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HUTTON, Hon. George	Rockwood-Iberville	Legislative Bldg., Winnipeg 1
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STRICKLAND, B. P.	Hamiota	Hamiota, Man.
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THE LEGISLATIVE ASSEMBLY OF MANITOBA  
8:00 o'clock, Friday, March 17th, 1961.

MR. SPEAKER: Committee of Supply.

MR. EVANS: Mr. Speaker, I move, seconded by the Honourable the Attorney-General, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee to consider of the Supply to be granted to Her Majesty.

Mr. Speaker presented the motion and after a voice vote declared the motion carried, and the House resolved into a Committee of Supply, with the Honourable Member for St. Matthews in the Chair.

MR. CHAIRMAN: Department VII. Attorney-General — 1 (a).

MR. G. MOLGAT (Ste. Rose): Mr. Chairman, last night when my honourable friends indicated they no longer wished to continue the discussion of the estimates, I was about to ask the Honourable the Attorney-General if he could explain to me the operation of the selection and handling of juries, particularly for the Spring Assizes which I think are the longest one of the year. That is, how are they selected and what is the procedure once they are selected, to have them on juries and so on?

MR. LYON: How much time do we have, Mr. Chairman? I was wondering if my honourable friend, Mr. Chairman, wanted a Hutton-buster or not. Well I would start off, Mr. Chairman, by referring my honourable friend — and it's quite a proper question because a good number of people ask this question from time to time -- how are jury panels selected and so on. I would start off by referring him to The Jury Act of Manitoba, and while I don't have that in front of me it may be of some assistance if I do have it -- thank you. I can outline generally the procedure which is this. The voters list, and I'm taking as an example the Eastern Judicial District -- I think this question might have been inspired by my honourable friend from Selkirk, I don't know. You start with the municipal voters list of the different municipalities of the Eastern Judicial District. You then have a Selection Board which is composed, as I recall without looking at the Act, of the Senior County Court Judge, the High Sheriff of Manitoba and one other -- whom I may find in here -- one other of the selectors in any case. This group then goes over the total municipal voters list and selects a large enough panel to permit juries, and I'm referring now to criminal assizes, to be chosen in two or possibly three courts at one time. In other words, if you have three courts going you would need a minimum of 36 people, so they must select a panel, and usually it runs I would say around 100 to 125 males and females. Notices go out to these persons that they have been selected for jury duty -- and please remember I'm just glossing over, there's a wealth of detail as to how they're selected and the notifications and so on and so forth -- and these people then come back when the assize is called and they are told to report to the Court House. Now do you want to get down to how they're selected for trial? Do you want to get down to exemptions, who is exempted from jury duty and who is liable for it?

MR. MOLGAT: Mr. Chairman, I am concerned about once this selection is made and they appear at the Court House at the assizes. What is the procedure then? How do they get excused, or can they, and what happens?

MR. LYON: Once they appear at the Court House -- I'm giving you an example now from the Eastern Judicial District -- after the arraignment is held, the accused are all brought in and arraigned. They plead guilty or not guilty, then the first trial begins. The whole panel comes into the first courtroom, 100 to 125 people. They have all by this time received numbers with their names opposite, their address and their occupation. Crown counsel and defence counsel are sitting at the table. They are quiet at that moment with the list of the jurors. The Clerk of the Court has a box in which is contained the numbers of all of the jurors. The jurors know their numbers. He shakes the box and he picks out the first number. This is not a lottery, but the numbers are chosen by lot. He picks out a number. No. 1, juror number so and so, will you please take your place in the box. He goes through, in Courtroom No. 1 as it happens, he goes through until he has 18 persons sitting in the jury box and then he ceases making selections out of the box. The Clerk then says to Juror No. 1, who has been selected and who is sitting closest to the court, "Juror No. 1 stand up; prisoner look at the juror; juror look at the prisoner;" and they do. They look at each other. It is at this point that the defence counsel can object, can challenge the juror; or Crown counsel can ask to stand him aside. You

(Mr. Lyon, cont'd.) . . . . don't have to give the grounds at all for this. This procedure continues on. For instance, if No. 1 man is challenged by the defence, he takes his place back with the panel. They move on to No. 2. If he is not challenged or stood aside by the defence or Crown, No. 2 man is then sworn in as the No. 1 Juror, and they go through this procedure. After they have exhausted the first 18 names they have chosen, if they have selected only six jurors out of the 18 they call forth another group of 10 or 12, whatever they need. Finally, the selection goes on through until you arrive at the sworn jury panel of 12 men. These men remain in that courtroom and the trial begins — 12 men or women. The balance of your jury panel moves over to the next court and the same procedure is gone through. Twelve men and women are selected in the second court. Presuming that there are no further trials on, the balance of the jury panel is then discharged by the judge in the second court and told to report back for duty two or three days hence, depending on when they expect the next trial will begin.

MR. A. H. CORBETT (Swan River): Mr. Chairman, will the Minister permit a question? I think the Member from Ste. Rose could get that information by referring to the Charters of King John, from the Magna Carta published in 1213 about the selection of jurors.

MR. MOLGAT: Mr. Chairman, that well may be and I was not submitting the Attorney-General to an examination for fourth year law in this case. I have a very good reason for asking these question because I have had some complaints about the way in which the juries, not the selection of the juries, but the handling of the juries once they are selected during the assizes. Now it appears to me that at this last set of Spring Assizes, for example, they lasted something like five or six weeks. Is that not correct?

MR. LYON: Probably four weeks, as I recall.

MR. MOLGAT: Now I understand the jurors who were picked, the original panel say of 125, had to report every day during that whole period. I have had complaints made to me that this is unfair, that if a man has employment, that this interferes completely with his work. I don't think there are any Manitoba citizens who would object to being on jury duty for two or three days, but to be submitted to a whole month or six weeks of having to appear at the Court House -- I'm told every morning at ten and every afternoon at two, whether or not they're sitting on a court -- and having to reappear the next day, is not a fair system. Surely we could make some improvements in it -- either pick a larger panel so that we can select the ones that we have, discharge the rest, and then go on and pick other people. It can turn out, under this system, the same man actually could be picked literally for four weeks. It seems to me that we can devise a system that wouldn't put an undue burden on any one individual as this one presently can. I submit that this is putting some of these people to a great deal of, not only inconvenience, but cost; because what they get paid there simply isn't enough. I think in a good many cases the interference with their other work is more costly by far than the benefits. My suggestion simply is that we should look at the system and see if we couldn't have a smaller panel to begin with; pick the people that are needed on it; and then the remainder be discharged and have a second panel of completely different people for the next series, so that we wouldn't run into the situation where any one individual is in the position of having to appear for four weeks.

MR. LYON: Mr. Chairman, just on that point. This is new to me if this happened, and the only reason that I can imagine that it would happen would be by reason of having one day or day and a half trials and having to report back right after, and trials finishing more quickly than they were anticipated. Very often you can depend on a jury trial, the average jury trial -- the quickest one I ever had was I think one morning -- we put all of the evidence in, addressed the jury, the Court charged the jury and the jury were back, and this was, I should mention, my first case. I think the jury were back in forty-five seconds with a verdict of not guilty --(Interjection) I was acting for the Crown. But that happens very rarely -- very rarely. Most often it takes a day, two days, three days. The average case, I suppose, could be said to last three days. I will certainly check into this but this would be news to me that it's happening.

Now on the point as to whether or not jury service interrupts the life and the economic status and everything else of a citizen, I agree that probably it does, whether he's called back every day or not. I don't agree that he should be called back every day unless it's necessary in the course of the assize to have him back in order that a panel may be selected. If it is

(Mr. Lyon, cont'd.) . . . . necessary every day then I suggest, with all deference, that he must come back every day. If this is necessary in the way the assize is running, I suggest he should. Some people have said you know, facetiously, that the jury is the bulwark of the judicial system, meaning that it's a lot of bull and it doesn't work, but I don't subscribe to that theory. I've had the privilege, and I count it a privilege, of pleading before many, many juries in this province and I think that the jury system is one of the greatest protections that we have in our democratic system of government; one of the greatest protections that the citizen has against the state. This jury, is in effect, and does become in effect, the shield between the accused and the Crown. Now it's quite easy to say that a man who is earning \$20 a day or \$25 a day is economically hurt because he serves on a jury at \$9 a day. I admit it. I admit it. From time to time these jury salaries are raised. I think they were raised in 1957 by the previous administration to \$9, and possibly we'll have to take a look at revising them as economic standards go on. But I would make this statement, Mr. Chairman, that if we paid a juror not a nickel, that it's the beholden duty, I suggest, of every citizen of this country to serve on a jury because in that way he is participating in the administration of justice in this province; and I think that a citizen should make some contribution at one time or another to the administration of justice. I have had numbers of people who served on jury panels come to see me after trials and say, "You know, I didn't want this jury duty. I tried to get out of it and I couldn't get out of it, but now having sat on two or three trials I can see the meaning of it all, and now law and justice and the courts mean an awful lot more to me. The enforcement of law means an awful lot more to me." These are not my words, these are words that have been given to me by persons who have served on juries. To take that extreme point might seem rather odd to my honourable friend, but if necessary, I would. Fortunately, we don't have to take that. We know that we must remit a certain amount to our jury panels for the inconvenience that is caused them. I do suggest that it's not an obligation that this man if fulfilling when he goes on a jury panel; it's a duty. It's a duty, I suggest, that he owes to his province and to his state, and you're not called on that very often. What? Once in a lifetime, twice in a lifetime maybe, to serve on a jury panel for three or four weeks, maybe to be selected for one or two trials? I don't think that that's much. I don't think that too much to ask of a citizen in a democratic country, especially when one considers what could happen if you were deprived all of a sudden of the jury. I think it's a pretty small price to pay and I think that, by and large, the state realizes this and the state subsidizes persons because we know that in this day and age that \$9 a day perhaps doesn't match what some of the working men are making, let alone some of the business executives that you get serving on juries. There's a large exempt list. If a person has a justifiable cause to get off a jury list I've never seen the High Sheriff refuse, that is, for purposes of health, if there's been sickness in the family or anything like that at all, I think they are very reasonable. By and large the groups that come, some of them regard it as an inconvenience; they leave the courts unimpressed by what they have seen; but I think the majority of them leave with a much better impression of the administration of justice and I think, with a little bit better feeling towards justice and its administration in the province because they have had the opportunity, indeed the privilege of participating in it.

MR. MOLGAT: I agree completely with what the Honourable the Attorney-General says about the value of the jury system and I want to retain the jury system. All I'm suggesting is that there's some room for improvement in the handling of it. For example, once you have your first panel and an individual is chosen for a certain trial, why couldn't we arrange that his name then be deleted after that from further trials. He has served on one. Is it necessary to keep him there for another four weeks? Could we not spread it around over a larger number of people? We would achieve the very same thing that my honourable friend says, from the standpoint of education of the individuals concerned. We would preserve every aspect of the jury system and we would diminish the inconvenience to any one individual concerned. I can't see that this would, in any way, hurt the jury system. I think it would improve it, Mr. . . . .  
Lyon he would continue to come, is that your idea?

MR. MOLGAT: I would suggest that we work it maybe on a weekly basis, have one panel for one week, and if he has never been selected for any one of those, then he be excused; that the following week we have an entirely new panel, so that no individual would be in a position where he may be there for four weeks.

MR. LYON: You would be willing to have, say 250 or 350 people on the whole panel rather than 125?

MR. MOLGAT: No, I would suggest that for the first week you have 125 on the panel, but those who are selected for one trial are automatically excused from then on. We draw from that balance force, --if 125 is too many for one week, make it 75 -- but the following week you have an entirely new list of another 75 or 125, whichever you wish, and you pick from those, then any one individual would know that as a maximum he would only be there for a week. I am sure that no one, no individual in the province would object to that. I think even business executives, to whom it might be a great deal of loss, would be prepared to do it; I think a working man who would be highly inconvenienced in his job would be prepared to do the same thing. It would minimize the trouble for all of them; it would give an opportunity for more people to serve and I think, from the standpoint of justice, that the courts would be just as efficient.

MR. LYON: I can see some merit in my honourable friend's suggestion. I would say this though, that instead of calling 75 or 125 and asking them to serve all the way through, that you'd call 300 -- you might be antagonizing 300 people, as my honourable friend suggests, rather than 100 or 125. I don't really think that the antagonism is too deep or that it is too widespread. I think there might be merit in looking at what he says but I would not concede to him until I had had the opportunity to check that the jury panel at the last assizes was called back every day. I would have to find out if this, in fact, was the case, because that procedure is foreign to my knowledge of the system.

MR. HILLHOUSE: Mr. Chairman, I think the solution to this problem lies in the Manitoba Law School graduating more lawyers of the calibre of Perry Mason. His cases never go to a jury; they're always dismissed in the preliminary hearing.

MR. E. I. DOW (Turtle Mountain): Mr. Chairman, I would like to go back one step further on this jury basis, if I might, and ask the Honourable the Attorney-General if any consideration has been given to lower the percentage of selections from the municipal level of jury lists -- (Interjection) -- I did and I have done it for a good number of years. But I find this, Sir, that you take a voters list and take the exemptions that are out by law and then take the fact that they are only allowed to be on a list every three years, I believe, and by the time you have gone over that rotation a few times and bearing out the basic fact that the person that you put on there is somebody that you would like to have on a jury if you were tried, I find it very difficult, and I am sure that municipal men who have had that opportunity to do over the years are finding it's getting more difficult. I was wondering if the Attorney-General has given any consideration to possibly, at the starting point, reducing the percentage that had to go in from each various municipality, that is, if there was ten percent or five percent, whatever the required amount. I believe that when the total amount goes into the sherriff's office it's many, many, many times over what would be called, and I think it would help the selection of the basic list to start with if that percentage was lowered somewhat.

MR. PAULLEY: Mr. Chairman, I find it rather amusing to me because I happened to have been, as the Honourable Member for Turtle Mountain is now, I think, and has been for some time, one of those who, at the municipal level, were charged with the responsibility of going over the voters list and selecting potential citizens for initial jury duty. Of course the list goes in, as I understand it, to the High Sheriff or somebody in the court, and from there it comes to the panel that the Attorney-General referred to. I don't know whether or not the Honourable Member for Turtle Mountain finds the same thing as I used to, that my assessor used to pick out a whole flock of names and then I signed my name to the document and just glanced over them. (Interjection) Oh well also there is a former mayor in the Honourable the Minister of Education -- we glanced over the list to make sure that they were citizens of our community and upright and honourable men who would be capable of serving on jury duty, and then we would sign our name to the document. I had the opportunity of being on a jury panel on one occasion -- of course as Mayor you're an ex-officio Justice of the Peace and not liable to serve on juries - we had a very competent person out at Transcona there that was going to make me pay the penalty. After having been exempt for so many years, he was going to make me pay the penalty and he put me on the list and, somehow or other in the luck of the draw, in the further selection, I was put on to a panel and had to appear. Now the Honourable Member for Ste. Rose I think is correct, unless it has been changed from the time I had to serve

(Mr. Paulley, cont'd.) . . . .on jury duty, that we had to assemble each morning to answer the roll — I believe it was the Sheriff that called the roll — we had to answer as to whether or not we were present.

It's rather amusing to me though, Mr. Chairman, to hear the Member for Ste. Rose raise this question, because the year that I first joined this House, the Attorney-General at that time I believe was the now Mr. Justice Schultz, and I raised exactly the same points under the former Liberal administration as my honourable friend from Ste. Rose is now raising. It goes back to the old saying, the well-hackneyed phrase that we have here, "Why didn't you do it when?" That was the circumstance that prevailed at that time, and I'm glad to hear that my honourable friend the Member for Ste. Rose is now raising the points that have been raised on many occasions here in the past, when they were on that side of the House as well. In saying that, of course, I do suggest that basically his arguments are correct; although I would suggest this, that it may be rather inconvenient to do as he suggests, have a larger panel and dismiss them after a week or so. It is a nuisance to have to report, as I recall it, every day and answer the roll call. I might say as far as I was concerned on the panel, I was never ever selected. I don't know whether it was because of my looks or because somebody had looked up my record and thought that it was advisable that I shouldn't be on any jury trying anybody else. (Interjection) No, as a matter of fact, Mr. Chairman, I was never challenged. I don't know what it means, and maybe my honourable friend the Attorney-General or the Minister of Education can tell me what it means. Every time I stood up one of the lawyers, either for the defence or the prosecution said "Stand aside", whatever that means. I don't know whether that meant or not that I could come back, come back into the payroll or not, but anyway that's what used to happen to me.

MR. LYON: Did I ever stand you aside, I wonder?

