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Legislative Assembly of Manitoba

STANDING COMMITTEE
on
STATUTORY REGULATIONS
and
ORDERS

31-32 Elizabeth II

Chairman
Mr. Peter Fox
Constituency of Concordia



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MANITOBA LEGISLATIVE ASSEMBLY**Thirty-Second Legislature****Members, Constituencies and Political Affiliation**

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ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS

Friday, 22 July, 1983

TIME — 2:00 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Peter Fox (Concordia)

ATTENDANCE — QUORUM - 6

Members of the committee present:

Hon. Messrs. Bucklaschuk, Penner and Uskiw
Messrs. Fox, Harper, Kovnats, Nordman; Mrs.
Oleson, Mr. Orchard, Ms. Phillips

WITNESSES: Representations were made to the committee as follows:

Ms. Joan Friesen, Consumers' Association of Canada, Manitoba Branch

Mr. Paul V. Walsh, Q.C., ABATE (All Bikers Aiming Towards Education) of Manitoba Inc.

Mr. Don Ficher, ABATE (All Bikers Aiming Towards Education) of Manitoba Inc.

MATTERS UNDER DISCUSSION:

Bill No. 60, An Act to amend The Highway Traffic Act (2)

* * * *

MR. CHAIRMAN: We have a quorum, ladies and gentlemen. The first presentation is Thomas Holden. Very well.

Joan Friesen.

MS. JOAN FRIESEN: Good afternoon. Mr. Chairman, members of the committee, I have here some copies of my brief and some literature that I would like to distribute. I hope I won't keep you long and add to our mutual discomfort.

The Consumers' Association of Canada, Manitoba Branch, wishes to speak in favour of Bill 60, An Act to amend The Highway Traffic Act (2), and to commend the government for putting forward this legislation.

Our association, which was formed in 1947, is a voluntary, non-profit group dedicated to working for, speaking for and informing consumers. Today we represent almost 8,000 individuals and families of Manitoba. We have been actively promoting this legislation since 1978.

A clause-by-clause review of the proposed legislation shows lengthy research and careful consideration of most eventualities. Nevertheless we have some suggestions to put before you.

Section 172.2(5), Subsection (h) ". . . who has not attained the age of 5 years" assumes that all children under the age of 5 can be accommodated in a properly regulated child car restraint seat. Current child car restraints bear a limit of 50 to 55 pounds. Many

Manitoba parents have found their children too heavy or too tall to be comfortable and safe in these seats, and the bulky winter clothing demanded by our climate makes it even more difficult to protect our little ones.

We therefore suggest that Sections 172.2(5)(h), 172.2(6), and 172.2(9) be amended to read "attained the age of 5 years or 50 lbs."

There is one group which is not covered by available child car restraints. Children who have outgrown the car seat may still have a high centre of gravity and an immature abdominal wall which renders adult safety belts unsuitable and dangerous to them. Approved booster seats for use in cars that enable the lap belt to be positioned safely across the thighs should be required. We include with this brief our Consumers' Association publication "Kids in Cars" for your information.

We note that 172.2(12) omits Subsection (9). If the child restraint is improperly secured, it becomes an additional hazard to the child in case of accident. This subsection should be included in 172.2(12) and be subject to penalty.

Among objections to these clauses are those from friends and relatives that they won't be able to transport children any more.

Many acts contain "grandfather clauses" protecting historical rights. We don't ask for any inclusion to protect the rights of grandparents to take the kiddies for a ride, we only wish to reassure grandparents at this time that the anchoring devices for child car seats are available at minimal costs, we understand around \$3, and are easily installed so that you can make the seats interchangeable between cars. I think this sort of thing should be widely known so that people won't object and will be sure that they are transporting the children safely.

In the matter of 172.2.(12) and 172.3(3) Offence and Penalty. A fine of \$20 does not appear to have enough force to ensure compliance. After all the fine for parking in a restricted area from 4:00 p.m. to 6:00 p.m., a much less serious offence, is \$22.00. Experience in other provinces shows the need for a more punitive penalty. I understand Quebec found that they've had to raise the minimum fine to a much greater degree. Therefore, we suggest that the minimum fines on summary conviction should be set at legislative discretion at more than \$20.00.

In regard to Section 172.3(1) Helmets required. We are concerned with the standards and the forthcoming regulations and I don't feel that it's enough to just simply state helmets will be worn without having some standards for those helmets. Most experienced motorcyclists protect their hands, torsos, legs and feet with heavy clothing and boots. I can testify to the boots, I have a mangled toe from coming in contact with a motorcycle boot last night in the crowd. Yet some leave the most fragile area, the human skull, open to collision with paved highways and gravelled roads. It's our understanding that the present Canadian Standards

Association standards for motorcycle and snowmobile helmets do not entirely satisfy either cyclists or their passengers. We have found that they are quite inadequate as CSA test methods are sometimes inadequate, again, we've discovered that these test methods are inadequate.

In the past we found that thought hockey helmets were well made the CSA testing tolerances were so lax the helmets had only been stress and resistance tested at room temperature. Their tolerances were from 8 degrees below to 70 degrees above Fahrenheit and they chose to test them at room temperature which may be fine for your eastern kids who are in closed-in rinks but they certainly don't suit the prairies.

So, we urge that there be constant consultation with motorcyclists and other authorities to ensure adequate standards and testing procedures before the regulations are finalized. We feel that there should also be some sort of acceptable compromise between cost and safety. We don't want to sacrifice safety and yet there are limits to what you can demand. You can go far too far in many instances and put the cost of safety out of reach of the average person.

We don't wish to burden consumers unduly for their own safety. Therefore we ask the Government of Manitoba to remove the provincial retail sales tax on child car seats, child booster car seats and motorcycle helmets. We would also urge the Lieutenant-Governor-in-Council and the Government of Manitoba to work with federal authorities to eliminate the protective tariffs on imported safety devices related to this legislation. Some of them are quite significant in adding to the overall cost of the safety devices.

You will have heard much about direct cost to the taxpayers of Manitoba for hospitalization, rehabilitation, survivor benefits, and vehicle repairs for motor vehicle accidents. The social costs in pain and suffering are incalculable. The constant care required by those permanently disabled by accidents causes mental, physical, and financial distress, marriage breakdown, and neglect of the family. Survivors are often tragically circumstanced as a result. It has been truly said that "No man is an island entire unto himself." No amount of self-protection can protect the driver and passengers of a vehicle in collision with another which is out of control because the driver refused to buckle up, nor can the knowledge that a cyclist chose to go without a helmet, console a car driver involved in a killing or crippling accident.

Although drunken driving is not addressed in Bill 60, we urge the Government of Manitoba to give its first priority to amendment of The Highway Traffic Act with stronger provisions to control this growing menace on our highways.

Some of those objecting to the mandatory legislation in Bill 60 have suggested that public education to encourage use is a viable alternative. Practical education is vital to the success of this legislation, not only for motorcyclists, but also in educating parents and guardians in the safe transport of children, and in the proper installation and positioning of seat belts to forestall additional injury. Encouragement by education raises seat belt use by less than 5 percent - those are DOT figures - and is no substitute for legislation. This was recognized in 1978 by the Honourable Al Mackling, who was then Chairman of the Manitoba Motor

Transport Board. As a representative of the Manitoba Government to a conference of federal and provincial Ministers responsible for road safety, he pledged a national goal of 80 percent seat belt use by 1983; that's this year. Only by mandatory legislation can the government fulfill this pledge to the electorate.

Another alternative suggested by opponents of Bill 60 is that those injured in accidents while unprotected should be penalized through their medical expenses, or by proportionately smaller settlements of accident or benefit claims. This removes the onus from the government and places it upon the Manitoba Health Services Commission and the Manitoba Public Insurance Corporation. Such a move would be unworthy of the Government of Manitoba.

Is it not a rule of law that courts cannot award lesser damages because of personal negligence if there is no mandatory legislation in place to back it up?

CAC has since its inception made important contributions in the public safety field. As an example, I'll remind you of our work in this province for school bus safety, and here I'd like to interject that we feel that it's imperative that school bus drivers who have such a tremendous responsibility on their shoulders should have mandatory seat-belt legislation so they remain in control of that vehicle.

It was CAC which demanded and proved the need for federally-regulated children's car seats. We've promoted the use of car seats and safety belts in both urban and rural Manitoba by education, visual displays, and innumerable speeches to community groups and schools. It is the quiet majority of high school and university students who have most often asked why Manitoba is the only province in Canada without mandatory helmet laws.

We care. We care very much about the needless deaths and irrevocable injuries on our highways.

We have naturally been concerned about the costs. We are not suggesting that cost is our main concern. Our concern is with the loss of human life and with the injury involved in accidents. We do feel that if any monies are saved by the implementation of this legislation, they should be used for the betterment of the health of the people of Manitoba in forming more trauma units and certainly in improving the ambulance service in the rural areas, which is woefully inadequate.

So we ask you to please pass and proclaim Bill 60 as soon as possible. Thank you.

MR. CHAIRMAN: Thank you, Ms. Friesen. Any questions?

Mr. Bucklaschuk.

HON. J. BUCKLASCHUK: Yes, Mr. Chairman, through you to Ms. Friesen. On Page 5, you make reference to a pledge by the chairman of the Manitoba Transport Board in 1978.

MS. J. FRIESEN: Yes, Sir, it was on behalf of the Government of Manitoba. He and Mr. Dygala were represented at a conference, federal and provincial.

HON. J. BUCKLASCHUK: Could you provide the source of that information?

MS. J. FRIESEN: Yes, I got it from the Department of Transport magazine. I've got it at home.

HON. J. BUCKLASCHUK: You have it at home?

MS. J. FRIESEN: Yes, I'm sorry.

HON. J. BUCKLASCHUK: I thought you'd help me with a problem I've had. I recall seeing that particular article, and I was batting my brain for weeks to try to find this.

MS. J. FRIESEN: It is in the Department of Transport magazine.

HON. J. BUCKLASCHUK: A fairly recent issue?

MS. J. FRIESEN: I'm not sure; I'm sorry, I'll have to look it up.

HON. J. BUCKLASCHUK: Okay. That was Mr. Dygala and Mr. . . .

MS. J. FRIESEN: And Mr. Mackling, yes.

HON. J. BUCKLASCHUK: Thank you.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Ms. Friesen, on Page 1 of the bill, you focus some potential problems with the child restraint system . . .

MS. J. FRIESEN: Yes.

MR. D. ORCHARD: . . . the mandatory use of child restraint system. I think your concerns are legitimate, because in purviewing the child restraint laws enacted in 39 states, you see quite a variation. Some are only three years old; some are four years old; some have a less than 40 pound restriction, such as California; 40 pounds in other areas.

Now, a couple of questions. The key issue, I think, that you have drawn up here is the winter clothing requirement that children have.

MS. J. FRIESEN: Yes.

MR. D. ORCHARD: Now, it seems to me that the child restraint systems, as in most safety items, are designed probably for the U.S. market where there isn't nearly the need, and they're not really designed to comfortably fit even a 40 pound child in the wintertime because of the restriction.

MS. J. FRIESEN: True, very true.

MR. D. ORCHARD: Now, I don't know how we get around that.

MS. J. FRIESEN: Well, perhaps it might be wise to change that to 40 pounds. It was something we considered. Where we had said five years or 50 pounds: perhaps it would be more sensible to say 40 pounds, and I think that you could fit a 40 pound child in winter clothing quite reasonably into one of the current acceptable child seats.

MR. D. ORCHARD: Thank you. Now, I don't whether you're familiar, but a number of the states that have the child restraint systems, some states have an ability to supply the child restraint system. The cost of those can be fairly large, particularly if a family had three youngsters under the age of four or five. Would you have a position to offer the government on whether they should be providing - you've mentioned exemption from sales tax - I'll take it one step further, would you consider it to be a tax creditable item or an item that the government should make an effort to provide?

MS. J. FRIESEN: That is one solution. It's an interesting factor that - I believe it's the state of Tennessee - has a \$50 fine, and on the first offence, in stopping a car that contains a child who is not in a child restraint, they will then provide a seat for them. The \$50 fine will go toward purchasing a seat, rather than go into the coffers of the state.

I really can't say, but I would think that your suggestion sounds possible, but again whether you would consider it a medical device or what. Seat belts are no longer an option on cars; they are fitted with them. I just don't know what the answer is, I'm sorry.

MR. D. ORCHARD: I don't believe it's Tennessee that has that but, I know a number of the states do refund your first fine if you produce a proof of purchase of a child restraint system.

Virginia, for instance, has a \$25 fine waived upon proof of acquisition or for financial inability. The interesting one about Virginia is that fined money is earmarked for state loaner programs. Would that be a suggestion that would meet with the Consumer Association's approval?

