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THE LEGISLATIVE ASSEMBLY OF MANITOBA

8:00 o'clock, Thursday, July 9th, 1959

MR. CHAIRMAN: Attorney-General's Department - Item 1 (a).

MR. LYON: Mr. Chairman, when we were adjourned, I was just concluding some replies to one or two comments which had been made by honourable members opposite. I have a recollection of the Honourable Member from St. Johns requesting that I supply a list of the qualifications of each of the heads of the institutions - that is, of the penal institutions of the detention homes. I can get that information for the honourable member. By qualifications I presume he means - how many, or what degrees from accredited universities these persons hold. Is that the point in issue? That can be obtained and I will bring it forward probably sometime tomorrow.

The point was raised both, Mr. Chairman, but the Honourable Member from Ethelbert Plains and the Honourable Member from St. Boniface as to what was being done in the field of prevention. The Honourable Member from Ethelbert Plains particularly made reference to the fact that in my opening remarks I made no comment about - I presume he meant the new committee and work which was done by it - we have an item in the estimates, of course - we have an item which shows that last year some \$6,000.00 was appropriated for this particular Committee. Now I might just explain in general terms at this time what has happened since that occasion. Members of the Committee will recall that this Youth Committee was called together after one or two false starts by the former government - the former Minister. This Committee was given extremely wide terms of reference. They were asked amongst other things to give recommendations to the government upon the causes of juvenile delinquency and what methods could be marshalled - what methods or modes of operation could be marshalled by the government to prevent the cause of juvenile delinquency and other very general - very general terms of reference. I have them on file. I don't propose to read them at this time. The Committee made a report to me in the - last fall, I believe it was, an interim report, as they styled it. I have that report with me and when we come to that item, if it be the desire of the Committee to hear it, I can give it because it's a fairly short report - some 3 1/2 pages altogether. The sum and substance of the report was that based upon their studies to date, they have found that perhaps there was a need for some form of a youth commission in Manitoba. They pointed out that the money which had been given to them - the time that was available to them, and the lack of any permanent staff to assist them, very well precluded them from going any further in their study. They did suggest that they would remain as a Committee to give further advice or recommendations to the government should we so desire. I had a number of meetings with the Chairman of that Committee, Mr. Montague Israels, Q.C., and during those meetings he stressed to me the fact that any committee of the type which was - or commission of the type which was being recommended in the interim report would be something which it would take at least 15 years to evolve. He commented to me upon the setup of a similar commission in Minnesota and as well in New York. He pointed out that any commission of this type might well be of a voluntary nature with some government financial support; or alternatively it might be a wholly governmental affair; or it might be something in the quasi realm between the two fields although his committee was not able to make any final recommendation to me upon it. Since receipt of the report, Mr. Israels has been in touch with myself. He's had a number of discussions with the Director of Corrections, Mr. A. J. Kitchen, and latterly the members of the Greater Winnipeg Welfare Council were brought into those discussions to see to what extent their operations might dove-tail into any such proposed commission.

A few weeks ago I met with representatives of the Youth Committee of the Greater Winnipeg Welfare Council and with the Director of Corrections and at that time I undertook on behalf of the government to accept the interim report and the further negotiations which had gone on since the receipt of it. We established an inter-departmental committee composed of the Director of Corrections, the Deputy Minister of Welfare and, I believe, there will be representation from the Department of Education as well on that Committee. Their purpose - they are charged now with the duty of bringing forward to the government for consideration proposals as to how - first of all, a youth commission might function; what its functions would be. And this, by the way, is something which the committee on youth was unable to spell out in any great

(Mr. Lyon, Cont'd.) . . . . detail for us. What work it would engage upon; what type of staff would be required. I've also charged this inter-departmental committee with the direct responsibility of putting a price tag on a Youth Commission so that we will know exactly what we are getting into. I'm not one who believes in setting up commissions just for the sake of saying, well, in Manitoba we have a Youth Commission, isn't that dandy? But if we are going to have a Youth Commission in Manitoba, I want to see - I think the government would want to see, I think all members of this committee would want to see definite powers attached to this commission; a definite program laid out as to what fields would be involved in the commission's work. Now a few days ago when I mentioned during the course of an interchange between the Honourable Member from St. Boniface and the Minister of Education when I mentioned that I might have something to announce in this connection, it was in connection with this Youth Commission. And I think it will be of particular interest to the Member from St. Boniface to find out that our thinking is not gauged entirely along the lines of what we can do for juvenile delinquents. Our thinking is gauged along the lines of what can we do for the 95% of the other youths in Manitoba plus the 5% who are juvenile delinquents. The purpose of a Youth Commission would be not just to deal on the question of delinquency. It would be, as I envision it in any case, to co-ordinate such activities as 4-H clubs, any other youth activities that are carried on by the government, such minor things perhaps even as water safety programs, to see that these are spread out throughout the province and so on. I must confess to the Committee, Mr. Chairman, that those charged with this responsibility and indeed those on the Youth Committee themselves find it hard to put into words - or to formulate a plan for just what this Youth Commission should be doing. But they were - they reported to me that they were pleased that the government was giving consideration to this type of commission. The proposals that we have under review at the present time are proposals brought forward at the joint meeting of the Committee and the Greater Winnipeg Welfare Council. And I am hopeful that we can evolve from those proposals some working plans - working drawings of what may well become a Youth Commission. It's not going to be a department of leisure although if we had a department of leisure, I wouldn't mind being the minister of leisure because there's nothing I like better than leisure. But I think we will have something in due course (Interjection) - I think we will have something in due course along the lines perhaps as suggested by the Honourable Member from St. Boniface. This type of program has proven satisfactory in larger area. Areas such as New York State, areas such as the Minneapolis - St. Paul area. And we have to see whether or not those plans can be adapted to Manitoba where we have a much smaller population and a much wider area - a much wider geographical area to cover. Now that in itself may not be going quite as far as the Honourable Member from St. Boniface would like us to go, I think perhaps the Honourable Member from Ethelbert Plains will agree that we should take a long look at this before we set up a department or a branch of government with a large appropriation of money. We must know where this branch or department is going, and that's the purpose of the work that is being done at the present time, and I am hopeful that this inter-departmental committee, that finally we have accepted the responsibility of saying we want proposals on this, we want to see what can be done. I'm hopeful that perhaps by the time the next session comes around, there may be something more concrete to report, but in the meantime I would like the Honourable Member from Ethelbert Plains and the Honourable Member from St. Boniface to know that the matter has not gone unattended. We have taken the steps that I have outlined tonight and that we are hopeful there may be something fruitful along this line that could be done after consultation with the departmental officials. I don't believe there is anything else I wish to comment upon at this time. If in error I have overlooked any of the questions which I have noted down, I will attempt to bring them up -- I will bring them up when the items arrive. I have under the Honourable Member for Inkster -- I have these two headings. He was talking about the causes of crime. I had across my desk today a document from an international organization which is convening a meeting in Paris on the 22nd of September of this year, and that the purpose of this international organization is to determine what are the causes of crime. I was looking over their agenda and on the agenda they have such items as Environment, Housing, Religious Attitudes, Attitudes Towards Recreation, Leisure, Spiritual Guidance and so on and so forth, and it left me with the impression that perhaps it would be a very instructive convention to attend if it were not of course being held in French, the whole convention -- a tongue in which of course, I am not too fluent. But it left me also with

(Mr. Lyon, Cont'd.) . . . . the impression Mr. Chairman, as I am sure it must be the impression of other members of the Committee that when one starts talking about what are the causes of crime, one is talking in effect about "What is life?" Since the dawn of man there has been crime and I presume that long after those of us who are here tonight are gone from the scenes of Manitoba, there will still be crime in Manitoba. That doesn't mean that we have to sit back and do nothing about it, but at the same time I think that it is a subject which is capable of receiving proper consideration perhaps by an organization such as is giving study to it right now, the World's Health Organization. That is one of the items on the agenda of one of the committees-- one of the sub-committees of WHO. I will say quite pointedly to members of the committee Mr. Chairman, that I have no sub-committee working in my department, advising me on what are the causes of crime. I have no such committee at all. I have got a committee, the Youth Committee and I have got my own departmental officials working on this idea of a Youth Commission, which I think is more pointed. (Interjection) No, we haven't -- we might put them on to that though. (Interjection) Their -- their main ability as the honourable member noted was in slimming persons down and of course, perhaps I should go to them myself before I put them on to any committee. I think it was suggested a few days ago that perhaps both the Honourable Member from Rhineland and myself might take advantage of their processes. But I do think that this -- the work that may well be done by the Youth Commission if it is found to be a feasible thing for Manitoba, will be a start towards something along these lines. Insofar as adult crime is concerned, we're not just sitting back and saying "we can't do anything about it", what we are doing is this: We are saying that until those persons who have an inclination toward this type of illegal activity are pointed up or found by the police, that is at the adult stage, there is very little that is being done to prevent crime among adults, but immediately these persons are found, the whole probation scheme is brought into force against them, or for their benefit, with the result that as I have pointed out from the statistics that are available under the new probations scheme in Manitoba, only 9% -- only 9% of those presently on probation in this province are what might be termed recidivous or repeaters, whereas 65 to 70% of those who are presently in our gaols are in that classification. We know as well as anyone else that putting people in gaol and forgetting about them is not the answer. We know as well that probation is providing at least one answer to this problem, but still remaining is the basic problem of how to determine whether it is heredity or environment that causes these things in man, what causes alcoholism, what causes crime? These are all great ponderous problems and problems the answer to which I must confess I haven't got. But certainly we are striving as much as is within our reach to look at these problems from a reasonable standpoint and to see what can be done within this province, within the ambit of our jurisdiction to overcome it. I think the other point that was -- the only other item I have marked under the name of the Honourable Member from Inkster was that he was in favour of the type of correctional camps that we have indicated we are starting in the province. He mentioned the situation of his friend going to penitentiary. He said that he was found guilty even though he didn't believe that he was guilty. I think there was another remark made to the effect that there were a number of persons who weren't guilty who were going to our gaols. I wouldn't subscribe to that theory at all Mr. Chairman, I say this, that the criminal law of this province, as is the criminal law of the whole of Canada, is designed along the basis -- or is designed on the bedrock of the proposition, that it is better that nine guilty men should go free than that one innocent man should be penalized and convicted, and having been active in past years in the courts both -- mostly on the side of the crown, but somewhat on the side of the defence, I can say that that principle is certainly carried out in Manitoba. I can say that. . . .

MR. GRAY: May I submit another question. . . .

MR. LYON: Yes.

MR. GRAY: Without criticism, criticizing the judges or the magistrates, is the law of the country now, the punishment, does punishment meet the crime?

MR. LYON: Does the punishment meet the crime in each case, is that the question, Mr. Chairman?

MR. GRAY: In each case, but generally . . . . .I'm thinking about the criminal law of Canada today, not the law of the province, and without any criticism, they've got to go by the judges, but in your opinion does the present punishment of offenders meet the crime? In other words, could sometimes, they may get two years penitentiary for a crime they should have

(Mr. Gray, Cont'd.) . . . . only received six months? But they cannot give them six months because the criminal law states that for a certain crime they've got to get two years.

