN:** Well it would seem the opposition is suggesting that somehow they are more innovative drivers than women drivers would be and that they got here but she wouldn't be able to be here. — (Interjection) — It's as good a joke as the Member for Pembina's was.

I would just like to comment that I will not be able to be here next week and I would like us to proceed with it, Madam Chairperson, because I will not be present for the deliberations if it does not proceed tonight. Could I just add that I will call Ms. Shack and determine if she has any comments that she would like to make; whether she has any concerns and we'll take those into consideration. I can give that undertaking to the committee here tonight.

**HON. R. PENNER:** I have a suggestion.

**MADAM CHAIRMAN:** Yes, Mr. Penner.

**HON. R. PENNER:** Why don't we just stand Bill 5 for a moment and go on to 10 and while we're doing 10 the Minister will try and contact Ms. Shack.

**MADAM CHAIRMAN:** I've been informed that the Clerk's office has been staffed all night and have not received any calls.

Mr. Mercier.

**MR. G. MERCIER:** Madam Chairperson, I move that the committee defer consideration of Bill No. 5 until its next meeting, or until the Minister returns later on.

**MADAM CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** Well, I think that's discourteous to the Minister. The Minister is just about to go and try to phone Ms. Shack. Let's go on to 10, and the Minister says he's not going to be here next week. My God, the Minister . . . Sure it's important for Ms. Shack, and I love Ms. Shack, and I've known her all my life, and I would like her to be here, but the Minister has to be here. — (Interjection) — Wait 'till he comes back! We'll be prorogued by the time he gets back.

**MADAM CHAIRMAN:** Order please, order please.

There's a motion on the floor to defer Bill 5 until next week. What is the will of the committee? Those in favour show their hands please? Those opposed?

**MR. CLERK, G. Mackintosh:** Yeas 4; Nays 5.

**MADAM CHAIRMAN:** The motion's defeated.

Shall we proceed then with Bill 5 or did you want to on to Bill 10?

**HON. R. PENNER:** Bill 5, gave them a chance to do it in a conceptual way.

## **BILL NO. 5 - THE HIGHWAY TRAFFIC ACT**

**MADAM CHAIRMAN:** Clause 1—pass; Clause 2—pass; Clause 3—pass. Bill 5 . . .

Order please. I called Bill 5. We're now on Clause 4.

Mr. Evans on a point of order.

**HON. L. EVANS:** Madam Chairperson, if it's of any help I'd like to remind members that it is possible to make amendments at Report Stage in the House. So I mean if there is anything serious — (Interjection) — well the Acting Minister can maybe handle it. I'm just saying there is still another opportunity beyond tonight.

**MADAM CHAIRMAN:** Right, thank you. I don't know if that was a point of order, or a point of information. Clause 4.

Mr. Orchard.

**MR. D. ORCHARD:** When I asked the Minister during debate on this bill as to whether the licencing requirements were going to. Okay we can deal with it when we get to Clause 4 because I don't want to go against the Chair, Madam Chairman.

**MADAM CHAIRMAN:** Excuse me, could you repeat that?

**MR. D. ORCHARD:** We'll wait 'till Section 6 of the Bill.

**MADAM CHAIRMAN:** Right, thank you.

Clause 4—pass; Clause 5—pass; Clause 6.

**MR. D. ORCHARD:** The licencing one, Madam Chairperson. The Minister indicated that, if I understood him in his remarks to the bill, one of the concerns that we have was a problem when we attempted to bring in amendments to basically licence these same kind of mobility vehicles, is whether the present licencing system would be, in itself, a restriction of the number of handicapped people who could avail themselves of use of the mobility aids. I wonder if the Minister, he addressed that to some extent and I just want to make sure the Minister, and particularly the League for the Physically Handicapped are satisfied, that this Section 6, as it applies to the licencing requirements of the operators of these mobility vehicles, will in fact not be overly restrictive.

