

THE LEGISLATIVE ASSEMBLY OF MANITOBA  
2:30 o'clock, Thursday, March 21st, 1963.

Opening Prayer by Madam Speaker.

MADAM SPEAKER: Presenting Petitions.

MR. OSCAR F. BJORNSON (Lac du Bonnet): Madam Speaker, I beg to present a petition of Thomas Newman McLenaghan and Others, praying for the passing of An Act to incorporate the Pine Falls General Hospital.

MADAM SPEAKER: Reading and Receiving Petitions.

MR. CLERK: The petition of The Greater Winnipeg Society for Christian Education, praying for the passing of An Act to amend An Act to incorporate The Greater Winnipeg Society for Christian Education.

MADAM SPEAKER: Presenting Reports by Standing and Special Committees.

MR. KEITH ALEXANDER (Roblin): Madam Speaker, I beg to present the first report of the Special Committee appointed to prepare a list of members to compose the Standing Committees ordered by the House.

MR. CLERK: Your Special Committee appointed to prepare a list of members to compose the Standing Committees . . . (See list on page 517)

HON. DUFF ROBLIN (Premier and Provincial Treasurer) (Wolseley): Madam Speaker, perhaps it would be agreeable if we dispensed with the reading of these names because it will all be published in the Votes and Proceedings.

MR. ALEXANDER: Madam Speaker, I move, seconded by the Honourable Member from Virden, that the report of the Committee be received.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Notices of Motion

Introduction of Bills

Orders of the Day

Order for Return in the name of the Leader of the New Democratic Party. This matter is still under consideration.

MR. RUSSELL PAULLEY (Leader of the New Democratic Party) (Radisson): . . . respectfully ask, Madam Speaker, that this matter be expedited as quickly as possible, in that the information that I require is pertinent to some remarks that I had hoped to make before too long.

MR. ROBLIN: Madam Speaker, I beg to move, seconded by the Honourable Attorney-General, that the House resolve itself into a Committee to consider of the Supply to be granted to Her Majesty.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Would the Honourable Member for St. Matthews please take the Chair.

MR. CHAIRMAN: Resolution 44, Item 1(a) passed?

HON. STERLING R. LYON, Q. C. (Attorney-General and Minister of Public Utilities) (Fort Garry): Mr. Chairman, I believe I was in the course of making response to some of the comments of honourable gentlemen opposite when the House adjourned last evening. If I might have a few more minutes I will attempt to provide the information that was requested in some of the enquiries that were made. I believe I was dealing with the enquiries and comments of the Honourable the Leader of the New Democratic Party. We had reached the point where we had discussed the Jail for Women and the question of segregation there, I believe, with the assistance that was rendered by the completion of the new jail at The Pas. He mentioned another very interesting subject, that of the display ads that appear in the beverage rooms and the beer parlors of Manitoba as a result of Liquor Commission action last fall on brands of beer representation. I can assure the honourable member, Mr. Chairman, that the matter is under consideration by the Commission at this very time. Representations to much the same effect as he made yesterday have certainly been made to the Commission, and I must say from a personal standpoint I'm somewhat sympathetic to them as well; but the Commission are looking at that question at the present time and we can hope that some reasonable solution

(Mr. Lyon, cont'd) . . . . to that problem will emerge before too long.

Coming to the remarks of the Honourable Member for Selkirk, he discussed for a few moments the question of juvenile delinquency and a change in the definition of that term. The honourable member may or may not be aware of the fact that there is a departmental commission established by the Minister of Justice in operation at the present time, looking at the question of The Juvenile Delinquents Act and how the sections of that Act can be brought up-to-date, or the practices laid down by that Act can be brought more into accord with present day requirements. Members of the committee -- at least one member of the committee has been in contact with the Director of Corrections of Manitoba. I have no information, however, as to when their report will be tendered to the Federal Government, but that matter, of course, is without our jurisdiction; it's a federal matter, but his suggestion is a very worthwhile one and we are hopeful, along with him, that some changes in that Act will be forthcoming when the report is made to the Federal Government.

He made some comments about crown attorneys being full-time occupants of their positions, and of course I need not tell him that in the Eastern Judicial District that is the case, and that district covers pretty well half of the Province of Manitoba. However, in the southern and the northern and the western and the central, in Dauphin Judicial District there are part-time crown attorneys working in these positions. It may well be that when the Judicial Boundaries Commission recommendations are implemented and some of the boundaries of the judicial districts are altered and in some cases made larger, it will be feasible to approach this problem outside of the Eastern Judicial District from the standpoint of attempting to get full-time crown attorneys, but I am sure my honourable friend is as well-acquainted as I am myself with the very problem that we face of trying to get full-time people on staff, either as crown attorneys outside of the urban area or as a police magistrate, because of course there is the question of remuneration; there is the question of giving up practice, and so on, in the communities in which they presently reside. His suggestion, however, is certainly well worth consideration and the same would apply to the suggestion of the Honourable Member from Ethelbert Plains and the Member for Selkirk with respect to full-time magistrates. We've discussed this at some length before in Estimates and I do not disagree with them; it's a question, however, again of getting the personnel and getting the quality of personnel that one would wish to have in these permanent positions. I am happy to be able to tell the committee that since we last met there has been one full-time police magistrate appointed outside of the Greater Winnipeg area in the person of Magistrate Bruce McDonald of Portage la Prairie, who is now occupying the position of police magistrate in the Central Judicial District on a full-time basis, having taken over the former territory that was serviced by Magistrate Crawford, who retired during the past year, and as and when circumstances permit I can assure members of the committee this is what we will attempt to do. If we can get the right people at the right time they will be put in on a full-time basis to meet the problems that arise from part-time service.

There was a question from the Honourable Member from Selkirk about recidivism among trainees at the camps, and I don't have any up-to-date figures on that but should they become available to me, even after the conclusion of these Estimates, I'll make whatever figures we have available to the honourable member.

The Honourable Member for St. John's asked very properly for some word about the Law Reform Committee, and the fact that the work of that committee was not mentioned in my opening remarks certainly cannot be treated as any slight on my part to the work that they are doing. That committee was established last spring, and it has on its membership approximately 30 lawyers from all parts of Manitoba who are, in many cases, leaders in their field, in their respective specialties of legal work. They have had two full meetings already and there will be coming before the House, I can tell the members of the committee, Mr. Chairman, at least two or three pieces of legislation this Session which have been reviewed by the Law Reform Committee and have been recommended to the government for passage. The committee is just nicely beginning to function; they have set up sub-committees who are looking into different aspects of statute law which are perhaps of peculiar interest to lawyers, although they do affect all of the citizens of Manitoba, and I thank the honourable member for raising this question and giving me the opportunity, before the committee, to pay tribute to these members who serve on the committee -- I think I should mention, without remuneration -- and who serve in

(Mr. Lyon, cont'd) . . . . the interests of improving the statute law of Manitoba and giving very valuable advice and counsel to the law officers of the Crown, to the Attorney-General and the government in general, on matters of public interest affecting our statutes.

The honourable member asked if the department is deficient in numbers or ability of legal talent and I could answer the question shortly by saying "no"; we have on staff now more crown attorneys and solicitors than we have had before, by one or two. I'm happy to be able to say that they are an excellent group of young professional men and we are quite happy with the service they are giving. He raised that, however, in connection with one specific instance, a case which is pending in Brandon, and he asked why a special counsel was appointed with respect to that one labour matter. The answer is quite simple; the crown attorney in that district who ordinarily would have handled the case as a matter of routine, had to disqualify himself because he had at one stage been -- perhaps he still is -- the solicitor for one of the potential accused in the action, and so he had to disqualify himself from participating on behalf of the Crown in that particular case.

He asked generally about the problem of work being farmed out by the department, and I can tell him in that connection that that practice still obtains; it has obtained for many, many years where special assignments which are felt to be too onerous in terms of the time involved, or in terms of the continuing work that is required, too onerous for the staff of the department, whose prime responsibility after all is to give internal legal advice to the various departments of government. Where special functions are set up, as they are from time to time, then work is farmed out on a specialized basis to other law firms and to lawyers not within the government service, but as I say, that is not a new practice; that has been going on for many, many years, and while what my honourable friend says about the economy of that type of practice is perhaps true, I suggest to him that not to my knowledge in any province of comparable size to Manitoba has it been possible for the staff of the Department of the Attorney-General to attend to all of the legal responsibilities that might ordinarily fall into their laps. As a matter of fact, he will probably be aware of the fact that in the Province of British Columbia the assizes are parcelled out to outside counsel, and one counsel is appointed to attend to the whole assize and he has the responsibility of appointing other counsel from the profession in Vancouver to prosecute the different cases. Well, of course, that is not done here. All of the Crown work with the exception of the odd case -- and my honourable friend mentioned Regina versus Paton and Cox; that type of case where an undue length of time is required -- with those very rare exceptions all of the Crown work, that is the criminal work, is done by the staff of the department, either in the Eastern Judicial District either by the full-time departmental crown attorney, or in the other judicial districts by the part-time crown attorneys who operate in each judicial district.

There are counsel appointed, therefore, outside the department on various activities from time to time. If the honourable member wishes to determine the amounts of money that are paid, I would refer him to the public accounts where he can see the amounts that are paid to any particular lawyer, and should he require any further detailed information if he would let us have an Order for Return we'd be quite happy to accommodate him insofar as we have knowledge. The problem is of course from our standpoint that different departments may engage counsel on our advice, but we have no responsibility from that point on for the payment of that counsel. I would have no knowledge other than from public accounts and from any taxing work that might be done on these accounts by the Deputy Attorney-General, as to the amounts that were actually paid for any outside work. That it is done is true, and it has been done for many, many years, and so far as I can see it will continue to be done for many years because it is in fact virtually impossible to have a sufficient full-time staff to attend to the whole spectrum of legal responsibilities that in this day and age fall upon government with respect to different projects and policies that are being brought forward and so on. We try to keep the staff working on those prime responsibilities that they have in the criminal field and in the civil advice field departmentally to the other departments of government, and where larger or continuing operations come along which really are not conducive to being handled that well within the department, then those are farmed out.

Now, I believe that covers most of the points of which I have record.

MR. SAUL CHERNIACK (St. John's): . . . . permit a question? I might point that the

(Mr. Cherniack, cont'd) . . . . public accounts are not very much help because they don't flag the names of those who are lawyers or the nature of the work they do. I found, for example, that my father is listed as having received \$1,000.00. Since he is my partner, and I'm not aware that the present government or the one that preceded it ever smiled benignly on my father, I had to find out just what it was, and discovered that all it was was a payment to us on behalf of a client, so that if I look through public accounts and find other lawyers then surely I don't know how they were paid, but I appreciate the fact that this information could be obtained. But one question that I asked that was not answered was what is the basis for selection of the outside counsel?

MR. LYON: Basis of selection generally is their ability and capability to do the work. That is the prime consideration of selection of any solicitor for outside work.

MR. PAULLEY: Following the last statement of the Honourable the Attorney-General, am I, as a layman having nothing to do with the legal profession at all, to take from the last remarks of my honourable friend that I should attempt to go through the public accounts of the Province of Manitoba to try and ascertain the lawyers that are listed there, and then presume simply because of the fact that they have been in the employ of the government that I can rely on these particular lawyers because they're the capable ones, to give me any legal advice or assistance in any predicament that I might find myself in?

MR. LYON: . . . . . do not only that, Mr. Chairman -- my honourable friend can do not only that but he has the further buttressing and corroborating fact that I told him that was the case, so he has that double assurance.

MR. PAULLEY: . . . . . Mr. Chairman, in again a bit of a rebuttal to my honourable friend, that I'm sure that many of the lawyers in the Province of Manitoba who do not receive contracts from the administration either the present or the past administration, would feel rather slighted and belittled by the remarks of the Honourable the Attorney-General, because he has implied because of the fact -- at least I think that he has implied from his remarks here this afternoon that those who haven't rendered service to the government don't measure up to the general high calibre that we as laymen in the Province of Manitoba attribute to the whole legal fraternity in the Province of Manitoba.

MR. LAURENT DESJARDINS (St. Boniface): Mr. Chairman, if the Attorney-General is finished telling us how wonderful the Conservative lawyers are we might be able to get down to the business. I'd like to, for a change, congratulate the Minister on some good work that he's done, and I think that after three years he has accepted this responsibility in regard to the obscene literature. I was very happy to see that something was done in this by his department, by himself, in accepting his responsibility. I say that there's certainly room for much more improvement but nevertheless I'd like to congratulate him on taking action in this regard.

Now with regard to the jails. I might say that I certainly feel that there should be no cruelty, and especially fairness -- I'm not quite as worried in pampering the prisoners as some of the other members that have spoken, but I'm very much worried about the case of hardened criminals being sent with youngsters or first offenders. This is not criticizing. I know it's very difficult and the Attorney-General has mentioned something that some improvement could be made in this, as they are always working in this respect. There is something, though, also that we'll always have with us. The magistrate has talked about that, before sentencing some of the people in front of him, and it's a fact that unfortunately too often you have somebody who should be sent to a mental institution and has to be sentenced to jail. I think that this is an important thing. I don't know whose fault it is. It might be a very difficult thing to remedy but it's something that I think the department should look into.

I was pleased to see two of my colleagues especially express their feelings against this part-time magistrate. The Attorney-General himself, the same as he did last year when I brought up this question, agreed with us, but there again I think that something more should be done. I don't know if we'll have to ask more co-operation from the federal in this, if some of the laws will have to be changed, but I don't think that this is satisfactory at all. The Honourable Member from Selkirk has given him some information, some ideas anyway, to remedy this. I hope that the Attorney-General will listen to my honourable friend from Selkirk.