MR. LYON: I think the point that the honourable member is getting at Mr. Chairman, is that in some cases in the Criminal Code of course, over which we have no jurisdiction, there are offences for which minimum penalties are provided. There are very few of those offences left. It used to be if you were found guilty of stealing a car and were convicted, the minimum penalty was one year. In the wisdom of parliament that requirement was wiped out and today there are a very few offences for which a minimum requirement, a minimum penalty in gaol is required. As to whether or not -- there is a range of sentences, whether or not a man should get three years for one offence, say armed robbery, another man gets eighteen months for break enter and theft. That is a question that each magistrate, each county court judge acting as a judge of the county court judge's criminal court and each Queen's bench judgment decide on the merits of each case that comes before it. I don't envy the position of any magistrate or any county court judge or any Queen's bench judge, when he must make that decision. All he has to guide him is the evidence that he has heard, he hears in a lot of cases now a probation report on the man, he must balance of course between what is good for the state and he must take into account as well, what is going to happen to this person. I can't defend or criticize the sentences that are handed down by the courts because they are entirely within the discretion of the courts. And so long as humans are administering law, I don't suppose the law will be any more perfect than the humans who administer it. But I do say this, that we have lower courts and higher courts and we have courts of appeal and those courts are set up for the very purpose of rectifying what may have appear to be errors -- or what may appear to be errors of judgment on the part of courts handing down sentences. And so I wouldn't make a comment one way or the other except to say this, that the man who must pass sentence upon his fellow man, the man sitting upon the bench is certainly a man who has a very difficult task before him. The man who is given certain yardsticks to follow by the Parliament of Canada in the Criminal Code, some offences there is no -- most offences there is no minimum prescribed but a maximum up to life, and they must fall -- make their sentence fall somewhere between one day and life. And it's quite a problem, we sometimes we think we have problems in this House, but to have the problem of a man's incarceration on your hands is also a very serious problem and one over which I'm sure many hours of sleep are often lost by members of the bench. But I wouldn't make any further comment upon that subject than what I have already made tonight. I don't believe there are any other topics, as I said Mr. Chairman, that can't be dealt with as we come to the individual items.

MR. HRYHORCZUK: Mr. Chairman, I was going to touch on several of the items that the Attorney-General referred to when we came to the items, but since he has more or less covered them in his address just now, I think what I'll try to do is to bring all those comments that I was going to make separately into a very short statement, I'll try and make it short, and a general one too. Now, as to whether we know why crimes are committed or not of course is a moot question. But I think we've come a long way to finding out why some of the crimes are committed, and if the Committee will bear with me Mr. Chairman, I'd like to just spend a few moments on that. We hear from time to time arguments, even among experts as to whether man is born good or bad. Some say he's born bad, others say he's born good. Well in my humble opinion, Mr. Chairman, I don't think that men, with very few exceptions or people with very few exceptions are born either good or bad. I believe that how they turn out in life depends upon personal experience, their own personal individual experience and I believe that one of the psychiatrists to whom I spoke divided the offenders or those prone to committing offences into two categories. One he called the constitutional defective and the other one environmental defective. Under the constitutional defective he put those people who are born with some mental deficiency and he classified them widely as boys and girls, and men and women who are unable to differentiate between right and wrong, and he told me that as far as this particular category is concerned, they have not found any means of treating them. That most of the constitutional defectives eventually seem to get out of that particular lack of understanding somewhere's around their middle ages, but insofar as the environmental defective is concerned, I think we've come a long way in finding treatment for them, and in this particular category are those who are criminally inclined because of certain things which have happened since they came into this world, and there are oh, any number of reasons. You'll find reasons such as lack of parental

(Mr. Hryhorczuk, Cont'd.) . . . . guidance, broken homes, environment, oh, and a hundred and one different reasons. These, I think, in the not too distant future, we'll be able to treat, and that's where I come into the provincial angle of it. The Attorney-General mentioned that it would probably take fifteen years for the commission to get to the stage where it can be effective. Well, I say to him, that if it is going to take fifteen years, and it may well take fifteen years, there's no time to start like now. The longer it will take to bring about a complete understanding, the sooner we should get started, and I feel Mr. Chairman, that there is no difficulty at all in putting your finger on the boy or girl who is a potential delinquent and I'm quite sure that every member of this House within the vicinity or the district that he lives could name one or two boys and girls that he knows that are headed for the path of delinquency. And my point always has been and will be that that is where we should become active. It is not a matter of prevention of crime, it's a matter of preventing young people from becoming criminals, and I think we should put the emphasis there with everything we have at our disposal. The committee that was set up was to do nothing more but to study commissions that have been set up elsewhere to see how they function, and they have been very successful in some parts of the United States. I know this attempt was made similar to this one in British Columbia. I happened to speak to the man that organized that and he told me that they were making headway. The only difficulty there was that they had no financial assistance from the government; it was entirely voluntary assistance or voluntary organization that were doing this particular type of work. Now, I don't think that there's any difference in the human being from any other living matter. If you want to place, teach or train any animal or any plant to grow in a certain direction, you do it when the -- when the matter is still in the formative age, and we can talk all we like about the effect of probation and so forth and I agree that they have their place in our penal reform system. They certainly have a very important place, but what do we do? We wait until a person has become a criminal, then we start applying treatment. Well we know from what has happened in the field of medicine, that if it wasn't for preventive medicine, there would be very, very few people today anywhere that wouldn't be ill from some disease or another, and there'd be quite a number less than there are, which probably wouldn't be too bad a thing, but at the same time, the attack there is on prevention. They're not giving up cure and I feel Mr. Chairman that the sooner we begin to pick the potential criminal up and look after him at the earliest possible moment, the moment it appears that he is inclined that way the better, and we'll save a great deal more money for the people, the taxpayer and the state than we will be putting in curative measures. Now insofar as the -- the probation parole service, I said previously, I'm in agreement with that, they have a worthwhile place in this whole setup, but if we watch the crime, we find out that it's not being reduced in numbers. We're not reducing the number of criminals. We may reduce the number of repeaters granted, but there's always a new batch coming up and my argument Mr. Chairman, is that if we, if we start a program, even if it takes fifteen years before it becomes effective, if it takes fifty years before it becomes effective, it is well worthwhile. Now there's one thing that I have noticed and probably the Attorney-General has noticed too, like in every other profession there is professional jealousy insofar as the social workers are concerned, and they are not too keen about voluntary assistance, voluntary organizations coming to their assistance.

Well, Mr. Chairman, I don't blame the social worker for that because that seems to be human nature, but I want to say this, that in my term in the office of this department, I found that voluntary organizations can do a great deal of work, such as the Big Brother movement and others, and those should be looked at. But one thing, Mr. Chairman, that I'm satisfied with, that no expert -- no matter how expert he may be will ever replace the love and guidance of a good mother, and we have a great many women in the City of Winnipeg and Greater Winnipeg and in the province, that with voluntary contributions can do a great deal to help us in the prevention of crime and also in the after-care agencies.

MR. DESJARDINS: Mr. Chairman, I wish to thank the Honourable, the Attorney-General for his information on this Committee of Youths. I must admit that I did not realize that the Honourable Minister had gone so far in this respect. I hope that he will follow the progress of this committee and I wish to sincerely congratulate him on his keen interest in this field. I would like to ask the Honourable Minister if he'd be kind enough to let me have the copy of this report mentioned?

MR. LYON: Mr. Chairman, I'd be pleased to table a copy of the interim report of the executive committee of the Manitoba Committee on Youth and make it available either later tonight or tomorrow in sufficient copies or in sufficient numbers for members of the House or the Committee who are interested in it.

MR. CHAIRMAN: (a), (b) Supplies, Expenses, Equipment and Renewals, Resolution No. 36. Administration - \$177,935.00. Item 2. Land Titles Offices (a) Salaries

MR. HILLHOUSE: I know that the Honourable Attorney-General has done a great deal since he's taken over his office, but I noticed in his introductory remarks he mentioned the growing need in the urban centre areas for more mechanization and expedition of land titles office procedures. I was just wondering if the Honourable Attorney-General could give us a small idea of what he contemplates in that respect.

MR. LYON: Mr. Chairman, in connection with land titles procedures, land titles delays which are perhaps more apparent from the Winnipeg Land Titles Office than any other office in Manitoba. Part of the delay is caused, not by human fact, but by the mechanical factor, such simple things as having the documents properly checked through the Surveyor's office, that may go into a title writing machine. And a title writing machine can be a very cumbersome thing to operate and there have to be two titles typed up, and the honourable member knows, the permanent register and the duplicate certificate of title which goes to the registered owner if there are no encumbrances on the title. We have received word that some improvement in this system of title writing and other forms of mechanization, I think they call them "Master and Slave" typewriters are now available for this type of work. We're informed that the Province of Saskatchewan recently embarked on a new plan along this line, and as soon as the rush recedes at the Land Titles Office, as a matter of fact it would have been done sooner had the men whom we wished to send been free to go, that is free from their duties -- as soon as the rush recedes it's out intention to send one of the senior district registrars and perhaps the office manager of the Land Titles Office, to Saskatchewan and perhaps to other places where mechanization has taken place and bring back to us some ideas as to how we might speed up the processes, especially in the Winnipeg Land Titles Office. This is in the field of future project, I must admit, but in the meantime we're trying to fill in with staff as much as possible as the honourable member will appreciate there are rushes in real estate dealings. The spring and the fall are rush periods, very often land titles work dies off to some extent in January and February, I think this is probably common knowledge to any practitioner and we want to find out just how we can better service the profession and thereby the public by speeding up these procedures so that at rush times they won't be waiting, in some cases I understand as much as 2 weeks, 2 to 3 weeks, for titles to go through. I may say that we've had the misfortune earlier this year, in Winnipeg Land Titles Office to lose the services of our chief surveyor for awhile and of course, a chief surveyor is a man who's not picked up too easily. We did rush in reinforcements as soon as we could, but naturally the re-inforcements can't carry on as well as the experienced men. But that is the type of work that we contemplate. We want to take advantage of any of these new systems that are being operated in other provinces so that the benefit of them can be applied here if possible. I might say under this item as well that the physical plant of the Winnipeg Land Titles Office is certainly in need of some extension. There were-- I think the item was \$25,000.00 provided in last year's estimates for certain renovations which have now been made and we anticipate that before too many more years go by, it will be necessary to make a plant extension to the Land Titles Office in Winnipeg. The Land Titles Office in Brandon now is complete. A very fine office, one that was started a number of years ago. I had the pleasure of opening it last fall. And with extra space, which in some cases is the holdup factor at the present time, we're hopeful that we can get the Land Titles procedures at Winnipeg down to the point where titles are being turned out somewhat more rapidly than they are now during rush periods.

MR. CHAIRMAN: (a), Item 2. (a) Passed. (b) Supplies, Expenses, Equipment and Renewals - \$26,750.00. Subtotal - \$395,990.00. (c) Less - Living Accommodation Supplied to Employees - Passed. Resolution 37. Land Titles Offices - \$395,450.00.

