

TIME: 10:00 a.m.

OPENING PRAYER by Mr. Speaker.

MR. SPEAKER, Honourable Peter Fox (Kildonan): Before we proceed, I should like to direct the attention of the honourable members to the gallery where we have 15 students of the Jefferson Junior High School. These students are under the direction of Mrs. Rosenberg. This school is located in the constituency of the Honourable Member for Seven Oaks, the Minister of Finance and Urban Affairs. On behalf of the honourable members, we welcome you here this morning.

Presenting Petitions; Reading and Receiving Petitions.

PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

MR. SPEAKER: The Honourable Member for Gimli.

MR. JOHN C. GOTTFRIED: Mr. Speaker, on behalf of the Honourable Member for St. Vital, I beg to present the Second Report of the Committee on Economic Development.

MR. CLERK: Your Committee met on Tuesday, May 17, 1977, to consider the Annual Reports of Channel Area Loggers Ltd., Moose Lake Loggers Ltd., and Minago Contractors Limited for the year ending March 31, 1976.

Messrs. John Loxley, Orville Minish and Murray O. Harvey, senior officers of their respective companies, provided information as desired by members of the Committee with respect to the Annual Reports and current operations of the various companies.

The Annual Reports of Channel Area Loggers Ltd., Moose Lake Loggers Ltd., and Minago Contractors Limited were adopted by the Committee as presented.

MR. SPEAKER: The Honourable Member for Gimli.

MR. GOTTFRIED: Mr. Speaker, I move, seconded by the Honourable Member for Point Douglas, that the Report of the Committee be received.

MOTION presented and carried.

MR. SPEAKER: Ministerial Statements and Tabling of Reports; Notices of Motion; Introduction of Bills.

ORAL QUESTIONS

MR. SPEAKER: The Honourable Member for River Heights.

MR. SIDNEY SPIVAK: My question, Mr. Speaker, is to the Minister of Finance. I wonder if he can indicate whether he is in a position to report how many jobs have been created from his Job Creation Formation Program announced several weeks ago.

MR. SPEAKER: The Honourable Minister of Finance.

HONOURABLE SAUL A. MILLER (Seven Oaks): Mr. Speaker, personally I am not in a position to indicate the numbers. I wouldn't be because it's being handled through various agencies. In any case, it's too early at this point to indicate that because the program is just in the process of being launched.

MR. SPIVAK: I wonder if the Minister can indicate when he thinks the government will be in a position to make the first initial assessment of how many jobs have in fact been formed by the Job Formation Program.

MR. MILLER: Oh, I would say it might take a couple of weeks, Mr. Speaker.

MR. SPIVAK: I wonder if the Minister is in a position to indicate, in terms of government planning, at what point did they believe, in terms of their proposal, that they would reach the peak with respect to job formation under this program. How many weeks from the start of the announcement of the program or from the announcement of the program, did they expect to reach that peak?

MR. MILLER: Well, Mr. Speaker, it depends on the response. As you know, this is a multi-pronged program. We have to await the response from municipalities, from community groups, all of these will be flowing in and it's only after that has taken hold and approvals are given that we will be in a position to even make a guess at what the reaction is and what the response is.

MR. SPIVAK: Yes, I wonder if the Minister can indicate whether the government has had second thoughts about the timing of its announcement of its program with respect to the lead time required to be able to meet a peak period of employment and the short period of time for which this program has, in fact, been announced?

MR. MILLER: Well, Mr. Speaker, whether a short time or not a short time is not the important thing. The government felt we had to move to deal with the problem of unemployment; that's what we've done. The municipalities, as I say, the community groups, the various other sectors, the private sector, will be responding and when they respond we will be ready to respond to their response.

MR. SPEAKER: The Honourable Member for Portage la Prairie.

MR. GORDON E. JOHNSTON: Mr. Speaker, I have a question for the Honourable the Minister of

Education. Following his meeting yesterday with representatives of a group of parents concerned with the French B program in Manitoba, can the Minister indicate whether his policy statement on languages of instruction under the Public Schools Act sent to the school divisions on April 13th still stands?

MR. SPEAKER: The Honourable Minister of Education.

HONOURABLE IAN TURNBULL (Osborne): Mr. Speaker, the answer to that question is yes.

MR. SPEAKER: The Honourable Member for Wolseley.

MR. ROBERT G. WILSON: I have a question to the Minister of Health. Would the Minister confirm that there are now 54 residential care and half-way facilities in the Wolseley constituency serving 520 youths and adults?

MR. SPEAKER: The Honourable Minister of Health.

HONOURABLE LAURENT L. DESJARDINS (St. Boniface): Mr. Speaker, no doubt my honourable friend has this information. It could well be, I couldn't confirm the exact number but I would imagine that it's around that number.

While I am on my feet, I would like to answer a few questions that were asked of me. On Wednesday, April 27th the Honourable Member for Portage asked me with respect to the proposed changes in the Canada Pension Plan if this government agrees with the change and will allow for credit splitting of the CPP in the event of a marriage breakup. In other words, both parties in the marriage have a right to a part of the pension that was earned by only one party of the marriage. I have checked this thing out to make sure and yes, this has been supported by the Provincial Government and by our department.

Then the Honourable Member for Fort Rouge, I think it was on May 4th, asked me about personal care homes. There has been no brief from the Nursing Home Association or any individual personal care home making any reference to withdrawal of services by personal care homes. With respect to payments, non-proprietary personal care homes are funded on a budget basis and proprietary personal care homes are paid at *per diem* rate related to the medium rate applicable to non-proprietary homes. Interim adjustments retroactive to January 1st, 1977 in the amount of 6 percent was included in there at the end of April, 1977. Members of the staff of the Manitoba Health Services Commission meet regularly with the executive committee of the Nursing Home Association which represent proprietary homes. This committee has expressed satisfaction with the arrangement.

MR. WILSON: My supplementary part of it is: Would the Minister confirm, and I guess together with the Minister of Corrections, that when the citizens through their MLA wanted the Minister to examine why Wolseley was a dumping ground for government experiments — at that time there were 32 — he indicated he would spread these experiments throughout the city and increase the rural settings? I wonder if he could comment on that.

MR. DESJARDINS: Mr. Speaker, first of all I don't like the words "dumping ground." I don't think this is the case. At the time I stated to my honourable friend that we were not doing the licensing, this was something that the city was dealing with when my honourable friend also was a councillor of the city. I have said to my honourable friend that we would co-operate as much as we could and do anything that we could not to have all these facilities in the same area. I followed through with this. I have met with the city and we established a committee and it was a very good meeting. We are going to do everything we can to try to spread these as much as possible, but this is a very difficult situation. In some areas the people are not interested, and it is the same thing, that these are great things but get them away from my door, I don't want to be a neighbour to this.

So I'm not going to tell my friend that it's going to be easy to solve, but it's something that we have pledged full co-operation with the city, with the committee, and we will continue to do so.

MR. WILSON: A final supplementary. Would the Minister explain, then, what he intends to do when an area like East Kildonan refuses to accept even one or two of them?

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. L. R. (Bud) SHERMAN: Mr. Speaker, my question is to the Honourable the Minister of Labour in relation to Bill (No. 65) — An Act to amend The Employment Standards Act (2). And I would ask the Minister, while recognizing that he probably didn't take the private sector into account, but before arriving at the proposed new overtime wage rate of time-and-three-quarters, did the Minister undertake any study of the impact of such a change on public sector costs in Manitoba, and particularly on the provincial Budget?

MR. SPEAKER: The Honourable Minister for Labour.

HONOURABLE RUSSELL PAULEY (Transcona): As my honourable friend is well aware, Mr. Speaker, the bill was distributed yesterday. I will be making a statement in connection with the bill at that time, which is the first opportunity that properly I can place it before the Assembly. The Honourable Member for Fort Garry, as a member of this Assembly, will have the privilege, because he is an MLA, of making comments in respect of the bill, and I say to him that the questions that he raises now under Questions of the Day would be more properly raised at the time of the debate on the bill.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, to the Minister of Labour. I wonder if he can indicate if the government intends to make an announcement with respect to the raise in the minimum wage in Manitoba?

MR. SPEAKER: The Honourable Minister for Labour.

MR. PAULLEY: The matter is under consideration at the present time. If there are to be changes, they will be announced in due course.

MR. SPIVAK: I wonder if the Minister is in a position to indicate whether it is the government's intention to raise the minimum wage on or about September 1st?

MR. SPEAKER: Repetitive.

ORDERS OF THE DAY

MR. SPEAKER: The Honourable House Leader.

HONOURABLE SIDNEY GREEN, Minister of Mines (Inkster): Mr. Speaker, I don't know whether I mentioned that Manitoba Mineral Resources will be appearing after CEDF on Thursday night. If it's already there, that's fine.

I would like to proceed now, Mr. Speaker, with the Adjourned Debates on Second Reading in the order in which they appear on the Order Paper.

MR. SPEAKER: Thank you.

ADJOUED DEBATES ON SECOND READING

MR. SPEAKER: On the proposed motion of the Honourable Minister of Labour, Bill 51. The Honourable Member for Flin Flon.

MR. THOMAS BARROW: Stand, Mr. Speaker.

MR. SPEAKER: Bill 56. The Honourable Member for Birtle-Russell. (Stand)

MR. SPEAKER: Bill 59. The Honourable Member for Flin Flon.

MR. BARROW: Stand, Mr. Speaker.

MR. SPEAKER: Bill 60. The Honourable Member for Birtle-Russell. (Stand)

MR. SPEAKER: Bill 61. The Honourable Member for Gladstone.

MR. JAMES R. FERGUSON: Stand, Mr. Speaker.

MR. SPEAKER: Bill 62. The Honourable Member for Fort Rouge.

MR. LLOYD AXWORTHY: Stand, Mr. Speaker.

BILL (NO. 68) — AN ACT TO AMEND THE SOCIAL SERVICES ADMINISTRATION ACT

MR. SPEAKER: The Honourable Member for Fort Rouge. —(Interjections)—

MR. AXWORTHY: I wish they wouldn't bash so loud so early in the morning, Mr. Speaker. It's hard on the ears and nerves. It really is.

Mr. Speaker, I wanted to speak on this bill because it is again an example of a bill that is brought in, I think, with very honourable and good intentions, but could end up having a great deal of trouble attached to it unless it is looked at with some care and concern.

The first point I would like to make, Mr. Speaker, is following really on the latter part of the question period that I caught is that this bill addresses itself to a very important matter in the administration of social services in the Province of Manitoba, based on the idea that there has been a change in philosophy in this field in the last five or six years which is to basically move people away from institutional care to community treatment care. It is assumed that the best form and means of enabling people to provide for some rehabilitation and remedial work for those who have problems of mental disease, those who have been in prisons, those who suffer from infirmities and handicaps is not to incarcerate them or hide them away in institutions but to provide for a high degree of community treatment. Smaller units built in areas where there is presumably an opportunity to become integrated back into the normal form of activity.

Added on to that, Mr. Speaker, has been the major initiative taken in the field of child care. We have vastly expanded the day care program in this province. I think that everyone now recognizes that that was a very important move and one that has to be endorsed, and that the provision of child care facilities again has vastly expanded the number of places where child care is offered. I suppose if you took a look at any one day in the City of Winnipeg, or in other parts of the province, you would find that church basements, front livingrooms, different kinds of accommodations are all being used to provide for child care.

The one thing that has been lacking in much of this, of course, is any form of setting standards in these areas. Once we have accepted the principle and philosophy of this fairly basic change in direction in the social service supply and delivery, then you have to begin asking about the quality of those services. I believe that this bill is designed to address itself to that issue.

