



STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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**STANDING COMMITTEE ON INTERGOVERNMENTAL
AFFAIRS AND JUSTICE**

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Mr. Rob Norris
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Mr. Kevin Phillips
Melfort

Mr. Warren Steinley
Regina Walsh Acres

Mr. Corey Tochor
Saskatoon Eastview

[The committee met at 15:00.]

The Chair: — Well good afternoon and welcome to the Standing Committee on Intergovernmental Affairs and Justice. We're meeting today in the Chamber to consider four bills this afternoon: Bill No. 72, *The Traffic Safety Amendment Act*; Bill No. 53, the miscellaneous statutes repeal Act; Bill No. 54, *The Seizure of Criminal Property Amendment Act*; and Bill No. 55, *The Consumer Protection and Business Practices Act*.

My name is Warren Michelson. I am the Chair of the committee. Along with me is the other committee members: Doyle Vermette is the Deputy Chair, Yogi Huyghebaert, Rob Norris, Kevin Phillips, Warren Steinley, and Corey Tochor. Today we have substituting for Warren Steinley is Mr. Darryl Hickie, and substituting for Doyle Vermette is Mr. John Nilson. So welcome to the committee.

We will now proceed with the consideration of Bill No. 72, *The Traffic Safety Amendment Act, 2012*. We will start with clause 1, short title. And welcome, Minister Harpauer, and your officials. Ms. Minister, if you'd like to have some opening comments and introduce your officials, please proceed.

Bill No. 72 — *The Traffic Safety Amendment Act, 2012*

Clause 1

Hon. Ms. Harpauer: — Thank you, Mr. Chair, and good afternoon to all of the committee members and other colleagues that have joined the committee. I would like to present Bill 72 which proposes legislative changes to *The Traffic Safety Act*. Today I am joined, to my right, Earl Cameron, SGI's [Saskatchewan Government Insurance] vice-president of the Auto Fund; and to my left is Elizabeth Flynn, SGI's legislative advisor; and Jennifer Ehrmantraut, the assistant deputy minister with the Ministry of Highways and Infrastructure.

The proposed amendments to *The Traffic Safety Act* will: (1) allow photo radar to be used in the prosecution of highway work zone speeding offences with regulations providing the detail regarding its specific use; (2) remove the requirement for licence plate stickers consistent with SGI's current practice; and (3) refine the use of section 280 for seizing vehicles by allowing the specific use of section 280 to be regulated, including the reason for impoundment, duration of impoundment, and impoundment fees.

With that, Mr. Chair, I would welcome any questions.

The Chair: — Thank you, Ms. Minister, and welcome to the officials. I would just remind the officials if they would, if they're answering questions, to please state their name for the purpose of Hansard. We'll now open the floor for questions. Ms. Chartier has joined us. The Chair recognizes you.

Ms. Chartier: — Thank you, and thank you, Madam Minister. I've got a couple of specific questions but a couple of general ones as well.

When this bill was read for the second time in November, I'm just wondering, up until that point . . . So we had this tragic

accident over the course of the summer that really I think was the impetus for these changes. Had you looked at any other possible changes to this Act as well around other fatalities that have occurred in Saskatchewan?

Hon. Ms. Harpauer: — Not at that time. As you said, this bill will accommodate then one of the tools that we implemented for the orange zone safety . . . tools that we can use for safety in orange zones as well as two other amendments that we're making that have nothing to do of course with the orange zone safety. No, the discussion already at that time was having a more broad strategy and look at all things affecting traffic safety, which has then evolved into the creation of the all-party committee of which I know that you're the Vice-Chair, I believe. So we had discussed traffic safety knowing that there will be changes to the bill but not any specific change to the bill at that time because we decided to do the consultation process first.

Ms. Chartier: — Just in terms of timelines, I know the consultation process or the decision to go ahead with striking an all-party committee didn't happen until late January, early . . . well actually sometime in February. So that was already on the radar back in the fall then?

Hon. Ms. Harpauer: — Traffic safety issues, yes.

Ms. Chartier: — The idea of having an all-party committee and working . . .

Hon. Ms. Harpauer: — Last fall, no. It was opening up basically because SGI tracks the statistics involving collisions, traffic safety, fatalities, injuries, etc., and when they'd seen the trend rise, then the discussions began just in general of traffic safety and what could be done. So was it specific to having a committee at that time in the fall? No.

Ms. Chartier: — Just to clarify then. I just want to make sure that it was the really tragic accident in the summer in the orange zone with the death of a young flag worker that was the impetus for the orange zone changes though.

Hon. Ms. Harpauer: — Yes. It was specific to that incident.

Ms. Chartier: — And obviously, there were some definite changes needed but . . . And I still feel relatively . . . I can't say that I'm new here anymore, going on three and a half years, but still understanding how legislation works and when a bill is opened up and before us. So there was no talk once we knew that this bill was coming before us for the orange zones, the construction zones, and the stickers, that there was no talk about potential other changes at that time.

Hon. Ms. Harpauer: — No. The talk was that we would have further consultation on all other traffic safety issues.

Ms. Chartier: — Would you anticipate — and forgive my ignorance here — but if the bill is before us right now and we amend it and it passes, which this is how it works, is it likely that . . . Obviously the Traffic Safety Committee will make some recommendations. Is it not a big deal to bring it forward again if there's some recommendations and the cabinet agrees

or decides to implement some of those recommendations?

Hon. Ms. Harpauer: — Correct. It's not a big deal to bring it forward again.

Ms. Chartier: — Okay. Thank you for that. In terms of the photo radar piece, I'm wondering, so it's only in work zones where highway workers are present and people are driving over 60 kilometres. In terms of budget implications, how much photo radar are we planning on implementing? Will it be in every orange zone, or will it be in 10 per cent of orange zones? Will it be random? I'm curious about how the photo radar piece will fit in.

Ms. Ehrmantraut: — Jennifer Ehrmantraut with the Ministry of Highways. How we're setting it up right now is we're working very closely with the Ministry of Justice, the corrections side of Justice, and we're looking at an RFP [request for proposal]. So that RFP has gone out there in the evaluation process. So it will be random. It's not going to be in every work zone. It will be something that's random all throughout the work zones throughout the construction season.

Ms. Chartier: — Any sense on percentage of orange zones that it will be in? Obviously if you got an RFP, you've got a sense on how much you'll be spending and what that will cover.

Ms. Ehrmantraut: — What we're looking for is probably about three different cameras that are going on, and it'll be very random. They can be easily moved, and they can be random. As well we are looking at enhancing that currently with our commercial vehicle enforcement officers, and there will be some slight enhancement throughout the season for that.

Ms. Chartier: — Sorry. The commercial vehicle inspection officers, can you tell me what they do?

Ms. Ehrmantraut: — Right now they're providing safety for our commercial vehicles. And between now and when we expect to have the photo radar implementation, they will be doing an enhancement. So for the next few weeks in the construction season, they have the authority to help out. And it would work very similar to what the photo radar will do.

Ms. Chartier: — Okay. Have you had . . . I know that there's mixed feelings depending on where you come from around photo radar. I'm just wondering what some of the downsides people have presented on photo radar have been.

Hon. Ms. Harpauer: — The most common complaint of photo radar is that it is nothing more than a cash grab. And I want to assure the public and the committee that we hope that there is no ticket ever issued, quite frankly. That's not the issue. It's public safety that is the concern.

With suggesting this, this is one tool for work zones that we are looking at. And again, as the official said, it will be random. But our hope is that it just calms the traffic and makes people aware. And an ideal situation is that there was obedience without ever a ticket issued.

Ms. Chartier: — I think you've got something else.

Hon. Ms. Harpauer: — It was pointed out to me that we also would like the public to know that there will be very, very clear signage so that people will be well aware that there'll be photo radar present. And again, so our hope is that that just calms the traffic, and we don't have any tragedies such as we've experienced in the past.

Ms. Chartier: — So signage. Will it also be part of . . . We all should know this, but unfortunately I think people forget their driver training. But will there be any other additional work done in terms of public education on this?

Hon. Ms. Harpauer: — Yes, there will be public education. We've already stepped up the public education on orange zones as far as the increased fines and reminding people of the speed limit. So then with that communication and education to the public, we'll be adding the fact that there could potentially be photo radar in any given construction zone once this is passed. And that is indeed the case.