MR. GRAY: Mr. Chairman, I wish to direct two questions. I understand whether I'm right or wrong, I don't know, that the Legislative Counsel is about to retire (Interjection).

MR. CHAIRMAN: I don't think you are on the right item.



A MEMBER: No.3, under 3.

MR. GRAY: Oh, I'm sorry. I'm sorry.

MR. CHAIRMAN: Item....

MR. GUTTORMSON: Mr. Chairman, what is the Living Accommodation? Is that a janitor or what is it?

MR. LYON: The suite, which is available to the District Registrar of the Land Titles Office at Carman. The suite which can be occupied by the District Registrar, the annual rent for which is \$540.00.

MR. CHAIRMAN: Item 3. Law Courts (a) Salaries.

MR. HRYHORCZUK: Mr. Chairman, as the Minister no doubt knows, there has been considerable difficulty with bailiffs in the County Court Divisions throughout the province. Difficulties due to the fact that it's hard to obtain anybody to undertake them, and especially someone who would be qualified and has some knowledge of writs of execution and so forth, and so on. It occurred to me that there is the possibility of improvement here if we were to discontinue bailiffs connected with the County Court Divisions and have bailiffs serve under the sheriff in the district -- in the judicial district. You may run into the difficulty, of course, of the mileages because of necessity, if you did this the mileage would be considerably higher to anybody that want to make use of these services, but some adjustment may be made there. But I do think that in order to give the public the type of service they should have, it might be wise to look into the matter of appointing bailiffs for the judicial district and have them work directly under the sheriffs of the judicial district.

MR. LYON: Mr. Chairman, that suggestion is certainly well worth considering. It is part and parcel of the overall problem of a number of, probably too many small County Court Districts in the whole Province of Manitoba and what can be done about them. As I mentioned in my opening remarks that is one matter that is presently receiving consideration in the department now. A re-definition of County Court Districts, and with the re-definition of the districts I would hope would come some re-alignment of the duties of bailiff and perhaps of the personnel with whom we presently are able to get to act in this important position. These persons, of course, as the Honourable Member from Ethelbert Plains realizes, they're not on staff, they're on a fee paid basis. And it's very, very difficult, as he no doubt knows, to recruit the right type of person for each County Court District. And so we do have that problem under consideration at the present time. It's a wee bit of a thorny one. We're trying to, sometimes adjust boundaries that were set many, many years ago and there're local prejudices would have to be taken into account and so on. But we are hopeful that with the co-operation and support that we know we can always expect from the Board of County Court Judges, that something along the lines of re-definition of these County Court Districts can be achieved. I think perhaps, I hate to use the word, but a centralization of some sort may be necessary in due course because I think we all realize now that we're living in the year 1959 and that with modern means of transportation being what they are, there's not the need today as there was perhaps 50 years ago to have such small enclosed districts operating perhaps in somewhat an insular fashion as there was in the days of the horse and buggy. These districts have served a very useful purpose in the past, but certainly, I'm of the opinion, and I think a number of people in the profession and perhaps the Honourable Member from Ethelbert Plains would agree, that some urgency is attached to the question of re-defining these districts and the persons, the officers who serve them presently.

MR. HRYHORCZUK: Mr. Chairman, yes, I agree with the Minister and as far as I'm concerned, I'll certainly support any changes, providing always of course, that he doesn't discontinue the services we receive from the Ethelbert County Court District.

MR. GUTTORMSON: Mr. Chairman, I don't know if this is the right item to bring this point up. The Minister mentioned that the program that they have now whereby the Law Society will provide free counsel to accused persons who can't afford to pay for a lawyer, then he elaborated by saying that he hoped to expand this type of privilege to the country courts. Could he tell us how, because in those rural places maybe there's only one lawyer in 50 or 60 miles and there wouldn't be a surplus of lawyers to handle these type of cases on the Indigent Committee.

MR. LYON: Mr. Chairman, I hope I didn't say that I would expand this system

(Mr. Lyon, Cont'd.) . . . . .because I of course can't expand the system it being a voluntary system which is set up by the Law Society of Manitoba. This legal aid committee has been in existence for a good number of years. It's one venture of the profession whereby, as in the case of doctors, much premedical attention is given on the quiet without any great publicity attached to it. This is a similar venture whereby the legal profession to provide assistance to indigents who can't afford legal counsel because of their state of indigency. At the present time the Legal Aid Committee functions largely in the Greater Winnipeg area. I have received excellent co-operation from the Law Society in this regard. In the odd case which has cropped up outside of Greater Winnipeg which it has come to our attention that counsel is required and if it's a true case of indigency, very often a phone call to the Secretary of the Law Society will find another phone call being made to a lawyer in Brandon who is not on this Committee or a lawyer in Dauphin or some other place, and they on their own will undertake to intercede and act on behalf of an accused person. By and large the function of the Legal Aid Committee is confined to the Greater Winnipeg area. It will be, it is the hope I know, of the Law Society to extend this service throughout Manitoba. It's completely a voluntary thing. When I was in practice, I was asked by the Law Society if my name could go on the list and of course, I let my name go on the list, as most of the members of the profession do. And within two or three weeks of my name going on the list, I was called upon to act in a civil case of behalf of a woman who was in indigent circumstances. So, I say that it's not something that the government will extend but it is something I know the Law Society hopes to be able to extend through the co-operation of its individual members in rural areas and at the present time, as I say, on an ad hoc basis a number -- one or two to my own knowledge, lawyers in Winnipeg have either on their own gone out of town or have arranged with their agent in some rural area to take the cases on an indigency basis and with no fee attached.

MR. GUTTORMSON: . . . the point I was referring to Mr. Chairman, I'm familiar with the program and how it operates in the Greater Winnipeg area. I was referring to for instance, in my own constituency. A court is held at Erickdale, and I believe there's only one other lawyer on the line, he being a former member of this House, Mr. Anderson, and assuming that he might be acting in the case would the Legal Aid Society provide a man from Winnipeg in the event that somebody out there required Legal Counsel and couldn't pay for it. That's the point I was referring up to. I realize how this operates in Winnipeg where there are hundreds of lawyers available but in the country you may only have one lawyer for 100 miles.

MR. LYON: My only answer to that, Mr. Chairman, would be that on an ad hoc basis the Law Society has in at least 2 cases which have come to my knowledge sent out -- approached lawyers on their roster in Winnipeg and those lawyers at their own expense gone out of town to take cases of the sort mentioned by the Honourable Member from St. George. The problem that he raises is, of course, a serious one. Because one of the sociological facts of life in Manitoba today is that a number of our smaller towns are becoming smaller and there seems to be a general gravitation of professional people, doctors, lawyers and other people to the larger centres. The breakdown as between lawyers in the city and in the country is almost hard to believe. I think these are only rough figures of something in the area of 600 to 700 lawyers in Manitoba, practically 500 of them are in the Greater Winnipeg area. And so you have 100 lawyers servicing the balance, or rural Manitoba that is, on the spot on the site of it. And that is a problem but it's one which hasn't to date caused too much trouble to the Law Society. Through the co-operation of the individual members they have been able to send in, in odd cases I know of, counsel where counsel has been requested at out-of-town points.

MR. HILLHOUSE: The suggestion I wish to make, Mr. Chairman, was this. The Honourable Attorney-General did say that he had notified Crown Counsel at the City of Winnipeg Police Court and the Magistrates there that they were to be sure that no person was unrepresented who wished to be represented. Now, I was going to suggest to him that he also give similar instructions to the Crown Attorneys who go out in the circuit. Because I'm quite satisfied that the lawyer in rural Manitoba are just as prepared to give the same service to the needy as the lawyers in the City of Winnipeg. Now, regarding the question asked by the Honourable Member for St. George. I happen to know the Magistrate in that district and I don't believe there's a better Magistrate in the Province of Manitoba. He's one of the most humane individuals I ever met and I am quite satisfied that he would never allow any man to plead

(Mr. Hillhouse, Cont'd.) . . . . guilty before him to a serious offence without having counsel. And I'm sure that if the honourable member would speak to the Magistrate that the Magistrate would get in touch with the Legal Aid Society or the Law Society of Winnipeg where counsel was required and I'm satisfied too that the Law Society would see that that counsel was provided.

MR. PAULLEY: Mr. Chairman, I think that the move that the Law Society has made is a very good one and wish them all success and hope that all of the lawyers including the lawyers that we have in this Assembly, render their services outside the House as they do inside. But I'm wondering -- I would ask the Honourable the Attorney-General as to whether or not when Magistrates are appointed or to some degree Justices of the Peace, whether they're instructed or informed of the desirability of having those that come before them for sentence or conviction or otherwise, to inform their culprits before them as to the desirability of having legal advice. What I have in mind, and I think it may be considered by some relatively trivial, but I think it's important. We've noticed the growing method of handling such things for instance, as traffic violations which in themselves may at the time seem very, very trivial. It's my understanding, and I'm keeping my fingers crossed, that -- I haven't been caught yet, but it's my understanding that it's far easier for a person to go to even the Clerk of the Police Court and pay his fine and plead guilty, even though he, sometimes, he be innocent or deems himself innocent. But the cost of legal advice for somebody to take his case, in many cases it's a lot more than the payment of the fine itself. But I think unfortunately, Mr. Chairman, what is likely to happen or has happened is that a chap goes in on a relatively minor offence and pleads guilty and when he feels that he's not or if he had one of the -- the advantage of the advice of one of our learned friends in the Legislature, that he may not be convicted. But if conviction is registered on his license and as we have a point system and I imagine responsibility section in our Highway Traffic Act, and under the point system this can mount up, with the net result that before long the individual may find himself in a position of not being able to drive his automobile. Now, it may seem trivial to some, as I say, but I think it's an important consideration. Fortunately, I've not had to appear before a Judge for any major crime or indeed any crime at all, but -- I think the only crimes I do commit, Mr. Chairman, are in this Legislature -- but I do think though, I do think offhand that if I were pinched, shall I say, for exceeding a speed limit, I'd most likely, rather than pay for the board and keep of my honourable friend from Selkirk, I'd give the coffers of the province or the municipality or where may be, the \$10.00 bill in a fine. Now, it might be that I could argue myself out of it without legal counsel, but I somewhat feel that legal counsel can argue a darn sight better in many cases than can individuals. But I'm thinking particularly, Mr. Chairman, of that the large segment of our community have a sort of a fear of the law, and a fear of lawyers in that when they get entangled with lawyers that the fees are so tremendous or so high, that it's far better. And eventually that acts, I'm sure in many cases, to their detriment. And I'm wondering whether the Attorney-General has or does instruct the Magistrates and Justices of the Peace when, even on a relatively minor charge such as speeding, or in common danger, that he impresses upon those who are before him for this, that while in the original first instance it may be a relatively minor nature, that it can pile up with two or three convictions, that he may under our Safety Responsibility laws and point system lose the rights and privileges of driving his automobile and eventually may be put on an assigned risk plan which would cost him far more than the cost of the original lawyer may be. (Interjection) No, I don't want jam on it, Mr. Chairman, but I do think -- I do think that there has been and are a number of cases where the eventual penalty for the crime is considerably greater than it could or would have been, if in the first instance or two, proper advice had been given to those who even go before minor courts in that nature.