But in saying that, Mr. Speaker, I have two very serious reservations about it. The first comes down to a reservation which I have about a lot of legislation, and that is that it gives enormous power and authority to the Civil Service to make these standards, to establish these regulations, to apply the

Orders without any direction from this Legislature.

It is what the political scientist called the problem of delegate legislation. So often it seems to be easier for elected members simply to say here is a good idea, now you go and carry it out and we will give you total blanket authority without setting any direction, any guidelines, any standard ourselves as to what we expect them to be. And if you look at this bill, you see that really it is almost so simple in its construction you would say, "Well, anything that simple must be good." I suspect however, Mr. Speaker, that it's not so good because what we are really saying is that we will now entrust to the new office of Continuing Care that the Minister has set up, or to whomever is given authority under this bill, total complete power under this Act to set whatever standards, whatever measurements, whatever requirements that they want to set and as soon as that happens it begins to become out of the control and accountability of this House.

I would think, Mr. Speaker, certainly if we had been able to receive from the Minister in his introduction a much clearer statement of what the policy was going to be and what was expected or to be understood in this area, there might have been some more assurance. But frankly, Mr. Speaker, I have a great apprehension about simply handing over this enormous amount of power without any guideline being set whatsoever. I feel highly restricted, as a member of this Legislature, in being able to vote for a bill, which I would like to, when I'm giving *carte blanche* without really knowing what is going to be done with it. We're simply giving a blank cheque and they can write in any amount.

There are a lot of questions related to that, Mr. Speaker, because for example, in the child care field, the City of Winnipeg presently has certain requirements for licensing based upon physical structures. They have set certain standards in day care homes for the provision of certain facilities and the cleanliness and health and sanitary conditions of a place. Now are these regulations going to supersede the City of Winnipeg? Are they going to replace them? Are they going to be tougher or are they going to be weaker?

Mr. Speaker, we don't know; we have no idea and neither do any of the operators of these facilities. And surely, Mr. Speaker, we should know. We should really have an idea as to what we are buying here. I really think that a basic principle which I — I'm not meaning to be particularly critical of the Minister because I am critical of all kinds of legislation which comes under this form, and to simply delegate such an enormous amount of responsibility to appointed public servants with very low opportunity therefore than to examine them back in this House, I think is to a degree a dereliction of responsibility of members of this House. It is unfortunate, Mr. Speaker, that we have so far allowed this practice to develop and evolve without more concern being expressed for it.

So that is my first area of concern in this bill, Mr. Speaker, that we are basically buying — I guess to use that old euphemism "a-pig-in-a-poke" — we don't know what we're getting, frankly. We really don't know what those standards and measurements are going to be and exactly how they are going to be applied.

Mr. Speaker, beyond that there is even perhaps a more serious problem and that is that the government is now proposing to establish standards for this whole range of care facilities. The problem is that standards also impose certain requirements for quality. Quality costs money. And if you look at the problem, Mr. Speaker, we are in danger really of setting up contradictory objectives in this bill, because on the one hand, we are going to establish standards; on the other hand, in many cases we are not prepared to pay for them. That is particularly true, Mr. Speaker, in the area of child care. Let me give an example — case in point. Let's because we don't know and I can, therefore, afford to be somewhat hypothetical — that the officials of the Department of Health and Social Development decide they are going to set certain standards in the area of those facilities providing child care, not only in Day Care Services but in Lunch and After School programs. There are three or four working in the City; they provide provision — I have one in my own constituency of upwards of 100 children — they receive a grant of something like \$5,000 or \$6,000 from the Provincial Government. Now, all of a sudden, an inspector comes in and says, "Okay, you people in the Fort Rouge Child Care Program, you don't have sufficient equipment. Your staff is not fully qualified. But we are not prepared to pay anything to bring them up to standard."

So, Mr. Speaker, the point I am trying to make is how can we go about establishing standards when in many of these areas we are not prepared to provide the means of achieving those standards. You can't go about establishing a program of licensing if you are not also prepared to give the means and resources for those care facilities to bring themselves up to a point where they can meet those standards. Because if you don't provide the resources, that means that your standards are going to be very very low and it's almost no point in having them.

I gave an example, Mr. Speaker, in the House a while back of the large number of care homes which now provide, I think there are some 98 in the province, which provide places for people who have been released from mental hospitals, older people who have certain psychiatric or mental problems. We are paying at this stage a \$6.00 per day *per diem* which frankly, Mr. Speaker, is barely enough to supply food and a minimum of facilities and yet, in those care homes, many of them, you have got people administering medicine, providing for presumably certain amounts of therapy, who

are untrained, unlicensed, and obviously we would want to set better standards in those areas. But as the operators of those homes say, you can't set better standards if you are only going to give us \$6.00 a day to do it with. You simply can't afford it.

Take the case even in our Day Care Centres where there has been a lot of discussion in this House about the support for day care. The fact of the matter is that the average day care worker makes a salary of about \$600 to \$700 a month as a professional which is probably one of the lowest paid professionals of any group in this whole province. One of the major fights that we've had, one that the government I think has played a curious role in, is in the dispute that the workers at the Health Sciences Centre have had with AIB. The Premier was very enthusiastic about backing an appeal of the steelworkers in Thompson. He hasn't said a word — not a peep — about the problem of the health care workers. In many cases it was because they were setting certain standards, raising those standards in the child care facilities, most of whom happened to be women workers by the way, no one in this government rose to their defence to support them. So here again we have a case where they are trying to raise themselves up, where people in the child care facilities were at least asking for the same money as the orderlies in the hospitals but couldn't get enough resources to pay for it. So here was a standard that was being set, a standard of salary. We're simply saying at least there has to be, if you expect a certain professional requirement for child care workers, then you have to pay them certainly enough money to support it, but we weren't prepared to pay that money. So again, you have kind of a paradox or a contradiction.

So what I'm really trying to point out, Mr. Speaker, is that this legislation is really an isolated piece that could be badly abused unless it was put in the context of a much more clear-cut coherent approach to the whole problem of care facilities.

Let me give you another example, Mr. Speaker, that came up this morning. I just heard the Member for Wolesey talking about the problem of halfway homes in his riding. I have a large number in my own constituency. I think the number in my constituency is well over 30 now, in this case. Now the problem there, as the Minister knows, and we discussed it in his Estimates, is that the movement towards community care facilities tends to take place in older neighbourhoods because that's where the older buildings are; the people can use them. But now when you load on community facilities for juveniles, community facilities for the elderly, community facilities for people that have been in our prisons, community facilities for the mentally ill, or those being adjusted, all of a sudden you begin to realize that there is an awful lot more demand than there is supply for the basic physical accommodation. And yet we're again taking no initiatives in these areas to balance them out to ensure that there is some formula, some target area. So that some parts of the city get heavily loaded up, others don't get any at all, and yet we are going to be setting standards for these places which will be imposing conditions upon which they can operate without providing any of the accompanying directions or policies necessary to ensure that that licensing and standards takes place with a degree of equity and a degree of fairness.

So what we are saying about this legislation, Mr. Speaker, is that it really is incomplete in that the Minister may be prepared to say, "Well, you have to start somewhere." Well, Mr. Speaker, I'm afraid though that starting at this particular point, giving the kind of power that this legislation gives without any specific restraint or accountability placed on it, means that it could result in the closing down of a number of our present care facilities.

I would say that, based upon this legislation, the standards that could be set, for example, for lunch and after school programs could mean that they would be closed down. They kind of live from hand to mouth as it is now, you know, kind of borrowing a little bit of a grant here, or a LIP program there, or a PEP program somewhere else. If someone comes in and starts saying, "Well, look your staff doesn't have sufficient training," or, "Your equipment is not up to par," or, "The basement of the church you are working in is too draughty," or whatever it may be, then they would sily have to close down because they have no resources to fall back on. The same thing would be true in some of the other care facilities for adults. They simply wouldn't be able to survive.

So I think, Mr. Speaker, the Minister owes us a certain commitment before this legislation is passed. And that is that if standards are going to be set, then he and the government must be prepared to ensure that those institutions or care facilities to which the standards are being applied are then given the sustenance to enable them to bring their facilities and programs up to those standards. That's got to be a concomitant part of the program. Otherwise it's just not fair and it would simply mean that many of the care facilities would be broken down. I think that has got to be part and parcel of it, that it has got to be a basic formula that says standards, yes, support to enable the institution or group to bring it up to standard as an accompanying part of that program. If that is not included, then this particular bill gives the government a lot of power to close down those facilities which they may not want to have continuing, or which they feel, even on legitimate grounds, should be providing a higher set of standards but in their absence would be providing no service at all. It does come back, really, to the tremendous vacuum we have in policy in this area.

Mr. Speaker, I was curious at one point after the Estimates that we debated with the Minister

concerning how do you pay for these things. I discovered talking to officials at the federal level that we have not made full utilization of anywhere near the kind of support that is available under the Canada Assistance Program, that they are prepared for exale to support lunch and after school programs, 50 cents on the dollar, except that the Province of Manitoba has never asked them for it.

So there are areas in which support could be given to enable these facilities to be brought up to a proper standard and provide the continuous proper service.

Mr. Speaker, that is the position of our party. It is that we agree with the need for licensing and standards, no question about that, no reservations about that. We have serious reservations about having a bill passed in which there is no policy direction set by this Legislature and we're simply handing over the power totally to the department to figure out what should be done. We certainly feel that with that kind of power being handed over, there has to be an equal commitment on the part of the government to ensure that if standards are set that they will provide the means by which those facilities can be brought up to those standards without forcing the closure of many of the facilities simply because they fall below whatever measurements are applied.

MR. SPEAKER: The Honourable Member for Swan River.

MR. JAMES H. BILTON: Mr. Speaker, I move, seconded by the Honourable Member for Brandon West, that debate be adjourned.

MOTION presented and carried.

BILL (NO. 10) - AN ACT TO AMEND THE COUNTY COURTS ACT

HONOURABLE HOWARD PAWLEY, Attorney-General (Selkirk) presented Bill (No. 10), an Act to amend The County Courts Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker, these amendments are not significant in nature and I'll deal with them one by one.

First, the amount of the jurisdiction in the Small Claims Act. As honourable members know, the Small Claims Act relates to the Small Claims Court which provides a means by which claims can be dealt with in a less formal way than the regular court and with less need of a lawyer to represent the parties, thus on a less costly basis than the regular County Court or Queen's Bench. The jurisdiction in that court at the present time is \$500 — up to \$500.00.

We had a committee examine this and we have taken the recommendations of the committee that examined the report. After examining the report of the committee it was our view that rather than \$800 — the amount being increased from \$500 to \$800 — that we should increase the jurisdiction to \$1,000 because of the very advantage of this type of court. So we have gone a little further than what the committee that was established to examine the Small Claims Court had recommended to us. We are proposing here \$1,000 in place of \$500.00. The committee, I want to advise members, had proposed an increase only to \$800.00. But we are proposing to go to the \$1,000.00.

Also we are proposing a provision whereby a decision of a Small Claims Court hearing should not be set aside solely because the Clerk had not followed the rules of evidence. We feel that there should be, as much as possible, some proper attempt to deal according to rules of evidence — accepted rules of evidence. But if we do go strictly by rules of evidence then we will, in fact, end up with Small Claims Court operating on the very same basis as the County Court and Queen's Bench, where there is so much dependent upon rules of evidence that lawyers have to end up representing those that are involved in the Small Claims Court. We certainly are providing enough work, one way or another, to the legal profession now and we shouldn't provide additional work for them. So that we are proposing here that a hearing should not be set aside solely because a Clerk does not follow the rules of evidence.