MR. PAULLEY: No, Mr. Chairman, in all deference to my honourable friend the Attorney-General, I doubt very much at the time that I am speaking of whether he even reached the stage where he was acceptable even for the initial period of training in law. I won't go into details or thoughts that I might have, whether or not he should have proceeded in that endeavour. But anyway -- (Interjection) -- I should have been. As a matter of fact, one of the cases that I was stood aside on was the very famous or infamous case of the strangler. Now why I was stood aside there I don't know, but that was one panel I was on at the time. We also raised at the time that I'm speaking of -- when the point was raised back in 1954 -- was the question of the payment of the juror. If I recall correctly, at that time it was either \$4.00 or \$6.00. It may have been raised from \$4.00 to \$6.00 just after the time, but it's always been a problem, insofar as the payment was concerned, as to the amount the jurors are paid. I know that the government has had that problem. But really, Mr. Chairman, I'm intrigued to find that the Honourable Member for Ste. Rose, now that he is a representative of the Liberal Party on this side of the House, is now raising the questions which we raised during the administration of the Liberal Party here in the Province of Manitoba a few years ago, and I would suggest to him that he check the records and come back to that adage of, "Why didn't you do it when".

MR. LYON: . . . .with regard to one amendment coming into The Jury Act, to permit the selectors with respect to civil juries to have a smaller list because civil juries are rarely, if ever, used. This recommendation has come forward and we are going to bring it before the House in due course.

MR. MOLGAT: Mr. Chairman, I was very interested in the comments of the Leader of the CCF. I must say that I do not recall his bringing this up in the first session that we sat together in 1954. (Interjection) -- I wasn't here? Well you and I were elected the same year so in that case you must have been sitting here illegally my honourable friend. That's all I can suggest. However I was not the Attorney-General and the criticism of why didn't I do it when, frankly doesn't affect me. But I am interested in this case now because it has been brought up to me as a personal complaint from an individual this year. He wasn't complaining at all about being on jury duty, but he did feel that being on it for four weeks and having to report twice a day was a little extreme.

Now my honourable friend the Attorney-General says that he doesn't believe that this is the normal rule. I'm quite prepared to believe it may not be. I would appreciate, however, if he would check just exactly what did happen at the Assizes this year and report back to us before the rise of the session.

MR. LYON: I would like to make one final comment, if I may. Under section 13 of the Act - let's get down to where the first initial selectors move in to pick out one-twentieth of their voters list. It says here that the selectors, and this is part and parcel of the whole system, "The selectors shall select the names of those persons who in the opinion of the selectors or a majority of them are, from the integrity of their character, the soundness of their judgment and the extent of their information, the most discreet and competent for the performance of the duties of jurors." I would think if I were a citizen that those are pretty fair qualities to have, and I would feel rather honoured if I were thought to have judgment and discretion and all of the factors that are mentioned.

MR. S. ROBERTS (La Verendrye): Mr. Chairman, the Honourable Minister yesterday advised us -- I think it was perhaps the day before yesterday -- advised us that in the work camps, that the trainees were not working at any projects which would normally be undertaken and therefore, were not taking away work from local residents. Since that time I've been advised that at the Falcon Lake Camp that the trainees are presently employed, or will be shortly, in the painting and repairing of benches and tables being used normally for the parks or for the roadside picnic grounds on the roads between here and the Whiteshell. This is work normally done by the local residents. Is this not correct?

MR. LYON: Well, Mr. Chairman, for a number of years at Headingly Gaol, and ever since the camps have been going, ever since the Norquay camp started, they have been making picnic tables at those camps. My honourable friend may not know it, but the prisoners at Headingly Gaol have, for as many years as I can remember, going back to 1948, made furniture for government buildings. In fact I think you'll see, if you read the report, they made something like \$7,000 to \$10,000 worth of furniture for government buildings last year. This is part of the craft course they take at the gaol, and while it might be said that some furniture companies either in Manitoba or in the east are not getting the business, still this is productive work that they are doing. I think in certain of the penitentiaries across Canada they make licence plates for -- in Ontario, I think it is, they make licence plates in their provincial institutions. What I'm saying is that the broad aspect of the camp work, the general work upon which they are out there, is not work which would ordinarily be assigned to the free labour force. The making of the furniture and so on, by and large was relegated for off-hour work, craft work and so on. Some men, one or two men -- not too many are engaged at it sometimes during the day, but to the best of my knowledge this is not contrary to any practice that was ever followed in the past.

MR. ROBERTS: I was referring particularly, Mr. Chairman, to the repairing and painting of the ones that are already in existence in the Whiteshell area which is normally done, or has been every year that I'm aware of it anyway, by the local residents. This is part of their winter time employment, getting these things in shape for spring. These people are all laid off now and the trainees are doing the work.

MR. E. GUTTORMSON (St. George): Mr. Chairman, in the Winnipeg Courts, accused persons that are unable to pay for counsel are informed by the Crown Prosecutor or the Magistrate that they can obtain free legal advice, if they so desire, from the Law Society. Now I don't think this service is being provided in the country courts. I was wondering if the Attorney-General has given this matter any consideration, to try to give these accused persons in the rural courts the same privilege. I realize it's very difficult in small towns, because there may be only one lawyer in the town and he certainly can't give his services to everyone that comes to the court, but I am wondering if some system couldn't be worked out whereby lawyers from cities or other big centres like Brandon could go to these small towns maybe once a year, on an alternate basis, to provide this service so that people that can't afford legal counsel can get it.

MR. LYON: As I mentioned yesterday, Mr. Chairman, the Law Society does have a system whereby if a request is made from Brandon or from Dauphin or from Flin Flon or The Pas or any other point and counsel is not readily available in the centre in which the request is made, a call can be put in to Winnipeg or another centre and if counsels can make themselves available they do go out. I don't say that this is a regular practice but I know that it has happened in the past. The problem, of course, is just what you've outlined. I think the ratio as between Winnipeg and rural lawyers is something like six to one, for every one lawyer in the

(Mr. Lyon, cont'd.) . . . . country there's six in Greater Winnipeg, and so that is a real problem in itself. To the extent that these requests are made known, the Law Society, the Indigent Committee, Criminal Section of the Law Society does try to provide counsel for accused at the Magistrate's level. Of course when these people are committed for trial, they appear before the court after the committal and they're entitled to counsel at that stage if they request counsel from the court, and the Attorney-General's department appoints counsel for them and pays the counsel to act for the defence of the accused at a jury trial. But that is restricted pretty well to the jury trial proceedings.

MR. GUTTORMSON: But what about the cases that never go to trial, to a jury trial though? What is the situation regarding the Indian population in this regard?

MR. LYON: Well Treaty Indians, when they're charged of serious offences, counsel very often to my knowledge is supplied by the Department of Indian Affairs.

MR. GUTTORMSON: I had an Indian come to me because his son was being treated unjustly and felt that he should have legal counsel. I went to the Indian Affairs Branch and I understood from them they don't provide counsel for Indians. They did give me the name of a Winnipeg lawyer, who had acted for Indians on other occasions just out of his own goodwill, and I referred him to this man. He did act for him but he certainly didn't have to do it. I was wondering what provisions could be made for these people because they frequently get into trouble; they're not familiar with the laws and their rights; and I think in many cases the Indian is being stepped on because he really doesn't know his rights and isn't getting proper counselling.

MR. LYON: Of course that is a matter which would be within the purview of the Department of Indian Affairs. I'm not aware of their policy with respect to appointment of defence counsel. I know in all capital cases they appoint defence counsel. I know with respect to Eskimos they do because I defended an Eskimo once at the request of the Department of Justice. But I don't know how broad their list is of offences for which they will appoint counsel. That has not come to my attention.

MR. PETERS: Mr. Chairman, maybe I could ask this question under the items. I want to ask a question on uniformity of sentences under the Criminal Code. Do I do it now or can I ask it? What I was going to ask, Mr. Chairman, of the Attorney-General is this, that in some cases there are two people charged with the same offence under the Criminal Code, and the case that I'm talking about happened quite a few years ago. The sentence has been served and everything but to me it seemed a miscarriage of justice. The fellow had never been in trouble or anything and he was charged with armed robbery with assault, which is a very serious offence. He'd never been in trouble before and he got four years in the penitentiary. Subsequently he appealed the sentence and it was reduced, and with Her Majesty being in the country and there was amnesty granted, he only did six months of his sentence. Two weeks later a fellow was charged with the same offence, armed robbery with assault. He'd hit the storekeeper over the head with a bottle and there were required, I think, 23 stitches to close the wound in his head. He had a previous criminal record and yet he was only given 18 months in gaol. Is there anything that we can do -- I know that it comes under the Criminal Code and it's under federal jurisdiction -- but is there anything the Attorney-General could do to bring this matter to the fore and have a uniformity of sentences?

MR. LYON: There is a limited area in which, through the department, this problem can be, I wouldn't say rectified but it can be ameliorated somewhat, and that is through what we are doing, namely, the annual or bi-annual conferences of Police Magistrates whereby they get together for a two or three day period and discuss their sentencing policies and discuss what they do when they are faced with certain problems and so on. But this, I wouldn't suggest, is the complete answer to it at all, but helps them swap information. So long as you have two different people in the world I would suggest, Mr. Chairman, to the honourable member, say for instance if he were a Magistrate and I were a Magistrate and two accused appeared, one before him and one before me, I doubt very much if the sentence we would give if the circumstances were the same, and this is highly unusual because the circumstances never are the same, no matter how close they may be they never are the same in each case, I doubt if we'd give the same sentence. Why? Because the honourable member, Mr. Chairman, would look at it in one light and I might look at it in another, and just because he is different from me we are going to look at things in a different fashion. What you're asking us to do, in effect, is to

(Mr. Lyon, cont'd.) . . . . correct human nature. Well, we try to do that somewhat in the correctional program, but sometimes not with too much success, but really I think it's a problem that never will be resolved. When latent cases come before us where two accused are charged in a joint venture, and one of them gets a six or eight month's sentence, another one gets a three year sentence, very often you will find the Crown intervening to appeal one or the other sentences in order that a senior court may consider what sentence was fair and proper. That happened, I think about 18 months ago in one classic case that we had. The Court of Appeal was asked to deal with both cases and to hand down a sentence which was more uniform, but even the Court of Appeal, having both cases in front of him, as I recall, gave one man a slightly lesser sentence than the other man because of the differing circumstances. There is usually a leader and a follower. There's usually one who has been in more trouble than the other and there are many many background circumstances that have to be taken into account by a court. So while consistency and equality are desirable things, nonetheless, we can see that there is proper room for Magistrates or County Court Judges or Queen's Bench Judges, or indeed the Court of Appeal, to say, well we think one man should get a slightly heavier sentence because he contributed in a greater way to the carrying out of this crime or some other circumstances. But certainly if latent cases come before us, we try to correct them insofar as we can.

MR. PETERS: I should have pointed out that in the first case that I was talking about the fellow got the beating of his life and probably he deserved it, that is the accused; and in the second case it was the victim that got the beating; and that's what I was trying to point out.

MR. LYON: The Honourable Leader of the Opposition is back in his seat. He raised the question yesterday with respect to a letter to the editor that had appeared concerning a vagrancy charge. The following information has been provided me -- I didn't know of the case when the Honourable Leader of the Opposition raised the point. The person in question was one John David Mitchell who was apprehended by the City of Winnipeg Police on Saturday afternoon, January 7th, 1961, at the request, I don't know whether it was telephoned or wired, of the Sheriff of Austin, Texas, who had advised the Chief Constable of the City of Winnipeg Police Department that he held a warrant for the arrest of Mitchell on a charge of grand larceny and skipping bail. The Sheriff apparently advised that he was immediately instituting extradition proceedings. The generally accepted practice, for which there is some case law, is to apprehend at the request of the police outside of the province on the assurance that a warrant is in existence and the proceedings will immediately be taken to have the accused brought back to the jurisdiction from which the warrant issued. In such cases it has been held -- in decided cases -- that even taking action by way of Habeus Corpus does not apply if the warrant is, in fact, returned from the foreign jurisdiction into the jurisdiction to where the arrest takes place. So the man was arrested on the 7th of January. On Monday morning, the 9th of January, a charge of vagrancy was laid against him, and as a result of information obtained at the time of his arrest on the previous Saturday and as a result of notifications made to the Immigration Authorities on the 10th of January, the following day the Immigration Authorities issued a warrant of detention. On the same date the Immigration Authorities commenced hearing proceedings which were adjourned and completed on the 13th of January, and on that date the Immigration Authorities, under their federal statute, issued a warrant of deportation and Mitchell was, in fact, deported to the State of Texas in the United States. A stay was entered on the vagrancy charge on January 10th when the warrant of detention was issued by the Immigration Authorities. Now from the information that has been given to me, I would see no reason why a vagrancy charge was even required in the circumstances. They had the power to arrest under the case law as the department advised me. These are the circumstances. I didn't have any complaint that I know of come to the office about the case. This was, and I recall I think reading the letter, but I thought if there was any substance to it or if anyone was making a real complaint they would have at least taken the trouble to write me and let me know, but we had no information on it until my honourable friend mentioned it again and this is the information that the department have provided me with.

MR. CAMPBELL: Isn't that just the point, Mr. Chairman, that even if there had been some communication from folks in Austin, Texas, and perhaps there was justification for apprehending the man on the basis of the information that was given? But is it correct that a charge should be laid on the basis of vagrancy when, as a matter of fact, the man was not guilty of

(Mr. Campbell, cont'd.) . . . . . vagrancy? He was in his place of residence; he was sober; he was in possession of some money; he was creating no trouble. Surely to goodness there is a better method of apprehending someone who is wanted in another country, or for any other reason. My point is that it dissipates the respect that we should have for the administration of justice if we make a wrong charge against a man.

MR. LYON: I wonder if my honourable friend appreciated the point that he was not initially arrested on a charge of vagrancy. He was arrested on the basis of the information from Texas. The charge was laid on the Monday following according to what I'm told here. I know not why. I think if I had been the Crown Attorney I wouldn't have laid any charge because there was sufficient authority to arrest him and hold him on the basis of a warrant being delivered for him.

MR. CAMPBELL: I have no information except what's contained in this letter, but the letter is signed by a gentleman whom I understand is a lawyer . . . .

MR. LYON: The same name as a lawyer anyway.

MR. CAMPBELL: Well I made that much investigation to determine that this -- I'm not acquainted with him. With my general policy with regards to lawyers, I'd probably disagree with him anyway, but on the basis that you'd find some other lawyer that would disagree. It seems to me that in order to keep the respect that we want the citizens to have for the law and for the administration of justice, that there should be great care to apprehend only on proper charges, maybe it was . . . . .

MR. LYON: He was apprehended on a proper charge. Subsequently, another charge was laid.

MR. CAMPBELL: But not according to what this letter said.

MR. LYON: Now there's the point, Mr. Chairman, I suggest this, with all deference to the writer of the letter and I don't know if he in fact is a lawyer or not, but I would appreciate if these cases do come to the attention of people that they write the Attorney-General, not write the Winnipeg Free Press or the Winnipeg Tribune, because it gives us a chance to remedy these things right on the spot; or to phone us and let us know. Writing a letter to the Press, I suggest is not perhaps the proper procedure. All I am repeating here is the information that has been handed to me, and I say I would agree that there was no necessity to lay a vagrancy charge because they had the power without it. I certainly wouldn't have recommended a vagrancy charge being laid, although he was not arrested on a vagrancy charge. He was arrested and held on the basis of the information from outside of the jurisdiction, subsequently a vagrancy charge was laid, for what reason I don't know.

MR. CAMPBELL: Perhaps I had it wrong to that extent, that maybe he was not arrested on a vagrancy charge, but it would seem to me that it was all the worse if the vagrancy charge was laid afterwards because apparently that was an incorrect charge. The charge that should have been laid, in my opinion, would be the one for which the action was being taken. I don't know what the charge is when you are requested by some other jurisdiction to apprehend somebody, but my point is that if an incorrect charge is laid, then it gets the police in a bad odour with the general public. Why the lawyer did not get in touch with the Attorney-General's department, I don't know. I would gather that perhaps he was not acting for him in the first instance. I'm not aware of those circumstances, but if he failed to get in touch with the Attorney-General's Department he must have felt that some injustice had been done and he apparently took that method of bringing it to the public's attention. It struck me, when I read it, as being a -- or it appeared to be a miscarriage of justice, and I think we must be very careful of the rights of the individual in these cases. If my honourable friend would check up further, I think he will find out that the gentleman who wrote the letter is, in fact, a lawyer. I not acquainted with him and I don't know his capabilities. On the general grounds of him being a lawyer I would suppose that he should have known that it was the Attorney-General's Department he should have got in touch with. But would the Attorney-General just check that point?

