

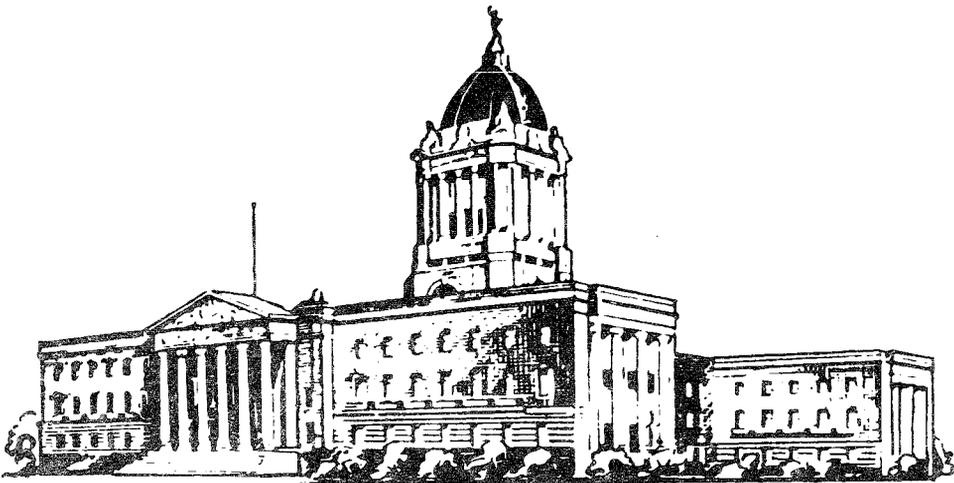


**First Session — Thirty-Fourth Legislature**  
of the  
**Legislative Assembly of Manitoba**

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

37 Elizabeth II

*Chairman*  
*Mr. H. Pankratz*  
*Constituency of La Verendrye*



**VOL. XXXVII No. 3 - 10 a.m., THURSDAY, DECEMBER 15, 1988.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Fourth Legislature**

**Members, Constituencies and Political Affiliation**

NAME	CONSTITUENCY	PARTY
<b>ALCOCK, Reg</b>	Osborne	LIBERAL
<b>ANGUS, John</b>	St. Norbert	LIBERAL
<b>ASHTON, Steve</b>	Thompson	NDP
<b>BURRELL, Parker</b>	Swan River	PC
<b>CARR, James</b>	Fort Rouge	LIBERAL
<b>CARSTAIRS, Sharon</b>	River Heights	LIBERAL
<b>CHARLES, Gwen</b>	Selkirk	LIBERAL
<b>CHEEMA, Gulzar</b>	Kildonan	LIBERAL
<b>CHORNOPYSKI, William</b>	Burrows	LIBERAL
<b>CONNERY, Edward Hon.</b>	Portage la Prairie	PC
<b>COWAN, Jay</b>	Churchill	NDP
<b>CUMMINGS, Glen, Hon.</b>	Ste. Rose du Lac	PC
<b>DERKACH, Leonard, Hon.</b>	Roblin-Russell	PC
<b>DOER, Gary</b>	Concordia	NDP
<b>DOWNEY, James Hon.</b>	Arthur	PC
<b>DRIEDGER, Albert, Hon.</b>	Emerson	PC
<b>DRIEDGER, Herold, L.</b>	Niakwa	LIBERAL
<b>DUCHARME, Gerald, Hon.</b>	Riel	PC
<b>EDWARDS, Paul</b>	St. James	LIBERAL
<b>ENNS, Harry</b>	Lakeside	PC
<b>ERNST, Jim, Hon.</b>	Charleswood	PC
<b>EVANS, Laurie</b>	Fort Garry	LIBERAL
<b>EVANS, Leonard</b>	Brandon East	NDP
<b>FILMON, Gary, Hon.</b>	Tuxedo	PC
<b>FINDLAY, Glen Hon.</b>	Virten	PC
<b>GAUDRY, Neil</b>	St. Boniface	LIBERAL
<b>GILLESHAMMER, Harold</b>	Minnedosa	PC
<b>GRAY, Avis</b>	Elice	LIBERAL
<b>HAMMOND, Gerrie</b>	Kirkfield Park	PC
<b>HARAPIAK, Harry</b>	The Pas	NDP
<b>HARPER, Elijah</b>	Rupertsland	NDP
<b>HELWER, Edward R.</b>	Gimli	PC
<b>HEMPHILL, Maureen</b>	Logan	NDP
<b>KOZAK, Richard, J.</b>	Transcona	LIBERAL
<b>LAMOUREUX, Kevin, M.</b>	Inkster	LIBERAL
<b>MALOWAY, Jim</b>	Elmwood	NDP
<b>MANDRAKE, Ed</b>	Assiniboia	LIBERAL
<b>MANNES, Clayton, Hon.</b>	Morris	PC
<b>McCRAE, James Hon.</b>	Brandon West	PC
<b>MINENKO, Mark</b>	Seven Oaks	LIBERAL
<b>MITCHELSON, Bonnie, Hon.</b>	River East	PC
<b>NEUFELD, Harold, Hon.</b>	Rossmere	PC
<b>OLESON, Charlotte Hon.</b>	Gladstone	PC
<b>ORCHARD, Donald Hon.</b>	Pembina	PC
<b>PANKRATZ, Helmut</b>	La Verendrye	PC
<b>PATTERSON, Allan</b>	Radisson	LIBERAL
<b>PENNER, Jack, Hon.</b>	Rhineland	PC
<b>PLOHMAN, John</b>	Dauphin	NDP
<b>PRAZNIK, Darren</b>	Lac du Bonnet	PC
<b>ROCAN, Denis, Hon.</b>	Turtle Mountain	PC
<b>ROCH, Gilles</b>	Springfield	LIBERAL
<b>ROSE, Bob</b>	St. Vital	LIBERAL
<b>STORIE, Jerry</b>	Flin Flon	NDP
<b>TAYLOR, Harold</b>	Wolseley	LIBERAL
<b>URUSKI, Bill</b>	Interlake	NDP
<b>WASYLYCIA-LEIS, Judy</b>	St. Johns	NDP
<b>YEO, Iva</b>	Sturgeon Creek	LIBERAL

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON**  
**STATUTORY REGULATIONS AND ORDERS**  
**Thursday, December 15, 1988**

**TIME — 10 a.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Driedger (Emerson), Manness,  
McCrae, Hon. Mrs. Oleson

Mr. Burrell, Mrs. Charles, Messrs. Doer,  
Edwards, Pankratz, Rose

**APPEARING:** Hon. Mr. Filmon, Premier

Mr. Lamoureux, MLA

Mr. Mandrake, MLA

Mr. Storie, MLA

**MATTERS UNDER DISCUSSION:**

Bill No. 21—The Highway Traffic Amendment  
Act

Bill No. 45—The Legislative Assembly and  
Executive Council Conflict of Interest  
Amendment Act

\* \* \* \*

**Mr. Chairman:** I call the Standing Committee on Statutory Regulations and Orders to order at this time. We have two Bills to consider: Bills No. 21 and 45. If it is the will of the committee, then I would prefer that we start with Bill No. 21. (Agreed)

**BILL NO. 21—THE HIGHWAY  
TRAFFIC AMENDMENT ACT**

**Mr. Chairman:** Is there any public presentation at this point on Bill No. 21? If not, then we will proceed right into Bill No. 21.

\* (1005)

**Hon. Albert Driedger (Minister of Highways and Transportation):** Mr. Chairman, before we proceed, I just want to indicate that Bill No. 21 is quite a substantial Bill and we have a whole series of amendments, basically dealing—they are minor amendments—with word expressions, etc. So we will be having to take some time to try and get those amendments in.

I also had some concerns that had been expressed to me by the Member for Assiniboia (Mr. Mandrake). We will try and address those as we go along. He can maybe flag them when we get to that portion as we

go clause by clause, and I will try and give a clarification as to his concerns.

**Mr. Chairman:** We will go clause by clause, and we will start with page 1. Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

Clause 5—Mr. McCrae.

**Hon. James McCrae (Attorney-General):** Mr. Chairman, I move:

THAT Section 5 of Bill 21 be struck out and the following substituted:

**Subsection 61(1) repealed**

5(1) Subsection 61(1) is repealed.

**Section 67 repealed**

5(2) Section 67 is repealed.

(French Version)

Il est proposé que l'article 5 du projet de loi 21 soit supprimé et remplacé par ce qui suit:

**Abr. du paragraphe 61(1)**

5(1) Le paragraphe 61(1) est abrogé.

**Abr. de l'article 67**

5(2) L'article 67 est abrogé.

I move this motion, Mr. Chairman, with respect to both the English and French texts.

**Mr. Chairman:** We will just wait a minute until everybody has received a copy of it.

**An Honourable Member:** Why did you not do it right in the first place?

**Mr. Albert Driedger:** Mr. Chairman, just to clarify the comment that was made why we did not do it right the first time, this Bill was drafted a long time ago and, since that time, we have gone over it many times and these are just technical changes in most cases, so just to clarify that.

**Mr. Chairman:** Now that all Members of the committee have a copy of it, would I be able to ask Mr. McCrae to go through that once more? Mr. McCrae, would you please repeat the amendments once more?

**Mr. McCrae:** Mr. Chairman, the Motion is:

THAT Section 5 of Bill No. 21 be struck out and the following substituted:

**Subsection 61(1) repealed**

5(1) Subsection 61(1) is repealed

**Section 67 repealed**

5(2) Section 67 is repealed.

This, of course, is being moved with respect to both the English and French texts.

**Mr. John Plohman (Dauphin):** Mr. Chairman, could the Minister please indicate what is contained in 61(1), since that is the additional section that is being repealed? What is being repealed?

**Mr. Albert Driedger:** Warning flag or lights for projection, 61(1), "Where the load of a vehicle being driven on the highway extends more than 1.22 metres beyond the rear of the vehicle, there shall be displayed at the end of the load in such a position as to be clearly visible at a distance of least 60 metres from the rear of the vehicle a red flag not less than 30 cm. squared during the hours between sunrise and sunset, and a red light or a red reflector so placed as to be illuminated by the lights of any approaching vehicles and cast a red reflection during the hours between sunset and sunrise."

What we are proposing is it is proposed that Subsection 61(1) to be repealed in view of the fact that this aspect of a vehicle weights and dimensions initiative will be covered in the regulations.

**Mr. Chairman:** Is it the will of the committee to approve the amendment? (Agreed) Is it the will of the committee to approve the clause with the amendment (Agreed) Clause 5, as amended—pass.

**Mr. McCrae:** For the information of Honourable Members, the next amendment I propose to move is dealing with new Clause 68 so, rather than calling each clause, you might want to do them on an inclusive basis if Honourable Members agree?

**Mr. Chairman:** Agreed? (Agreed)

Clause 6(1)—Mr. McCrae.

**Mr. McCrae:** Mr. Chairman, I am sorry, I was referring to proposed clauses, instead of the ones that we are dealing with. On Clause 6, I would move:

THAT the proposed new Clause 68(3)(b) as set out in Subsection 6(2) of Bill No. 21 be amended by striking out "of tire" and substituting "of "tires,".

(French Version)

Il est proposé que la version anglaise de l'alinéa 68(3)(b), figurant au paragraphe 6(2) du projet de loi 21, soit modifiée par la suppression des mots "of tire" et leur emplacement par "of tires,".

I move this motion with respect to both the English and French texts.

**Mr. Plohman:** Just exactly where in 68(3) do we find that again? It does not make sense where I see it is you have -(Interjection)-

**An Honourable Member:** Tires, and then a comma.

**Mr. Plohman:** And 68(3)(b) then, where they do this.

**An Honourable Member:** That is right.

**Mr. Plohman:** It is tires, and then a comma.

**Mr. McCrae:** Mr. Chairman, with respect to Clause 6 of this Bill, I have additional amendments all dealing with the same clause. I wonder if, to put it in proper context, I moved the further five motions, and we could deal with them all at the same time.