The bill also protects persons ignorant of the law who sue for automobile damages but neglect to include in the Statement of Claim a claim for personal injuries. Now, there has been some concern here that people unknowingly lose their rights in a suit for automobile damages in that in their Statement of Claim they sue for the property damage but omit reference to their personal injury. If the matter is dealt with in the Small Claims Court and there is no reference to the personal injury then this is used as a defense to a later claim, solely because someone proceeded in the Small Claims Court ignorant in the law as to the possible fate or effect such a step would accomplish.

I think those are the principal amendments in the bill before us, Mr. Speaker, and I'd leave it to members of the House to debate and to proceed to committee with.

MR. SPEAKER: The Honourable Member for Birtle-Russell.

MR. HARRY E. GRAHAM: Mr. Speaker, I beg to move, seconded by the Honourable Member for Swan River, that debate be adjourned.

MOTION presented and carried.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, I move, seconded by the Honourable the Attorney-General, that Mr.

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Speaker do now leave the Chair and the House resolve itself into a committee to consider of the Supply to be granted to Her Majesty.

MOTION presented and carried, and the House resolved itself into a Committee of Supply with the Honourable Member for Logan in the Chair.

COMMITTEE OF SUPPLY

MR. GREEN: Mr. Chairman, because Cabinet meets this morning, we would reserve ourselves to the Committee inside the House. The other Committee will not meet until this afternoon.

ESTIMATES — ATTORNEY-GENERAL

MR. CHAIRMAN, Mr. William Jenkins (Logan): I would refer honourable members to Page 12 of their Estimates Book, Resolution 28, Legal Aid (a) Salaries \$1,212,300.00. The Honourable Member for Birtle-Russell.

MR. GRAHAM: Well, Mr. Chairman, we did ask some questions of the Attorney-General and I think he indicated at 5:30 yesterday that he was going to reply to those questions at the next meeting of the Committee.

MR. PAWLEY: Mr. Chairman, first I would like to say that I was a little puzzled by the comments by the Honourable Member for Birtle-Russell yesterday pertaining to his grave concern that we were interfering with freedom of choice insofar as the provision of lawyers under Legal Aid to those charged with criminal offences. And in fact, Mr. Chairman, I must say it's probably the first time that I have heard such concern from meers opposite about the rights of those who are incapable, because of financial circumstances, to engage their own legal counsel, that honourable members would, by their comments yesterday, despite the fact that additional costs could be involved, additional delays could be created, did not wish to support a provision which is in effect elsewhere in Canada, including Ontario and Alberta, British Columbia and other provinces; a provision which comes with the unanimous recommendation of the Legal Aid Societies Board, which includes, by the way, four nominees, not four representatives in fairness, but four nominees of the Law Society of Manitoba, certainly distinguished lawyers in their own right; and that honourable members should, by their remarks yesterday, seemingly be taking up the cause of the Trial Lawyers Association, a group of lawyers who specialize in the defending of criminal matters before our courts. And Mr. Chairman, thus I was somewhat surprised that in view of the practice in other provinces, surprised in view of previous comments, that the honourable members now are suddenly taking up the cudgels on behalf of the Trial Lawyers Association of Manitoba.

I would just like to read, if I could, from a speech that was given by the Honourable Member for Birtle-Russell last year on my Estimates in the House, the Estimates of the Department of the Attorney-General. I would like to read these words into the record: On May 17th, 1976, Page 3,937 of Hansard, the Honourable Member for Birtle-Russell speaking — And I want to say here that I was impressed by the honourable member's remarks that day in the House dealing with the Estimates of the Department of the Attorney-General.

His words were as follows: "I know we have gone into a dental care program today, and the care of teeth before has always been a matter of freedom of choice. You could go to the dentist of your choice. But when the State is providing it, you accept the services that are provided and you do not have the choice. I think there is a very good argument that can be put forward for a similar type of service being provided by Legal Aid. If you care to accept that service that is being provided free, that you have to give up something in so doing. So quite frankly, Mr. Chairman, I am not uptight at all over the loss of freedom of choice when you are providing a service that in the first place the rest of the taxpayers in the Province of Manitoba are paying for."

Not uptight about a loss of freedom of choice. This was only last year, May of last year. So, Mr. Chairman, I hope that honourable members understand when I said that I was somewhat perplexed by the sudden 180 degree turn in approach on this important subject by the Honourable Member for Birtle-Russell yesterday. It seems to indicate a very — like what has happened in some other areas — a very sudden and a very sharp turn in policy direction, and I don't know whether the honourable member has reflected on this since last year and has now a complete change of mind on the matter and now wishes to disassociate himself from his remarks last year in the House. He is certainly at liberty to do so, but I would like the honourable member to clarify the position in view of the remarks last year, which I must say, Mr. Chairman, I was somewhat impressed with when those remarks were uttered. I took special note of them and I thought I should bring them into the House today to ascertain if there was an inconsistency, as it appears to be, between the position taken yesterday and the position a year ago by the Honourable Member for Birtle-Russell.

There are a number of other areas I would like to deal with. Much was made yesterday of a case involving Legal Aid in which a very small sum of money was involved, a matter which apparently was pursued to the Court of Appeal, but leave was refused to appeal to the Supreme Court of Canada. I understand the honourable member's concern about this case, because let me say unequivocally that I would be concerned if there are unnecessary appeals involving trivial matters in Legal Aid. And from time to time, I have expressed personal concern that there be a very tight control, an exercise of control in respect to appeals that certainly do not bear merit and do not bear sufficient importance to

warrant an appeal.

But I would like to just point out in this particular case that the honourable member referred to that the appeal, the request to appeal, was not launched frivolously by any means. The appeal is only launched after a panel of private lawyers carefully weighs the pros and cons of the merits involved in a particular case and then advise whether or not they feel an appeal should be launched, in this case, by a staff lawyer of Legal Aid. But private lawyers were involved on a panel in examining the case to ascertain whether in their view, (1) it was sufficiently important to launch an appeal; and (2) whether there was sufficient merit to warrant an appeal.

Now, some of the lawyers that are on this panel, some of the best lawyers in the Province of Manitoba, men that are on the panel that advise the director, are lawyers like Vaughan Baird, Ken Houston, Frank Allen, Sam Breen, Greg Brodsky, Martin Schwartzwald, Sam Wilder and others are on this panel that deal with these cases. And let me say that because of that advisory board, many appeals have been refused because of advice from that advisory board of private lawyers.

In the Finley case, the one which is before us, the executive director turned to three senior members of the bar, and I think it is fair to not indicate the names of the three particular senior members of the bar that were involved in examining that case, but let me assure honourable members that three senior members of the bar did examine it to determine whether or not there was merit in seeking leave to appeal, and those three senior members of the bar advised unanimously that there was merit and that the executive director should proceed with an appeal. And it wasn't just over the sum of money. It was a matter which did involve an issue of considerable impact to the entire welfare system, and though there was no repayment, there was some question whether in the circumstances

Now, I don't know. Frankly maybe if I had had the power that the honourable member suggested I have, I would probably have blocked it, but then maybe I would not have been the most unbiased and impartial individual, as Minister, to have blocked it, because it involved the Crown, involved the Province of Manitoba as a defendant, so that I say to the honourable member that he might have placed me in a very, very difficult position if I had the power that he would have entrusted to me in this particular case, the Crown being the defendant. I may have blocked it, but I may not, again, have been the most unbiased individual. But the three lawyers involved examined all the facts of that particular case, senior members of the bar, and recommended that an appeal be launched, not because there was \$10.00 or \$12.00 whatever it was of overpayment, but it was an issue that they felt ought to be determined because of its total impact, not just involving Finley but involving hundreds of other welfare recipients in the Province of Manitoba. Now, I don't suspect that Legal Aid made themselves very popular with the Government of Manitoba because they were challenging the decision by government bureaucrats in the Department of Health and Social Development but I think that's the way our society should operate. I think there should be considerable exercise of checks and balances within society and I think that we should attempt to keep the decisions by Legal Aid as to whether an appeal be launched or not, as independent as possible of the political arm. To that extent, I would say to the honourable member that I would not want the power suggested yesterday that the Minister, in the final analysis, makes decision whether or not there should be an appeal or not.

A lawyer is to attest to the fact that there is meritorious basis for an appeal in each case. There ought not to be any frivolous appeals and a lawyer has to indicate and confirm that there is meritorious basis for an appeal before any appeal is launched on every single case.

I want to just mention to the honourable members and I think that the Honourable Member for Birtle-Russell probably would want to clarify this further because I would hope that I misunderstood the drift of his remarks yesterday. I understood the Honourable Member for Birtle-Russell to say that once a matter was resolved in the first court, Legal Aid should not be providing assistance for further appeals unless the Minister — please correct me if I am wrong — unless the Minister okayed that appeal so that there'd be, I think in his words — well, some tighter control.

to just warn that if we'd followed this logic there would be a danger that George — Peloquin I think members are aware of the George case — who was first found guilty of murder, would have spent his life in prison. Peloquin was allowed to go to the Supreme Court on a point of law and that Court ordered a new trial and Peloquin at a second trial was found not guilty by reason of insanity; it was found that the lower court had been in error on a point of law and the Supreme Court of Canada ordered a new trial. Otherwise, this man would have spent the rest of his life in prison. So when we're proposing that we sharply curtail the right to appeal, where lawyers say there are meritorious grounds for appeal and professional people say there are meritorious grounds for appeal, we are undertaking a very very serious move, a serious move that can affect human beings in a very very substantial way and this case, in the potential loss of the man's liberty for the rest of his life because he wouldn't have been able to have afforded certainly the appeal to the Supreme Court of Canada on his own. If we hadn't been able to have launched that appeal to the Supreme Court of Canada, then that would have been the effect of it.

I want to, if I could, just return for a moment on the question of freedom of choice, get a comment

from the Honourable Member for Birtle-Russell who raised this. That if, for instance, the Honourable Member for Birtle-Russell was a lawyer in the Province of Manitoba — and I think he should be because I must say, I am impressed by the amount of research and work that he's put into different matters before us — but say the honourable member was a practicing lawyer in the Province of Manitoba dealing in criminal matters and his reputation of fame was so great that every accused criminal in the Province of Manitoba said, "I want Harry Graham; I want Harry Graham to represent me," and we had unlimited freedom of choice. Yes. Unlimited freedom of choice and applicants were backed up all the way down Portage Avenue to see Harry Graham so that he could represent them in the courts of the province and he undertook to represent all the applicants in the courts of the Province of Manitoba. Then Harry Graham would have to appear before the courts and attempt to juggle his time-table so that he could represent all these hundreds and thousands of applicants, accused individuals, and it would be, let me say, that the problem is that we would end up setting down cases so that all these accused could have Mr. Graham as their lawyer, we would have to end up slotting the dates into 1980, 1981, 1982, 1983, some of us might not be around by then — and possibly even by the year 2000.

I say this only as an example that there must be some attempt — and this is what was discovered in other provinces from their own experience, Conservative provinces like Ontario and Alberta — to encourage as much freedom of choice as is possible but to recognize because there are public funds involved, that there has to be some exercise of some discretion insofar as limitations, keeping in mind at all times that you want to encourage as much choice as possible but provide some type of limitation. That's been the experience in other provinces and certainly from the reports that I am receiving from those engaged with the criminal justice system as a whole, they are beginning to find because a few lawyers are grabbing up most of the cases — and I say that not in an inaffectionate way towards those lawyers, they have clients, people charged with criminal offences have indicated they wish them to represent them — but they are accepting large numbers of criminal cases and the impact that this has on the criminal justice system.