MR. LYON: I can say this, Mr. Chairman, that the point that is raised by the Honourable Leader of the CCF Party is not a trivial point. I agree with him that any citizen who is in potential danger of losing his rights whether they be his driving rights or whether it's only a \$10.00 bill from his pocket, certainly should be aware of all the consequences of what faces him when he appears before Court. We are particularly concerned of course, with the serious offence, that is the indictable offences under the Criminal Code. And that is one of the prime purposes of the Legal Aid Committee, to advise persons not whose pocket book is in danger, but whose very liberty is in danger and perhaps without their knowledge. When you get into the field of the small fine, that is the \$10.00 speeding fine and so on, it's a pretty difficult problem to handle.

(Mr. Lyon, Cont'd.) . . . . . I know of the problem the honourable member raises when he says some people feel that it's cheaper to raise the fine than to hire a lawyer. In my own limited experience in private practice, I never found people too hesitant to come forward if they felt -- people who were aware of the point system and so on. Most people today, I must say, are aware of it. I have had people come into my own office and I'm sure that the Honourable Member from Selkirk, the Honourable Member from Ethelbert Plains, the Honourable Member from Winnipeg Centre, the Honourable Member from Birtle-Russell and there are perhaps others, the Honourable Member from River Heights, and all the other lawyers in this Chamber, have had persons come into their office and say, well now, what's it going to cost me, if you represent me? And 9 times out of 10 I think they find the response is, their rights will be looked after first and then they will find out after his fee to suit the ability to pay of the person involved. So, from day to day there is this work being carried on by our profession just as there is by the medical profession. I'm sorry to hear that there's any wide spread feeling that lawyers are, as perhaps the honourable member would say, out to gouge people. I don't think they are. (Interjection) No, I'm not here to defend the legal profession tonight because I don't think it needs too much defending from me. But I think there is a vast amount of work being done by lawyers in this field which nobody ever hears about. The counsel appear in Court and cases are presented and very many cases are won. There's the opposite side of the coin, of course, where the case is won and the client comes up and shakes the hand of the defendant counsel most warmly and thinks he's the greatest fellow on the earth and so on and walks out of the Police Court door and he's never heard of again. But that's something that the legal profession must bear. Nonetheless, I would suggest that one of the reasons that we are attempting by amendment of the Traffic Act this session to establish the Appeal Board is to look after cases just as are mentioned by the Honourable Leader of the CCF Party. If a person through ignorance, gets into a situation where he finds that under 134 of the Traffic Act the Registrar because of the point system has suspended him, he can go before this Board now and at least recoup his driving privileges or have his application heard before this Board with an attempt to recoup his driving privileges. I would mention also, there is the existence of the royal prerogative of mercy, the Remission Board of Manitoba which is empowered under the various Acts, the Treasury Act and one or two other Acts, to remit fines to those persons where it is felt the penalty is working undue hardship or where subsequently it is found that the conviction was wrongly registered and, as the honourable member will appreciate, a fair number of these cases come before the Board. Persons occasionally write to me and say, 'I was convicted of 551 of the Highway Traffic Act, that's common danger. Actually I don't feel I should have pleaded guilty to it but I did. Here are the circumstances.' And that application is passed on down to the Remission Board. A full investigation is made by the Remission Board and if the allegations of the applicant are substantiated, very often a recommendation is made that the fine be remitted to the person involved. And so that goes on, not every day, but at every meeting of the Remission Board and that Board meets fairly regularly. So the situation of which he complains is not entirely a one-way street. There are measures, there are ways in which it can be attacked, ways in which the legal profession are looking after it quietly. The new Appeal Board will, I hope, cut off some of the rough edges on the situation and, of course, the Remission Board as always, is present in Manitoba to hear cases where unjust hardship is caused upon persons perhaps wrongfully convicted.

MR. PAULLEY: Mr. Chairman, I appreciate very much the remarks of my honourable friend and I can appreciate very much the knowledge of the lawyers in that fraternity. As to what may be done after the deed has been done, and I can appreciate the Remission, but I can not quite agree with my friend when he says that it is generally known. Now, it may be in his spheres that it is generally known of the ultimate danger of pleading guilty to relatively minor convictions. But I've had a numerous number of my constituent's people and that I meet that have gone ahead and done this and have convictions registered against them and eventually may catch up with them. And my point is that I think that our Magistrates and our Justices of the Peace, they may be doing it, I don't know, because - but as I said I haven't been up before one of them yet but I'm wondering whether or not -- No, I haven't been caught -- wondering whether or not it wouldn't be a desirable thing for our Magistrates and Justices of the Peace to inform them individually and it may be a little bit of a nuisance I appreciate, but what the ultimate consequences might be, and particularly when we have the pay-as-you-go plan or pay-over-the-counter-to-the-clerk plan, because we can all appreciate, it's so much easier to go into a Clerk of the Court which I believe they have down at Rupert Avenue, and just simply pay your fine across the counter, get your receipt and it's just taken as being guilty. And I'm wondering whether or not -- I don't agree with my honourable friend that the people are educated in this and I'm wondering whether or not some plan could be done in respect of these matters.

MR. F. GROVES (St. Vital): The honourable member has admitted that he lacks personal experience with this situation. Had he had some personal experience with the Registrar of Motor Vehicles, he would know that if somebody is convicted of a motor traffic offence, that is, an offence that is registered against your license at the Motor Vehicle Bureau, that one of the first things you receive is a good education in the form of a two-page letter from the Registrar advising the person involved that he has been convicted or an offence has been registered against his record and warning him that on the receipt by the Registrar's office of subsequent conviction, that he will lose his license, and furthermore that the second time that it happens to that particular individual, he receives a more -- a larger letter and a stronger letter advising him that this is his last chance; so that I think that the public is pretty well aware of the fact that if they continue to disobey the law in respect of The Traffic Act, that they will lose their license, and I think all along the line they are well informed by the Registrar that that is the case.

MR. PAULLEY: He's got it all twisted up. Sometimes he does. I wasn't speaking of that at all. And as far as my relationships with Mr. Bob Baillie are concerned, that honourable gentleman consults me quite frequently in respect of cases, and that's one of the reasons that I raised this point tonight. I appreciate very much that on the conviction Mr. Baillie is informed of it and when he is informed he in turn informs the chap who may have been found guilty, or may have pleaded guilty, in order just to get over it. And that's the very point that I'm raising.

MR. SCARTH: Mr. Chairman, I do not deal with the . . . .

MR. ORLIKOW: Mr. Chairman, not being a member of the profession, I am not going to express an opinion on the relative merits of the Public Defender versus the Free Legal Aid. I am satisfied that certainly as far as Greater Winnipeg is concerned, that if the person is in difficulty and expresses a desire to have free legal aid, that they can get it. I was glad to hear the Honourable the Attorney-General say that the magistrates, and I think he said the police too, have been asked to tell people that they can have aid, but I wonder if they tell people how important it is that they do have aid. I am thinking -- we had a case, I think about three years ago, which the Honourable the Attorney-General may remember, it was about just before Christmas, a man got -- a railway worker as a matter of fact as I remember it -- I guess he had too many beers and was bemoaning the fact that he had no money for Christmas presents and he attempted to hold up the Capitol Theatre, although he had no gun. He was arrested by the police, taken to Rupert Street; he said he didn't want to worry his wife so she wasn't notified. The next morning he appeared in court; he apparently thought since he was guilty it was no use having a lawyer and he was given three years as I remember it, and the first thing his wife knew about it was hearing it on the radio. Now I've met many lawyers, and as a matter of fact I think Mr. Stringer who was a member here at one time, later took the case up - but I met many lawyers and all of them agreed that had he had legal counsel which - how shall I put it - it is extremely

(Mr. Orlikow, cont'd.) . . . unlikely he would have gotten so strong a - so long a sentence. And I am wondering if the same kind of - it seems to me that there was a whole series of things happened there which ought not to have happened, and I am wondering whether the same kind of thing could happen again, or whether the police or the magistrate would have counselled the person in a similar case that they'd better have legal counsel.

MR. LYON: I know, I am familiar with the case of which the honourable member speaks. The case was subsequently appealed to the Court of Appeal and the sentence, as I recall it, was upheld. That again - he said "Can this situation ever happen again?" Well, the situation can happen again where a man will be picked up for armed robbery and taken into the police station, and when asked if he wants to contact his family, he may say "No". And when he appears in court in the morning he may be asked if he wants counsel and he may say "No" and he may plead guilty and be sentenced. Of course it may happen again, but that's up to the individual. We must, before we get carried away too far on a discussion of this sort, I think we must realize that the state, neither the state nor those who are acting for or on behalf of the State, can begin to assume the responsibility entirely for every person who appears in court, because not only does the law presume that every citizen is - should know the law, but the actual fact is that most citizens of this province must be assumed to have some knowledge at least of the seriousness of appearing in a court. It's not like going through a turnstile in a shopping centre; it's something that carries some serious import to it, and I think we would be underestimating the intelligence of the public if we were to say, "Now, we must tell every member of the public that comes into court that if he pleads guilty and it's found out he's been a bad boy, he is going to be fined ten or fifteen dollars." I think we must presume that a good number, if not practically all people, all thinking adults, know that there are odd situations that occur - I don't think that the example of the honourable member is perhaps the best example - but there are situations that do occur where persons are genuinely ignorant, either of their rights or of the possible consequences of what flows from a conviction. And it is in those serious cases that I feel there is more of an onus, if any onus at all but certainly more of an onus, on my office, which is responsible for the administration of justice, I think in those serious cases there is the onus to have the person advised of his right to counsel, and to have the person advised that if he can't afford counsel, counsel can be made available to him. I think the very connotation of those words is enough to make any thinking person stop if they will know - if an officer of the court is telling me this, there must be something more to this than just, something more serious than just a traffic offence. And if this doesn't work, although I don't see why it shouldn't work, if this doesn't work I am at a loss to really understand what other type of program we can embark on other than a program of public education, although I don't think that's necessary; I think that the scheme that we have in operation now on a trial basis at the City Magistrate's Court is a good scheme, and this conveys to the persons who appear charged with serious indictable offences, conveys to them their right to have counsel if they wish to have counsel. Now if we were to do this as the Honourable Leader of the CCF suggests on every traffic offence that appears, although I would say this that any person who goes up to this counter, as he says, he goes to the Clerk's office, can ask the Clerk before he pays the fine what flows from this conviction. The Clerk isn't going to withhold the information, but I would mention also that I think a good number of the cases that he thinks of, although not the ones that would involve the Registrar of Motor Vehicles, but a good number of them are what we call "parking tickets", and there's no particular suspension of driving privileges - none at all - that flows from parking tickets but . . . (Interjection) . . . 55(1) speeding offences and so on; those are the ones where driving rights become involved, but I honestly don't feel that we can spoon-feed the public to the extent of maybe passing out a card to them or having a public address system where a record continually playing over and over again, "Watch out for your rights, buddy; your driver's license may be in jeopardy". I don't see how we can do that; I realize that there may be odd cases where persons through sheer ignorance do go before the court and plead guilty, unaware of the consequences, but so long as we are looking after the serious cases, the serious indictable offences, I think that we must depend largely upon the level of intelligence of the public and upon public education programs carried on by Baillie, Registrar of Motor Vehicles, and through information that is provided in some cases by the police and by the Clerks of Court, and other persons involved. A phone call to the Registrar of Motor Vehicles' office will soon tell a person

(Mr. Lyon, cont'd.) . . . who is facing conviction for 55(1) what the possible results will be if he is convicted. I must honestly say that I can't see us assuming any responsibility in this field for advising people of what the law is. We must only assume that people know it with regard to the minor offences; with regard to the serious ones, we presume that in some cases they don't and we have taken steps there to rectify.