Mr. Chairman, there were three questions that I mentioned. One of them we had a fairly full discussion on last evening. This deals with the other one, but there still remains the question of The Coarse Grains Act. Is the Honourable the Attorney-General in a position now to tell us just what action has been taken?

MR. LYON: Mr. Chairman, I thought I had responded to that last evening to my . . .

(Mr. Lyon, cont'd.) . . . . honourable friend. I said that advice had been given to the Department of Agriculture from our department. The Minister had reported in the House, I think a week or two ago, that certain action was under consideration. Beyond that point I know no more.

MR. CAMPBELL: But you didn't report to us just what action was being taken.

MR. LYON: Well I think the action that was contemplated by the Minister was the passing of regulations provided by The Coarse Grains Act.

MR. CAMPBELL: Which would accomplish what, Mr. Chairman?

MR. LYON: Which would accomplish the exemption that is provided for under that act.

MR. CAMPBELL: What is that exemption, Mr. Chairman?

MR. LYON: My honourable friend can read the act as well as I can, Mr. Chairman.

MR. CAMPBELL: But it's my honourable friend that I'm asking. He's the lawyer and I'm not.

MR. LYON: My honourable friend seems to be doing pretty well without legal training.

MR. CAMPBELL: I appreciate the compliment, Mr. Chairman. I appreciate the compliment but the fact is, as I see it, here's a question that is greatly exorcising a lot of the farmers of this province. Now the Honourable the Minister of Agriculture and Conservation has been quite frank to say the side that he supports. I have no objection to the position that the Honourable the Minister of Agriculture and Conservation takes. I think there is a good deal of merit in it, but the fact is that a great many farmers of Manitoba take a contrary view, that this change in policy is not beneficial. My point is, that if the Honourable the Attorney-General of this province had been enforcing the act that we have on the Statute Books of this province, that the violations of the act which the Honourable the Minister of Agriculture and Conservation stated or agreed were at least partially responsible for the difficulties that obtained, that we would not perhaps have had this controversy, at least to the extent that we have. So I raise that question with the Attorney-General. Why was he not enforcing the act that we had on the books? Then before my honourable friend replies, there is the other question. It is reliably reported that the First Minister stated that no requests had been received from the Federal Government, or anyone on their behalf, for a change in our act. It was also reported that the delegation that made that report said it was their opinion that neither the First Minister or the Minister of Agriculture and Conservation had indicated that no change would be made even if a request was forthcoming. Well we have a couple of heads shaking over there, but those were the reports. So I ask the Honourable the Attorney-General to tell us, first of all, why didn't he enforce the act that was on the statute books; and secondly, why did he not protest to the Federal Government when they invaded our field and ignored us in connection with the regulation that they allowed the Canadian Wheat Board to pass.

MR. LYON: My honourable friend is suggesting, Mr. Chairman, that the Federal Crown is subject to the Provincial Crown which is not the fact. The Federal Crown is not subject to the Provincial Crown but, as I mentioned before, advice that passes from one department to another, as my honourable friend well appreciates, is not subject to debate or comment or question. I reported to him last night that advice was given from my department to his department as to what action could be taken, and as I understand from the Honourable the Minister of Agriculture, that advice is now being considered and probably action will be forthcoming on it. Beyond that I can't enlighten my honourable friend any further.

MR. CAMPBELL: Mr. Chairman, the Honourable the Attorney-General says that the Federal Crown is not subject to the Provincial Crown, or words to that effect. I always maintained that in our own jurisdiction we have just as much authority as the Federal Government has in its jurisdictions. It's not a case of us trying to impose our will on the federal authority, it's just a case of our protecting our rights in our own field. Here we have an act, still on the Statute Books, that says that this act is for the purpose of dealing with coarse grain sales within the Province of Manitoba, wholly within the Province of Manitoba, and I'm sure the Honourable the Attorney-General will agree that in that field that we are supreme. That act says that no person, no person, there's no exception in the general rule, that no person shall sell to other than the Canadian Wheat Board. And then the complimentary section says that no person shall buy except on behalf of the Canadian Wheat Board; and then there is the exception put in after that of the producer to producer sales. But these were not producer or producer sales. These were sales as the Honourable the Minister of Agriculture and Conservation agreed,

(Mr. Campbell, cont'd.) . . . where machinery companies, automobile salesmen, hardware salesmen and others, were taking coarse grains in, which violates the act; and were selling it again which violates the act; transactions wholly within the Province of Manitoba.

MR. LYON: . . . another point now about these swap deals? We have one of these currently under investigation right now. I was referring, or I thought my honourable friend was referring to the action of the Canadian Wheat Board vis-a-vis feed mills and their purchase of grain. Now they're two separate and distinct subject. (Interjection) Oh, well now we're on the same plane. I have a case at the present time where information was given to me about certain swap deals that was advertised and we have that being investigated at the present time by the police. I'm glad that there's a consensus between us again. But just on the point that I was mentioning before, because it was a good point, whether the Federal Crown is subject to the Provincial Crown - it isn't. I can give my honourable friend an example. There are certain rights, prerogative rights given to Treaty Indians under the Treaties by which they gave up certain land to the Federal Government. Treaty Indians in the - I think it was the Province of Alberta, one of them committed a breach of the Game and Fish Act of that province - he was charged because the Game and Fish Act of that province said, "No person shall," say, "hunt with a dog," I think it was. The Treaty Indian was out hunting with a dog. He was charged under the Provincial Act, contravening that offence, hunting with a dog. The Court of Appeal of Alberta said he couldn't be found guilty because he was not subject to the Provincial Act, he having been given and accorded certain rights under the Federal Act. We have a somewhat similar type of case under appeal in our Courts right now where a protecting umbrella comes over a certain portion of the population by virtue of federal legislation and makes them -- if we are to believe the judgment we got -- makes them not answerable to provincial law which affects everybody, we think, in the Province of Manitoba. However, that's getting back to the original point, but I'm glad we're at consensus on the other one. We have one of these cases under investigation right now.

MR. CAMPBELL: We're in consensus on it Mr. Chairman, but my question still isn't answered, and I'm not talking about Indians; I'm talking about coarse grains. I'm more of an authority on coarse grains than I am on Indians. The Minister of Agriculture to give the short title, agreed with me when his estimates were before the House, that this question of the, what you might call this type of barter sale, was one of the main contributing causes to the difficulty. I maintain that those sales are completely within the jurisdiction of our act. They're sales entirely within the Province of Manitoba and they are prohibited by our act. Now the Honourable the Attorney-General says that he has a case in hand now, but what I want to know is what was he doing for a couple of years before this? What was he doing for a couple of years before this that he allowed this situation to develop and aggravated this difficult situation? That's the point that I'm asking.

MR. LYON: I can best answer that I suppose Mr. Chairman, by going back to the rather oft-used expression in this House: "what did my honourable friend's Attorney-General do about it when the same situation obtained?" I know of no prosecution that's ever been entered to the best of my knowledge in the department under the Coarse Grains Act, and the Coarse Grains Act has been in effect, how long? I forget when it was put through - I know it's in the last revised statutes 1954; I think it was put through prior to that - '48? (Interjection) '49 -- about that time. To the best of my knowledge -- and I inquired about this not recently but some time ago -- there has not been a prosecution at all. We are presently looking at a case where, if the evidence justifies it, prosecution can be entered. I'm not as completely convinced as he as to the constitutional validity of this act. We may have our eyes opened if we get a case into Court some time to find out, but we'll take our chances on it in the meantime. Since the Act came into force, brought in by my honourable friend's government I think it was, I don't think there's been one prosecution. There hasn't been in our thirty-two months. There wasn't in the ten years when my honourable friend had the pleasure of leading this government.

MR. CAMPBELL: Mr. Chairman, the Honourable the Attorney-General is a good lawyer, and even though his training was largely in the prosecution field, I give him marks for being a good defence lawyer because he has urged the best defence that I could think of. He says we're just following the procedure that was laid out by our predecessors, and that's good. If my honourable friends would just do that in a few more cases, more regularly, that's good.

(Mr. Campbell, cont'd.) . . . . But look, Mr. Chairman, here's why we weren't dealing with this. To begin with, this difficulty -- and I'm sure if the Honourable Minister of Agriculture were here he would agree with me in this -- this difficulty did not arise in the early days. It did not arise until, oh, '56, late '56 or '57, and as soon as it did arise there were actually two cases went before the Courts; one in this province, one in the Province of Alberta, and the question during all the rest of the time that we were in office -- to the great benefit of the Province of Manitoba -- all the rest of the time that we were in office the cases were before the Courts and we couldn't take any action for that reason. But those cases were decided, I think, well certainly more than a year ago. -- (Interjection). Well they were cases under this Canadian Wheat Board Act. . . .

MR. LYON: Oh, Canadian Wheat Board -- we're talking about the Coarse Grains Act.

MR. CAMPBELL: Well that's right, but the two overlap in this case and they were, with regard to jurisdiction. I'm not familiar with the two cases, but I know they were cases that effectively kept us, and the Canadian Wheat Board as well, out of any prosecutions at all at that time. But they had been decided, I'm sure, for more than a year. The situation continued to be more aggravated, and my honourable friend continued to follow the procedure that we had had imposed upon us on account of these being before the Court -- a practice which I commend to him in general.

MR. LYON: Mr. Chairman, I think perhaps my honourable friend is referring to a case as I recall it, that went to the Supreme Court where a stock breeder in Alberta or Saskatchewan was attempting to transmit feed from one farm in one province to another farm without permission of the Canadian Wheat Board. Well I don't know; I know there were one or two decided cases on this point. My information is, and I can be corrected if I am wrong, that there have been no cases under our Coarse Grains Act which we are referring to here. I'll double check it; if I have any further information I'll bring it back to my honourable friend.

MR. CAMPBELL: That will be quite satisfactory Mr. Chairman, if the honourable the Minister will check it. At the same time he will find that there's a Manitoba case -- there's a Manitoba case as well. . . .

MR. LYON: Under the Wheat Board Act?

MR. CAMPBELL: . . . . as the one that he was talking about, under one or the other. I'm not certain which one, but it has a bearing on this point and it was the thing that effectively kept us from taking the action that we, being the progressive government that we were, would have taken quickly but which my honourable friend has done nothing about for a matter of some. .

MR. CHAIRMAN: (b) Resolution 38 passed.

MR. HAWRYLUK: Mr. Chairman, possibly the matter that I wish to bring up at this time with the Attorney-General is not directly under his jurisdiction, but I think he has some influence as far as giving direction to certain people concerned. On two or three occasions we've had this heading in the paper. Last night it said a drugstore was fined \$50 for selling razor blades after six o'clock. I was very much in agreement with the editorial by the Free Press which calls it a rather asinine law, because here a drugstore is put in a category of Class A, and supermarkets can sell all the sundries under the sun after six o'clock -- your grocery store, your hotel, your cafes -- and yet on two or three occasions law-abiding citizens in a sense who operate a business and pay a license, have been fined on a petty thing like buying razor blades after six o'clock. I believe that something should be done, because here a man is fined \$50 and costs on selling razor blades, and yet on the other hand we've read of cases where a man is found guilty for impaired driving and he can be fined \$50 and costs. Another man can be involved in a sex deviate case and is fined \$25 or suspended sentence. And here you classify an upright businessman under the same category as that of a person who deserves all that he should get. I think it's a matter that should be looked into. I know that you have the influence to direct it to the City Solicitor because I think it comes under their jurisdiction, but I think it's a matter that should be rectified, the sooner the better, because it is a joke any time you read that -- knowing that thousands of people are breaking the law at all times and unfortunately the storekeeper is the one who has to pay the price for doing a service, as one would say, to a person who wants to buy these necessary sundries. I would appreciate if the Attorney-General would have something to say on this matter.

MR. LYON: Mr. Chairman, I read the same news account as my honourable friend and

(Mr. Lyon, cont'd.)....I have no factual information in front of me, no documentation from the Crown Prosecutor at the City, but if the information in the paper is correct, then this was a charge which was laid under the early closing by-law of the City of Winnipeg, and they have authority to make this by-law pursuant to the City Charter. I can appreciate my honourable friend's concern over the matter but unfortunately he's talking in the wrong forum. The City Hall is in charge of these by-laws. Insofar as the Crown prosecuting, the city prosecutors at the City of Winnipeg of course prosecute city by-laws as well as provincial and Criminal Code offences for which certain remuneration is received from the city for the service which the Crown give to the prosecution of municipal by-laws. I suppose the only way that this House could get at that question would be through amendment to the City Charter to prohibit early closing by-laws. And that is something that my honourable friend might well wish to raise in Municipal Affairs Committee if there is an amending bill coming into the City Charter this year. I understand that there will be one. But unfortunately from a law enforcement standpoint the City makes the law; the Crown Prosecutor merely enforces the law that is made by the City.

MR. HAWRYLUK: Mr. Chairman, to follow that up, it seems that on two or three occasion the judge was very sympathetic and certainly was very reluctant to fine the party concerned, but again it is something that should be changed and I think if there is any member that is intending to introduce certain amendments to the City laws, I think it should be done this particular session.

MR. GUTTORMSON: Mr. Chairman might I ask the Minister if he has an answer to my question last night regarding members of this department collecting fees during working hours?

MR. LYON: Mr. Chairman we've made a cursory examination. We find that there are five civil servants who are accorded the right to grant bail because of their status as either a Magistrate or a Justice of the Peace. Two of these persons do not grant bail at all because they are not full-time justices of the peace at all, they are civil servants who happen to be justices of the peace for the purposes of their duties as court clerks and so on. The other three we have not been able to contact to find out just what their practices are. If I get anything further before we are through estimates, I will let my honourable friend know.

MR. DESJARDINS: Mr. Chairman has the Honourable Minister been able to obtain any more information on the question that I had for him yesterday, of the restaurant that had their liquor license suspended?

MR. LYON: I've asked for that information, Mr. Chairman, but it isn't in front of me. Possibly it can be given to me tonight. I can't get it tonight apparently but if I get it a little later.... You might check the annual reports of the Liquor Commission over the past year or two, or three years and see if that name appears in other reports. That's one indication I've had so far. I don't know. But I'll try to get the full story for him because he is obviously interested in it.

MR. SCHREYER: Mr. Chairman, before we go on to 2 (a). Could the Minister tell me under what item we might discuss pretrial retention facilities.

MR. LYON: Pretrial retention?

MR. SCHREYER: Yes.

MR. LYON: ... you mean remand facilities.

MR. SCHREYER: That's right for people who are arrested.

MR. LYON: That would probably come under the item of jails or administration of justice, wherever my honourable friend wishes to raise it.

MR. CHAIRMAN: 2 (a) passed. (b) passed.

MR. DOW: Mr. Chairman, in regards to Land Titles there are just a couple of questions I would like to ask the Attorney-General. The Inquiry Commission in regards to boundaries -- will their report be submitted some time in the near future and will there be any change in the chairman due to the elevation of the chairman to Chief Justice?

MR. LYON: I do not know when the report will be received Mr. Chairman. I understand that the commission chaired by Mr. Justice Miller of Manitoba, staffed by Mr. G. H. Smith, Q.C. of Winnipeg, and Mr. James Doak of Virden, have been in I think to approximately four judicial districts, of the group that we have in Manitoba.

I think they're still continuing their survey around the province, hearing representations.

(Mr. Lyon, cont'd.)....I understand that my honourable friend made a very outstanding presentation to that commission. I've had no indication from the Chief Justice that his new responsibilities will require him to leave the commission. I certainly hope that they won't. I think that being a man who has spent a good number of years in that golden city to which my Honourable Friend the Leader of the Opposition often refers, Portage la Prairie, he would be a good man to head any commission.

MR. CHAIRMAN: (b) 2 (c) passed. Resolution 39 passed. Item 3 (a) passed. (b) passed. Resolution 40 passed. Item 4 (a) passed. (b) passed. (c) 1 passed. 2 passed.

MR. CAMPBELL: Mr. Chairman, so far as (c) is concerned of 4. Is it proposed to have a revision of the statutes? I wouldn't think that this amount is sufficient for a complete revision. Don't anybody say I'm advocating the expenditure of more money.

MR. LYON: This is the beginning of the job, Mr. Chairman. My honourable friend will appreciate that it takes some times two, three, four years. My honourable friend didn't always hit his goal. You try to do them every ten years. We're aiming for a goal, I don't know if we'll be any more successful or not, but the revision must be started -- the preliminary work must be started this year and I think we've set aside enough money for that. Salaries for two clerks amount to \$4,000 and supplies and expenses in the amount of \$1,000.

MR. CAMPBELL: I suppose that the Legislative Counsel is in over-all charge, is he?

MR. LYON: Quite.