**MADAM CHAIRMAN:** Mr. Plohman.

**HON. J. PLOHMAN:** I've indicated during the closing of debate that I was satisfied that the present requirements would allow for those people who had special needs and special attachments and so on that had to be added to a vehicle. They are considered at this time when they're gaining a licence for motor vehicles, for automobiles. That would still apply to this situation as well if there were certain conditions that were required. The Rehab Hospital, for example, could specify what kind of special equipment was necessary,

then the individual could qualify on that particular vehicle for one of the class of licences that are indicated.

**MR. D. ORCHARD:** Then, can I pose this question? An individual who is handicapped wishes to use a motorized mobility aid. Will his driver's licence specify that it is a licence only to operate a motorized mobility aid? Is that what the licence will indicate?

**HON. J. PLOHMAN:** Madam Chairperson, it's not a motorized mobility aid that requires a licence.

**MR. D. ORCHARD:** Okay, the other one.

**HON. J. PLOHMAN:** Mobility vehicle, and that will specify that person is qualified and is licensed to drive, to operate that particular kind of vehicle only.

**MR. D. ORCHARD:** So then it will be a Class 5.0 licence which will indicate - I want to get my term right here - that that individual can operate only a mobility vehicle?

**HON. J. PLOHMAN:** Of that particular type, yes.

**MR. D. ORCHARD:** Now, can the Minister - he's got the Registrar with him - indicate or give us an approximation of the numbers of handicapped people who right now presumably - and I'm making an assumption here - cannot get a Class 5.0 licence to operate a car when the car is equipped with hand controls, for instance? Will this significantly open up the streets and the roads to the handicapped people with this classification that the Minister's proposing with the restriction to the mobility vehicle as a restriction on his Class 5.0 driver's licence?

**HON. J. PLOHMAN:** Well, they will still, Madam Chairperson, have to meet safety requirements and meet the licence requirements for the safety of themselves and others around them. Obviously, there have to be certainly requirements. I can't give a percentage of the handicapped people who will not be able to qualify for operation of one of these mobility vehicles, but I indicated clearly in my introductory remarks that this bill has been passed with the complete approval of both the Paraplegic Association, and the League for the Physically Handicapped who have acknowledged that there has to be certain restrictions, wanted it this way, and have supported the fact that only those who can qualify to operate these vehicles to a certain standard and can operate them safely, should be allowed to utilize them. So, it's going to open up the doors for a considerable number of handicapped people who are able to operate a specially equipped vehicle.

**MADAM CHAIRMAN:** Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9 - Mr. Orchard.

**MR. D. ORCHARD:** Thank you, Madam Chairman. In Hansard, the Minister indicated in closing debate that he was going to pull Section 33(1)(c). Now, it appears as if he's going to pass it. I have to admit I'm confused as to what the Minister's doing here.

**HON. J. PLOHMAN:** Obviously, the member is confused. He was confused when he first discussed

this matter in second reading because he misread the amendment, the housekeeping amendment, which makes no substantive change to the law, as did, obviously, myself and his colleagues as well. Because I received a lot of exchange from members across the way that they interpreted this amendment is to mean that we were going to be making some changes as to turn signals and flashing lights required on trailers, and so on.

What this does is clean up the current provision and places them in one section, therefore, there is a deletion of 33(2), and 33(1)(c) now amalgamates a provision in one section that was previously in two parts of the act. So, I have, upon further consideration, decided to proceed because there's no change. It's a housekeeping amendment.

**MR. D. ORCHARD:** Thank you. The Minister indicates that I'm confused, but the Minister started out in his introductory remarks to the bill; he never mentioned it. I drew that to his attention, and I think it's appropriate at this time to read the Minister back his remarks.

He said, "To get to the section that the Member for Pembina pointed out, Section 33(1)(c), I wanted to point out to - oh, I'm sorry, Mr. Speaker, I'm not supposed to refer to sections - but I will say that there are certain parts of the bill dealing with turn signals that will not be proceeded with at committee. They were never part of the drafting instructions, and that is why - (Interjection) - Well, I want to thank honourable members for bringing that to my attention and to the attention of the House. That particular part referring to turn signals will not be proceeded with, will be struck in committee. - (Interjection) - There's only one way to find out what the reaction would be from the opposition. I guess we found out."