Ms. Chartier: — Thanks for addressing that. Obviously for something to be a deterrent, people have to know that policies exist. So I'm just curious about the public awareness campaign, what that might look like. Has that already been mapped out?

Hon. Ms. Harpauer: — So Highways has been the lead so far in the sort of additional public awareness of safety in orange zones. And I'm being told that they haven't finalized anything specific to the photo radar, but they're working with SGI to get a sort of final agenda going forward through the construction season.

Ms. Chartier: — Thank you. With respect to 280 and having spoken to some police officers around the province, I understand that they've had some concerns about the amendment to 280. So I'm wondering, I think in your second reading speech — I just need to pull that up here; my apologies here — in your second reading speech, you said that this section, the original section was “. . . to be used only in rare or extenuating circumstances when offences are urgent or dangerous or when the owner of the vehicle is not available and the vehicle poses a threat to other drivers.” I'm wondering what urgent or dangerous would be defined as in that context.

Mr. Cameron: — Earl Cameron, SGI. The concern about the existing section 280, that it was very broad and that it was originally used for the safe removal of vehicles that were creating a hazard back in . . . A few years ago there was only 15 or so of these seizures a year. It's now up over 2,100, so it's been broadly used for other offences. The idea of it being a hazard is if the vehicle's abandoned there. It should be removed if it's creating a hazard. Or if the vehicle is there with an operator that can't safely remove it or doesn't have someone there to assist them to safely remove it, that too should be considered a hazard, and then it would give the authority to remove that vehicle.

Ms. Chartier: — Okay. So again just around the numbers you said . . . I know the minister mentions in her first or in her second reading — sorry, second reading speech — the numbers have increased since 2005. So I know, Mr. Cameron, you just cited some numbers there. Would you mind just repeating those numbers?

Mr. Cameron: — Again the numbers I think that were first quoted were from 2005. It had grown from 14 to 1,555 in 2011. And in 2012, it was slightly over 2,100 seizures under section 280.

Ms. Chartier: — And who is obviously . . . What do you think? What do you think was happening there with respect to the seizures? Why the change, the huge change there? What had happened with respect to law enforcement using this tool?

Mr. Cameron: — I can only speculate. It is an effective way of removing a driver and a vehicle in a situation where the officer deems or uses his discretion to. And I believe it became the common practice in some areas.

[15:15]

Ms. Chartier: — Was there anything that triggered it becoming a common practice?

Mr. Cameron: — I don't know if there was a specific incident, no. In some cases, enforcement was using it in replacement of drinking and driving offences and therefore could eliminate the hazard on the road but in some cases then didn't follow the existing drinking and driving charges that could be laid. So that was one of the concerns that we had because when the vehicle is impounded, there's no demerits or safety record change to the driver unless the driver is charged with another charge. This simply just impounds the vehicle and takes it off the road.

Hon. Ms. Harpauer: — If I could just add to that. SGI I think would like to work with the committee, and they'll be making a presentation to the committee because I don't think any of us are opposed in the cases of drinking and driving of impounding the vehicle as long as that isn't the default position and the person then gets no other charges. So I think that's something that committee could look at. You know, do we need both? And I don't think anyone does, just the impoundment and then no other penalty for drinking and driving.

Ms. Chartier: — So just to clarify then, so the police officer would . . . Were people actually being tested and blowing over .04 and then having vehicles impounded or the officer impounded the vehicle because . . . Okay, can you give me some examples of how this was happening? Because obviously if someone has blown over .04, they would get the licence suspension. But so it wasn't coupled, the seizure of the vehicle didn't happen with any other charge, it was just, we're seizing your vehicle under 280 and there was no other charge laid or anything else. Is that the practice that was happening?

Mr. Cameron: — In some cases that was the practice. In some cases the example that was used was someone had received their . . . had been stopped and had tinted windows, which were illegal, and had already received one or more tickets and the police officer decided to impound the vehicle and not proceed with a ticket. So those were the concerns that were being brought to us.

Ms. Chartier: — And was that by the public, or who was bringing those concerns?

Mr. Cameron: — That's exactly who was bringing those

concerns, the public.

Ms. Chartier: — That they weren't being charged and had an opportunity to have their day in court or how . . .

Mr. Cameron: — That their vehicle was being seized instead of being charged with the offence, and then when they went to recover their vehicle, because it isn't prescribed in legislation what the towing fees are or the storage fees on this particular section, they were facing a much larger towing and storage fee. They had to pay the tower to get their vehicle out.

Ms. Chartier: — Okay. Thank you for that. I know in the new section 280(2)(a) it says:

Without a warrant, a peace officer may seize and impound a vehicle or combination of vehicles:

(a) if that vehicle or combination of vehicles is being operated in the prescribed manner . . .

So I'm wondering where the prescribed manner is. Is it in another section or is it in the regs?

Hon. Ms. Harpauer: — It'll be in regulations.

Ms. Chartier: — Do we have a sense what that prescribed manner will be?

Mr. Cameron: — Some of the conditions that we're contemplating in the regs would be where the vehicle has been abandoned obviously; where the driver has, in his or her body, alcohol or a drug substance that causes the unsafe use of the vehicle and in that circumstance there's no one there to take charge of the vehicle and remove it; in the case where the driver has a medical condition which may interfere with the safe operation of the vehicle and again where there's no one there present that would be able to assist that operator in removing the vehicle from the highway. Those are some of the items that we're contemplating in the regs.

Ms. Chartier: — I'm just wondering if there were any discussions with law enforcement — obviously who would be perhaps using this quite liberally, it sounds like, if you look at the numbers. But was there some consultation with any of the police organizations around 280?

Mr. Cameron: — Yes, we did have consultations with the police, with the Highway Traffic Board, with other members of the community. And the concern was that in some cases it was just left at the absolute discretion of the officer whether a further charge would be laid or an impoundment, and it was felt that we needed to have it clearer, when a vehicle's impounded, what it was being impounded for — not just that broad section — and that there be prescribed fees and tow fees and impoundment fees similar to other sections where we have the . . . or where the enforcement has the authority to impound vehicles. And also so that if an individual wanted to remove their vehicle once it had been impounded, they didn't have to appeal to the Highway Traffic Board and have a hearing; they simply could go pay the tower the towing fee that was already existing because the vehicle had been removed and not tie up the cost of having a Highway Traffic Board hearing when, in

fact, they weren't appealing that part of it.

Ms. Chartier: — Thank you for that. I don't have any more questions. I don't know if any of my colleagues do. I don't . . .

Mr. Nilson: — So thank you, Mr. Chair. I just have a couple of questions related to this legislation, I think. And so I have received a number of calls and emails around the issue of, basically, sound meters and dealing with excessive sounds in certain neighbourhoods and certain highways across the province. And I know that the police in both Saskatoon and Regina have been looking at this particular issue. And I guess my question off the top is, is it this piece of legislation where a solution might be found at some point?

I know it's not part of these specific amendments, but I think in Alberta and British Columbia they have made some changes to their traffic legislation. So is this the place where that type of a solution would be found? And I'd also be interested to know if there's any work being done by the provincial government at this time as it relates to the issues around excessive sound from vehicles.

Hon. Ms. Harpauer: — I've only met with the police in Saskatoon on this issue, not . . . Regina hasn't sent me anything with concerns with sound. A couple of difficulties that I spoke with, with the police in Saskatoon. Number one, I strongly believe it's a municipal issue, not a provincial issue, that it's not a safety issue. So therefore I think it needs to be kept in the hands of the municipality to make that type of choice.

The equipment, I'm not aware of what's happening in British Columbia. I apologize for that. There was a device that was being used in Calgary. I don't believe it's the entire province of Alberta, but I could be corrected. And I think, you know, again it's a municipal decision, and Calgary chose to implement some restrictions.

When I was talking to the police chief in Saskatoon, he acknowledged that there was some issues with that technology that they hadn't ironed out yet. And so then we sort of agreed to leave it sit for the time being until the technology was sound and tried and true and then revisit the discussion.