Now while we are speaking of magistrates I would like to congratulate one man. I've never even met him; I've read a lot about him in the paper; I think that he's a thinking man;

(Mr. Desjardins, cont'd) . . . . I think that he's trying very hard; he's bringing a new approach, for a layman anyway, and it's Magistrate Rice, who I think is bringing in a lot of human qualities at least. I think that he's been thinking. Oftentimes either the Department of Welfare or other departments did not see eye to eye with him. They resent the fact that he should preach a little bit, but I think he's sincere and I certainly, for one anyway, like that kind of action.

Unfortunately, there's another magistrate in the province that I don't feel as highly. I want to refer to this case of Magistrate Webster. Now it's not the gentleman that I want to attack today. He's human; he sinned, and he has to pay for it; and again the Department of the Attorney-General saw that a wrong was rectified when they appealed the case. But as far as I'm concerned, nothing has been said about the man that gave him this two-weeks' sentence, and I think that this is very important. I don't think that a man such as -- I think his name is Lawman -- is fit to work in this province. It's certainly not a good example for the rest of the people. The Law Society's doing everything that it can for us to respect the members in that profession. Now it says here in one of these write-ups that I will read: "The defence lawyer, James E. Wilson, Q. C., said that sentence imposed by the magistrate on Webster was not the sentence pleaded for. 'It was almost given despite representation made by Mr. Kelsey and myself', he said. 'Webster did not ask to be let off and did not expect to be let off with a fine. Nobody was more surprised than the accused and both counsel when sentence was announced,' Mr. Wilson said."

Now I have another clipping here that a certain fellow was sentenced to two years in jail for stealing \$30.00. Now this doesn't make sense. This is not an error. This is something wrong. If the man cannot take his responsibility seriously he has no business being there. It's a disgrace and it's wrong, and it's not speaking too well for this department. I think that definitely something should be done and this man should be replaced immediately.

I follow very closely with much interest the Whiteshell Provincial Rehabilitation Camp. I know that things can't be perfect. I know that some of them will escape from there, and I'm not advocating that these should be closed. I'm all for these camps. Now perhaps the Attorney-General said something in this respect, but I haven't heard anything. The fact is that some people have summer camps around the district and during the course of the years some of these inmates from these camps escaped and did quite a bit of damage to these camps. As I say again, I don't think that these camps should be closed, that all the people there should suffer because of a few. I think that those should lose any privileges, but I think that the population must have a little bit of protection, maybe a little more police protection, and certainly I imagine maybe this was done, but this is in the form of a question -- I wonder if the department is paying for the damage done to these homes, these camps, because if nothing is done you will see that the insurance companies will not be too fussy in giving insurance to the people in those districts.

There is another thing during the course of the year. Unfortunately we saw a ferry operator drown in the province. This brought out the fact that most of the ferries in the province were not licensed, and I wonder if the Attorney-General can answer this, can tell us the condition there, what is the score in this. We've had trouble with those ferries before. Three or four years ago I think three boys drowned in that same ferry or very close -- no it was the Aubigny ferry at the time. But definitely we shouldn't take chances with these things, and I think that the Attorney-General should give us some ideas on what should be done.

Then, we're amending the Coroner's Act now. I wonder if it's necessary, because it seems that we don't pay too much attention to the coroner. There are different recommendations that they give after accidents and it doesn't seem that there's too much work being done, too much attention being paid. The government is very, very fussy if anybody wants to start a swimming pool, for instance, or a beach. This kind, you have to have proper equipment, you have to have lifeguards and so on; but unfortunately the government is not so careful with their own beaches, and a coroner brought in a recommendation that there should be lifeguards, and as far as he was concerned, there's a person that drowned in this province because this person did not have a chance to go in a beach where there was a lifeguard. This was in the St. Malo Beach, a government beach. I think that this is unfortunate.

Now there's another point in the report, the Annual Report -- the Liquor Control Commission of Manitoba. I've noticed the suspensions. At least half of them are for serving minors.

(Mr. Desjardins, cont'd) . . . . Now I would like to know, first of all, how this is based. Sometimes it's two days for serving minors, and other times it's four days and five days. I would like to get some idea how this is worked out. And it seems to me that we are rather unfair here that all the onus should be placed on the hotelkeeper in this respect. They might come in a very busy time where it is very difficult to look at everybody that you're serving and ask him his age, and it seems to me that -- I know that at times there's no doubt that these people, these operators know that they are serving minors, but other times it is a little more difficult and it seems to me that the onus should not be placed on the owners alone, or the operators. I think that this should be looked into by the department.

Now, I'm not going to speak too long on the question of juvenile delinquency. I think again we've had some changes from one department to another. We're just as mixed up as we were. We're talking about this great work that's going to be done under the Welfare Department and I don't think there's that much done, but we'll come to that a little later; but the thing is we still have no co-ordination at all and we're still not doing as much to see what makes a student a good student. We're still worried more about the juvenile delinquent, and there's not, as my friend from Ethelbert Plains says, there's not enough emphasis on preventive care. I still am not going to bring a motion this year, but I certainly have not changed my mind. I certainly think that we should have a special department looking after the human element, the human character, and especially our young people and our recreation facilities and so on here in Manitoba.

MR. MORRIS A GRAY (Inkster): Mr. Chairman, I am speaking on behalf of the Honourable Member from Inkster. In other words, I will perhaps express one or two opinions which I assume responsibility fully myself. Well, that's -- it was a long time -- that the man who holds the position as Attorney-General spoke with so much sincerity and interest in the improvements, or trying to improve the lot of those unfortunates who had to break the law. And very few, I believe, are real criminals. Circumstances under which they lived from childhood -- poverty, unemployment, lack of necessities. I don't wish them to break the law; I don't approve it, but there's some facts. In other words, we are dealing with criminals; we're also dealing with perhaps honest people. If you go by a window of a bakery, and there is a loaf of bread in the window, and outside a sign "Don't Steal", and if a man is hungry, he'll probably take off the "Don't" and take the loaf of bread, not with the intention of committing an offence. You know, even the Ten Commandments, when Moses broke them in two, somebody picked up the "don'ts" and others picked up the "do's". So it is difficult, and for years no attention was given, no advice, no one to take care of them, and naturally they accumulate and the fact that there are so many repeaters, the fact there are so many repeaters shows that there is something in what I say. He goes off to jail, no money in his pocket, nobody to look after him, and we have a committee of rehabilitation, but they couldn't help them all. They go to a factory, they apply for a job, or to an office, and they may be perfectly honest because they have already paid their penalty for committing one offence, and no matter how progressive a jail is run and how able and sympathetic the superintendent is, they're still in jail. And they hand them out an application to fill out; then the application says, "Were you ever convicted?" What is he to do; he's got to say "yes". That's all, that settles it. Walks the streets again for a week, begs and borrows, and then he's in the hands of the law again.

So, the trend in the last few years right in this House is very, very much appreciated, very much acceptable, and as you have noticed, yesterday after the Attorney-General made his almost progressive address, then we had after him, we had the Honourable Member from Ethelbert who was Attorney-General himself for awhile, make a very strong appeal on behalf of improved conditions either before the boy goes to jail or after, or if he's in jail or after he comes out of jail. We heard a marvellous address pointing out the improvement which could be made by now by my Leader. We had the Honourable Member from Selkirk expressing his opinion endorsing the Attorney-General's address, and we had the Honourable Member from St. John's, and not one was as critical -- they made suggestions, but not one was as critical to the Attorney-General as in the years gone by. So I commend them all, and I commend the Attorney-General for his able-prepared address and his sincere willingness to do something better than it is now. Of course, there's no limit to that, but at least in the field of prevention. So I rose to place myself on record, because I believe that there's a real work in the future in the field of rehabilitation, in the field of the treatment and in the field of their education.

(Mr. Gray, cont'd) . . . .

Now my Leader yesterday spoke of the jail reports, but I'm going to mention only two things. One is the tragic large number of government guests in Headingley Jail under the age of 30. In other words, they still have their whole life ahead of them. More than half are under 30. Some think special attention should be given to these young boys and men, young men, who've still their life ahead of them, and the rest of their lives should not be spent in crime. First of all, it's really expensive to the taxpayer, and secondly, a ruination to themselves and to their families if they have any. This perhaps could be done -- and I'm not going to give a lesson to the magistrates -- but this could be done perhaps, something could have been done, even if of the 1,900, you save ten, you save twenty, you save a hundred. But a magistrate, where they see that there is no criminal intention when they have committed the offence, perhaps they could sentence them with a fine or make their sentence a little bit lighter.

And while I speak about magistrates, I also wish to pay a compliment to Magistrate Isaacs, and also to the other Magistrate Dubiensi. I know them both; well read, studious, and don't hand out sentences like packages of cigarettes in a cigar store. They think about it; they get advice from the probation officer; they don't sentence them right away. I mean these serious cases -- they think about it. Men like this I think the government should send them away for a month every year, or two months. Take their holidays at the same time, but study, to see how other institutions, how other courts are being administered, because as thinking people they could do it. And secondly, I think perhaps that the Attorney-General's Department should have an eye on certain lawyers in the city or in the province who they feel are good material for a magistrate and don't have to wake up at 12 o'clock at night. I remember the late Mr. McLenaghan had to telephone a magistrate who just recently retired, while he was still in the army, almost at midnight. He said, "Go tomorrow morning and occupy your chair as a magistrate." I don't say he's the wrong man; I don't speak about him individually. He held the position for a long time. He must have been a good man, and he wasn't fired; he retired on account of age; but this is not the way to choose a magistrate who deals with a life physically and with the freedom of the man and the punishment of the man. Keep your eye on the candidates, and long before the magistrate retires either on his own good will or he has to retire, have the man selected and watch him. Don't have to tell him that; let him carry on with his practice, but prepare a man in such a responsible position -- and any position is responsible who deals with human lives and human misery and human freedom.

I am glad that today the Attorney-General called his staff "Crown Attorneys". I mentioned this for years -- why not call them crown attorneys? Why call them prosecutors? You have no idea what kind of an opinion the world -- not Manitoba -- has about prosecutors. The word "prosecutor" is "hang him" -- that's all there is to it. The more you hang him the bigger promotion he'll get. Now I understand he called them crown attorneys and that's what it should be, that's what it should be.

Now there's one more question and I'll sit down. It's this. I understand that a crown attorney's position is to prepare the case for the court, bring the facts, and not so-called "prosecute", and once the magistrate or the judge rules after all the evidence of the Crown and the Defence, that should stop right there. What is the reason that the Attorney-General's Department appeals the case for lack of punishment? I don't think it's their business. I don't think they should do it. What they should do is have an effective man and all he has to do is bring all the facts before the court. I mean I cannot understand it. I don't know anything about law but it doesn't seem sense for the Crown to give him another year in jail. What good will it do the accused and what good will it do the Attorney-General's Department? This, of course, is just a question.

That's about all I can say and I want to congratulate all the speakers that have spoken on this subject, and particularly the government on their -- maybe it's a little late but better late than never -- their progressiveness and willingness to help those unfortunates who have to go to jail.

MR. J. M. FROESE (Rhineland): Mr. Chairman, first of all I would like to acknowledge to the senior officers of the department those who have retired and those who contemplate retiring in the near future, because whatever contacts I've had with these people have been very good and I sure wish them the best in their retired life.

(Mr. Froese, cont'd) . . . .

I was very interested the other day when the Attorney-General gave his report. I think it was a very good report and I listened with great interest. I also was quite interested in what the Honourable Member for Ethelbert Plains had to say, and it seems to me that there are a few areas in this whole program where I'd like to briefly comment on. It was mentioned that the answer to a lot of these problems was prevention, to have prevention in the first place. I, too, believe in prevention but I also believe in deterrents and I think deterrents should be one of our aims in prevention. I feel there is a good number of cases where you have wilful and deliberate harm done to people and possessions and so on, and I feel that there should be a classification made, and maybe there is a classification made -- no doubt there will be -- in cases, and offenders under certain classifications I think should receive corporal punishment and that that be used as a deterrent to a lot of these . . . . . and crimes. I think this would be one of the most effective ways of dealing with a certain group. Now this definitely wouldn't apply to all of them because I know that we have a certain group where this probably would be to no avail, and also others where this would certainly be the wrong thing to do, but still I feel that this is a matter that should be considered and should be put to more use.

I have a question in regard to the local police that are being engaged by towns and villages and so on. I'm wondering -- are these local police under certain Acts or certain provisions of legislation that have been passed under which these police operate? Is there any type of orientation program whereby they can inform themselves, and a program of the government under which they could orientate themselves. I think this is an area which should be looked into and where we should spend more time on, because I know from talking to some of these people that there is interest and that they have been trying to organize and raise the qualifications of these people that work in these areas. I think these are just one or two points that I would like to raise at this time. I will have some more things to say later on. Thank you.

MR. M.N. HRYHORCZUK, Q. C. (Ethelbert Plains): I just want to deal briefly with some of the remarks that the Honourable the Attorney-General made yesterday, in particular about the rationing of gasoline to the RCMP detachments in the rural areas. I thought that he kind of sloughed this off lightly without really giving it the serious consideration that it deserves. After all is said and done, Mr. Chairman, the efficiency of our detachments depend on them being able to get around when they have to, and whoever made that order that they pay particular attention to the use of gasoline made a very stupid order, no matter where it came from, and if it emanated from Ottawa, as was suggested by the Honourable the Attorney-General because he referred to the federal austerity program, which I did not, I would say that he as chief administrative officer of the province should look into the matter and see that this order is rescinded and something done about it pretty fast.