It would seem to me that in closing debate on this bill, the Minister was confused and didn't know what was in his own legislation, not myself, Madam Chairman. I simply asked the Minister for clarification and he couldn't clarify it. He didn't know it was there. Then he was going to strike it, now he's going to leave it back in . . .

**MADAM CHAIRMAN:** Order please.

**MR. D. ORCHARD:** . . . Madam Chairman, I think this is just a demonstration of what we've attempted to point out to this government from time to time, that they don't know what they're doing when it comes to legislation. The Minister was confused when he closed debate on it, and now is trying to bail out of it somehow.

**HON. J. PLOHMAN:** I never mentioned, Madam Chairperson, that section when I introduced the bill, so obviously I wasn't confused when I introduced it.

Insofar as the matter of the closing of debate, the members misinterpreted it and assumed that we were making some changes to the law. I assured them that we weren't going to make any changes by saying we would strike it. Upon further consideration of it, I can see clearly that there is no change. I hope that the honourable member can also read that - maybe he should read the act as well - and he would, therefore, find out quite clearly that there are no substantive

changes. The law is not being changed whatsoever and, therefore, we're proceeding with it on that basis. It's a housekeeping amendment, technical only.

**MADAM CHAIRMAN:** Mr. Orchard.

**MR. D. ORCHARD:** Then, the Minister maybe wasn't correct when he closed debate where he says that this particular amendment, they were never part of the drafting instructions, and he wants to thank the honourable member for bringing it to his attention. You are now saying that you knew they were in there? Is that what you're saying?

**HON. J. PLOHMAN:** Well, I don't think this is pertinent to the subject, Madam Chairperson. I clearly indicated that it was a matter that was not changing the act in any way, shape or form, the current law. Under that basis, I'm going to proceed with it.

**MR. D. ORCHARD:** But without knowing they were in there when you introduced the bill?

I thank the Minister for that confirmation.

**MADAM CHAIRMAN:** Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Balance of Page 4—pass; Page 5 - Mr. Orchard.

**MR. D. ORCHARD:** Before we pass Page 5, Section 19, are we not basically in here exempting the mobility vehicle from the warning signal section that is present in the act? I know we dealt with this, and the Minister replied to this in the closing of debate, but I do have some concerns as to whether these vehicles will be adequately identified to traffic approaching them from behind when they are being exempted from this section of The Highway Traffic Act.

**HON. J. PLOHMAN:** I had indicated in my closing remarks on the bill that there were provisions for mopeds in the act that - I'm just trying to find those; I had enumerated them to the honourable members - I felt were quite extensive and sufficient.

The one aspect that I felt could be looked into later as to regulation was the matter of turn signals where certain individuals may not be able to signal by using arm signals, for example. Mopeds or mobility vehicles do not require the use of turn signals, as the provisions currently call for. So therefore, I want to look at that matter of turn signals.

However, I feel that the lighting requirements that are presently in place for mopeds and, therefore, mobility vehicles as outlined in the act are sufficient signal.

**MR. D. ORCHARD:** The maximum speed of these mobility vehicles is 30 miles per hour, 50 kilometres. Could the registrar indicate what the upper speed limit for a vehicle is that is required to have an SMV signal on the back? Tractors, farm machinery have the SMV signs. What's the maximum speed? Is it 20 miles per hour?

**HON. J. PLOHMAN:** The registrar says that he is not aware of a particular maximum speed. Slow-moving

vehicles are required to have it. There is no maximum speed specified.

**MR. D. ORCHARD:** Then I am wondering if that wouldn't be an additional safety aspect that should be required. You've got the space on the back of them. You have got the two lights. Would not an SMV sign serve a very useful purpose, because they're reflectorized and show up very well in all lighting conditions? I ask the Minister if that might not be a reasonable safety feature to have on these mobility vehicles?