MR. CAMPBELL: And then the -- what's the proper term for Mr. Tallin?

MR. LYON: The Deputy Legislative Counsel.

MR. CAMPBELL: The Deputy Legislative Counsel. I suppose he also works at it. Is it proposed as well to have outside legal assistance?

MR. LYON: I don't think we have reached that stage yet, Mr. Chairman. I think just the preliminary groundwork is starting now. It may well be by virtue of the large number of statutes that we have had that we may have to call in outside assistance later on, I don't know.

MR. CAMPBELL: I know that some other members of the committee more frequently than I make some complimentary remarks about some of the senior civil servants. I think this is the place where I would be prepared to join in such words of commendation because I think the Province of Manitoba is exceptionally well served, and has been for a long time, by Gerald Rutherford, Q.C. and that young man who has been brought in as Deputy Legislative Counsel, also seems to be doing a very, very good job. These are a couple of lawyers Mr. Chairman, let us please note that I'm willing to speak very highly of.

MR. LYON: Mr. Chairman, my honourable friend and I don't often find ourselves in close agreement, but here is one subject on which we are firmly in agreement. I made a statement I think in the estimates two years ago -- I think I made a few remarks last year -- concerning our Legislative Counsel. I can only reiterate at this time what my Honourable Friend the Leader of the Opposition has said that the province has been well served over the years by our Legislative Counsel, and in recent years has been equally well served by his new deputy, Mr. Tallin. I think we are fortunate in having men of their calibre on the staff of the Provincial Civil Service and certainly we hope that both of them will be with us for a long time.

MR. CHAIRMAN: Resolution 41 passed. Item 5(a) 1

MR. DESJARDINS: Mr. Chairman, I think this would be the right place to bring up this subject again. Administration or maybe lack of administration of justice as far as I am concerned. I'd like to talk about this question of obscene literature again. Now this is the third year that I have talked about that. I sympathize with the Honourable the Minister on this question. I know it is very difficult but I'm still not satisfied. It seems to me the government is taking the attitude that there's only the Member from St. Boniface and a few old ladies who are interested in this. -- (Interjection)-- Mr. Chairman, I guess other old ladies besides myself and my leader, Mr. Chairman, I think that -- I can see I'll have objections on this question -- I well remember last year when I brought the proof that there did exist these filthy books and so on and this obscene literature. I remember that these two honourable gentlemen in front of me were the first ones to want to peruse and look through those magazines. That might be the reason why they're objecting tonight. And I'm not too worried about those people. In fact any member of this House if they want to look at those books, except maybe the Honourable Member from Souris-Lansdowne and the Honourable Member from Springfield. But I'm talking about my

(Mr. Desjardins, cont'd.)...children and your children, Sir, and the other children in Manitoba. I think it's a disgrace the way these filthy books-- and there's no other name for it -- are in constant exhibition in our drug stores and in our other stores. Definitely something should be done on that. We're spending \$33 million or more for the education of our children. We're talking about the rehabilitation for our prisoners, trying to teach them things and this is what we offer the children of Manitoba. I'm not worried about other provinces, and I don't care if I'm called an old lady, or a do-gooder or any of those names, I think that it's time that something should be done on this. Again I say, the main reason for that is for the children because a few years ago you had to search for those books. You had to go and look behind counters and so on. Now they're right in front of you. I definitely think that it is high time that the government should do something on this matter and do it now. Again I say that I understand it is very difficult for the Attorney-General. If it's not in his power to do anything at this time, he definitely should try to be one of the leaders in this field and to see if the Federal Government could bring in some regulation or something that will remedy the situation.

MR. LYON: Mr. Chairman, just to reply very briefly. I think I responded to my honourable friend's words in this connection last year and I don't like to rehash this business again, but I do point out to him that recent amendments were made to the Criminal Code of Canada dealing with obscene matter, Section 150. It's not just a question of the Attorney-General, it's a question of any citizen now who feels that matter is obscene, may bring this matter before a court, lay an information and the court can decide. We of the department, of course, are concerned as to whether a conviction could be registered on matters or on magazines and so on that are alleged to be obscene. The proving of obscenity is -- what my honourable friend deems to be obscenity may not be obscenity in the eyes of the court. Obscenities in magazines and written publications and so on are very difficult to prove. You've probably read during the past year of the cases in Britain on I think it was Lady Chatterley's Lover and books of that sort. Now that particular track to my honourable friend might be obscene. The court in Britain, of course said that it wasn't obscene and had a good number of witnesses before the court to prove that. But it is, it's a matter of judgment for the individual magistrate before whom the information is laid. I merely say this that I know of instances where this argument is used: that we should not denude the book stands of our drug stores or our book stores of matter which is adult reading material merely because occasionally a child may come in and look at it. Now this may be a harsh outlook and I don't say I advance this view; I say it is advanced to me. In other words, you can't go around censoring every piece of adult reading material because it may through some chance of fate fall into the hands of a child. Because otherwise you would be depriving the adult reading public of material which they should be entitled as adults to have.

On the other hand, a very practical response has been made, I know in instances that I am aware of, in drug stores where material which they deem to be of shall we say a shady character, books which have received publicity such as the one that I mentioned, are kept for sale, yes, but they're kept for sale under the counter to adults who ask for them. They're not put in the view of children. Now this is I think a more practical way of handling the problem. You don't run into the question of censorship or anything else. You let adults get material that adults can read. You keep it from children and you don't sell it to children. I think that's a very practical way and I commend those druggist and book store sellers who follow this practice. But as to whether or not certain of these, and I think he's referring to what we call on the street, "Girly Magazines" are obscene. This is always a matter of judgment -- always a matter of judgment. The department from time to times does look at them. I think the Morality Department of the City of Winnipeg Police Department keeps an eye on it from time to time. Certainly if material such as this gets tremendously out of hand or gets braver into the obscenity field one could expect charges to be laid, but if the Crown is not certain, if the Crown feels it's a moot point with the balance of probability falling in favour of the accused, why in a sense it's not fair to put an accused on charge if you don't feel that you have reasonable grounds for convicting him.

MR. DESJARDINS: Mr. Chairman, this doesn't satisfy me a darn bit. Well.....

MR. LYON: I didn't think it would

MR. DESJARDINS: Well that's fine. I don't know why the honourable minister took so long to tell me if he didn't think it would satisfy me then. I said that I appreciated the trouble

(Mr. Desjardins, cont'd.)....that this thing would cause him, and I'm not talking about some of those books that he mentioned. I am talking about those girly magazines. Now last night the Honourable Minister stood in this Chamber here and told me that the onus of responsibility in a restaurant would be to the owner to see that no minors should go there. That is accepted and that's fine. Now no minors can go in a beer parlor. Well I think that this is an awful lot worse but he tells me that it is up to the citizens, the citizens are going to spy on each other and they're going to try and do something about it. Maybe they should, but I still think -- I'm not blaming him, maybe there is nothing in the act or in the law now that he could do -- but if so, I am saying that he should insist, that it's something that he could take steps on. Now let's not kid ourselves. I'll bring some books here like I did last year and not a single one of you except these two honourable gentleman dared even look at them, and you can take those books.....

MR. LYON: Mr. Chairman, I think my honourable friend should identify the two honourable gentleman as the leader of the Opposition and the Member from Carillon less the record would show that maybe my honourable friend, the Minister of Industry and Commerce and myself are the ones he is referring to.

MR. DESJARDINS: Mr. Chairman I'll bring you one of those books tomorrow so you won't feel that you have been left out. But in the meantime, Sir, this is serious and I think it's obvious, you know exactly what I am talking about, everybody does, and if any of you gentlemen here and members that are fathers, if you want to take some of those books and show them to your children I'll be very very surprised. Now this is a problem; why don't we get together and face it. Are we afraid of what some people will say? I think that his is way more important than the liquor business or anything like that. The Attorney-General said that maybe the odd child or the odd young fellow will come in and look at those books. Well gosh, if you go in any of the book stores or drugstores you will see a lot of these -- what I call them the "drugstore cowboys", around there and they're looking at those books and they're right around that stand. I think we know that. Let's not kid ourselves. I am not talking about those books that you might have some reason to say to some people they are obscene; I'm talking about those pictures that are right in the front of every single child, right here to see, and I think that that's worse than the liquor business. You told us just last night that you don't think any -- it is a grave offence if somebody should go in this restaurant and order liquor, sometimes they have a birth certificate. They're certainly not asking them the same thing to get these books and those books are not hidden behind the counter. That's not true and we can go -- the Attorney-General and I can go to those -- the House if you want, Mr. Chairman, we'll all go right now and I'll find you some very fast.

MR. LYON: Mr. Chairman, my honourable friend misconstrues -- if I were going to be unkind, I would say as usual -- but he misconstrues what I said. I'm not implying that there is any lack of concern on the part of the department about this matter at all. I am merely suggesting to him that the law, which is a federal law of course, the law on obscenity is in such a state that either the citizens or the Crown can lay a charge, and the Crown must exercise its judgment on these matters as I tried to point out, as to whether or not it would be successful on a charge. -- (Interjection) -- Well, when my honourable friend makes that kind of statement I can only thank heaven that he is not sitting in a judicial position in this province, because we have to exercise, we have to exercise our judgment according to what reasonable people would believe, not my honourable friend. I can only say this to him that if and when documents or material of this kind comes to our attention and we feel that it commits a breach of the obscenity section of the Criminal Code we will be quick to take action on it, but I am suggesting to him that material which we seize from time to time is of a very moot nature, and we have to look at the side of cases in other provinces on this section to form a reasonable judgment, and that's what we are attempting to do. Now this may not satisfy my honourable friend but I hope it appeals to the reason of other honourable members in the House.

MR. DESJARDINS: Mr. Chairman, in the past -- I have always acknowledge the fact that the Honourable the Minister has done very good work, and I repeat this again. I have also in the past repeated and acknowledge that he was a capable man -- that I won't repeat. I think he's made it obvious yesterday, and he's starting to do it again today that he well believes me. In fact he is going a little further than I would go myself, he thinks that he and maybe a few of

(Mr. Desjardins, cont'd.)....of his colleagues has a monopoly on brains and judgment in this House and he is very sarcastic. I don't know why, he's a very charming fellow outside this House, but here he feels that he must come in and he must wear this mantle or arrogance. I don't know why, is it because he -- just yesterday he told us maybe my colleague, the Honourable Member from LaVerendrye should go to Ottawa -- maybe he's trying to send his Leader to Ottawa, and he's trying to follow in his footsteps. Well both of them are very good speakers; they are very good, but I don't think that the arrogance is the mark, the best point of the Honourable, the First Minister. So the Honourable Minister should remember that we have a duty here just as well as he and that for a good government, for the good of Manitoba, the Opposition certainly has a job to do also, and I don't know why he tries to ridicule everything that comes from here, especially from this side. Any suggestion that we bring in, it's ridiculous, it's crazy, should be swept to the floor of this House, that's what he told us yesterday. We had the audacity to bring anything, that's the only thing, when a war "why didn't we do it then?" If we suggest anything, well then we should have done it when we were in power. He's talking about 36 years ago when a few of these members weren't even born, in fact he wasn't born either, and I am responsible for what happened 36 years ago, and if I say anything I have a lot of audacity. Now he even insulted a member of this House that was the Attorney-General before he was dry behind the ears. Now I think that it will be much better -- he is a very capable man -- but if he could get rid of some of this cockiness and try and work with us I think we'd accomplish an awful lot. You are fond of saying, "let's get on with the business of Manitoba." Well let's do it, and quit this electioneering all the time -- quit flattering yourself and telling us how wonderful you are and try to listen. You don't have to agree with everything we say; but we're not all crazy or stupid because we don't agree with you. I think you should be a little less arrogant. If there is any audacity it's your.... Fortunately the people here in Manitoba feel that democracy is still the best system and until then, never mind this trying to turn this into a dictatorship. Give us a chance, we have a responsibility here as much as you. I don't know why as soon as he comes in this House he's going to tell us what to do and that we're not supposed to suggest anything. We have our duty to do as well as he has and I think he should remember that.

MR. LYON: Mr. Chairman, there seems to be persistent confusion in my honourable friend's mind between what he terms "insults" and what the rest of us term "debate." When my honourable friend learns to debate, Mr. Chairman, and I say that quite honestly and sincerely to him, his skin won't be quite so thin as it is now, because what we do in this House Sir, is debate -- we don't pass insults back and forth. I didn't insult the Honourable Member for Ethelbert-Plains yesterday. If I had he would have been on his feet on a point of privilege, so I just say to my honourable friend opposite that after he's been here a few years longer -- I don't think that the political fates will permit him to be here -- but if by some chance his constituents do permit him to stay here for a while longer, I think he'll learn what debate is and he will learn that I don't cast off all suggestions from the other side. I spoke tonight to my honourable friend, the Leader of the Opposition; he had some good suggestions. My honourable friend from Ste. Rose had good suggestions; my honourable friend from Selkirk always had good suggestions which I listen to quite carefully; but somewhere off in the southwest corner there, just because I don't always agree with my honourable friend from St. Boniface, I become arrogant, a dictator, you name it, I'm it. That's what he tells me any way and I merely say to him that after he's gotten used to me and to the other members of the House a little more, perhaps he'll realize that we are just debating, in a friendly, and we hope, equally advantageous manner for the people of Manitoba. He has no monopoly on debating what is good for the people of Manitoba. His judgment is sound; we listen to it from time to time; if we don't agree with him, it doesn't mean that we are trying to run him down or be audacious with him, so I just suggest to him that he get over his little temper tantrum and let us get on with the business of Manitoba.

MR. DESJARDINS: Mr. Chairman, I'm not too worried about what my honourable friend, I think this is the procedure, we have a big smile, we call him honourable friend, and tell them that they're stupid and it's find, and that is the way that he has learned. Well maybe I'm not too interested in staying in this -- (Interjection)-- well all right that's fine. If you read Hansard of yesterday, you'll see how arrogant he was, and my colleague wasn't here to defend

(Mr. Desjardins, cont'd.)....himself most of the time, that's one of the reasons why he wasn't up on his feet. I still say, I still say that any suggestion -- I know that he shouldn't always agree with everything that's said here -- it's just that those people should show a little more respect for all the members of this House, not because you out number the other side, it's not for that reason. -- (Interjection) -- Well you don't always out number them, I'll say that. In fact the Honourable Minister showed so much arrogance that even his own members didn't want to listen to him. Isn't that right? Were they here yesterday?

MR. LYON: On a point of privilege, I understand my honourable friend....

MR. DESJARDINS: Privilege is right.

MR. LYON: My friend was buying them coffee if I am to believe the newspapers.

MR. DESJARDINS: What was that, I didn't quite get that Mr. Chairman. Would you mind repeating.

MR. LYON: I understand from the newspapers my honourable friend was buying my colleagues here coffee. That's why they weren't here.

MR. DESJARDINS: No. If you want to get that straight, your Whip was waiting for me in the hall when I wanted to listen what was going on here. That is why he wasn't there....

MR. CHAIRMAN: I'll agree this little interchange up to a certain point doesn't do us any harm, but when we're through with it, I think that it's best just as quickly as we can get on with the business of Manitoba.

MR. DESJARDINS: Mr. Chairman I'll still bring you your book tomorrow....