Now insofar as preventive work in the field of delinquencies is concerned, he gave us an answer that the government is doing a lot of work in this field by having social assistance measures and slum clearing and so forth. Well, Mr. Chairman, I think that if the Honourable Attorney-General just gave a little bit of time and study to this whole problem he'd find out that social assistance does not always prevent delinquency. In fact he'll find that there are instances where social assistance contributed to delinquency. The mere fact that a person is poor does not mean that he has a tendency to commit offences. He'll find that there are as many offences committed in the areas where the standard of living is high as it is in the areas where the standard of living is poor. It is not poverty in itself that brings about delinquency, as commendable as it may be that the government has a social assistance program and has in mind a certain amount of slum clearance in some of our cities. That is not the kind of prevention that I was talking about, nor do I think it's the kind of prevention that most of us on this side of the House have been talking about. The prevention is to find the reasons and eradicate the reasons for the delinquency and he'll probably, by slum clearing and social assistance he may go a very, very short way in that direction but the answer is not in that alone -- not by a long, long way, because the main reason for our delinquency problem is not poverty and it's not the slums. They could be in certain restricted areas but not as a whole.

Insofar as our police magistrates are concerned, I think that the meetings they've had have done some good. I think that to dress our magistrates in gowns will have its desirable effect, but we must admit that insofar as our courts are concerned, the police court is the most



(Mr. Hryhorczuk, cont'd) . . . . important court insofar as the majority of the people of the province are concerned, and he says there is difficulty in obtaining qualified personnel. I don't think there's a lack of qualified personnel; I think it's the lack of a suitable and sufficient salary. I think that if members of the legal profession were offered proper compensation that he wouldn't have any difficulty in obtaining the desired type of men to fill these positions.

MR. CHAIRMAN: (c) passed; (d) passed.

MR. GILDAS MOLGAT (Leader of the Opposition) (Ste. Rose): Mr. Chairman, these are questions under 1(a) that the Minister has not answered.

MR. ELMAN GUTTORMSON (St. George): Mr. Chairman, I see where there was considerable criticism of the court in Dauphin over the delay in getting people to trial. I believe this week one man was remanded for the fourth time on a charge because the court was unable to hear him. I understand the situation is there they have the magistrate who retired there on December 31st hasn't been replaced, and these part-time magistrates are now being used. It seems to me an unnecessary delay in appointing a replacement for Mr. Hawkins, the retiring or resigning magistrate. The same situation prevails, I believe, in Provincial Police Court where the late Magistrate Kyle used to be magistrate. I know that at the present time there's a man taking his place, but I doubt very much that the Minister intends this to be a permanent appointment, because the man who is sitting at the bench there now is retired from another position in the civil service. I have no criticism of the man that's there, but it seems to me that a younger man should be appointed because it seems to me that in order to get the job done well and have some continuity in a court, that we should have a full-time magistrate appointed there. Mr. Kyle died -- I don't know the exact date -- some time last fall, and up till now we've had no replacement. There's another key spot -- in yesterday, I think it was in yesterday's court in Dauphin there was a man, an allegation made that a man had been in jail 28 days trying to get his case heard. Another complaint is they've no court reporter in Dauphin except on a part-time basis, and apparently this is preventing cases from being heard. One lawyer, I think it was Mr. Matthews, made the allegation that the citizens in Dauphin were being treated as second-class citizens. In this -- (Interjection) -- It seems strange, though, that in a town the size of Dauphin which is the headquarters, I believe the headquarters for the north, that there isn't a full-time magistrate nor a full-time court reporter, so that these cases can be heard, and the cases can be heard on a regular basis.

MR. T. P. HILLHOUSE, Q. C. (Selkirk): Mr. Chairman, one or two questions, or statements I would like to make in connection with probation officers. Yesterday, the Honourable the Attorney-General told us that there were 11 in the Province of Manitoba. Now, I understand that two . . . .

MR. LYON: . . . . since this government came to office. There are approximately 32 altogether.

MR. HILLHOUSE: Yes. Yes. And what is the total number now? 32 did you say?

MR. LYON: 32, exclusive of family counsellors. There are another six family counsellors.

MR. HILLHOUSE: That includes juvenile court as well?

MR. LYON: Yes.

MR. HILLHOUSE: Now, I understand that two of these probation officers have resigned and two more are contemplating resignation. I wonder if the Attorney-General knows anything about these resignations, knows any reasons why these resignations have been filed with his department? Now regarding the requirements and qualifications of applicants for the position of probation officer -- I wonder if the Attorney-General would tell us what the requirements and qualifications of these applicants are? And I would also like to know what the age limits are and what course of training that they take and the subjects which they are taught?

MR. LYON: Mr. Chairman, going back to some of the questions that have been asked today, the Honourable Member from St. Boniface, I'm happy to hear, is pleased about the case which is sub judice at the present time on obscene literature, and unfortunately we will not be receiving any examples of this literature from him this year as we have in past years -- that has removed one element of joy from the House.

MR. DESJARDINS: . . . . can permit, I could assure the Attorney-General there's still lots of room for improvement, and if this is the only thing bothering him I'll bring him

(Mr. Desjardins, cont'd) . . . . some tomorrow. Very much available.

MR. LYON: I think we've always looked forward annually to this occasion when the honourable member would bring to us certain of these books from his library. But . . . .

MR. DESJARDINS: Especially the illustrations.

MR. LYON: . . . . that he wishes us to look at, but as I say that case being sub judice it would be improper to comment any further at this time. He did make mention of a particular case, that of the former police magistrate who was sentenced to the penitentiary for 3 1/2 years on appeal. I make no comment upon that because I don't think that it's fitting and proper to discuss the determination of a case without having all of the facts and circumstances in front of one. I can tell the honourable member, of course, that the department did not agree obviously with the adjudication that the court of first instance gave in that case because we appealed it immediately to the Court of Appeal, where a sentence of 3 1/2 years was substituted. I merely point out to him however, and I do this in, I hope, a co-operative and a friendly way, that if we were to adopt the rule of thumb that he would appear to suggest to us, namely, that when a magistrate hands down one decision with which the Crown doesn't agree, that we fire him. Why, we wouldn't have any police magistrates left in Manitoba, because the method of dealing with these cases where you disagree, or where the Crown disagrees with a disposition by a magistrate -- and it does disagree occasionally with practically every magistrate in Manitoba -- the avenue of appeal is open by statute, and that is the avenue that was used here and a different sentence was substituted by the Court of Appeal. That is the function of the Court of Appeal because, of course, it realizes, the law realizes that no one judicial officer, no one justice can be perfect all the time. Neither my honourable friend nor myself, if we were to fill such a position, would be right all the time, and the function of appeal is to ensure that by and large the courts remain as consistent as possible in their sentencing practices. I would point out, and I do this not in a defensive way because I don't believe that the magistrate in question needs any particular defence from me, but I do point out that he has been serving as a police magistrate for 26 years. He was first appointed that police magistrate, on the 1st of June, 1937, and I think that the remedy suggested by my honourable friend would be far too drastic to be considered seriously at all by the department, mainly, the severance of his services because of one case with which the Crown obviously did not agree, and I merely point that out to my honourable friend and suggest that no consideration is being given to following the course of action that he suggests. The action that was taken I think was the proper action, to appeal the case and to have a different sentence handed down than was initially given.

The question of the licensing of river ferries is not within the purview of this department. I believe the Federal Government have some responsibility in this connection. I don't believe the Department of Public Works have the licensing responsibility although they may have some other interest in the matter.

The question of coroners. To the best of my knowledge all of the recommendations of coroners or coroners' juries are received by the department. I know that all of the reports, the conclusion reports from coroners' juries are received and perused carefully by the department, and where recommendations are made they're forwarded in turn to the department of this government affected or in some cases I've taken recommendations of coroners' juries which related to federal departments and have forwarded those recommendations onto the federal departments concerned, and it then rests with the departments, either provincially or federally, to take what action they feel necessary in the light of the recommendation that is made, but I do want to assure him that these recommendations are not overlooked. They are handed on for consideration by the jurisdictions having responsibility.

He mentioned the question of the serving of minors in licensed premises, and of course that is one of the continuing problems of any license system on the North American continent or in Western Europe. The problem of arbitrarily setting an age at which persons are allowed into and to drink in licensed premises is done in most jurisdictions. The onus, by and large, in all of the jurisdictions that I have any familiarity with, remains on the licensee. Sometimes it can be onerous, but by and large, I think, it's probably the only practical way in which to leave the matter because upon whom else are you going to place the onus if not upon the licensee who has the premises open and invites people, in effect, to patronize his premises? There must always be an onus upon the licensee. I know I've had many long discussions with

(Mr. Lyon, cont'd) . . . . hotelkeepers, with restaurant keepers of different associations about this problem. It's not a new problem. It's one in which I know they certainly have some strong feelings from time to time, but by and large the onus must remain upon the licensee to ensure that juveniles or non-adults are not served in their premises, and suspensions do arise having regard in each particular case to these circumstances. They are dealt with after conviction and at the determination by the Liquor Commission itself, not by this department, as to what the period of suspension shall be, as I mentioned particularly having regard to all of the circumstances surrounding the case. There may well be mitigating factors and these are taken into account where, for instance, such things as the appearance of the juvenile and the company in which he was, or whether or not he was at all questioned by the licensee. These are all factors that are taken into consideration, sometimes before any prosecution is proceeded with, and I merely want to assure him that the Commission to my best of my knowledge is not being arbitrary or harsh in this regard but it is attempting to fulfill the responsibility given to it under the Act to ensure that licensees are made aware of what their responsibilities are.

The Honourable Member from Inkster -- I appreciate his very kind remarks and we're always happy to have his contribution to this debate because we know his continuing interest in particularly the correction field. He asked the question, of course, why appeal cases? Well I think by discussing the one case we've indicated why it's necessary from time to time for the Crown to appeal different decisions of the courts in criminal matters. No one is perfect, not even the police magistrates, the justices of the Queen's Bench or sometimes even the Court of Appeal, and it is through this statutory process of appeal that the Crown or the accused -- and I mention this particularly; people seem to feel that it's only the Crown that does the appealing. By far the greatest number of appeals in the criminal field emanate from the accused who feels that he has not been properly dealt with in the court and he initiates a notice of appeal to a higher court in order to have that court determine whether his sentence was fit and proper or whether the conviction should stand, but in those rare cases, relatively fewer cases where the Crown appeals, it is because the Crown feels that the sentence was not proper having regard to the circumstances of the case or in fact that there may well have been dismissal where the Crown felt there was sufficient evidence for a conviction.

The Honourable Member for Rhineland says in one sentence that he approves of the new program of probation and the theme of rehabilitation and the treatment of offenders, and then on the other hand he goes back to the 19th century and says that we should be reimporting the doctrine of corporal punishment. Well, there was a Royal Commission on the question of corporal punishment a number of years ago -- a federal commission; I believe it was the senate and the House of Commons committee actually that sat on this question -- and their general view was that only in certain varied limited offences should corporal punishment be left in at the discretion of the sentencing judge to have inflicted upon the accused. In my experience, acting on behalf of the Crown or for the defence, I've never seen corporal punishment handed down by any court on an accused person. Very rarely today is it done. I think the general view, and I believe it's the right view, is that corporal punishment does not serve the deterrent purpose that it was thought to serve, but rather I think in most cases has the tendency to embitter and to move away from the rest of society the accused person whom you were trying to bring back into the stream of society, and so I must say that I, for one, am not an advocate of corporal punishment, and I'm afraid that his pleas in that regard would fall on deaf ears.

He asked about the local police in villages and towns, under what authority they act. Well, of course, the villages and towns are empowered under The Municipal Act to have a local constable. In some cases these constables have training by virtue of previous service in other police forces; in other cases they are what you might call raw recruits. There is no provincial police training plan of that nature, although the City of Winnipeg police department does hold annually an exceptionally fine police training school, and the number of the suburban Winnipeg police departments utilize this school quite effectively and have their suburban police constables trained in it.

The Honourable Member for Ethelbert Plains -- I can assure him, if he needed any assurance beyond yesterday's words, that there was no order emanating from the office of the Attorney-General of Manitoba with respect to the use of gasoline by RCMP vehicles, nor did I have in turn any evidence brought to my attention by the O. C. of "B" Division that such an

(Mr. Lyon, cont'd) . . . . order, if it did come to him from Ottawa, was in any way inhibiting the work of that force. As I mentioned yesterday, the question of the purchase of these articles such as vehicles and gasoline is now in the course of being decentralized to the different division headquarters, where each O. C. will have responsibility for the amount of petrol, or amount of fuel that he uses, and the vehicles that he requires for the responsibilities that he has in his area.

My honourable friend from Ethelbert Plains said that social assistance does not always prevent delinquency. I say "Hear, Hear". Of course it doesn't always prevent delinquency; nothing always prevents delinquency. But, the point I was trying to make yesterday was that social assistance combined with urban renewal, combined with community development programs, combined with Indian and Metis friendship centres, combined with the new sports and recreation program and the development of community leadership among people willing to work with young people -- all of these things knitted together do present, I suggest, overwhelming evidence of the intent, not only of this government but of the Legislature, of the Legislature of Manitoba, to meet the whole problem of, not only juvenile delinquency, but developing better social behaviour attitudes among our younger people. And I can't make it any clearer than I did yesterday. I think this is the proper approach. I suggest with deference that it is a better approach. Much better by far than having a committee attempt to sit around and eradicate the ideas for juvenile delinquency, because while they're sitting around thinking about what causes juvenile delinquency, tractors and bull-dozers can be out tearing down some of the tenements and so on, out of which these juvenile delinquents emerged, getting something else up in their place where a decent home life can be provided for some of these people. I don't need to draw the analogy any further, I don't think, Mr. Chairman. It's there; it's apparent. I suggest it is the answer, one of the answers to the prevention of juvenile delinquency among our young people. The ultimate answer to it I don't know, and I made this statement before in the House, because I'm not possessed of all of the keys to the secrets and the mysteries of life. The ultimate answer to correcting human nature I don't know. I don't know if anybody in this House knows. But these are -- we can make a pact only on those areas, those areas of social blight that we find within our communities, that we know for a fact do spawn good numbers of the juvenile delinquents who come before our courts.