MS. J. FRIESEN: I would think so. We don't want to put additional burden on the taxpayer. They already have enough.

MR. D. ORCHARD: Your suggestion of the increased fine beyond the minimum starting figure of \$20, would you have a figure that the Consumer's Association would deem appropriate?

MS. J. FRIESEN: No, we left that up to legislative discretion. There was quite a bit of discussion on that point, but we felt that you knew better than we what would be appropriate.

MR. D. ORCHARD: Now, going to Page 4, you have indicated in here "You'll have heard much about the direct cost to taxpayers of Manitoba for hospitalization, rehabilitation, survivor benefits." I'd like to deal with those three items. Is it fair to assume that the support that the Consumer Association, Manitoba Branch, is giving to this legislation is premised on the saving to the taxpayer of medical costs through prevention of injury by using seat belts, child restraints, and helmets?

MS. J. FRIESEN: We weren't so concerned with the saving of money as we were with the saving of lives and the saving of suffering, and the reduction in the severity of injuries. As I stated at the end, we would very much like to see any monies that are saved by

implementation of this legislation used to update the ambulance service in the rural areas which is woefully inadequate - it is dreadful - and to form more trauma units for people who are injured.

MR. D. ORCHARD: The position was put out last night by one of the presenters of briefs that really the seat belt-helmet legislation is designed for the protection of the individual. The only subsidiary benefit to the population at large comes from the saving in medical costs to the state funded medical system. The position was put forward last night by a couple of people that the cost, in terms of infringement on one's right to choose his own lifestyle, is not outweighed by the benefit and savings. Would you necessarily agree with that?

MS. J. FRIESEN: Only if you're talking about money, and we're not talking about money; we're talking about lives and, not only the lives of people in accidents, but the lives of all the people around them.

MR. D. ORCHARD: That gets us into an interesting, I suppose, philosophical discussion because a case can be made equally strong that alcohol causes much more family disruption, much more pain, much more suffering and, indeed, a cost to the medical system. Would the Consumer Association, following that logic as laid out in helmets and seat belt legislation, support the banning of the consumption of alcohol?

MS. J. FRIESEN: We wouldn't support the outright ban, no; but we would certainly support and have in this brief mentioned that we need much stronger provisions. I've been really fascinated to watch the ads coming in from North Dakota on their new DUI, Driving Under the Influence laws. Boy are they tough and boy would I like to see them here.

MR. D. ORCHARD: The last paragraph on Page 4. you've indicated that there must be an education program to assure the proper installation and positioning of safety belts to forestall additional injury.

MS. J. FRIESEN: That is correct. Now there have been references here to injuries caused by safety belts and it's true there are; but usually, almost invariably, when they're improperly installed or improperly worn. It's like anything else, if you abuse it it's going to injure you.

MR. D. ORCHARD: Right. I agree with you there and I would pose the position that when you mandate the use of something you're probably going to increase the improper use of it because, if one chooses to wear either a helmet or a seat belt, as a matter of personal choice, they are probably going to be quite informed as to the proper use of it. When you simply mandate it and make it a requirement, by law, would there not be the possibility that you will have substantially greater misuse and improper use of both helmets and seat belts, in particular?

MS. J. FRIESEN: Only if the government education program falls down. I am sure they have it planned.

MR. D. ORCHARD: Well, I don't want to comment on whether this government has a plan or not because

we're trying not to be political here, but the common criticism that has always been leveled against a voluntary use of seat belts is that no matter how many times you tell the person they don't listen and they won't use it. What makes you so sure that having it mandated, and then giving instructions on the proper use, will in fact lead to the proper use if, in the first case, people just plain didn't listen and didn't follow the advice given voluntarily?

MS. J. FRIESEN: I don't know. I know that one of my granddaughters in nursery school has been informed by her teacher the proper way to use a seat belt. I don't see any reason why we can't give credit to the people of Manitoba that they can learn.

MR. D. ORCHARD: On Page 5 of the brief, are you indicating in the second paragraph, where you ask the question, is it not a rule of law that the courts cannot award lesser damages because of personal negligence if there is no mandatory legislation in place? Are you indicating that you would approve the direction that Autopac attempted to take about three years ago where they attempted to lower the payments to an accident victim because he was not wearing his seat belt? They attempted to decrease the - I guess it was disability claim to that individual. Would the Consumer Association be taking from that question as supporting a reduced payment of damages by Autopac when a person doesn't wear a seat belt.

MS. J. FRIESEN: I think it depends on circumstances. Our point here is that (1) this is attempting to remove the onus from the government, and I don't think this government is so chicken that they're going to do that; and (2) that it is legally not viable to try this route. I don't believe - and I've had advice from lawyers - that you can do this, that the courts cannot award; Autopac, maybe, but the courts cannot award for personal negligence if that negligence cannot be shown to have a basis in law; and unless you have this regulation I don't see that they could legally lower that settlement.

MR. D. ORCHARD: Oh no, agreed, and that's why I asked the question that, if we make the assumption that the government is going to pass this law and then, after it is law, do I take it from the question that the Consumers Association would then support a court action or a settlement by MPIC which would lesser the payment to an individual who did not wear his helmet or his seat belt and was injured as a result of that?

MS. J. FRIESEN: That's a very difficult question. I couldn't speak for the association.

MR. D. ORCHARD: Okay. Then can I ask one other question in that regard? A couple of places in your brief you've indicated that, with the improper use of seat belts, there can be additional injury. Could I ask you if you consider helmets, seat belts and even child restraint systems to be fail safe, that they're safe in all accidents, circumstances, if they're properly worn?

MS. J. FRIESEN: If they are properly worn, they are as safe as anything can be, but nothing is 100 percent,

nothing is fail safe, and like anything else they're capable of improvement.

MR. D. ORCHARD: I would like to ask the question then, if there is an accident circumstance in which a properly worn seat belt, in this case, caused a further injury - and I'll use the instance of a side impact at an intersection - has increased the injury to the wearer of the seat belt and the wearer has been mandated to wear that seat belt, by law, would the Consumers Association support an amendment to this bill which would allow that individual to make claims for damages, above and beyond, because they were forced to wear a seat belt against their will and injuries were incurred because of it?

MS. J. FRIESEN: I would think that would be possible, but I think it would be pretty difficult to prove that those injuries were caused by wearing the seat belt without the corollary that, what would they have been, would they have been any worse if he had not been wearing the seat belt, or would they have been just as bad; what would have happened to him? I think it would be pretty difficult to prove.

MR. D. ORCHARD: I agree, it probably would be as difficult sometimes, Ms. Friesen, as proving conclusively that the seat belt saved a life, where we're talking . . .

MS. J. FRIESEN: There are some accidents where nothing will save you.

MR. D. ORCHARD: You mentioned a point that you believe school bus drivers should be required to wear seat belts. Would you also believe that transit bus drivers, likewise, should be required to wear their seat belts?

MS. J. FRIESEN: Yes, because of, perhaps, only the one incident where the transit driver was thrown out of the bus and killed. I realize that's only a single instant but there have been other incidents; and I want to say here that the Superintendent of Transportation and his staff, for the Department of Education in this province, are doing a wonderful job. It's the biggest bus line in Manitoba with thousands of children and they really are very very caring, and I think they feel, themselves, that it is mandatory that the school bus drivers wear a seat belt. It is so terribly that the driver remain in control of that bus. The question of whether the children should be belted in requires an awful lot more research and there are difficulties in the way; and we know that so we're not asking for that, but we've certainly got it in the back of our minds. Certainly it is important, and I know for a fact there are documented cases where drivers of school buses have lost control of the bus because they were not belted in, they've been thrown out of the bus, or thrown into the stairwell and it's been a very dangerous situation.

I would also say that, in some of the exemptions, they talk about ambulance drivers. I feel, for an ambulance attendant to be free of a seat belt, in order to be able to attend to the patient, is a great exemption, but not the ambulance driver. I feel he should be in control of that vehicle to the greatest possible extent.

MR. D. ORCHARD: My next question you've partially answered. The position was made by one of the people making representation last evening that, indeed, school children should be belted in, that they spend, for 12 years, more time in a school bus than they do in the family auto, in most cases.

I realize you indicated that you didn't have a position on that but you were looking at it. Would you care to offer an opinion on that?

MS. J. FRIESEN: We've tried to go the other way by working with Provincial Departments of Transportation and Education in the school bus construction, in the adequate slow memory foam padding, in reducing the number of chrome plated bars that the children can knock their teach out on, in making sure that the floor of the bus is firm and that the seats are firmly secured so they don't tear out, and all these technical details. We realize there are difficulties with the belting and it's been some years since we worked on that one. Small children you can put them three to a seat; larger children, two to a seat; etc. etc. It's a major concern but it also requires a great deal more research.

MR. D. ORCHARD: Would it be fair to say that, likewise, you'd probably be in a lesser position to formulate an opinion on whether transit bus passengers should be belted in?

MS. J. FRIESEN: I think that's difficult, too, but again I think the driver, in order to maintain control, even if he's injured, he can still maintain control of that bus.

MR. D. ORCHARD: There was one presentation last night on the issue of motorcycle helmets. Some of the arguments that were made were made on the basis of rider experience. I personally don't ride a motorcycle and have only ridden one once, much to my peril. Is the Consumers' Association position on the mandatory use of helmets based on direct user appreciation in your case or in members' case?

MS. J. FRIESEN: Some, and the rest on the statistics and the rest on personal observation of our members at emergency units in the city hospitals.

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

MR. CHAIRMAN: Ms. Phillips.

MS. M. PHILLIPS: Thank you, Mr. Chairperson. Ms. Friesen, I am pleased with your brief in terms of child seats; that's one area that is very near and dear to my heart. I think the example you were talking about was from California. In fact, my information is that the police carry child seats in their cars . . .

MS. J. FRIESEN: Yes, that's our understanding.

MS. M. PHILLIPS: . . . and will not let that car proceed until that child is in a car seat. When they return it and prove they've bought one themselves they don't have to pay the fine or get the refund which seems to me a very practical way of dealing with the situation.

I'd just like to make a statement and see whether you agree with it in terms of the issue of personal freedom, constitutional rights, human rights. It sounded to me like you were saying that those particular rights were not much use to you once you were dead. Is that what you're saying?

MS. J. FRIESEN: That's very true, but I don't believe that the individual's right in this instance is greater than the right of the community. It's like objecting to stop signs and believe me when the first stop light went up in Winnipeg, the cries that went up from the public and the letters to the editor about telling me when to stop and go - it was outrageous.

MS. M. PHILLIPS: I appreciate your concern, Ms. Friesen, with the concern about school buses and that's something that we've had many discussions about in terms of the design of school buses being different and taking into account safety factors rather than tying children down in case they stall on the train track or whatever, you have to undo 40 little kids and get them out. That certainly is a dilemma and I congratulate your association for its work on trying to facilitate better designs.

One area that I have a specific concern about is the area of day care centres using either their own vans or renting vans to transport pre-schoolers and vans, in my opinion, are not designed even as well as school buses are now. Have you been doing any work in that area?

MS. J. FRIESEN: No, and I can't remember whether the small vans are included in the provincial regulations governing the transport of students.

MS. M. PHILLIPS: The situation in this legislation is that there are seat belts installed in vans and those ones would have to be used. My concern is if there are four or five seat belts in a van but you have 12 pre-schoolers there, I'm wondering whether you have any opinion on whether that should be strengthened or not.

MS. J. FRIESEN: (a) I would hate to be the driver, and (b) I would think it was potentially a very serious concern. If children are unrestrained in a moving vehicle - it's not a moving playpen, it's a vehicle for transportation - I think that it should be disallowed. I'd think this is wrong.

MS. M. PHILLIPS: So you would support having requirements that would say that the van owner would have to install enough seat belts in to accommodate the number of children.

MS. J. FRIESEN: Seat belts, booster seats or whatever is required.

MS. M. PHILLIPS: Thank you, very much.

MR. CHAIRMAN: Thank you, Ms. Friesen.
Paul Walsh.

MR. P. WALSH: Thank you, Mr. Chairman, members of the committee. I spent a good time here last night

and I learned something. Unfortunately the lesson I learned is that if Sid Green is against something, it'll pass and he apparently is on the same side as my client in this case. So I think that I'm going to have to find somebody - he indicates that for money he'll represent any point of view I think was the expression to Mr. Kovnats yesterday - and I think I'm going to have to find some way to get him to change his view just to have half a chance in front of this committee.