Mr. Nilson: — Okay, thank you for that explanation. I think the term they use is a noise snare. And so it's a bit of a, I suppose, trap language that we all are used to, but I know this issue has been raised with me a number of different times and I know with some of the government members as well. And so I appreciate the fact that you're monitoring it. So practically though, the place to go would be the municipalities. But I think it's something where they may end up needing some assistance from the traffic regulation side and the inspection side perhaps of SGI in tying it together with whatever special powers that need to be given to municipalities.

Hon. Ms. Harpauer: — If I understand it correctly, and my officials can correct me, is we would have to make a slight change to this Act to in essence allow the municipality to use the technology. It would be . . . The way the Act is worded right now, they're prohibited from using the technology, so it's a small change. But should we, in the future, decide to make that change, we would only make it to allow the municipality, we

would still leave it in the municipality's hands to make the decision to then use the Act.

Mr. Nilson: — Thank you very much for that. So I can explain where they need to go to have the further discussions. But I know as late as last week, I was getting information from people and some of the Regina city police that are working on this particular issue. So thank you. I think my . . .

The Chair: — The Chair recognizes Ms. Chartier.

Ms. Chartier: — Thank you. Just around the impoundment piece with the changes to 280. What I've heard from police officers is the lack of a tool sometimes to deal with — or a strong enough tool or an effective enough tool — to deal with distracted drivers and those with hand-held devices, particularly habitual offenders, and those, and impaired driving as well. So I know this closes that loophole a little bit, or it closes that loophole.

But I hope that we're back here a year from now, or maybe even sooner in the fall session, with some good recommendations out of the Traffic Safety Committee to ensure that police officers do have the tools they need to address some of these things that I think that they were using 280 specifically for. So I just needed to put that on the record.

Hon. Ms. Harpauer: — I agree with you, and I'm looking forward to the final report of the committee.

Ms. Chartier: — Thank you. And I think my colleague has some questions again.

The Chair: — The Chair recognizes Mr. Belanger.

Mr. Belanger: — Thank you very much. I just wanted to just look at the section 280 again just to clarify, because obviously from the northern perspective there's a lot of different issues and different ways of looking at some of the merits of the bill overall.

But just for clarification purposes, often when we travel long distances, you'll come across vehicles that are parked on the side of the road. And under the section 2(b), it talks about impounding vehicles that constitute a hazard to other users of the highway. How long is a vehicle allowed to be parked on the side of the road?

Like in many instances, when I travel at night, some of the vehicles that are parked on the road does create a hazard. So how is that generally handled? I'm not sure if . . . I'm sure some of them are abandoned, but some of them have broken down. So would you then phone the police officer saying, look there's a car between Green Lake and Beauval that seems to be abandoned or been there for a while; we need to take it off the road. Is that how the normal course of this bill would allow us to do?

Mr. Cameron: — I can answer that. There is no change from the existing bill to this bill. When a vehicle is deemed to be a hazard it can be there as short as a few minutes or it could be, you know, noticed two days later when someone would deem it a hazard. Not all vehicles parked on the highway create a

dangerous hazard. Certainly a vehicle that's parked on the travelled portion of the highway do, and an officer can make that call. And I would think probably they get calls from the public all the time about vehicles that are abandoned or stolen or whichever. So there is no change because of this bill to the officer's discretion on that.

[15:30]

Mr. Belanger: — And I'm just doing this for clarification, because obviously you get these questions as a result of a new bill coming forward. So I just want to be able to answer the questions as informatively as I can.

So again, I know the changes that this particular bill is making to the original bill. But what happens if there's a vehicle that's obviously been left there, has been vandalized or even burnt? Whose responsibility is that to get that vehicle removed from the highways? Is it SGI's or is it the police officer's? Like, who looks after that particular vehicle?

Mr. Cameron: — It's not SGI's. Enforcement and Highways are the ones who determine whether a vehicle is creating a hazard and needs to be removed. But certainly, certainly not SGI.

Mr. Belanger: — Okay. So if there is a vehicle on the highway creating a hazard, then Highways department is the place that you would call to have that vehicle removed from the highway. Is that correct?

Mr. Cameron: — I would think in most cases the public call the police. I don't know.

Mr. Belanger: — The other question I have is on the . . . further down on 6(a): "the owner of the vehicle cannot be found after reasonable inquiry." What is considered reasonable inquiry?

Ms. Flynn: — Elizabeth Flynn. Usually if they . . . In these cases when the vehicle is impounded, they have an obligation to gazette the fact that they are going to sell the vehicle, and they do a PPSA [*The Personal Property Security Act*] search, a property lien search, to determine. So there are efforts made to locate the owner of the vehicle and advise them that the vehicle has been impounded.

Mr. Belanger: — The other question I have is that again, item 6(b) reads, "the owner of the vehicle fails to pay the fees, costs and charges within 14 days after the day on which a notice requiring the owner to do so has been served on the owner." Is there a generally acceptable ballpark range of fees that say for example a garage can charge? Because if I operate a garage in Saskatoon, my rate may be 50 bucks a day. To operate in Buffalo Narrows, maybe 250 bucks a day. There's no real range of fees there that are generally looked at.

Mr. Cameron: — Under the current vehicle impoundment, the sections with drinking and driving and a couple of other sections, there is a prescribed daily fee and a prescribed towing amount and a mileage amount. And that's in regulations. And that's what we're proposing here too, so that it would be consistent with the existing legislation, that those regulations

would all be prescribed. And they were just updated last year where the fees were increased.

Mr. Belanger: — Now as an MLA [Member of the Legislative Assembly], if someone were to call my office saying, A B C towing company took my car, impounded it, and now they're charging me 2,000 bucks for this, are they owed an explanation as to where the \$2,000 bill came from? And will they have to prove that that's the rate that they're allowed to charge? Like sometimes you may have a person that wants their vehicle back, and all of a sudden this exorbitant amount of fines and levies and mileage and all that is placed against it, and sometimes they aren't even afforded an explanation. But are they required to explain where the costs come from?

Mr. Cameron: — Exactly. That's why they're prescribed in the regulations. So that is all that towing firm can charge. And that's the, if you want to call it, the loophole. In section 280 right now, they're not prescribed. A towing firm can charge whatever they want, and in some cases we know of cases where they've charged \$50 a day for a vehicle that was impounded where there's no regulated fee, and the regulated fee for another vehicle sitting beside it, it's \$10 a day.

Mr. Belanger: — So this will solve that problem?

Mr. Cameron: — This would solve that problem.

Mr. Belanger: — Okay. Now the other question is under impoundment, and after you've taken the exhaustive effort — I'm assuming it's an exhaustive effort — to contact the owner, he doesn't really respond. How would you sell the vehicle? Would you simply have the garage keeper or the towing company sell it on their own? Like how does that process work?

Ms. Flynn: — Elizabeth Flynn. We prescribe in *The Traffic Safety Act* how a garage keeper has to proceed in order to sell the vehicle. First of all, they have to provide a statutory declaration indicating that the garage fees are greater than the value of the vehicle. Once that occurs, then they're in a position where they can sell the vehicle. So then, as I said, they have to gazette the fact that they are going to sell the vehicle, provide public notice to individuals that the vehicle is being sold. And then they sell the vehicle at public auction.

Any excess money that SGI collects from the plate would be then returned to the owner as a result of cancellation of the licence plate.

Mr. Belanger: — So an example I would give just quickly: I have a car. I think it's worth 2,000 bucks. It gets impounded. The garage keeper comes and takes it, keeps it for five days — 250 bucks. Then the garage keeper says, well your car isn't worth more than a couple of hundred dollars so if you don't pay me by two weeks, I'm going to sell it. You're saying that the value of the vehicle is actually . . . There is some provision in there to provide guidance in the case that there is a dispute. Is that correct?

Ms. Flynn: — We don't really see vehicle sales unless they've been abandoned for a considerable period of time, where we're really dealing with junk vehicles that have a very nominal value and they were dealing with significant garage fees. So you

know, in most circumstances it's very clear the owner has abandoned the vehicle.

Mr. Belanger: — And my last question is in the case of the city, where they impound the vehicle. They take it to the city's impound lot. They keep it for a certain amount of time, and although every day the bill is climbing. Then they end up after a certain period of time, they sell this vehicle. Is there any instances where they can actually get more for the vehicle than what they've actually racked up in daily charges? And if they do, who gets that residual money? Is it the owner or the province or the city gets it?