Not all of our juvenile delinquents come from slum areas, that is very true. Some of them do come from what you might call homes in better class areas. But by far the great proportion of them -- and here I must disagree with him -- by far the great proportion of our delinquents do emerge from situations where there is a broken home regardless of the status, financial status of the parents, or where there is a broken home or a combination of alcoholism, unemployment, and many of the other social conditions that go to build up an unstable family life, in which the young person has not a fair opportunity to develop those attitudes of mind that are proper and that are healthy. And so all of these things must be considered as part of the over-all spectrum of the problem, and that is why it must be an over-all attack that should be made upon the problem, and I suggest, with great respect, it is just that kind of attack that is being made by the government in its various programs, not only through the Department of Welfare but in fact through all of the departments, because the Department of Health plays a very important role in this whole field as well, by upgrading the health standards of our people as much as is possible.

Now my honourable friend was talking about full-time magistrates. I thought we were in no disagreement on this subject. He did mention that there is no lack of qualified personnel. There is no lack of qualified personnel among the lawyers, but there is a lack of the qualified personnel who are willing to undertake the responsibility. He mentions the question of compensation. Well, compensation is one factor, and it's a factor to which I again suggest with deference we've been paying much more attention than was done previously. The two police magistrates from the City of Winnipeg at the present time receive a total compensation which is in excess of that received by the county court judges of Manitoba. Now I don't say that that shouldn't be the case, but I merely point out that in terms of compensation they are in a court which is inferior in jurisdiction, yet receiving more compensation or stipend than those who are in a superior court to them. I merely mention this in terms of indicating that we are looking -- not only looking, we are taking action in the field of compensation, and have over the

(Mr. Lyon, cont'd) . . . . past 4 1/2 or five years to ensure that the magistrates are offered a reasonable stipend for the very important services that they give. But notwithstanding this fact it still is extremely difficult to recruit on a full-time basis people who are willing first of all to accept the scales of remuneration that could be offered by any province for this work, and secondly -- and I think this is very important, because it gets away from the question of compensation which is not always the AI consideration -- secondly, that they must be willing to devote their full professional life to sitting in a police magistrate's court and adjudicating day after day upon these people who come before them. And this is a pretty sobering responsibility, as the Honourable Member for Inkster has mentioned in his remarks. It's a very sobering responsibility. And I think any lawyer would want to think twice, three times, or a dozen times before he said, "Now, am I equipped to do this, to devote my life to this, and to give my interest and my all to it?" because this is what it requires. And so, while compensation is one factor, and I don't deny that, I point out the other factor is to have a person who is willing, to say that he has those qualities which he feels he can devote on a full-time basis to this very important kind of work.

Now, the Honourable Member for St. George mentioned the question of Dauphin, which was mentioned yesterday by the Honourable Member for Ethelbert Plains. We have had -- this is typical of the problem that you have in trying to recruit even part-time, let alone full-time people to take on police magistrate work. I'm happy to be able to tell him, however, that Magistrate Walker from Swan River has been attending a court in Dauphin on a weekly basis since the retirement of Magistrate Hawkins, and in addition to that the High Sheriff, or Police Magistrate Manwaring is presently in Dauphin two days this week and will be in Dauphin two days next week to ensure that any back-log of cases is cleared up. But there is a good example of just what we have been talking about, the question of getting people, in this case local people, because it's impossible to service that court from Winnipeg or -- it might be more possible to service it from Brandon, but it's better if it could be serviced from its own locale -- and I'm sure, as my honourable friend my colleague the Minister of Education can testify, it's no easy job trying to recruit a person who will undertake those responsibilities, and by saying that, I want to tell you that we have tried, as I'm sure my honourable friend from Ethelbert Plains knows; and if it weren't that he had a certain disability, namely the fact that he is distinguishing this House by his presence here, why perhaps one or other of us might have been at his door before this time, wondering if he would devote himself to this work, because it is a person of his quality that we want -- (interjection: "Hear Hear") in that kind of a job, and -- (interjection) -- Oh yes, all we have to do is whistle. And we would like to get somebody there as soon as we can, and I can assure my honourable friend from St. George that just as soon as we can get a man to fill that position he'll be put in, because no one wants to do that any more than myself.

A court reporter. Of course they haven't had a full-time court reporter in that district for some years now. They have been serviced by the Minnedosa court reporter on a call basis. For many years, of course, there was no court reporter in Minnedosa, so while the situation is not perfect it's at least half better than it was before, because they do have the call for services of a court reporter as and when he is required from Minnedosa.

A provincial police court. I make no comment upon that situation except to say that Magistrate Cousley is operating as police magistrate in that court on a full-time basis and, as I understand, operating extremely efficiently and well as we knew he would. And when the day comes that another person can be found to fill that vacancy, or that the present magistrate decides that he wishes to be freed of those responsibilities, then an appointment will be made to that court as well, but in the meantime the work of the court certainly is not suffering; in fact, I think we're extremely fortunate, the province is fortunate to get a man of his capability to undertake this responsibility.

The Honourable Member for Selkirk raised the question of the number of probation officers who have terminated their employment with the provincial directorate. There have been a number of severances over the past year, as there were in years gone by, and that of course is one of the problems in this field, trying to retain your trained people with proper salary incentive, with the proper in-training program, and so on, so that there are these built-in incentives in terms of promotion and salary that will ensure that they stay with you. I've

Mr. Lyon

(Mr. Lyon, cont'd)...looked over from time to time the reports on severances from the department. Some go to the same or allied fields in other provinces, or to -- in the odd case -- other agencies within Manitoba. A number, however, do quit to go back to university. One or two benighted souls have even quit this profession to go into the practice of law, or to enroll in a law school, and I can hardly be heard to object to that, going to that higher calling, even for probation officers, but a number go back into business; some move out of the country and so on. There are a variety of reasons for severance and they do change over from time to time. We're aware of it, and it is through items such as the amount we have provided in the Estimates for a review of their salaries by the Civil Service Commission and by increasing the number so that the case-load does not become too onerous on them that we attempt to make the conditions of their employment more satisfactory each year. We haven't reached the millenium on that, however, and I don't suppose we will in anybody's time here, but certainly we're aware of it and are working to try to overcome it.

MR. PAULLEY: Mr. Chairman, I didn't have an opportunity, as we're well aware, yesterday to reply to the minister when he was talking of the approach of the government toward the very vital question of prevention in the field of prevention of crime among our youth and the citizens of the Province of Manitoba; but I want to reject, almost in its entirety, the rebuttal of the Attorney-General when he mentions the fact that through the programs in the Department of Welfare -- slum clearance and the likes of this -- that the approach insofar as prevention of crime is well on its way, because I don't agree with my honourable friend that it's only through the eradication, or in general through the eradication of our slums and the likes of that, that we are going to materially reduce the number of delinquents. I'm positive in my own mind that too much emphasis is given insofar as crime itself is concerned to the -- let us call it the lower category, financially at least, of our population -- because when we read the reports of the jailers in the Province of Manitoba, as we have before us today -- the report for instance of the jailer in the eastern judicial district -- we find that, of a total population within the eastern judicial district jail of 3,564, there were 3,215 who could read and write, so certainly it is not a question of illiteracy. The Honourable the Attorney-General, when he was giving his rebuttal to our contention yesterday afternoon, emphasized and repeated time and time again the question of the establishment of Indian and Metis Centres, both here and in the northern part of Manitoba, and I think, Mr. Chairman, cast somewhat of an aspersion against these people, because we find in the total population in our jails -- and while in relationship to total population it may seem high -- that in the eastern judicial district with the Indian and Metis combined, there were 612 inmates over the period of time as against 2,965 so-called whites, in the report of the department, and I think that this is detrimental to the well-being of the Indian and Metis when we hear such statements made in this House, as one of the solutions is because we are establishing Indian and Metis Centres. It seems to me that it ties in the reason for the establishment of these centres to the question of crime, and I don't think that there is any association at all between the establishment of Indian and Metis Centres with that dealing with the question of crime which is under discussion at the present time in this House, and I think that my honourable friend the Attorney-General is doing a disservice to the Indian and Metis in the Province of Manitoba when he attempts to link up the question of crime with the establishment of Indian-Metis services. Certainly it is our duty, as members of this Legislature and citizens of the Province of Manitoba, to do all that we possibly can within our power to bring about a closer relationship between our Indian and Metis friends, but I think the example that the Honourable the Attorney-General used in connection with the prevention of crime, the establishment of such centres, is far out of line and should not be considered in this House.

Now then, as one goes down the list of the occupations of the inmates in our prisons over the year under review we do find that there is a preponderance of inmates in the lower economic strata insofar as income is concerned in the Province of Manitoba, but I wonder, Mr. Chairman, whether the fact of the matter is that many of these people in this lower economic group are only in prison because of the fact that they are not enabled to provide for themselves or have provided for them qualified legal counsel which would prevent them from being incarcerated. I think this is a fact that we must take under serious consideration in this Legislature. I know we've had resolutions before us insofar as the provision of public defenders

(Mr. Paulley, cont'd).....and this, that and the other is concerned, but I'm wondering, when the Attorney-General attempts to link up economic strata with the question of crime and crime prevention, that he is missing the boat entirely. I wonder how many, how many who are listed here in the lower economic groups would not be listed as being inmates if they were provided with adequate and qualified legal advice.

Now then we can only deal today with the question, in general, of adults. We were concerned when we were speaking yesterday with the prevention of crime and the tendency toward crime with our juveniles and our youngsters, and certainly the rebuttal of the Honourable the Attorney-General does not substantiate the fact that slum clearance and the likes of it is materially aiding in the objectives that we on this side of the House, and in particular this particular group, has in crime prevention. I would ask the Minister for the following year, that in addition to giving us the annual report of the jail population, the status of the various inmates in the jails as is done at the present time, that he should in addition to this give us the same type of information insofar as our juveniles are concerned, because we, as far as I'm aware, are not provided with a report of any general nature -- or specific nature -- in respect of the inmates in our detention homes; and I would like the Minister to take this under consideration so that we have this information in a concrete form, so that then we will be able to know of the tendencies of our youth, the number from the various economic groups which are in detention because, if memory serves me correctly, one of the more troublesome delinquents that we've had recently in the City of Winnipeg, that caused a considerable amount of publicity through the media of our press, was not from an individual who is on the other side of the tracks, figuratively speaking, but one who came from the so-called better side of the river. We don't get this information, and I suggest to my honourable friend the Attorney-General that the answer doesn't lay entirely, or even to a considerable degree, in the programs that he announced, of social welfare; of Indian and Metis Centres; of slum clearance; in the question of crime prevention. It's far more important than that, and that the emphasis, in addition to these things which aid in the well-being of the individuals in this particular economic sphere, certainly slum clearance aids them, but I do suggest, Mr. Chairman, that the answer is not the answer of the Attorney-General; that the question of crime prevention does not lay to, even part, to the degree that he emphasized yesterday afternoon, and that we've got to concentrate on all aspects of juvenile crime prevention and the prevention of crime, and we cannot localize it or even attempt to localize it; and when the Attorney-General uses the activities of government like he did yesterday afternoon as a justification for the programs of the government of the Province of Manitoba -- and I don't care two hoots what the political stripe of the government may be -- when a government does that, no matter what they are, they're closing their eyes to the true situation, and crime prevention is not a question of raising the social status of individuals through the media of -- as I say -- Indian and Metis Centres, slum clearance, and the likes of that. It should be a continuing job which is necessary in all spheres of the economic life of the Greater Winnipeg area and the whole Province of Manitoba; and I ask the Minister, I ask the Attorney-General to take off the rose-colored glasses and to conduct a proper program for crime prevention all across the whole of the Province of Manitoba in order that the job may be achieved.

MR. LYON: Mr. Chairman, I don't want those remarks to go unanswered too long because they are a set of the most ill-informed remarks that this House has been forced to listen to for some considerable time.

MR. PAULLEY: .....than yours yesterday.

MR. LYON: I wonder where my honourable friend has been during this last five years when I hear him try to pass the innuendo in this House that this government or this minister is casting any aspersion upon the Indian or Metis people of the province because he mentions in passing that we have a community development program, ....

MR. PAULLEY: I'm only going by the remarks of my honourable friend yesterday afternoon.

MR. CHAIRMAN: Order, order.