In any event, I don't have any props. I come just with a few arguments and I do have something with me though, I don't come empty handed. What I have for the Minister, if the Clerk will take it to him, is a petition signed by 3,600 voting-age Manitobans asking that the helmet portion of the legislation not be proceeded with. Now, admittedly, I don't know that that's a majority in any one constituency but it points out an interesting aspect of this debate and that is that virtually everyone you're trying to protect from the point of view of the helmet law, is against the law. At least you would expect there to be a major constituency in favour of this legislation from the group that is going to benefit by it.

In every other instance when you try and protect someone, usually you're protecting them from someone else, so in all other motor vehicle laws usually you're saying to the manufacturer, make your car in a safer way - and we're saying that to you as a government acting on behalf of the consumer. But you're always trying to protect one person from the potentially unlawful or at least, the perhaps negligent acts of another. In this case as was so eloquently pointed out and entertainingly pointed out yesterday by Sid Green, you really are taking that step beyond. Sure, seat belts might be a good idea and helmets might be a good idea and a case can be made, I suppose, by people who are selective about their statistics and about their reasons and that people who are in favour of safety, some of them might be of the view that if they were in a car they would buckle up and if they were on a motorcycle they would wear a helmet. I have seen motorcyclists wearing helmets. That's not necessarily the issue.

The first issue and the first line of argument which, as I said, I'm not going to repeat. I had a lot of eloquent phrases from De Tocqueville all the way down to recent and live commentators about the essence of freedom and the qualities of democracy that are held high and regarded as sacrosanct in the little things, and you're really stepping right across the line and saying to people, do it, it won't hurt anybody else if you don't do it; but do it or you're a criminal, because it's good for you. I think that the argument doesn't have to be made any more extremely or any more eloquently than that.

The Consumers' Association, the last speaker, can say as she did and quite reasonably, this is a good idea; I'm in favour of this. But surely there must be areas where people can say this is a good idea; this makes a lot of sense; if I educate you as to the risks, to the downside of not behaving in accordance with what I seem to regard as a safe, reasonable way to behave then, at least, you're forewarned, behave as you like. Because once you habitually find yourself passing this kind of legislation, then time after time the only argument has to be that it's good for somebody; make it a law and make them a criminal if they won't

do what's good for them. So, I ask you, who are the constituencies, where are they, who are the people who are saying thank you for protecting us, we are not only in favour of wearing helmets, but we think that we should be obliged to wear a helmet, and that we should find our conduct to be criminal - not only marginally antisocial, but criminal - punishable by fine. I guess, if the fine isn't paid and the work option isn't taken advantage of, we can be incarcerated if we don't. This contradicts all the strides made in motor vehicle legislation in the last 20 years.

I think that on the first line of defence, on the issue of liberty and choice, that I challenge the government that if it insists on binding its members and making this a matter of party politics, then refer it to the Manitoba Court of Appeal before you proclaim it. Let those who say that it violates the spirit of the Charter, in which this government is so much in favour; let those people, before they have to behave in a criminal kind of a way to challenge the law in vast vast numbers - not tens of people, not hundreds, but thousands of people disobeying the law - by not putting on helmets to challenge the law. Let that challenge be taken in an organized appropriate way and let us go to the Court of Appeal and have our day in court without risking thousands of members being in violation of the law, because I don't know that everyone who feels strongly about this issue feels so strongly that they want to be a martyr, and incur a record in so doing.

I ask the government to refer it to the courts so that we can have our day in court and show that the limits imposed in a free and democratic society do not include helmets, and those others can argue about seat belts if they like, and we can show that it's a restraint on the liberty of the individual without any concomitant benefit.

So, that's the first thing I'm asking you to do and I'm abridging my arguments on the issue of choice and the issue of freedom quite considerably.

ABATE, which is one of the acronyms, I must say. I wasn't the lawyer that incorporated this group and who struck the acronym. It probably is one of the better tongue twisters of all time given, not only the initials but what they stand for. If you can remember it when you leave this Chamber you're a better person than I was, at least for the first while that I was retained by this group. All Bikers Aiming Toward Education of Manitoba was formed in 1980. There are approximately 3,000 to 4,000 persons affiliated with this group; it's a non-profit motorcycle rights organization dedicated to the promotion of motorcycle safety through public awareness and education. Nowhere does the organization advocate compulsion and, on this issue, particularly, the issue is safety.

I have left the first point behind, that being the freedom of choice issue, about which my organization feels very strongly, and I come to the second point, and that being that the issue is also safety. 90 percent of the instructors who work with the Manitoba Safety Council on Motorcycle Training are against this piece of legislation. That's astounding when you think of it. It goes back to my first point, where are the motorcyclists in favour of this law; 90 percent of the instructors, not the Safety Council itself, because it hasn't taken a position, but 90 percent of the instructors - we know them by name and Mr. Prest will speak later

to that matter - are against the law. Where are the people with hands-on experience who are in favour of the law? The cyclists are on the side of safety and they say - as Mr. Robertson did at length, obliging me to be here this afternoon rather than yesterday evening - he's a cyclist, he doesn't want to be unsafe, and he says a helmet is unsafe. He's not one voice in the wilderness, and he's not part of a minority, he's part of an overwhelming majority of users who say what you're doing to me is unsafe.

So, imagine that, here we are in the highest court in the land, in the political court, saying you're going to pass a law in the name of safety which demonstrably can't be proven. If we look at the statistics and we have them in this mini-brief. We had a very lengthy brief and we were a little cynical about people and how much they read in any given day, so we thought if we could get it all on one page of paper we'd be doing everyone a service. We published in two colours - three if you consider the shade of grey - a brief to show where Manitoba is positioned and how effective the Ontario helmet law has been.

I've seen the Cabinet document about seat belts, and it's interesting in the two provinces where, after seat belts, the frequency of injury or accident went down; at the same time the speed limits were reduced. So, the danger of statistics is just that; they can be pretty selective and there's a Latin phrase about post hoc ergo propter hoc, which means, after this, therefore on account of this. It's called the legal fallacy. You have to be very careful about your use of co-ordinating information if something happens after event that it happened on account of the event.

Look at what happened in Ontario. In 1969, the deaths per hundred accidents was 1.67. It went down for a year, and look where it is now, and look where it is compared to Manitoba, look where it is in Alberta and Ontario, and then look where it is in Manitoba. In Manitoba and Saskatchewan, one with helmets and one without helmets, in a virtual tie for fatalities and injuries. One is moved to ask that if the proponents say if you can get a doctor who does 25 tests, and an engineer who do 25 tests, and they measure the head, and they measure the helmet, and they show what happens when there's an accident in a laboratory condition. They say boy oh boy we should have helmets, or we should have seat belts, or we should have this, that, or the other thing, that doesn't prove the case. I think that the better method of proof is like in the dental ads. You have your control group that were lucky enough to use Crest, and the poor suckers who had to get cavities to prove the case for the dental floss.

Here we have a perfect example, Manitoba stands alone - and as Sid Green says, somewhat proudly, in his view - as not having this legislation. Are we proved to be wrong? Have the people who advocate the change in the law, but able to make a case, because they've had a test group. I mean, you can't say that this province's hills and valleys or straightaways are that much different than they are in Saskatchewan, for instance. I mean in Saskatchewan you can drive 1,000 miles without making a turn, so you can in Manitoba, parts of Ontario, the same. We are outstanding in proof that helmet laws don't affect and, indeed, seem to contradict the point that's being made, so that leaving behind the issue of choice, which is fundamental, a

fundamental hurdle for the government on a political side, and getting down to the issue of have you made your case, the resounding answer has to be, no; and I challenge the members who are in favour of this legislation to speak to the statistics, and account when they do for the other variables that go into the makeup of the information that tend to prove they're right. When I say tend to prove they're right I say look to other items like reduction in speed laws and the like to explain why perhaps accidents went down in some cases.

These statistics, which have been compiled in our mini-brief, are not selective in the sense that they disregard information or are a twisting of information. These are the cold hard true facts and they prove, to my mind, and they should prove to yours, that you haven't made the case.

You've also heard from Mr. Robertson, a user, and you'll hear from Mr. Prest and others who will speak for us, that helmets contribute to difficulty. Clearly, as Mr. Robertson said, inviting you like one of the three monkeys in the picture to put your hands over your ears. You might have had the wrong orifice and, particularly in his case, as it approached 11 o'clock there was another area I was hoping he would use with that particular hand; but be that as it may, clearly when you wear one of those helmets, and I've put them on, the thing weighs a ton, but the hearing is clearly cut down; your sight lines are substantially restricted; fatigue undoubtedly sets in; and the heat - the tests that were done, of which you have information - it's like wearing somewhere between three and five wool toques. Now when it's 80 or 90 degrees outside, and I suppose it's even unlawful here today to speak about 80 or 90 degrees because, when I say that without saying Fahrenheit, you have to assume I'm speaking in Celsius. But I guess I'm just to old, even at my age, but when you put on that helmet you are virtually saying to people, on a nice sunny day you can't drive your motorcycle; you can't drive your motorcycle because you'll just pass out after an hour. That doesn't contribute to safety. You have the information, you have that statistical analysis and expert opinion which shows you that helmets don't prevent injury and, indeed, can cause situations that result in injury.

You know, when I first was retained, I said to my clients, you know there is a certain superficial appeal to the notion that helmets should be worn. When I see a cyclist flying down the street and his hair waving out behind him, sort of feeling macho and liberated on his cycle, I would have thought to myself, if that idiot falls off for reasons of his own or because some other turkey isn't obeying the law, if he falls and hits his head on the ground, that's it for him; no dent or fender-bender, that's life and death. If he wore a helmet and his head hit the ground, he'd live. There's a superficial appeal to the notion, to the unsophisticated, to the unresearched that says, as I was, hey, if that guy wears a helmet he'll save his life. Now, forgetting about the choice, surely if I were driving a cycle I'd put on a helmet. That was my initial point of view, unresearched, uneducated, and then I looked at the statistics. I said, hey, if I were wearing a helmet chances are I wouldn't survive; my head would be intact, so it would be nice, as the friends and relatives passed by the casket lamenting my broken neck.

So, let's not be persuaded by the simplistic logic of the position that as you see the - like the hockey player,

and you transfer your notions easily, now all hockey players used to be machismo types who wouldn't wear helmets and they now all wear helmets and it's a safer game, maybe, I don't know. But there's a superficial appeal to the notion that if you cover your head when you bang it it will hurt less and it will cause less injury. But what about it? That doesn't happen. It doesn't happen in Ontario or any other province, and we're doing no better than Saskatchewan, so the evidence is in and the case can't be made. This superficial notion doesn't receive support in what's called empirical logic; there is not empirical logic, no evidence or statistic to back it up. So the case against helmets, while having superficial appeal, even to the - I would like to think of myself as intelligent - observer doesn't wash.

Two comments in summation. The government laws, as they presently stand regarding motorcyclists, are stupid because, not only do you want to put in a helmet law, but you make no effort, at the same time, at least to achieve a balance of concern. Do you know what I have to do now for me, a person who doesn't know how to operate a motorcycle, to operate one. I can go write a test and I think it would probably take me an hour to read the book and pass the test; then I can get on any motorcycle, a Harley Davidson as big as a house, one that I probably wouldn't be able to stand upright without some help from one of my clients; then I can take off on it, lawfully drive this motorcycle, albeit perhaps in six months with a helmet on, in the middle of summer sweating to death with the beads of perspiration from by 3.5 toques down my face, and I don't have to have passed even the most rudimentary test showing somebody that I can handle the thing. That's the law, and if after I feel competent on this motorcycle, I go and take a test and fail, you know what they'll do? They'll say I can go home on my motorcycle. Now, that's beggar's belief. That's the law now and, if somebody knows that that's the law now, surely they should be saying, hey we better change this law right away before somebody finds out that all a person has to do to drive the biggest cycle on the market is pass a written test that takes an hour study, and they can go out and fly down the road at the maximum speed limit without knowing how to stop the thing if they come to a red light, and how to hold it upright if they do stop it, and probably not have the strength, if they're 140 pounds like I am, to get it upright once it's on its side.

So we know that there should be changes made. Bryan Robertson tells you, and Mr. Prest and other speakers will tell you, that there should be laws that say that the new driver, the learner, should have to pass a rudimentary test showing that he knows how to handle the motorcycle before he can take it out on the public road.

(2) There should be limitation on the displacement of the motorcycle so he isn't driving something that can go 140 miles an hour, maybe he's driving something that can go at much less speed and has much less weight and much less danger to himself and to others. We know that 75 percent of accidents, and there are studies from all over the place, are caused by novice operators with less than 3 to 6 months experience.

Finally, we know that after a test that a person fails and, thereby, demonstrates and proves that he can't drive a motorcycle is entitled, by the present law, to

go out and do just that. Now that's the law that you have in place that you won't touch, and what you are going to touch is put a law in place that puts a helmet on.