**Mr. Chairman:** Would that be agreed upon? (Agreed)

\* (1010)

**Mr. McCrae:** Mr. Chairman, I move that proposed new Clause 68(3)(c), as set out in Subsection 6(2) of Bill No. 21 be amended by striking out "cars" and substituting "vehicles."

(French Version)

Il est proposé que l'alinéa 68(3)(c), figurant au paragraphe 6(2) du projet de loi 21, soit modifié par la suppression de "voitures-pilotes ou d'escorte doivent, en vertu du permis délivré en application de l'article 87, être utilisées;" et son emplacement par "véhicules-pilotes ou d'escorte doivent, en vertu du permis délivré en application de l'article 87, être utilisés;".

I move this motion with respect to both the English and French texts.

I move:

THAT Subsection 6(2) of Bill No. 21 be amended by adding after proposed new Subsection 68(3) the following:

**Validation**

68(3.1) The regulation entitled "Vehicle Weights and Dimensions on Classes of Highway Regulation" made by the Lieutenant Governor in Council on December 14, 1988 is validated and is deemed to have been lawfully made on December 14, 1988.

(French Version)

Il est proposé que le paragraphe 6(2) du projet de loi 21 soit modifié par l'adjonction après le nouveau paragraphe 68(3) de ce qui suit:

**Validation**

68(3.1) Le règlement intitulé "Règlement sur les poids et dimensions des véhicules sur les poids et dimensions des véhicules circulant sur les diverses catégories de routes: pris par le lieutenant-gouverneur en conseil le 14 décembre 1988 est validé et est réputé avoir été pris légalement.

I move this motion with respect to both the English and French texts.

Mr. Chairman, I move:

THAT the proposed new Clause 68(4)(b), as set out in Subsection 6(3) of Bill No. 21, be amended by striking out "tire axles or wheels" and substituting "tire, axle or wheel."

(French Version)

Il est proposé que l'alinéa 68(4)(b), figurant au paragraphe 6(3) du projet de loi 21, soit modifié par la suppression de "pour les pneus ou pour les roues," et son remplacement par "pour les pneus, les essieux ou les roues,".

I move this motion with respect to both the English and French texts.

I move:

THAT the proposed new Clause 68(4)(c) of The Highway Traffic Act, as set out in Subsection 6(3) of Bill No. 21, be amended by striking out "cars" and substituting "vehicles."

(French Version)

Il est proposé que l'alinéa 68(4)(c), figurant au paragraphe 6(3) du projet de loi 21, soit modifié par la suppression de "voitures-pilotes ou d'escorte doivent, en vertu du permis délivré en application de l'article 87, être utilisées." et son remplacement par "véhicules-pilotes ou d'escorte doivent, en vertu du permis délivré en application de l'article 87, être utilisés."

I move this motion with respect to both the English and French texts.

Mr. Chairman, I move:

THAT Section 6(5) of Bill No. 21 be struck out and the following substituted:

**Subsection 68(15) repealed**

6(5) Subsection 68(15) is repealed.

(French Version)

Il est proposé que le paragraphe 6(5) du projet de loi 21 soit supprimé et remplacé par ce qui suit:

**Abr. du paragraphe 68(15)**

6(5) Le paragraphe 68(15) est abrogé.

I move this motion with respect to both the English and French texts.

**Mr. Ed Mandrake (Assiniboia):** Could the Minister tell us as to 68(15). What are repealing here?

**Mr. Albert Driedger:** The existing legislation is raising and lowering axle assembly mechanisms, 68(15). "No person shall drive upon a highway a motor vehicle equipped with a mechanism designed for the raising and lowering of any axle assembly which can be controlled or operated by the driver of the vehicle or any passenger in the vehicle from within the cab of the vehicle." That is being repealed, and it is proposed that Subsection 68(15) be repealed in view of the fact that this aspect of the Vehicles, Weights and Dimensions initiative will be covered in the regulations.

**Mr. Mandrake:** Just correct me—maybe I am misreading this—but a Peugeot vehicle, you can control the height of the vehicle from inside the car. Will that rule now restrict that because a Peugeot does that?

**Mr. Albert Driedger:** Mr. Chairman, I am informed that this has to do only with the tag axles, that they cannot be lowered or raised from within the cab. That is the only thing that this applies to.

\* (1015)

**Mr. Plohman:** Am I to understand that this was placed in this Act before the new amendment now is being moved to give effect to the grandfathering, if you want to use the term, of tag axles for all vehicles manufactured after December 31, 1988, that they would have to comply with the new regulation? All vehicles manufactured before would not be required to comply. Is that correct? Then is the Minister saying that now this is contained in the regulations regarding the National Safety Code; therefore, it is not needed in this section?

**Mr. Albert Driedger:** That is correct.

**Mr. Plohman:** Mr. Chairman, can the Minister assure us that is the date that will be used in the regulations for the grandfathering of tag axles?

**Mr. Albert Driedger:** December 14 is the date.

**Mr. Plohman:** December 31, 1988?

**Mr. Albert Driedger:** The effective date is December 14, but the grandfathering will be December 31, 1988.

**Mr. Plohman:** Mr. Chairman, on that date, does that mean that all vehicles manufactured before that exist in other words at the present time, will not have to comply, that it might be 10, 15 or 20 years before all of those vehicles that differ, that are in violation of this requirement, will be off the road?

**Mr. Albert Driedger:** That is correct.

**Mr. Plohman:** I just want to register that I think that is a very lenient grandfathering provision. I believe that the Minister could probably have used a figure that would have seen them phased in over a five- or ten-year period at least, at worst. In any event, I thank the Minister for the explanation.

**Mr. Chairman:** Is it the will of the committee to pass all these amendments on Section 68(1)? (Agreed) Is it the will to pass Section 68(1) with the amendments? (Agreed)

As amended 6(1)—pass; Section 7—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass; Clause 10—pass.

Clause 11—Mr. McCrae.

**Mr. McCrae:** I move:

THAT Section 11 of Bill 21 be struck out and the following substituted:

**Subsections 219(1) and (2) repealed**

11 Subsections 219(1) and (2) are repealed.

(French Version)

Il est proposé que l'article 11 du projet de loi 21 soit supprimé et remplacé par ce qui suit:

**Abr. des paragraphes 219(1) et(2)**

11 Les paragraphes 219(1) et (2) sont abrogés.

I move this motion with respect to both the English and French texts.

**Mr. Chairman:** Amendment to Clause 11—pass; Clause 11, as amended—pass.

Clause 12—Mr. McCrae.

**Mr. McCrae:** Mr. Chairman, I have two motions respecting Clause 12, which I propose to read one after the other. I move:

THAT the proposed new subsection 265.1(1), as set out in Section 12 of Bill 21, be amended by deleting “gross vehicle weight” and substituting “registered gross weight.”

(French Version)

Il est proposé que le paragraphe 265.1(1), figurant à l'article 12 du projet de loi 21, soit modifié par la suppression des mots “ayant un poids en charge” et leur remplacement par les mots “dont le poids en charge inscrit est.”

\* (1020)

Mr. Chairman, I move this motion with respect to both the English and French texts.

Mr. Chairman, I move:

THAT the proposed new Clause 265.1(3)(a), as set out in Section 12 of Bill 21, be amended by striking out “, not exceeding the number of hours prescribed by regulation” and “in operating the public service vehicle or commercial truck having a gross vehicle weight of 4,500 kilograms or more,” and adding at the end of the clause after “regulation” the following “, but the period of the suspension shall not exceed the number of hours prescribed by regulation.”

(French Version)

Il est proposé que l'alinéa 265.1(3)(a), figurant à l'article 12 du projet de loi 21 soit modifié par la suppression de “, ne dépassant pas le nombre d'heures prescrit par règlement,” et de “lorsqu'il utilisera le véhicule commercial ayant un poids en charge d'au moins 4 500 kilogrammes” et par l'insertion après “service” de “, toutefois, la durée de la suspension ne peut dépasser le nombre d'heures prescrit par règlement.”

I move both the French and English versions of this amendment.

**Mr. Mandrake:** On Section 12, article 265.1(1), a question to the Minister, in here it says: “shall request the driver to surrender his licence.” This is one that really bothers me very, very much. I think that a fine against an owner-operator or the owner would be a better avenue to take, particularly if the person is operating a vehicle within the Province of Manitoba and you take away his licence and he cannot drive his own personal car. I do not think that is the right thing to do. I mean that is being out of hand.

**Mr. Albert Driedger:** I am told that this is constitutional, and normally the suspension in a case where an owner

is caught with excess hours or stuff like that, the normal suspension would be eight hours. Regulations allow a suspension up to 24 hours, depending on the severity of the discrepancy that is taking place, but normally it is eight hours. Once the driver's licence is lifted, he does not drive any more for eight hours.

**Mr. Mandrake:** That is precisely my point. I mean, just because a person's driver licence is suspended while he is operating a tractor trailer, it does not preclude him from driving his own personal car and that is exactly what you are doing to this man.

**Mr. Albert Driedger:** If a truck operator had his licence lifted because he had been exceeding his hours and if it was felt that he was not a safe driver on the road, what would make him any safer in a car?

**An Honourable Member:** It is a good question.

**Mr. Mandrake:** Mr. Chairperson, if the Minister is going to use that same scenario, I have been a salesperson for 14 years. I put more than 13 hours in a car when I was in Saskatchewan. Twenty hours in a vehicle was, for me, nothing. So why do you not suspend me then?

**Mr. Albert Driedger:** Basically, the amendments that we are looking at in Bill 21 deal with the National Safety Code on our national truck carriers. That is basically what we are trying to address and that is where the concern comes from all across Canada. That is why we have developed this kind of a scenario so that everybody would have uniform regulations across the country in terms of addressing the Safety Code aspect of it.

At this stage of the game, it does not apply to a salesman who wants to drive for 20 hours. Basically, we are dealing here with the trucking industry and we have established, as I mentioned this before, that 7 out of the 10 provinces have agreed that 13 hours of straight driving time would be the maximum that an operator should be driving a truck with the provision of 15 hours maximum service time, which would give him an hour before and after 13 hours to service his unit, gas up, etc. The provinces feel very strongly that after 13 hours of straight driving time that the driver should then be forced to rest for eight hours.

**Mr. Mandrake:** I am not questioning the regulation. All I am saying is that lifting a licence, I think a fine could be more appropriately used and saying you cannot drive that vehicle. I just want to be on record that I am opposed to having that sheer licence suspended.

The other question is, if the licence is suspended, how long is this period of suspension for?

\* (1025)

**Mr. Albert Driedger:** The normal suspension would be eight hours or less. Also, it could go up to 24 hours, depending on whether this man has been driving for three days straight or something like that. The suspension could be up to 24 hours. It could be eight hours or less, depending on the circumstances.

**Mr. Mandrake:** Section 265.1(3)(b), this section is not that simple. There are a number of checks—hours in work shift, hours in seven days. Please, could you explain these?

**Mr. Albert Driedger:** This portion of it is that the suspension would be eight hours unless the operator can provide a logbook and show exactly the hours that he has been driving.

**Mr. Mandrake:** Article 265.1(4)(b), how does the peace officer decide which is appropriate?

**Mr. Albert Driedger:** Under our suspension of driver's licence, there will be a section added underneath which will be dealing with the truck operators where it would show, on the bottom, hours of service and the hours of suspension from the day of, etc., etc., not to exceed 24 hours. That will be set on the bottom there. It will be part of the licence suspension that a police officer will basically have his guidelines that he can look at. If the man has been driving for 30 hours straight, then he would probably give him the eight-hour suspension on there. If he has exceeded it by not that much, the option is there for the officer to make a discretionary call.

**Mr. Mandrake:** I noticed somebody holding something out there with a sheet of paper. Obviously, it is something to do with the hours or something like that.