MR. ORLIKOW: Mr. Chairman, I don't think it's quite as simple as the Honourable the Attorney-General said. I think it will be better once we have the probation officer because in a case like the one I mentioned he undoubtedly would give a report to the magistrate . . .

MR. LYON: . . . . . to interrupt, Mr. Chairman, only . . . . . the accused after that accused has pleaded guilty.

MR. ORLIKOW: Well, I agree with him but the point I'm making, Mr. Chairman, that I'm trying to make, is that unless I didn't get all the facts and I think I did, in that case because I discussed it with the police at the time, this was a first offence and so on, and this I think would have been brought out had the man had a lawyer or had somebody like the probation officer answered into it. Apparently, this was the difficulty, these facts weren't brought out, and this man apparently didn't realize that since he was guilty it would make any difference in having the background information brought out. Now I think the Honourable the Attorney-General is right - he should have. But the fact is he didn't and I am told the sentence would not in all likelihood have been nearly as severe as it was.

MR. GUTTORMSON: Mr. Chairman, getting back to the point raised by the Leader of the CCF. There are a number of persons charged under the Criminal Code on driving while impaired, driving intoxicated, that come before the magistrate, particularly those charged with driving while intoxicated, or having . . . . . while intoxicated, they are not aware that there is a mandatory gaol term if they plead guilty, and many of them plead guilty to the offence and find themselves going to Headingley, and they are not aware that it carries a gaol term. And I was wondering whether it might be advisable to have those persons informed of the minimum sentence imposed if they plead guilty to the offence.

MR. LYON: Mr. Chairman, I can say that unequivocally, never in my experience in the courts have I run across a person charged with drunk driving or having control while drunk, who didn't know that if he was found guilty of that offence he would go to gaol for a minimum of seven days. Now there may be people, there may be people who don't know this, but I think that is one piece of legal knowledge that has been pretty well disseminated throughout the Province of Manitoba. I have had countless persons come to me and say, "I'm charged with drunk driving. What can you do to get it reduced to 'impaired' so I can pay a \$50.00 fine." I wouldn't be too prone to underestimate the intelligence of the people with respect to those two charges, because I think that most people who drive cars today know that if the word "Intoxicated" appears on the information charging them, they know that they are up against a minimum seven-day gaol sentence. "Impaired care in control" or "Impaired driving", a minimum of \$50.00. \$50.00 to \$500.00 fine, presuming of course, that the Crown treats the matter as a summary conviction offence. And the penalty is higher if it is treated as an indictable offence, but as we all know 99% of them are treated as summary conviction offences. In many, many cases that I know of personally, the information of which the Honourable Member from St. George speaks is conveyed to the accused person when he is arrested. He usually asks the police "What does this mean?" and if he is charged with drunk driving they tell him it mean a minimum of seven days if you plead guilty or if you are found guilty. So I - while I haven't run across it myself I wouldn't stand up and say that the situation hasn't arisen because obviously the Honourable Member from St. George has run into it. I would just say this, that appearing from my own experience, it is certainly not widespread.

MR. PREFONTAINE: I do not know if I agree with my friend with respect to the people not knowing what the penalty is involved when pleading guilty to driving while drunk, but I have met a lot of people who have come to me and told me that they pleaded guilty to having driven when impaired and they told me that they did not know what it was to be impaired. They told me that they had had - just had a bottle of beer in many cases. -- (Laughter) -- "Well" I says, "You are not impaired; I am quite sure you are not." "Well", they told me, "Well, the police told me that if I had just a quarter of a glass, that I was driving under the influence of some liquor and that I might as well plead guilty because I would be found guilty anyway; I would have to get a

(Mr. Prefontaine, cont'd.) . . . lawyer, so I did plead guilty of driving while impaired, and I found out later that I really was not impaired because I had not had - did not have enough liquor to be impaired." And I ran across quite a few cases which, to me, were genuine cases where people, just because they were stopped by the police and they just smelled beer to a certain extent, thought that they were caught and they just had nothing to do but to plead guilty of driving while impaired, and I believe that the definition of "Impaired Driving" is not clear in the minds of many people in this province. They do not know exactly what it means, and when the impairment is such an extent that a person would be proven guilty in court.

MR. HILLHOUSE: Mr. Chairman, I don't believe I've ever met an impaired or drunk driver who had more than two glasses of beer.

MR. LYON: I've neither prosecuted or defended one who had any more. I might just say though that there is in the Criminal Code no definition of what an impaired driver is, for the information of the Honourable Member from Carillon. There are a number of authorities, there are a number of decided cases on what an impaired driver is, and even they don't agree. But I would say this, that if you've had any liquor you are suspect, and if you've only had one bottle of beer why usually the police will acknowledge it, but I think the standard phrase is - the Honourable Member from Selkirk can correct me if I'm wrong - "He was glassy-eyed, he staggered when he walked and he had a strong odor of alcohol on his breath". In all respects he gave the appearance of being an impaired driver. (Laughter)

MR. CHAIRMAN: Item 3 (a) -- Passed. Item (b) -- Passed. Resolution 38: Law Courts - \$266,350.00 -- Passed. Item 4 - Legislative Counsel; (a) - Salaries.

MR. GRAY: Mr. Chairman, I understand that our Legislative Counsel is about to retire, at reaching the age of 65. My question is - I realize that it will be very difficult to replace the present Legislative Counsel, but my question is whether there is anyone is being coached, or is there anyone in the Department who could take over his place when he retires?

MR. LYON: Mr. Chairman, our valued Legislative Counsel has reached and passed the age of 65, and we are hopeful that he will not retire; we want very much to keep him in the service of the government. I may say, this gives me the opportunity to say a few words about Mr. G.S. Rutherford, Q.C., a man who has given exceptionally fine service to this province over the past practically quarter century. (Hear, Hear!) He brings to his position a background of experience which few men in his profession have across Canada. He brings to it a fine mind - one of the finest drafting minds that we have in the legislative field across Canada. He brings to it a personality - a friendly personality - a man with whom it is most easy for members of the government, and I am sure members of the opposition, to work. He certainly is an asset to the workings of this government, and I am sure that my predecessors would agree that he was an asset to them. So we are quite hopeful that in his wisdom he will see not -- he will find it able to continue in his present position. However, we have appointed this year a Deputy Legislative Counsel in the person of Mr. R.H. Tallin, who was formerly a solicitor with my Department. The position of Deputy - or Assistant Legislative Counsel has been created and Mr. Tallin is filling that position at the present time; he's understudying Mr. Rutherford and I may say is doing a very excellent job, coming along in that field. I've had the opportunity, or had the opportunity last fall of working with Mr. Rutherford at the Uniformity Commissioners Conference which was held at Niagara Falls. There I saw all of the Legislative Counsels from across Canada, along with the Attorney-General of Ontario and some other senior governmental officials from across this country; I can report to the House that my high opinions of Mr. Rutherford were increased from that association because I found there the very great respect in which he is held by his colleagues in this very specialized profession right across the country. So I repeat, while he has reached the age when many of us feel we might like to retire, we are most hopeful that Mr. Rutherford will see fit to continue in his office for many years. (Applause)



MR. HRYHORCZUK: Mr. Chairman, I would like to join with the Attorney-General in paying tribute to a man who has dedicated most of his life to the service of the people of this province. Everything the Attorney-General has said about Mr. Rutherford I can second in no uncertain terms or language. I have yet - although we have a number of dedicated civil servants in the service - I doubt whether anybody exceeds Mr. Rutherford in the dedication that he gives to the job he has. I have known him to spend, oh, burn the midnight oil, and work into the wee hours of the morning, in order to keep up with the requirements of his branch of the Department. And I, along with the Attorney-General, certainly hope that he remains in the service as long as his health permits him to.

MR. PAULLEY: The two honourable gentlemen who have just spoken have had real intimate workings with Mr. Rutherford. I would like, as one of the ordinary members in the House, to pay a tribute to the invaluable assistance that he has given us from time to time. We've always found Mr. Rutherford very ready and willing at all time to give us assistance. Now, of course, we don't have very many bills, as private members, to go through the Legislature, but I've had one or two, one being the bill giving a charter to the City of East Kildonan, and became quite intimate at that time with Mr. Rutherford as to the details and this, that and the other, and found him very, very capable and co-operative. And I would like to agree with the Honourable the Attorney-General, with Mr. Ray Talli. He, also, seems to be the same type of an individual as Mr. Rutherford, and if unfortunately for the province, and for use members of the Legislature, that Mr. Rutherford deems it advisable or desirable to retire, shortly, I think by that time Mr. Tallin will be in a good position to take over from him. I think we are most fortunate, as the two previous speakers have said, in having gentlemen of the calibre of Mr. Rutherford and Mr. Tallin within the civil service of the province.

MR. CHAIRMAN: 4. (a) - Passed. (b) Supplies - Passed. Resolution 39 - \$22,960.00 - Passed. Item 5. - Administration of Justice. (a) Administration (1) Salaries - Passed. (2) Expenses, etc. - Passed. (3) Grant . . . .

MR. HRYHORCZUK: Before we leave that item, I would like the Attorney-General to tell the Committee as to whether there was any use made of that appropriation for ground search and rescue operations. It was something we just brought in about a year ago, and I was wondering whether it was functioning or whether it was wasted effort.

MR. LYON: Yes, there was some use made of it, Mr. Chairman. I can give - I can't give the details actually of what was done but some certain monies under that appropriation were expended. I believe that \$1,000.00 was - yes - set aside. I can't give you the details off hand. I could obtain them if the honourable member wishes, Mr. Chairman.

MR. GRAY: Mr. Chairman, I wonder whether those who are qualified in the English language could find another word for prosecutions. When we hear about 'prosecutor' we think about the prosecutors in some of the European countries and foreign countries who go out of their way to prosecute a man. Actually in my understanding of a prosecutor is to bring the facts of the Crown and nothing else. The word 'prosecution' means 'by hook or crook we'll have to convict him'. So I wonder whether the word 'prosecutor' or 'prosecution' could be changed to something -- some more modern and more intelligent word.