**HON. J. PLOHMAN:** These matters and issues had been discussed at the committee when they were considering all of the changes and applications of the particular sections that we're dealing with here. The people who represented the League for the Physically Handicapped and the Paraplegic Association felt very strongly that they did not want to have any additional or special markings beyond those that a slow-moving vehicle such as the moped which is the one that is analogous under these situations would have.

So the same lighting requirements were put in place for the mobility vehicles as were in place for mopeds. I believe that, if they are sufficient for mopeds, they certainly should be sufficient for mobility vehicles. However if, after some experience in this matter and consultation, we feel that there should be additional requirements put in place, that can be considered at that time. However, we would like to proceed with them as outlined at this time.

**MR. D. ORCHARD:** The Minister indicates that the League for the Physically Handicapped did not want it. Did the safety experts that were on the committee concur and feel that was reasonable?

**HON. J. PLOHMAN:** Yes. After exchange and discussion on the matter, they felt that it was the case. The provisions that were there were indeed adequate.

**MADAM CHAIRMAN:** Page 5—pass; Page 6 - Mr. Mercier.

**MR. G. MERCIER:** On Page 6, Madam Chairman, these amendments deal with the removal of the appeal to the County Court level from a decision of the Licence Suspension Appeal Board. The Minister made some comments in the House when he closed debate on second reading. I wonder if he has those statistics available that we might have an opportunity to have a quick look at those statistics.

**HON. J. PLOHMAN:** I have one copy available of the sample that we did take. I indicated that, for the month of April for several years, to determine the facts with regard to those people who had been suspended and then had gone to County Court with an appeal, had that changed, and then were reinvolved in subsequent alcohol defences. I had indicated that it varied from 25 percent to 30 percent with 29.7 percent being the factor percentage for reinvolverment for people who had been suspended, and then had appealed to the County Court; 29.7 percent had reinvolverment. This

was during their suspended period or the restricted time period.

**MR. G. MERCIER:** I would just like to have the Minister clarify those statistics. The 29 percent that he refers to, they were involved in further impaired driving charges while they were driving for work purposes?

**HON. J. PLOHMAN:** Depending on what the nature of the licence was that they were given or granted by the County Court, driving during that period that they were given some alleviation to the conditions that were first outlined or put in place by the Licence Suspension Appeal Board. It may be that they were driving outside of the bounds of their licence. They were driving when they were not to be driving, when their licence was invalid and under the influence of alcohol or other offences. They had other offences, 29.7 percent, during that period that they had the restrictions by the County Court.

**MR. G. MERCIER:** Just to clarify that, they had subsequent impaired driving charges within the period of time that the County Court granted them the privilege to drive for the purposes of work, or did those impaired driving offences take place after the people had gone through their one-year period with restricted driving, etc.? Was it before or after the time period during which they had a restricted licence?

**HON. J. PLOHMAN:** It was during the time period, Madam Chairperson.

**MR. G. MERCIER:** Well, that is certainly a significant number and, frankly, I find it a little surprising that it's that high. Certainly those people, I would hope, were subsequently subjected to severe restrictions on their right to drive, having violated, I think, the terms of those orders and violated their privilege of driving. I suppose the fact remains that there are 70 percent of those who appealed and were successful in the County Court lived up to the terms of their order for the purpose of work.

The question remains then. Should those approximately 70 percent of the people who successfully appeal and obtain their licence for the purpose of driving, whether they should be, by virtue of this amendment, not have the right to appeal for the purposes of work? I am concerned that those 70 percent who carry out the terms of their successful appeal will, in the future, no longer have that right to appeal to the County Court and obtain a licence for work purposes.

I suppose statistics really aren't a valid submission for a Crown attorney to make on these types of appeals but, in general, it would indicate that perhaps the court should be a little more careful in the numbers of appeals that they have granted and the terms under which they have granted them. But I still am opposed to the doing away of the right of appeal. I think the statistics indicate perhaps seven out of 10 have behaved and have been able to work, have proven that they require their licence to work and have obtained it and have been able to work.