MR. HAWRYLUK: Mr. Chairman, may I bring a small contribution to this particular talk raised by the Honourable Member for St. Boniface. It was my privilege about six years ago -- I think the Honourable Minister, Mr. Evans was in the House at the time when I managed to collect a series of what they called "magazines" at the time. We were on this side of the House and the Attorney-General at the time was the present Justice Schultz, but it was prevalent many years ago, and I think the first minister, rather the Leader of the Opposition remembers, there were obscene types of literature sold to the teen-agers; horror magazines, sex magazines, that they could be bought at any time, and I did bring it to the attention of the former government. As a matter of fact I brought several hundred copies in to the House, and I gave it as a gift to the Attorney-General at that time to look it over, and I can assure you that the former government did bring the matter up, and those types of literature which were bought by the youngsters -- as a matter of fact, do you know where I collected those books? We always have a sale to raise funds for the March of Dimes and I appealed to the youngsters to bring anything they could get in order to exchange with the other youngsters and here, sure enough, these were the type of books that were sold to the teen-agers and school kids, and I can assure you that they were the most horrible type of literature you could imagine. It had everything from the Man from Mars and that you could just imagine, but I can assure you that something was done because I don't think that any type of literature of that kind is found on the stands today. Now whether it was the fact that the Federal Government stepped in on the matter, I think did the thing -- maybe it's because the Attorney-General at the time appealed to Ottawa -- but I think it's a slow process as the Attorney-General of the present time says. (Interjection) .... But I do say, and I do agree to some extent with the Member for St. Boniface, because for example, we still do have what we call an odd exchange of books and the youngsters bring these pocket books, and some of them are very demonstrative -- whether they are aware of the type of book they bring to the school, they are still brought for the purpose of exchanging among teen-agers, but I believe in most cases they have been taken and given to them by their parents. Now I think it's a slow process. There are types of books on the stands that I think for our teen-agers they're definitely not to their way of educating them. We have other types of books that can be obtained in our libraries especially nowadays, we have access to wonderful books in the school libraries, but unfortunately the access of these books can be obtained for anybody that walks in and puts 25 cents on the counter, whether it's magazines or pocket books. And I do agree with the Member for St. Boniface that something can and should be done, because there are types of literature -- I don't agree at all with the stand that was taken in London regarding the book *Lady Chatterley's Lover*. I read the book and I think it's the worst type of tripe that you can have published in print. It's tripe. And yet can you prevent a teen-ager of 14 or 15 from reading it? If we are appealing to the

(Mr. Hawryluk, cont'd.)....publishers in order to give revenue to the treasury coffers of Ottawa, then I'm against it 100%. We have a lot of fine literature, fine books that can be obtained in the drug stores, in the libraries, and I would certainly think that possibly the assurance that the Attorney-General has given tonight that something can and will be done about eradicating most of the junk that we still have on the newsstands and some of the stalls. (Interjection) Well I didn't want to bring that matter up Sir, but I haven't read the book. I know there's quite a bit of controversy in the Trustees Association; I am not in a position to commit myself because I haven't read the book at all. But there again is an example -- possibly the book itself is not the type that we should give to the high school students, possibly they're at an age where they can discriminate what's good and bad. Maybe there was a reason the Trustee's Association had for feeling that that book was not necessary, because there are others that they could choose, but if that's an example of what could slip in -- I haven't read the book but there seems to be quite a bit of controversy -- then I think possibly more care should be taken by the curriculum group of the type of books that are being suggested for reading material by the students in the high school. I think, slowly but surely, something could and should be done. I don't think we should worry about the publishers, about the fact that this brings a source of revenue. I think it's about time we should offer our youth the type of literature that has been an accepted fact for the past two or three hundred years. I do appreciate the stand that the Attorney-General has taken; I have confidence that something will be done as it was done in the past regarding some of these horror comic books, and possibly within a few years maybe we will have the assurance that some of these books will disappear from the newsstands of the City of Winnipeg or in the Province of Manitoba.

MR. PREFONTAINE: Mr. Chairman, would you please allow me to ask the Minister of Education what is his own opinion with respect to the book *Barometer Rising*?

MR. McLEAN: Mr. Chairman, I hadn't read the book before the controversy started and I assure the honourable member that I haven't read it since either.

MR. CORBETT: I would like to ask a question that's been bothering me. Somebody presented me with a copy of the book *Lady Chatterley's Lover*, and me being a very virtuous man in my reading I went to the back of the book first. There was four or five pages there setting out in very judicial language -- these lawyers are wonderful -- that that book was not obscene; it was pure -- from some courts in about four different states in the United States. Of course when I read this I said it's all right for me to read it, and I read it, and I'm sure that I didn't agree with those friends of those judges down in the States. I thought that book was a little obscene.

MR. CHAIRMAN: Administration 2. 3.

MR. REID: I wonder if the Minister could tell the House how these people are selected for JP's. What their qualifications are, and how they're selected? Also what percentage of the fees they keep and what percentage of the fines they keep?

MR. LYON: Very often the local JP, it was suggested at a case recently -- the Honourable Leader of the CCF would be aware of it -- where a local council advised me of their need for another Justice of the Peace. They submitted three names that they felt would be suitable persons in the community for this post. One of those persons was selected as the Justice of the Peace. We try, actually, in the rural areas we have always I think without exception, get an RCMP report on the individual to make sure that he is a sound upright citizen and so on, and basically that's what you're looking for is a man of judgment, a man who is fair, a man who can dispense judgment even at the summary conviction level of provincial offences and so on, with fairness and equity to all the people who come before him. It raises of course the interesting point which we are considering at the present time, as to whether or not there should be some whittling down of the authority of Justices of the Peace. I for one am a strong proponent of the idea that a person who pleads not guilty to an offence, a summary conviction offence, should have that charge and the trial heard before a qualified police magistrate, and we are looking at that right now to see -- for instance in the City of Winnipeg, perhaps in my honourable friend's area -- in a number of cases, cases are tried before a Justice of the Peace. I think in his area though the Justice of the Peace happens to be a lawyer. I think that where we have properly constituted courts; where we have police magistrates employed in these courts -- and I'm talking now particularly about the Greater Winnipeg area -- that contested

(Mr. Lyon, cont'd.).....cases should be heard before the Police Magistrates as many times as possible, unless it is going to cause inconvenience to the person charged and he expressly wishes to dispose of the charge before a Justice of the Peace.

MR. HAWRYLUK: ..... follow up the matter that was brought up by the Honourable Member for Elmwood. When the appointments were made for QC's the last time we saw the pictures of ten men and they were given the title of Queen's Counsel. Now this is not a sort of a criticism, it's just something I read in the newspaper. It appears that your secretary, former secretary of the Law Society, Mr. Huband if I recall his name -- Mr. Huband, your former secretary, was very, very critical of the appointments that were made of some of the appointments that were made of some of the men who were given this auspicious title -- which I think is a deserving title for those who deserve it -- and then we had the terminology in the papers of being a qualified conservative. But what I'm trying to get at Sir, is this, is here on the one hand the Society or the government sees fit to appoint a lawyer in this honourable position as Queen's Counsel whether the gentleman in effect has ever practiced in Court. A lot of them are good real estate lawyers according to the write-up, good real estate lawyers, but never have had too much experience practicing in the Court. And yet on the other hand, when you read yesterday's paper you find that the Minister of Education is introducing merit rating in Swan River for the teachers. Now being a school teacher myself on the one hand there's quite a bit of advocacy by the Trustee's Association that we should have merit rating because of increases of salary and they're making a big hulabaloo about it, and yet appointments for your QC's which is a very distinguished position as far as any province is concerned, is taken on political matters and not possibly on merit rating. Now I just wondered Sir, whether these appointees that the government, I believe it goes through your jurisdiction is it because these men are qualified to take their jobs in Court and become your Crown Prosecutors, and is it fair, or is it a matter of political expediency? Yet on the one hand you get all kinds of adverse publicity regarding merit rating of teachers which so as far as I'm concerned as a teacher and a principal, possibly has merit, but nevertheless you are doing something that is not in complete accordance with the Manitoba Teacher's Society because it will create a certain amount of differences of opinion. It's a very delicate way of trying to judge a teacher who is given a poor class one year and the same teacher who could be given a better class to teach the following year. I would like to get your opinion Sir, because I don't think it's fair that we should have these appointments made for people who, in all likelihood deserve that title -- QC means a great deal to a man as far as prestige -- but I think that the criticism have been made by your Law Society on more than one occasion that these appointments -- (Interjection)-- oh yes, the secretary -- well he was secretary at the time, Sir.

MR. LYON: No, No.

MR. HAWRYLUK: All right then, you correct me. And yet on the other hand we are advocating merit rating for approximately 10,000 teachers in the Province of Manitoba. I just don't know whether one act is justifiable and the other isn't and I'd like to get your account on that.

MR. LYON: Well Mr. Chairman, of course the essential difference between merit rating and the honour of a Queen's Counsel is that no pay accrues with a Queen's Counsel and with merit rating pay does accrue. I suppose those of us in the House who bear this title would wish that some pay did accrue with it, but unfortunately for the Honourable Member for Selkirk and myself and the Minister of Education and any others, we don't get any money for it at all so that I think is the essential and the great difference between the two and would make them difficult, if not impossible of comparison. No it doesn't make any difference to fees or anything else. It makes this difference: when your name appears in the paper or somewhere else, it's a little longer because you've got two initials after it. But essentially it's an honour that is bestowed by the state pursuant to the provisions of the Law Society Act upon barristers or solicitors in the Province of Manitoba. I think an amendment was introduced in approximately 1952 when our honourable friends were in office, permitting attorneys-at-law or solicitors to be given the honour of QC title after they'd been practising at the bar for ten years. My honourable friend I suppose is thinking of the British system where the terminology barrister and solicitor means much more than it does here in the sense of the division between the two. Over there a solicitor cannot practice in the courts. A barrister must do all the practising in the courts.

(Mr. Lyon, cont'd.)....Here the commonplace circumstance is that all lawyers are barristers and solicitors. Many lawyers contribute a great deal to their profession and through their profession to their community, through activities in the Manitoba Bar Association, the Manitoba Law Society or the Canadian Bar Association. Some of these lawyers never set foot in court, but still they are contributing as lawyers to their community through the activities in the legal profession. That is why I think it has been found practically impossible to make this cleavage over in any of the provinces of Canada as far as I am aware, because a man here does not have the same responsibilities of being a court man as he does in Britain. In Britain you have to have a certain income. At one stage I think it used to be thirty thousand -- no not thirty thousand pounds that's too much -- twenty-five thousand dollars or something like that. You apply for a Queen's Counsel patent in Britain and once you get it -- some lawyers after getting it have gone broke because they can only take cases the fees on which, or the amount involved on which are above a certain figure, a thousand pounds or something like that. They can only be briefed by solicitors. They can no longer deal directly with the public. The system over there is much different than in Canada and any of the provinces of Canada.

My honourable friend refers to comments made by a barrister, who was not the Secretary of the Manitoba Law Society, he was the past editor of the Manitoba Bar Association and Bar News. My honourable friend will realize that selections that are made for this honour won't find 100 percent agreement I suppose with everybody, anymore than any selections do. This gentleman chose to make known his objections this year to the list that was published. I recall he made known his objections I think three or four years ago to a list that was published, and I say to him, Mr. Chairman, that he's entitled to his views. But nonetheless these appointments are made generally speaking in my time -- and I think the practice prevailed in the time when the Honourable Member from Ethelbert Plains was in this office -- by consultation with the Law Society and with the Bar Association and generally the awards are given on the basis of that, and recommendations made to the Lieutenant-Governor-in-Council. I don't know if I can say anything more to help my honourable friend.

MR. REID: In local courts, where the JP or magistrate is just an ordinary layman, not a lawyer, now what percentage of fees does he retain in fees and fines? What percentage does a local man retain? I'm not speaking about a lawyer, just a local layman?

MR. LYON: Well they all retain, these people are not civil servants, with the exception of the five that I mentioned who happened to be civil servants in Manitoba. The rest are what we call fee paid JP's. They retain any fees -- not the fines, they remit all of the fines to the government -- but they retain any fees that are provided in the Criminal Code of Canada for the services which a JP renders.

MR. REID: What do the fees amount to, Mr. Chairman or what are they. Any idea?

MR. LYON: I think the fees, unless I'm mistaken, are remitted in and paid out. I don't have figures in front of me, they vary of course, on the amount of work that the person does.

MR. McLEAN: Mr. Chairman, I have a double interest in the comments made by the Honourable Member for Burrows. I would like to say something in order that this matter not go down on the record, perhaps with some misunderstanding. He had referred to my activity in Swan River of last Saturday afternoon; said that I was bringing in merit rating for ten thousand teachers. I want to just say that that is not the case at all; that I had a proposal to make which I made quite clear was subject to the approval of the teachers in that particular locality concerned, as well as subject to the approval of the teachers in that particular locality concerned, as well as subject to the approval of the trustees. I want it just to be quite clear that I'm not bringing in anything except that to which they themselves agree. There is an important distinction to be made as the Honourable the Attorney-General has already said between merit rating insofar as if it were to apply to teachers, because teachers are people who are employed by public bodies and paid by public funds, and the individual parents have no control over the teacher or teachers to whom their children are sent. If there is any ground for merit rating it exists only in the basis of serving as a means of insuring that the quality of teaching is of a satisfactory standing. All lawyers, of course, are merit rated every day because the individual client merit rates a lawyer when he goes to him and the two things are quite distinct.

On the subject of the appointment of Queen's Counsel, and since I have the dubious distinction of having received that appointment and having been the target of the criticism that

(Mr. McLean, cont'd.)....was made by Mr. Huband, I would like to make this comment that, of course, if you applied Mr. Huband's qualifications or standards to the appointment of Queen's Counsel we would not have more than ten or twelve at the outside in the whole of the Province of Manitoba. He endeavours by some curious means of logic to apply the British standard to our system, which is, of course, entirely different, and where his standard would not apply. I think I should say this too, and perhaps I'm not in as good a position to say it now as I would have been before January the 1st, that there has been much unfair and, in my opinion, improper criticism of Queen's Counsel appointments. I have in mind one such appointment made some few years ago and there was a great row by all the self-appointed people who, of course, would like to be appointed Queen's Counsel themselves and probably would make other choices. But the fact of the matter is that the person appointed has in more later years been appointed a police magistrate and I would say that he is one of the ablest and best magistrates in the Province of Manitoba. It just illustrates the unfairness of this blanket sort of charge that because you don't appoint the person I think you should appoint, of course, obviously you appoint the wrong people. I think that it's time that some fairly reasonable approach should be made to this matter and I felt and felt for some time that something of that sort should be said.

MR. HAWRYLUK: Mr. Chairman, there was no reflection on you when I brought this matter up at all, because if anyone deserved that appointment it was you, Sir, because since you have taken over the post as Minister of Education I can speak for I's say all the teachers, that we have progressed in the right direction. It was just a matter of information. The fact that a member of your society has on more than one occasion been critical of the appointments made. I know it's been done when the Liberals were in power. They possibly used the same method of selecting the people they wanted to be the QC's, or King's Counsels as it was many yours ago. It was just a matter of airing this publicly because I think the comments that were made by the Attorney-General have cleared the air as to some of the accusations that might have been made by a member of your profession. As far as the merit rating that is being introduced, I said that I didn't -- I knew that it was just a selective group that was going to be involved in Swan River because I think it involves only about 180 teachers and it still has to have the approval of the trustees. But eventually I think it is the intention that all the teachers in Manitoba might be involved under the suggestion made by the Royal Commission on Education that merit rating will be in effect. That was the only reason that I brought the matter up because I'm trying to compare the standards of one type of profession as compared to the other. Whether it's synonymous or not is something that possibly is just a matter of time. But I can assure you that if the experiment is successful and the teachers feel, the trustees in the areas feel that it can be workable, because it does involve a great deal of checking and the role of the trustees, the role of the inspectors, the role of the principal will have to be evident in that, and therefore I feel that possibly it has merit and we'll just see what the results will be in a few years to come.

MR. PETERS: Mr. Chairman, could the Honourable Attorney-General tell us, are there any special qualifications before you are appointed a QC?

MR. LYON: Yes, you must be a barrister or a solicitor duly called before the Bar of the Province of Manitoba and you must have been in practice ten years in the Province of Manitoba, unless you happen by virtue of a recent amendment to be the Attorney-General and you qualify immediately. That was a disputed piece of legislation that was passed over my objection last year.

MR. PAULLEY: Mr. Chairman, just before we leave this question of the Administration of Justice I'd like to raise one or two points, and I'd like the Attorney-General to make a statement on it. It has been drawn to my attention on many occasions -- It may be that the matter has already been raised. Unfortunately I was out of the House for a moment or two, with the -- (Interjection)-- yes but not to the magnitude of my honourable friends. But we'll let that go as an aside. I wouldn't have said anything if it hadn't been.....

It has been drawn to my attention that on numerous occasions many accused are held by the Courts of the law enforcing agencies before they are brought before magistrates for the consideration of the offences for which they are charged. Now I know that insofar as the City of Winnipeg is concerned, I'm not meaning this in any way derogatory of the Courts, but on

(Mr. Paulley, cont'd.)....many occasions people are held in confinement over the week-end until such times as they can be brought before the law of the Courts for consideration of the offences for which they are being charged. But apart from that it has also been drawn to my attention that on too numerous occasions in my opinion, persons are held in the custody of our law enforcing agents for alleged charges for a considerable period of time. As a matter of fact, I'm sorry that I haven't got substantiating evidence here before me at the present time but it does appear to be a fact -- subject to correction by the Attorney-General -- that on some occasions the period of confinement before brought to the courts for the administration of justice, that individuals have been held for periods of eight or nine weeks, and in some cases periods of time exceeding that. Now as I understand the basic principles of British justice, and I only understand this as a layman, that it is presumed that a person is innocent until he has been proven guilty by the Courts, that too often individuals who have been charged with alleged offences have been held for long periods of time. I understand that it is a fact here in the Province of Manitoba that individuals are confined, that because of an alleged charge that they are not able due to financial circumstances to raise the necessary bail, due to the lack of friends or the likes of that, remain in confinement, and I wonder whether or not the Attorney-General can point out to me whether in actual practice this is the case. I understand that there have been a number of shall I call them exposes of this fact so far as the administration of justice is concerned, that persons who are unable to obtain bail are held. It may be that in many cases, in my opinion, and I suggest in all due deference to my friend, that the bail may be set too high, that many people who are of very, very meagre means are prejudiced to have their cases heard expeditiously because of the fact that they cannot raise the necessary bail. If I'm not mistaken I read of a case not so very long ago of a person who was accused of a crime that was kept in confinement, and by confinement I mean rather loosely, although he was kept rather tightly, for some considerably period of time. Now I's like to hear any comment which the Honourable the Attorney-General may care to offer insofar as this point that I raise is concerned. Again I say Mr. Chairman, that we laymen have been given to understand and any indoctrination we have of the basic principles of British justice that we're innocent until such time as proven guilty. Transversely, many incidents have been drawn to my attention where it appears that this is not the case, and I'd like to hear from the Attorney-General in respect of this matter.