**Mr. Albert Driedger:** Basically, what staff was showing me was the driver suspension sheet that is being used and how it will be changed to make provision for a driver's licence or the hours of service suspension will be added to the normal suspension of a driver's licence.

**Mr. Mandrake:** The two critics for Highways and Transportation, could we be provided with a copy of those so we can have a look at them?

**Mr. Albert Driedger:** Yes, we will provide that.

**Mr. Mandrake:** On 265.1(4)(d), exceeding the hours of service regulation is not a chargeable offence but the licence can be suspended. I am going to go back to that again. I mean, you are suspending a person's licence but it is not a chargeable offence.

**Mr. Albert Driedger:** It is a chargeable offence under Section 318.3(1). It is a chargeable offence but, in most cases, charges would not be laid where somebody was exceeding the hours. Normally, a suspension would be taking place but, supposing that we had a repeat offender who continually did this, there is provision under Section 318.3(1) that charges could be laid.

**Mr. Mandrake:** My other question is on 265.1(10)(b), removal of vehicle. If the vehicle is empty, I have no objection to having that vehicle moved to a safe location and the owner/operator or the owner is assessed for that removal. What assurance will we have and will be provided in this section that a vehicle which is carrying perishable goods or living creatures are delivered to the destination or maintained at a location with the assurance that the cargo will not be affected?

**Mr. Albert Driedger:** The process that we envision is that the company would be contacted if it is a major carrier of some kind and make provision to have somebody come and pick up the truck and move it on or, if it is a single operator, that the individual would be escorted to a place where, in the case of perishable goods, that provision could be made that it could be escorted to a point, if it was cattle for example, where they could be looked after so that the cargo would not be affected.

(1030)

**Mr. Mandrake:** Let us just assume that the vehicle that is coming in through Manitoba is an owner/operator from Nova Scotia. He has exceeded his hours of service. We stop him at the border. He is carrying cattle. What happens with that?

**Mr. Albert Driedger:** He would be escorted to a point where those cattle could be properly cared for so that there would be no harm to the cargo.

**Mr. Mandrake:** My last one in this particular section is 298.1, "documents carried by the driver." Is there going to be an exemption of, let us say, to 150 miles from home base where the operator would not be required to maintain these documents?

**Mr. Albert Driedger:** There is an exemption of 100 miles or 160 kilometres that would be applied.

**Mr. Mandrake:** Excuse me, I am sorry, I was leaving through my—could the Minister repeat that again, please? 160 kilometres?

**Mr. Albert Driedger:** 160 kilometres or 100 miles, which is basically the same thing, I guess. There is that exemption clause in there.

**Mr. Mandrake:** The reason why I am asking that, Mr. Minister, is that people from Brandon, outlying districts like Morris, etc., which could be past 100 kilometres, now they are going to be required to maintain the documents. Could we not extend this to, let us say, 150 miles?

**Mr. Albert Driedger:** The standard quota across the country is 160 kilometres. This is applied equally throughout all the provinces.

**Mr. Chairman:** Shall the amendments to Clause 12—oh, Mr. Plohan.

**Mr. Plohan:** I just wanted to pursue briefly the matter of peace officers' powers under this section. Is this consistent with the kinds of powers of discretion that peace officers would have under other situations?

A couple years ago, we had discussed the possibility of peace officers having the jurisdiction to determine whether an offence under The Highway Traffic Act should result in demerits being assessed or not, depending on the severity of the offence. For example, if you are speeding through a crowded street, it is much more dangerous than going slightly over the speed limit

on a deserted highway when no other cars are around, and a peace officer might make a decision on one circumstance that many demerits should be assessed and in another circumstance that maybe none. So there is a discretionary power there and there was a great deal of concern that we should put that kind of discretionary power in the hands of peace officers.

Here we are doing that to some extent, I think, in that we are giving the peace officer a judgment to make about whether it is reasonable and probable grounds and so on. I wonder whether this is something that is quite a bit broader under any other sections or are there other examples where similar kinds of powers already exist in the Act?

**Mr. Albert Driedger:** It is my understanding that many of the times that police officers make discretionary calls even when you are speeding, for example, which I do not think the Member does, or drinking and driving, the police officer makes discretionary calls if he feels that somebody has imbibed when he stops him. He has that option to take him down for a breathalyzer. Even if the individual probably feels he has only had one drink or whatever the case may be, if the police officer so decides, he has that discretionary call to take him to the point wherever he wants to and give him a breathalyzer test.

So that same kind of philosophy would apply here. There are some discretionary calls that they would make. If he stops a trucker, for example, and looks at it and says, well, you are close to your destination, you are over a little bit, but what the heck, I will let you go. Those are the kinds of judgment calls that police officers, I assume, would be making in a case of this nature.

**Mr. Plohman:** While not wanting to prolong this, the example the Minister gives is not necessarily a good one because the driver can be vindicated by going for the test and proving that in fact he is not over, and that is the end of it, over .08. But, in this case, the driver could be held for a number of hours based on that decision and it could cost that individual and the company a great deal of money over that time. So it is a much more serious decision than one where he is taking a person down to determine whether he is over .08. There is proof that takes place very quickly to a certain extent by having the breathalyzer test whereas in here it goes on for some time. It can go on for a considerable amount of time.

**Mr. Albert Driedger:** I realize what the Member is saying. At the same time, there is no other way that we can really do that. We have to allow some discretion in terms of the officer when he does his checking. When he finds the flagrant violation in terms of hours of service, he can go to the logbook. If it is justified, he can suspend; if not, he has to still have proof based on the logbook as to the hours of service the individuals put in.

**Mr. Plohman:** I just want to say in closing that I agree there has to be teeth in the law to make this thing work, and the Safety Code. I am a firm believer that

ironically we have to have a lot of regulation to make it happen when we are deregulating.

**Mr. Chairman:** Amendments to Clause 12—pass; Clause 12, as amended, pass; Clause 13—pass.

Clause 14—Mr. McCrae.

**Mr. McCrae:** Mr. Chairman, I move:

THAT the proposed new Subsection 290(2.1), as set out in Section 14 of Bill No. 21, be amended by deleting “gross vehicle weight” and substituting “registered gross weight.”

(French Version)

Il est proposé que le paragraphe 290(2.1), figurant à l'article 14 du projet de loi 21, soit modifié par la suppression des mots “ayant un poids en charge” et leur remplacement par “dont le poids en charge inscrit est”.

I move this motion with respect to both the English and French texts.

**Mr. Chairman:** Amendment—pass; Clause 14, as amended—pass.

Clause 15—Mr. McCrae.

**Mr. McCrae:** Mr. Chairman, I move:

THAT the proposed new Section 298.1, as set out in section 15 of Bill 21, be amended by deleting “gross vehicle weight” and substituting “registered gross weight.”

(French Version)

Il est proposé que l'article 298.1, figurant à l'article 15 du projet de loi 21, soit modifié par la suppression des mots “ayant un poids en charge” et leur remplacement par “dont le poids en charge inscrit est.”

I move this motion with respect to both the English and French texts.

**Mr. Chairman:** Amendment to Clause 15—pass; Clause 15, as amended—pass.

Clause 16—Mr. McCrae.

**Mr. McCrae:** Mr. Chairman, I have seven proposed amendments to Clause 16 which I propose to move one after the other, if that is suitable to Honourable Members.

Mr. Chairman, I move:

THAT the proposed new Sections 318.1, 318.2 and 318.3, as set out in Subsection 16(1) of Bill 21, be amended by deleting “gross vehicle weight” wherever it occurs and substituting “registered gross weight.”

(French Version)

Il est proposé que les articles 318.1, 318.2 et 318.3 figurant au paragraphe 16(1) du projet de loi 21, soient modifiés par la suppression des mots “ayant un poids en charge” et leur remplacement par “dont le poids en charge inscrit est.”

I move this motion with respect to both the English and French texts.

Mr. Chairman, I move:

THAT the proposed new Section 318.4, as set out in Subsection 16(1) of Bill 21, be struck out and the following substituted:

318.4 No driver shall drive a public service vehicle or commercial truck having a registered gross weight of 4,500 kilograms or more on a highway unless

- (a) the driver has inspected the property to be transported and it appears to be secured in accordance with the regulations;
- (b) equipment forming part of or carried on the vehicle is firmly secured;
- (c) the entry into and exit from, including an emergency exit from, the vehicle are unobstructed;
- (d) all passenger exits, including emergency exits, from the vehicle are unobstructed; and
- (e) property transported is secured or stored so as not to pose a risk of injury to the driver or a passenger by its falling, displacement, or other movement.

(French Version)

Il est proposé que l'article 318.4, figurant au paragraphe 16(1) du projet de loi 21, soit supprimé et remplacé par ce qui suit:

318.4 Il est interdit de conduire un véhicule de transport public ou un véhicule commercial dont le poids en charge inscrit est d'au moins 4 500 kilogrammes sur la route à moins que les exigences suivantes n'aient été remplies:

- a) le conducteur a inspecté les biens qui doivent être transportés et ceux-ci semblent être fixés en conformité avec les exigences prévues par les règlements;
- b) l'équipement qui fait partie du véhicule ou que celui-ci transporte est solidement fixé;
- c) l'entrée et la sortie du véhicule, y compris la sortie d'urgence, sont dégagées;
- d) les sorties réservées aux passagers, y compris les sorties d'urgence, sont dégagées;
- e) les biens transportés sont placés en lieu sûr de façon à ne présenter aucun risque de blessure pour le conducteur ou les passagers s'ils tombent ou sont déplacés.

I move this motion with respect to both the English and French texts.

\* (1040)

Mr. Chairman, I move:

THAT the proposed new Section 318.5, as set out in subsection 16(2) of Bill 21, be amended by deleting "gross vehicle weight" and substituting "registered gross weight."

(French Version)

Il est proposé que l'article 318.5, figurant au paragraphe 16(2) du projet de loi 21, soit modifié par la suppression des mots "ayant un poids en charge" et leur remplacement par "dont le poids en charge inscrit est".

I move:

THAT the proposed new Section 318.6, as set out in Subsection 16(3) of Bill 21, be amended by deleting "gross vehicle weight" wherever it occurs and substituting "registered gross weight."

(French Version)

Il est proposé que l'article 318.6, figurant au paragraphe 16(3) du projet de loi 21, soit modifié par la suppression des mots "ayant un poids en charge", à chaque occurrence, et leur remplacement par "dont le poids en charge inscrit est".

I move:

THAT the proposed new Section 318.7, as set out in Subsection 16(4) of Bill 21, be amended by deleting "gross vehicle weight" wherever it occurs and substituting "registered gross weight."

(French Version)

Il est proposé que l'article 318.7, figurant au paragraphe 16(4) du projet de loi 21, soit modifié par la suppression des mots "ayant un poids en charge", à chaque occurrence, et leur remplacement par "dont le poids en charge inscrit est" ainsi que par la suppression des mots "et qui a un poids en charge" et leur remplacement par "et dont le poids en charge inscrit est."

I move:

THAT the proposed new Section 318.9, as set out in Subsection 16(5) of Bill 21, be amended by deleting "gross vehicle weight" and substituting "registered gross weight."

(French Version)

Il est proposé que l'article 318.9, figurant au paragraphe 16(5) du projet de loi 21, soit modifié par la suppression des mots "ayants un poids en charge" et leur remplacement par "dont le poids en charge inscrit est."

I move:

THAT the proposed new Section 318.11 of The Highway Traffic Act, as set out in Subsection 16(7) of Bill 21, be struck out and the following substituted:

#### **Application to regulated school buses**

318.11 Sections 318.1, 318.2 and 318.4 apply to a driver of regulated school buses and Sections 318.5 to Section 318.7, Section 318.8 other than Clause 318.8(1)(c), Section 318.9 other than the reference to 318.3, and Section 318.10 apply to a person providing a regulated school bus service.