Ms. Flynn: — Once the vehicle, once they're in a position where they can sell the vehicle, I think they take what the market will bear. And if they were fortunate enough to get more for their fees, they are entitled to keep that.

Mr. Belanger: — Thank you.

The Chair: — Thank you. Ms. Chartier, you had one more question.

Ms. Chartier: — I think we're done our questions, but I just wanted to thank the minister and her officials for your time this afternoon. It's always appreciated.

The Chair: — Thank you. Are there any other comments or questions regarding Bill No. 72? Seeing none, we will commence with the voting on the consideration of Bill No. 72, *The Traffic Safety Amendment Act, 2012* starting with clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 11 inclusive agreed to.]

The Chair: — Thank you. Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts the following: *The Traffic Safety Amendment Act, 2012*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried. I would ask a member to move that we report Bill No. 72, *The Traffic Safety Amendment Act, 2012*. Mr. Norris so moved. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried, is Bill No. 72, *The Traffic Safety Amendment Act, 2012* without amendment. Thank you, Minister Harpauer. Is there any closing comments you would like to make?

Hon. Ms. Harpauer: — Thank you, Mr. Chair. And I wish to thank the officials for joining me and in specific, the official we have here from Highways because of course I'm not her minister, but she's been a great support for this particular

initiative and has been involved in every step of the way. So I want to thank her and my own officials from SGI. I want to thank the committee members and the opposition members for their thoughtful questions.

The Chair: — Thank you, Minister Harpauer. We appreciate your co-operation, and thank you to your officials as well. We will now proceed with consideration of Bill No. 53, *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. And we will just give Minister Wyant a minute or two to take his seat.

Welcome, Minister Wyant. And we are now ready for the consideration of Bill No. 53, *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. We will start with clause 1, the short title. Mr. Minister, welcome to you and your officials and, when you're ready, you can make any introductions and opening remarks.

Bill No. 53 — *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*

Clause 1

Hon. Mr. Wyant: — Thanks very much, Mr. Chair. Before I begin, I'll just introduce the officials that are here today: Brent Brownlee from Advanced Education, director of the universities and private vocational schools branch; from Agriculture, Penny McCall, manager of crops branch; from Government Relations, Rod Nasewich, legislation and regulations director, and Monica Chu, senior financial policy analyst; from CIC [Crown Investments Corporation of Saskatchewan], John Amundson, corporate controller; and from Justice, to my left, Mary Ellen Wellsch, senior Crown counsel.

Mr. Chair, I'm pleased to offer some opening remarks concerning Bill 53, *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. *The Miscellaneous Statutes Repeal Act* will repeal 11 Acts of the legislature that are obsolete or no longer necessary. Five of these Acts are no longer relevant as their use has come to an end. These include: *The Cut Knife Reference Act*, an Act to correct misspelling of the term Cut Knife in several Acts; *The Municipal Development and Loan (Saskatchewan) Act* and *The Municipality Improvements Assistance (Saskatchewan) Act*, Acts enacted to implement federal legislation which have since been repealed; *The NewGrade Energy Inc. Act*, an Act to facilitate the financing, construction, and development of the heavy oil upgrader in Regina which the government no longer has an interest in; and *The Saskatchewan Development Fund Act*, an Act to create the Saskatchewan Development Fund Corporation, which corporation is no longer operational and will be dissolved.

The six other pieces of legislation are obsolete and are no longer serving the purpose for which they were intended. They are: *The Crown Foundations Act*, an Act that created a tax advantage for donations that have been rendered obsolete given federal income tax changes; *The Municipal Debentures Repayment Act* and *The Municipal Industrial Development Corporations Act*, Acts enacted to give municipalities powers which powers are now afforded to municipalities in the current municipal Acts; *The Subdivisions Act*, an Act that provides powers in relation to subdivided areas but has been superseded by or become inconsistent with current legislation; *The Sales on*

Consignment Act, an Act respecting sale on consignment of agricultural products for which a scheme no longer exists and no enforcement is taken; and *The Vegetable, Fruit and Honey Sales Act*, an Act for the grading and sale of vegetables and honey within the province that was superseded by federal legislation.

Mr. Chair, those are my opening remarks and I welcome any questions that any committee members have with respect to Bill 53.

The Chair: — Thank you, Mr. Minister, and welcome to your officials. The floor is now open for questions and comments. The Chair recognizes Mr. Nilson.

Mr. Nilson: — Thank you, Mr. Chair, and thank you to the minister and various officials for coming this afternoon to answer questions.

The miscellaneous statutes repeal Acts that come each session are always very interesting because it's really about the history of the province. And so some of my questions will I think relate to that. It's also about the fact that you can have one bill for 11 bills, and so therefore your House Leader likes it because there's fewer bills on the order paper. So we recognize that as well.

But let me go through . . . I just have a couple of questions maybe in each area, to get some clarification. And I'll start with this Crown foundations Act and some questions around that. Basically the rationale that's been given by the minister for the repeal of this legislation is that federal legislation no longer really applies to this whole area of a Crown foundation for the two universities. But my question is, were there any advantages provincially with these Crown foundations that are being lost when this legislation is being repealed?

[15:45]

Mr. Brownlee: — No I don't think so. It was all just based on the federal tax rules. So prior to 1996 the universities, which aren't considered to be Crown organizations, an individual could only donate up to 20 per cent of their annual income to a non-Crown entity as opposed to a charitable organization. That changed with the federal tax changes in 1996, and I'm not aware of any preferable treatment under provincial laws for that as well.

The Chair: — I apologize. I should have asked the officials if they would state their name for Hansard please.

Mr. Nilson: — Perhaps we can put the mike back to the official so we can get the record.

Mr. Brownlee: — Brent Brownlee with the Ministry of Advanced Education.

Mr. Nilson: — Thank you for that explanation. The reason I asked the question was that I know there were optimistic discussions around the creation of these foundations at the universities because they saw them as getting an advantage or allowing for 100 per cent donations to universities. But also it was this whole sense of maybe having another source of funds

that were available over the longer term.

Has there been anything that replaces the Crown foundations at the university level as far as gathering funds together, in the sense that my understanding was that this had a dual function not just the federal tax law conditions.

Mr. Brownlee: — No, it simply was just the legislative framework under which people could donate to the universities. And so the federal tax laws which allow people to donate up to 75 per cent applied to a Crown agency as well as to a charitable organization. So I'm not aware of anything else that exists for the universities.

Mr. Nilson: — Okay. So some of the discussion around these foundations when they're created are just being dealt with by donations directly to the universities and not to a separate fund.

Mr. Brownlee: — That's correct. In fact I mean I expect most people wouldn't even be aware of Crown foundations when they approach the universities to make donations. You know, their intention would be to provide a donation to the university.

Mr. Nilson: — Well if you've ever been alumni of a few different universities, then you know exactly how much information you get on all the different ways to donate. So I know that this was something that was promoted at various times. But thank you for those answers.

I'll move on to the next place where I have a question. I'll just let you know I don't have any questions about the spelling of Cut Knife. I think that that's pretty straightforward.

But I do have some questions around the four municipal financing pieces of legislation. And I think it's interesting to see these various pieces of legislation being repealed, and I guess I understand that maybe they don't have any further function. But are we losing anything as far as the tools that a municipality might have by getting rid of *The Municipal Debentures Repayment Act*, *The Municipal Development and Loan (Saskatchewan) Act*, municipal improvements assistance Act, and *The Municipal Industrial Development Corporations Act*?

Mr. Nasewich: — Rod Nasewich with the Ministry of Government Relations. No, we're not losing anything with the repeal of those four Acts. In the case of two of them, they enabled the province to access a federal program that would then loan money to municipalities. Both those programs have long since been repealed, and there's nothing outstanding in terms of the provincial funding to municipalities under those programs. And the provincial authority now to make grants to municipalities and programs for municipalities is all housed under *The Municipal Grants Act*, so there's full authority for the province to provide assistance through that Act and the regulations under that Act.