.....continued on next page.

MR. LYON: Mr. Chairman, I think my honourable friend is referring to the situation where accused are held on remand pending preliminary inquiry and then having elected for a certain mode of trial, probably what we call a speedy trial, a trial before a County Court judge without a jury, they then wait a certain number of further weeks on remand in custody because they are unable to raise bail. Is that what we are referring to?

In my time there have been two such cases that have come to my attention where I would consider myself that the period was over lengthy. The first case we discussed here last year, and I think I mentioned at the time to my honourable friend that we, insofar as the department, were geared to handle this -- remembering always that bail is a discretionary matter within the sole power of the magistrate or the Justice of the Peace, not a matter for the Attorney-General or the Crown Prosecutor -- insofar as we had any authority and could exercise any persuasiveness on the persons granting bail, that we would attempt to see that the numbers of these cases were very few, and in fact they are because as I mentioned there are two that I know of. The case we mentioned last year -- a man, I forget how long it was, a matter of a number of weeks -- he'd elected for a certain mode of trial, he couldn't raise bail. Now the case this year to which my honourable friend refers is a case that occurred somewhere in September. I think the accused was arrested in September, had a preliminary inquiry some two weeks later, then waited until November, as I recall, until his trial came on.

Well now, what is the situation? He says first of all it appears that the fundamental principles of British justice are not being observed. Sir, I would put the lie to that suggestion or allegation that is made, I suggest sometimes very loosely by the newspapers without realizing really what is involved. A man is arrested on a charge of theft or wilful damage or armed robbery or murder, any charge at all. Murder for instance -- you can not get bail. Bail is very seldom ever granted on a charge of murder. What happens? He is arrested. The machinery goes to work immediately. A charge is laid. You can't hold a man without a charge or without, as we were mentioning tonight, some indication that a warrant is forthcoming for him. He appears before a justice and if he requests it or if the Crown requests it he can be remanded a further week, or a week or two or longer, depending on what he or his defence counsel or the Crown may wish to do. May I say at this point that the Crown very often -- there is no desire on the Crown to remand these cases at all -- but very often it's done to accommodate the defence counsel or the accused himself. Now immediately a man is arrested and a charge is laid he can approach a Justice or a Magistrate for bail; bail being a discretionary matter within the purview of the powers of such a person. The conditions for bail are all set down by statute in the Criminal Code of Canada. What is the purpose of bail? Bail, I suggest, has nothing to do with innocence or guilt -- not at all. The only purpose of bail is to insure that the accused will appear at the appointed time to stand trial on the charge which he faces. That's the only purpose.

Now my honourable friend says that a man, because of unfortunate financial circumstances, can't get bail -- he is held up. Well I know very few if any cases -- and I'm referring now to these particular two cases -- where a person who has been a law-abiding citizen but who, for one reason or another, has no facilities for bail, if he makes his application known either by himself or through Counsel to the Court, they will try to set bail depending upon the background and the antecedents of the person from a criminal standpoint, depending upon always, whether or not they feel that he will appear at the trial. They will make some accommodation very often to suit the circumstances or the particular means of the accused. But I ask my honourable friend this: Put yourself in the position of a Magistrate or a Justice of the Peace. You have an accused appear before you on a serious charge, say theft, wilful damage, whatever it may be. Bail is being sought. One of the duties of the Crown with respect to bail is to advise the Court, because the Crown gets this information from the police, as to what the probability is of this person showing up for trial and what you look at is his antecedents to determine this. You look at his past criminal record and so on, and if you get an accused before you who has a string of convictions as long as your arm -- and some of them have, unfortunately -- that's not the Crown's fault or defence's fault, that's just a fact of life -- the Magistrate is going to take an awfully long look at this person and he's going to probably set stricter bail than he would for my honourable friend or me if we appeared before him because we -- and just mentioning that brings in another factor. Is he a property owner in the city? Does he own property? Does he live in the city or is he, as is most often the fact, and the particular case I'm thinking of now is the case of last fall, is he

(Mr. Lyon, cont'd.) . . . . a transient with no fixed abode in the province and with a criminal record behind him. Now I ask my honourable friend to put himself in the position of the Magistrate who is granting bail. What has he got to consider? He's got to consider what are the chances of this accused showing up for trial. He has the option to let the accused out on his own recognizance, say to him, will you sign this piece of paper which puts you in debt to the Crown in the amount of \$500 on your own bond and you're free to go provided you appear a week, two or three weeks hence whenever the trial date is set. And this is a matter of judgment for the Magistrate, not for me, for the Crown Counsel or anybody else but for the Magistrate. Remember always that the power resides with the Magistrate. He may exercise his judgment by saying: "I think that the bail should be \$5,000 -- two sureties of \$2,500 each". Some people can't raise it because they are transients and because they have a criminal record. It's that simple. They come before the Court; they elect for a speedy trial; the preliminary inquiry is held a week, two or three weeks later. It's held with as much dispatch because that is the order that they have, I know from me, and I know from practice in the department in former years, that was the order that was made by all Attorneys-General, that trial should be brought on as quickly as possible, especially when the accused is in custody on remand. He elects for a speedy trial. In the case last fall he elected for a speedy trial just at the time, or just a week or two prior to the beginning of the Fall Assize. When the Fall Assize begins the County Court in Winnipeg does not sit on speedy trials because the Crown Prosecutors are servicing the cases in the Queen's Bench and the County Court does not sit on speedy trials. The accused could elect for a jury trial and get his case on right away before a jury, but it's his option to elect his mode of trial and he elects -- I know of no case where they don't tell him that he may have to wait longer if he elects a certain mode of trial. In the case this fall he elected for speedy trial -- his trial, as I recall and I haven't the documents in front of me -- came on some time in November; he was found guilty. Because he had served September, October, I think it was 2 1/2 - 3 months on remand in custody, his sentence, he was found guilty and his sentence was four or five months, and the Court took into account the fact that he had been serving this time in gaol.

Now that as I mention again, there are only two cases that I know of in my time where, I would think as would the honourable member, that there was a considerable amount of time elapsed before he came to trial. What I have tried to do is expose to you the reasons why the time elapsed and to expose to you and to try to explain to you that the question of bail is a discretionary matter and if a person is a transient, if he has a bad criminal record, his chances of getting bail are very slim, for very good reasons, because consider the alternative. A Magistrate must look at this, if he lets the accused free on his own recognizance and he is a transient and the accused leaves the province, as there is every good chance that he might, who is going to bring him back? The law enforcement officers of Ontario or British Columbia? At whose expense? At the expense of all of the people of Manitoba, to face this charge. This is the decision that has to be made and it's not an easy one. I don't think that Magistrates regard it as an easy decision, but it's theirs to make. Not mine, not yours, not the Crown Attorneys. What we have done in the department -- no system is fool-proof -- what we have done is this; I have asked for reports to come into me, I think it's once a month, from the remand cases of our different institutions across the province, indicating to me the dates on which persons came into the institution on remand, when the date of trial is set, so that we can keep an eye on these. Now that doesn't mean for a second, and I don't suggest that we will be able to do anything in many of these cases because again the magistrate is exercising his discretion. It's not for me to say, it's for the magistrate to say. All I can do is try to speed up the time of trial and we try to do that. We have wonderful co-operation I may say from the courts at all levels in doing this. The courts realize of course, that no one wants to be kept in custody on remand and we get exceptionally fine co-operation and no suggestion of criticism can be laid at the door of the courts at all. These situations do occur from time to time -- they're not unique to Manitoba, let me tell my honourable friend, they're unique to every system of provincial administration of justice in the country so far as I know -- they're common, I should say, to all of them. But we do try to minimize them as much as possible. I hope that he can see that it's not a matter of guilt or innocence; it's a matter of whether or not this accused can be trusted with or without surety, to appear at his trial at the time appointed.

MR. PAULLEY: Mr. Chairman, I appreciate very much the remarks of the Honourable the Attorney-General. He listed two or three cases which -- I gather from his remarks that he agrees with me in my contention that in these cases at least, there may be some question as to whether or not the presumed guilty, although he did mention the fact that in one case, eventually the person accused was found guilty. But I raised the question here yesterday dealing with a case of, and again I come back to the question raised by my honourable friend, the Leader of the Opposition, and the question was vagrancy, and it appears to me that according to the press reports and press reports can be erroneous.

MR. LYON: Mr. Chairman, I would tell my honourable friend in cases of this sort not to believe everything he reads in the press, please.

MR. PAULLEY: That's exactly what I was saying, if my honourable friend had been listening to what I had said, he would have heard the preface to my remarks that I said that we cannot agree on all occasions or accept as gospel what press reports put in the newspaper. But I do suggest that if my honourable friend would refer to the case, and I'm sure that he's -- or should be if he's not -- thoroughly conversant with the case of Miss Vanderveen, where here was a case of a person who first of all, according to -- again to press reports which may be erroneous -- (Interjection) -- Well, I don't know, Mr. Justice Molloy didn't think they were too erroneous -- on a charge of vagrancy, that here was a person and I quote from the news report: "She served six days of sentence before being released on bail and subsequently when the case was brought before appeal, the case was dismissed." And I might say for the information of my honourable friend, this again may be erroneous insofar as the press report is concerned. The last sentence of the news report says: "The Crown gave no indication that an appeal of the Molloy decision would be made". It could be -- (Interjection) -- Pardon, I don't know whether it was a finding of fact or not. All I am saying is that insofar as the press report was concerned that there was no indication at the time of the report brought to the public attention and I presume that I am one of the public, that the Crown was going to appeal this case. But the point that I am trying to get at is this, again, and this is just an illustration of the case that I am trying to establish here to the Attorney-General, that it does appear to me that too often there is a dereliction in the administration of justice of an aversion from the basic principles of what we, as laymen, can see as being the basic principles of British justice. I frankly admit that insofar as knowledge of law is concerned I may well be uninformed, but I do say this, that there have been too many cases drawn to the attention of myself and the public generally of individuals who have been brought before the law or brought before the bar of justice, who, in effect, have been considered as being guilty of offences before brought to trial. And that's the whole point, Mr. Chairman, that I raise here in respect of the administration of justice, and I think, Sir, I think, Sir, that the remarks that I am making here tonight could be substantiated from other sources and I question very, very much whether in effect we have here, or in other quarters in the Dominion, in the administration of justice, the basic precepts of British justice and the question of being innocent until proven guilty.

MR. LYON: Mr. Chairman, my honourable friend calls to account before the bar of this House the whole system of the administration of justice -- (Interjection) -- Well, you just finished saying so, Mr. Chairman, on the basis of one case, the information from which he gleaned from a newspaper. I rather think that my honourable friend before making any such charge or even hinting at it, should perhaps ask for the facts of it, find out just what the case is. I think I made the point clear last year, Mr. Chairman, that we are not assembled here as a court of law. If there has been dereliction of duty on the part of the Crown and the part of the police, I think that that's fair game to talk about in here; but where courts remedy actions, where every time an appeal is taken and somebody, a higher court finds the person not guilty, where they were found guilty in a court below -- are we to condemn the whole system of British justice? That's why we have appeals.

And my honourable friend is talking about a case which was tried in the lower court and went to appeal. The proper system, the wheels of justice turned as they do in all of these cases, and on appeal the justice, or the judge, who heard the appeal found differently than the court below. I can only say, and I don't -- because I do not deem it to be proper -- I don't want to parade all of these facts, and I've got a file of them here, I could read you the evidence and the deposition -- I don't think that this is the proper place to do that because it makes, I think, a mockery

(Mr. Lyon, cont'd.) . . . . out of a Legislature if you try to usurp the functions of a court. But I do say this, that this was a case where the accused was arrested and originally charged -- may I say on a charge of being drunk and disorderly in a public place. At the request of the accused, according to the information that I have here, the charge was changed to vagrancy -- she entered a plea of guilty in the court below. In the usual fashion there, she was given a sentence; at her request -- she said she wanted to go back to a city in Ontario -- at her request she was given what they call the "floater". Six months in gaol, warrant to be held 24 hours before it was executed. Subsequent to that 24-hour period she appeared in Winnipeg and she was arrested on the warrant which was then outstanding and was in gaol. She appealed immediately her vagrancy, she got counsel, appealed her vagrancy conviction for which she was then serving six days and not as one of the papers said -- having served three months in gaol -- which was not the case. She served -- and your report, Mr. Chairman, -- the honourable member's report was accurate, she served six days and then appealed. The case went on to appeal before County Court Judge, trial de novo as we call it under a summary conviction offence. She was represented by counsel; the evidence was put in by the Crown; evidence was put in by the defence, the judge -- and I make no criticism of the judge whatsoever -- chose to believe the evidence of the defence rather than the evidence given by the Police Officers and the accused was found not guilty. Now it was that simple. The details as I say are all here and the evidence. My honourable friend might have made a different finding on that evidence than the judge, I don't know. I've read most of it through and I'm not making any comment at all. The Crown did not appeal the decision because, as I say, the finding of the court essentially was the finding of fact, and there was no really sound ground in law upon which an appeal could be founded. I merely make that comment; I know that there was genuine regret, as I am led to believe, expressed by this person through her counsel to the, as I understand it, to the Police Commission that any publicity was given to the case at all. Not in the sense that she was vindictive about it, she didn't want to be vindictive about it, she regretted apparently the publicity that was given to it, that's a side matter altogether. But all I can say in a case like that is that we looked at the thing closely, the actions of the police in the circumstances as they appeared on the crime report and as they were subsequently given under oath and in court, did not reveal actions which went beyond the powers that are accorded to the police. They acted as we would expect police to act when they receive a complaint about drunk and disorderly activity, went out and made an arrest, and what followed subsequently went through the courts in a proper way. I could see no basis, having reviewed this, I could see no basis for particular condemnation of police or Crown. The judge saw different and that is his privilege, and we respect what he says and we have looked very closely -- I have the reasons of judgment that he has here -- we have looked at those. But that is the case. This is not in the same category as the other matter about which we were talking before about bail pending trial, but this is a case of a routine vagrancy charge. Remember that hundreds, nay thousands, thousands of these cases go through our courts in a year. I think that the Honourable Member from St. George can verify to that fact, perhaps better than I. One of them goes to appeal and the accused is found not guilty. Well, I don't know that -- I would say, well, to be on the safe side it would be, on a docket of 200 cases in a day, you very often find ten or fifteen a day of vagrancy cases -- very often; especially on a Monday morning after a busy weekend you do find this. We don't like it, it's shocking perhaps, but that the fact of life, it occurs, and you can see it in the City of Winnipeg Police Court, vagrancy charges outside of the Greater Winnipeg area are not too common at all. But I say this not in defence of the department or of the police particularly, I say that this was a case that was handled, I think, by the police without -- they might have been subject to some criticism, the court obviously thought they were -- but faced with the facts as they were, I think that they conducted themselves in proper fashion.

MR. PAULLEY: It's rather a revelation to me that the Attorney-General should deride me -- and it appeared to me as though he was -- because I raised this question in this Legislature . . . . .

MR. LYON: On a point of privilege, Mr. Chairman.

MR. PAULLEY: . . . . . if I recall my honourable friend correctly . . . . .

MR. LYON: On a point of privilege, Mr. Chairman, I didn't deride the honourable member for bringing the case forward. I merely made comment on the fact that he impugns the whole

(Mr. Lyon, cont'd.) . . . . system of British justice across the country on the basis of one case.

MR. PAULLEY: Okay. I'll accept that, Mr. Chairman, but it seems to me, and I think the last remark of the Honourable the Attorney-General just bears out my contention that it appears to him as though I shouldn't raise these questions in this Legislature, and I say that it is my duty to raise these question, albeit the fact that it may only be one case.