(French Version)

Il est proposé que le paragraphe 318.11, figurant au paragraphe 16(7) du projet de loi 21, soit supprimé et remplacé par ce qui suit:

#### **Application aux autobus scolaires réglementés**

318.11 Les articles 318.1, 318.2 et 318.4 s'appliquent aux conducteurs d'autobus scolaires réglementés et les articles 318.5 à 318.7, l'article 318.8 à l'exception de l'alinéa 318.8(1)c), l'article 318.9 à l'exception du renvoi à l'article 318.3, ainsi que l'article 318.10 s'appliquent aux personnes qui fournissent un service d'autobus scolaires réglementés.

**Mr. Mandrake:** Mr. Chairperson, the Minister provided us with explanatory notes on the proposed amendments on page 35. I have a question to the Minister. Last paragraph on the page “. . . would result in the motor carrier preventing the driver from operating one of his public service vehicles.” Explanation, which is as required, is a commercial carrier not allowed to employ a driver with a conviction for driving under the influence, or is it only while the suspension from another jurisdiction is in effect?

**Mr. Albert Driedger:** The answer is yes. This is basically only a disclosure so that we can build up a profile on a driver.

**Mr. Mandrake:** On 318.2(c), I would strongly suggest in amendments there are sure to be put here where it reads “has been” to read “is believed.”

**Mr. Albert Driedger:** Mr. Chairman, we looked at the suggestion that the Member gave to us. We feel that that weakens the whole thing and we feel that we do not want to necessarily accept that.

**Mr. Mandrake:** You say we are weakening it. Who is going to determine whether or not it “has been”? I mean “has been” is believed right now, a driver of the commercial vehicle having a gross weight of—shall make and maintain the records, okay? I am sorry, Mr. Chairperson, but that—you know, it could be very easily changed and it still has the same type of an impact.

**Mr. Albert Driedger:** Well, our feeling is that if we change “has been” to “is believed,” it removes the responsibility from the driver in terms of making sure that it has been properly checked.

**Mr. Mandrake:** Okay, fine. I will accept that.

**Mr. Chairman:** Section 16, Mr. Mandrake.

**Mr. Mandrake:** Section 318.3(2), I had asked the Minister what is the distance exemption and he made the submission of 160 kilometres. Again, I will ask him, would he consider extending that to 200 kilometres just within Manitoba?

**Mr. Albert Driedger:** We cannot do that if we want to be consistent in terms of the National Safety Code. These things have been worked through over a period well before my time even, when a lot of this activity took place in terms of trying to get uniform regulations. If we make an exception in Manitoba, I think it destroys the aspect of a National Safety Code.

**Mr. Mandrake:** I completely agree with the Minister. National, that is exactly the word, National Safety Code. I am not talking about “the” National Safety Code. I am talking about Manitoba, truckers in the Province of Manitoba.

**Mr. Albert Driedger:** The whole purpose of developing a National Safety Code is so that all provinces would be uniform, so that the trucking industry knows exactly that there are uniform regulations applying across the

country. What we have had until now is each province has been doing exactly this, making their own regulations, having their own standards. That is basically what this whole exercise has been about with Bill 21. With all the provinces having agreed to certain regulations, we are now trying to put them into the Act so that each province is doing the same thing as we are doing right now in terms of trying to establish that we have uniform regulations regarding the safety aspect of it across the country.

**Mr. Mandrake:** Regarding 318.4(a), what regulations, because my interpretation of Manitoba regulations are very, very currently weak?

**Mr. Albert Driedger:** This section pertains to load securement and the regulations are being drafted right now. I think that is a valid concern because many of our loads—I do not know if the Member has ever driven down the highway when some of these fellows are hauling some of these squashed auto cars and fenders are falling off and stuff of that nature. We are drafting those regulations and we will bring them forward very shortly.

**Mr. Mandrake:** I am going to try to speed up here. On 318.6(a), to provide the authority to prospective employers to request an abstract from the Registrar, I would strongly suggest, in this particular one, is that the prospective employer asks the employee for authority to do this as opposed to, because that is unconstitutional. You cannot just ask for an abstract arbitrarily. Just because he wants to be employed, you cannot go to the Motor Vehicle Board, and I think they would even authorize it.

**Mr. Albert Driedger:** It does not seem to be unconstitutional. Legal counsel advises there should be no problem with that.

**Mr. Mandrake:** I contacted Motor Vehicle Branch personally, and I was told under no circumstances would an abstract be released unless I had provided the authority to have it released. So one hand is telling me one thing, another hand is telling me another. Let us get our act together.

**Mr. Albert Driedger:** The Member is correct but, under the National Safety Code, this makes provision for the abstract to be obtained by the carrier.

**Mr. Mandrake:** Subsection 318.8(1), and for how long?

\* (1050)

**Mr. Albert Driedger:** Six months for the logbook and six months for the trip inspection and mechanical records.

**Mr. Mandrake:** Page 43 of the explanatory note, and in my opinion this is going too far, how is the carrier to ensure that the driver does certain things? Threat of death? The best a carrier can do is to educate and instruct and/or punish if the regulations are not adhered to. This is putting the onus on a company where the

control may be very difficult. What is the position where a driver purposely destroys his logbook? How can the carrier respond to that?

**Mr. Albert Driedger:** The legislation is balanced between the carrier and the driver. Prior onus has always been on the carrier to make sure that the driver has a logbook available.

**Mr. Mandrake:** On 318.10(2)(c), again I would say the following change in respect to the documents at reasonable speed, and I would strongly suggest that we substitute it with "forthwith," in other words, now.

**Mr. Albert Driedger:** I have no great difficulty with a change. To me, "reasonable speed" and "forthwith" mean about the same thing. It, by and large, is as fast as possible.

**Mr. Mandrake:** That is precisely—reasonable speed. Define reasonable speed. If I could take three days, that is reasonable speed. But if I say "forthwith," it has got to be done right now.

**Mr. Albert Driedger:** My legal counsel and my staff tell me that basically it means the same thing. I am not going to have a big hang-up about it.

**Mr. Mandrake:** On 318.10(2), "without a warrant and upon presentation on request of identification," I would strongly suggest that this one here, that if it is not on request, he must present his identification upon entry.

**Mr. Albert Driedger:** In the notes that the Member sent me, staff and myself have been coping with this in trying to see exactly—we are not quite sure what the question is. We will try and answer that but we have difficulty trying to establish exactly what the Member's concern is here.

**Mr. Mandrake:** It says, "without a warrant and upon presentation on request"—the words "on request."

The Honourable Member for Gladstone (Mrs. Oleson) is trying to help me out and I would gladly prefer that she would not try to help me out. She has got herself in a pickle over part of the year or the past five months. I do not need your help, ma'am. Thank you very much.

The thing that I am trying to say is on request. There should not have to be an "on request" clause in there. The word should be "a presentation of identification at the time of entry."

**Mr. Albert Driedger:** Mr. Chairman, legal counsel advises me it is a small point, it is basically a matter of identification when we are trying to get a better explanation. Basically, it has to do with when our people come up and they have to identify themselves instead of the individual who they are approaching having to ask.

**Mr. Mandrake:** On 318.10(2)(b), this section in my opinion should be revised so that the owner/operator or owner provides the Registrar each year a financial statement of his company. This method would provide

financial information about the company which would prevent another S and S or Route Canada. The Registrar would then have the prerogative of suspending the licence of the owner/operator or owner if there are any irregularities in the financial statement.

**Mr. Albert Driedger:** Basically our concern is with the National Safety Code. I do not think that we have the jurisdiction that we could be involved in the economic viability of these operations. Our approach from my department is basically strictly the National Safety Code or the safety aspect of it, not the economic aspect of it.

**Mr. Mandrake:** You are asking for all his records, Mr. Chairperson. The Minister in this is asking for all the records including, i.e., books of accounts, documents, vouchers, payroll, records, letters, by-laws, etc., minutes. I mean, he is asking for everything.

**Mr. Albert Driedger:** Mr. Chairman, the reason why we would be asking for his records is only to verify the safety aspect of it in terms of having hours of service and that is the only purpose why we would be asking for that information.

**Mr. Mandrake:** Books of accounts. Mr. Minister, vultures?

**Some Honourable Members:** Oh, oh!

**Mr. Albert Driedger:** Vouchers, vouchers, if that is what you would prefer to use.

**Mr. Mandrake:** Okay, payrolls, records—I mean indeed.

**Mr. Albert Driedger:** Mr. Chairman, I would just have to indicate that is only one portion of the records of many that we need to establish the hours of service that the individuals will be operating with.

**Mr. Chairman:** The above-mentioned amendments, shall they pass? Oh I am sorry, Mr. Plohman.

**Mr. Plohman:** Mr. Chairman, can the Minister indicate whether all of these regulations apply to intra as well as extra, or interprovincial trucking? Is it the Minister's intention to apply the same provisions that he is applying to extraprovincial trucking to the intraprovincial trucking system in this province?

**Mr. Albert Driedger:** Uniformly, right across.

**Mr. Plohman:** Yes, I can understand that there may be some difficulties at some point in phasing it in, and I wonder if the Minister was going to phase it in over a longer period of time and for intraprovincial as opposed to interprovincial? The other question is what is he doing with regard to farm trucks that are over 4,500 kilograms?

**Mr. Albert Driedger:** Mr. Chairman, I do not know whether I want to get into that one necessarily. The treatment of farm trucks is going to be the same as everybody else in terms of National Safety Code

inspections. The application of the National Safety Code will apply to farm trucks as well.

**Mr. Plohma:** Okay, so clearly then the Minister intends to apply the National Safety Code at the same time to intraprovincial trucking and to all farm trucks that are affected by the registered vehicle weight, whatever the terms we are using now, that any truck that is over the 4,500 kilograms will be impacted by these regulations in the same way, regardless of what its use is.

**Mr. Albert Driedger:** The legislation will apply the same as with other trucks, except that they will not have to be keeping a logbook.

\* (1100)

**Mr. Plohma:** I think that demonstrates the Minister should, is going to have to give a lot of thought to this, and I would ask him to provide us with information on that as it is developed because I think there is going to be a lot of detail there that will have to be considered very carefully.

I also wanted to raise just briefly this issue of owner-operators, and I think that is an issue that should be dealt with at some point with regard to protection but I do not think it should be done in this section. I know what the Liberal critic is pointing out with regard to some protection for owner-operators, and what he was trying to do in one of his proposals with regard to 318.10(2)(b) but I do not think that is the place to do it.

I have written to the Minister on this issue before. He has replied that he does not think it is the place of The Highway Traffic Act to deal with the protection for owner-operators should foreclosures take place or other reasons that trucking undertakings go out of business. But I think there should be something there, particularly from what we have seen with Route Canada and S and S Transport, and I would ask the Minister if he intends to bring in further amendments dealing with the National Safety Code in the next Session of the Legislature. Is there more that has to be done to implement the Safety Code? If so, I would urge him to consider the issue of owner-operators and how we could provide some protection in The Highway Traffic Act.

**Mr. Albert Driedger:** Mr. Chairman, the amendments on Bill 21 that we have before us now basically applies, I guess, the general direction in terms of applying the National Safety Code. I would expect that possibly in a year's time as we get into this thing, because we are getting into a totally not foreign field of the Safety Code, but I am sure there could probably be some regulations coming forward or some amendments coming forward in the next year.

I guess while I have the mike, Mr. Chairman, I would like to indicate these regulations that we are talking about shall not apply in respect to a commercial vehicle driver operating any two- or three-axle commercial vehicle that is used for the transportation of primary products of a farm, forest, sea or lake, provided the

driver is a producer of such products; and a commercial vehicle exempt by the director, so the director has the option to exempt; or an emergency vehicle; a commercial vehicle transporting passengers or goods to and from any section of the country with the object of providing relief in the case of an earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous situation or disaster, a recreational vehicle, and urban transit service. Those are exemptions.