In the case of *The Municipal Debentures Repayment Act*, it dates back to 1915 when, at the time, municipal debentures were prescribed in the municipal Acts for certain periods of time, so it provided for municipalities to extend the repayment terms. That Act has not been amended since 1915 but, since that time, we have the Saskatchewan municipal board Act and the three municipal Acts which provide full ability for

municipalities to issue debentures subject to the Saskatchewan Municipal Board approval, and any extension of those terms is done pursuant to the authority in those Acts and the approval of the Saskatchewan Municipal Board where it's required.

The last one you mentioned, *The Municipal Industrial Development Corporations Act*, was introduced back in 1960. And that was a period of time where municipal authority was specifically prescribed, and so the authority to establish an industrial development corporation needed to be specifically provided for in legislation. Some corporations were set up under that Act. Since that time, though, with the introduction of the new municipal Acts, there is full natural person powers for municipalities to establish whatever corporations they desire. And our research showed that there were no active industrial development corporations using that title pursuant to that Act — the last one was the city of Moose Jaw — which was dissolved in 2011. So we're not losing anything. Again, the municipalities under the current legislation have full ability to establish economic development corporations and whatever corporations they desire.

Mr. Nilson: — Thank you for that explanation. It's clear that they were useful tools at one point. And I was looking that maybe that municipal debentures repayment Act was the legislation that the city of Prince Albert used to build their ill-fated dam that caused them so many financial troubles over six decades. Would that have been where they would have done that?

Mr. Nasewich: — I am not sure. What I do know is that the Saskatchewan Municipal Board has verified that that Act hasn't been utilized in the past 15 years that it's aware of. So if that predates that, it could very well have been the debenture issued under the municipal Acts. But if there's an extension, it might have been under that Act. But SMB [Saskatchewan Municipal Board] has no record of that Act being used in the last couple of decades.

Mr. Nilson: — For our viewing audience, I just highly recommend going to the city of Prince Albert museum and reading all about this dam project and all of the interesting implications it's had for the history of that part of Saskatchewan.

So let's go on to the next piece of legislation, which is the NewGrade Energy Act. And my question here is that this legislation obviously was the legislation that allowed for the development of the upgrader in Regina, and so my concern is that there may be any issues around that upgrader that will need some piece of this legislation as we go ahead in the future. Or perhaps I can be assured here in the committee that there are no further issues. I just know that over the years, this piece of legislation and all of the powers under it had many, many, many challenges.

Mr. Amundson: — John Amundson, Crown Investments Corporation. My understanding of the Act was the Act was in place just for simply the building and the operation of NewGrade as it applied to the province. Since the sale of NewGrade in 2007, there is nothing in the Act that has any relevance anymore to the operations of the upgrader.

Mr. Nilson: — Okay, thank you. That's a fairly straightforward answer. I don't have any further questions on that one. Then go on to *The Sales on Consignment Act*. I'm not totally certain exactly what this Act specifically deals with, but it's . . . I think the minister said that we don't regulate in this world anymore. And perhaps I can have an explanation of why this piece of legislation is being repealed.

Ms. Wellsch: — Mary Ellen Wellsch. *The Sales on Consignment Act* has been assigned to the Ministry of Justice for administration for as long as we can trace back. But it does have duties for the Minister of Agriculture and the Ministry of Agriculture to appoint inspectors and engage in licensing for individuals who are taking agricultural goods on consignment to sell them on behalf of the producer. And it's limited to a certain kind of agricultural product, and basically it's fruits and vegetables and honey. There's no record in Justice of ever having administered a licensing regime or an inspection regime. The Ministry of Agriculture can't find any record of ever having done that.

But we consulted extensively with the Ministry of Agriculture to determine that producers simply do not sell their products on consignment. Ninety-five per cent of producers sell their products direct to the consumer, and a very, very small percentage sell to the retailer. And the sales to the retailer are governed by federal legislation, so there's absolutely no use for this Act to be in existence anymore.

Mr. Nilson: — So the specific goods that this relates to are the vegetables, fruit, and honey. Is that correct?

Ms. Wellsch: — That's correct. Because the way the legislation defines agricultural products, it says, agricultural products and then it makes . . . it's except milk and egg products and grain and cattle. And that doesn't leave very much left.

Mr. Nilson: — Okay. Well what about quinoa or some of the other new products we have in Saskatchewan? Lentils, maybe does it apply to them?

Ms. Wellsch: — Well I would expect they would be grains. I'm not sure they are . . .

Mr. Nilson: — And, I guess, I know that some of our farmers in Saskatchewan were caught up in consigning some grain products that were maybe not the ones you listed, with the outfit in Winnipeg, and they lost quite a bit of money because it was not totally insured.

So this one, I mean it sounds reasonable in that it's not being used, but it may be one where we need to have another place to cover this issue and perhaps we do. So maybe that's my question. Is there some other place where consignment sales that are not properly followed through can be identified and then some enforcement procedures being taken?

Ms. Wellsch: — The other kinds of legislation that would apply to these things include *The Sale of Goods Act*. There's federal legislation, the *Processed Products Regulations*, the United Nations Convention on Contracts for the International Sale of Goods, but primarily *The Sale of Goods Act*.

Mr. Nilson: — Okay. So should we be talking about *The Vegetable, Fruit and Honey Sales Act* at the same time in that these are interrelated. And I assume somebody looking at *The Sales on Consignment Act* then also realized that there was some redundancy with *The Vegetable, Fruit and Honey Sales Act*. So perhaps you could explain that particular piece of legislation.

Ms. McCall: — I'm Penny McCall with the Ministry of Agriculture. And yes, regarding *The Vegetable, Fruit and Honey Sales Act*, this is an Act that no longer was being used. In fact we don't have record of it being used. It was first developed in 1947, and although it's gone through a series of changes, it really has not been kept modern. And as far back as our records have shown, although we had appointed inspectors under the Canadian Food Inspection Agency, they have not actually used this Act.

The main reason for this is this Act was only specific for those produce that was being sold to retailers or to stores. Any kind of product moving through farmers' markets or direct sale to people was already excluded out of this particular Act. And so with our changing industry regarding the horticulture crops, anything we are now selling into retailers, which is still a small amount — maybe 5, 10 per cent — it must meet the federal regulations. And that's because the companies like Federated Co-op or Loblaw's are bound . . . They even have higher standards often than what those federal regulations are. So they demand from our growers very specific grading and quality aspects that our provincial Act just wasn't able to keep up with that.

[16:00]

Mr. Nilson: — Okay. Well thank you for that explanation. I know a couple of years ago we repealed the legislation around quality assurance of fruits and vegetables grown in Saskatchewan. And it seems to me it may be that at some point we'll come back with legislation like that because people appreciate getting a certified provincial product. And so this legislation is probably an earlier attempt at that and maybe didn't get it quite right.

But I would say, let's keep in mind the fact that certain Saskatchewan products will have a worldwide brand because of the nature of where we live and the fact that we can grow things in a very cold place in the winter, but actually relatively insect- and bug-free in the summer as it relates to growing food. Is that correct?

Ms. McCall: — [Inaudible] . . . In fact there's a lot of work under way that isn't focused on regulations, but we now have a branding program within Saskatchewan. There's a lot of work under way with working with these producers and with some other retailers out there. So yes, it's a very positive industry development.

And you're absolutely right: that is something that we can market, but it's more of a marketing aspect versus coming at it from a legislative process. And there are grades set in these federal legislation that we're making sure that our producers here have that training. We're bringing in the federal people to train our producers. So they're still meeting that quality aspect;

it's just under different regulations.

Mr. Nilson: — Okay. Well thank you. I just know that the present trend of the federal government is to get out of as many things as possible, so maybe this is a little early to get rid of this legislation if in fact the whole federal area of regulation disappears. But I can understand it's been around for a long time, and a new version will be required no matter what. And so I understand why it's on the list.

So I think I'm getting close to the end here. I just have a couple more questions, and that relates to *The Saskatchewan Development Fund Act*. And I think that's the only piece of legislation which actually has some wind-down provisions. And perhaps you could explain why we're getting rid of the Act before everything appears to be totally wound down.