MR. LYON: It's your rhetorical comments that . . . . .

MR. PAULLEY: No, it's not rhetorical comments at all. I suggest that it is my duty as a member of this Legislature in the House to draw to the attention of this Assembly, cases -- and even if this is only one case, but it is not only one case because my honourable friend the Attorney-General has also made reference to one or two other cases which I did not have in my mind at the particular time -- and all that I am saying is it is my duty, albeit one case or two cases, to draw to the attention of this Assembly that these things are happening. Now my honourable friend mentions the question of 100, or 200 or whatever the number of cases of vagrancy that may be before the court on a Monday morning in the City of Winnipeg, as the result of a weekend. I ask him this question. Is it not possible that, within those number of cases that he refers to, that there may be more of what happened in this particular case? I'm very interested in the statement of my honourable friend the Attorney-General of the Province of Manitoba when he makes reference to the 24-hour floater to get out of town. How are they arrived at? How fair, in the administration of justice? Actually are these people considered? I raised this question yesterday. Are they given the protection of the law by proper legal advice? I haven't had an answer yet, Mr. Chairman. I object and I reject entirely the answer that the Attorney-General of the Province of Manitoba has given me in this case and other questions that I have raised over the last couple of days; and I've been supported in my contention by the Honourable the Leader of the Opposition, at least in some respects on these.

MR. LYON: Well, Mr. Chairman, I don't undertake always to convince my honourable friend of the explanations that I give. I didn't make this clear for the record. I don't chastise him for mentioning, he knows that. I chastise him for not finding facts before making allegations. That's all I said.

MR. PAULLEY: May I ask my honourable friend, the Attorney-General, and I'm sure that him and I are friends normally, how can I obtain the facts unless I raise the question here in the Legislature. Is he suggesting that on any case at all that I may find myself at variance with the opinions of the court, or the administration of justice, that I should come down to his office and find them? I suggest that it is my duty, and I've said this before and I repeat, I consider it my duty as a representative of the people of the Province of Manitoba to raise the question here. Not to go down to his office.

MR. LYON: I consider it my duty, Mr. Chairman, to answer him as well, and that's all I'm doing.

MR. PAULLEY: Just one second. I wonder, Mr. Chairman . . . . .

MR. LYON: Who interrupted who?

MR. PAULLEY: No, not when you were speaking. I wonder how short a shrift I would get if I went down to the court or to the administrators of justice and said to them, "Now I want the facts in this case, or some other case". I'm sure, Mr. Chairman, that outside of this Assembly they could conceivably, and possibly rightly, tell me to mind my own business. The only place that I'm entitled to receive the facts of these cases is here in the Assembly of the Province of Manitoba, and that's where I'm trying to find them.

MR. GUTTORMSON: Mr. Chairman, on this point raised by the Leader of the CCF. He'd be rather surprised to know the number of people who request that they be charged with vagrancy when they're already charged with a lesser offence. However, the point I wanted to raise with the Attorney-General was when a person wanted by a Police Department in Manitoba is located in another province, I understand that before they can bring that person back under escort they must get permission from the Attorney-General, and I was wondering what rule of thumb he uses whether a prisoner will be brought back or not. I understand there are certain times when the Attorney-General will not give permission to bring back a prisoner; and sometimes he will.

MR. LYON: I can give my honourable friend, perhaps, a hypothetical example, but a good example of where authority could not be given. A man is picked up for speeding in Winnipeg

(Mr. Lyon, cont'd.) . . . . and he fails to appear at the time mentioned on the summons that he received. Subsequently, the police learn that he's living in Vancouver, he's left the province. I don't think that the Attorney-General, myself or any other Attorney-General, would give authority to expend public money to the extent of flying an escort out to Vancouver, arresting the man and flying the two of them back for that man to face the charge, the penalty for which might be \$10.00. That's an outside example of where authority would not be given. Generally speaking, I don't hear of these cases. I think the Deputy Attorney-General gives the authority in most cases. If he is in question or in doubt, he brings the point to me occasionally but, by and large, it's dealt with administratively by the department. By and large, it has to do with the seriousness of the offence. I don't know of too many cases where serious charges such as theft, breaking and entering or anything like that were involved where authority was withheld to bring the man back. It's a question of justice being served. I think that is the first quality and consideration that must be observed by the department in these matters and I think by and large that is the consideration that overrides all others.

MR. HILLHOUSE: Now, Mr. Attorney-General, for a man who -- say there is a warrant out for his arrest in Manitoba and he is arrested say in British Columbia or some other province, it's possible now under the amendment to the Criminal Code for him to have the charge in Manitoba dealt with in British Columbia.

MR. LYON: Only if he's in custody.

MR. HILLHOUSE: Yes.

MR. LYON: Not waiting trial but in custody on sentence. That new section which has been a tremendous help since it was put in is utilized I would say, not daily, but two or three times a week by us, whereby accused who are wanted in Manitoba on certain offences are found in custody in other jurisdictions. We give authority in Manitoba for the case -- the Manitoba case to be heard in the other jurisdiction and it's tried there.

MR. GUTTORMSON: I was referring to cases where the accused may be located in another province where he's not wanted in that particular province, he's only wanted, for the sake of argument, in Manitoba. I think I can safely say, too, there have been instances where a man has been wanted for burglary or theft or forgery, I don't say it holds true in all cases, but where the police department have been refused permission to bring him back.

MR. LYON: I don't know of any of them offhand, Mr. Chairman. They haven't been brought to my attention.

MR. FROESE: Mr. Chairman, I don't know whether it's the proper time to bring this matter up, but I think it has to do with the administration of justice. It's in regard to the matter of non-payment of premiums under The Hospital Service Insurance Act. The act was amended twice in 1959 and also in 1960, and I fail to see where a person can be imprisoned for non-payment of premiums under this act. Under Section 27, which section has been amended twice, provision is made for fining the person who is creating this offence, but there's no mention of any gaol sentence as such. I don't know how many offences of this type are made each year, or how many prosecutions are held, but not too long ago the press reported the one occasion where a man, I think he was first fined and then later on he was also imprisoned. I would like to have an answer from the Honourable the Attorney-General under what provision in the act this man was gaoled.

MR. LYON: Was the honourable member referring to the Hart case? That was the case where a person had refused, first of all, to register under the provisions of The Manitoba Hospitalization Act. Certain charges -- and again I don't have the material in front of me, I'm going strictly from memory -- certain charges were laid against him, I think it was in the spring, the fall or late fall of 1959. They were brought on and later, a month or two later, a fine was assessed against him or, in default, so many weeks or months in gaol. That's laid out in the penalty section in The Hospitalization Act. He refused to pay the fine and was, in fact, incarcerated on one other occasion, prior to the one that received the publicity. He subsequently paid his fine and got out of gaol. There were another series of charges laid against him because of his continuance to fail to register and to fail to pay premiums. A subsequent fine was incurred by the court against him. He, I think, pleaded not guilty. He was found guilty; a subsequent fine was handed down by the court or, in default, a certain amount of time in gaol because this, of course, is the only way to enforce payment of fines. He refused to pay the fine.

(Mr. Lyon, cont'd.) . . . . A considerable amount of time was given to him by the court to pay the fine. He was given time by the court to pay. When the appointed time arrived he was given still further time. He failed to pay the fine, not as I understand because he didn't have the money, but because he was opposed to the principle of it. The Crown finally had to take proceedings to arrest him on a warrant for non-payment of the fine and he was incarcerated again. He paid the fine subsequently. I think he served a day or two, or three in gaol. He paid the fine and, to the best of my knowledge, is out again. That is the procedure that was followed and it is the same procedure in all of our statutes which provide prohibitions and penalty.

MR. FROESE: Mr. Chairman, maybe I didn't get my point across. Can the provisions of any act be exceeded in court in applying sentences?

MR. LYON: What are you referring to about particularly, Mr. Chairman? What are you referring to?

MR. FROESE: Well, apparently under this act, a person can be fined but not imprisoned.

MR. LYON: I should tell my honourable friend that under The Summary Convictions Act I think it is, where a fine is laid down as a penalty under the act, a certain number of days or weeks or months in lieu of payment of the fine can also be handed down by a court. A magistrate in passing sentence of a fine will always say, or by and large will always say, \$10 or 10 days; \$10 or two weeks; \$20 or two months; something like that. There is always a default period. If the fine isn't paid you serve a certain amount of time in gaol.

MR. MOLGAT: Before we leave the Administration of Justice, we've had a very interesting discussion with the Attorney-General about the method of selecting jury people in the Province of Manitoba; the method of selecting Q. C. s; the method of selecting J. P. s. I wonder if he'd care to comment on the method of selecting Judges.

MR. LYON: Yes, Mr. Chairman. The only judges that the province appoints are Juvenile Court Judges. All of the Police Magistrates of Manitoba, I think this government has only made two or three appointments in that field. By and large the rest of the appointments were made by my honourable friend so he could perhaps answer the question better than I, because most of the Judges serving in Manitoba were appointed when the former government was in office. We try, as I think our honourable friends opposite tried, to get the best man possible for the job to give the best service that he can to the people of Manitoba.

MR. GUTTORMSON: While on the subject of judges, could the Attorney-General clear up a rumour to the effect that Mr. Regnier is going to be appointed as a Judge in St. Boniface?

MR. LYON: It is not in my jurisdiction or knowledge.

MR. GUTTORMSON: I hope it's only a rumour then.

MR. WRIGHT: Mr. Chairman, under Item 5(a)(2), there are a lot of items shown here and a considerable amount of money. I prefer, Mr. Chairman, for myself, to deal with this item by item. I think it facilitates the business of the House and that's what I intend to do. There is an item here marked "Ground Search and Rescue Operations". I know that it's hard to allocate money for that because of the unknown factor involved, but I would like to ask the Attorney-General if he could tell us how much money was spent last year for ground search and rescue operations.

MR. LYON: The actual expenditure in 1959-60 was \$557.26.

MR. WRIGHT: Were any air operations involved?

MR. LYON: I don't know to whom that was paid as that is an item where we sometimes have to use private aircraft for assistance to the RCMP occasionally for lost children and items of that sort.

MR. CHAIRMAN: (d) - (1), (2), (3) -- passed.

MR. SCHREYER: Mr. Chairman, could the Attorney-General tell us when the last increase was granted to the Society?

MR. LYON: When we first came into office, I think our first estimates in the summer, the session of July, 1959, we increased the former grant from \$5,000 to \$10,000 and it's remained at that figure since '59.

MR. PAULLEY: I would like to know whether or not the department might consider the fact that this Society or these Societies, or the one Society there may be able to make a greater contribution if the grant is increased over and above the \$10,000, or is the fact of no increase due to the economies that are prevalent at the present time within the administration.

MR. LYON: Mr. Chairman, any society can make a greater contribution if the grant is greater. That's a problem that you always face in government. Certainly I think, in due course, consideration will have to be given to this. At the present time we pay more, as I recall, than the Federal Government for whom about 50 percent of the work is done. We are doing what we can to increase the Federal Government grant as well, and we're giving consideration at all times to these requests and the reasonable request for the very good work that this society is doing.

MR. PAULLEY: The reason I raised the question was that on reading the report of the Society they seemed to feel that they might be able to, or would be able to render a greater benefit to the community in rehabilitation of prisoners; they may be able to take a greater interest in court work and the likes of that; which I think, generally speaking, would be for the advancement of justice in the province, if there was an increase in the grant. It seems to me as though from the report that the association feels, and we can understand that from the associations possibly, that they seem to think that if more persons were hired or on the staff of the association that they could do a far greater job than they're doing at the present time. I'm sure the Honourable the Attorney-General would agree with me that it's far cheaper for rehabilitation than it is for incarceration, and I'm wondering whether or not it may be advisable for this amount to be increased before too long.

MR. LYON: I think before too long it probably will have to be.

MR. SCHREYER: Mr. Chairman, it's only a hundred dollars, but I wonder briefly if the Minister could explain -- (No. (4).

MR. LYON: That was a grant that was given to the Canadian Congress of Corrections which have a meeting in Canada, in one province in Canada, every year. Usually the Director of Corrections goes representing Manitoba.

MR. CHAIRMAN: . . . . (5) - passed; (b) - (1) to (6) - passed; (c) - passed; (d) - passed. Resolution 42 - passed; Item 6 (a) - passed.

MR. PAULLEY: Mr. Chairman, I wonder if the Minister would explain to us the rather sharp increase in this. I know that it has been the desire of this Legislature and I think of all Legislatures in the Dominion, that there should be greater uniformity of legislation throughout the whole of the Dominion. I would like to hear from the Minister whether the increase is due to the question of greater consideration for uniformity of legislation or whether dealing with one of the other items, Canadian Bar Association and incidentals, that this increase is there. I'd like to hear.

MR. LYON: The question as I take it, was - why was there an increase? It's not for such a serious or important matter as my honourable friend would like to suggest. This year the Canadian Bar Association is meeting in Winnipeg. It meets about every six years in the City of Winnipeg. It has always been the custom for the host province to tender a dinner on behalf of the visiting lawyers and there is some 1,500 to 1,800 of them. This item covers that dinner. I think it's around 10,000.

MR. PAULLEY: Holy Smoke!

MR. LYON: We're hopeful it won't cost that much.

MR. PAULLEY: I'm hopeful too, Mr. Chairman, if the people of the Province of Manitoba are now going to spend \$10,000 for a complimentary dinner to the Canadian Bar Association. But apart from that, and I'm only being facetious in that Mr. Attorney-General, the point is though, that we're dealing with the question, under this item, of the uniformity of legislation. I don't know whether or not the field that I'm primarily interested in at the present time is contained within this item or not, but I do know that there is a considerable amount of apprehension in many people, particularly those who drive automobiles and the likes of that, of the differences that there are in highway traffic laws throughout the Dominion, as indeed there are in other field of human endeavour as well. I was hoping that the increase in this -- of course I didn't know, not being a learned member of the law society, that there was going to be a convention here in the City of Winnipeg -- but I was hoping that this increase of some \$10 1/2 thousand was going to be dealing for the purpose of uniformity of law.

MR. LYON: No, the increase is for the purpose that I mentioned, and I think it's an over-estimate actually. The uniformity -- the expenses there are the expenses of sending the Legislative Counsel, the Deputy Legislative Counsel, the Deputy Attorney-General, and

(Mr. Lyon, cont'd.) . . . . occasionally the Minister -- I haven't been to the last two conferences -- to these annual conferences which precede the meeting of the Canadian Bar Association each year.

MR. PAULLEY: Is progress being made toward uniformity of law in the Dominion of Canada?

MR. LYON: Well, on the Traffic Act we brought in last year -- the new uniform rules of the road. That's one example of the uniform legislation that this continuing committee is always working on.

MR. CHAIRMAN: (c) - passed.

MR. SCHREYER: Mr. Chairman, on (b), could the Minister explain (b)?

MR. LYON: Is that 7(b)?

MR. SCHREYER: 6 (b), Mr. Chairman.

MR. LYON: Yes, that item is for outside counsel who are called in on special cases to do work for the Crown, largely of a civil nature, although occasionally we have work done of a criminal nature. There's one case pending at the present time with a special counsel working for it.

MR. CHAIRMAN: Resolution 43 -- passed.

MR. HAWRYLUK: I'm sorry, I wasn't aware that we had gone that far. May I be permitted to ask a question regarding (c) -- law enforcement? It's something that I think is of importance to know the stand that the . . . . .

MR. EVANS: If I could raise a point here, I understand by 11 o'clock tonight we will have had 54 hours and 40 minutes on the estimates so far -- 54 hours and 40 minutes, that's the information I have. I think it will be generally appreciated that we have not tried to hurry the discussions and I would like the honourable members to consider whether they might not wish to curtail some of the questions. Some of the questions are very relatively small amounts and I would suggest and invite my honourable friend to consider whether it's right now to back up over an item that we have already passed, in the interest of getting ahead. I'd ask the opinion of the committee, too, whether they would like to stay, by leave of the committee, until after 11 o'clock and finish the Attorney-General's department tonight. I think that would be a convenience which would enable us to get this piece of business finished. I would ask my honourable friends to say what their opinions would be. Quite obviously if they wish to adjourn there's no alternative, we'll be glad to adjourn.

MR. CAMPBELL: Mr. Chairman, as far as I'm concerned, I've always been quite an advocate of trying to make some progress in these matters. I would have no objection at all to staying awhile and attempting to clean up the one department. On the other hand, in saying that, I don't know what points of interest my colleagues might have, and I certainly don't want to circumscribe them in their line of questioning. As far as I am personally concerned, I haven't very many more things to raise and I wouldn't detain the committee very long.