**Mr. Plohma:** Mr. Chairman, then from that information, clearly what the Minister is saying is that farm trucks are going to be exempt from the National Safety Code. Farm trucks I am talking about, not trucks that are transporting farm produce for someone else, but farm trucks themselves.

**Mr. Albert Driedger:** Certain trucks will be exempted, but also nowadays on the farm you have the big semi operators who basically haul farm produce but basically are operating commercially. They would have to be subject to the National Safety Code.

**Mr. Chairman:** Is the committee ready for the question? Shall all amendments regarding Clause 16 pass? (Agreed) Clause 16, as amended—pass.

Clause 17.

**Mr. McCrae:** I have two motions, first

THAT the title to Section 17 of Bill No. 21 be struck out and "Clause 319(1)(ttt)" be substituted.

(French Version)

Il est proposé que le titre de l'article 17 du projet de loi 21 soit supprimé et remplacé par "Adjonction de l'alinéa 319(1)(ttt)."

I move this motion with respect to both the English and French texts.

I move:

THAT the proposed new Clause 319(1)(sss), as set out in Clause 17(b) of Bill No. 21, be struck out and the following substituted:

(b) adding after clause (sss) the following:

(ttt) respecting the safe condition and operation of public service vehicles, commercial trucks having a registered gross weight of 4,500 kilograms or more and regulated school buses, and without limiting the generality of the foregoing,

(i) prescribing for the purposes of Subsection 265.1(3) the period or the manner of determining the period, not exceeding 24 hours, for which a licence may be suspended,

(ii) prescribing Acts and regulations for the purposes of Subclauses 318.1(3)(b)(v) and 322.1(1)(b)(v),

(iii) prescribing vehicle maintenance standards,

(iv) respecting inspections and inspection reports to be made and the persons to whom reports are to be provided,

(v) respecting records to be made, kept and produced,

(vi) respecting hours of service which drivers are permitted to provide under this Act, and

(vii) exempting classes of vehicles from regulations under this Act.

(French Version)

Il est proposé que le nouvel alinéa (319)(1)(sss), figurant à l'alinéa 17(b) du projet de loi 21, soit supprimé et remplacé par ce qui:

(b) l'adjonction, après l'alinéa (sss), de ce qui suit:

(ttt) pour prévoir des mesures de sécurité concernant l'état et la conduite des véhicules de transport public et des véhicules commerciaux dont le poids en charge inscrit est d'au moins 4 500 kilogrammes ainsi que des autobus scolaires réglementés, et notamment:

(i) pour prescrire, pour l'application du paragraphe 265.1(3), la période ou la façon de déterminer la période, ne dépassant pas 24 heures, pendant laquelle un permis peut être suspendu,

(ii) pour prescrire des lois et des règlements pour l'application des sous-alinéas 318.1(3)(b)(v) et 322.1(1)(b)(v),

(iii) pour prescrire des normes relatives à l'entretien des véhicules,

(iv) pour prévoir des mesures concernant les inspections et les rapports d'inspection ainsi que les personnes à qui les rapports doivent être présentés,

(v) pour prévoir des mesures concernant les documents à établir, à conserver et à produire,

(vi) pour prévoir des mesures concernant les heures de service que les conducteurs peuvent effectuer en vertu de la présente loi,

(vii) pour exempter des catégories de véhicules de l'application des règlements pris en vertu de la présente loi.

I move this motion with respect to both the English and French texts.

**Mr. Chairman:** Amendments regarding Clause 17—pass; Clause 17, as amended—pass.

Clause 18—Mr. McCrae.

**Mr. McCrae:** I have two motions as follows. I move:

THAT the proposed new Subsection 322.1(1) and (2), as set out in Section 18 of Bill No. 21, be amended by deleting "gross vehicle weight" wherever it occurs and substituting "registered gross weight."

(French Version)

Il est proposé que les paragraphes 322.(1) et (2), figurant à l'article 18 du projet de loi 21, soit modifiés par la suppression des mots "ayant un poids en charge", à chaque occurrence, et leur remplacement par "dont le poids en charge inscrit est."

I move this motion with respect to both the English and French texts.

I move:

THAT the proposed new Subsection 322.1(4), as set out in Section 18 of Bill No. 21, be struck out and the following substituted:

**Regulated school bus carriers**

322.1(4) Subsections (1) to (3) apply to a person providing a regulated school bus service.

(French Version)

Il est proposé que le nouveau paragraphe 322.1(4) figurant à l'article 18 du projet de loi 21, soit supprimé et remplacé par ce qui suit:

**Application de dispositions aux autobus réglementés**

322.1(4) Les paragraphes (1) à (3) s'appliquent aux personnes qui fournissent un service d'autobus scolaires réglementés.

I move this motion with respect to both the English and French texts.

**Mr. Chairman:** Shall the amendments—Mr. Plohman.

**Mr. Plohman:** With regard to Section 322.1, can the Minister indicate when the Registrar will be in a position to maintain these records, his compliance records, when this is to be implemented, this section of the Safety Code?

**Mr. Albert Driedger:** The professional driver profile planned for modifications to current driver record systems to meet national standards is planned for April 1, 1989. The carrier profile implementation is planned for March 1, 1990. I think that is the last one of the implementations.

**Mr. Plohman:** Am I to understand that it will be fully implemented by March 1, 1990?

**Mr. Albert Driedger:** That is correct.

**Mr. Plohman:** Is this consistent with all of the other jurisdictions or are we ahead with the final implementation of other provinces in this country?

**Mr. Albert Driedger:** I am told that we are approximately in the middle so we are moving along, I guess, at the same pace as everybody.

**Mr. Chairman:** Clause 18, as amended—pass; Clause 19—pass.

Clause 20—Mr. McCrae.

**Mr. McCrae:** I move:

THAT Subsections 20(2) and (3) be struck out and the following substituted:

**Provisions to be proclaimed**

20(2) Clause 2(d), Sections 12 and 15, Subsections 16(1), (3), (5) and (7) and Section 18 come into force on a day fixed by proclamation.

**Proclamation of C.C.S.M. c. O31**

20(3) Clauses (2)(b), (c) and (e) and Sections 3, 10, 13 and 19 are deemed to come into force on October 1, 1988.

(French Version)

Il est proposé que les paragraphes 20(2) et (3) soit supprimés et remplacés par ce qui suit:

**Exception**

20(2) L'alinéa 2(d), les articles 12 et 15, les paragraphes 16(1), (3), (5) et (7) ainsi que l'article 18 entrent en vigueur à la date fixée par proclamation.

20(3) Les alinéas 2(b), (c) et (e) ainsi que les articles 3, 10, 13 et 19 entrent en vigueur le 1er octobre 1988.

I move this motion with respect to both the English and French texts.

\* (1110)

**Mr. Chairman:** Amendments to Clause 20—pass; Clause 20 as amended—pass; Preamble—pass; Title—pass; Bill as amended—pass. Bill be reported.

**BILL 45—THE LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL CONFLICT OF INTEREST AMENDMENT ACT**

**Mr. Chairman:** The committee will now proceed with Bill 45. Is the committee ready to consider Bill 45? Clause 1—pass.

Clause 2—Mr. Edwards.

**Mr. Paul Edwards (St. James):** I would just like to ask the First Minister (Mr. Filmon) to explain the sub (d) of Clause 2 which includes a technical officer. I will just quote it: "other than a special assistant or an executive assistant appointed under Section 32 of The Civil Service Act." What is the basis for the exempting of the special or executive assistants?

**Hon. Gary Filmon (Premier):** You are asking why an executive assistant or a special assistant is excluded?

**Mr. Edwards:** Yes. I guess, in particular, in comparison to the technical officer which is included.

**Mr. Filmon:** Generally speaking, the executive assistants and special assistants are in categories, particularly of income and responsibility, that would see them under \$40,000 in current circumstances, not privy to major decisions of policy nature or any of those kinds of things and, in our judgment, an unfair imposition to put on them to, in effect, limit their job opportunities after the service in Government as essentially assistants, not major, whereas the technical officers are generally in a much higher category of responsibility, developing policy matters and dealing with policy matters and ultimately in a much higher income category.

**Mr. Edwards:** I would ask the First Minister (Mr. Filmon) how many technical officers there are who are presently paid less than \$40,000, and if he has those figures. Secondly, the other reason he appears to have given is that executive assistants and special assistants are not privy to major policy decisions.

True, I have never been a Minister and I have never had a special or an executive assistant, but it is my

information that they are indeed privy to the very sensitive political information which is the daily diet of a Cabinet, and that they are indeed highly tied to the political process, I would suspect, more closely tied than the technical officers, many of them, on a daily basis.

Is the Premier then saying that the sole grounds for this is that the level of pay is different? Does he have any basis for that, and does he have any basis for the suggestion that all technical officers are more highly tied to the political process than an executive assistant?

**Mr. Filmon:** Firstly, we are not talking about technical officers being tied to the political process. We are suggesting—

**Mr. Edwards:** Your words.

**Mr. Filmon:** We are not talking about technical officers being tied to the political process because they are not. The fact is that they are tied to the policy development process. I think those are the words that I used, not political process, and there is a difference.

In terms of policy development, technical officers are often involved in the drafting of legislation and developing of policy matters for Government consumption and use. We believe that the role principally of executive assistants and special assistants is as it is described, assistants to the Ministers, who look after the relationship with the public, who communicate with the public and try and solve problems that are raised, but they are not involved in the development of policy, the kinds of information that would allow them to be trading insider information or utilizing the influence that they have obtained by that process after they have left the employ of Government.

**Mr. Edwards:** . . . and I would appreciate an answer to the first question that I asked which was how many technical officers make less than \$40,000, which is the figure quoted, the standard that the Premier seems to be relying on. Secondly, is the Premier saying that the executive and special assistants do not have sensitive political information that is highly marketable in the private sector and would be prone to abuse, which is exactly what this Bill seeks to curb?

**Mr. Filmon:** Yes, that is what I am saying. That is exactly what I am saying.

**Mr. Jerry Storie (Flin Flon):** Mr. Chairperson, I am curious about the Premier's reference to the amount earned, because it seems to me that the ability or the likelihood of a person having information which may be valuable has nothing to do, in fact, with how much is earned. The fact of the matter is the case, I think, that was being made by my colleague from St. James is the case that needs to be made.

\* (1120)

Special assistants certainly and perhaps executive assistants to some degree are in a position to understand the broad range of activities in a

department, much more likely so than technical officers. We have not got a definition of that at this point, but certainly I believe quite strongly that the people who are appointed to executive assistant positions and special assistant positions are, first of all, political and, secondly, in a position very directly to know a full range of activities, not only in that department but, because of their associations with others, the full range of Government activities. I do not understand this exemption. I do not think it makes sense.

If we are going to put in the chairperson of a Crown corporation, which is a political appointee, as well, I think that special assistants whom in all likelihood deal with the same information about those Crown corporations as they work with the Ministers and prepare information, provide briefings, are in an equally fragile position. I think we should be including them in this legislation. If the intention of the Premier (Mr. Filmon) is to make this a broad-based and thorough conflict-of-interest piece, then I do not understand this exclusion. It does not make sense. The explanation that they do not earn much money is a pretty weak explanation.

**Mr. Filmon:** If I may, my purpose in referring to salary was to refer to the junior nature of the position. If anybody were in an influential position, which they would be developing and influencing policy development, they would not be working for 40,000 a year, let me tell you. If you are looking for people who really have the ability to develop policy and influence the whole policy development process of Government, which is how they could influence utilizing that knowledge for personal gain in the future or have something to sell, it is not knowing a full range of services.

Mostly your clerical people working within Ministers' offices know the full range of services because they are typing letters, developing correspondence that addresses the full range of services. So it has nothing to do with knowing the full range of services that is provided by a department or a Crown corporation. It has to do with being able to develop and influence the policies of that corporation. That is why you have your chairpersons, who are the 100,000 a year people, who are under this, but you do not have your junior clerical people under this, and you do not have your executive assistants under this.