Mr. Amundson: — *The Saskatchewan Development Fund Act* in itself didn't have any repeal portion to it, and therefore that's why there's a repeal Act being requested. As of December 31st, 2010, SDFC [Saskatchewan Development Fund Corporation] has no assets, liabilities, or operations, and will not have any on a go-forward basis. CIC has completely wound down the corporation, and it sits as a shell until the repeal Act can be passed.

Mr. Nilson: — Okay. Thank you for that explanation. And then that only leaves *The Subdivisions Act*, which I assume was municipal legislation that I should have asked about with the other legislation. Is this legislation similar to the Global Transportation Hub legislation that we now have, maybe with a new name?

Mr. Nasewich: — Rod Nasewich with Government Relations. No, it's not similar at all.

This Act also is one of our Acts that dates back to 1914 before the current Acts regarding planning and development, the Saskatchewan Municipal Board, and the municipal Acts were in place. And it provides for a number of corrective sorts of actions related to subdivided land where there are irregular parcels. And so it allows for the correction of an assessment, the ability to sell off the parcel to adjacent landowners and the ability to re-plot and re-subdivide the new parcel. All of those authorities now are housed in different pieces of legislation with processes around those, including appeal and director of planning approval and that kind of thing. So the Act is really inconsistent in some areas with those processes now, and the powers under this Act are all covered now under other ministry legislation.

Mr. Nilson: — Well thank you for that explanation. And, Mr. Chair, I have no further question.

The Chair: — Thank you, Mr. Nilson. Is there any other comments or questions regarding Bill No. 53? Seeing none, we'll proceed with the voting of Bill No. 53, *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. Starting with clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 14 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts the following: *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried. I would ask a member to move that we report Bill No. 53, *The Miscellaneous Statutes Repeal Act, 2012 (No. 2)*. Mr. Norris so moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried. Thank you very much. We will now continue on with the consideration of Bill No. 54, *The Seizure of Criminal Property Amendment Act, 2012*. We will start with clause 1, the short title. Minister Wyant, do you have any opening remarks that you would like to make? Or do you want to just take a second or two to bring in other officials?

Bill No. 54 — *The Seizure of Criminal Property Amendment Act, 2012*

Clause 1

Hon. Mr. Wyant: — I think we're good to go. Thank you very much, Mr. Chair. I'll just introduce my officials. To my left, Darcy McGovern, director of legislative services branch; and to my very far left, Tammy Pryznyk, senior Crown counsel from civil law.

Mr. Chair, I'm pleased to offer some opening remarks with respect to Bill 54, *The Seizure of Criminal Property Amendment Act, 2012*. *The Seizure of Criminal Property Act, 2009* provided the authority for the provincial government to take responsibility for the seizure of criminal property process from police services.

While there have been some successful seizures under this legislation since making this change, counsel and operational staff have identified a series of changes to make the seizure process more efficient and effective. This bill will amend the definition of instrument of unlawful activity. This change will make it clear that property used to engage in unlawful activity, but that has not yet resulted in the acquisition or production of property, may still be subject to forfeiture. Forfeiture could proceed if there is evidence of likelihood that the activity will result in the acquisition or production of property or evidence of an intention on the part of the respondent to obtain such property.

The bill will also specifically authorize the director to make an application to the court by statement of claim in addition to the existing ability to proceed by way of notice of motion. An amendment is being made to deal with the challenges of proof of ownership by removing the requirement to name the owner of the property as a party to the application in all cases.

In addition the bill will extend the period during which time the

director can request an order to prevent the sale or transfer of property prior to bringing a forfeiture application from 30 to 60 days. This change will also provide authority for the court to extend a restraining order for any further period the court views appropriate.

This bill will also make procedural changes to provide for a sealing order regarding the respondent's affidavits and to provide that evidence that a person was not charged with an offence is not relevant in making a finding of fact in an application under the Act.

The bill will address how the rules of court would apply to an application under this Act, including one made by way of statement of claim. It will provide that the limitation period commences when the director is satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity, rather than two years from the point of discovery.

Finally this bill will provide that evidence is admissible based on information and belief in order to lessen the burden on testifying police officers. Members will be aware that this legislation represents a balance between ensuring due process for individuals who may face an allegation of holding criminal property and ensuring that criminals do not benefit financially from their criminal activities.

We remain committed to this program and are confident that these amendments will assist our officials in using this legislation, as intended by this Assembly, to prevent profiteering through criminal activities.

Mr. Chair, those are my opening remarks, and I welcome any questions with respect to Bill 54.

The Chair: — Thank you, Mr. Minister, and welcome to your new officials. The floor is now open for questions. We will recognize Mr. Nilson.

Mr. Nilson: — Thank you, Mr. Chair, and good afternoon. I'm supportive of this legislation and the work that's being done. So my questions will go to making sure that this assists everybody in making this legislation work better. So my first question is, are these changes being made as a result of specific court cases where problems have arisen?

Hon. Mr. Wyant: — I'll let our officials make a further comment, but some of the changes to the legislation are brought forward as a result of process changes within the process of seizure. But some of them also are a result of issues that have arisen through the process as a result of the court process. So perhaps . . .

Ms. Pryznyk: — I can point to one thing specifically, for example, is the extension of the period of restraint for property until the forfeiture application has been dealt with. We found that the 30-day period that was provided in the legislation just wasn't long enough for us to complete the forfeiture application. In particular where respondents are residing outside of the province, in order to properly serve them with notice of our forfeiture application and get the matter back before the court, we found that it was impossible to do — well not impossible, but sometimes very difficult to do — within the

30-day period. And therefore we needed to extend the time frames that allow us to do so.

Mr. Nilson: — Thank you for that explanation on that particular provision. And I assume also the provision which, I'm not sure if I totally understand, but it's the one where there's the time limits don't apply until it's absolutely determined that these are properties that are proceeds of crime, or something to that effect. And perhaps you can explain what the rationale is behind this change.

Mr. McGovern: — Mr. Chair, there's a provision that's being added regarding the limitation period commencing when the director is satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity, rather than two years from the point of discovery, which probably is the provision that the member's referring to.

And that arises in two ways. One is now that statements of claim may be used to bring this forward — and that's one of the changes that is being made that was identified by our team in this area as an important alternative to have — now that it can be commenced by statement of claim, of course it then attracts the provisions in *The Limitations Act*.

And what this provision does is to say that discoverability isn't as relevant for a limitation period in this context as is saying the director can be satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity. And so that's why that new provision comes in: (1) because it's statement of claim; and then (2) to recognize the process of when that clock should start.

Mr. Nilson: — Thank you for that explanation. The legislation has methods whereby property is seized and then becomes the property of the provincial Crown, I think is how it works. And then is all of the property sold, or what happens to a vehicle or a house or whatever is seized? I know it's very general, but I think sometimes the public doesn't understand how broad the legislation is.

[16:15]

Ms. Pryzyk: — Yes, in terms of property like vehicles or houses or that type of thing, they are sold. And then the proceeds of the sale would end up in the fund that the Act provides for.

Mr. Nilson: — And can you explain what happens to the money that results from these sales? Where does the money go?

Mr. McGovern: — The legislation itself is very specific on what the use of the funds can be, and this isn't in the bill but in the main Act that you're referring to. In section 34 of the Act, it provides that money in the fund can be used for costs and expenses incurred in managing and selling forfeited property — so your expenses, in essence.

But the main provision in the Act I think that is of interest for today is that on an equal basis, payments would be made to police operations and to the Victims' Fund at the direction of the minister and the Minister Responsible for Policing. So under the terms of the legislation, the two purposes for which

these funds would be used for are police operations and the Victims' Fund.

Mr. Nilson: — Okay. Thank you. Are there any circumstances where assets are retained for use by the Ministry of Justice?

Ms. Pryzyk: — I'm not aware of any.

Mr. McGovern: — Not that we're aware of though, you know, I appreciate the question comes up. In the sense that . . . We don't have anybody using vehicles. We don't have anybody getting a new boat for their operations. And I understand the member's question, that the only context that I've ever heard of that occurring would be in the vice program. There was some discussion about if a car has no value for resale, perhaps it's a good bait car for the police for example. But that would be the full extent. It certainly isn't a *Miami Vice* situation in which we're able to say that Tammy and her crew have been able to change vehicles or upgrade vehicles.