It may very well be that perhaps even the Crown should be taking a tougher position than they have with

respect to the number who have successfully appealed. Just because we are the last province in Canada that allows such an appeal doesn't, in my opinion, justify the removal of this right of appeal, Madam Chairman.

I want to go on record as opposing the elimination of this right of appeal.

**MADAM CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** Just a very brief comment with respect to the statistics. The difficulty with those statistics, of course - quite frankly, it appears to me they tell us nothing because we know approximately of course that, of an estimated 500,000 instances of nighttime impaired driving in a year, we are only catching about 5,000 or 6,000. So that tells us that a very substantial number of people who drive while impaired are never caught or rarely caught.

So the fact that we only know about 29 percent who are reinolved doesn't mean that the others weren't. It just means they weren't caught, or that's the only conclusion that you can draw from the statistics. I don't think we want to play around with statistics. It tends, after a while, to be futile.

I think I would like to point out, and perhaps the Minister has, a very significant change that accompanies the removal of the appeal to the County Court. Remember, the County Court won't be there, so it would have to be to the Q.B., the Queen's Bench. That is already a very ritualistic expensive proceeding, namely, that a person now, by 163(2), can go back to the Licence Suspension Appeal Board after one year of a longer suspension. That is what we are really talking about, because we are talking about the two-time loser, not three years as it previously was. So we are ameliorating that apparent hardship somewhat, while still strengthening the deterrent effect of licence suspension.

**MADAM CHAIRMAN:** Mr. Orchard.

**MR. D. ORCHARD:** Thank you, Madam Chairman. I concur with the concerns that my colleague had put on the record, but there is another area that came up during the debate on the seat belt bill. As far as I know, the statistic has to be a correct one, because it was never refuted by Mr. Uskiw, as he was Minister at that time.

Now this amendment is going to remove as many as 70 percent, if I can follow the statistics - and I know we don't want to get hung up on statistics - of the drivers who have been suspended, their repeal will be removed. But the statistic that was brought up at the seat belt hearings is that, in one of the recent years, nearly 50 percent of the fatal accidents in the Province of Manitoba, there was involvement of an unlicensed driver; in other words, a driver under suspension.

I appreciate the goal that the government and the Minister have in removing this appeal to take the driver theoretically off the road, but recent statistics would seem to indicate that, even though they haven't had their licence reinstated and they are suspended, a great number of them are still driving and a disproportionate number of them are involved in fatal accidents because it was nearly 50 percent.

Now that is not a question necessarily for the Minister of Highways, but certainly an observation that I make

to the Attorney-General that the person is going to break the law, period. It would appear from those statistics. As I say, I didn't check them out, but they were laid out and they weren't challenged by the Minister then. Possibly the Registrar could confirm them, but they did apparently come out of the annual reports of the Highways Department.

Now that is an even greater problem. Even though you have removed these people's licences and they aren't going to be allowed to drive legally, it would appear as if a great number of them still are. Almost 50 percent of the fatal accidents involve these kind of drivers.

**MADAM CHAIRMAN:** Mr. Plohman.

**HON. J. PLOHMAN:** Could I just have clarification, Madam Chairperson? Is the honourable member saying that he understands that 50 percent of the accidents involved drivers that were under suspension, or that were under the influence of alcohol?

**MR. D. ORCHARD:** The statistic presented at the seat belt hearing was that 50 percent of the fatalities, not of all accidents but of the fatal accidents, accidents involving fatalities, nearly 50 percent of those accidents involved a driver in either vehicle that was under suspension.

**HON. J. PLOHMAN:** My information is, that is not nearly the case. We did indicate, and that's why I was somewhat confused about the 50 percent figure, that fatal accidents involve drivers that have been drinking in 50 percent or 60 percent of the cases, but the information and opinion of the registrar was that that figure of 50 percent involving accidents of drivers that were under suspension is not accurate.