I want to just mention, if I could, just on the side too that there was a . . . when we talk about impact that some cases can have, who would have thought that there would be such impact from a \$2.00 parking ticket case, the Georges Forest case. But here's a case involving a very small sum of money but obviously has major legal and constitutional implications to the entire province and could very much affect our laws in Manitoba. But if anybody from the side had looked at it and said, Why is all that money being spent — in this case, on the defence side, it's being paid for privately, not through Legal Aid — but why is all that money being spent over a \$2.00 parking ticket, yet it's got tremendous impact and, therefore, I think we have to examine impact in every case that we're dealing with, not just the amount of money that's involved but the impact because if the impact was not significant here, then we in the Crown who are also spending much money fighting the Georges Forest case, would be better to say, "Well, Mr. Forest, we're just going to tear up that parking ticket and you go your own way and let's save a lot of money through our court process." Well, we don't operate in that fashion.

The Honourable Member for Wolseley had made some reference to a Legal Aid report and to the fact that in 1976 there was a lot more paid out for legal aid than in 1975. I wish to point out to the Honourable Member for Wolseley that the only reason for that is that cases were encountered in 1975 but often the payouts didn't occur until 1976 and he shouldn't try to read into that — because it would be unfair to Manitobans as a whole for him to read into that a suggestion that there has been a tremendous burst of legal aid between 1975 and 1976. It doesn't indicate that at all.

If you take your Estimate Book before you, you'll find that there is only a very small increase in the amount for Legal Aid 1976 to what is requested for this year. I think it is 5 percent — 6 percent.

Questions were raised too about non-residents — think it was again the Honourable Member for Wolseley — and I want to just mention here that in order for us to recoup the \$750,000 that are received from Ottawa, a condition of the agreement is that in serious criminal matters, murder, rape, very serious matters, that we — I'm sorry, I was just looking at a sign . . .

MR. CHAIRMAN: The Honourable Member for Morris.

MR. WARNER H. JORGENSON: I was wondering if the Attorney-General would also include in those very serious crimes the crime now that ranks uppermost in the minds of the government and that is of over-deliveries of milk on milk quotas. That carries with it a heavier penalty than murder today.

MR. PAWLEY: Mr. Chairman, I am not aware of Legal Aid being involved in a case involving over-deliveries of milk quotas. — (Interjection) — I am not aware of Legal Aid's involvement.

Those are just some of the points which I would like to mention. Commercial fraud. Questions were raised by the Honourable Member for Wolseley on commercial fraud. During 1976, there were a total of 80 active files handled by our section of the department dealing with commercial frauds; 54 of those were opened in 1976. Of these files, 30 were closed without any charges being laid by our department. In some cases, although there were no criminal charges laid, files were referred to the

Department of Justice for prosecution under the Federal Statute rather than by way of the Criminal Code. Charges were laid in 25 files in 1976; 15 of these files had been disposed of by way of trial or guilty pleas. The remaining 10 are at various stages of prosecution at the present time. The remainder of the files are at present stages of investigation. The above figures do not include any matters opened in early 1976, disposed of in early 1977.

MR. CHAIRMAN: The Honourable Member for Birtle-Russell.

MR. GRAHAM: Mr. Chairman, I think the Attorney-General has attempted to take out of context many of the points that we are trying to make from this out of the House. First of all, the case that I raised yesterday, it certainly wasn't my intention to review the case here and we as a Legislative Assembly try and sit in judgment on that case. That was the last thing that I intended. All I was attempting to do was to take one case as an example — and I am sure there are many cases that do go to Appeal and Legal Aid is involved. I'm sure there must be many of them. I was just trying to point out to the Minister that this may be one field, it just may be only one field where we can try and control some of the costs that are mounting in Legal Aid.

I know there are many other ways that we could probably cut down on the costs of Legal Aid. We could attempt to probably curtail the service; we could, if we wanted to, I suggest we could maybe lower the limit of eligibility. That is another way you could. There is another way and that is to reduce the fees. There are many ways that the Minister has at his disposal but we have expressed a genuine concern about the rising cost of Legal Aid and have made some suggestions to the Minister that could possibly offer him some assistance in helping to curtail the rising costs of Legal Aid.

Another thing I want to point out to the Minister, or he has brought it to my attention, was a statement that I made last year and he says maybe I have had a change of heart and I would have to tell the Minister that after consultation with many people I will admit that last year maybe I did make a statement that I would like to withdraw.

We see this government constantly eroding some of the freedoms of people in various ways and I think that maybe we should be more vigilant than ever now to preserve freedom in this province. So if we now attempt to suggest that freedom of choice be maintained here, I don't see that as an alarming change of heart. The Minister must also remember that we on this side are putting forward to him suggestions; we're not the government, we are just putting forward suggestions to him, trying to offer him our help in ways and means of trying to control this rising cost of Legal Aid that has gone to several millions of dollars from \$500,000 a few years ago. I would say the cost of Legal Aid is rising faster than the cost of government in other departments. The Minister said that this year there is a very modest figure involved in his Estimates and I think the Minister will be the first one to admit that that is only an Estimate estimate. That is a figure that he has placed in there which he'll be the first to admit is only an estimate and we won't know for a couple of years yet what the actual cost of Legal Aid this coming year will be. By that time, there could be several more millions of dollars spent in Legal Aid and we're giving the Minister some suggestions that he could possibly use — he doesn't have to use them — they are just suggestions on our part in ways of trying to curtail the rising cost of Legal Aid.

If he rejects them, then that is okay. But that is his decision and we would have to say with some regret that the Minister is not then too concerned about lowering the overall cost of the estimates of this province, the estimates of expenditure.

So, I rise at this time because the Minister had attempted to find out why I had a change of heart from something I said last year. I have to tell him, so what? I have a change of heart. I was making suggestions to him last year; I'm making suggestions to him again. Those aren't the only suggestions that he can follow. He can follow many others but in our own way, we are trying to offer the Minister constructive suggestions, ways that we think he could possibly move in order to curtail the rising cost of Legal Aid.

MR. CHAIRMAN: The Honourable Member for Wolseley.

MR. WILSON: I rise to ask a couple of questions and it may be a case of sitting down and maybe asking the Minister to answer the questions as we go along, if he can. As I say he stood up to correct me when I read the figures in yesterday because taking from the Legal Aid Society Report and Financial Statement of March 31st, 1976, in that statement of receipts and disbursements it says to compare with the 1975 figures. I read out that in 1975 they paid out \$1,046,840, and in 1976 they paid out \$2,863,576, which was more than double and, as the Member for Birtle-Russell indicates, we may never know what the true costs of Legal Aid will be because a lot of these solicitors that have been given certificates, by delaying cases, will be mounting up their bills until they can maximize their fees and then they will present their bills. So in fact the cases really started this year but ended up the other year.

I wanted to ask the Minister if he could confirm that on April 18th, 1975, was Councillor Joe Zuken given a legal aid certificate to represent some Winnipeg citizens regarding the Anicinabe Park matter because it was reported in the news media that Mr. Zuken had gone down to Kenora to represent

some people pertaining to the uprising.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. PAWLEY: The answer is, "No."

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. SAUL CHERNIACK: Mr. Chairman, I think maybe the Member for Wolseley isn't through with his . . .

MR. CHAIRMAN: The Honourable Member for Wolseley.

MR. WILSON: Would the Minister be able to give the House the grants to the Law Society since the 1975 grant of \$338,447.05? Would he be able to give us the 1976 and 1977 grants, if that is possible? And what is the thinking behind this grant if the interest from the lawyer's trust account is supposed to go towards Legal Aid? Could the Minister indicate what is the government's thinking in giving the Law Society a grant.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. PAWLEY: Mr. Chairman, I'd like to point out that the interest from the trust funds are to go to Legal Aid and to continuing legal education, not just to Legal Aid, by the provisions of the Law Society Act which was passed by this House in 1971. If the honourable member will check the appropriate provisions of that Act he will see that the moneys are entrusted to the purposes of Legal Aid and continuing legal education so that there is to be this division. There was a lot of discussion back in 1971 some honourable members will probably recall, as to the Law Society, when they were making representations, as to their desire that some of these moneys would be used in order to improve not only the knowledge of the law insofar as the membership of the Law Society was concerned, because one's knowledge of law never ought to cease; it should continue to grow and to develop. And the Law Society has not undertaken appropriate programs in the past to ensure that that continues.

But their desire, principally, also is to reach out into the community and to provide considerable training and lectures and information to lay people within the community on many different matters. I don't have them in front of me but I know that they have dealt with matters involving, say, family law and community education.

In the current year the Law Society has produced extensive programs for the Manitoba Association of School Trustees, the Department of Health and Social Development, the Welfare Appeal Board. Each of these programs were designed to meet the needs of a particular organization or institution for legal information to facilitate their operation. The programs delivered have been acknowledged by the organizations to be of the highest quality.

The program, for instance, to the Manitoba Association of School Trustees of legal principles involved in public education was attended by apparently 135 school trustees. A great deal of interest was generated in that particular program and there has been a request for a repeat of the program by the same association for this next coming year.

In addition the Law Society of Manitoba participated with the Department of Education in the preparation of a comprehensive manual of instruction for teachers in the public school system. This is to provide some further information to classes in the schools involving our legal system.

In June of this year the Law Society is providing a program, both for the legal profession and the general community, on the fight for Indian rights. A very large attendance at that program is expected.

The Law Society of Manitoba in conjunction with the Canadian Bar Association also presently publishes and distributes a series of pamphlets, each of four or five pages, dealing with such matters as the Law of Succession, Family Law, Access to the Legal Profession. The pamphlets, I might mention, are distributed in the waiting rooms of lawyers' offices throughout the province, as well as in some other institutions throughout Manitoba.

Plans are also presently under way to expand both the quantity of the subjects covered, the quality of the coverage, and the range of distribution.

The Law Society has also co-operated with the Winnipeg Legal Secretaries' Association in the provision of programs to secretaries in law offices.

Now, if I could just add one more point. I think that the reason that we have had the co-operation which we have had, we have had good co-operation with the Law Society in remitting interest to the province, has been on the basis that we didn't attempt to hog in all for Legal Aid only, that we were prepared to discuss and work out, in consultation with the Law Society, a program by which they could use some of these moneys, and it's only a smaller part of these moneys, for purposes of continuing legal education, which was the intention of the legislators back in 1971 as per the statute I referred to earlier.

MR. CHAIRMAN: The Honourable Member for Wolseley.

MR. WILSON: Is the Minister suggesting that if we change the legislation and all this money that went to Legal Aid that they might not get that good co-operation, that he might have certain problems in collecting this money? What I'm saying is what we have here is we have two factors. We have a

public opinion, and this is out of this issue of the New Democrat. It's under the heading by the Premier called Legal Aid, in which the NDP Party is taking credit for Legal Aid. On the other hand, the lawyers are taking credit for putting all the money into the trust accounts and paying a large portion of the Legal Aid. So, we've got to get our facts straight and what I mean by that is that we've got to have the thoughts of the citizens, because you're raising thoughts being expressed by me and by others. We have got to have an appearance of neutrality, of no personal gain, and if you admit that this is unearned income then it would be nice if the people said, "Well, look at this particular professional organization that is giving all this money to pay for Legal Aid." But on the other hand, you have the NDP taking credit for Legal Aid.

