Subsection agreed to.

On section 4, subsection 3—*Motor vehicles.*

Mr. Green: Does this subsection mean that a person who has been injured must sue the driver of the motor vehicle and obtain judgment against him as well as suing the crown in order to recover anything from the crown? It reads:

No proceedings lie against the crown by virtue of subsection (2) of section 3 in respect of damage sustained by any person by reason of a motor vehicle upon a highway unless the driver of the motor vehicle or his personal representative is liable for the damage so sustained.

Now, the driver of the motor vehicle can only be held liable if there has been a decision against him. For that reason I take it that the driver has to be a party to the action.

Mr. Garson: Would my hon. friend just elucidate that point a little?

Mr. Green: My doubt arises out of the wording of the clause. In effect, the clause says that the crown will not be liable for damages unless the driver of the car is also liable. The driver of the car can only be found liable if he is a party to the action and judgment is obtained against him. I am asking whether the result is not that, in each case, the plaintiff will have to sue not only the crown but also the employee of the crown who happened to be driving the car. Furthermore, he would have to obtain judgment against that driver.

Mr. Garson: Mr. Chairman, this is a case where an attempt has been made to follow a provincial provision which seems to be uniform in all the provinces, to the effect that the owner of a motor vehicle cannot be made liable unless the driver is liable. We have adopted that provision, which is in nearly all the motor vehicle traffic acts of the various provinces, and made it applicable to the proceedings here so there would not be any doubt on this point.

Mr. Green: In effect, then, the plaintiff would have to sue the driver personally as well as the crown; that is correct, is it not?

Mr. Garson: Yes.

Mr. Green: Then on section 4, subsection 4, I should like to ask the minister to give some thought to the time within which persons who are injured must give notice to the crown. The clause, as it is worded, sets the time limit at seven days. I know from experience that, for example, a person may be injured in a government building or outside of a government building because it has not been kept in proper shape. He may be taken to the hospital, and the first consideration is to see that proper medical attention is given to him. Probably his people do not even think of going to a lawyer for ten days or even two weeks. I suggest that this seven-day limitation is very unfair and should be extended to, say, thirty days.

I notice that in the explanatory note the reason given for this short time is that otherwise the employees of the crown will not be able to check up on the condition of the building. However, if this injury is such that it will give rise to a proper claim, then the crown employee will know about it at once. There is the opportunity for him to examine the premises and make his report. On the other hand, if the crown employee does not know anything about the accident, then when the plaintiff comes into court his story is going to be looked upon with a great deal of doubt by the judge if nothing whatever was said to the crown employees who were in the building.

I know that in the case of a claim arising in British Columbia it would be very difficult to get notice off within the seven days. I do not think it is a reasonable time, and I would ask that an extension be given.

Mr. Garson: Mr. Chairman, take the case, for example, of a claim made against the crown by a plaintiff who alleges that he stepped upon the sill of a doorway that was covered with ice and was not properly sanded. He fell and injured himself severely. I am sure the hon. member for Vancouver-Quadra would agree with me that the validity of that claim would depend upon whether the plaintiff could establish that the defendant crown was negligent in not sanding the doorway. If, in respect of an ephemeral condition like ice, the defendant is not given prompt notice so it can inform itself as to the facts, it is going to have little chance when the case comes to court of establishing its version of the condition of the doorway at the time of the accident. Seven days is quite a long time in relation to a condition which can pass away in much less time than that.

Mr. Browne (St. John's West): Would you make the time shorter, then?

Mr. Garson: The information will get around amongst lawyers that there is this sort of limitation, and they will see to it that that notice is given. Then, as the hon. member for Vancouver-Quadra very cogently says, the plaintiff's case is a lot better if he can show—or his lawyer could do that—that he went to the employee of the crown and said, "Look, I have hurt myself. Here is where I fell and see this ice here; there is