Well, I suggest, without being abusive or disrespectful, that perhaps the people who drafted the law are wearing helmets backwards because that's where the law is.

A MEMBER: You just lost my vote, Paul.

MR. P. WALSH: What can I do? I say that the loss of freedom, in virtually every instance where it's been taken away, is always justified in the name of a competing right to expression or protection. When you're taking away somebody's freedom you justify it to him by saying, somebody else, somewhere somebody else has a competing right that the reduction in your freedom is either increasing his freedom or protecting his freedom. As Sid Green pointed out, once again, thereby securing the defeat of this particular position, there is no one anywhere to whom you can point and say that by putting a helmet on an unwilling driver you are doing a favour, a service, or a boon to anyone else. I think, therefore, on the issue of choice, and on the issue of safety, you have no case. You have no case that would convince any independent person coming to the issue openminded that the legislation should be passed.

Thank you for your time.

MR. CHAIRMAN: Thank you, Mr. Walsh. Mr. Uskiw.

HON. S. USKIW: Mr. Walsh, again, I want to say that, indeed, your presentation was certainly based on what I consider to be deep conviction on the issue. I believe that that is the message that's coming through. Would I be accurate to say that it's more than a legal representation, or is that unfair?

MR. P. WALSH: No, it's not unfair at all. I think that people should be aware that, as a profession, we're for hire and, I suppose, that occasionally we represent views for which we only have a monetary interest. But I say, at the same time, that I think that a person who comes to the issue devoid of partisanship, and I recognize that virtually everybody else who's involved in this issue has a purple heart. I've never spoken to it before, but everybody else can come up with sort of the wars of '66 and the wars of '74 and the wars of '79. I think that when you come to the issue and you study the facts that you just have to be guided in this case. I put it directly to you, you have to be guided by some visceral or gut instinct that you're right, because you can't prove your case on facts. If you can, give me the fact.

That's all I'm saying. I'm a lawyer, I'm used to dealing with facts, and my client said, here are the facts, let's weigh them. I say, what are the facts that prove that motorcycle helmets work? There isn't a province in Canada that has a significantly lower accident fatality rate than Manitoba and eight of them have significantly higher rates. Where are the facts? Look what happened in provinces where they did enact the legislation, the exact reverse of what should happen occurred. So I say, show me the facts, not show me a dummy with a helmet crashing into a wall. I mean, that's pretty

impressive, like the guy whose driving by, you think, boy if his head hits the concrete, it's goodbye head, he should wear something on it. But when you look at all the repercussions and you aren't impressed by the apparent logic of the situation, you say, as a lawyer, I'm bringing more to it than merely the facts. I'm saying, well, if I bring a little enthusiasm, maybe I was caught up in the drama of what started yesterday night. But where is the fact, Mr. Uskiw upon which you can say to my clients the bikers, you guys, you're being foolish; not only is the issue of choice not one that you should rest your case on, but I have facts to show you that, all other things being equal, there will be a substantial decrease in accident/fatalities when my law is enacted and given a chance to work and you'll come back and thank me for those of you who are otherwise living, thanks to my law. You can't say that, you can't even predict that and that's the problem.

HON. S. USKIW: Mr. Walsh, a second question. Would you prefer that we had a law that said that it would be illegal to wear a helmet? The reason I put that is because of references made by a number of people who presented briefs to this committee, yourself included, which indicate that in fact there's a hazard in the wearing of a helmet and therefore it is against the public safety aspect that we are legislating. If that were so, then we should be legislating against the use of helmets.

MR. P. WALSH: I have a reasonably good record that I rarely dredge out these days because it's so far in my past, of being a debater at the University of Manitoba, and I therefore have the Latin phrases. The one for that is a "reductio ad absurdum," which means that you reduce a person's argument to the point of its infinite destination to point out that it's absurd. The answer easily to that is, no.

The issue is that if the government wants to play fair with the motorcyclists in the province, they'll present all the information that's available and let the cyclists choose because the issue here isn't whether, as you can compare between Saskatchewan and Manitoba, if the issue is - to use, I think, an apt phrase - a dead heat between the proponents of the helmet and those who are against it, then you say to the person, if you're as likely to live and/or die with or without a helmet, then you should look at all the options that are available, look at all the information that's available, and choose.

Many people will choose to wear a helmet; some people will choose not to wear a helmet. But I don't say that every time an ingredient can have both a beneficial and a detrimental effect, that you have to weigh, like a civil case, and come out in favour of one as opposed to the other and then legislate. What you have to do is present the information so that people in a free and democratic society can choose.

So I think that, like your question yesterday to the fellow who was already capped and asked him whether he would bring his four wives to Manitoba, the answer to that incidentally is, as a lawyer, of course he could and live here happily ever after with all four wives as long as he married them outside of Canada. You just can't get married more than once in Canada because we have a law that affects other people.

HON. S. USKIW: You could marry one more then.

MR. P. WALSH: No, he couldn't even do that. But the issue then is, don't take the argument and turn it around, and say that because you're against this legislation, therefore, you're against helmets. It's like putting everybody who is in a choice situation and saying that you're in favour or you're opposed if you had to make an individual choice yourself.

I say that there are probably many bikers who will wear helmets. Those people also are against the law because they want to choose. On a hot day, they say, if I wear a helmet today, I'd be more likely to attract an accident; but on a winter day or on a November day, they may choose to wear a helmet because they'd say, it's better to have my head warm, or if they're going to be going in a very slow kind of a difficult track, they might want to wear a helmet. So the issue is choice, not absurdity, with all deference.

HON. S. USKIW: The arguments that have been presented on that side of the ledger though, dealt with hearing problems, vision problems, perspiration on a hot day of course, and so on. If those were real arguments that we would want to believe, that the conditions do exist as described, that indeed it's not safe to wear helmets because of the inhibited hearing, then one would want to look at the question of disallowing their use, if in fact the cyclist was a hazard on the highway due to hearing impairment, for example.

MR. P. WALSH: The issue clearly is one that the case can't be made, not that the reverse case is in fact made. That's the problem. It is like the problem of capital punishment. You can say to somebody, boy, it appeals to my sense of logic, that if I were to tell a fellow, you go out and kill somebody, I'll kill you back. Now that would motivate me not to even be armed because the state will take my life if I take someone else's; then you look at the statistics and you find, gee, that doesn't work. So I find the arguments about sight lines and fatigue and hearing and heat, convincing only to the extent that they explain the statistics, not to the point that they make the case, because when we have the control group and we have the situation in Manitoba, I don't know whether it's because of heat and perspiration or because of hearing loss or because of these factors. I don't know; I haven't driven enough miles; I don't know if I've driven a kilometre on a motorcycle; I've been on one. But I say that all these arguments are rationalizations for the statistics. They must be, because no one can say that this accident was caused by the bead of sweat in the driver's eye. I don't know.

But when I look at the statistics, I say, why is it that the statistics don't support the apparent logic. Are the statistics in error? Are they broad enough? Have sufficient numbers been canvassed? Has a proper random sample been taken? If the answer to all that is yes, because we're dealing with, as we show you in our little brief, an entire province, an entire country and we can compare apples to apples. We can say, in Alberta there are 90.53 compared in Manitoba to 63.29, then we must say, the case isn't made. I don't know why. Maybe it's because in those provinces they

sweated when they wore their helmets; they didn't hear when they wore their helmets; their sight lines were blotted. There must be something about the helmet that doesn't work.

Use your imagination; determine what it is. There are some things that appear obvious, but you can't make the case that it's the sweat or the sight line or the loss of hearing - but you can make the case that the helmet doesn't work.

HON. S. USKIW: My last point, sir, has to do with the appeal that you made in your presentation that we consider referring the matter to the Court of Appeal before proclamation. That, indeed, is a very interesting proposition and one that would be worthy of consideration only on the basis that one felt quite unsure about the constitutionality of the proposed law. Are you satisfied that you would be relatively sure of the result?

MR. P. WALSH: I think that it would be foolhardy of anyone, even a lawyer being absolutely true to his retainer, to say if you refer to the Court of Appeal, I'll beat you in the court, because I could say to you give me an extra six months, you'll charge one of my clients and I'll get to court sooner or later anyway. What I am saying to you is that we have a new bill of rights, a new Charter of Rights that's constitutionally entrenched. I know that there are cases in the United States in a good many states. I've read those cases as part of my being briefed to speak before you today - I could give you case names later if you like and even synopses of those cases where in the United States these laws were found to be, in various forms, unconstitutional.

So all I can say to you is that I don't know whether we can transpose somebody else's experience with their Charter of Rights to Canada with its Charter of Rights, given the fact that we have certain parameters articulated in our Charter such as, demonstrable in a free and democratic society, which they don't necessarily have in the United States and so on. What I am saying is that there's a really good argument - and Sid Green made the same point - that could be made in the Court of Appeal. Now, you might feel confident. I think that it behooves a legislator who's not yet of the view that the matter should be referred to say that, when he presents a bill that I'm confident that this is a bill that's intra vires of my authority, but I say that a good argument can be made and I can show you how and then I leave it to a judge to agree or disagree. I've had cases where I've had to go to the Supreme Court of Canada to be proven right; I've had cases where other people have taken me there to show me that the judges who agreed with me in the lower courts were wrong. We're dealing with human beings. But I think, in answer to your question, that a really good argument can be made and this isn't just a spurious invitation.

HON. S. USKIW: Well, Mr. Walsh, if I thought that we were at all on soft ground constitutionally, I would have no problem accepting that recommendation personally.

MR. P. WALSH: Well, then perhaps we can inform you . . .

HON. S. USKIW: Just let me finish. This question has been put before and all of the opinion that I have -

and it is not paid legal opinion - indicates to me that there wouldn't be a hope in hell of beating this kind of legislation. Now, I certainly am not a person of a legal mind and I can't tell you whether that opinion is right or wrong, but I can tell you this, that I don't believe any government would want to proceed with laws that they believed were, indeed, questionable under the Canadian Constitution. Neither would we want to refer every law that we are creating to the courts before proclamation, because that would be a horrendous exercise.

MR. P. WALSH: But in this particular case you have a really good opportunity because you did indicate, sir, that there is going to be some time lag between the passage of the law, if you're bound and determined to do just that, and its implementation and, indeed, you indicated some two or three months, I don't have your comments before me. If that is the fact you're into a winter period where, given the exigencies of our climate you're not much concerned with numbers in terms of motorcyclists and disobedience to the law. Really what you have is a period between now and next April before the law will impact on the constituency that it's designed to affect.

Now, what would hurt then, if you merely delayed proclamation till April and let the law be tested? I agree with you on each and every law there might be very good cases even where you're less confident than you are on this one to proceed because of the necessity of proclaiming and proceeding with the law as soon as it becomes law and receives the signature of the Lieutenant-Governor. But in this case where you know in advance that the law is not going to impact until April, there's nothing to be lost and much to be gained by giving the benefit of doubts to those who say, and say to you with integrity, that there's a good argument to be made against the constitutional validity of the law and are willing, at their own expense, to make that argument to the court.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Thank you, Mr. Chairman. Mr. Walsh, I first off want to congratulate you on a well-presented brief and addressing this issue in very precise terms. Last night we were entertained by Mr. Green; this afternoon, I have to say that I found your presentation equally easy to listen to. Could you indicate again how many signatures you presented to the Minister?

MR. P. WALSH: I'm going to have a good time sort of hitting soft balls over the fence. There were 3,600 signatures that we counted up on the various briefs that were circulated, I might say, circulated not by ABATE but by interested parties who, because ABATE seems to be the organization other than individuals who represent the cyclists, allowed ABATE to be the co-ordinator and the collator for these signatures. They have now been deposited with the Minister.

MR. D. ORCHARD: Now, were all of those signatories bike riders in your knowledge?

MR. P. WALSH: I understand not. I think that the main thrust for the signatures came from bike riders, there's

no question about that. But I think that friends, neighbours and others were enlisted. Now, recognizing the shortness of time and so forth I think that the number of 3,600 is incredibly significant. If you want to give us to time till April we can probably multiply that by a factor of 10.

MR. D. ORCHARD: Were those signatures gathered throughout the province?

MR. P. WALSH: Yes, if you look right on the top, I was just looking to see how narrow the constituency was in terms of geography, and there are signatures particularly from Northern Manitobans. I notice a lot from The Pas and other places so they are really sprinkled all over the province.

MR. D. ORCHARD: Now, Mr. Walsh, you're legal counsel for ABATE but yet you're not a bike rider yourself.

MR. P. WALSH: No.