**Mr. Storie:** I do not know whether the special assistants in working with this Government fetch coffee, if that is all they do. I assumed that they also sit in on briefing meetings, they participate in briefing meetings and are in a position to have access to information which could be of some commercial value. They have access certainly to Ministers who develop and implement policy, who are the policy makers in a sense. They have access to that kind of information, much more so than the average person in the bureaucracy, much more so certainly than most technical officers, who may deal with only one small portion of a policy.

Unless we have a definition here where we are using different definitions of what a technical officer is, but I want to set that aside. I think that special assistants and executive assistants should be included in the

legislation. What they are paid has nothing to do with the knowledge that they may gain through their association with the Minister, through their association with people in the department, through their association with Crown corporations of one sort or another. I think they are in a very good position to develop an understanding of the activities of Government, and certainly they have access to all of the information that the Minister has access to.

**Mr. Filmon:** With respect to that comment about having knowledge of all of the activities that are going on and the discussions that are taking place, has to do with every single secretary in a Minister's office, has to do with every single clerical person in a Minister's office, because they type and they read all of this material that goes by them. That has nothing to do with their influence.

**Mr. Storie:** Well, I am not sure the analogy holds at all. The special assistants have access to the Minister on a much more informal basis to discuss policy issues, to discuss the implications of X or Y decision. They are in a different position than secretarial staff. It is totally missing the point to suggest that there is some kind of comparison between those two positions.

I do not know why the First Minister is so reluctant to include this category of people. Clearly, they are political appointees. They come there with a specific purpose and that is to assist the Government. I am assuming that also means that they have a good relationship with the Minister, with other Ministers. I do not understand his reluctance, if he wants to make this a comprehensive Bill to include these kinds of people. Why should they be excluded?

Perhaps we, as legislators, leave open the opportunity that there will be a loophole. These people can be extremely powerful people within the bureaucracy. They are worried because their association with Ministers is quite important in the hierarchy within departments at times, and I do not understand why they cannot be included.

**Mr. Filmon:** The Minister, or at least the Member for Flin Flon (Mr. Storie), fails to recognize that the minute they are gone, they are nobodys. They have no influence whatsoever on the department.

For example, your political assistants, your executive and special assistants have absolutely no influence whatsoever on the bureaucracy right today of this Government nor on the policy making of this Government whatsoever. They have nothing to sell. Let me tell you that is the way it works and that is why it is a totally unreasonable suggestion that an executive assistant or a special assistant should—when Governments change, they are gone, they are nobodys. Even when they are away, when the Government remains and they go out to the private sector, their influence becomes absolutely diminished.

**Mr. Storie:** Mr. Chairperson, the First Minister (Mr. Filmon) misses the point of this whole conflict-of-interest exercise. Knowledge is power. The person does not

have to be a Deputy Minister, a former Deputy Minister or a nationally recognized figure to have power, to have knowledge that has a financial value to it. It certainly may be some outside corporation, and we are also dealing with that in this piece of legislation. Whether they can, as a former special assistant, direct the bureaucracy is immaterial. The question is, do they have knowledge which may be utilizable for them which they may turn into some kind of financial gain? These people are in a position where they can get that kind of information and carry it with them.

Why are they not included? Why the reluctance? What is so abhorrent about including these people in a Bill that we want to be as broad as we can possibly make it?

**Mr. Filmon:** The question, of course, always is do you include everybody, every single public servant, right down to the secretary in the Ministers' offices, or do you include only those who have the most influence and the most likelihood of utilizing that influence. There has got to be a common balance.

Surely if you want to do what the Minister says, knowledge is power, every little bit of knowledge about this Government can be utilized by somebody going into the private sector. Every single computer programmer has knowledge that they could use going into the—we do not have them in this Bill. Include them then, do not just pick the executive assistants and special assistants. I tell you, your secretaries in Ministers' offices are going to be equally knowledgeable about what goes on in that Minister's office, in the policy development process. You better include them because there is no sense in singling out these—I know the reason that the Member is doing it, because he wants to pick on those who are political appointees.

In that case, put in every single member of every single board, every appointment we make, and then you will get nobody to accept a Government appointment to a board. For \$5,000, they become frozen out from doing any work or any business that involves a relationship with Government in future. That is the only way you are going to do it to be fair, because it certainly is not fair to just single out the executive assistants and political assistants because they are now whipping boys because you can point to them as having been appointed by the Government. That is absolute nonsense. I would like the Member to give me one example in which a political assistant, to his knowledge, a special assistant or executive assistant put themselves in the conflict-of-interest position after leaving the Government.

**Mr. Storie:** I am not going to start parading a list of people who may or may not have been in the conflict position. I was never suggesting, did not suggest that we start including everyone.

What I am making the case for is that you particularly excluded two groups of people, special assistants and executive assistants, which I do not believe should be excluded. They are people quite different from secretaries. Secretaries do not deal with policy. They may have an opportunity to read material. They do not

have access to meetings that Ministers attend where issues are discussed in depth. They do not attend briefing and debriefing meetings. They do not have access to other Members of Cabinet because of their political associations. These people are different and should be included. I am not recommending that we include everybody. I am not recommending that we include people who are appointed to boards, which whom incidentally do not have access to all of the policy questions. They deal with one particular board or one particular agency. Their potential for gaining knowledge which is going to be beneficial is not nearly as broad as special assistants or executive assistants.

I am suggesting, rather than have this exclusion, let us make it an addition and we can all agree and feel that we have left the scope of this Bill or made the scope of this Bill as broad as we can possibly make it. Let us do that. It makes sense. I do not understand the defensiveness of the First Minister on this issue.

\* (1130)

**Mr. Filmon:** The question is the fairness. It is one of fairness to a relatively junior person, who may earn 31,000 or 33,000 or less, who automatically becomes frozen out from future jobs by virtue of having been in a position in which they have literally no direct policy influence.

**Mr. Storie:** The First Minister (Mr. Filmon) says it is one of fairness. Let us be frank about this. These people joined the political process in a very political way, in a way that is profiled. They did so knowing that they were part of the political process and, Mr. Chairperson, these people make as much as MLAs. They are joining the political process. The people who joined your staff as your special assistants and your executive assistants know what they are getting into. They are also part of this political process. They are hired by O/C, they are fired by O/C. They know that they are involved in that process and they should be a part of this rather than excluded from.

**Mr. Filmon:** They are not answerable to the public. MLAs are answerable to the public and are hired and fired only by the public. These people are not.

**Mr. Storie:** That is the contradiction in all of this. Technical officers are not publicly accountable either. That is why I said it is such a contradiction to have technical officers juxtaposed with executive and special assistants. Let us make it consistent. The Minister is not making a point against my argument at all.

**Mr. Filmon:** I have totally made the point against your argument. These are people who have no Civil Service protection, who have no policy development influence. They are at the whim of changing Governments. They already are in a precarious position in order to take these positions. Now you are suggesting to them that they be subject to being frozen out for any employment that may involve Government after they leave. What can they do with the rest of their lives?

**Mr. Storie:** What can they do with the rest of their lives? They can wait a year like everybody else who might potentially be in a conflict-of-interest position.

**Mr. Filmon:** On welfare?

**Mr. Storie:** No one says you have to work for Government. Are you suggesting that everybody who is going to be affected by this Bill is going to be on welfare? Is that what we are doing?

**Mr. Filmon:** No, not at all. They have all sorts of other opportunities because of their senior experience.

**Mr. Chairman:** Order, order.

**Mr. Storie:** Mr. Chairperson, I thought I had the floor.

**Mr. Chairman:** Yes, the Chair recognized Mr. Storie.

**Mr. Storie:** The First Minister says these people are put in a precarious position. They are in a precarious position by choice. They are joining the political process by becoming political assistants and executive and special assistants to Ministers. They do have the same kind of access to information that Ministers do, certainly most back-bench MLAs, in fact more access to information than back-bench MLAs.

My question is, if you are going to say these people do not earn very much, we are already penalizing them, why are we including people like technical officers? I am saying that those two things in that one clause just do not make sense. All we have to do is amend it to include them. We are not barring them from employment in the province. We are saying that, yes, you are in a position where you might gain some access to some information that may be valuable. We are putting this penalty on many other people, chairpeople of Crown agencies and presidents and vice-presidents, as well as other senior civil servants. Let us include them as well. I do not think it is that onerous for these people, given their understanding of what they are getting into when they hire on.

**Mr. Filmon:** Mr. Chairman, the same thing holds true then. You have to say, what about the special assistants and executive assistants to the chairpersons, the president, the vice-president. Every time you have a category of people, if they have a special assistant or an executive assistant, they presumably have the same access under your lack of logic, quite frankly.

**Mr. Storie:** Certainly the First Minister (Mr. Filmon) can make those arguments if he wishes. I do not believe the argument holds much water. I believe that even being a director or a person on a board or agency of Government does not give that person the same kind of access to the range of information that is available to Governments, to Ministers as being a special or executive assistant. I think it is quite a unique position in Government. It is quite a unique position and many special assistants and executive assistants have very solid relationships with Ministers. They work very closely with them. They have access to the same kind of information. The chairmen of most boards and agencies may see the Minister once or twice a year, and they certainly do not have a day-to-day access with the range of information that goes through a Minister's office.

They are not comparable at all. The Minister is belittling this issue into foolishness if he continues to try and make those comparisons.

**Mr. Filmon:** No, it is the Member for Flin Flon (Mr. Storie) who is belittling this issue with foolishness. He did not even listen to my answer. I said to him, if you are going to say that executive assistants and special assistants have the same knowledge as the Minister does and the same kind of influence on policy, then you have to say that every single person who is named here, if they have an executive assistant or a special assistant, has to have that executive assistant or special assistant included because, ergo, they have the same knowledge and influence as the chairperson, as the president, as the vice-president, as the senior officer.

**Mr. Storie:** I will take his ergo and raise him two quid pro quos.

The fact is that analogy still does not hold. The executive assistants or special assistants of chief executive officers do not have access to the Minister. The chairman may—and I am not even convinced that connection needs to be made. I am not looking to open this up to every single civil servant or appointee of Government. I am saying that the Minister chose to put a Bill before us that juxtaposed technicians with executive assistants. I am saying that those people should not be excluded. They are in, I think, a much superior position, in terms of access to information, than technicians and technical officers. I just do not understand the priorities. These are political people, they understand they are joining a political process, like MLAs and like other appointees, senior appointees by Government, why not include them? I still cannot understand why the Minister is so reluctant.

**Mr. Filmon:** The Member for Flin Flon (Mr. Storie), and I wish he would listen to what I am saying because he is belittling this whole argument by talking about raising my ergo with two quid pro quos. He is belittling this and making humour of a very serious situation. If his argument is that executive assistants and special assistants have the same knowledge as the individual they are serving and the same influence on the individual they are serving, every one of these individual's who is named here as being in a position of influence, he has an executive assistant or a special assistant or both and you are going to have to include them.

**Mr. Storie:** The First Minister (Mr. Filmon) was not listening because there is no such similar relationship. The executive and special assistants live in the Ministers' offices. They work with the Minister on a continuous basis. They work with the Minister on a broad range of issues. They have access to information that Ministers have access to. The special assistants of people who are responsible, like chief executive officers, presidents of Crown corporations are not in this building. Neither the president nor any of his senior staff have continuous access or access to the range of information, through the Minister, that the special assistants do. Certainly, the executives to those people have no contact whatsoever. So their positions are not analogous whatsoever. I am not recommending that we open it

broadly. I am saying these two categories of people have been excluded, and I believe wrongly so.