Mr. Nilson: — Thank you for that explanation. My question comes from a very practical situation I was involved with where I was picked up from an airplane by an Attorney General in one of the states in the United States in a car. And it was a great big car with tinted windows. And so I said, well where did this car come from? They said, well when we seize cars in our . . . under similar legislation to this, then we turn them over to the Attorney General's office and they're used within the Attorney General's office as vehicles. So I was thinking maybe our Minister of Justice could get a fancier car even than those that his brother sells.

But I have no further questions. This is legislation that provides good tools for the police, and it's clear that the lawyers involved have, both on the prosecution side and on the defence side, have been looking at it pretty carefully. And I think as it will . . . the law matures, if I can put it that way, all the rules become clearer and much easier for everybody. But thank you for the amendments today, and I appreciate the work that everybody does. Thank you.

The Chair: — Thank you, Mr. Nilson, Mr. Minister, and your officials. Are there any other comments or questions regarding Bill No. 54? Seeing none, we will now proceed with the voting on Bill No. 54, *The Seizure of Criminal Property Amendment Act, 2012*. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried.

[Clause 1 agreed to.]

[Clauses 2 to 10 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts the following: *The Seizure of Criminal Property Amendment Act, 2012*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to vote that we

report Bill No. 54, *The Seizure of Criminal Property Amendment Act, 2012* without amendment. Mr. Phillips. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That's carried. Thank you.

We will now proceed with the consideration of Bill No. 55, *The Consumer Protection and Business Practices Act*. We will start with clause 1, short title. Mr. Minister, if you have any opening remarks or more of your officials to introduce, we will let you proceed at this time.

Bill No. 55 — *The Consumer Protection and Business Practices Act*

Clause 1

Hon. Mr. Wyant — I'd be pleased to introduce the officials that I have here today with me: to my right, Eric Greene, director from consumer protection division, Financial and Consumer Affairs Authority; to my left, Mary Ellen Wellsch, senior Crown counsel from the Ministry of Justice; and to my far left, Dave Wild from the FCAA [Financial and Consumer Affairs Authority].

Mr. Chair, I'm pleased to be able to offer some opening comments with respect to Bill 55. *The Consumer Protection and Business Practices Act* will update and streamline a number of consumer protection statutes into a single scheme. The existing consumer protection Act forms a good foundation for the new legislation, with some improvements. And they include, enforcement by the consumer protection division will be specifically enabled for all parts of the legislation rather than only marketplace practices and prepaid purchase cards. There will be a prohibition from contracting out of a consumer's rights under the Act, and that's extended to all parts of the Act. Specific rights for consumers to bring class actions in the face of arbitration clauses are added. Consumer contract provisions are consolidated and rationalized to eliminate duplication. Jurisdiction is given to Saskatchewan courts over all consumer complaints, provided that the supplier or the contract has a connection to Saskatchewan.

The new part of the Act is part VII, designated activities and licensing. This will allow consistency in the treatment of licensing activities in such areas as licensing requirements, financial security provided by the licensee, information required to be submitted, record keeping by licensees, rights of applicants to be heard if a licence is refused or terms or conditions imposed. At the same time, Mr. Chair, it will allow individual differences between different kinds of businesses to continue. It will also provide flexibility to enable licensing of new businesses, new business types if necessary.

Mr. Chair, those are my opening remarks, and I welcome any questions with respect to Bill 55.

The Chair: — Thank you, Minister Wyant, and welcome to the officials. We'll now open the floor for questions. We recognize Mr. Nilson.

Mr. Nilson: — Thank you, Mr. Chair, and thank you to the minister and officials for coming to answer some questions this afternoon. I know that this particular legislation is part of a broader review of consumer legislation and I think the process of putting much of that consumer protection work within a new agency that's being set up. And perhaps you could give a bit of an explanation for the public here about that process that's been happening over the last number of years because I think it will affect people who are interested in dealing with some of the consumer protection issues, maybe not so much in a practical way, but in exactly where they go when they have troubles relating to consumer issues.

Mr. Wild: — Dave Wild, Chair of Financial and Consumer Affairs Authority of Saskatchewan. I'm proud to tell you about our agency, Mr. Nilson. Financial and Consumer Affairs Authority of Saskatchewan was created October 1st, 2012. It's a treasury board Crown corporation, but our roots go back approximately 10 years to the early 2000s when the financial services regulators were brought together in an integrated body. It was the first such body in Canada, so we were the first province to bring together financial services regulators in one organization. We were very pleased that in 2010 the consumer protection division of the Ministry of Justice joined us to complete our tool kit in terms of helping consumers.

So we deal with consumer issues across a broad array of statutes — everything from securities and insurance and pensions to motor vehicle dealers and cemeteries. It's a broad, it's a broad remit, but at its heart is ensuring that the people of Saskatchewan have confidence in our marketplace, that they can transact with confidence, and they have someone to turn to if there is an issue or problem, concern.

Our agency hopes to raise its profile in the public eye. It's one of the reasons that we became a treasury board Crown corporation is for that very reason, that we can stand out and make ourselves known in the public.

Mr. Nilson: — Thank you for that explanation because I think it puts in context then what we're doing in this particular legislation today.

And I think the section, in a lot of ways, that tells the whole story is part X in the sections there, where you look at all the different pieces of legislation that are being repealed. So I guess my question, it relates to that. When you look at the list, starting off with *The Auctioneers Act* and then going all the way down the line to, as you said, cemeteries or motor dealers or these other ones, all those pieces of legislation are gone and those names are gone. Is that what's happening here? Or will people still be able to look and find protection around specific transactions that have traditionally had their own piece of legislation?

Ms. Wellsch: — Mary Ellen Wellsch. The intention is, there is a new part in this Act, part VII, designated activities and licensing, and all of these will eventually be rolled in as a designated activity that will be licensed pursuant to that section. This gives us a chance to completely review all of those very old Acts and consult on them, modernize them. As the regulations are enacted, say for the auctioneers, those regulations will come into effect the same day as the repeal of

The Auctioneers Act. So there'll never be a situation where there won't be something there for auctioneers or motor dealers or credit reporting agencies or debt collectors.

Mr. Nilson: — Thank you for that explanation. I just recall many years ago, as a young lawyer, we always had to be there around this time of year, May, when university was over because all of the students had a lot of jobs as direct sellers, selling encyclopedias or knives or Bibles even. And everybody had to fill out the proper forms that were sworn in front of a lawyer, so young lawyers would be waiting for these groups of young, eager salespeople coming. So I assume that's the kind of thing that you're looking at, that maybe there's another way to do this and do it in a more modern way and in a common way for all of the different pieces of legislation. So that sounds like a good thing to me.

I'm curious and I have some kind of specific questions that relate to activities that people are involved with now that might not have been included in some very specific legislation before that does create problems when people are buying or selling something. And you've mentioned I think in your second readings speech, Mr. Minister, that it's going to include sales over the Internet and some of these other things where I assume that there is some interconnection across Canada or across North America around how some of the consumer protection will relate to Internet sales. But perhaps you can give an explanation or somebody can give an explanation about what the scheme is going forward to protect consumers.

[16:30]

Ms. Wellsch: — Actually you're right. There is, under the Agreement on Internal Trade, chapter 8, there is a committee called the consumer measures committee that has representatives from each of the territories, the provinces, and the federal government. And the objective of that committee is, as much as possible, harmonization of consumer protection measures or, in the absence of harmonization, then co-operation between the various jurisdictions.

Now with respect to Internet sales, that actually was a harmonized template that was created by the consumer measures committee about 10 years ago. And most of the provinces and territories actually passed virtually identical legislation as to the one that we have in the present Act that is being carried forward under the consumer contracts part.

Mr. Nilson: — Okay. Thank you. And so as I understand it, then that experience there is going to be moved forward to address other issues that will arise going forward. Now I know that there are some other issues that relate to food products and certification, and we had some discussion just previously on another bill around this issue. But one consumer issue that relates to restaurants is the Marine Stewardship Council certification and the actual genetic kinds of fish or meat, where they actually check. And you go to a restaurant and they say, you're getting halibut. It actually turns out to be something else that's cheaper or that. Will this legislation deal with those kinds of consumer issues?