MR. LYON: I mentioned the community development program, the Indian and Metis Friendship Centre, and the other things as part of the whole spectrum of attack that the government is making upon the whole problem -- the whole social problem -- which is perhaps a

(Mr. Lyon, cont'd). . . . . little bit too broad for my honourable friend to comprehend but it's there nonetheless, and I merely want him to know that the -- no aspersions; I don't have to tell him this because his agile little mind I'm sure has already told him -- that no aspersion is being cast upon Indian, Metis, Germans, Latvians or anybody else in any remarks that we may make. He says on one hand that criminals come from all economic strata of society. That's true. Why I even noticed that there were I think two lawyers in jail, and there were three upholsterers last year, but one of . . . . . I thought there were three. Both of our professions were represented so nobody is making any argument over that. What I want to tell my honourable friend is this, that we have to bring to bear upon those elements of our society regardless of their economic status those forces that government can muster and commandeer to meet these situations which do bring about, not only delinquency, broken homes, neglected children, all of the social problems of which delinquency is only one. Now I would have thought that after five years of listening to progressive estimates from the Minister of Health and the new Minister of Welfare of this government my honourable friend would have had that basic education; and if he disagrees with these programs of community development, for instance with respect to Indians because he thought that the programs were casting some aspersion upon the Indian race, well then he shouldn't have voted for them. I mention them because they are here, they exist, because they are needed, not in any sense of casting aspersion upon the people who need them, but because the fact remains that the need is there. Winnipeg, as a large sprawling urban centre, attracts good numbers of these people from reservations and from near reservation areas into its heart and into its centre. They find it extremely difficult, in some cases impossible, to meld themselves into the community and into the way of life. They're taken advantage of. They're taken advantage of by a good number of our people who have been here for many years; and this is the type of thing that Indian and Metis centres try to overcome. Need I spell out to him, Mr. Chairman, the type of situation that arises. The Indian girl who comes into Winnipeg who is perhaps staying with friends or relatives walks down the gawdy Main Street and sees the big lights of the city for the first time and is imperturbed by some stranger to come and join her, ends up a little later on that day, or the next week in a drunken condition on the street. Doesn't know how she got there and so on. My honourable friend is man enough of the world to know that these things happen, and that's why we have Indian Metis Friendship Centres. That's why we have probation officers. That's why we have family counsellors who can get next to people of all extraction who need this kind of assistance, and I rather resent this silly innuendo that he tries to pass around the House, probably for the benefit of the press, that this government is trying to cast any aspersions upon the Indian race. It isn't. It's trying to face up to the problems that exist.

Now, my honourable friend wants to talk about the Indian Metis problem as we see it in corrections. I talked to him about the Dauphin Jail, and I talked to him about the Portage Jail for Women, because if he will look at those same statistics, and they're here, for the Portage Jail for Women, he will find, and this is not a happy fact -- nobody gloats over it -- but it is a fact that out of 497 women admitted to that jail 382 were of Indian and Metis extraction. Are we to disregard this? No, we went ahead and my honourable friend and the other members opposite last year voted money so we could build a special facility in The Pas to treat these people instead of sending them down 4 or 500 miles to be incarcerated in Portage and to give them the kind of treatment that they need and that they deserve and that will be of help to them, in the particular circumstances in which they find themselves particularly in our northern communities. If that's casting aspersions upon these people, why I stand guilty. But I don't think it is. I think it is offering the hand of help to them, and I think my honourable friend agrees and knows that this is the case. The Dauphin Jail, much the same thing, a heavy population there because of the proximity of a number of reserves, a heavy population of Indian and Metis people. Are we to disregard this fact and not have Indian and Metis Friendship Centre in The Pas because my honourable friend's logic, if it could be graced with that word, would be applied and we could then say well these people don't need any help; of course there's no problem existing at all. We're not blind, neither is he. We know that the problem exists and we're trying to bring to bear upon the problem all of the resources of government that we have. I've never suggested for a moment that all of the things that government is doing that all of these things are enough. Nobody could stand up in this House and make that statement.



(Mr. Lyon, cont'd).... Much more could be done. If he would adopt some of the more moderate, and I think with respect more intelligent thinking of his seatmate on his left, he would realize that everything should be better and there is no top to better. That's precisely what the Honourable Member from Inkster just finished saying. There is no top to better. We know this; the Honourable Member from Inkster knows it, and I'm sure my honourable friend the Leader of the NDP must know it as well, and I ask him to cogitate upon that for a while before making such ill-informed remarks as he just gave the House. Then he asks the rhetorical question: "Are a good number of these people whom he had just set out to prove are not there, because they're all in a low-economic status, he says, "Are a good number of these people" and a preponderance of them he says who are there are of low economic status, "Are they there because they can't get legal counsel?"

Well we've gone over that debate in years gone by and I tell my honourable friend that they aren't there for that reason, because the Law Society of Manitoba inco-operation with the Government of Manitoba, makes counsel available to them, on as good a scheme as exists anywhere else in the Dominion of Canada. And not only that, does he think that the probation officers are a bunch of bumps on logs, sitting around not giving any advice or counsel to these people. Does he think everybody is an inhuman sort of a cog in a wheel that just unmercifully grinds forward paying no attention to human compassion and so on? Policemen are human beings. They have compassion; they have feelings the same as my honourable friend and me. They give advice from time to time. Court officers, probation officers, the Magistrates aren't automatons -- they don't sit there and say "You're going to jail because my feet are hurting today." They don't do that. My honourable friend knows that they don't. And to cast this silly type of aspersion around in what was, at one stage at least, a rather good debate on certain issues, is to me just nonsensical and I ask my honourable friend to pay a bit more attention to the facts and realities of life when he starts commenting upon a subject which is a real problem, not only in Manitoba, but right across the whole Western World. He knows that. We're doing what we can in Manitoba and we're doing very much more than has ever been done before, and there's still a long way to go, but we're doing these things in the full knowledge of the facts of the situation, and we don't need this type of, as I say, rather ill-informed and silly comment to help us or hinder us along the way.

.....Continued on next page.

MR. PAULLEY: Mr. Chairman, I wondered for a moment whether or not I should take my handkerchief out of my pocket and wipe the tears from my eyes after listening to the dissertation of my honourable friend the Attorney-General. My honourable friend -- (Interjection) -- no, it might not be big enough. Because of all that is left of an individual who is desirous of helping out the situation in Manitoba -- if I was less desirous of making the situation in the Province of Manitoba better than it is, then I'd be weak enough to allow the oration and tirade of my honourable friend to bring tears to my eyes, but being firmly convinced as I am that the department is not doing the job that it should do in the field of crime prevention, Mr. Chairman, there were no tears coming even though I listened to the "bunkum" of the Honourable the Attorney-General.

He mentioned to me that it was a bunch of silly remarks that I made. He tried to establish the fact in his discussion on the Indian and Metis, that because of the fact I had supported in the past appropriations toward the Indian and the Metis Friendship Centres and the likes, that I should not raise any question pertaining to this in the House. He mentions the fact that being here for five years, that I must have been asleep or that I wasn't sincere in passing, assisting in passing estimates for Indian and Metis Centres and the likes of that. I want to tell my honourable friend he has been here five years and I've been here more than double that number of years, and, irrespective of what is being attempted by the government that is in power today, I will continue my struggle and my efforts on behalf of all the citizens of the Province of Manitoba. The reason I introduced the question of the Indian and the Metis into this discussion was because in the ten or more years that I have been in this Legislature, this is the first time that any Attorney-General had introduced into the department estimates of the Attorney-General, who is charged with the responsibility of crime prevention and correction, it is the first time that I can recall that the introduction of the subject of the Indian and the Metis has been brought into this House in a discussion of crime prevention, and -- (Interjection) -- Was you here Charlie? What's nonsense? What is nonsense?

MR. LYON: My honourable friend . . . . . last year for special facilities for Indian and Metis women in The Pas. Where was he?

MR. PAULLEY: Mr. Chairman, we did not pass an appropriation in this House last year, in all deference to my honourable friend, for the establishment of a jail at The Pas or anywhere else for the Indian and the Metis. We passed an appropriation here for the establishment of a jail which, in my opinion, is a vastly different appropriation than that that is suggested by my honourable friend. And if the day comes that we do start passing appropriations, as suggested by my honourable friend the Attorney-General, for Indian and Metis and another jail for the Russians and another one for the Ukrainians, I don't want to be in this House. If that is the suggestion of my honourable friend, then I suggest that he take another look and read his remarks. And I say this: the objective of the establishment of the Indian and Metis Friendship Centres is not the establishment of crime prevention centres as suggested by my honourable friend, but to bring about a closer relationship between we so-called whites in the Province of Manitoba and our Indian and Metis friends. It is my honourable friend, through his remarks, who is casting and continuing to cast aspersions on the Indian and the Metis in the Province of Manitoba. He says that my remarks are silly. I suggest to him that he take a close look at what he has had to say in this debate.

He accused me of raising this question simply for the benefit of the press. I don't care two hoots whether the press records or reports anything that I have to say in this matter. I certainly am not raising any question in this House for the benefit of the press and I regret and resent very much the remarks of my honourable friend. But I still say, Mr. Chairman, I still say this -- and this is the point that I raised and I'll continue to raise it until the Attorney-General and the Government of Manitoba get up off of their seats and start working on a comprehensive and constructive way in the field of crime prevention in the Province of Manitoba -- my honourable friend may sit back there in glee because he made the statement that we here in the Province of Manitoba are doing more and better than any other jurisdiction in Canada. Well it might be, but why measure up the inefficiencies of other jurisdictions by the inefficiencies of this government of the Province of Manitoba.

I want to say in conclusion, this time at least -- unless provoked again -- I want to say this in conclusion, Mr. Chairman, that I'll debate this question with my honourable friend the

(Mr. Pauley cont'd) . . . . Attorney-General at any time or hour, anywhere that the Province of Manitoba is dragging its feet in the whole question of crime prevention and I will continue to raise in this House this very vital point until there's at least an opening of the dark clouds existing in the Province of Manitoba at the present time.

MR. DESJARDINS: Mr. Chairman, I asked some questions of the Honourable Minister and there are some answers that I haven't received yet. I was talking about that there certainly should have been more progress in trying to do something to have mental patients sent to mental homes instead of jail, and there has been nothing said on that. I'll just read something that was in the paper just a few days ago, just a couple of lines. It says here: "A 62 year old man was sentenced Friday to 23 months in jail on five charges of gross indecency, and the magistrate said, some day when they've amended the criminal code I'll be able to sentence people to mental institutions. The magistrate said, I wish I could." Well, this is what I mean. This is something that I think will take a while to come but that the government should discuss this with the Attorney-Generals of other provinces and I think that this would be going the right way, because unfortunately there's too much of this done.

Now going back to this Webster case, the Honourable the Attorney-General mentioned that just because a man makes a mistake this is not enough to warrant any action at times, and he also suggested that he and I are not without making mistakes either. Well that I understand, but this was not my point at all. I'm not suggesting that every time that the Crown decides to appeal that a man should be fired, but this -- let's not kid ourselves, this is a special case. The accused was a former magistrate and, I don't know, it seems to me that the people of Manitoba won't think that that this is just a mistake. When you read somewhere that somebody steals \$30 and spends two years in jail and somebody steals about \$38,000, somebody that should know a little more than this, and gets two weeks, I think that there's a little mistake there somewhere--more than a mistake --I think that at least there should be an investigation. I don't care if the man worked for 24 years. I think that we owe it to the people of Manitoba, if we want them to respect our laws, to respect the government, I think that we have to make darned sure that they have something to respect. A man could work maybe 20 years, but that doesn't mean that he can't do anything wrong. I think that this is too important to suggest, as the Attorney-General said, well he doesn't need any defence. I think that this man needs an awful lot of defence and, if not, the government does because if this is allowed to keep on, if this is justice, well the people of Manitoba will certainly soon forget the respect that they have for legislature and the respect that they have for the government and for the laws of Manitoba.

The Honourable the Attorney-General has not said too much about my question on the Whiteshell Rehabilitation Camp. He probably forgot this. I would like to know -- as I say, this is no -- I'm all for this rehabilitation camp and I think that it should keep on going, but, nevertheless we have to protect the people out there and I think that he remembers now and that he will say something.

Then there was the question -- oh yes, the ferries. There's the -- I don't know, there's only one kind. As the Attorney-General said, this is under the federal government, but at a hearing here at the death, the gentleman, Mr. Green, who is the Administrator of The Canadian Shipping Act, says that there were a couple of ferries that were not registered and ferries operated by the -- the barge operated by the province. It might well be that this is a federal responsibility, but nevertheless we've had -- this is very serious -- I think I'll come back to this later on.

MR. LYON: Mr. Chairman, I judge from my honourable friend's remarks that there are "ferries" and "ferries", but I defer to his superior knowledge in this field and I'm afraid I can't enlighten him any further than I already have done. Perhaps he would like to meet with me after the House adjourns and we could go into this question of registration a little bit further.

He raised a very important point and I'm sorry I inadvertently overlooked it in discussing his questions before -- the question of the accused person who suffers from some form of mental disorder and who is, under the terms of the Criminal Code, then incarcerated in a jail. The question may well be asked, and I think it's properly asked, what happens to him from that point on. Well of course within the department we have the departmental psychiatrist, Dr. Little who is primarily responsible for juveniles but who, at the same time, does some case work among adult offenders who go to adult institutions. In addition to that, of course, we have the

(Mr. Lyon cont'd) . . . . . facilities of Selkirk and Brandon and Portage available from the Department of Health and referrals are made to those three mental institutions from the jail system of the province. At the present time we are working in close co-operation with the provincial psychiatrist on a form of pilot selection program whereby, with the concurrence of the prisoner, because it is only with his full co-operation that this work can be carried on properly, they can be transferred from, say Headingley or from the Gaol for Women at Portage or from Brandon, to a mental institution and there receive treatment for the particular disorder that they are suffering from.