MR. D. ORCHARD: Now, I had the questions as legal counsel for ABATE as to your opinion on the Charter of Rights and you have dealt with that issue quite satisfactorily. The argument you made, and it's supported by statistics and incidentally has been supported by statistics for a number of years, '77 to '81 happens to be the inclusive years in the ABATE mini-brief but it's my recollection when I had the opportunity and the responsibility to study the issue that those sorts of statistics actually have been borne out over a number of years that statistics are available.

Mr. Walsh, can you attribute anything, to your knowledge, of the motorcycle rider group in Manitoba which would be contributory to the safety record they've been able to maintain over the number of years? Is there some aspect of training - like factoring out the helmet aspect of it?

MR. P. WALSH: Not being a cyclist, this is something that attracted me. I asked the questions because I didn't have an easy appreciation of this, and the best example was made, I have a 10-year old that plays hockey - he calls it playing it hockey, he really sort of manages to skate up to the puck barely, and when he wears a helmet he thinks that he's a tiger because he can butt anybody into the boards. Now, if he weren't wearing a helmet - he's not that big, unlike his parents - and a little less confident than he is wearing a helmet; and I'm told by bikers that the same phenomena in a different way takes place wearing a helmet, that one gets the feeling, and I must take their word for it because, as I said, it's not a logically obvious position, but Robertson makes the point and all the bikers I've talked to make the point, that when you wear the helmet you're attitude, on the cycle, as to how vulnerable you are changes. I don't know that that all by itself would be a reason for or against helmets. If that were the only argument, I think that the case would fail. It's clear that an important aspect of the case against helmets is that the helmet creates a very false feeling of protection and invulnerability.

I think that if one is sort of building a case out of smaller bricks, that one small brick weighs against

helmets. I don't say it makes the case, but it clearly is a factor in consideration.

MR. D. ORCHARD: The Minister made the proposition that bases some of the problems you have identified with the wearing of helmets, the weight, the vision, the hearing, the heat retention factor, that helmet use should be, in that case, made illegal. Would you care to comment on the proposition that once this law is in place, if it should be proceeded with, that the law allows absolutely no exemption from the wearing of helmets whether it's - I'll break the metric law - 32 above Fahrenheit or 100 above Fahrenheit, whether it's in the city or in the country, whether you are temporarily fatigued and want to ride for an hour without the helmet and then put it on again? This law mandates use 100 percent of the time that you're on the bicycle. By having the freedom of choice the rider can, in the fall and the spring, when temperature conditions may be a contributing factor to wearing the helmet, he may do so. There's nothing compulsory about wearing it when it is not, in his considered opinion, to be to his advantage. So would not those instances negate against the position of making helmet use absolutely illegal?

MR. P. WALSH: That's exactly the point that I didn't want to get reduced to an absurdity, to put it in English, by the question that if you allow for choice you would think that the proper role of government, or through government-funded agencies, such as, the Consumers' Association, the proper thing would be to say, here's all the evidence for and against helmets. If it's 35 or 40 degrees outside, and you have enough strength to want to drive a motorcycle, chances are that you are going to feel headachy and uncomfortable if you're going any distance with a helmet, and so forth. So, here are the reasons that helmets can affect you adversely, and here's the reasons why it might be in your interests to wear a helmet. If you're going up some torturous course and you're going at a slow speed, and if you fall off you want to protect yourself and it's cool enough to do it, you may want to use a helmet. I think that if you legislate the use of helmets, I don't see how Mr. Uskiw can get around legislating absolutely. I think that's his bind. If I were the Minister I would say to myself, if I'm in favour of helmets I'm going to have to legislate their use absolutely, because as soon as I say there's a saving clause to the extent that unless circumstances mitigate against the wearing of one, then the individual always has an explanation when he's stopped, and you might as well not have the law on the books. That's the problem with the law. I think that problem is a big brick in the argument against the law. When you acknowledge that there are going to be those extenuating and mitigating circumstances in sufficient occasion, then you say, I'm not enacting a good law, a law that can weather the changes.

MR. D. ORCHARD: Excellent answer, thank you. Now I'll put a proposition to you. You mentioned a couple of restrictions on size, practical experience, rather than the written test, and a couple of measures for new riders. In your opinion, would you be in favour or opposed to a mandatory requirement for the use of helmet, say, for the first two years, until age 18, or the first two years of ridership?

MR. P. WALSH: No, because I think that, unlike the previous speaker, Mr. Robertson, I don't see that the present attitude against helmets is an educational problem. He's entitled to his point of view and his attitude, and I respect him absolutely in his articulation of those things which he said yesterday. As I pointed and chided a little bit at the length he took, I think that he said a lot of important things and gave you a real insight into, without calling him a stereotype, let's call him a prototype biker. Even some of his phraseology was almost classic. At the same time, the issue isn't getting helmets, getting people acclimatized to them by the thin edge of the wedge, or a grandfather clause, so that people like Guy LeFleur, who never wore a helmet, don't have to wear one, but all new people do, and then sort of educating and letting people grow up using them.

The issue is the statistics and the detrimental effects of them, and maybe one day you can create a helmet that has an inner made out of cotton and an outer made out of some new marvellous material that weighs a quarter of an ounce and doesn't block sight lines and doesn't make you sweat, indeed, cools you off by the ventilation it provides, and so forth and so on. But, given the present state of technology and the present information we have, the case against helmets wins the day on the information we have. I say that if the contributors to the debate want to do potential cyclists a service, what they would do is pass laws and suggest amendments requiring the practical test, requiring the low cc for the learner's period, getting the L licence plate, and doing a variety of other things, and not regarding as a phase in the possibility of helmets. I don't think that any of the things I've said, in the half hour that I spoke, in any way allowed themselves to be amended or bent by the notion of a phase in. I think a phase in, really from the point of view that I see the problem from, is not a practical alternative.

MR. D. ORCHARD: What you're saying then is that the statistical evidence doesn't prove that this is a necessary and a good law and, without having that kind of proof, there is no partial application of a bad law.

MR. P. WALSH: That's right, you don't have to wear a person to the use of it if it's a bad thing or if it's not proveable to be a good thing.

MR. D. ORCHARD: You made the comment that 90 percent of instructors are against the helmet legislation. I would assume the 90 percent of the instructors are against the compulsory aspect of wearing of helmets 100 percent of the time, but it wouldn't necessarily follow through that the instructors are against wearing helmets period?

MR. P. WALSH: Oh, no. I would venture a guess, knowing one or two of them, not knowing all of them, there are less than a dozen, but some of them probably would hardly ever wear helmets. Some of them would wear helmets some of the time. I would think that would be the best. I don't think you'd have some of them wearing helmets almost all of the time. So, by and large, the weight of experience is against the helmet, so don't let me say that the instructors who are against

helmets are just against them on the issue of choice; they are against them practically. They don't think that they do the job and they are averse, except in certain circumstances, to wearing them. That doesn't mean they would never wear them.

MR. D. ORCHARD: Mr. Walsh, I'd like to close off by making a proposal to you and get your comments on it. The argument by many of the members in the House who have supported this legislation, is that it's needed because it will reduce injuries and that will save our medical system money, therefore, it's good for all taxpayers. In the Minister's introductory remarks, he identified seat belt usage would have saved \$1,068,144 in hospital costs alone.

Now, I'm going to use poetic license - and the Minister will correct me - I'm going to assume that that's the total saving of the package, seat belts, helmets and child restraint systems. Now, given that there are 18,000 motorcycle riders licensed in the Province of Manitoba - in 1982, 17,461, so I'm rounding it off - given further that there are 10,300 injuries by motor vehicle accident in 1982; given that 511 of those were motorcycle accidents which is roughly 5 percent of the total, then I'm making a quick calculation and I'm saying that there would be \$53,400 in savings to the medical system per year from the helmet legislation, if we were to pass this and require all motorcyclists to wear helmets.

I put the proposition to you that if the argument which was persuasively made by a number of the government members that we're doing this because it costs other taxpayers money, would you, as the legal counsel representing ABATE, agree with a simple \$3 per year additional licence charge which, multiplied by the approximate 18,000 cyclists, give us our alleged saving to the health care system and still maintain the freedom to choose - let those who ride decide - or however that phrase goes, would you think that would be a workable consideration and would overcome this traumatic argument made by those who say we have to save the medical health care system money?

MR. P. WALSH: I suppose that's sort of a corollary to the notion that we tax cigarette users and liquor users more heavily because they're a greater drain on the system, or it's a vice that we allow people to indulge in but they ought to pay for it because there's a cost to society. The story is told that Barron de Rothschild was once accosted in his house by a prowler who said that he was a Marxist-Leninist type who believed in no accumulation of wealth and he had a bit of an advantage since he was armed and de Rothschild wasn't, and he was young and strong and de Rothschild wasn't, de Rothschild said he agreed with him, took out 10 cents and gave him his fair share of de Rothschild's fortune spread out over the entire population and told him that everyone else who came would get a similar per capita grant.

I think that you've made a bit of a leap of faith by lumping the helmet together with the seat belts. If the Minister's comments are correct I think that if you compare the fatality, injury situation with helmets in Manitoba to Saskatchewan I think that you probably couldn't make that case. In other words, if you lump the helmets together with the seat belts then misery

loving company, I suppose, since it's all in one bill - and the one of the things that helmet people would really like is to break up the bill so that their issue could be voted on separately - but misery loving company, we'll say, okay, we'll go along and if we give you the \$3, will you leave us alone. Well, you heard the applause. Sure, for \$3 which is barely a parking ticket, anybody will say if that's what it takes for Mr. Uskiw to drop the legislation, I guess the applause speaks for itself. But I think that you take a bit of a statistical leap of faith by lumping the helmet issue together with the seat belt issue, because if you look at Saskatchewan and Manitoba, you're struck by the notion that there is no saving on the helmet part. I don't know about the seat belts. But if there is no saving on the helmet part or if there's a marginal saving because the statistics are a bit worse in Manitoba than they are in Saskatchewan, marginally and not statistically significant, maybe a quarter, 25 cents - would you take a quarter? - I don't know. Well, if we're bargaining, if it's between \$3 and a quarter I'd be happy to arbitrate the issue.

Clearly, my clients would be happy at least by their applause to pay the \$3.00.

HON. S. USKIW: I would venture to say that probably they'd be maybe even happy to pay the first minimum fine to get the legislation off . . .

MR. P. WALSH: Sooner or later - that's the point - the legislation is going to be tested. If it could be done in a decorous way right at the highest court in the province, right off the hop, given the fact that the time impact situation, as I've already articulated, is such that we have the time - it isn't really a question of saying now that we've enacted legislation we shouldn't hold up every law we enact by some lawyer who'll come and say that it's unconstitutional and I agree with that notion, but we do have the time in this particular case.

MR. D. ORCHARD: Can I throw one unrelated question at you, Mr. Walsh, you dealt - maybe I should get your concurrence first?

MR. P. WALSH: Well, I'm here.

MR. CHAIRMAN: How could he concur if he doesn't know what it is? Smarten up.

MR. D. ORCHARD: Thank you, Mr. Chairman, for your amicable comments. Mr. Walsh, you've addressed only the helmet issue in your brief. The bill is three-part, won't be split up, must be voted on, take it or leave it, the whole package, personally do you have an opinion you would wish to share with us on the other two aspects, namely, the seat belts and the child restraint system?

MR. P. WALSH: Other members may disagree when they speak, but it seems to me that the choice argument runs across the board. If you can get over the choice argument, if you find that there's such a significant - as Sid Green said, he's willing to listen on the issue of child restraint, but I feel from what I've seen of the statistics on seat belts, that the case can't be made

out there either. I haven't briefed myself on the seat belts but if you find that the case can't be made on seat belts then, once again, if you can overcome the choice argument and you say, I'm going to legislate, I'm going to make you do what I want you to do because it's going to help you, and you watch, it'll help you - then you've overcome that and you live with yourself, you've voted according to your conscience on that. Then you have to face the same argument that we bring you on the helmets and I say that I don't know. I know that Professor Levine has some statistical argument to be made on seat belts as well, so I think it would be inappropriate particularly to ask a lawyer what his views are on other issues. So when you say it's unrelated, I think on the choice aspect, it's easy to give an answer and the answer is that the choice argument runs right across the spectrum of all the aspects of this law. When you're affecting other people, it's a logical and appropriate area for government to at least be concerned with not necessarily to pass a law but at least to look at. In this case you're not affecting other people except in bizarre and maybe once in two or three or 10 years circumstances. When you're affecting other people, then you have to say I have a right and an obligation, indeed, to circumscribe your conduct to save harmless or to reduce potential for injury to others.