MR. LYON: I've never heard of another word which would be as flexible as the word 'prosecution'. I admit we are sometimes loose in the use of it. We speak of Crown Prosecutors; we speak of a prosecution before a certain judge; we speak of people being prosecuted. I don't know of any synonym for 'prosecution' that would perhaps fill the bill as well as that word. I suppose there is an unfortunate confusion sometimes with the word 'persecution'. (Interjection) As long as my Crown Attorneys, I was just about to say - as long as my Crown Attorneys don't become Crown "Persecutors", and I know that they aren't, I'll be quite happy. I don't think there is any synonymous word though that comes to my mind quickly which would fill the bill.

MR. GRAY: Defenders of the people, are Defenders of the State, are Defenders of the Crown.

MR. ORLIKOW: Mr. Chairman, is this the item which would include the salary, or the payment, or whatever it is, for the psychiatrist that is somewhere in the department? I see there's an item "Sanity Examinations". I wonder if that's it. It's very important if it is, or if somewhere else, I don't mind waiting for whatever the proper item is.

MR. LYON: It's not under this item. I think we are coming to it under the "Juvenile

(Mr. Lyon, cont'd.) .... and Family Court". Unless I'm mistaken, it comes under Item No. 7 in the estimates.

MR. PAULLEY: Last year, when the format was somewhat different, it was listed last year under Section 7 of (a), Examinations as to Sanity, and there was, I think, an appropriation for Examinations for Sanity. I can get the amount of that. The Honourable Member for St. John's, I presume, is speaking about Dr. Little, who is on the staff, - actually comes under the office of the Director of Correction for Juvenile and Probation Staff which would be Item 7.

MR. PREFONTAINE: Mr. Chairman, I noticed that last year there was a small item of \$100.00 provided for the 'Rewards' and this year there is no appropriation for that at all. Is that an indication that the present Attorney-General doesn't believe in the rewards, or if the money was not spent last year, or - I would like his opinion as to whether or not the practice of giving rewards to possibly find a culprit is worthwhile ... ?

MR. LYON: Well it doesn't - I can assure the honourable member, Mr. Chairman, it doesn't mean that I'm against the proposition of giving awards - rewards. I think there are certain types of heinous case that arise from time to time. I think they had one, an example of one recently in Ontario, where the Attorney-General immediately posted a reward of \$10,000.00 for the finding and conviction of a person who had assaulted and killed a young girl. We have no - these items, one never knows when they will arise. I would be of the opinion, that if we had a similar type of case arise in Manitoba, certainly serious consideration would be given to the posting of some reward in that regard, but a small item of \$100.00 is neither here nor there. We had no occasion to utilize that appropriation and that's why it is discontinued.

MR. SCARTH: Mr. Chairman, while we are speaking of this item and it contains the word 'prosecution', I would like to point out that in my opinion the Honourable the Attorney-General is a little bit modest. The Leader of the CCF raised a question here about certain people going before a magistrate, pleading guilty and having to suffer the consequences. Now, in most cases, the out-of-town magistrate, is a pretty sensible individual, and that was why he was appointed. But if a person pleads guilty the first thing that that magistrate does - I speak now of the country magistrate - is say "Constable, will you give me the facts of this case". And if during the recital of those facts it comes to the magistrate's attention that this man should not have pleaded guilty, then that magistrate, nine times out of ten, will say "You go back, Mr. Jones, I will not accept your plea of guilty; you plead not guilty, and I'll give you a week to consider this and you can get counsel or whatever you want." Now that is practice, and a great safeguard to the public. But again I speak of the Honourable the Attorney-General's Department, and this also, this practice was also quite prevalent when his predecessor was in office. The Crown Counsel of today are so well trained that they are not prosecutors. And. (Interjection) No, they are not. I mean they are not prosecutors to get a conviction. They are out to see that the public gets justice. And I recall one instance when the present Attorney-General was just a young graduate, a junior in the department, I 'phoned him up about a man, he got out his file and he just knocked off four cases out of five, four charges out of five, that were charged against that man, after reading the file. Now, today the members of the Attorney-General's branch, if they see that a person should not be charged with that offense, they'll just say "We'll give a stay of proceedings on that," so I think, Mr. Chairman, that the public through the present courtesy and efficiency of the Attorney-General's Department, and again to the magistrates, is very well protected.

MR. GRAY: Mr. Chairman, I didn't say a single word about the Crown Counsels for their fairness and justice. I only argued about the term 'prosecutors' and if you read the history of most European countries and maybe some cases in Canada and America the prosecutor, the word prosecutor alone means that he is to prosecute the prisoner not to try and find the facts. I'm not charging anyone with non-kindness. They are doing their job, they are doing it properly, but the word "prosecutor" for the last 50, 60 years since I remember was looked upon as a man that has to get the man convicted otherwise he may be demoted.

MR. SCARTH: It was never my intention to suggest that the Honourable Member for Inkster was criticizing the department in any way. I just want to bring out a point which I thought should be brought out. That was all.

MR. WAGNER: Mr. Chairman, I am no lawyer or anything like that but the member for River Heights brought me to the feet when he mentioned 'country' and I just want further clarification if I understood him correctly. He stated that the magistrate calls the policeman to give evidence. He calls them afterwards when the person pleads guilty or not guilty. Do I understand that when the person pleads guilty there is no evidence given by the constable? Does the person after a week's reply from the magistrate get the information that he is not guilty. Never happened in the country.

MR. SCARTH: Now that is not what I said, Mr. Chairman. I said that if a person pleads guilty, the magistrate asks the attendant constable on the court to give the facts of the case so that he can fine the man or sentence him and if it transpires that during the recitation of facts given by the constable the magistrate gives his opinion that that man should not plead guilty, then the magistrate if he knows his job at all will always reject the plea of guilty and tell the man to enter a plea of not guilty.

MR. WAGNER: Mr. Chairman, it doesn't seem to me clear at all because when the person appears in front of the magistrate, when he says guilty, that's all is done. He's just fined \$15 or \$10 or such an amount and there is no evidence given by the constable.

MR. SMELLIE (Birtille-Russell): This matter of a magistrate's court, I'm afraid my honourable friend from Fisher doesn't understand what we are trying to get at here. The facts of the case are not given to prove that the man is guilty. The facts of the case are only given so that the magistrate may determine what in his opinion is a fair sentence for that man. The man having already admitted that he is guilty of the crime charged, but the facts of the case must be before the magistrate so that he knows whether to give him the maximum penalty or the minimum penalty, and that is the only reason for the constable being asked to give the facts of the case and he will just give a brief resume. For example, in a traffic case a man may be charged with driving to the common danger but what did he do that was driving to the common danger? And the constable will be asked to show that he was driving at 60 miles an hour in a 30 mile zone, or something of that nature and he will tell the court what the accused actually did. And that helps the magistrate to make up his mind what the actual penalty should be within the limits prescribed by the statute.

MR. WAGNER: Mr. Chairman, I am not satisfied. When the magistrate calls the accused to the table, "Are you guilty or not guilty?" The accused either says not guilty. Fine. Then the evidence will cease, but if he says 'guilty'. Fine. Nobody gives evidence or anything. It's done.

MR. : Mr. Chairman, the honourable member for Fisher hasn't attended very many magistrate's courts.

MR. WAGNER: . . . . . practically every month when I am in Fisher Branch. Every Wednesday.

MR. A. E. CORBETT (Swan River): . . . . . lawyers are aware they are giving this advice free.

MR. PAULLEY: Mr. Chairman, there is just one point apropos of the honourable member for River Heights I agree with him -- with his statement that the magistrate asks for the facts and receives the facts in the opinion of the constable who made the arrest. Now to me they are not facts until they are substantiated and the point that I was raising was the general apathy of so many, of just saying that there is no use arguing about the point. And it's true that the magistrate when he hears the evidence of the police constable or whoever it may be, that is laying the charge and giving evidence, bases on those facts that I suggest, Mr. Chairman, that they are the facts in the eyes of the constable for the side of the law, and my point is, that in many cases had the person who is alleged to be guilty or charged with the offense been instructed as to the consequences, notwithstanding the so-called facts, many convictions wouldn't be obtained.

MR. LYON: I would say this, just to add to the point that has been under discussion that especially in rural courts, circuit courts, that I have attended in years gone by, very few cases ever came before a magistrate where the accused was unrepresented, where after pleading guilty the magistrate didn't turn to the accused and say to him - "Have you anything to say?". I very seldom run across the situation where an accused person was deprived of the right to explain his side of the story and I have seen situations arise where after having

(Mr. Lyon, cont'd.) heard the accused the magistrate would say to him, "Well now, on the basis of what you tell me, I don't think you should plead guilty so I am going to enter a plea of not guilty if that's in agreement with you". And by this time the accused agrees that he is in agreement with it and the accused person will either go back and get counsel or the crown attorney will take the matter under consideration.

I would like to correct one misstatement I made in reply to the honourable member from Carillon. The item of rewards is in but it is under the heading of 'miscellaneous'. There is \$100 still provided for rewards in connection with the search and rescue operations. The honourable member from Ethelbert Plains might be aware, this item is used largely for lost hunters, rescue teams and so on. There hasn't been too great a call but there was some expenditure I think, a few hundred dollars out of that fund last year.

MR. CHAIRMAN: Passed. 3. Grants of John Howard-Elizabeth Fry Society -- (Passed). 4. Grant to Canadian Congress of Corrections -- (Passed). 5. Less living accomodation supplied to employees - \$300.00. Total - \$216,570.00.

MR. GRAY: Mr. Chairman, under item (b) Gaols, I would like to make a few comments if you will permit me. I have read the last report of the superintendent of Headingley Gaol very carefully and it is very interesting and tragic. Firstly I want to commend Mr. Littlewood, the superintendent of the Headingley Gaol for his interesting, detailed report. I think that he must be a good man, that he makes definite recommendations, pointed out what's wrong. Usually officials give these reports privately to the Minister. In this particular case I commend him for bringing it to the attention in his very detailed report.

Now what's alarming about it is this, that the increase of the population daily population average from 370 in 1957 to 1958. It indicates that not much progress is being made in the prevention of crime which I have mentioned before. I think this should be carefully looked into and watched. I think that it is tragic when an institution of this kind increases its population. It is a terrific expense to the state and a tragedy to the families which I have mentioned yesterday.

Secondly, there is no sufficient work for everyone. I realize that some of them have short sentences and it's impossible to educate anyone either in a trade, or improve their academic knowledge in a short period of time but still I think that with all the professions outlined in the report I think something could be done even for those short offenders. Very little is being done in rehabilitation which may come under another item. On page 12 of the report there are under 7 days to 3 months and the report indicated there were 1,625 hotel guests, so to speak. This is much too great of a percentage that have committed very minor offences. Still they have the stigma of being in gaol. In other words up to 3 months, from 7 days to 3 months was 1,625. I'm not going to suggest to the magistrates or anyone else in their work - I appreciate their position, I respect their experience and knowledge and I realize they are just as human as anyone else - nevertheless, the fact is there that under 3 months were 1,625 men sent to gaol which indicates that the crime was not so serious. On page 19 we find that classification of business occupations there seemed to be all kinds of professionals and tradesmen. I thought perhaps they could make use of them because they have no other work anyway down there because it is impossible to find employment or useful employment for an average population of 471 although the turnover was very much greater.