I believe at the present time there are a few such cases who have been selected just recently under this program in order to ensure that where the prisoner is willing himself -- and this is assumed of course that he is not a committable person -- he must be beyond that veil of commitment because if he is committable of course he will go to the mental institution by order, but where he is not committable, but where he does suffer from a mental disorder, the plan is working whereby the psychiatrists work in conjunction with the superintendents and the directorate of corrections in the department and try to select persons who are in need of this kind of help and who then volunteer to go to the institution and live pretty much in minimum security atmospheres and to meld right into the institutional atmosphere and to get the benefit of the training that is available. I'm sorry I can't tell him that we have large numbers availing themselves of this program because I can't at the present time. There are only a handful, two or three, but of course there are not all that many who are really suffering from identifiable mental disorders. Some of them are suffering certainly from vast social disorder, that is in terms of their outlook on life and so on, but where identifiable mental disorders are the case we are trying to get these people of their own volition to volunteer to go to the three mental institutions which, by the way, have been declared to be jails within the meaning of The Provincial Gaols Act, so that they can serve out their terms in these institutions and at the same time receive the treatment that is available to them there.

He raised another very valid point and I'm glad he did, to give me the opportunity to speak upon it, the question of a number of break-ins that have occurred from the Bannock Point Rehabilitation Camp. I was very happy to hear him say, Mr. Chairman, that he was not raising this in an attempt to blacken the mark of the camp because that's precisely the attitude that we have to have among the public to ensure that this very desirable program is able to function, but the fact is that, of the twelve I think it was, twelve or fifteen who have been prosecuted for walking away from the camp, a number of those at the Bannock Point Camp did break in to neighboring summer cottages and caused some damage to door frames, broken window panes and so on. The RCMP, of course, did immediate investigations in order to ensure that these people, when apprehended, were prosecuted, and they were prosecuted. Then the follow-up was undertaken by the department on the basis of the information given to us by the RCMP, to write to each of the cottage owners affected and tell them that the cottage had been secured, which was the case. They went to each of the cottages and secured them with plywood and so on from the ravages of winter.

We have also undertaken, although there is no legal responsibility or liability on the department naturally for break-ins, even though they occur because of people who get away from government institutions, we have offered on a "without prejudice basis," in the spring when the cottage owners go back to their cottages, to send work parties around from the camp to repair any damage that may have been done to door frames and to windows and screens and so on, because it is very important that we retain the confidence and retain the support of the community in which these camps are located. This is as much of a gesture as we can offer. I hope it's more than a gesture, in order to indicate that we wish to make good the damage that was done from these isolated out-breaks, and of course we're hopeful that they will be few in number. The camp at Falcon Beach, as an example, has had only one such instance and there it was not a private camp that was broken into but rather a commercial place, and it's just that at the Bannock Point place the ones who did get away, for some reason or another, tried to break in to a few of the summer camps there and that is being looked after at the present time.

But I thank him for raising it because it's a matter of concern, I think, to any cottage owner in these beaches to know that his cottage is safe from this type of thing. We're doing our best to ensure that that is the case and, where isolated instances occur like this, we'll do our

(Mr. Lyon cont'd) . . . . . best to make sure that proper reparations are made in the form of repair to the cottages.

MR. HRYHORCZUK: Mr. Chairman, at this particular point, has the Honourable the Attorney-General any reports of break-ins in the cottages in the Duck Mountain Forest Reserve? I wonder whether the regulations covering these institutions have anything to do with it. How much freedom is allowed to these inmates? What are the hours? What are the bounds and what type of guard system is there invoked in these institutions?

MR. LYON: Mr. Chairman, I'm happy to be able to tell the honourable member that there have been no break-ins of any kind reported from the Cache Lake Camp at all. The general daily routine of the camp is, in a very general way, along these lines. The men work an eight-hour day; the camps themselves are pre-fabricated, built by the prisoners at either Headingley or Dauphin and then taken out and erected on the site. They are, in all respects, very similar to the average type of forestry camp that you would find in any part of the forested area of this country. There are no bars on the windows; no locks on the doors, except on the store-room; and the fact is that if a man, if one of the trainees wishes to get out it's quite easy for him to get out, because all in effect he has to do is get up and open the door and walk. But I think the interesting point is that of the 1215 that we have had, I think the figure was either 12 or 15 have actually walked away out of that total. That's less than 1 percent, and that's, I think, a very very good record in itself.

Now, when they're out on work parties, they're under the supervision of guards at all times, and as well, they have the project director usually from the Department of Mines and Resources laying out the work for them and he is generally around in the area. They are pretty much on their own, but they're under general surveillance. There'd be a party of say, four or eight or a dozen under the surveillance of one or two guards. The guards remain at the camps on a 24-hour basis and are recompensed for this time by additional salaries because they stay there on a 24-hour basis. They're in effect on duty when they're sleeping, because they sleep in a different wing of each of the camps. But it is a very open type of camp; there's no question about that at all. There is ample opportunity presented for anybody who wishes to walk away. The opportunity is right there, but we try to overcome this, and I think our experience has been a successful one, on the basis of the selection of the inmates to determine that we get out there the type of person who will respond to the program that's available and who will stay within the bounds of the camp. Now they do lay out certain bounds, and if a man is found wandering beyond the certain bounds he's presumed then to have walked away, but there's no fence or anything like that to keep him from going. A large part of it is the honour system, and, as I say, the remarkable thing is that it has worked so successfully as it has over the past three or four years.

MR. HRYHORCZUK: Mr. Chairman, if any of these inmates can walk out, I guess they can be away for an hour or two and walk back without being noticed too. Is that right?

MR. LYON: It's possible, but any that have gone away, they've been detected almost within the hour pretty well, and the RCMP are located, usually sufficiently close to each of the camps so they can be called in immediately, and of course the guards themselves can do whatever they can to call in whatever assistance they need. But, as I say, there has not been a bad rash of these, although those that have occurred have certainly caused the directorate to take a look again at the selection program to make sure that we tighten up, if tightening up is necessary, on the selection so that we get the type of person out there who is going to stay.

MR. MOLGAT: Mr. Chairman, I want to thank the Minister for the statements he made yesterday with regard to the Juvenile Detention Home on Vaughan Street, and to see that he is adding staff to permit better handling at that institution. I think all the members in the House are in agreement that the prevention of crime is the most important function that the department can pursue, and surely it's in the juvenile field where we have to begin this because if we can stop them at that stage, then obviously it removes the problem later on. Now in the additions of the staff that the Attorney-General mentioned, I believe he said six guards, and then one probation officer -- (interjection) -- four guards.

MR. LYON: There will be one probation officer assigned to the juvenile wing -- the Juvenile Court exclusively; the other two will be Brandon, Portage and one to the city magistrate's court.

MR. MOLGAT: One probation officer, but six guards, is it not?

MR. LYON: Yes, but that's to augment the existing staff of eight, I think it is, who are juvenile probation officers exclusively.

MR. MOLGAT: Yes. Well I think this is a good addition, Mr. Chairman, because certainly until now there's been a shortage of staff in that particular field. I understand that during the day there are people on staff, but at night actually, it's the guards from the senior portion who have to do the supervision, and quite obviously I don't think that they are in a position to do this. The boys are locked up in their rooms and have infrequent visits from the other guards.

The real problem though at the Vaughan Street Detention for Juveniles is the question of space, Mr. Chairman. I think it'll be impossible to do a proper job in that institution and to have the personnel whom my honourable friend hires accomplish what we all want them to do in the amount of space that there is there. I haven't checked it out exactly, Mr. Chairman, but I would suspect that there's not much more space in that section for juvenile boys, where there are 20 beds, than there are presently in the offices, the personal office of our honourable friend and his waiting room. This is about, I would guess, just about the amount of space. Now it's impossible in that location to do the job that needs to be done. At the moment the bedrooms, such as they are, with double bunks for 20 boys are locked during the day. This leaves that corridor and the end room for all the other activities, which means for eating, for recreation, and for any classes which are attempted to be run there. Now, surely this cannot be done in that type of space, Mr. Chairman.

So I would recommend highly to the Minister the immediate start on provision of other space for the juvenile centre. In other localities, for example Vancouver or Minneapolis, the provisions there are usually for one room per juvenile. I think I have here some figures from Vancouver. The total bed capacity is 40, 25 boys and 15 girls. Each inmate has a room for him or herself, and so on. The situation in Minneapolis is very much the same. Well possibly we can't reach that right now, but surely for the other activities, Mr. Chairman, it is essential that there be space.

One of the things that we should have there immediately is a full-time classroom, because we are having youngsters there, in some cases because of truancy, so we bring them into the juvenile centre because they're not attending school elsewhere and we keep them there and they can't go to school while they're there. Now the first requirement then, it would seem to me, is a classroom with a teacher, so that there would be a full-time class going on. I realize that this would be revolving but, nevertheless, whatever time we can spend with them on classrooms would be that much gained. The second requirement should be a workshop with an instructor, because unless we have this, then for those juveniles who are presently out of school and who end up there, we have no activities for them to follow up. Now these two would be part and parcel of a proper use of the time of the juveniles who are in there and of the staff that we have.

It seems to me, as well, that we have to do more in the way of segregation. I understand that at the moment if a juvenile is taken to court and is sentenced, let's say to the Portage Home or to psycho ward at General Hospital or whatever is done with him, he simply goes back in with the other boys in the centre and is kept there for, I think, a twice-weekly transport to Portage. Now this is not desirable because if sentence has been passed, then that youngster should not be kept with the others who are there and who are simply under detention.

The next step, of course, is more probation officers. Now yesterday the Minister said that he would be glad, if I remember correctly, to have \$100,000 more for probation officers, and he received the approval of both groups on this side of the House. So my question is, why doesn't the Minister get \$100,000 more? There are no objections from the other members of the House, why is it then that he doesn't include in his estimates another \$100,000, because surely at the moment the probation officers are highly overloaded. In reply to a question yesterday, the Minister gave the figures, I believe of 1,506 as the 1962 case load. Now I haven't been able to total exactly all of the probation officers but I believe there's something like 16 at the moment. Is that correct.

MR. LYON: Thirty.

MR. MOLGAT: Thirty? In all of the province? Well I'll have to recheck my figures in that case. What I would like to know from the Minister, in the case of the Juvenile Detention Home, is the average case load per probation officer. My information is that it's somewhere

(Mr. Molgat cont'd) . . . . . near 100, and quite obviously this means that they cannot do the job that needs to be done in the prevention at this most important stage. I understand, as well, that in some cases we have to keep boys in the detention centre for longer periods than necessary because the probation officers are overloaded. Because they are unable to get at the cases immediately, we sometimes have to keep boys, I understand, for up to two weeks waiting for probation officers' reports. This obviously is not a desirable situation. I realize the Minister told us yesterday that the average stay at the Home is four or five days, but this is counting all entrances. Some entrances are for a very short period, a question of merely hours. This means, naturally, that others are there for much longer periods than four or five days, if we reach an average of four or five.

The outcome of all of this then, Mr. Chairman, is that while the Minister is providing more staff, and this is desirable, that we cannot accomplish the job that needs to be done in this field without more space. If the Minister agrees, and he seemed to agree with me, by nodding his head, that there should be classroom facilities and teachers; there should be workshops and so on; and that there should be more space; then the next step is very simple, and that is to provide another building for this field. Until we do, I don't think that we'll be accomplishing the job that all of us are interested in in the field of juvenile detention.

MR. LYON: Mr. Chairman, I thank the Honourable Leader of the Opposition for his constructive comments, and I find little in what he has said with which to disagree, although I can tell him the case load. The average monthly case load of juvenile probation officers for 1962 was 74, and for adult probation officers was 78.

Now coming to the question of the Vaughan Street Detention Home, we have had in years gone by some discussion of that facility, and last year a number of members availed themselves of the opportunity of going through it and seeing it. There have been some, no serious structural changes to it since that time, but the main change of course was the one that I outlined yesterday; namely, the work, the very splendid work that's being done by the counsellor who is attached to the staff now for the sole purpose of attending to activities of the boys and girls while they're in detention. He touched on a real problem, of course, when he says that space is inhibited there. It is inhibited there; there's no question about it. The building of a new facility will just have to be in the books before too long because we're a growing, soaring urban centre, and we're getting, with our increase in population, whether we like it or not, as each year goes by we're getting more of these problems coming to us.

The fact that a new facility will have to be built some time in the future was, I think, acknowledged by me last year. I don't defend the present facility as such. I do say, and I think he will appreciate this, Mr. Chairman, that it is a question of priorities as to where we put the money that is available for the work that has to be done. Certainly just as soon as it is feasible and possible to provide a new facility, that will be done, but it is not in the books this year. But we are extremely heartened by the excellent work that has been done, even acknowledging the inhibitions of the Detention Home, that has been done in terms of counselling over the past year.

School training is a very difficult problem to assess in a detention home because you have very many conflicting factors, the most of which have been mentioned by the Leader of the Opposition, Mr. Chairman. The short stay -- you get children on the average of four to five days. It's true, some of them are there longer, a week, two weeks. Some of them are there for only a day, and they're dealt with and go back to their homes. In fact, that is an interesting point that I think we often tend to overlook. The bulk of the children who are brought into detention ultimately go right home again, or very shortly after, because they're put on probation and out they go. It's only the hard core cases that we get to keep that reflect in our population figure of any length of time, that is four to five days, who stay in the institution, but by far the bulk who are brought there and by far the bulk of the children who are dealt with in the juvenile court are dealt with in a summary fashion and very often sent right back to their homes. The Honourable Member from Selkirk touched on this point, that a number of the offences that they are there for are trifling, that is in relation to some of the more serious offences that we associate with juvenile delinquency. For instance, if a juvenile is arrested for -- or given a ticket for a highway traffic act offence he doesn't go to the juvenile detention home, he's dealt with just as any of us would be, by being given a summons; his parents are notified; he shows

(Mr. Lyon cont'd) . . . . . up in court; he receives his fine and so on. He becomes a statistic as a juvenile delinquent but he is a juvenile delinquent because he went through a red light or so on, but these have a tendency to build up the statistics of the cases that are handled by the courts. These, by and large, do not get into the detention home. The ones who get in are those who have committed break-enter-and-theft; who have some problem with sexual immorality; who perhaps are runaways, which is quite often the case, and so on.