MR. PAULLEY: Mr. Chairman, as far as I'm concerned, and I think my group is concerned in this, I would agree with the proposal of the Honourable the Leader of the House. I think it would be desirable if at all possible that we would complete the Attorney-General and get him off the hook this evening -- (Interjection) -- Oh he's been on a hook. If he hasn't, he's been very slippery in trying to evade it too. I might say, Mr. Chairman -- I do suggest though, of course, to the Honourable the Leader of the House that he take into consideration the co-operation of the Leader of the Official Opposition and myself in agreeing to this, future debates after we have passed the 65 hours. I might say this, and I don't like rehashing anything, particularly in view of what happened last night. Now I do know that there will be one or two questions on the question of Item No. 7. There will be one or two questions, but I don't think that they will be lengthy, Mr. Chairman. If it's necessary to stay for another half hour or so, as far as my group is concerned, I am sure that they would agree to it in order that the department estimates may be completed.

MR. WRIGHT: Mr. Chairman, I would like to make an observation in the interest of getting the business of the House done. This is the way I see it, that we sit here and we are trying to look at one specific item and then there is so much discussion and so many long speeches made under the general headings, then when you come to the items, take law enforcement and police services, I would respectfully request that you call the item as law enforcement

(Mr. Wright, cont'd.) . . . . and police services. I had a question to ask, but you go from (a), (b), (c), and the first thing we know you're through the item, and I think that is unfair. I didn't intend to make a long speech but I did have a question that I thought was much to the point and like my honourable colleague from Burrows . . . . .

MR. EVANS: . . . . . discuss this situation now and invite both my honourable friends to ask questions under (c); and then we will proceed again from there.

MR. WRIGHT: Thank you, Mr. Chairman. I had a brief question to ask about police protection in certain villages, and I have in mind the Village of Lac du Bonnet. Now I have been told by various people that the Rural Municipality of Lac du Bonnet have an arrangement for police services, but the Village of Lac du Bonnet has no such arrangement. In view of the fact that the atomic project is underway there, and I can visualize a lot of the boys coming in on Saturday nights and celebrating in the town, here is a village with no police protection. Will the Attorney-General and his department keep an eye on a situation like this? Will the province assist in a case like this where the assessment of the village, as I understand, cannot stand the cost of this agreement for police protection?

MR. LYON: Mr. Chairman, I think we are doing more than keeping an eye on it, if I can just find the item here under police services. We are considering the Grand Rapids business -- or not Grand Rapids, I should say atomic energy -- I get both of these projects mixed up because there is a fair amount of money involved in the two of them. The Lac du Bonnet situation -- I have discussed that, I should mention to my honourable friend, Mr. Chairman, with the rural council and with the town council. The problem basically is this, that the rural detachments of the RCMP go out to police and enforce the provincial and federal laws in the country at large -- you know in rural municipalities set out in the areas assigned to them by the RCMP. A town itself is in a different category. Town over a certain population, I think it's 5,000, have to have their own police force. In the case of Lac du Bonnet what is actually happening is this, they do get assistance from what we call a rural detachment in that point. You know when circumstances arise, and they don't feel, as my honourable friend probably points out, that they have a tax base to support their going into a municipal contract, I think they could hire probably one municipal constable to attend to their town's responsibilities. Their problem there is a municipal problem rather than a police problem because a good portion of the built-up section of the town lies within the boundary of the Rural Municipality of Lac du Bonnet rather than in the boundary of the town. These services are supplied to that rural municipality area because they are in the general rural area that is served by the RCMP, but if they have trouble in the hotel, they have to call the RCMP and it's up to the RCMP to determine whether or not they will answer the call or if their other duties preclude them from doing it. They will be taking into account the new settlement at the Atomic Energy Centre. Certainly that is contemplated, in fact I know that -- at least I believe that in the setup for the new town, provision is going to be made for a municipal policing service in the new Atomic Energy Centre.

MR. CHAIRMAN: . . . . . (c) - passed; Item 7 (a) (1) - passed.

MR. REID: Mr. Chairman, I understand Family Courts, after a husband and wife get separation, Mr. Chairman, that after a period of time the husband insists on seeing his wife, so either breaks into the premises by force or other means and the woman can't do anything about it, not until she reports it back to Family Court and then the Family Court summons the man and tells him they are going to lock him up. Well I think, Mr. Chairman, that the woman should have the right of phoning the local police or any police and have him locked up immediately, and not have to inform the Family Court, and have him sommonsed and all this period of time with discomfort to her and to the family. I think that point of law should be clarified where, instead of having Family Court to summons, local police should be able to lock him up.

MR. LYON: It depends on what status the marriage relationship has reached. If they are at the stage where they are just fighting, preparatory to getting a separation, which is very often the case, and say for instance that the title is a joint tenancy, John Brown and Mary Brown, husband and wife as joint tenants and not as tenants in common. They both own the house, and he's got as much right in the house as she has. Maybe she locks him out and he breaks down the door to get into his own house. Well these things happen, unfortunately, but they do. If however, there has been a separation order and the order has said that the husband shall live

(Mr. Lyon, cont'd.) . . . . separate and apart from the wife and that the wife shall have the use of the house which is in their joint names, and the husband then goes and breaks down the door, and she calls the police, he's in contravention then of a court order and can be arrested and brought before the Family Court for contravention of that order. But he can't be until the order is made, until the order of separation is made kicking him out of the house. Until that's made, he's got as much right in the house as she has.

MR. PAULLEY: Mr. Chairman, there is just one point that I want to raise on Resolution No. 44. The Honourable the Attorney-General, in answer to my colleague the Honourable Member for St. John's who is not here this evening, indicated to us that there is going to be a further expansion, if I understood him correctly, in the field of probation and parole and that the government was contemplating more emphasis in this field of correction in the Province of Manitoba. Now just looking at the estimates, Mr. Chairman, it does appear to me that there is a substantial, well not substantial, a reduction in the amount of money that is going to be estimated for the purposes of probation and parole. I think my colleague, the Member for St. John's, when he was speaking, drew to the attention of the Attorney-General and this committee as to the inadequacy of the salaries which are being paid to our probation officers by comparison with some of the other provinces in the Dominion. If I recall correctly, the Attorney-General, in answer to him, complimented him on his forward look in this particular field and suggested to him that if he were only patient that the suggestions of the Member for St. John's were all under contemplation and consideration; and if he only wait a little while and were a little patient, that these things will all be achieved. Now I'd like to direct a couple of questions to my honourable friend, the Attorney-General. How long is how long? That the points that my colleague raised will be achieved here in the Province of Manitoba that we do start to advance. When I say start to advance, of course I appreciate the fact there has been some minimal advancement in the field of probation and of parole and Family Courts and the likes of that, of course, but it doesn't seem to me as I look at the dollars and cents figure that we have before us this evening, that there is any contemplation on the part of the government of any rapid expansion in these very, very vital aspects of the Attorney-General's Department. Now one would expect that if we are going to go ahead; if we are going to make the provision for more probation officers; if we are going to advance in the field of parole and Family Courts and the likes of this; that, of necessity, that it would cost more money. I know, Mr. Chairman, that we, as far as the CCF are concerned, are often accused, and maybe properly so, that we're after more dollars out of the coffers of the Province of Manitoba; and on the other side of that particular question, the reason that we are constantly advocating more expenditure, of course, is because of the fact we feel that in these fields there should be greater emphasis being placed than there is at the present time. Now I would like to hear, and maybe that's a long-winded oration, but to get back to my question again, I would like the Attorney-General, if he possibly could, Mr. Chairman, to reconcile, in view of the estimates that we have before us which are a reduction in the amount of the appropriation of a year or so ago, how can we advance in this important field with a reduction of money when I think it is recognized, possibly on all sides of the House with the exception of my friends on my right, that our probation officers are, relatively speaking, paid less than they are anywhere in the Dominion of Canada.

MR. LYON: What was that question again, Mr. Chairman? My honourable friend asked me, how long is how long? I was beginning to wonder that myself. First of all, referring to the estimates, the slight amount shown, the difference in the Directorate of Probation and Parole from \$128,655 -- it was \$131,000 last year -- one Clerk-Steno II position has been abolished. I don't think it was filled. It was never a filled position. -- (Interjection) -- One Clerk-Steno -- that's being abolished. I mentioned this twice before -- I'm sorry I guess my honourable friend didn't hear it. I said that the inevitable trend in the probation field will be for expansion. There is no money provided this year to the best of my knowledge, unless circumstances change radically, there will be no new staff in the probation field added this year. But I think if he will re-read Hansard, as I did -- you know you always read what you say yourself -- he will find that I said that the inevitable trend would be for expansion, but having just moved into the whole field of -- the Province of Manitoba now having it covered, we were consolidating our position and finding out -- for instance as an example, we have a new man at Dauphin. He's only been there -- I think it's Dauphin -- he's only been there since July. He has had six or eight months up

(Mr. Lyon, cont'd.) . . . . there, that's true, but whether he needs another man, we don't know at this stage; neither does he. I think the inevitable trend though is for expansion and we're just looking at the situation now to see where the expansion is going to be needed. In the meantime, we have got the province covered.

MR. PAULLEY: Mr. Chairman, I don't want to belabour the committee any longer, but may I respectfully suggest to the Attorney-General that if they have found in their scrutiny of the expenditures of this particular section of their estimates that they no longer need a clerk-stenographer with a reduction of \$3,100, that they could properly have used that \$3,100 either as an increase in remuneration to their present probation officers or possibly it could have formed a basis of the salary of another probation officer here in the Province of Manitoba. Now I think that the Attorney-General will agree with me that it's far more economical to keep persons out of our penal institutions in the province than it is to have them under the charge, or in the institution itself, and I think that it's only sound basic economics, as far as dollars and cents are concerned, to utilize money for that purpose of keeping them out, not only insofar as costs are concerned but insofar as the benefit to humanity itself is concerned and the individuals. And I am sure that there is no disagreement to me, between the Honourable the Attorney-General and myself in this, but I do regret, I do regret, that if the department has found that they did have a clerk-stenographer surplus that rather than curtail their estimates by the \$3,100 that they didn't utilize the money within the department for the establishment of another position of a probation officer, or, in the alternative, give to the probation officers who are doing a very, very good job in the Province of Manitoba, as exhibited by the comments on all sides of the House, a greater amount of dollars and cents in their annual income and suggest to the Attorney-General that re-consideration be given in respect of this.

MR. LYON: Mr. Chairman, this is in answer to a question, I put it on the record for the Honourable Member from La Verendrye. He asked the question; what is the number of persons, both juvenile and adults, on probation, as compared to the number of inmates in institutions both juvenile and adult. Answer: As of January 1st, 1961, the number of juveniles and adults on probation was 723 in the Province of Manitoba, and the number of inmates, in juvenile and adult institutions as at January 1st, 1961 was 708, so there are more on probation than there are in our institutions. Vis-a-vis salary, there is a salary increase coming through as my honourable friend will note from the estimates for the general civil service this year; it's not shown in my estimates, probation officers are included along with everybody else. The average salary paid probation officers in Manitoba is \$4,200.00. The minimum in Manitoba is \$3,600.00. The minimum in Ontario, I think, is \$4,200, using the figures of the Honourable Member for St. John's; this increment is regular in all fields. Ontario pays more. We find in Manitoba that we are paying about the average, perhaps not as high as Ontario, but we don't pay as high as Ontario in any other field.

MR. WRIGHT: Mr. Chairman, on last year's estimate sheets they made a notation, Committee on Youth. Was that something that the Attorney-General mentioned last year? Are we doing anything about a Committee on Youth?

MR. LYON: There is an item in the estimates of my honourable colleague, the Minister of Industry and Commerce, under recreation and development for \$20,000, and I think that he will find when we come to that item that that will -- he will explain it. I won't attempt to explain it now -- but this involves about 80 to 90 percent of the work that was going to be done by any Committee of Youth that we had contemplated.

MR. CHAIRMAN: Item 8 (a) - passed; (b) - passed; (c) - passed; (d) - passed; (e) - passed; (f) - passed; (g) - passed. Resolution 45 - passed. Item 9 (a) - passed; (b) - passed. Resolution 46 - passed. . . . .

MR. FROESE: Mr. Chairman, under Item 9 - Administrations of Estates of the Mentally Incompetent. What happens to the earning of the estates of these people. Is it deducted from those people that have and who stay there? What about those who don't have -- does the government pay for them? What is the situation there?

MR. LYON: . . . . . the question in last year's estimates, Mr. Chairman. As of July 1st, 1958, there have been no charges assessed against mental patients for their maintenance; I think that the Minister of Health could confirm that when he comes to his estimates. Any assets that accrue to these estates are kept, that is the job of the Administrator to preserve

(Mr. Lyon, cont'd.) . . . . the estates, and when the person either leaves the institution, he gets his money back or he gets his estate back, or if he passes away, then the estate is distributed pursuant to a Will or whatever testamentary document that is left by the deceased.

MR. PAULLEY: Mr. Chairman, there is one question that I would to -- it's not a question, it's a suggestion to the Attorney-General. As we are all well aware that people who sometimes go into psycho in our General Hospital here in the Province of Manitoba, and others as well -- the Misericordia, I believe, has a psycho clinic -- I am wondering whether or not the protection of the properties of individuals who may be going into say General or Misericordia, may come under the protection of the administrator before possible transference to -- let's say Selkirk or Brandon. Now I'm not making an argument on this; I would appreciate the fact of the Attorney-General would give this matter consideration because there are a considerable number, I think as he knows, that do go into say General or Misericordia, one or the other hospitals, and are subsequently transferred to our mental home at either Brandon or Selkirk, who may be in a position of not being competent to look after their estates. There is that -- I'm not sure whether it is a six-month period or possibly a six-month period in which their estate may be disposed of, in which there could conceivably be no protection for the individuals and I just raise it as a suggestion for consideration, both of the Minister of Health and of the Attorney-General.

MR. LYON: . . . . . till the person is certified and transferred. In many cases they have other committee though, a wife or near relative who looks after the estate. We have no authority as I recall under the Act to do this.

MR. PAULLEY: Mr. Chairman, I appreciate the fact that that is true, but one or two cases have been drawn to my attention where there seems to be some question as to whether or not some of the estates have been dissipated or the rights of the individual have been infringed upon during this initial period, and I would respectfully suggest to both of the Ministers concerned that this may be checked into.

MR. CHAIRMAN: Resolution 47 - passed.

MR. REID: Are there any charges for legal fees in the administration of these estates?

MR. LYON: There is a minimum charge made, it's along the lines of a tariff that a Trust Company would charge, only in most cases it's much less than that, depending on the amount of the estate and the amount of work that they have had to put in. A certain percentage, a small percentage accrues back to the government for the administration. I don't think that that amount is shown in the estimates. It isn't.

MR. CHAIRMAN: Resolution 47 . . . . .

MR. CAMPBELL: Mr. Chairman, before we leave this, which is the last item, I would just like to raise the point that inasmuch as there is some questions still outstanding with the Honourable the Attorney-General, I have one that I assume that even though all the items are passed that the Minister will undertake to bring down his reply -- coarse grains.

MR. LYON: Oh, coarse grains - I thought we were through with coarse grains.

MR. CAMPBELL: No. No.

MR. LYON: Oh yes, that's right, I am going to check that point, on the cases . . . . .

MR. CAMPBELL: . . . . . and even though we're leaving this department, it will be understood that there will be an opportunity in the committee to discuss any outstanding cases such as this.

MR. LYON: I'll undertake to get that information for my honourable friend, if possible by Monday, and there was also a question by the Honourable Member for St. Boniface about a liquor license. I'll have that on Monday as well. When we move into committee, we'll attempt to give you the answer to that.

MR. MOLGAT: . . . . . myself, also a question for myself on the juries at the last assize.

MR. LYON: I'll check on that.

MR. EVANS: Mr. Chairman, this brings us to the end of the night's work. I want to thank the committee for their co-operation in allowing the Attorney-General to finish up. I would announce, I think it's already known that Industry and Commerce Department will come next. That will be followed by Public Utilities. Now, Mr. Chairman, I think we would have agreement that the Committee rise.

MR. CHAIRMAN: Call in the Speaker. Mr. Speaker, the Committee of Supply has adopted certain resolutions and have directed me to report the same and ask leave to sit again.

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

MR. SPEAKER: Moved by the Honourable Member from St. Matthews, seconded by the Honourable Member for Winnipeg Centre, that the report of the Committee be received.

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

MR. EVANS: Mr. Speaker, I beg to move, seconded by the Honourable the Attorney-General, that the House do now adjourn.

Mr. Speaker presented the motion and after a voice vote declared the motion carried and the House adjourned until 2:30 Monday afternoon.