I say that with seat belts; with helmets you can't do that so the choice argument is clearly there; on the seat belts you can't make the case either. Mr. Prest perhaps could speak more eloquently, being the political head of the ABATE as opposed to myself.

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

MR. CHAIRMAN: Mrs. Oleson.

MRS. C. OLESON: Thank you, Mr. Chairman. I was interested in your remarks, Mr. Walsh, they were very convincing. It reminds me of a few years ago when my eldest son rode a motorcycle and I insisted that he wear a helmet. I'm wondering now if I did him a disservice by insisting on that? However, I suspect that when he was out of the sight of his mother he didn't wear it anyway so we won't need to worry about it.

I'm wondering with your pamphlet from ABATE, what was the source of your statistics?

MR. P. WALSH: Well, I'm going to defer to Mr. Prest on that but I know that these statistics are published government statistics. I can tell you that and, as I say, if you'll just hold your question in abeyance until Mr. Prest argues, I don't have that fact at my fingertips, but I can provide you with that information if it isn't here now. I have before me, handed to me, the Saskatchewan Traffic Safety Engineer from Regina, this information from the Traffic Safety Research Officer, in terms of the motorcycles involved in accidents throughout the years for each province. We have that for each and every province, so what has occurred in this case is that we have this mini brief, we have distributed to all MLAs, if you look through that mountain of material you must have received, we have a thick brief that we presented.

It contains studies and breakdowns and, as I said before, being a little cynical people tend to read and

be attracted to that which is obvious and easy to grasp, particular now when you have to come to hard grips with the issue, as opposed to a time where the matter could be put a little bit on the back burner. So there is a brief, you do have it in your material; if you don't have it within three or four hours we'll make sure that you're provided with the full brief, and the full brief contains the sources of all the statistics; and the statistics, I don't think, have been questioned either by the Minister or anyone else. I think that these are the straight goods.

MRS. C. OLESON: Is there one of your membership going to speak on the educational aspect of your organization?

MR. P. WALSH: I don't know to what strength that will happen but I tried to stay away from that. The organization has an excellent record of doing work in this area and in helping out in allied areas and, in some cases, in totally unrelated areas in raising money for charities, but I don't feel that the argument is buttressed, and I've said this to my client, it's not inappropriate to say that we're good guys, but I don't think the argument is buttressed at all, that the logic is more convincing because we're, not only out for our own pleasure when we're driving a motorcycle, but actually do, in a subsidiary way, some of us, among the many thousands who are members, work for and indeed I know that Mr. Murray Johnston works very hard for pigmentosa miosis, the eye disease and so forth and so on, where large amounts of money are raised.

So what I'm saying to you is that, yes there is a charitable aspect to the organization and, yes, there is an educational function to the organization with newsletters and advice as to when you heard about the many kinds of helmets, advice as to those that crack on impact and, if a person wants to wear a helmet, what a good one is and what a bad one is, and so forth and so on. So there's a newsletter, there's a lot of information exchanged and it isn't only about drag racing and the like.

MRS. C. OLESON: Thank you.

MR. CHAIRMAN: Ms. Phillips.

MS. M. PHILLIPS: Mr. Chairperson, Mr. Orchard on his 14th question, asked you about your opinion on the constitutionality of the other section so I'm satisfied with your answer. I'll pass.

MR. P. WALSH: Thank you.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Yes, I wanted to pursue the statistical aspect which you, sir, were trying to convince the committee on. Are you aware as to the totality of registered cyclists in Canada, in any given period? Perhaps that's unfair; I'll put it to you this way. There were 331,000 motorcyclists, if you like, registered in Canada, in the period 1970-75, of which 60,000 were involved in accidents in the same period, which is about 20 percent - that to me is a startling figure - of which

1,884 died. Between 1970 and '74, in other words, there were 775 operators and passengers who died. Those are very startling numbers from, at least, my perspective.

It is found that the average number of accidents per registered motorcycle vary from as low as 17 per 1,000 to 59 per 1,000; the 17 being in Alberta, and 59 in Manitoba for the years '70-'75. Manitoba has the highest rate, two to three times that of comparable provinces that have shown to be a direct consequence of not having the helmet law. We have two to two-and-one-half times the rate of head injury fatalities than comparable provinces which have helmet laws.

In Quebec, the year after the law was introduced, motorcycle fatalities dropped by about 25 percent, in spite of a 10 percent increase in vehicle registration. The use of helmets reduce the probability of minor head injury by two, according to the stats; of moderate head injury by three; and of severe head injury by a factor of four.

If you look at Nova Scotia's experience, they had a 30 percent reduction of fatalities the year after they had introduced their law. In Quebec, which is the province with the largest number of motorcycles in the country, the number of cyclists who died from head injuries dropped from 95 to 75 in 1974, and that's the year that the helmet legislation became effective; and their registrations in that same period went up by 10 percent.

In the Prairies, where Manitoba does not enforce helmet use, Manitoba from 1970-1974 again had two to two-and-one-half as many head injury fatalities per registered motorcycle as its helmet law neighbour provinces. If these are accurate, and I'm assuming they are, they have been researched, they are certainly not figures put together by myself or my colleagues for purposes of presentation, they are what has been documented from wherever the sources are, then one has to question whether or not society has some obligation with respect to dealing with that kind of a problem.

MR. P. WALSH: Two responses to that, keeping the level of debate where it is, and that is that the absolute figures, in terms of fatalities and deaths, should be translated in each and every instance to per 100 accidents and per vehicle registration; so that when you say that there are X number of accidents, or that there are X number of motorcycles, and Y number of accidents, you don't, for instance, by saying that, say that now with helmets that you're going to change either of those statistics, with all deference. The point was made last day that the helmet is something that you say will affect the consequence of accidents, but not the frequency of accidents. The argument being made here is that the frequency is going to go up and maybe, if you're right, the consequence will go down but, sort of, the graph lines might cross; I don't know.

What I have here is the Canadian statistics between '70 and '75, and I'll hand them to you for the Clerk's purposes so that she can photocopy them for you. These are all of the statistics for those years. Mr. Prest is going to speak to the issue of the statistical analysis. What we tried to do in our mini brief, and what we've done more extensively in our larger brief is, is to

translate the statistics. There is a phenomenon; it's true in Ontario, it's true in other places, that in the year and a half, or the full year after the implementation of a helmet law, there is the effect of the public awareness of cyclists and the heightened awareness of the new law and a concentration of effort to avoid accidents. So that when we look at Ontario, in our mini brief, we see that in 1969 accidents went down, or deaths per hundred accidents went down from 1.96 to 1.67, then in the full year to 1.49. So that's a phenomenon that's repeated province after province. You're right; you enact a law and you have a good year that follows the enacting of the law. Right now you've got a lot of press, a lot of concern. One wonders, if you don't enact the law, whether we'll have a good year just because of the publicity; I don't know.

But what then does happen is that the rate went up in Ontario. You don't deny, Mr. Minister, the statistics contained in our brief. In Ontario that happened. You don't deny, Mr. Minister, the figures for '77 through '81 which are more current and talk about fatalities and injuries per 100 accidents. When you look at Alberta and Ontario, what do you say? 'We're all talking about statistics, you've got some and I've got some; but what do you say when I look and I take a slice of life, an average year, in one province as composed to another province and say, the only variable between these two provinces, all the laws are the same, all the speeds on the roadways are the same. Now, admittedly, I suppose that some provinces have more four-lane highways than others, and others have more gravel roads than others, but assuming that that all washes out, when we look at Manitoba and compare it to Ontario, what do you offer as a logical conclusion to explain the disparity? What do you offer? If you don't offer anything, aren't you stuck with the notion that no matter how much you talk about gross numbers and how motorcyclists have a lot of accidents, what does the helmet introduce to effect that? I say, my goodness gracious, nothing, because in the period '77 through '81, this is well after Ontario had become acclimatized to helmets and they have accidents and fatalities that far outnumber Manitoba.

I am saying, how can you have accidents of 88.66 compared to 63.29 when everything else is equal? Now that's a statistic, too. So sure, in absolute numbers, you can make a case. Motorcyclists are accident prone, they're vulnerable, they're driving a motorcycle. The best advice you might have given your son when you told him only to wear a helmet might have been, drive a car. You're less likely when you have a fender bender you just get the fender repaired; when you're on the cycle, your knees are your fenders part of the time. You might say that driving a motorcycle by itself is a more hazardous thing than driving a car; I think it is, that appeals to my sense of logic, and your statistics, Mr. Minister, back that up.

But as long as it's legal to drive a motorcycle, then it seems to me that the obligation on government is to keep people off the road who don't know how to operate the cycle. So don't let a person on the road just because he can pass the written test; make sure that he can handle the motorcycle to a modest level; make sure that he doesn't drive before he's taken his test without another motorcycle driver within a hundred feet who's ostensibly controlling that cyclist and giving

him information and teaching him. Say that and make sure then that everybody won't be on the road until they have a licence unsupervised.

There's a hundred things you can do to reduce injuries and create greater ability on the part of cyclists, but wearing helmets really seems to be saying, well we're not going to do anything to make the public better educated, we're not going to do anything to make the cyclists better able to handle their cycles, but what we're going to do is we're going to put a bandage on them before they get into the accident so hopefully they'll be in one piece when they arrive at the hospital.

That really seems to be the most niggardly policy you can have regarding a motorcyclist if you're really concerned about his welfare. If you're concerned about his welfare you'll help him learn how to drive a motorcycle; you'll make sure the public is aware of his status as a learner; you'll make sure he's under somebody's control and that he isn't just off on a frolic of sorts that he's dangerous to the general public, and you might have him under direct supervision. But the response in 1983 should not be, what we're going to do for cyclists this year is make them wear helmets. That seems to be, if I were setting the priorities, way down my list of even to consider. But on the issue of statistics, I've given them to you. We have them and Mr. Prest is going to speak to them.

I think that the argument can't be made with statistics. You throw out some at me. I must say that if we were studying them together in a more collegial and seminar way we could pass them back and forth and be given time to study, I've taken a lot of your time now and I am trying to be as responsive as I can, but when you throw a bunch of statistics at me, unless I have been given a chance to study and respond to them knowing they were coming, it makes it very difficult.

MR. CHAIRMAN: Thank you, Mr. Walsh.

MR. P. WALSH: Thank you, Mr. Fox.

MR. CHAIRMAN: I wish to indicate to the members of the committee and the people making presentations that Wednesday, July 27th, this committee will meet again at 7:00 p.m. in this room, Room 255. I'll repeat that, Wednesday, July 27th at 7:00 p.m. in Room 255.

We shall adjourn at 4:30 and we'll go on with the next presentation. Roy Turnock.

A SPECTATOR: Roy isn't here today.

MR. CHAIRMAN: Roy isn't here. Marty Diamond.

A SPECTATOR: Don Ficher would like to speak because he won't be able to be here on Monday.

MR. CHAIRMAN: Get up so I can hear you?

A SPECTATOR: Mr. Don Ficher would like to speak on behalf of our organization. He won't be able to attend . . .

MR. CHAIRMAN: Is that all the ABATE people?

A SPECTATOR: That's right.

MR. CHAIRMAN: All right. Don Ficher.
Mr. Orchard.

MR. D. ORCHARD: On a point of order, Mr. Chairman. When you mentioned is Mr. Ficher speaking on behalf of all the ABATE people, you're not suggesting that those five briefs would be addressed by the one person.

MR. CHAIRMAN: That's what they're suggesting.

MR. J. PREST: No, that's not what we're saying.

MR. CHAIRMAN: Well then what are you suggesting?

MR. J. PREST: Mr. Ficher is a member of our organization who won't be able to attend the next seminar, he would like to speak now because his presentation . . .

MR. CHAIRMAN: The only one that's ahead of Ficher is Prest.

MR. J. PREST: That's myself.

MR. CHAIRMAN: That's you? If you wish to step aside, that's okay with us.

Mr. Ficher.

MR. D. FICHER: Thank you, Mr. Chairman. I represent ABATE. I represent it somewhat in the same capacity as Paul Walsh does, as a technical consultant. I am a mechanical engineer, I work for the University of Manitoba. I work for a mechanical engineering consultant firm, and I also have a manufacturing firm, so I do pay my taxes. But there's a difference between myself and Mr. Walsh, I am a motorcyclist, so that I assure you there was a bit of enthusiasm when I was approached by ABATE to represent them and to do some of the studies that have been put forth in the brief.