Ms. Wellsch: — There will be an opportunity for this legislation to deal with all sorts of consumer issues, either under

the part relating to consumer contracts — and the difference between consumer contracts and part VII is that consumer contracts is just statements of law; these are the way that the suppliers need to treat their consumers and this is what the consumer can expect from it — or in the designated activities and licensing section because other designated activities can be added at a later date.

Mr. Nilson: — Okay. Thank you for that. Will this legislation deal with an issue like ticket scalping?

Ms. Wellsch: — We currently have legislation called *The Ticket Sales Act*, and it's also administered by the consumer protection division, but it doesn't prohibit scalping.

Mr. Nilson: — So therefore it's not listed in this legislation yet. Would that be an accurate way to put it? And so the goal is to somehow get that in line with what happens here.

Ms. Wellsch: — *The Ticket Sales Act* doesn't provide for any licensing activities. It doesn't require brokers to be licensed to sell tickets. If that comes about in the future, it may well come under this Act, but I can't promise you anything.

Mr. Nilson: — Okay. One other area that I know that the minister mentioned relates to the I guess basically voiding of any clause that prevents people from suing. Or I guess some of the contracts have very strict arbitration clauses that are almost impossible to follow. Can you explain what you've done in that area and then I guess explain what a Saskatchewan person's remedy is if they are cornered by one of these fine-print-type clauses?

Ms. Wellsch: — The answer is found in section 101. And in the existing Act, there is a provision that says, under marketplace practices, that the consumer and the supplier cannot contract out of the Act. There have been similar provisions in other provinces, and including the one in our province, that have been challenged as far up as the Supreme Court. And the Supreme Court has said, if you have a contract that says you must take this dispute to arbitration and you can't take it to a class action, and since the provinces have enacted this arbitration legislation they seem to be in favour of arbitration, that overrules the no contracting out clause.

A number of provinces have actually made amendments to their Act to prohibit arbitration clauses and the no class action clauses, and we've followed suit. And basically what happens to a consumer now if they enter into a contract that says you must take it to arbitration and you're not allowed to participate in a class action, those two clauses are void as affects them. It doesn't mean they can't take it to arbitration if they want to take it to arbitration — and that's made clear in subsection (3) — but it's the consumer's choice, not the supplier.

Mr. Nilson: — Okay. Thank you for that explanation. Now does this legislation add any special tools around brand protection? And I'm thinking of all of the counterfeit products that seemingly are around the world, and we've seen some situations even in Saskatchewan where whole stores are pretty well shut down because they have products that are not what they're advertising them to be. So is that something that's dealt with under this amendment legislation or under the overall

legislation?

Ms. Wellsch: — One of the things that we've done in this Act is carried forward pretty much everything that's in the existing consumer protection Act, and that includes marketplace practices and unfair practices. And holding out that you have a particular brand when it's not really that brand would be an unfair practice and there would be a remedy under the marketplace practices provisions.

Mr. Nilson: — Okay. Thank you. That's good to know because obviously people get caught in that situation and often it's not a big amount of money for one individual but when it affects a whole group of people, it can be a substantial amount of money.

Another question relates to the sale of time-shares or resort products. We don't . . . We have a few in Saskatchewan but often our Saskatchewan people are buying them in the mountains or in the Okanogan or out on the coast. Is there anything in here that deals with those kinds of contracts and problems that people get into with it?

Ms. Wellsch: — Under the part on consumer contracts, there will be . . . There is now and there will be specifically a regulation relating to travel club contracts. And arguably, time-shares are travel club contracts.

Mr. Nilson: — Okay. Thank you. And clearly with the advertising that comes around the agency, people will phone the agency and then obviously the whole array of remedies are then available to the contact people in the agency to help them out.

Another area of concern relates to health clubs and all of the contracts that can be quite onerous, with one or two or sometimes three years commitment on the fees. Will those be dealt with in here as well?

Ms. Wellsch: — Those are also dealt with under the consumer contracts provisions, and they're currently in the part called personal development services. And that was added to the Act in 2006 to deal specifically with those kinds of situations where consumers were asked to prepay for years in advance for services at personal development services businesses, which included gyms and dancing class and yoga and things like that, and then risked the business going out of business and their not being able to get the money back. So under the existing rules, there are rules for personal development services contracts and those will be continued under the regulations for consumer contracts.

Mr. Nilson: — Okay. Thank you. Another question I have relates to concepts of I think fractional ownership or maybe co-op ownership as it relates to some things like Zipcars, where people buy the right to use a car when they need it and then pay the fees for it. And so we don't have it so much in Saskatchewan, but if you go to bigger cities in the States or Vancouver or Toronto, you often see the whole row of cars sitting there waiting to be used. And people have some kind of a right of ownership which actually just allows them for, to use them for a certain particular time. Will something like that be covered under this legislation?

Ms. Wellsch: — It won't necessarily be covered but it could be,

is the answer for that one. It could be included in our review of motor dealers legislation, which will be happening this summer or at a future date.

Mr. Nilson: — Okay. Well I mean obviously it's an area that we want to encourage because it allows people to have access to vehicles when they need them, but otherwise not . . . to live a relatively vehicle-free life, if I can put it that way.

Now I think that . . . Just seeing if there's any other questions that I have. No I think that covers it. I mean clearly the intention here is to get away from very specific pieces of legislation around specific problems that arise, and I'm in favour of that. And so I appreciate the work that you've done. And I know all of the, both the sales people and the consumers will come up with new schemes that you'll have to deal with in the legislation. So I would encourage the drafting to be done in a way that recognizes how the world is changing.

I guess it does raise the one question about what is the jurisdictional limit on your consumer protection legislation. I assume it's still the boundaries of the province. Is that correct?

Ms. Wellsch: — Section 101 deals with jurisdiction . . . [inaudible interjection] . . . 102? 102. And basically any supplier who has any connection to Saskatchewan, who deals with the Saskatchewan consumer, is bound by this Act. And they don't have to have a physical presence here as long as they have a connection to Saskatchewan. Otherwise it's a Saskatchewan consumer and a Saskatchewan supplier.

Mr. Nilson: — Okay. So what I understand by that answer is that you've made it as broad as legally possible, and we hope that it will provide as much protection as possible. But it still does have some limitations. If somebody comes in and sells you something and then disappears and never comes back to Saskatchewan, you would be stuck. But I understand that. So it may be as we develop broader international or national remedies, that some of those things can be dealt with as well.

But thank you very much for the answers, and I have no further questions. And I appreciate the work that everybody's done in this area and look forward to getting the amendments next year, because I assume this is an ongoing project. Thank you.

The Chair: — Thank you, Mr. Nilson. Is there any other questions or comments regarding Bill No. 55? Seeing none, we will proceed the voting. Now this particular bill has 124 clauses. We could do it in sections but it would appear the preamble of the sections would take us longer than the actual voting. So we will start with the voting of Bill No. 55, *The Consumer Protection and Business Practices Act*, clause 1, short title. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[16:45]

[Clauses 2 to 124 inclusive agreed to.]

The Chair: — I have a lot more respect for auctioneers now. Her Majesty, by and with the advice and the consent of the Legislative Assembly of Saskatchewan, enacts the following: *The Consumer Protection and Business Practices Act*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 55, *The Consumer Protection and Business Practices Act* without amendment. Mr. Norris so moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried. Thank you, Mr. Minister, and your officials. Do you have any closing remarks you would like to make?

Hon. Mr. Wyant: — Thank you very much, Mr. Chair. I'd just like to thank the committee. I'd like to thank Mr. Nilson for his thoughtful questions, and I'd especially like to thank all the officials that were here today for their very hard work and for helping with the questions. So thank you very much, Mr. Chair.

The Chair: — Thank you, Mr. Minister, and on behalf of the committee I'd like to thank you and all the officials for the work they've done and the answers they've given. Thank you, Mr. Nilson, and thank you to the committee members for your endurance and being here and voting off the four bills that we had in our agenda today. Thank you.

That concludes our work for today. I would ask a member to move a motion of adjournment. Mr. Tochor so moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — That is carried. This meeting is now adjourned. Thank you.

[The committee adjourned at 16:51.]