On page 25 is the most tragic situation. It indicates from 16 years of age to 29 right in the prime of life there were 1,476 inmates. In other words in the prime of age they are getting the stigma of being in gaol, and you know how hard it is for a person to get any kind of employment when he has a conviction behind him. On most of the applications for positions they ask whether you have ever been convicted. He couldn't lie, and the moment he tells the truth - maybe a minor offence - the stigma is there against him. I think it's something to think about.

On page 26 of the same report, it shows that 392 drug addicts and alcoholics. This does not indicate the figures in the other gaols in the province. It is sufficient warning to think about it. I think perhaps a building, semi-hospital building should be constructed or established for those drug and alcoholics. Being in gaol down there with 471 others on the average is not a good place for them. Not the cure and the moment they are released they will probably continue their bad habits.

(Mr. Gray, cont'd.)

Now there was 148 - not the first offenders is 226 - but the first repeaters 226 and fourth repeaters 148 which indicates lack of rehabilitation lack of interest of the public, lack of interest to rehabilitate the men while they're young to become useful citizens and continue their life over again, for their sake and the sake of their families. Now I venture to say that the repeaters are entirely due to the lack of employment when they come out, the hardship of getting a job, and the possibilities of self-supporting. They are almost compelled, irrespective of the fact that they know that some day they will get caught and sent to gaol again and with their record probably get a heavier sentence. This is something which is very, very serious, particularly the young repeaters.

There is one more point I want to commend the superintendent. At the end of his report he says this - "Last year's report shows a recommendation for a separate institution to house men between the ages of 16 and 24, and capable of housing 200 inmates. This is needed more urgently than ever with the unprecedented increase in population. There still appears no likelihood of any other system being implemented in the near future. The overcrowding of last winter will no doubt be further aggravated next winter. There has again been a high turnover in the custodial duties. This is also very serious. 23 out of 62 due largely to the wages not attracting sufficient men of a type able to stay in this arduous work. This means that those who do stay as senior officers are hampered by inexperienced personnel in handling the large inmate population. And it says further - "I would recommend establishing a pay scale to that of the large police forces in the area. An increase in staff appears inevitable with the increase of inmate population. I first want to commend highly the superintendent for being serious and paying attention to his job and of having so-called nerve of making this recommendation. This is just a few items which I think deserves serious consideration when dealing with the situation of the Headingley gaol, at least.

MR. ORLIKOW: Mr. Chairman, this is along the same line. I wonder if the Honourable the Attorney-General could give us a break-down. I see this listed as salaries 153 positions. Could we get a break down of how many employees there are in each of the institutions? What classifications, if any there are, that is how many of them are guards, how many are more specialized, what are the salaries paid? The honourable member, I think, asked that question. I tried to catch it in public accounts but if it follows the pattern of previous departments, they are far out of date so I couldn't figure it out. While I'm on my feet, Mr. Chairman, I suppose this is the place to ask the Honourable, the Attorney-General, he suggested that I took an inference when I said that there was -- that he had said that the waiting for the Fauteux report meant some delay. That was the way I took his remarks. Has there been any discussions even if they have not been completed, and I wouldn't be too critical if you decide to wait - about setting up of a separate youth unit or a separate unit for first offenders or some of the other specialized units for narcotics or alcoholics and so on? I suppose this is as good a place as any to get information on it, Mr. Chairman.

MR. HRYHORCZUK: Mr. Chairman, before the Minister rises, I have one question to add. Is the department continuing to take advantage of the training given to guards at Kingston and is there any in-training?

MR. LYON: Mr. Chairman, I'll answer the honourable member from Ethelbert his two questions first. There were two members of the staff sent to the Kingston training course this year. In addition to that as I mentioned, I believe in my opening remarks, 9 new guards were hired to staff the new minimum detention wing which was completed in March. Those men were hired a month in advance and were given a one month training course, in-training course at the institution, largely under the supervision of these persons who have taken this very valuable course at Kingston. We are certainly continuing the policy which I know was followed under the administration of my honourable friend, of utilizing the space that is made available to us on the agenda of this course at Kingston.

With respect to the points raised by the honourable member from Inkster, I could perhaps give him some figures that would be of interest with respect to a break-down of offenders in all of our institutions, that is adult offenders right across the province. These figures were based on the population as of 1st of September 1958. That is sort of a median period because these average gaol populations at Headingley at that time was some 488 persons. I am happy to

(Mr. Lyon, cont'd.) report as I indicated yesterday that that population is now down to approximately 345 per day - that's on the recaptulation statement that I receive weekly from the superintendent of Headingley gaol that's running around 345 right now.

The total inmate population adult population as of September 1st, 1958, was 645. 23 of those at Headingley gaol were on remand in the remand cases. Now there were a total of 338 prisoners in each institution or in the total of the institutions serving sentences of from 1 day to 6 months. That is out of the 645, 338 were in the class of 1 day to 6 months for which the province will become eventually responsible under the new scheme. The prisoners in the institution serving sentences of from 6 months up to 1 year totals 136. Honourable members will recall that this is the area of offenders which will be cut out under the new system. In other words there won't be any sentences given of from 6 months to 1 year under the new system but as of September 1st there were 136 in that classification. There were 171 prisoners serving over 1 year and under 2 years. Of course the population only goes to the two year limit at our gaol.

I think that situation points up the fact which is mentioned in the Fauteux Report. Of a total population of 645, we only have 171 who, in the opinion of the commissioners who sat on the Fauteux Commission, would be capable of receiving proper rehabilitative treatment. It points up the fact as the commissioners stated in their report, that these are the persons, the ones that are going to be in the institution for some time - these are the ones who can gain the most from any form of rehabilitative treatment. It points up the fact also that prisoners who are in from 1 day to 6 months are the types who are the most amenable to what we loosely call the custodial type of institution and I think we have to face the fact that by and large, with the exception of some of the vocational courses and with the exception of the farm work that is carried on at Headingley and at Brandon, the type of treatment that is received by prisoners at, not only our gaols in Manitoba but in most gaols across Canada, as found by the Fauteux Commission, was of the custodial type primarily. That is they were put in the building and well not forgotten about - there wasn't too much being brought to bear by way of treatment facilities for these men - you can see from our figures that there are only 171 of these men and women who would be susceptible to this type of treatment. Now as to the age of these people. I would point out that better than 50% of the total adult population in all of our gaols across Manitoba, better than 50% of those are under 30 years of age. That is the maximum age limit is 30 years. The question is raised, what are we doing about segregation of these young offenders? I think it must be realized that a proper system of segregation requires a separate self-contained institution. That is an institution which would have its own dining room, its own kitchen, its own recreational facilities and so on and so forth. Where there would be no physical contact whatsoever between the young offenders and say the older and more hardened criminal types. We do not have those facilities at Headingley. The addition of the 100 man wing, the new wing to the establishment out there did permit of some segregation but I must admit to the House, these men still must take their meals in the central building where the facilities are provided. They must still go over there for the movies. They go over to the vocational wing for the vocational training that they take and while it is possible on the outside work jobs to keep them segregated as to whether they are doing farm work or work with livestock and so on, still there is the inevitable rubbing of shoulders when they come together for meals and other activities which are carried on in the central wing. It will be appreciated, I think, that one of the bed rock recommendations of the Fauteux Report was that you cannot start a proper rehabilitation program as I have mentioned unless you have the prisoner in your control long enough to give him long enough exposure to it that will, you hope, have some benefit for him.

The problem of what you can do for a person serving 1 to 6 months is a great problem in Manitoba because as you can see from these figures, by and large, better than 50% of our people are serving from 1 to 6 months. In fact as of September 1st at the Dauphin Institution we had 34 prisoners all of whom were serving sentences from 1 to 6 months. There were no long term offenders at Dauphin at all. At The Pas there are no long term offenders at all. I think the maximum sentence 10 days to 2 weeks and then if there is a sentence in excess of that why they are transported down to Dauphin gaol or down to Headingley gaol if it's a longer term.

That is a very real problem. We are trying, in the meantime, as I pointed out yesterday, we are not standing still, we are going to set up these correctional camps and it is our hope

(Mr. Lyon, cont'd.) that we will be able to attract to those camps persons in this 1 day to 6 months classification, the large classification and that during at least 3 months of their incarceration they will be permitted to get out and to work, at the different projects which we will have lined up for them. The other point that was raised by the honourable member was in connection with the number of staff that we have at the various institutions. I can give him this breakdown of gaol staff, Mr. Chairman showing the numbers of established positions in each classification for each gaol. Starting first with the common gaol of the eastern judicial district of Headingley. You have the superintendent, deputy superintendent, the accountant who is the bursar, medical officer, II, who is part time at the gaol. Two guard officers IV, one guard officer II who is the assistant bursar. In the kitchen we have 1 guard officer IV, in the cook classification, and 3 guard officers III, in the cook classification for a total of 4. On the, I should have said on the administrative staff, superintendent down to the assistant bursar, that total is 7.

In the maintenance and vocational training branch we have 1 guard officer III, in charge of the blacksmith shop, 1 guard officer III in charge of the cobbler's shop, 1 guard officer III in charge of the tailor shop, 1 maintenance carpenter and 1 maintenance painter for a total of 6. Still continuing with Headingley, in the garden and farm staff we have 1 institutional farmer IV; 2 institutional farmer III; and 3 guard officers II for a total of six.

On the custodial staff we have 9 guard officers III; and 75 guard officers II. Now that is a total of 84. Works out to 3 shifts of approximately 25 each for a total altogether - that is in established positions - of 107. Actually filled, on the actual staff there are 100 at the present time.

At the common gaol of the western judicial district in Brandon, we have the warden, a warden II, 1 guard officer IV, 1 guard officer III, and 10 guard officers II, for a total of 13. The average inmate population at Brandon gaol as of September 1st, 1958 was around 46. The average recently was in the area of 55 to 60. I might just mention in that connection there was a point raised by the honourable member yesterday about overcrowding at Brandon gaol. I might say that we have actual accommodation, although we would be filled right to the rafters, but we do have double cells and single cells which would accommodate a total of 108 at Brandon. We don't want to have 108 at Brandon and we certainly try to keep that figure as low as possible because we have a smaller number of staff there. At the present time it's running around 55 to 60. The common jail of the Dauphin judicial district of Dauphin, we have one ward II; two guard officers III; eight guard officers II; and one medical officer II who is a part-time doctor who is retained on contract, for a total of twelve.