Now schooling -- we are attempting to give what schooling we can, as I mentioned yesterday, through the office of the counsellor and he is conducting elementary school classes regularly at the detention home at the present time. I'm not positive of this, but I believe that they are conducted in the general room at the end of the hallway because that's the only open space, the only congregation room where they can meet. That is one of the reasons, of course, why outside program has been given considerable emphasis, that is YMCA swimming trips, industrial tours, trips out to the park, recreation, ball games and so on and so forth, because there is an inhibition of space within the structure itself.

I think I mentioned last year that we saw a new facility in Alberta, in the city of Calgary as a matter of fact, which I would say was about five years old, and it represented to my way of thinking a very good type of facility for a city of that size. They had a craft room and a little dining room off the craft room, and I think one room for education; but they had, instead of the one room that we have, they had the three, although the dining area was a very small area where they could have crafts in one and classes going on in the other. This is ultimately the desirable thing to have and we're certainly not at loggerheads on that point at all. It is a question of being able to meet the priorities of the different needs that we have within the branch and within the department however, and to give emphasis to those parts of the program where the money available will do the most good. We think, for instance, the addition of the one counsellor to the staff of the juvenile detention home did much more good for the program in that home than if we had built a new building and put no counsellor in it. I think my honourable friend can appreciate that right away. There is, as our wise friend from Inkster says, there is no limit to better. There are any number of things that could be done if given a carte blanche or an open cheque to do all of the things that one might want to do, but at the same time one must be realistic and realize that the priorities of the situation with respect to juvenile detention are being met in terms of the counselling service and this program that has been laid on over the past year.

The full-time classroom -- it might be possible and certainly in any new institution it would be comprehended as part of the training program, but, as my honourable friend will appreciate, it's a difficult one. Even in the Calgary one that we saw, they had classes there but they were rather broken because of the transference of people into courts; they had to have appointments with probation officers, and so on. You see the main reasons for their being in detention, there are two main reasons: (a) because the home situation is bad and the detention home is actually a better situation for them than the home situation; and (b) to protect society if they are in for some particularly serious crime which very often is the case. And while they are there, they're not just lounging. They are, as I mentioned and as we all know, they are being seen by the psychologists, the psychiatrists, the probation officers and now the counsellor as well, who tries to fill their off-hours with more activity, but there is a definite routine that they have to follow in terms of the reason why they are there; and the reason they are there is to get the help of the trained staff, probation staff and the psychiatric staff and so on in order that the court may be better assisted when their case is dealt with.

So sometimes we have to eradicate this idea that they are just put in there and forgotten, and then on some appointed day, five or six days later, they are told all of a sudden that they have to appear in court. That's not the case. They are being seen by the staff personnel in order to assist the court in the disposition of the particular problem which brought them there in the first place. So I say this year to my honourable friend that we live in this province and in this western region and what we call the "Land of Tomorrow." Tomorrow is always a good day and we hope that tomorrow's good day in juvenile detention will bring us a new and a more commodious centre which we all acknowledge is a need.

MR. MOLGAT: Mr. Chairman, I thank the Minister for his statement, and the discussion then is the question of priority. Now surely the place to start to stop crime is in the very



(Mr. Molgat cont'd) . . . . . juveniles themselves. If we can stop it there, then we are reducing our problem in the future. True, we won't catch all of the potential criminals at that point but this, it seems to me, is the basic place from which we start. The Minister says that he agrees that a new building is required. Well when does he propose to proceed with it, because he's adding staff in a facility that is already overloaded. Now he cannot make adequate use of his staff under those circumstances. I don't think you can get the value out of your consellers and your extra guards under the present circumstances with the space that there is in that institution.

Now he says priorities -- well quite obviously then what's holding them back is money. He's been unable to convince his cabinet colleagues or the treasury board or whoever it is that operates through that this is desirable. If he is serious in this statement to me, and I believe that he is, that this is a required project, I wonder if we couldn't possibly make another approach on this particular question. A number of the service clubs in the city have been very active in other fields, in health for example and homes for the aged, in training for retarded children and various activities of this sort largely in the field of welfare. Would there not be a possibility here in the field of correction that some of these service clubs would be interested in co-operating with the government in the provision of some of these facilities? I think this is an approach that the Minister could well explore. We have programs now where the government offers dollar for dollar or dollar for two dollars on other projects, building projects at the university for example, and in other fields of this sort. It seems to me that the Minister could well look into this field here where there is a special specific need; where there is a very clear field of action, one that would fit, it seems to me, very well into the activities of the service clubs. I think this would have a second benefit, that there would be volunteer assistance insofar as counselling assistance and insofar as activities for the juveniles who are in that institution, and that we could do two things at once by this move. Now if the Minister is not prepared to consider that one, then could he tell me when, in his priority list, he proposes to proceed with the new construction.

MR. LYON: Well I can tell my honourable friend, Mr. Chairman, that one of the ideas that has been advanced, and one that rather catches my fancy, is one wherein there would be a co-operative program between this department and the department of welfare, so that there could be erected, in time in this Greater Winnipeg area, a form of youth hostel which would service not only delinquent children but would service the Children's Aid cases and so on where hostel type of accommodation is needed; and you can centralize the eating, the cooking and so on, the different common facilities that are needed, classrooms and so on and so forth. This is the idea that rather catches my fancy and we have seen this similar type of operation in effect, as I say, in the one city in Calgary where, although there are two separate buildings, they're on the same plot of ground, with playing field attached to it and so on; and where the whole question of youth hostelry in terms of accommodation for children, whether they be neglected children or delinquent children or abandoned children, whatever the case may be, running in age from say a few weeks, a baby of a few weeks old right up to the delinquents of eighteen years of age could be accommodated. That's the type of thing that, as I say, rather attracts my attention at the present time.

His idea about service clubs is certainly not one that has been overlooked at all; but I think that in determining the priority, and my honourable friend will appreciate this, one must remember you come back to certain hard base facts, and the hard facts are that the facility that we are talking about is one that, on the average, provides accommodation for these juveniles four to five days. The emphasis in a rebuilding program such as we had to undertake, the emphasis had to be on the long-term responsibilities first of all. Witness the Home for Girls; that was an absolute necessity because we had girls being sentenced to terms of 15 months to 2 years with no proper facility for them to go to. And so in terms of priority there could be no question that the Home for Girls had to be built in order to provide accommodation for this long-term need. It would have been nonsensical, I think, to go ahead and build a new juvenile detention wing with that money to provide accommodation for those who are going to be with you four to five days and leave the others who are going to be with you 15 months or two years unaccommodated, and this is the scale on which the priorities are built.

I suggest it's a reasonable scale and after having looked after all of the long-term

(Mr. Lyon cont'd) , . . . . requirements, and there were many long-term requirements and still are that have to be attended to, and one of them I mentioned last year which rates extremely high on priority is the young offender's unit to provide long-term accommodation for male adults between the ages of 16 and 25, and this is the unit which we are trying to get the federal government to build in the Province of Manitoba. That has a long-term priority which would do much to ease the load on our existing institutions and would provide that type of new facility that is so badly needed, not only in Manitoba but in most of the provinces of Canada where young offenders units are not available. So it is on such equations that priorities are built. If my honourable friend says to me where does the juvenile detention home rate in the priority scale at the present time, I tell him it rates reasonably high. It doesn't rate at the top because if I had a choice today, if my honourable friend had it within his power to give the half million dollars to expend on an institution for juveniles in Manitoba I would not build a new juvenile detention home; I would build a young offenders unit to look after the long-term responsibilities of the department for those young people who are sentenced to terms of imprisonment for periods of several months up to two years. So it's on that basis that we have to look at the problem. It's on that basis that the experts in the department advise us and I think it's on that basis that we will come to the eventual abandonment of the present Vaughan Street facility as a juvenile detention home. Now that is not precise, I realize, but I think my honourable friend will appreciate in a general way that that is how these priorities must be arrived at.

MR. GUTTORMSON: Mr. Chairman, the member for St. Boniface raised the question of a case dealing with a certain magistrate and the Attorney-General, in his reply, said he didn't wish to comment on it with the exception to say that magistrates, being human, will but err, and he didn't feel that you should necessarily impose punishment or discharge a man for having made an error.

However, I don't wish to rise to speak on that particular subject but I wish to deal with another matter dealing with another magistrate. I don't propose to mention his name but the Attorney-General will know who I'm referring to. This particular magistrate has had more cases sent to the Court of Appeal by the Attorney-General's Department than all the other magistrates in Manitoba put together. Now I don't criticize the Attorney-General's Department for having appealed these cases because I'm in agreement with them, because there has been some rather surprising decisions, where you have a man with a lengthy record getting involved in robbery with violence getting a suspended sentence; and there are many similar cases. The point I wish to raise is at what point then does the Attorney-General see fit to take action against a magistrate if he feels that magistrate is consistently handing down decisions that are not in accord with the thinking of our courts. I believe I'm correct in saying this, that without an exception, every case that the Attorney-General's Department has appealed from this certain magistrate, the Court of Appeal has seen fit to alter the sentence and increase it and, in many cases, substantially.

Now the Attorney-General probably knows this as well as I do that some people in the enforcement end of the police departments and some members of the Law Society have expressed concern over the decisions handed down by this magistrate; so, therefore, I would like to ask the Attorney-General to express his views on this particular matter. I don't wish to name the magistrate; he knows who I'm talking about and no useful purpose will be served by mentioning him, but I think the case should be discussed because I think it warrants it.

MR. LYON: The point raised by the Honourable Member for St. George, Mr. Chairman, is a legitimate point. At what stage do the people responsible for the administration of justice in a province interfere with the unhampered judicial discretion of a magistrate? Well of course that point never arises because never would the discretion of the magistrate be interfered with. The only thing that could ever be interfered with would be the tenure of office of the magistrate. It's a very difficult thing to answer in a direct way. The fact that a number of appeals are taken from a particular magistrate indicates certainly, first, that the Crown disagrees with the assessment or the sentencing practice of that magistrate in that particular case. Now he may make a mistake in one case in one day. He may be handling 100 cases that same day. If we were making six appeals or seven appeals a day, that would be an indication that his judgment six or seven times that day was not in accord with what we or the Court of Appeal thought it should be. But

(Mr. Lyon cont'd) . . . . . again I think the greatest latitude has to be applied because the doctrine of . . . . ., the doctrine of being governed by judgments of Superior Courts comes into play and there is an element here of self-education, or self-direction if you wish, because if a Superior Court gives direction to an inferior court as to what trend they think the sentences should follow, it is incumbent upon that inferior court, following this well known rule, to ensure that the dicta of the higher court are carried out. Really it's a situation where you have to depend upon the good common sense of the people involved to ensure that their sentencing practices come into line with what the Court of Appeal says the proper sentences should be in specified cases.

Now beyond that I really can't be more specific, except to say that certainly I know of the case of which my honourable friend speaks. A number of appeals have been taken, some in connection with what the Crown pointed out were illegal sentences, sentences that were not permissible under the law. I'm sure that the magistrate in question reads these judgments when they are handed down because we make it a point to see that magistrates are circularized as to decisions of some import from the Court of Appeal on criminal matters, and that's where the situation rests. I think you leave it up to the good judgment and the common sense and the judicial approach of the person or persons in question, because it's not always restricted to one magistrate, to carry out their sentencing practices in accord with what the Superior Courts of the province say they should be.

MR. GUTTORMSON: There's one aspect of our judicial system that I have found, what I think personally is a weakness. Unfortunately, I have no suggestion to make which would improve on the present system. This is the system of our appeals. I don't point the finger at any political party when I make this suggestion but we have men who are appointed by the various governments to look after our magistrates courts; we appoint men to our county courts; the judges in Court of Queen's Bench; the Court of Appeal and the Supreme Court of Canada; and I have always felt, rightly or wrongly, that, by the luck of the draw if you want to call it, the man who is appointed to the magistrates court could just as easily have been placed in the position of the Supreme Court of Canada -- to hold a seat in the Supreme Court of Canada. For instance, to create a hypothetical case, you can have a certain case come before a magistrates court and the magistrate there can render a decision and that case will go to the -- there can be a trial de novo where a county court will hear the same case, and the judge in that particular court will agree with the magistrate in the police court. That case can go a step further, it can go to the Court of Appeal where you could conceivably have the Court of Appeal ruling four to one in favour of the decision handed down by the two other courts; and then you could have that same case go to the Supreme Court of Canada and they could conceivably rule five-four the other way; and then you could have a situation where you've got six judges ruling one way and deciding the case where as eleven judges have ruled the other way and their decision is thrown out.

Now I must confess I don't know how this system can be changed, but to me this is a weakness where you can have a number of our members of a judicial system, judiciaries, thinking one way and a minority thinking the other way and the minority will win out; and I, for one, don't think that the judges in the Supreme Court of Canada are any more intelligent than the -- (Interjection) -- I sincerely believe this, that the judges in the Supreme Court of Canada are not necessarily any smarter or any more learned in the law than those men sitting in the Court of Appeal in Manitoba or any of the other courts. Now I'm not suggesting that these appointments are made in any improper manner. They are all human beings and some receive the benefit of the higher positions because, as I say, maybe the vacancy was there at the time. So, as I say, I would appreciate the Attorney-General expressing a view if he has one on this because it has always bothered me that this system had this weakness, and I don't know a solution or don't know what can be done about it.