So I'd like the story to come out that not only is the Law Society paying part of Legal Aid but, as the Minister said, part of it is coming back to them. The Minister still didn't give me the current grants but in 1975 there was approximately \$338,000 went to them as a grant from the province. And the Minister has indicated it is part of this money. But it doesn't come out that way because what happens is all the money goes into the Consolidated Fund and it appears as a grant from the government to the Law Society. It's just not clear to the citizens of this province, and it wasn't to me up until today, but I would like to read into the record how the government is . . .

MR. DEPUTY CHAIRMAN: The Honourable Attorney-General.

MR. PAWLEY: Don't misunderstand; it's not paid into the Consolidated Fund of the Province of Manitoba, it's paid into a trust fund impressed with that trust. I wouldn't like honourable members to feel it is swallowed up in the hold of the Consolidated Revenues of the province.

MR. DEPUTY CHAIRMAN: The Honourable Member for Wolseley.

MR. WILSON: By trust fund, does it mean that it doesn't get any interest from any financial . . . Is there interest coming in on that money?

MR. PAWLEY: Well the Act doesn't provide for interest on the funds in the trust account apparently. I see there is some discussion on that in front of me so maybe we could — (Interjection) — No? Fine.

MR. WILSON: Well, what I mean is that in the case of 1975, this \$1.3 million went into some government trust account and it doesn't bear interest. So what the government does with that, so long as they indicate that they have that money set aside in trust, it's protected.

In the Legal Aid propaganda that is printed in this issue, it really shows you the indication of the members opposite to expand Legal Aid sort of almost like a bush fire. Because they talk about the NDP opened up legal services to all, not just the wealthy. And here we go again creating that class warfare. It talks about, in 1972 the first Legal Aid Centre opened at 95 Isabel; in 1973 Main Street opened; in 1974 . . . in Dauphin; in 1975 they go on to a large number of offices opened, and Legal Aid now has 90 staff members serving Manitoba.

Since 1973 it is estimated that Legal Aid has helped 96,000 Manitobans and I wonder what these 96,000 Manitobans did prior to 1972. As well, 30 cases were being handled by Legal Aid lawyers in private practice. In other words, it would indicate from that that 30,000 certificates had been issued, which means money. So on one hand, you have the lawyers indicating that they are paying for part of Legal Aid and this is a bit misleading by the Premier to put that in because what he has done is he does not take into account the \$750,000 that you get from the Federal Government. He does not take into account the \$1.3 million you get from the Legal Aid trust fund. So to me the article is a bit misleading and I think it's time that the members opposite were exposed or if I can use the term that the media printed the truth. Well, they always print the stories how sensational your Legal Aid program is and they don't tell how you arrive at the funding of it.

One of the questions that I raised with your Director of Legal Aid, and I raised it several times, was in the area of conflict of interest. I had tried a number of times to get a letter of response from both the Law Society and the Director pertaining to a matter of concern that I had pursuant to 87(3) of the City of Winnipeg Act. Legal Aid was taking the City to court on by-law infractions, on health infractions, and usually the by-law court was filled with Legal Aid lawyers and I even got a bit of the article which was kind of misleading in the paper in which it said that I charged that the lawyers for the city were two-faced. But what I was saying was that it seemed to me they were staff lawyers working for Legal Aid, and Legal Aid was taking the City to court. It says, "A member of Council who either by himself or by or with or through another takes the City to court shall forfeit his seat."

That particular concern of mine was never ever brought to light and under 87(2) it says the person should be disqualified from holding office. That was never raised and it's the type of concern that I have as a citizen that when people make inquiries there should be some form of a prompt reply. I mean what they could have done was tell me that my interpretation was a wrong one and left it at that but they chose not to even raise the matter. I think that's an area that the Minister should look at to make sure that either he is going to come out clear that Legal Aid staff lawyers can become city councillors or they cannot. I think it's important that it be cleared up. I also felt that that was certainly an area of concern and the appearance of neutrality is very very important.

I say it would be interesting, maybe it would call for an Order for Return but, again, the Legal Aid

services is autonomous. So what you have there is where you allude to the suspicion that people have inside information or what-have-you that allows them to become — I use the expression “ambulance chasers” — pertaining to expropriations by the city and the province, and it would be very interesting to see how one specializes in this particular advance information to be able to go out and stir up people to get certificates. I think sometimes the area of group actions against government, by Legal Aid, it would seem to me that collectively those people could pay the \$2,000 or \$3,000 legal fee that may be necessary to take their cases to the expropriation court. The problem seems to be we have a very unexplainable section that says that everything is at the discretion of the director. I would like to see some controversy some time about the Director turning down some people and let the public decide as to whether he is taking a firm attitude or not.

So basically those are my concerns under Legal Aid. I think that to suggest that I was trying to mislead the public by reading receipts into the record, by expressing the difference between the \$1 million and \$2.8 million, I was only reading as a lay person. I was only reading Page 29 as it appeared to me.

I would like to see also that the judgment cost settlements — because I think if somebody wins some money in a court case that he has been represented by a Legal Aid lawyer that he should be prepared to pay Legal Aid back every nickel in legal fees and court cost expenses. I'd like to see a little more enthusiasm in the enforcement of these collections because many people figure because they have Legal Aid that they don't have to pay. So those are my general comments.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, I'd like to direct my comments to two particular points that were raised. One is the costs of Legal Aid, and the second is the question of freedom of choice.

As to the first, I must say that I get the impression that the Member for Wolseley does not think very highly of members of my profession. I'm sorry to hear that, hear his comments, because I do think that they are critical of the profession as a whole. His attack on “ambulance chasers,” his suggestion that fees are padded, his suggestion that lawyers are manufacturing cases in order to earn money I would reject absolutely. There may be a bad apple in the barrel but then there are bad apples in many other barrels with other designations. But I am particularly proud of the way our profession, the legal profession, disciplines and manages and checks on members of the profession, and also I do believe that members of the legal profession have a sense of dedication, of service, and a code of ethics which I think is admirable, and which to a large extent is covered.

Now I say that, Mr. Chairman, because . . . well, I say it really . . . I was going to deal with it under Freedom of Choice, and maybe I will leave it until I do that then. It just came about as a result of what I consider a rather scurrilous attack by the Member for Wolseley on the profession as a whole.

Dealing with the question of costs, the Member for Birtle-Russell speaks about an effort to reduce the rising costs, and Mr. Chairman, it is of course important to get the maximum returns for the investment of taxpayers' dollars or of dollars that are being managed for a program. Firstly let me clarify that in my opinion lawyers pay nothing into the funds available for Legal Aid. Lawyers do not contribute to the trust fund. It is the interest earned on moneys which lawyers handle in their trust accounts which are diverted into the trust fund, and that is because there is ample legal opinion to say that lawyers may not themselves keep the interest which their trust funds earn. As a result of that legal opinion, there was a negotiation that took place where lawyers agreed that their trust accounts would be kept in banks and credit unions and that the interest which the banks would pay on those trust accounts would be paid by the banks into this special fund which is a trust fund. It is not moneys that go into the general revenue of the province. It is kept separate and it is kept and dedicated for the purposes of continuing legal education and Legal Aid.

One of the reasons that lawyers are participating, not only because it's the law, not only because they believe it is the right thing to do, but also because lawyers, I suppose from time immemorial, have attempted to provide services to people regardless of their ability to pay, but that was very limited. It was very limited because lawyers, like all other persons in society, have to earn a living, have to do what they are able to do for their clients, but just as doctors in the past used to give free time for people in need, so did lawyers, but to a very limited extent, Mr. Chairman. I don't know a lawyer who has not worked for free on some matter or another, but to a limited extent, and I don't say that in any sense of criticism, but in recognition of the facts of life as they are, just like doctors, and I suppose other professions, have done the same.

But the Legal Aid program — and the Member for Wolseley regrets or resents the fact that the NDP, the New Democratic Party (I don't know why he has to be redundant by saying the New Democratic Party, but I guess he doesn't know what the initials stand for) does take credit for having introduced, sponsored and is continuing a program of Legal Aid. Not that the idea is unique to the New Democratic Party, but it is a program that was developed under the New Democratic Party government, it was nurtured under the New Democratic Party government, and we are entitled and we do of course take credit for the fact this program is a program which we have introduced and which we are proud of.

Now as I say, it is not unique to New Democrats to promote that. I believe that Ontario was into it earlier, and providing taxpayers' money for that program. Leafing through the latest report of the Legal Aid, I see that they say that their costs are proportionately less than in Ontario, but it is nevertheless a program which is a program of this government for which we take credit. And I again point out that it is financed in three ways. One is from the part of the moneys which lawyers handle on behalf of clients and pass through bank accounts, through trust accounts. Part is provided from the Federal Government, and part is paid out of the taxpayers of Manitoba. The Federal Government contribution is one which came about in the few years. Until it came about, it was entirely a Manitoba program. But the Federal Government recognized the value of this program and I believe it was the former Attorney-General, Al Mackling, who negotiated, together with other Attorneys-General, for the contribution by the Federal Government and the fact that the Federal Government contributes to it is an indication of the way it considers the value of this program.

Now I do believe that, listening to the Member for Wolseley, he has very grave doubts about the program at all. Now that probably is not true. He probably thinks it has some use, but I think that because he seems to think so ill of the members of the legal profession, that he is suspicious about the whole program.

The Member for Birtle-Russell has not expressed a condemnation of the program, but he is concerned about rising costs. And I think, Mr. Chairman, it has to be made clear that the rising costs, to a large extent, are related to the rising service. It can't be very much related to rising fees to the legal profession because we are getting complaints that the fees are inadequate, and the complaints are coming from the members of the legal profession.

But the Member for Birtle Russell said that — of course he's not part of the government, all he can do is make suggestions — he throws out a suggestion that we could reduce the service or reduce the fees and in that way curtail the cost. Well, Mr. Chairman, if you reduce the service, then of course you are taking away from a number of people any choice whatsoever to be served. And that is the point that we have to clarify: Is there too much service being provided?

I am told the Member for Wolseley said he would like to hear something about cases being turned down by Legal Aid. I asked and I was told that some 28 percent of applications for Legal Aid are turned down. Now it may be we don't hear a great big fuss about it because those who are turned down are justifiably turned down, and the lawyers who usually apply on their behalf must have accepted that as being, in each case, a valid reason for turning it down.

We also have the explanation from the Attorney-General today as to the nature of the review which takes place before appeals are carried on. I think that certainly satisfied my concern when the Member for Birtle-Russell raised a case dealing with \$8.00 or \$10.11 — I think it was \$8.11 a month, and he said a millionaire wouldn't bother to do it unless it were a matter of principle; of course a millionaire wasn't involved in a social allowance payment of \$8.00, and \$8.11 must be a pretty important part of the monthly income if that is the amount that was questioned in terms of social allowance. So it is a very important part of that person's income, but probably more important than that, it probably involved a rather important principle that many, many, many hundreds of thousands of dollars may have been affected. I don't know — I am guessing as to that amount.

So one should get clarification from the Opposition when they speak of concern of rising costs as to what they think of the program. What do they think of the expense of the program? Is it too elaborate? Are the guidelines as to income levels too great? Well, the Member for Birtle-Russell said probably they are. Well, then, how much should they be?