**MADAM CHAIRMAN:** Mr. Orchard.

**MR. D. ORCHARD:** I'll accept what the Minister is saying but that observation was made in one of the briefs by a former employee of the Department of Highways, Mr. Russ Sharpe. I think Mr. Procuik knows him and it might be of interest to go back to those hearings and his presentation and check out his statistics because I'd be certainly interested in knowing whether those are factual, as a matter of interest.

**HON. J. PLOHMAN:** I was just reading these figures again and I think that there was some misinterpretation by Mr. Penner, at least, and perhaps the Member for St. Norbert as well.

When I said that there was 29.7 percent that were reinolved in Highway Traffic Act offences, in addition to that Highway Traffic Act offences, not liquor offences and, if that was the impression that was left I have to indicate that. I think that's important that I clarify that because I think from the comments that were being made that perhaps it was interpreted that was strictly alcohol and that's not the case.

There were 10 percent in April, 1983, in that period of time that involved Criminal Code offences or alcohol offences; 29.7 involved Highway Traffic Act for a total of 39 percent, almost 40 percent, that were reinolved

in Highway Traffic Act offences and drinking or Criminal Code offences, total, 40 percent, but not 29.7 in Criminal Code offences. If that was the interpretation that was taken, that is misleading.

**MR. G. MERCIER:** Madam Chairman, I thank the Minister for that clarification. I think that only strengthens the argument that I was making. Highway Traffic Act offences could involve some very minimal type of offences and I think those statistics, as valid as they are, only strengthen the argument that I made.

**MADAM CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** One final note, I hope, of clarification. The 400 or 500 appeals to the County Court are not all by persons who had licenses suspended because of drinking.

**MADAM CHAIRMAN:** Page 6—pass; Preamble - Mr. Mercier.

**MR. G. MERCIER:** I want to go on record as opposing those amendments that eliminate the appeal to the County Court.

**MADAM CHAIRMAN:** Preamble—pass; Title—pass; Bill be Reported.

Bill No. 10 - Mr. Mercier.

## **BILL 10 - THE FAMILY MAINTENANCE ACT**

**MR. G. MERCIER:** Bill 10, I believe I asked the Attorney-General, prior to his concluding debate on this bill, if he had forwarded a copy to the Family Law subsection. He indicated if it hadn't been he would and I wonder if, in view of the short period of time since the bill was passed, whether we could defer consideration of this bill until we determine whether the Family Law subsection have had an opportunity to review the bill and whether or not they wish to make any submissions.

**MADAM CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** I checked with the head of the Family Law Department, Robin Diamond, and she assured me that all of the amendments contained in The Family Maintenance Act had been discussed with members of the Family Law subsection.

**MR. G. MERCIER:** And approved?

**HON. R. PENNER:** And approved.

**MADAM CHAIRMAN:** Is it the will of the committee to proceed? Clause-by-clause? Page-by-Page?  
Page 1—pass; Page 2—pass.

**HON. R. PENNER:** Page 3 - I have two amendments.

**MADAM CHAIRMAN:** Page 3.

**HON. R. PENNER:** They're been distributed.

I move THAT subsection 23.1(1) of the act, as proposed by Section 8 of Bill 10 be amended by striking

out the word "court" where it appears on the first, second, ninth, tenth, thirteenth and fourteenth lines thereof and substituting therefor, in each case, the words "judge or master."

**MADAM CHAIRMAN:** Pass.

**HON. R. PENNER:** That passed, Madam Chairman.

I would move THAT Section 23.1(3) as proposed by Section 8 of Bill 10 be struck out and the following subsection be substituted therefor: Her Majesty, in the right of Manitoba is bound by this section.

**MADAM CHAIRMAN:** Page 3, as amended—pass; Page 4—pass. Page 5 - Mr. Penner.

**HON. R. PENNER:** Madam Chairman, I have an amendment to 26(4).

I move THAT subsection 26(4) of the act, as proposed by Section 9 of Bill 10, be amended by striking out the word "section" where it appears in the tenth line thereof and substituting therefor the word "part."