MR. HILLHOUSE: Mr. Chairman, when the Attorney-General expresses a view on the comments of the Honourable Member for St. George, I wonder if he would answer me this question. In the Law Reform Committee you have 30 lawyers. Have you had any instance yet where there's been unanimity in opinion?

MR. LYON: I think my honourable friend from Selkirk hit the nail on the head. It doesn't matter whether people be lawyers or what they be, they are never going to be necessarily unanimous in their approach to any particular problem. I think, fortunately in this country with the

(Mr. Lyon cont'd) . . . . . heritage of law that we have, we don't evaluate our system of justice on the quantum basis, that is as to how many judges in the total scheme of things you had on your side or how many you had against you; you must go by the strata of the court that dealt and each court that appeals your case is the higher court and has dominance over the judgment handed down by the inferior court; and they apply their tests and their own judgment according to their own light to what they see before them and deliver judgment accordingly.

I don't know how the system could be changed and, Mr. Chairman, I don't know if I would want to see the system changed. I think it has worked very satisfactorily over the last thousand years and I don't contemplate initiating any changes in Manitoba, even though the responsibility for this is largely in the federal field. You do get the situation such as we used to have with the appeals to the Privy Council when that was still a permissible form of appeal up until 1949, where you had a board judgment or a board opinion being given and there was only one judgment given by the Privy Council and all of the justices, the Lord Justices who heard the appeal had to come to a unanimous conclusion as to what the outcome of this particular case should be. That's the only instance that I'm aware of in our system where you would get a non-division among courts, that is courts of more than one justice.

From a clear sanitation standpoint, if you want to look at it that way, it was very nice. There were never any dissenting judgments. But I think my honourable friend perhaps underestimates the value of a good dissenting judgment once in awhile because its from some of these highly intelligent dissenting judgments that the law of the country has been built and, subsequently, courts reviewing the same subject matter or matter of law will adopt the reasoning of a dissenting judge and there your common law builds and grows and is a viable and a live thing, which we always want it to be. I think the value of a dissenting judgment is very good because it shows that there can be more than one point of view on the subject and, far from deprecating it, I think it is a good system and I see either no reason for change and no possibility of change in the near future.

MR. MOLGAT: Mr. Chairman, on the matter of the Juvenile Detention Home, the Minister said that there were some classes being conducted now. Could he explain to me how this is done, because I understand that the government does not supply any books or training aids to the juvenile home.

MR. LYON: I gave the material on that in yesterday's remarks, Mr. Chairman. I have no further detail; I can attempt to get it for my honourable friend as to just the physical location and the type of work. These are elementary school, elementary class subjects that are taught, but I can attempt to get the further information for my honourable friend.

MR. MOLGAT: I wish he would, Mr. Chairman.

MR. CHAIRMAN: 1 (a) . . .

MR. MOLGAT: No, Mr. Chairman, I have some more material. Unfortunately, my honourable friend's estimates are very much condensed and I find that a good deal of the material we want to bring up has to come under the Minister's salary. What I'm bringing up now, Mr. Chairman, is something that I brought up last year, but it still isn't settled so I have no alternative but to do so again. This goes back a long ways. It began in April of 1958, when complaints were lodged with me regarding nonpayment by contractors who were working for the Minister of Public Works. I carried on then a lengthy correspondence with the Department of Public Works -- many letters -- until finally in 1959 -- in March of '59, the Department of Public Works advised me: "In this connection I beg to advise you that all of the material obtained regarding the W.S. Sveinson contract has been handed over to the Attorney-General's Department for action" Now this, Mr. Chairman, was the complaint of a farmer who had worked for this contractor on a road contract, No. 5 Highway; had not been paid by the contractor; had appealed to the Department of Public Works for payment; and eventually, as I say, in March of '59 he was sent to the Attorney-General. Mr. Chairman, the matter is still not settled. I discussed it here under estimates last year and it was advised that it was in process and would come. But how long do these things have to take, Mr. Chairman, March of 1959 is now four years ago, and still this man is waiting for his payment. Now can the Minister explain to me why it has to take so long for his department to process these matters and get action taken. The individual concerned is not a wealthy man. This is work that he did; he expended some money himself because some of his equipment was involved; he had to pay for gas and

(Mr. Molgat cont'd) . . . . . repairs; and here he is after five years till waiting for the department to reach a conclusion on the matter.

MR. LYON: Mr. Chairman, I remember the honourable member raising this question, and in my reply to him I am somewhat inhibited because the matter is before the court at the present time. It was initiated by the department in April of 1962 and no judgment on this particular case has been handed down as yet from the Court of Queen's Bench to which the reference was made. But I will attempt to make general response to his enquiry without involving the names of any people, because I don't want to be offending the rule of discussing in the House a matter that is sub judice. But I think there are certain general points that my honourable friend might wish to know, which might be helpful to him. I would stress, first of all, that the subject matter about which he speaks, and the persons, the creditors about whom he speaks, are not creditors of the government, but they are creditors of individuals or companies who perform certain works for the government. There is no privity of contract, as the lawyers say. There is no relationship, contractual or otherwise, between the Government of Manitoba and the creditors who have money owing to them from certain of the contracts and they therefore have no claim against the government; no way that they can come against the government because the government doesn't owe them any money.

One of the terms of the contract is that it is made a condition that certain types of creditors on a project, and this is a general term, must be paid and this is described right in the contract in particular wording so that the contractor is not to receive his full money from the government until he provides a certificate to the government indicating that he has paid off all the creditors that he has on a particular contract. That is a term that is of long standing in public works contracts and it's been there for very many many years. The wording that is used in the contract is very similar, practically identical to the wording used in The Mechanics Lien Act to describe a person entitled to a lien under that Act; and, in effect, these creditors, if they were working on a non-governmental project, would file a mechanics' lien against the project itself. Of course, it being a Crown project they can't file a mechanics' lien, and the government contract moves in to attempt to give them the protection which The Mechanics' Lien Act would otherwise offer to them. The creditors that the government seeks to protect would be the same persons, in effect, who would be entitled to a lien, as I've said, under The Mechanics' Lien Act.

Now in Public Works projects, it's the practice of the government to require what is commonly referred to as a Performance Bond. After reciting the contractual obligation of the contractor, the operative portion of the bond goes on to provide that "whereas the surety has agreed to execute these presents and to secure the due and faithful observance and performance on the part of the principal of all of the obligations of the agreement or contract as in the agreement or contract set forth or as the same may be changed, altered or varied as herein-after or by said agreement or contract involved." Of course here you come into the nub of the problem and this is why we have sought direction from the court, to determine whether or not it is the bonding company's obligation not only to guarantee the completion of the work but also to guarantee every other obligation of the contractor pursuant to his original contract, including the payment of account that follow within the terms of the contract.

Now there have been judicial decisions from our own Court of Appeal and there was one within the last three weeks from the Supreme Court of Canada, all of which bear upon this very subject. I can well appreciate the query that would be advanced from my honourable friend the Leader of the Opposition by a person who would be unaware of this background, but I suggest to him that the government is not in the position of the debtor; the government merely is the repository of certain monies that are owing to a person -- to a contractor -- who cannot get these monies because he has not completed the contractual obligations under which he is bound on certain contracts.

And then the second question comes in as to the liability, not of the government, but of the bonding company, to attend to the legitimate account of the creditors -- not the government. The government's position is that merely, as I've said, of a repository of certain monies. It does not determine, because the law is not clear and that's why we're in Court, who get the monies. We don't determine that. We know that we have a contract with A and that we will pay A those monies when he has satisfied the other obligations incumbent upon him under the

(Mr. Lyon cont'd) . . . . . contract, but the monies are sacrosanct and are there. The problem is that in three instances only that we're aware of, contractors have gotten into financial difficulty. One is in bankruptcy and, as a result of this situation on the part of the contractor, the creditors find themselves in a position of being unable to collect the money from their principal, namely the contract. I can't go into the questions that have been posed to the court because that would be getting into the case itself and I wouldn't want to prejudice the consideration of the case which is presently being given.

But I do mention to my honourable friend that there are these three cases. I'm aware of the case that he is interested in and I can tell him that in that particular case, I believe it was -- he mentioned the name, I believe, of Sveinson. On that contract in question that my honourable friend is interested in, the final payment still unpaid by the government on that contract is \$1,490 -- \$1,400, but there are creditors outstanding for the \$1,400; one for \$2,711; another for \$179; another one for \$2,104; another for \$70; and the one that he is interested in for \$753.42; and so you can see immediately -- and this is the contract by the way where the department itself, in order to have the contract completed, had to lay out another \$10,000 in order to ensure that the contract itself was completed. You can see the position that the department finds itself in. Regally, it's a very complicated position. Who is to get what. The second question comes in as to whether or not there is the obligation on the bonding company to pay. Now this is cold comfort, cold comfort to the man who is waiting for the \$750 but I suggest with respect to my honourable friend the Leader of the Opposition that in this situation the only recourse that we had was to -- in the absence of agreement among the bonding companies and all of the creditors -- the only course we could take was to go to the court and say, "look we have this money; you tell us who it should be paid to." And in effect, that's the question that has been put before the court.

If we were to act the other way and to attempt to pay out the money to these people, we couldn't pay it to them directly anyway because we have no contract with them, well then we might well be left with a situation where somebody else would bring an action and say you paid the money to the wrong person so you better "divvy up" and pay to the right people. So while the matter is in court we are hopeful that the judgment will be out shortly to give us direction that we need on, as I say, these three cases within the department where there has been financial difficulty on the part of the contractor. There is other detail; I'm afraid I couldn't give it to my honourable friend without breaching the sub judice rule, to explain to him the other details that we have gone into in the case that is presently before the Court.

MR. CHAIRMAN: I call it 5:30 and leave the Chair until 8:00 o'clock.

PRIVILEGES AND ELECTIONS:

Hon. Messrs. Baizley, Evans, Lyon, Weir, Messrs. Bilton, Cherniack, Cowan, Desjardins, Hamilton, Johnston, Lissaman, McKellar, Martin, Molgat, Paulley, Peters, Shewman, Steinkopf, Strickland, Tanchak, Vielfaure.

PUBLIC ACCOUNTS:

Hon. Messrs. Roblin, Hutton, Lyon, McLean, Smellie, Wier, Messrs. Alexander, Beard, Bjornson, Campbell, Cherniack, Gray, Hamilton, Hryhorczuk, Johnston, Klym, McDonald, McGregor, Mills, Moeller, Molgat, Patrick, Paulley, Schreyer, Smerchanski, Strickland, Watt.

PUBLIC UTILITIES AND NATURAL RESOURCES:

Hon. Messrs. Roblin, Carroll, Lyon, McLean, Witney, Messrs. Bilton, Campbell, Groves, Guttormson, Hryhorczuk, Jeannotte, McDonald, McKellar, Mills, Moeller, Molgat, Peters, Schreyer, Seaborn, Smerchanski, Stanes, Steinkopf, Watt, Wright.

AGRICULTURE AND CONSERVATION:

Hon. Messrs. Roblin, Harrison, Hutton, McLean, Weir, Messrs. Alexander, Campbell, Guttormson, Hamilton, Harris, Jeannotte, Klym, McDonald, McKellar, Mrs. Morrison, Schreyer, Shewman, Shoemaker, Strickland, Tanchak, Vielfaure, Watt, Wright, Froese.

MUNICIPAL AFFAIRS:

Hon. Messrs. Harrison, Johnson, Smellie, Witney, Messrs. Barkman, Cowan, Gray, Hamilton, Hillhouse, Johnston, Klym, Lissaman, McDonald, McGregor, Mills, Mrs. Morrison, Peters, Seaborn, Shewman, Shoemaker, Tanchak, Watt, Wright, Froese.

LAW AMENDMENTS:

Hon. Messrs. Roblin, Baizley, Carroll, Evans, Hutton, Lyon, McLean, Smellie, Weir, Johnson, Messrs. Alexander, Barkman, Bilton, Bjornson, Campbell, Cherniack, Cowan, Desjardins, Gray, Groves, Harris, Hillhouse, Hryhorczuk, Mills, Jeannotte, Johnston, Klym, Lissaman, McGregor, McKellar, Martin, Moeller, Molgat, Mrs. Morrison, Patrick, Paulley, Peters, Seaborn, Shewman, Smerchanski, Shoemaker, Stanes, Steinkopf, Tanchak, Vielfaure, Froese.

PRIVATE BILLS, STANDING ORDERS, PRINTING AND LIBRARY:

Hon. Messrs. Carroll, Hutton, Johnson, Messrs. Barkman, Beard, Bilton, Bjornson, Campbell, Cherniack, Cowan, Gray, Groves, Harris, Jeannotte, Lissaman, McGregor, Mills, Mrs. Morrison, Patrick, Shoemaker, Vielfaure.

INDUSTRIAL RELATIONS:

Hon. Messrs. Baizley, Carroll, Evans, Harrison, Hutton, Witney, Johnson, Messrs. Barkman, Beard, Bjornson, Desjardins, Harris, Hillhouse, Lissaman, Martin, Paulley, Peters, Seaborn, Smerchanski, Stanes, Tanchak.

STATUTORY REGULATIONS AND ORDERS:

Hon. Messrs. Lyon, McLean, Smellie, Messrs. Cowan, Groves, Hillhouse, Hryhorczuk, Schreyer, Steinkopf, Wright.