I just saw what they are and I don't know if they are on the record in this debate, but the 1977 allowable annual income for a family of one, gross income of \$7,000; for a family of two, \$8,000; three, \$8,785; four, \$9,580; five, \$10,340; six, \$11,640; and a family size of seven is \$12,915. Maybe we ought to hear from members opposite as to what they think it ought to be, the extent to which they think this is excessive. But let me point out to honourable members that just like health, so are matters of legal problems, not the usual run-of-the-mill kind of expenditure that a family can face. Many times matters of health and matters of a legal nature can break a family. When I say break a family, I mean financially — can bankrupt a family, is the word I should have used. We know that with the introduction of universal health care, we have done a great deal in taking away from people the terrible burden, the terrible concern of the cost of health services. And, Mr. Chairman, if you take a person of moderate income whose child may have run into a serious criminal problem, would you say that that person should be bankrupt because of that problem? Or suppose that person himself runs into a problem and may be innocent — may be innocent — should that person be bankrupt by having to do one of two things, either pay very high fees which aren't necessarily paid to lawyers, or be denied the services of lawyers because they have some kind of an income of a moderate nature? Now I do think a family of seven with a gross income of \$13,000 is not receiving a lucrative return — a family of seven. And if there are changes, let members opposite indicate what they should be.

As to the cost, I think one must recognize that when the public is involved in making payments, there has to be a tariff established. One cannot leave it to the professional giving the service to decide

for himself what the return should be so there has to be a tariff established. And the fact that there is a group of lawyers who found it advisable to group together in order to attempt to negotiate this tariff is an indication that they think it is not enough. And I have heard, and I am sure members opposite, especially the Member for Birtle-Russell must have heard because some of the things he said would indicate he has been talking to them, that they really feel that the returns they are getting on the fees they are paid are inadequate. I reject out of hand the thought that they are exaggerating their fees, exaggerating their work, as suggested by the Member for Wolseley, because I do know — I happen to get the Law Society minutes after their meetings like all other lawyers do, and I do know that there are occasions when fees are taxed and I do know that the Legal Aid examines all the charges made very carefully, and I do not believe that they would be prepared to favour a lawyer who may be attempting to pad his account. So I know they have had arguments in the past and there have been reviews made, and that they have been accused on occasion of being too harsh in watching the bills set sent in by lawyers who work on Legal Aid.

But the group of lawyers who formed their — I forget their exact title — but formed a union, and I believe that it is a union, are doing that because they want to be able to negotiate as a group, and there is nothing wrong in my mind with their doing that. The only thing is I differentiate them as a union from the Manitoba Bar or the Law Society which is supposed to be especially concerned with service to the public, and service to the public does involve the opportunity of freedom of choice.

When I read what the Honourable Member for Birtle-Russell said last year, he compared legal services under Legal Aid with the dental care program, and he said, the care of teeth before had always been a freedom of choice, you could go to the dentist of your choice, but when the State is providing it, you accept the services that are provided and you do not have the choice. Mr. Chairman, that applies today in the need for health care services. For one thing, let me point out to the Member for Birtle-Russell — and I know nothing, I am not even sure what municipality he lives in, but I would guess that where he lives, there is very little freedom of choice when it comes to getting a lawyer or getting a doctor. I am guessing that, I don't know, but I think in many parts of rural Manitoba, there is one doctor available, maybe two available; there is one lawyer available and often he is miles away from many of the communities, and they have very little choice unless they have the opportunity to go to a larger centre where they could then find a greater number of professionals offering services. But even then, let me tell honourable members that there are many lawyers practising in Winnipeg today — lawyers, possibly; I really meant doctors — practising in Winnipeg today who have closed their panel of patients, who say that we are now so completely involved with our existing group of patients that we will not take on new patients. So the freedom of choice does not exist there.

Now we talk about the Legal Aid people. They have been denied freedom of choice because they couldn't afford lawyers, so they may have had a freedom to choose which lawyer they could not hire because they could not afford to pay him, and in that way their freedom of choice is only saying, "Well, I would like so-and-so to have acted for me, had I been able to afford that so-and-so." Mr. Chairman, at the present time the vast number of criminal offences — the defendants are being served under the Legal Aid program, and I think that if we accept these criteria as being right, it is an indication of the vast number of people who did not have any service whatsoever before the Legal Aid program was brought in. And it is up to members of this Legislature to decide whether or not these people are entitled to service. And let's assume a number of them are guilty, a number of them should not be — I won't say should not be defended — but do not have a moral right to be free, let's put it that way. But, Mr. Chairman, the importance of the legal system in this inherited system of justice that we have throughout the centuries, the important thing is the necessity to keep the legal system operating for the benefit of all people, and therefore when we find that there are laws and procedures to protect the innocent, they must be applied to protect the guilty as well, because no person is guilty until that person is found guilty, and it's almost a trite expression, but it's an important one when they say, "better nine guilty people go free than one innocent person be condemned." And I think that is very important, because our society has to be able to accept the fact that guilty people are walking free on the streets because they are walking free, so that innocent people can walk free as well. Therefore, there may be many cases which honourable members might not want to have defended, but because of a technical defense, a legal technical defense, that person can get off. That is the reason that person is being defended — so that that legal technical defense as long as it is there, is available to all people in society.

I think that is rather important, and that did not exist to any real extent before the Legal Aid System was involved, because a lawyer who is to be paid, wanted to make sure he'd be paid before he entered into it, that usually happened in criminal law. So, if the defendant had no resources, there was not much chance that he would have had that kind of service available. Furthermore, it may well be that not having the opportunity to have a lawyer available to him, that person may have made a direct deal with the Crown, and I don't think that that is correct. I don't think that person should plead guilty or to make any kind of arrangement for a plea without the advice of counsel on the other side, and I think

that's important.

So, Mr. Chairman, let's talk about freedom of choice. We cannot, as the Attorney-General said, we cannot say that every person on legal aid shall be able to pick a particular lawyer, and say, that's my lawyer. If we did, and we have done it up to now, we would find that the process of law becomes encumbered, there are delays because that lawyer cannot divide himself up into many hours of the day, to be able to look after all the needs, and either that lawyer accepts the case and drags it out in order to find the proper slot in his time schedule to handle it, or else he passes it on to someone else. So when the Member for Birtle-Russell said there could be a firm with six lawyers, one is a trial lawyer, and the others do the other work, that is not the way by which a person has a freedom of choice, because then the work can be passed down the line to other lawyers, and that's the reason why the legal aid organization issues certificates not to firms, but to individual lawyers.

Mr. Chairman, I think that we have to face up to the future need to assess the amount of availability of professional services compared with the need. We have found in the medical profession, in the legal profession, in the dental profession, that there is a much greater need than there are persons available to satisfy the need, and as long as that exists, and as long as the opportunity to get that service is based on ability to pay, then there are a great many people who will not provide that service. Mr. Chairman, I do believe that people who provide that personal service, that affects the lives of all citizens, are people who should have the largest returns in recognition, in respect, and in self-satisfaction in the work they are doing, and unfortunately that is not the case. The problems that occur when government gets involved, is that there becomes a confrontation on financial and control matters, which smudge and confuse the issue insofar as the respect that members of profession are entitled to have.

And when you have such people as this recent group of criminal legal aid lawyers, I forget the title under which they operate, operating as a union, the trial lawyers organization, they operate as a union, and I think they should. I think they should bargain for a return, but they should not, as I believe they are doing, confuse the returns which they want to have with the program of which they are part, because they are two different things.

I think that it's unfortunate, and I think that members of government, members of society, and then obviously members of the Legislature, are often inclined to downgrade the role of the professional in society. I have found so many people in society, in the community who will say, Oh, you can't trust any lawyer, no doctor cares about you, no doctor will come to your house when you need him, or those dentists don't really care about the service, or accountants are always there trying to fix the books. You hear all kinds of unfair accusations. The only thing is they go further and say, however, my lawyer is good, or my doctor is dedicated, or my dentist is available to me, but nevertheless, there is a tendency in society to downgrade the role of a professional. I think it's unfortunate, I think it has a great deal to do with the fact that the financial return becomes a matter of concern for communities, because there is the trend, the tendency which is recognized everywhere, which will never be reversed, of the taxpayer shouldering all or part of the cost of the provision of services, and that's where the financial aspect becomes clearer, and more prominent in the differences between the professions.

And I want to close, Mr. Chairman, in attempting to relate the provision of legal services under Legal Aid, with that taking place in the health professions. Where it is necessary for all those who provide the services, and let's say in the health profession, there are not just doctors, there are doctors, there are nurses, there are physiotherapists, there are unnumbered people in the paramedical field who have a role to play, who must be paid, and who must be used, because if they are not used, then the cost of these services will become astronomical. In the legal profession, it's not developed anywhere near that extent. We don't have paralegal people to any large extent. But, nevertheless, there have to be procedures developed whereby we can reduce the costs of these professional services, in a way where we can provide the best service to the largest number of people, and still recognize the contribution made by each of the members of those who provide the services in the various fields. And that is why I don't think that we are able to accept the concept of freedom of choice for the future in the years to come, in any of the professions. As I've said, you cannot now have freedom of choice in health services, you cannot have it in all legal matters, you couldn't have it before Legal Aid, because there it was finances that denied that. It is necessary to attempt to make the services available to all the people, and therefore, one has to be able in some way, to redistribute the availability of services, and that is what is being discussed in the legal profession today in relation to Legal Aid, and it is not, I believe, the accepted concept in the law profession, in the profession generally, that every person shall have the right to have the services of any particular selected lawyer. I think that the profession as such does not accept that as a concept, it is only being promoted by a smaller group of lawyers, who are directly concerned with the return that they get from the Legal Aid clients.

MR. CHAIRMAN: The Honourable Member for Pembina.

MR. GEORGE HENDERSON: Mr. Chairman, I hadn't figured on saying anything at all, but the

Member for St. Johns was talking about downgrading the professional people, and I think probably there's some good reason for it. I'm just not too happy that the legal profession police their own organization. I often wonder if you people on that side who are lawyers, think that this is really right. It's pretty hard to talk against your own organization, but when you have people in the profession who are acting as policemen on the others, I don't think that's very fair. When we talk about the legal profession, we set them up almost like gods, as whatever they say is right you know, and they take the money from the public, they just bleed them. —(Interjection)— Well, they just take their money from them. . . they say no, we'll take some more out of this case before it's been settled and that has happened.

I know of a case where there was a mix-up in insurance, there was an accident involved, and the legal people were working away at it, and finally the two people got together and they said, "Why haven't we got this settled?" and it was just that the legal people were wanting to make more money out of it. And that's happened lots of times. We don't have to be shown examples of it to know that it's happening.

Another thing is the fees that the legal people charge for the transferring of land. Now I know there's the registration fee that you have to pay, but the fees that lawyers charge for transferring land is very very high, and if they're going to work a reasonable day for the type of fees that they charge, they have got lots of money to spare. So I'd like to know how you feel. Do you really feel that it's right for the legal people to be policing their own organization? I know too, there's other groups that do it but I'm just not so happy about it myself, and I'd like to know what you people think of it.

MR. CHAIRMAN: The Honourable Member for Wolsley.

MR. WILSON: I was going to rise on a point of privilege when the Member for St. Johns was speaking, but I have to reject completely because what he's done in a very smooth, and in a fashion of playing on words, he's indicated that I have indicated that I'm against 937 or 1,000 particular members of the profession. That is not true. What he's trying to do in his smooth, misleading way, is trying to get me to name these people, and I don't think I have to name them. I think the director of Legal Aid knows who I'm talking about on City Council.