**MADAM CHAIRMAN:** Pass. Page 5, as amended—pass. Page 6 - Mr. Penner.

**HON. R. PENNER:** I propose an amendment to 28(3).

I move THAT subsection 28(3) of the act, as proposed by Section 9 of the bill be struck out and the following subsection be substituted therefor: 28(3) Proposed, Her Majesty in the right of Manitoba is bound by subsection 2.

**MADAM CHAIRMAN:** Amendment—pass; Page 6, as amended—pass; Page 7—pass.

Page 8 - Mr. Penner.

**HON. R. PENNER:** I would move THAT Clause 29(2)(e) of the act as proposed by Section 9 of Bill 10 be amended by (a) adding at the end of subclause (vi) thereof the word "or"; and (b) adding after subclause 6 thereof the following subclause (vii) a recalculation by the designated officer of the amount in arrears where that amount has been brought into question by the person in default.

**MADAM CHAIRMAN:** Pass.

**HON. R. PENNER:** Page 8, as amended?

**MADAM CHAIRMAN:** Page 8, as amended—pass; Page 9 - Mr. Penner.

**HON. R. PENNER:** I move THAT subsection 30(1) of the act as proposed by Bill 10 be amended by striking out the words "upon the request of the designated officer of the court or a deputy registrar shall" and substitute therefor "the designating officer may".

**MADAM CHAIRMAN:** The amendment—pass; Page 9, as amended—pass; Page 10 - Mr. Penner.

**HON. R. PENNER:** I move THAT subsection 30(6) of the act as proposed by Section 9 of Bill 10 be amended by striking out the words "as the judge or master may

direct, there to remain unless and" and substituting therefor the word "or".

**MADAM CHAIRMAN:** Amendment—pass; Page 10, as amended—pass; Page 11.

**HON. R. PENNER:** Clause-by-clause.

**MADAM CHAIRMAN:** Clause-by-clause? 31.1(1)—pass; 31.1(2) - Mr. Penner.

**HON. R. PENNER:** I have an amendment to 31.1(2) THAT subsection 31.1(2) of the act as proposed by Section 9 of Bill 10 be amended by striking out the words "for payment" where they appear in the third line.

**MADAM CHAIRMAN:** Pass. 31.1(3)—pass; 31.2(1).

**HON. R. PENNER:** I move THAT subsection 31.2(1) of the act as proposed by Section 9 of Bill 10 be amended by striking out the words "for payment" where they appear in the second line.

**MADAM CHAIRMAN:** Pass. 31.2(1), as amended—pass; 31.2(2).

**HON. R. PENNER:** I move THAT subsection 31.2(2) of the act as proposed by Section 9 of Bill 10, be amended by adding thereto at the end thereof the words "without prior application."

**MADAM CHAIRMAN:** Pass. 31.2(2), as amended—pass; Page 11, as amended—pass; Page 12—pass; Preamble—pass; Title—pass; Bill be reported.

## **BILL 15 - THE CANADA-UNITED KINGDOM JUDGMENTS ENFORCEMENT ACT**

**HON. R. PENNER:** Bill 15.

**MADAM CHAIRMAN:** Bill 15—pass; Bill be reported.

**HON. R. PENNER:** Gerry, what do you want to do? Are we going to take some time on summary convictions?

## **BILL 19 - THE SUMMARY CONVICTIONS ACT**

**MADAM CHAIRMAN:** Bill 19.

**HON. R. PENNER:** Bill 19—pass.

**MADAM CHAIRMAN:** Bill be reported.

## **BILL 23 - THE QUEEN'S BENCH ACT AND THE COURT OF QUEEN'S BENCH SMALL CLAIMS PRACTICES ACT**

**HON. R. PENNER:** Any amendments? Bill 23.

**MADAM CHAIRMAN:** Bill 23—pass. Bill be reported. Committee rise.

**COMMITTEE ROSE AT:** 10:50 P.M.



Canada  
Post  
Postage paid

Postes  
Canada  
Post payé

First  
class

Première  
classe

**F70**