\* (1140)

**Mr. Filmon:** It has not to do with knowledge of the wide range of services. It has to do with knowledge and influence of the policy development process, influencing policy decisions. That is what it has to do with. I can name you any numbers of people, and I am telling you secretaries and clerical people, who have knowledge of the wide range of services provided by their departments and have knowledge of every single move that the Minister makes. They make up my schedule. They know exactly who I am meeting with, under what circumstances. They type up any draft of the notes that are taken of the meetings. It is a draft to file. So they know exactly what was discussed and under what circumstances. They have absolutely the total knowledge of the range of my activities and the services that are provided by my area of responsibility, total knowledge of it. Why are you not suggesting that they should not be in there?

I would say, because the Member does not know that prior to us having executive assistants and special assistants, and we did not have too many in the former Lyon administration, it was the secretaries who performed precisely those kinds of functions of liaison with different people. But liaison is different from deciding on the policy. The secretary does not decide the policy, the executive assistant does not decide the policy, and the special assistant does not decide the policy. If they gain some knowledge from working in a Minister's office—(Interjection)—The Member for Wolseley says neither does a technical officer. In many cases, the technical officers are specifically hired as policy advisers and policy development people, drafting legislation, and that is why they are not in this Act, okay.

**Mr. Storie:** The First Minister, I think, is underestimating the potential for special assistants, executive assistants to have access to information. They are not like clerical people at all. They have, on a daily basis, access to the Minister, and it is not a question of his schedule, knowing where a schedule—they have access to the Minister's thinking and to the thinking of some of his colleagues perhaps. They know what the Government is planning.

If you develop a scenario, you have a special assistant to the Minister of Housing (Mr. Ducharme). He knows that the Manitoba Housing and Renewal Corporation has land all over the city in different locations. He knows that the Minister is taking forward a proposal, or she knows that the Minister is taking forward a proposal, because they have discussed it. They have been in meetings where it has been discussed. The secretaries were not there. They know that land is going to be sold six months down the road. All of a sudden they are working for Qualico. That is just a scenario.

These people know a great deal, in some cases, depending on how the Minister has used that. But certainly, the way I understood their position and,

because of their political relationship with the Minister, I think that they should be included. I believe there are a number of people on this committee who believe likewise and cannot fathom your defence of this for these political appointees who know what they are getting into.

**Mr. Filmon:** We now know what the game plan of the Member for Flin Flon (Mr. Storie) is. He is trying to make whipping boys out of the political appointees.

**Some Honourable Members:** Oh, oh!

**Mr. Filmon:** He is. He keeps referring to political appointees and that ergo is the reason why he wants to try and exact some penalty on them, because they are political appointees. He wants to exact the penalty on them.

Yes, I am not only concerned about that kind of political agenda that he is putting forth. I am embarrassed for him that he has to try and do this to impugn people who are there as facilitators, as problem solvers, doing the constituency work, responding to constituents who have a problem and helping them solve it and trying to make that into a senior person in the department. It is nonsense.

**Mr. Storie:** Mr. Chairperson, I am not trying to impugn anyone's reputation. The First Minister is extremely good at that, who attempted to do it with Mr. Desjardins and others and he thought he was going to get some political credit for bringing this in. That is why we are here. I did not bring this legislation forward.

**Mr. Filmon:** If you do not agree with it, vote against it. I dare you. Vote against it. You tell people that you do not want good conflict-of-interest legislation. You tell people that.

**Mr. Storie:** Could you put a noose on that man?

**Mr. Chairman:** Mr. Doer, on a point of order.

**Mr. Gary Doer (Leader of the Second Opposition):** Mr. Chairman, at the Speech from the Throne, we clearly indicated that we would support the concepts in this type of legislation, but we are going to improve this legislation. The First Minister should not be so defensive on it, particularly in terms of personal imputations because he called this the Desjardins bill, which I think was inappropriate to a 30-year public employee in this province.

**Mr. Storie:** Mr. Chairperson, if I may continue—I do not know if that was a point of order. Perhaps you could—

**Mr. Chairman:** No, it was not a point of order. Carry on, Mr. Storie.

**Mr. Storie:** Well, Mr. Chairperson, it sounded like a point of order to me.

I wanted to address the issue of my motives in this. My motives are to make this as good a Bill as we can

make it. I do not believe the exclusion that the First Minister (Mr. Filmon) has made in this Bill makes any sense. I think it weakens the Bill. I believe the arguments that he uses for their exclusion are extremely weak, and this committee is going to decide whether this legislation is approved. This committee will decide whether there are going to be consequent amendments to the legislation. I believe that amendment that would have these people included would be a good amendment. I believe it is a good amendment. I did not impugn anyone's integrity by suggesting they be included.

Is the First Minister (Mr. Filmon) saying he has impugned the integrity of the technical officers by including them? He certainly singled them out in this legislation. Is he impugning the integrity of any chairperson he has appointed? The answer is no. What we are trying to do is prevent problems.

The people who are appointed political appointees of the Ministers have the potential for getting themselves in conflict-of-interest situations. They have the potential to use information, insider information, I think that is obvious, and the exclusion does not make sense.

**Mr. Chairman:** The Honourable First Minister.

**Mr. Filmon:** No, that is fine, Mr. Chairman.

**Mr. Chairman:** I believe the Honourable Leader of the Opposition (Mrs. Carstairs) was first. Before she left, she had her hand up.

**Mrs. Sharon Carstairs (Leader of the Opposition):** I am sorry I missed some of this discussion, Mr. Chairman, but I just want to go on the record as saying that I do not understand why these two have been excluded.

The relationship that evolves between a special assistant and an executive assistant and the Minister or the Leader of the Opposition is, quite frankly, a very close one, one in which there is great expression of personal respect for one another. I think that person who then moves into a public sector can indeed be a most effective lobbyist, and that is really surely what we want to protect in this legislation because of the nature of that relationship.

That relationship extends because that special assistant, that executive assistant makes contacts throughout not only his own department but all other departments, speaking for, representing the Minister. Your Ministers have been represented at events by such individuals. There is that closeness of relationship. I do not understand, on the basis of that relationship that evolves, why they would be excluded when there is so obvious a potential for a conflict of interest.

**Mr. Filmon:** I will listen to all the speeches.

**Mr. Edwards:** I have been listening with interest to the Premier's statements in response to the questions from the Member for Flin Flon (Mr. Storie). I wonder if, firstly, he could revert back and tell us how many technical officers will be affected by this legislation, who make less than \$40,000 per year.

**Mr. Filmon:** I will just say that I do not have that information at my disposal. If it is critical to this Bill passing, then we will have to try and get it in time for the further decision.

**Mr. Edwards:** Well, it is one of the things which the Premier (Mr. Filmon) first defended this exclusion of special assistants on and, therefore, I think that in fairness to the technical officers we should know how many of them who make that less than \$40,000 benchmark that the Premier has suggested—

**Mr. Filmon:** May I say that none of my reference to the technical officers was to do with \$40,000.00. It was to do with the salaries of the special assistants and the executive assistants. That is the only point at which I made that comment. I did not refer to the technical officers.

\* (1150)

**Mr. Edwards:** Technical officers is defined in The Civil Service Act then, as I am sure the Premier (Mr. Filmon) knows. In fact, the special assistants and executive assistants are included in that definition. This is a specific exclusion of these technical officers, and the Premier has cited certain criteria to defend that exclusion, one of which is totally untenable and that is that there is no influence—and I believe that the Premier has gone on at length about that without much success. But another was the salary level, and so I will simply leave it if the Premier does not have that information at hand.

My next question is, would he be willing to limit—and I agree with the Member for Flin Flon (Mr. Storie) that we do not want this to expand necessarily beyond those who would have an intimate relationship with people making political decisions—this to special or executive assistants who work for Ministers, Deputy Ministers or, I believe the wording in the Act is, Assistant Deputy Ministers.

**Mr. Filmon:** I am sorry. Repeat it?

**Mr. Edwards:** Yes. Would the Premier be willing to limit the inclusion of executive assistants and special assistants who work for Ministers, Deputy Ministers or Assistant Deputy Ministers?

**Mr. Filmon:** I am sorry, I do not understand the question.

**Mr. Edwards:** The Premier has specifically stated, as one of his defences of this, that this has a floodgates effect. This is going to expand to chairpeople and all kinds of other people who we maybe do not want to include. Would he, therefore, be willing to limit the inclusion of executive and special assistants to those who are working for Ministers, Deputy Ministers and Assistant Deputy Ministers who are intimately involved in the political process?

**Mr. Filmon:** The question of being intimately involved, by definition, the kind of work that a secretary does

in terms of her or his relationship with a Minister involves a close knowledge of every single activity, every single move that individual makes, the Minister. I suggest that it is a question of fairness of looking at whether or not it is reasonable or fair to suggest that you now start to move this out into anybody who might have influence on policy.

I mean, the Member for Wolseley (Mr. Taylor) alluded to the fact that technical officers and many people in the department have influence on policy development. What I am saying to you is that the special assistants and executive assistants have no more influence on policy development than do many of these other people working throughout the Government. Many people working as ordinary civil servants have as much as or more influence on the policy development process. They are not included in here because the idea is to limit it to people who have the total knowledge and control over policy development and, therefore, all the real inside information.

I want to tell you that I do not know how the Member for Flin Flon (Mr. Storie) and his people worked with them, but we as a Government are very, very discreet, and have to be, in terms of how many people know about all the things that are going on. I think, quite frankly, that if somebody is using a junior person as a special assistant who is a special assistant or executive assistant as the source of their policy development, then I say that they are really doing a disservice to the people of Manitoba.

We pay very senior, knowledgeable, capable, experienced people to develop the policies of Government, deputies and assistant deputies and people who have risen through the ranks with eons of experience, and those are the people whom I would suggest should be the basis of our policy development. If we are going to the executive assistants and saying, what do you think on this and that becomes our policy, I think we have serious problems for the future of Government. If that is what the Liberal caucus would like to have, their policies developed by their executive and special assistants, then I say, God help this province.

**Mr. Edwards:** Does the Premier (Mr. Filmon) suggest that his own and those of his Cabinet Ministers, special assistants and executive assistants, do not have an intimate daily working relationship with them and do not have, should they leave that employment, the potential to lobby effectively, to have influence on politicians and have influence that this Act specifically sets out to deal with? Does he suggest that there is not an advantage to be gained politically by being a special or executive assistant?

**Mr. Filmon:** What I am suggesting is that they do not have influence such that they ultimately can direct policy development in this province. That is the key to this whole thing.

**Mr. Edwards:** How many technical officers do not have, in the words of the Premier, direct involvement in policy making? Does he know that?

**Mr. Filmon:** It was our impression that there were some technical officers specifically who were appointed under

this category who did have direct policy development involvement. We felt that we were being fair and consistent in comparing their level of influence on policy development by putting it in. If the Member is suggesting that he does not believe these technical officers do have policy development influence, then amend it and remove it.

**Mr. Edwards:** I would at this point like to move a motion to the committee. I move:

THAT Clause (d) of the definition of "senior public servant" in proposed Section 2 be amended by striking out "other than" and substituting "including."

(French Version)

Il est proposé que l'alinéa d) de la définition de "junctionnaire supérieurs" contenue dans l'article 2 proposé soit modifié par la suppression des mots "à l'exception de" et son remplacement par "y compris."

I have the French version and, if it is the will of the committee, I will read the French version.

**Mr. Chairman:** Is it the will of the committee to hear the French version? Is it the will of the committee to dispense with the French reading? (Agreed)

**Hon. Clayton Manness (Minister of Finance):** Speaking to the motion, I have been listening quite carefully to the debate that has ensued over the last half-hour on this particular item. Let me say, I find it quite difficult to believe that Members of the Opposition would really try to exclude SAs and EAs by way of their amendment.

I can understand some of the Liberal spokespeople making their claim, but I really find it hard to believe that Members of the NDP who have been through Government and know in a lot of cases the liability it represents to some EAs and SAs once they of course are out of Government and the political baggage that they carry around their own necks, representing a millstone in a lot of cases to finding jobs in a generic sense. So, Mr. Chairman, let me make that statement firstly.