I think it's no secret that the Minister of Public Works has indicated his displeasure at the manner in which a certain individual has made a large amount of money. I have expressed the same concern pertaining to the City of Winnipeg. The funny thing is though, it doesn't show up as a cost, because what happens is the government ends up paying these costs, because if this person gets in the expropriation hearings, if he gets all these customers through this advance information — I stand to be corrected, but does not the person expropriating have to pay the legal fees. So therefore, even though the certificates are issued to, say, 30 members of a particular area, say the Rosser Pond area, or for that matter, the government garage area, doesn't the government have to pay those legal fees in each individual case even though there was a certificate issued? So what I'm saying, it's misleading in a way, because what you're doing is keeping the per capita costs of the certificates down, because when you have all these expropriation certificates issued, and the government pays it, it would seem to me that there would be no cost to that certificate.

Again I have to say to the Member for St. Johns, I have to really reject it, because here he's using misleading examples. I admire the man, he's very smooth, he's got these fifty-dollar words, and he turns around and uses a bit of McCarthyism on me, and because I said a "tag day" for lawyers rather than a "tag day" for the Law Society, immediately he wants to say that I'm against all lawyers. That's not fair, and that's not true. I happen to have been the Manitoba organizer for a very prominent lawyer in the last federal campaign.

But I'm not afraid to name the slum landlords who I've been after. I've tried to get the Society and those to shape up. I've put it on public record, whether it's B. Shuckett or Pearlman, I've written complaints all over the place. I'm not afraid to name them, but I don't think that I should be taken in by the Member for St. Johns, and have him want me to stand up, and name five or six people who well. . . —(Interjection)— Well, I don't think I should particularly name them to give them the publicity that they don't deserve.

I think that the worst examples that he used, he used misleading examples, he took a case of: Oh, what about the family that makes \$13,000, shouldn't they get Legal Aid if there's somebody charged with murder or a car accident. Naturally we know we agree with those type of hard cases, but it's also misleading because people aren't rejected if they make \$14,000 or \$15,000 or \$16,000. I stand to be corrected but maybe the director could indicate people over that particular guideline are still accepted for legal aid, so that guideline means nothing.

What I'm talking about is that we've sort of indicated, at least myself I'm dissatisfied, because now the courts are clogged. People that have drunk driving charges, traffic charges, unpaid bills, all of these people get Legal Aid Certificates. I'm talking about these low priority things have to be given examination. When the member put out this article by the Premier saying, engage warfare, in class saying that "not just the wealthy." Well I suggest that the guidelines are there, but nobody is excluded no matter how much money they make, at least I don't think so. To brag about 30,000 cases, and

96,000 manitobans, what did we do prior to 1972? I agree we should be helping somebody on a murder case or a car accident who doesn't have money. I'm not so sure I'd be interested in giving him a Legal Aid Certificate to fight the Bank of Montreal for not paying for a car. These are the kind of things that bother me. So this is the kind of thing that I'm talking about. To say they helped 96,000 Manitobans, what did we do prior to 1972? And again I got an answer of rejection.

I've got a note here that I made, and apparently on one of the radio hotlines, somebody said that Joe Zuken, a lawyer Q.C. had gone down to help the Indians in the Kenora Park during their uprising, and they were protesting because he had no licence to practice in Ontario, and they felt that those people in Ontario didn't deserve a Legal Aid Certificate from Manitoba. If that information was false, I'm wondering why Councillor Zuken didn't sue the radio station at that time. That's basically it.

I have one other concern, and that sort of got to me in a particular article, and I was wondering if the Minister would care to reject a suggestion — of course it's here in the newspaper — that the government, and possibly Legal Aid, hires staff based on their electoral efforts rather than their qualifications. By that I mean, it says here in this article that the Parti Quebecois accused the government of doling out work to lawyers on the basis of their electoral efforts on behalf of the Liberal Party rather than on their legal skills. I wonder if the Minister would like to reject that suggestion.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. PAWLEY: Mr. Chairman, I think that the statement hardly deserves rejection, the dignity of rejection. Certain individuals that have senior positions within Legal Aid Society are known as card-carrying Liberals. So that I hardly think that we are engaged in any electoral manipulation insofar as our hiring practices are concerned. I don't want to spend any more time on that; I don't even know the source of that comment.

Answers to two questions. Well, Brooklands' expropriation, Legal Aid was only engaged in that in the very first instance, the very first approach. The individuals later obtained their own legal counsel so that it is not fair to suggest that Legal Aid was involved in providing the legal services throughout the Brooklands' expropriation.

Two, I would just like to point out so that there would be no misunderstanding from the honourable member's comments, Legal Aid does not provide legal services in Highway Traffic Act matters unless the offence is one for which the individual may go to jail or lose his employment — I think that should be very clear.

A MEMBER: That's most of them; that's most of them.

MR. PAWLEY: No, there's no Legal Aid if it simply involves a non-payment of a fine.

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, I just rise, not to provide any more necessary substance to the exchange that has been taking place as I've listened to it but to provide, I would hope, some word of caution because I don't like what I am hearing in this House at all. I think that we're engaging in some pretty loose and frivolous talk and perhaps not really recognizing some other realities.

First, I am very much concerned about the remarks that have been made concerning this question of the independent legal profession. I'm surprised at the source, Mr. Chairman. The Conservative Party has portrayed itself as a party that is interested in the maintenance of areas of private responsibility and independence of private organizations and individuals, and now we have a Conservative member of the caucus indicating that maybe what we should really be doing is looking at this whole question of the ability of the legal profession to have a degree of self-government to it. I think one of the most high-minded traditions in our society is the ability of professions, the one I'm involved in, the legal profession, to maintain a high degree of self-administration and responsibility. I must confess, Mr. Chairman, my surprise, my concern in this area has usually been directed to the members opposite but they, over the past two years, I don't know if they've cancelled it now, have had a study going on about how to take away from the professions their rights of self-government. There were consultants hired, I think from Ontario, brought in to look at the question of how they can begin to restrict the ability of the professions in our province to provide a degree of self-government. Now, we have apparently the Conservative Party endorsing that position. —(Interjection)— Well, it may not be true but certainly I can only take it on their accepted word. And that provides one caution, Mr. Chairman. I think that, like any other group of people, there are saints and sinners in the legal profession, and it has been the saints who usually go unrecognized as they do in most areas and the sinners usually end up having their names portrayed on in one of the newspapers as themselves off to Stony Mountain because they've been misusing trust funds, which seems to be happening with a fair degree of regularity.

But also, Mr. Chairman, it seems to be being handled reasonably well by the Law Society and the benchers because they are applying stricter rules to it and I think that there has been a major improvement in the self-governing of these professions. I think there is a high degree of public glare upon anyone in any profession and they can't get away with the same degree of perhaps small

misdeemeanour they would have. So I am very surprised, Mr. Chairman, at this expression from the Conservatives about their interest in beginning to press in on the professions too and bring them into line, because once you start eroding the position of professional organizations, whatever kind, in this society, then you begin to erode one of the basic cornerstones of maintaining a degree of independence and integrity.

That really leads me to the point made by the Member for Wolseley who again seems to be implying that the only rule for the legal profession is to defend those who have a means of providing for their own self-defence, that the lawyers should simply become hired guns for the wealthy. — (Interjection)— Yes, Mr. Chairman, that's exactly what he suggested, that the only people who should be able to have proper legal counsel in a variety of cases are those who can afford it — and "afford it" meaning mainly large corporate organizations who can write it off as expenses in every other way.

When we talk about expropriation cases, Mr. Chairman, I would like to go on record as that I would not have the slightest bit of compunction in the world to having Legal Aid lawyers or to having legal certificates being applied to any individual who is being addressed with an expropriation order. Because one of the most serious incursions upon individual rights that the state undertakes, it is taken and must be taken with the highest degree of protection and guarantee, and usually as we have discussed in this House when we discussed the Expropriation Bill, it usually falls upon those least able to defend themselves. The expropriation actions, the City of Winnipeg and the Province of Manitoba over the past two years have not fallen upon those who live in substantially wealthy neighborhoods; Mr. Chairman, they've fallen, as you well know, in certain areas that you represent, and you know the people in there and you know exactly to what degree they get confused by the mechanics of the law, to what degree they can be intimidated by the language and the procedures and the bureaucracies that go along with it. And to suggest somehow that we should be denying or being leery of enabling those individuals who are having their property taken from them, oftentimes with good purposes, otherwise I assume the state wouldn't do it — I disagree violently with the reasons the Province of Manitoba has taken that property away in the central City but the fact of the matter is, if the state decides, then they also have to be equally careful about ensuring that those rights are guaranteed, and to start complaining that there has been too much Legal Aid work done for expropriation procedures, if they'd gotten in the way, I'd I would say "Good Cheer" to them; that's good. It would seem to me that one of the major reasons for having a Legal Aid system in our province is to make sure that those who are caught in the complicated webs of the law and are not able to fend for themselves, have access to legal counsel to do it; that to start using the numbers, we have to start looking at the kinds of cases.

Part of the problem is ours, Mr. Chairman. Part of the problem is that annually in this House, we pass over a hundred pieces of legislation. Sometimes if I only get 30 or 40 pages of complicated sort of language that none of us really here understand anyway and have to have interpreted to us, and yet we pass that every single year. Those laws go on the Statute Books and, all of a sudden, private people out there start having to live by those laws, not oftentimes understanding them. If there is a problem with too much legal aid, maybe it's a problem with too many laws. Maybe we're getting ourselves caught up that we're sort of on a legislative jag; that we have to make more rules and more laws and more regulations for everybody . . . and all of a sudden, the only people who can then be able to deal with that problem are those who can afford. **o big sweat for a large company, an insurance company or a bank or a department store in the City of Winnipeg to hire first-class legal counsel at \$75.00 an hour. You know, they've got big retainers; they can afford them — we have got some very fancy law offices in the Richardson Building down at the corner of Portage and Main, and all the lawyers in there do nothing but corporate work and commercial work for high-paying customers. They get by. The law's an interference, it's an expense, but they get by, they make do. In fact, Mr. Chairman, in many cases they gain advantages out of it because they can get the talent that knows how to seek out the nooks and crannies so they can get probably a little better deal than the ordinary guy can. They can afford that talent. A lot of people can't. And if it really means, Mr. Chairman, that we have to support a legal aid system to enable those smaller individuals to get somewhat close to the same protection, to have someone to guide them, encourage them .**

I am not just talking about murder cases

traditional. I'm talking about the mounds and piles upon piles of business law and consumer law and commercial law and regulatory law and administrative law that we are piling up in this Legislature and in the House of Commons and in the City Council. Mr. Chairman, I, for example, have argued in this House before that I think that in some ways I would like to see more activity on the part of the Legal Aid Society in pursuing class action. I presented a bill in this House, I guess three years ago, which was, as many of my bills are, not supported by other members requiring class action in environmental areas — because it's a peculiar area of the law where the individual — and the way our jurisprudence works — has limited protection and he has to show direct impact upon it. In an environmental problem it is very difficult to do that and the necessity of providing some areas of class

action in the consumer field and the environmental field are very necessary. We certainly see it in the kinds of areas, Mr. Chairman, that I in the older represent, of this City where there is a number of initiatives taken by private and public agencies to change property uses and land uses, usually accompanied again by very talented and highly skilled and usually expensive legal talent. But the person who is being affected by that doesn't have the same option. It is only lately that certain Legal Aid lawyers have been prepared to get into some of those fights, questions of demolition. I say good; it's about time; you're a little late but it's good you're getting into it because those protections and guarantees are needed. If we don't do that, Mr. Chairman, as we continue to add the pages upon pages of law that we pass, we are going to create a very perverse kind of inequality and that is an inequality of skill, an inequality of knowledge and that, Mr. Chairman, is one of the major imbalances in our society these days. Members opposite are always fond of talking about problems of economic disparities.