Mr. Chairman, before I start. This isn't an exhibit, this is my motorcycle helmet which I brought, I didn't wear it today, it was fairly warm, but I brought it because I wish to challenge anybody who is sincere about what they are dealing with right now to wear this helmet throughout the duration of my speech. I'm not doing this as a joke; it is no harder to wear this helmet in this room, in an automobile, or on a fully faired motorcycle on the streets in Winnipeg on a day like today. It is a lot cooler in the shade in here. I'm serious and one of the items that I'm going to talk about are the thermal effects of a helmet. It is one of the items that I feel most strongly about and it's here. It's heavy; this is bell helmet. It's been around; I used to race motorcycles; it's had the odd crash and burn. It's an extremely heavy helmet; it's required to meet the SNELL approval. You'll probably say that it's due to be replaced, but it's also a \$200 to \$300 helmet.

I found it interesting, I mentioned this. I spoke briefly to some of the members of the caucus awhile ago. When I was sitting before that I realized it was interesting, when I considered how much effort, as a professional engineer, I was putting into this fight against mandatory helmet legislation when I drive a four-wheel vehicle at least 50 percent of the time. The thought

had never occurred to me to come down here and oppose seat belts, not that I agree with mandatory seat belts, but both professionally and personally I feel that the good associated with wearing a seat belt dwarfs the good associated with wearing a helmet.

I'll speak personally, at this point, because this question has been asked of a number of people who stood up here on the helmet issue. I do believe that the statistical evidence in favour of seat belts is far superior to the statistical evidence against helmets. Now that's my personal opinion from reviewing the existing statistics, from also talking with people that had worked with Dr. Mulligan at the university, a Mr. Gord Pizey, I have access to the same data base that he used to prepare his brief. I went through it, and I have to say I don't think I could stand up here and technically argue against seat belts. I prefer constitutionally that I don't have to wear them, but there are two issues, and there are really two issues or I wouldn't be here.

We're not comparing apples with apples, we are comparing apples with sour grapes. How many people around this table - this was asked before - ride a motorcycle, much less wear a helmet, or for that matter are affected by the law after you pass it? I do ride a motorcycle and I object to the mandatory helmet issue.

I also wear a helmet quite a bit of the time. I'll ask you at the end of the meeting, if you want to ask me why, I'm free to tell you why and when I wear helmets and where I feel they're useful, but right now I'm addressing the times when I don't want to wear a helmet and when I don't think they're of importance. I'm going to try to whale away at some of those small differences or small technical arguments that are put down by the helmet advocates.

So the real question that I will debate at this hearing, do the claimed benefits from wearing a helmet, if one is involved in a motorcycle accident, outweigh the claimed liabilities of wearing a helmet? I agree, there's a very long list of technical arguments on both sides, a horrendously long list of statistics on both sides, and they're piling up like this and you're sitting there. Now we're up here arguing about whether they're this high or this high; where, for example, the seat belt issue might be climbing up like this. The argument that I get stuck upside down in my car in a ditch is a valid argument against seat belts, but then there are the arguments on the other side. I believe, personally, that the statistics on the seat belts, after you add up the pros and cons, are something like this, and we have a significant difference. I suggest that I will probably wear my seat belt after you make it legislation.

A thing that I believe very strongly is that helmets can contribute to an accident. After getting involved in this and looking at the statistics, I believe that it is significant, and when you compare the statistics that Mr. Walsh presented to you, I believe, that you aren't going to get any benefit from making helmets mandatory.

First, let's assume that helmets do do what you think they're going to do. I'd like to present a scenario that if we assume that they're doing everything that the government says they're going to do, then let's do something about. Let's put helmets where they're going to start to save some lives, some significant lives, not half a dozen lives in Manitoba where we can go through them piece by piece and show that the helmet really

didn't have anything to do with it; the guy that was going 100 miles an hour, the guy that was loaded out of his mind, the guy that was a brand new driver, they can dissect every one of those accidents this year and put a fairly large question.

I have, which I will refer several times, a brief by Dr. Mulligan, who I respect very much, from the University of Manitoba titled "A Case For Mandatory Safety Helmet Use and Legislation for Motorcyclists." In the beginning of this section he makes reference to a study that says primary head injuries due to high level accelerations are a major, if not the major, cause of disability and death in motor vehicle collisions." That's with and without seat belts, and that's all motor vehicles. Epidemiological studies have shown that 40 to 70 percent of all injured patients had a head injury - that's a reference 47 in his. Autopsy studies from various centres reveal that head injuries alone are responsible for 50 percent-70 percent of all deaths. Now this is his preface to his helmet brief, but it is all motor vehicles. So, if helmets have the potential to do what the advocates say they can do, then let's start to put them on the people so that they can do what they're supposed to do. I don't really believe that.

You would say it was ridiculous if you had to start to wear your helmet in your car, and you are right. I'm going to try to demonstrate, or at least shed some light on some of these ridiculous arguments, the other variables as Paul Walsh spoke.

Again, as I said, I'm going to review this document from Dr. Mulligan, and in no way am I criticizing his professional ability or integrity. I believe that he sincerely believes helmets are a good thing in the same manner that Mr. Walsh said that he used to think that helmets were a good thing. I think you have to believe his sincerity as our legal representation, that he was really saying to you, I believe these people as well as represent them. I think you also have to consider the amount of representation by the motorcycle group at this hearing, the amount that we did, a group that has actually collected money to retain legal representation.

I remind you that Dr. Mulligan does not ride a motorcycle. He was asked to prepare a brief that doesn't have a whole bunch of concrete support and statistics, as is necessary to present a convincing argument; but he did the best that he could and he did what he believed was right. Some of his arguments are valid, some of his arguments are not, and some of the material in that brief is just a lot of smoke. I ask you how many people here have read it? Okay, very good. Then, can I assume — (Interjection) —

HON. S. USKIW: Mr. Chairman, on a point of order. I don't believe it's proper for anyone addressing the committee to ask any member of the committee anything, that's not the procedure here. The lack of response was not because of what you thought it was, but rather because the procedure is wrong.

MR. D. FICHER: I'll rephrase that. I would find as a layperson, and I didn't really anticipate a response, I would find as laypeople reading that material to find it very difficult to get through and to draw a conclusion of your own because, as an engineer, I found it somewhat difficult and somewhat misleading in various areas.

Right in the beginning page he sets out to put down the arguments of the people that are against the helmets. The sentence says, "The conclusions reached suggest that a substantial reduction in head injuries, disability and death would probably accrue from widespread use of helmets, etc. etc." I find that a very wishy-washy conclusion. I find that anybody would have a tough time making a more positive conclusion. He has done it based on the statistics that he had and on his belief, but he is being very careful not to be very concrete - and at the end I would like to discuss some of the conclusions that he has used as support for his case.

Dr. Mulligan also got into a fair depth on physics, several pages of the physical relationships that are associated with the design and operation of a helmet. I found it quite disconcerting that there were two pages of derivation of an equation from a first-year physics textbook. I believe that if he had followed suit with some of his other arguments that he would simply have referenced Physics 120 textbook. The bottom line is that he is showing the relationship between acceleration, velocity and distance and it is a very valid equation and it holds for all analyses of helmets.

He gets into laboratory studies that try to quantify the acceleration rate, or deceleration rate, that is actually fatal to the human being as a result of brain damage. The studies were extremely inconclusive and he stated that there are numbers in the order of 40 to 50 Gs, a G being a 32.2 ft. per second squared, the gravitational force, and up to 200 Gs. He goes through an argument that shows the effect of a helmet at 40 mile-an-hour versus no helmet at 40 mile-an-hour, and the acceleration forces that he's dealing with all exceed the levels that his previous section suggested were fatal in a motor vehicle accident.

Now there's no question that adding an element of thickness to your head, when you run into an object physically, reduces the acceleration that you go through, so there are merits. Dr. Mulligan also puts forth an argument that motor car and motorcycle racing drivers always wear helmets so they must be good. Very well, if his argument is valid, then why is he using the motor car example for the motorcyclist, and not extrapolating it to the motor vehicle on our street. Race car drivers and motorcyclers are in a much different situation than the rider on the street; they are tuned to the limit; they're out there; they don't worry about what's behind them; they are concentrating; they are in a very high-risk situation relative to the existing situation and they deal with it. When you're out putting around on the street you start to relax and you start to need some of your extra perceptory advantages.

Sound is one of the things that I take exception to when somebody says a helmet does not impair your ability to hear. At large distances from sound source, having the distance will increase the sound pressure level by 6 decibels, or conversely, doubling the distance between you, or the motorcyclist, and the source of sound that may represent the first warning of an accident or potential hazard situation, will reduce the sound pressure level by six decibels. This 6 decibel number, what does it mean, it doesn't sound like a very large number? I'd like to explain in lay terms the unit in measuring a decibel and the significance of a 6 db difference. Sound pressure level is defined as 20

times the log to the base 10 of pressure over a reference pressure in decibels. Where the reference pressure is 2 times 10 of the minus 4 per cm squared. Now that's a horrible long equation to measure what people know as the decibel.

The important thing is that it is a log rhythmic equation, so that a small increase in the decibels represents a very large increase in the sound pressure level. In our previous example the sound pressure level measured in db was only reduced by six. In absolute pressure measurements it was halved so we're talking about a substantial decrease in sound energy.

Dr. Mulligan uses some references to Do Helmets Impair Hearing and he takes an extract from the National Highway Traffic Safety and it goes on as follows: Whether or not a given sound will be heard by a motorcycle rider is dependent on three factors. The auditory capability of the cyclist, true; the intensity and frequency of the sound, and the frequency of sound is very important, and from then on they completely ignore the affects of frequency; the intensity and frequency of environmental noise that might mask or hide the desired sound. Now, those are correct but they are very complex variables. The given sound will be heard by cyclists if it is loud enough when it reaches his ears to be heard above his hearing threshold, correct; and when it is not masked by other sounds present at the same time, correct. I mean these are fairly obvious statements.

Then there's a statement, motorcycles create high levels of noise. Now the motorcycles on the market today do not create high levels of noise. After you leave the stoplight you can't hear your motorcycle anymore, wind noise is a predominant factor after about 30 or 40 mile-an-hour. It goes on about this motorcycle noise which you stop hearing actually when you put your motorcycle helmet on. You can actually feel your motorcycle before you can hear you motorcycle. For the rider to hear any other sound in the presence of this high noise level the sounds must be as loud, or louder, than emitted by the motorcycle itself. Helmets reduce the loudness of sound of interest and the motorcycle noise by an equal amount. Well, they don't necessarily by an equal amount if they weren't the same frequency. Helmets attenuate high frequency much better than they attenuate low frequency. The low frequency sound in the guy's stereo in the next room comes through your floor but you don't hear the highs, you can't make out what they're saying. High frequency can be attenuated very easily compared to low frequency, the vibrating of a motor, so a helmet is very selective on what it attenuates. It takes out the high frequencies, it takes out the shrill whistles, it takes out, particularly, a motorcycle horn, a car horn is a little better, a truck horn is getting down there a little lower. Any motorcyclist knows how difficult it is to talk to somebody, to talk to their passenger if they're wearing a helmet. They also know how impossible it is to yell at the guy riding beside you if he's wearing a helmet. If he doesn't have a helmet on you can go, hey, and he looks. You can also hit your horn and he looks. You can't always, at 60 or 70 mile-an-hour, get the other motorcyclist's attention with your horn and when you get your speed up to the higher speeds and you see the policeman in the corner and you want to warn your friend who's ahead of you that he better slow down a little bit he doesn't hear you; there's just no way.

So, it's a real phenomena that motorcyclists recognize and once in a while I think it's time somebody explained that this hearing thing is a valid concern. You put the helmet on it reduces your ability to hear. Can you imagine two people with helmets on carrying on a conversation on the way home from work in a car, you have a lot of difficulty, much less at higher speeds with background noises that interfere with sound transmission. Consequently, as the rider can hear a motorcycle itself by wearing a helmet, he or she can also hear other sounds such as favourable signals to noise ratio at least as well as a driver who does not wear a helmet. In theory, that sounds very fine but what they are forgetting is the distance variable, how soon, how far away do you want to hear a vehicle.

Just to carry my little discussion about the motorcycles side by side and yelling at them, we have a document - and I'm sure all this can be made available, if it hasn't, by John Prest - a presentation before the Senate Commission Committee in Madison, Wisconsin, by Ed Armstrong, who is a practicing mechanical engineer, registered professional engineer with the University of California and he goes into a number of things, but he goes into the sound. He specifically criticizes the same clause in the DOT document that I just referred to. He says, "If the writer of this document had ever ridden a motorcycle, he's know it wasn't true. As a technical man, he knows that it isn't true, without riding a motorcycle. I conducted a simple test in front of my house to disprove the above DOT statement. Anyone can do this test without spending any taxpayers' money. Our car was parked; we marked our lines on the street every 25 feet, from 50 feet from the car to about 300. I was on the bike at the 50-foot mark. With the bike engine revved to about 5,000 rpm, giving a high noise level, my friend blew the horn while I first had my helmet on and then off. I waved when I heard the horn." He couldn't see anybody tooting the horn. "At 125 feet from the car, I no longer could hear the horn with the helmet on. Out to nearly 250 feet, I could hear the horn without the helmet. At over 250 feet, I couldn't hear the horn with or without the helmet. Anyplace between 125 and 250 feet, I could hear the horn with the helmet off, but not with it on."