Secondly, there is no doubt there is a close relationship that develops between Ministers and SAs and EAs. That is without question. That is not in dispute. But firstly, let me say that every one of the Bills that we have been discussing in this committee over the last two days in no way was influenced in any respect by any political appointee. They were developed within the department. We are talking about public policy. We are talking about the ability to influence once you are outside of your appointment or outside of Government.

I fail to see, fail to understand how it is that any politically appointed special assistant—and certainly my argument is even stronger with respect to executive assistants—can have any influence on Government policy making, once they are no longer in the employ of the Government. So I think that I will vote against the amendment.

**Mr. Doer:** In terms of Mr. Manness' scenario and even the First Minister's (Mr. Filmon), if there is no problem

in terms of insider information, in terms of potential pecuniary gain or information knowledge, then there is no problem with the definition.

The example Mr. Storie used, the potential knowledge in terms of Housing, and then going to work for a potential developer as a special assistant with that inside information, I think, is consistent with the proposal of the First Minister. I do not think it is a problem, because there is an application section. It does not mean you cannot work forever. It means you cannot work in an area where your insider information is potentially in conflict with this Bill. I do not know why that is a problem, because I would suggest that 99 percent of the time that will not happen, and I agree with the Members here, but it may in some percentage of the times happen. The purpose of this Bill is to have that one-year separation, and I think that makes it very clear in terms of the intent of the Bill. It is just strengthening it and I do not think we have to be paranoid about that. I think it builds upon the Bill. I do not think it detracts at all.

**Mr. Chairman:** Anyone else? Mr. Plohman.

**Mr. John Plohman (Dauphin):** Just briefly, I support the amendment. I think there are two areas that the executive assistants, special assistants can influence. One is with the knowledge that they have they can influence decisions of private companies for the betterment of that company because of their insider information, as well as the issue of influencing public policy of a Government. So there are actually two areas there, and the First Minister (Mr. Filmon) and the Member for Morris (Mr. Manness) seem to deal with only one aspect of it and that is the influence that person would have as a lobbyist, as opposed to use of that insider information for decisions that will benefit a particular company.

So I think that in addition to that, on that side as a lobbyist, the EAs and SAs very often have input on politically sensitive issues. It may have happened in many areas in the legislation that has been introduced as well. The bureaucrats bring forward what they would like to see as the principles in legislation, the specifics of drafting, but they have to be screened politically before they are brought before the House. The Minister does not do that by himself or herself. The EAs and SAs have a very large role to play in that, as well as many other people who were mentioned in the Bill. So I think this is a very good amendment. It strengthens it.

\* (1200)

I very much am concerned about the defensive posture that the Premier (Mr. Filmon) has taken on this. I do not think he needed to take that position.

**Mr. Chairman:** Is there anyone else who wants to speak on the Bill?

**Mr. Filmon:** I just want to say that I am not being defensive about this. I am asking you to consider the careers of the people who you may want to ask to come

and work for the Government. Just because they are politically appointed, I do not think you should take glee in trying to make it tough for them to ever get a job again in future, and that is the attitude that I see here in committee and it is one of—

**Mr. Plohman:** No, it is not punitive. Many more—

**Mr. Filmon:** It is punitive. Technical officers are not political appointees and technical officers are often appointed to do specific policy development work and that is an influential position. I repeat that an EA and an SA does no policy development work. They gain a knowledge because they have to be able to solve problems on behalf of constituents or people of the public who phone the Minister's office. They troubleshoot, they solve the difficulties. The things that all of you people raise as Members in the Legislature in Question Period, they go out and solve those problems and make sure that there is an answer for them. They do not participate and they should not participate in any good Government in policy influence.

**Mr. Doer:** I think, first of all, that there is no glee in people who are separated. Having been involved in trying to place a number of them after May, there is no intent at all on that because I think we all feel strongly—we have all been involved with Governments coming and going and we all will be some time in the future, unless we go through a 20-year reign like they did in Ontario but that is the inevitable—(Interjection)—I knew you would say that. I knew we would get Jim Downey into the argument.

We are not talking about the principle here. I think we all agree on the principle. It is a good one. The separation is a good one. We are on the edges here and I think the edge we are talking about is a very, very important one in terms of the insider information aspect because the positions are involved in insider information. It does not stop somebody from going out, after they have changed offices, from working somewhere else. It just makes the distinction clear the same way for MLAs and elected people.

I applaud the Government on the principle and I think it is a good one. All we are talking about is where the line is. I think this is fair as a line. I do not think it will affect many people, and I say that with the greatest of respect to people that were directly affected by changes in Government that I went through trying to place some of them. We did get jobs for some of them actually. It is a tough experience. There is no vicarious pleasure in this at all. It is just dealing with the principle that the First Minister (Mr. Filmon) has articulated in the Bill and taking that principle in terms of where we believe the line is. I do not think there is any emotional issue here. It is really just each other's definition of where that insider line is and I think it is with that group.

**Mr. Filmon:** I just say to you, for example, that I fear that by this kind of sort of broad inclusary approach that, say, former members, EAs/SAs, who worked for the former Government, say if they were in the Department of Labour, they would be constrained from going and working for a union, for instance, getting

involved in Workers Compensation or Unemployment Help Centres or any kinds of things of that nature.

You are casting a very broad net on people who have limited influence in policy making and lots of information, but that could be said for every person who works in a Minister's office. Secretarial and clerical people have lots of information. In fact, I would venture to say that my own secretaries in the Leader of the Opposition's office had more knowledge of the operations of Government—

**Mr. Plohman:** They usually stay. They do not all go—

**Mr. Filmon:** Just hold on a second. Here is the situation. You have your EAs and SAs who move along most times with the Ministers. So they go from one department to another to another over the course of a four-year period. They are now excluded from participating with companies who may have any involvement with any one of the departments that they worked for.

I just say that you are casting the net a little too broad and you are casting the net to include people who are in relatively junior positions and constraining what—and my experience is that after the Lyon administration, our EAs and SAs had a devil of a time finding work because they were politically tainted.

I know from the Member for Concordia (Mr. Doer) telling me that their people, I am sure many of them still do not have work as of now. We are seven or eight months down the road since the election campaign. They still do not have work because they are already politically tainted. They do not have influence to sell, and including them, in my view, it smacks of just being overkill in trying to suggest that you are really trying to get even with the political assistants, and I do not think that is very fair. I would rather that you just removed Section (d) entirely and take it out of there than put in people who are inappropriate, in my judgment, to be in there.

\* (1210)

**Mr. Edwards:** Just in taking a look at Section 32 of The Civil Service Act, you will notice that this Act proposed by the First Minister does say, "appointed under Section 32 of The Civil Service Act."

Section 32 provides for appointments, in my reading, by the Lieutenant-Governor-in-Council. It provides for the appointment of Deputy Ministers, Clerk of the Executive Council, Clerk of the Legislative Assembly and other technical officers by LGO, and it provides for the appointment of members of the board or management of boards of directors of agencies of the Government with respect to which any provision of this Act has been brought in force. It certainly does not provide for the appointment of executive or special assistants for the various boards and things that the Premier has put forward as being his floodgates argument. Section 32 provides for the appointment at a high political level. So this is not the floodgates that the Premier deals with.

**Mr. Filmon:** We are really on to the crux of what their argument is. Because they are politically appointed,

you want to exact some penalty on them. I am saying to you that every single person who is named—the chairperson, the vice-chairperson, the presidents and vice-presidents of Crown corps—have executive and special assistants. If your argument is that an executive and special assistant has the same knowledge and influence on policy as the person he or she works for, then you have to include all of those people to be fair. Whether they are politically appointed or not, it makes no difference. Your argument is that they have the same influence and the same knowledge, broad knowledge, of everything that their boss is thinking. I say to you, I would rather you just exercise (d) entirely and not get into discriminating between those who are politically appointed and those who are not.

**Mr. Edwards:** Let me clarify what I said. Subsection (d) of Section 32 starts with a technical officer. Therefore, it is only the technical officers under Section 32 which are dealt with. It is not the members of the boards, it is not the boards of directors, it is not the chairpersons. It is the technical officers which are appointed under Section 32. If the Premier disputes that, let him produce the head of the Civil Service Commission to clarify exactly who these technical officers are, because it is clear on my reading that they are indeed the political appointments at the very high level.

Let me respond to the Premier's last response to that, which is that he has yet to deny that, in my hearing of his answers, there is indeed a high level of interaction between a Minister and a Deputy and his EAs and SAs, which is certainly politically advantageous in the marketplace, which is particularly what this piece of legislation seeks to get rid of, favouritism in the marketplace after you have served. Does he deny that?

**Mr. Filmon:** Mr. Chairman, there is no more of a high level of involvement amongst those people who he has named than there is amongst many others within the department.

When you are working on policy development issues, you may spend many, many hours, many, many meetings with individuals from the department who are not included as senior officers, not included in any way in this, but have significant influence on your policy development decisions. You may have just as much involvement with them. They are not included in this.

My point to the Member, I did not deny any of what he said about what that section in the Act involves in terms of appointment. All I am saying is that if you say an EA and SA should be included because they are politically appointed but an EA and an SA who are working for one of those people named, the Clerk of the Executive Council, the Deputy Minister, or the Assistant Deputy, or chairperson or president of all the Crown corps, but they should not be included because they are not politically appointed, then I say to you, you are really discriminating against the politically appointed people and trying to exact some special penalty on them.

**Mr. Edwards:** Mr. Chairman, in the interests of brevity, I believe that all of the Premier's statements have been

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stated before, and I believe that they have all been challenged successfully—

**Mr. Filmon:** Not successfully.

**Mr. Edwards:** —at this table before, and I would ask the question be put.

**Mr. Doer:** Has the Premier moved or a Member of the committee moved another amendment offering to delete all of (d)?

**Mr. Filmon:** I am not a Member of the committee, so I cannot make that amendment. What I am suggesting—

**Mr. Edwards:** . . . because I did not know whether it was a subamendment on the floor or just an amendment to the amendment of the Act.

**Mr. Filmon:** No, I am suggesting to you that I would rather see that happen than simply single out politically appointed EAs and SAs and leave in a whole category of other people who may have just as much or more influence on policy development.

**Hon. James McCrae (Attorney-General):** I think we could solve this problem to the general satisfaction of everyone if the Honourable Member for St. James (Mr. Edwards), whose motion we are dealing with, were to withdraw his motion. Then the committee could perhaps entertain a motion moved by myself to remove Subclause (d) from this, which would perhaps be a solution that would be acceptable to everyone.

**Mr. Edwards:** I do not intend to withdraw my motion. I would ask the question be put.

Let me simply reiterate. The Premier has gone on at length about how he has been correct to include

technical officers. I find it bizarre now that he is willing to—

**Mr. Filmon:** I did not.

**Mr. Edwards:** —leave all those people out, and he is. He is willing to—and his Attorney-General (Mr. McCrae) has just spoken up—they are now going to leave those people out.

They are technical officers, as he has defined them, are included. He says they are involved at the policy level. I frankly cannot understand his turnaround and I will not at this stage, barring being convinced, withdraw the motion. I would ask again that the question be put.

**Mr. Doer:** There are two amendments before us. This is a very complicated issue. I would like to suggest that we are not going to finish this Bill today, that we should discuss the merits of the subamendment and the amendment and the proposed amendment, which were three areas, in a way that allows us to deal with the inequities that have been raised and the arguments that have been raised. I would suggest that we take this back—as I say, we are not going to finish the committee today—and take a look at it in terms of what it means because there are very important issues for a number of people who will be affected by the Bill. I do not want to take an ad hoc look at it, and there are other areas that we have to look at the Bill. We are not going to finish by the normal 12:30 p.m. time.

**Mr. Chairman:** Is it the will of the committee to rise?

**Some Honourable Members:** Committee rise.

**Mr. Chairman:** Committee rise.

**COMMITTEE ROSE AT:** 12:20 p.m.