I would say, Mr. Chairman, that there is also a major gap between those who have access to knowledge and skill and those who don't. That's becoming in many cases the new class bias in our society. The only reason why I argue for things like freedom of information is just to equalize it a little bit more. The people who can afford high-priced civil servants and high-priced lawyers and high-priced economists, they have an advantage over those who can't. Government is one of those who serves them that advantage, because they also use tax dollars to pay for those skills. To have a certain body — I'm not sure how good Legal Aid has been doing this, I don't know enough about the operation to know whether they are prepared. I suspect maybe one area where they are lax, is they are not nearly as active in taking on the Provincial Government in certain areas as they should be. — (Interjection)— Well, they should be, and the more they do it, the better it is because government itself is a major source of power; it has advantages. I would hope that there is enough independence in the Legal Aid system to enable them to undertake those kinds of actions against provincial and local and federal governments when they are abusing the law or abusing their power because that's the new class system in our society that's building up. It's a class system that we perpetuate every time we pass a new statute. Increasingly, people fall behind in their ability to get some assistance in those areas, and the law is only one of them.

So, Mr. Chairman, I simply want to provide that I have no basis of determining whether, according to my values, the ones I've just enunciated, the system is working as well as it should be. I can sure heck tell you that if the Minister is listening to the advice that I have been the last fifteen minutes, then he should quickly forget it, because the sooner he forgets it and starts maybe looking at a . . . there may be a need to take a good hard look at what Legal Aid is doing. It's been around a while; it's been portrayed as the best of the systems, but anything that's the best still can undergo scrutiny and review. It may be that the way we appoint people to the Board — I've heard people say that maybe we should do this, have revolving Chairmen, you know, have more people coming in and out so that there's a wider circulation of those making decisions; that maybe the boys become too entrenched and it needs to be refreshed so different directions can be provided, and I would certainly endorse that position. There's no question that we can make changes in this area, but the one area in which we should not make changes is to try to limit the ability to ensure that there is proper legal counsel for those who cannot afford it themselves in a wide variety of areas so that we can maintain at least some semblance of equality in this society.

MR. CHAIRMAN: The Honourable Leader of the Opposition.

MR. STERLING R. LYON (Souris-Killarney): Mr. Chairman, I have a few questions for the Minister but perhaps a few general comments would be in order at the outset. With respect to Legal Aid, I notice that the figures for salaries are \$1.2 million this year; I turn over the page and I see that the figures for salaries of Crown Prosecutors are \$1,073,000 and the figures for salaries of the Civil Litigation side of the Attorney-General's branch is \$521,700.00. So in effect, we see that presumably the legal staff and the supportive staff to the legal staff of Legal Aid are utilizing \$1.2 million of the public treasury or sources from which the money comes, whereas the Crown Prosecuting and the civil side of the Attorney-General's Department are utilizing \$1.7 million. I was going to ask the Attorney-General if he didn't think that proportion was a little bit unusual — exciting is perhaps too strong a word — but just where are we going with respect to Legal Aid when we're building up an establishment, a full-time establishment, with that kind of institutionalized salary arrangement as part and parcel of the Legal Aid delivery system?

That, of course, leads in turn to a second question that I would like the Attorney-General to make comment upon, one that has always engaged the attention of the profession in Manitoba with respect to whether or not since the 1972 Act and since the accretions to staff that we see manifested in these votes, if we have not already drifted into, are we not on the brink of becoming a province that is providing, in effect, a legal defender system for the people of Manitoba? In the discussions that some of us had with the profession over the years, when Legal Aid was in its earlier formative stages — and for the benefit of the Member for Fort Rouge and others, I should mention the fact that I am sure is well known to the Attorney-General that there has been legal aid in Manitoba for something like 40 or

50 years operated by the Law Society of Manitoba without benefit of the state and operated very successfully on a voluntary basis, so it is not a new moon that has appeared in the sky. What we have today is a form of institutionalized legal aid. I am wondering if it is becoming a form of over-bureaucratized legal aid and I am wondering as well, Mr. Chairman, whether or not the legal defender system which was one that in the formative stages of legal aid across Canada it was universally thought to be desirable to avoid, is this the kind of system that we are now beginning to slip into? We all realize, of course, that this is manifested in the comments of many lay people with respect to legal services. We're all subject to the cultural overwash, if you will, the legal cultural overwash, from the great Republic to the south. I daresay that there are many thousands of Canadians who visualize the proceedings in our courts as being somewhat akin to what they see on the Perry Mason show and other forms of entertainment. From time to time, it is incumbent upon people occupying the position of the Attorney-General, people such as the Member for St. Johns and myself who are members of the profession, to remind those who do not have a close familiarity with our courts or with our legal system, that our courts and our legal system in Canada are unique in the sense that they are markedly different from those in the United States. True, they share a common basis in the common-law approach to the law but in terms of how our rights are enforced in Canada as opposed to the United States, there is a wide, may I say, a fortunate gulf of difference. We do not have an entrenched Bill of Rights in our constitution; that does not mean, in any way, that we have fewer rights. In fact, I think we have more ability for the citizen in Canada, through the re-enforcement of the institutions which support the basic individual rights of the citizen, to ensure that those rights are enforced and that those rights are established and maintained. I say that not by way of criticism of the American system, they have their system, we have our system. I merely say it to indicate that sometimes, because of this cultural over-wash, we do find a tendency for some of our people and for some of our bureaucrats perhaps, to want to ape a situation that they have found works in California in the legal system, or works in some other alien jurisdiction, when it has really very little application to the proper administration of justice, both from the standpoint of the Crown and from the standpoint of the proper defence of the accused in Canada.

So I would like to hear his comment upon whether or not we are slipping into a public defender system; why do we have a full-time staff, as I am informed of some — is it now 32 lawyers in the Legal Aid Branch? Why is that necessary? What is the justification for it? Is the profession at large not able to provide the services that are needed on a referral basis?

One can admit that in remote areas, in areas where there is not any large number of lawyers in practice on a regional basis, that the necessity may arise from time to time to have a full-time regional appointment of a person whose main job, I would expect, would be to liaise with the lawyers within that region and from time to time, to appear in court himself where there are not sufficient lawyers to carry out the services that are required.

Another question that I would ask of the Attorney-General with respect to legal aid and with respect to the obvious growth in public expenditure of legal aid, is his opinion with respect to the outreach aspect of its program? I know that we will have people such as the Member from Fort Rouge and others who would tend to regard this as just another branch of the welfare rights organization. It is not. I am not impressed as one, nor do I know of many lawyers or many people who are concerned about the rights of individuals, who are impressed by the fact that a legal aid organization can say, "Isn't it dandy, our caseload increased by 10 percent last year." I would think rather that a legal aid administrator should be able to stand with some pride and say, "It is dandy, our caseload decreased by a certain amount last year," indicating that they were able to give on-the-spot advice without people having to go to court or that there were other agencies to which they could be referred. What I am saying in that regard, of course, is that the tendency nowadays to be litigious, is a tendency that should be much avoided, particularly with state approbation. Litigiousness is not necessarily a mark of proper enforcement of rights; it is very often a mark of capriciousness, either on the part of the lawyer or on the part of the client. I have always been led to believe that the best lawyer was the one who kept his client out of court, not the one who took his client into court. And if that rule is a good rule in private practice, then I suggest that it is doubly good in terms of legal aid; it is equally good in terms of the Crown's approach with respect to civil and even some criminal matters.

The idea, of course, that has been voiced by some this morning with respect to people going to court without benefit of counsel is one that always brings a slight chuckle to me because I passed through the Law School at a time which was after that of the Member for St. Johns, and before that of the present Attorney-General. But, it was always drilled into me and into my generation, that every lawyer appearing in court, whether for the Crown or for the defence, whether for the plaintiff or for the defendant, was an officer of the court. And I used to like to feel, in the days when I was a Crown Attorney and in latter years when I had some responsibility for Crown Attorneys, that the Crown Attorney felt that he was there primarily as an officer of the court; and as an officer of the court, his responsibility was not just to obtain a prosecution. In fact, that was really not necessarily his reason for being there at all. His reason was to place the evidence that the police or others had assembled —

we are speaking now of a criminal matter — before the court and let the court decide on that evidence in a fair way; and to assist the accused in every way that he could with respect to ensuring, if the accused was unrepresented, as many of them were back in the Forties and the Fifties and even parts of the early Sixties, to ensure that that accused have any proper defence that might have appeared from the Crown's report, placed before the court. And in furtherance of that kind of approach, we used to find, long before we had a form of institutionalized legal aid — and it was not a perfect system any more than the legal aid system is perfect — that the lawyer in court, acting as an officer of the court, was, in effect, carrying out that function of ensuring that the rights of the Crown and the rights of the accused were being properly brought before the court.

And the presupposition, of course, that unless a Legal Aid lawyer is present in court, that some heinous wrong is going to occur to the accused, does, to my way of thinking, Mr. Chairman, suggest that our magistrates, that our judges, our provincial judges, our county court judges, acting as county court judges in a criminal court, our Queen's Bench judges, our Court of Appeal judges, are ciphers. They are far from being ciphers. The judges are the court and the judges have an equal responsibility with the Crown and with the defence to ensure that the administration of justice is properly carried on in their courts.

I think when we come to a realization that this is a whole system, that it is a system that has functioned extremely successfully down through the centuries, that it is a system that we have inherited from Great Britain and which is now largely a Canadian system, because we have drafted our own nuances and our own styles and approaches onto that system, we come to realize that this system, regarded as a whole, does provide protection for the individual before the court; that the judge is just as concerned as is the defence counsel in a criminal matter or even in a civil matter; and that the Crown Attorney, if properly instructed — and I presume they are still instructed in that way; they should be trained in that way through the Law School and I presume they still are — are all acting as officers of the court, they are all acting as part of a total operation which is "the administration of justice" with emphasis being on justice. And if we regard the system in that kind of total condition, then I think that we need become a little less shrill and a little less over-weening about the necessity to build up the kind of bureaucratic institutionalized institution which, heaven knows, is providing a service for the people of Manitoba, but is only one arm of this total complex of ensuring that the administration of justice is carried out fairly and impartially and with fear or favour for none and without regard at all to the status of the citizen in terms of his economic ability or whatever, as he appears before the court.

So I would like to hear the Attorney-General make some comment upon particularly the size of the institutionalized staff that we appear to be building up; whether or not this is a gradual drift into the public defender system which, I must say, is a system that, in many ways, still strikes me as being somewhat alien to our system of justice. It is not alien in California, it is alien in Manitoba. It would be alien, I suggest, in other jurisdictions in Canada. Are we drifting into that? Is this a part of the evolution and transformation that is taking place in the judicial system and the administration of justice across Canada and if so, why, and are we contributing to it by the staffing of full-time lawyers that we have on Legal Aid.

And just in passing, I heard comment by the Member for Fort Rouge about the Conservative Party as he said, apparently wanting to regulate the professions, I can assure you the Conservative Party

MR. CHAIRMAN: Order please. The hour of adjournment having arrived, the honourable member will have the opportunity to continue at the next meeting of the committee. Committee rise and report. Call in the Speaker.

The Chairman reported upon the Committee's deliberations to Mr. Speaker and requested leave to sit again.

IN SESSION

MR. SPEAKER: The Honourable Member for Logan.

MR. JENKINS: Mr. Speaker, I beg to move, seconded by the Honourable Member for Emerson, the report of the committee be received.

MOTION presented and carried.

MR. SPEAKER: The hour being 12:30 the House is now adjourned and stands adjourned until 2:30 this afternoon.