It's showing, yes, you're attenuating it and there is a distance factor that you are not going to be able to hear the warning. This applies to shorter distances with much smaller noise levels, be it the squealing tire of the guy changing lanes, 10 feet away or five feet away. The warning 10 feet away might be sufficient; the warning five feet away might not be sufficient.

Again, the procedure that he used is very similar to the way they measure hearing with an audiogram. They raise the level, tell the person signals and back down, so it's a valid procedure. It would be not in controlled laboratory conditions so that, obviously, people can question it.

A helmet reduces the hearing to about six to eight decibels which, according to theory, about halves the distance that a sound can be heard. We also have, in the ABATE brief, some sound tests that were conducted by an engineer in the Province of British Columbia. I'm not going to take the time searching for it; it's in the brief that you represented and it does show that you can get attenuations at 2,000 hertz at approximately 20 decibels, not to six, which represents a halving of

the distance; at 20 decibels which is equivalent to going from five feet, that the sound source was at in his first experiment to, in the experiment that's in this, to approximately 40 feet away, so it's significant. If I'm not explaining it properly, it may be a hard concept to get across, but there is a valid argument to the other side and I would be pleased to entertain any discussions with any of you on a slower basis to explain some of these sound levels.

The other aspect that I wanted to mention was heat and it's a good time for this hearing to discuss it, because there's a lot out there. It was interesting, when I was coming down, I said, I brought my motorcycle that has a sidecar on it which is also considered one of the safer types of motorcycle vehicles and if anybody wants to go for a ride in it, it's a very nice day and a sidecar is a very nice way to go for a ride on a motorcycle. I'll let you come with me, helmet and/or without helmet.

Actually, there is one thing I want to mention before I talk about it. The discussion has come up about the degree of hazard associated with motorcycle riding, motorcycles they all are, a much more hazardous form of transportation than an automobile. Sometimes you hear numbers like five, six, seven times, really independent of helmets. You ride a motorcycle in Manitoba or you ride a motorcycle in Saskatchewan, you're accepting a higher risk, but all the motorcyclists here that are represented and all the motorcycles in Manitoba accept that risk.

It's not much different than you accepting the increased risk of riding a car as opposed to riding a public transport system. Do you realize that there are orders of magnitude? You are putting yourself at greater risk by order of magnitude by riding a car over a public transit system, be it a bus, plane or train, you are hundreds of times safer, both of us, as car drivers and motorcycle drivers, we are far safer to be riding the public transit systems. We live in a fairly high-risk society; we accept it. We have sports; we have hockey players. We don't legislate helmets for the NHL because the American teams might not show up in Winnipeg. We've accepted a high-risk society; it's geared that way. It's not a level thing. The motorcyclists have accepted the increased risk for the increased pleasure and there is an awful lot of pleasure in riding a motorcycle or we wouldn't do it, and there's a severe impingement on pleasure when you impose mandatory helmets. I said, I wear a helmet many times and there are many times when it's a comfortable thing to wear, particularly in the winter time.

Just pulling up to the stop light, I saw two young motorcyclists, a rider and his girlfriend, and they were well-clad, both with brand new helmets, brand new motorcycle and they both had the helmet, full-faced helmet, through their arm, like this. That was fine for the passenger, but I find it very difficult driving a motorcycle with my helmet on my arm and I know it; and I think probably some of the other people have probably tried it and have given up on it, but they were very hot. I was glad I had mine on my sidecar.

Something else that I'll touch on before I get into the work that I did on the thermal stress, is protection. Motorcyclists that come from provinces and states that are mandatory helmet have learned to wear helmets as part of protective clothing and they find it strange

to see bare-headed motorcyclists. Similarly, one thing I don't think you saw at this group was any motorcyclist - and I've checked - I don't think you'll have found a motorcyclist come in here without long pants on and without shoes or boots or at least a good running shoe. How many of us have seen - and this is a thing that's happening with the new, wide expanding motorcycle market - young kids, older kids, shorts, sandals on their motorcycle; bare feet yet. Then, that's fine, I come along and then you'll see somebody with a helmet on; real imbalance.

I've had the odd motorcycle accident; I've had a very serious motorcycle accident. Some of them here know how close I came to biting it, but I've also fallen off my motorcycles lots of little times, be it by dirt bike or my You slip out on a little corner, this, that or the other thing. Without your pants you scrape your leg badly; with your blue jeans and your boots you get up, pick the bike up. Your 5 mph speed, you're backing out of the parking lot and your bike hits something and falls over, you pick up and you ride away. There's a whole element of protective clothing. It looks very silly to see a helmet on a rider with bare feet and in cutoffs, just doesn't make any sense. Let's get education; let's prevent motorcyclists from riding around in their shorts; let's educate them so they don't ride around in their shorts.

That was a long story to get back to why I got involved with ABATE. They came and they said is there anything, Don, that we can do to quantify the thermal discomfort that we have when we wear a helmet in the summertime. We feel it significant; I felt it significant. I said I don't know, I think there is. It's obviously there's something we can do.

In the ABATE brief at the end is my report to ABATE and the results of our study. Nowhere in this study do we try to evaluate the physiological effects of heat stress on a rider's ability to navigate his vehicle. We simply try to quantify the increased thermal resistance associated with that helmet.

We used, as a condition, almost identical to what we have today, a 32 degree C air temperature, at a 35 percent relative humidity, which is the design condition that building engineers use to size the air conditioning systems for their building; it's the kind of weather that we've had for the last two weeks. We also ran one at a lower temperature of 80 degrees. The subject wore conventional corrective motorcycle riding gear which included leather boots, blue jeans, leather jacket, leather riding gloves, throughout testing. The helmet selected was a Bell full-face helmet, the one that you see here.

To provide a comparison that would relate the results of the helmet test to rider discomfort each test was repeated with the rider wearing an earlength wool toque - this was done assuming that one would not wear a wool toque on a day like today - to bring some real feel to why we're saying they're uncomfortable on a hot day. We measured the skin temperature of the subject's head by taping thermal couples to the skin, and averaging the results of these four readings, one there, one there, and one at the back. The air temperatures and the humidity were measured during the experiment with both wet and dry bulb thermometers.

We made a reasonable assumption that the surface area of the head was the same for all tests, and that

both their internal resistance to heat flow and body temperature remained constant. We actually measured the body temperature to confirm that there was no increase in body temperature. Then we can calculate that the change in rate of heat transfer from the head was directly related to the change in skin temperature caused by the insulating effect of the helmet or the toque.

Now, with no helmet, the skin temperature was 94 degrees, the average skin temperature. With the toque, the average skin temperature was - these are Fahrenheit temperatures that I'm reading - 95 degrees. With the helmet it was 97.5 degrees. You say that's not a very large difference, but remember that the temperature had to be somewhere between the air temperature at 90 and the body temperature at 98.6. So, we're dealing with less than a 10 degree difference, and we're seeing changes that are very significant.

When we extrapolate that, therefore, under the 90 degree air temperature test, the measured 97.5 degree skin temperature while wearing a helmet represented a 70 percent decrease in the ability of a subject's body to remove heat through the head, relative to a bare head. We've all heard and are aware that the head is noted as being one of the most effective areas in the body for heat transfer. The measured 95 degree skin temperature while wearing the toque represented a 30 percent decrease in the ability of a subject to remove body heat, relative to the bare head.

What it says is you're better off wearing a helmet than a toque in the wintertime, and when it's 0 degrees Fahrenheit or Celsius I wear a helmet, not a toque, when I'm riding my motorcycle, because they are a much better protector.

The numbers that have been quoted by some of the people that have spoke before me are that it translates, in rough terms, that the helmet was three-and-a-half times warmer than the wool toque which is warm.

Now, that's one perspective of the thermal performance of a helmet, but it's probably the first that I've seen documented. Every time till now the motorcyclists says they're hot, and the advocate says well, that's fine, but we're saving your lives, and they go show a bunch more statistics and it drops at that. This is an example that we took to its limit. Now, time, money prevents us, the same thing could be done with the hearing thing; the same thing could be done with the peripheral vision. This shield is about, oh, it's got about 4,000 miles on it, in terms of highway driving. They scratch, you can't do anything about it. That's a Lexon shield, it's about \$20, it's three times the price of a plexiglass shield. You go take the bugs off at the service station, it scratches. Fair enough, on a bright, sunny day it's not too bad. At night, with the glare, it's a real problem. In town I generally opt for my glasses, just a pair of glasses that are clear. I don't need prescription glasses to maintain the clarity required to get rid of that glare. That's something you don't have a problem with in a car. The front of your car is glass, you don't have that problem. When bugs get on it you clean it off, it doesn't scrape.

True, the good motorcyclist, helmet wear is going to keep changing his shield, but you can go around. The legislation doesn't have anything to do with the condition of the shield. I've seen shields on people's helmets that you just can't even look through. They

just aren't buying them, and they flip them up. Now, they're giving their eye protection. There's a lot of elements that sometimes I wonder are being presented for their significance, and the question we have to ask, or we're suggesting, is that you add all these things up, and that is why the statistics don't show any difference between Manitoba and Saskatchewan.

Certainly hearing, by itself, isn't going to pull it down; certainly vision, by itself, isn't going to pull it down; certainly heat stress, by itself, isn't going to pull it down. As I said, when I'm on the highway I kind of like going a little faster, and I do generally wear a helmet for the protection and the eye protection.

When I'm out-of-province and pull into a city I find it extremely aggravating. I become like the guy going home in rush hour traffic that's chewing his steering wheel. I can remember several times driving down Yonge Street in Toronto at zero speed basically, 2 mile an hour, with this helmet on because you chose to take the full-face helmet instead of the half-face helmet, and being aggravated, being ratty, being very tired, stopping to take it off a few times. Now, that's because I'm from Manitoba and I would have taken it off. When I pull back into Winnipeg from a trip I take the helmet off to let the air blow through my hair.

This is my perspective of helmets. There are people that take it one side a little further; there's people that wear them 99 percent of the time; there are people that wear them 1 percent of the time; there's a range. I'm giving you my perspective of helmets.

I could talk about the physical limit of helmet design in physics. I think John we're up over my half hour. I'd just like to mention that the biggest problem is that physically helmets can't do what the layperson thinks they can. They say, well, why don't we design a better helmet? You can't, you can't wear a helmet to physically reduce the acceleration forces when you hit a brick wall you need maybe six inches, not half an inch. You can't wear a six inch thick helmet. There are physical limits that just aren't going to be solved that way. Another thing I say, consider the representation at this group by the honest, sincere, motorcyclist and professional.

So in conclusion, I'm suggesting from a technical basis that helmets are not going to accomplish what you think they're going to accomplish. We put forth some very positive suggestions that I believe can actually take the statistics in Manitoba and make them half of what Saskatchewan's are and be a leader in North America. There is no motorcycle population that has said to the government, let's put some of these

practical, these real things that we believe in, to our province.

I hope that you will consider some of the things that I've said and I will be pleased to answer any questions, unless you're going to close the meeting now.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Ficher. Mr. Uskiw.

HON. S. USKIW: You alluded to the problems of visibility which are dependent on the quality and the care of the shield, whatever the shield is, helmet shield or otherwise. Are you making a case at all for wearing eye protection?

MR. D. FICHER: I can speak personally.

HON. S. USKIW: Yes.

MR. D. FICHER: When I was younger, I used to ride around without eye protection. I used to ride around without my helmet, with my helmet, and when I didn't have my helmet on I didn't have eye protection. I seldom go out now without eye protection, be it glass sunglasses or non-sunglasses.

HON. S. USKIW: Why?

MR. D. FICHER: Just my personal feeling that I don't want something in my eye.

HON. S. USKIW: Is an area that you think should be provided for in legislation if there is to be legislation?

MR. D. FICHER: I've been in states and areas where eye protection was mandatory and helmet legislation wasn't.

HON. S. USKIW: That's my question.

MR. D. FICHER: As a motorcyclist, I accept it before I accept mandatory helmets.

HON. S. USKIW: Are you recommending it?

MR. D. FICHER: Personally, I would.

MR. CHAIRMAN: Thank you, Mr. Ficher.

MR. D. FICHER: Thank you.

MR. CHAIRMAN: Committee rise.