In the Portage Jail for women we have the superintendent for women, the deputy superintendent, one wardress IV, two wardresses III, one cook III, ten wardresses II, and a medical officer II who is also retained on contract for part-time duties at the jail, for a total of 17 persons on staff. Now in so far as salaries are concerned, I can give the minimum and maximum for the different ranges. I would point out that these new ranges came into effect on April 1st 1959. For the guard officer one the old range was from \$2520. to \$3120, the new range, present range is \$2760. to \$3480., that is, in pay per month the old rate was \$210. to \$260. per month. It is now \$230. to \$290. per month. Guard officer II, the old range was \$230. a month to \$290. - the new range is \$250. per month to \$320. per month; Guard officer III the old range was \$250. a month to \$320. per month - the new range \$275. to \$350. a month; guard officer IV the old range was \$260. to \$335. a month - the new range \$320. per month to \$395. per month. I could give the additional breakdowns as to the superintendents if that information is required. I believe the pay schedule which was filed by my colleague the Provincial Secretary does contain all of it but if the honourable member wishes, Mr. Chairman, I would be pleased to look up these different items and either give them to him now or at a later date. I don't believe there is any further information unless I have perhaps overlooked something that was asked by one of the honourable members. . . .

MR. ORLIKOW: I am glad to hear that the Honourable Attorney-General says the salaries have been raised. However, if -- I'm just speaking from memory if the classification of No. I Guard, would that be equivalent, that would . . . that's what the bulk of them are, I assume, . .

MR. LYON: They are hired provisionally, as I's and in 6 months' time promoted to II's if their services are found to be satisfactory.

MR. ORLIKOW: What was the salary for that?

MR. LYON: The salary raise for the guard officer II is presently \$250. to \$320. per month.

MR. ORLIKOW: Well, Mr. Chairman, I wish the Honourable Attorney-General well, but I was just speaking from memory and as I remember it the salary of a 1st class constable in the police force of Winnipeg is about \$50.00 a month more than that and they are having difficulty recruiting staff. And as I say, I hope he will get staff that will stay with him but if my information is correct, I think he is going to have difficulty. The other point that I was wondering about, Mr. Chairman, is - and again I realize again that these things may take time because of change-over but has the Attorney-General's Department got plans for taking on of specialized staff, social workers, classification officers and so on, or do you think that could wait until you see how the division between the Federal and Provincial Government apropos prisoners will work out. If you do I wouldn't be too critical, but I was just wondering if we ought to wait or to be planning this and if you are, what the plans are.

MR. LYON: Mr. Chairman, in connection with the first point raised by the honourable member regarding salaries, I think one of the great difficulties in the past has been that we found we were recruiting reasonably good men for guards at Headingley - we were recruiting them in the pay range of around \$210. initially and they would serve their apprenticeship with us for three or four or five or six months, then word would come to them that down the road a few miles they could start on as a guard in the penitentiary at approximately for \$250. per month as a starting salary. Now one of the advantages of the pay increases has been that these men now are starting at a better salary and then, of course, they are transferred to the higher ranges within six months of their signing on with the Provincial Government and the salary ranges that we now have, while it's certainly not as high as the City of Winnipeg constables, but it is certainly much more competitive with the Federal Institution at Stoney Mountain and I am advised by the Superintendent that since these salary increases have come into effect and remembering too that concurrently or not concurrently but prior to this - the forty-hour week was introduced at these institutions, I am advised that the effect of these two moves have been to increase the staff morale and he advises me as of recently that the turnover in staff at Headingley certainly has decreased from the time he made the statements he did in his reports. I think the honourable member will appreciate that report speaks as of March 31st, 1958 and since that time, not only have the salaries been increased but the forty-hour week has been brought in since that time. The comments he makes about an extra wing have been - the 200 man wing - has not been built but certainly the 100 man wing has been built and they find at the present time, through very fortunate circumstances that the jail population has declined almost 200 in the period of the past six months, which to me is a very encouraging factor even, though we have come to expect the downswing in jail population during the summer months, the fact that it has declined by 200 in a six month period is certainly encouraging and there is, I would say today, at Headingley jail perhaps more available room and more room for segregation than there has been for a good length of time at that institution. I may say also while on my feet that in connection with the other institutions we try to keep them in as flexible condition from the accommodation stand point as possible. Whenever we get a request from the Superintendent of Brandon or of Dauphin to transfer a prisoner into Headingley if he feels he can't handle him there, if he feels his number is becoming too great, that request is acted upon immediately and we find that as a result we are able to keep a fairly stable population at Brandon and at Dauphin, that is stable in numbers although not in faces, the face, the income and outgo is tremendous because of the large number serving sentences from one day to six months.

Now the second point .....

MR. ORLIKOW: ..... while you were giving consideration to specialized staff regarding classifications and things like that.

MR. LYON: Of necessity, Mr. Chairman, when bringing in the new form of correctional camps we must give consideration to a more thorough system of classification than we have had in the past. In the past it has been one of the duties of the Superintendent to interview all of these prisoners and so far as was possible for him to classify them as to the type of work in which they would be interested in and so on and so forth. I should say the Superintendent and the Deputy Superintendent. Now I would say this, that one of the requisites of the new system will be that



(Mr. Lyon, cont'd.) . . . . we must have a closer form of classification than that. I will admit to the honourable member that I do not have in my estimates specifically an amount set aside for a classification officer but we have the matter under consideration at the present time - there is some thought that perhaps one of the persons taken on to our staff for probation purposes may have leanings toward classification work, in which case we may well start a pile of projects with one of those persons before the end of this coming fiscal year but certainly I think it's inherent in the whole scheme that even when we get to the system where we have prisoners of from one day to six months we must have some greater form of classification, merely for the purposes of the correctional camps that we are going to establish because we must ferret out those people for whom this work will be the most suitable and those people who will benefit the most from this particular type of work, and the only reasonable way to do that is through a proper system of classification and of course, the segregation that we are carrying on at the minimum detention wing which we built - I mentioned that yesterday - and perhaps it escaped the attention of the honourable member from St. Johns but there is segregation being carried on largely among young offenders in the minimum detention wing. I admit, though, as I have said before this is not the pure type of segregation that we would hope for because that can only be obtained in a separate institution, but so far as is possible with the physical plant that we have this segregation is being carried out in the new minimum detention wing. And with the reduction in population which we have at the present time, of course, it is easier for that segregating process to be carried on.

The question was raised or the reference was made to first offenders. The Superintendent tells me that there is no such thing as a first offender at Headingley jail. What he means by that is the first offender that he gets - that is the first time in jail is not a one time loser in accordance with the parlance of the trade - he's usually a four-time loser who has gotten off with a fine or perhaps suspended sentence under the old system, maybe he's been on probation, maybe he's one of the 9% who have been on probation and who haven't benefitted under that system. But the Superintendent advised me that by and large the young offender when he reaches Headingley jail, although he might loosely be classified as a first offender because it's his first time in an institution, he's far from being a rosy cheeked young boy off the street, he's somebody who has had a considerable connection with law enforcement people, who has been in court a few times, has been given a few breaks as they say. Some of these people, we must admit this, some of these people have served in juvenile institutions before - either in Manitoba or in other provinces across the country - so the pure first time offender is not as common as bird as perhaps sometimes thought. He's more of a rare bird and segregation of this type of person is, while it certainly is desirable we're not according to the advice I received from the Superintendent, we're not dealing with a class of persons necessarily, who because of their age are coming into their first contact with the law.

MR. SCHREYER: Mr. Chairman, this might be a slight digression from the remarks just made but with reference to the correction camps of which the Minister spoke I wonder could the Minister tell us whether these camps are to be operational year round or merely during the summer season?

MR. LYON: Plans are Mr. Chairman, for these camps to operate only at the outset during the spring, summer and early fall months. We would hope to get operating in a normal year a program which might begin pretty well as soon as the snow is off the ground and would keep operating, the greatest impediment would be snow, we could operate perhaps past the time of frost, but the main operations would be carried on, I would think, between April and September or October. As the plan develops, as years go by and as we see how it works out we may well be able to adapt it to suit year round climatic conditions because there is a considerable amount of work that can be done during the winter, brushing type of work and so on and so forth, but there are inevitably more problems involved, the prefabricated type of hut that we would be building and setting up, the portable type of hut would not necessarily in the first instance be an insulated hut. We would have to go into much more extensive plans for housing on the site of the reclamation project and that of course involves more consideration of the type of building we're going to put up and so on and so forth and more expensive capital outlays. But certainly we are not overlooking it. What we are saying is that we will start out on a seasonal basis, spring and summer and early fall and see how it works from that point on.

MR. SCHREYER: Mr. Chairman, the Minister gives a thorough answer on this and in a sense he seems to apologize for it not taking effect in the immediate future. Actually, in my humble opinion he shouldn't apologize, because certainly it would not seem proper to rush into it - as a matter of fact, it might be that it will not become operational year round for four or five years and certainly that will be perhaps all to the good.

MR. ORLIKOW: One more question. The Portage Jail for Women comes in under this. I realize it is a smaller institution and therefore more difficult for segregation, but I was told that in there - the information that I got may have been wrong and possibly I should have spoken to the Minister privately about it - but I was told that in there is one person who is there what is the phrase under . . . (interjection) . . . yes, that that person is able, because of the lack of facilities to mingle with first offenders and so on. Now it may be that there is no danger as a result of this I just wonder if there is nothing you can say about it. . . . I'm not raising any objection I'm just looking for some information.

MR. LYON: I have visited the Portage Institution on a number of occasions and I have seen the quarters of the persons to whom reference is made. This particular lady has her own single cell but it is true during certain periods of the day the cell doors in the different blocks are left open permitting an intermingling of the women who are confined to that institution. I have been advised that no incidents whatsoever that have arisen, certainly at any time when persons in this classification revert back or have relapses of the unfortunate conditions from which they suffer, then they are transferred to psychopathic wards or to one of our mental institutions for more concentrated treatment. But at no time are they kept in the jail when the mental condition under which they suffer is manifesting itself to any great degree. As I say I have heard of no incidents - I have as a matter of fact, every time I go to the institution I usually go to pass by that cell and very often stop in and have a chat with the lady in question and I have had no reason to believe that there would be any problem with her intermingling with the other prisoners out there when the disability from which she suffers is not manifesting itself but I know of no incident at all that has ever arisen in connection with her presence in the jail.

MR. GUTTORMSON: Mr. Chairman, when a prisoner is held at the pleasure of the Lieutenant-Governor, if that person is to be released at any time what steps are taken or what is the process of law?

MR. LYON: . . . . time this of course, is federal legislation, provided in the Criminal Code that a person who is found not guilty of murder for instance, on account of insanity, is confined at the pleasure of the Lieutenant-Governor to either a mental institution or a Provincial institution. Under the present scheme the counsel on her behalf or relatives or friends or the persons themselves can contact either myself or any other person and make submissions to the Cabinet, because the release is made effective by the recommendation of the Lieutenant-Governor actually. The Lieutenant-Governor acting on advice of the Executive Council. I may say that the Province of Ontario has an ad hoc scheme, whereby, operating under no specific statute at all, they have empowered the Chief Justice of Ontario to hear these applications in a judicial fashion, that is the application is made to the Court, to the Chief Justice who in turn hears evidence both on behalf of the Crown and on behalf of the applicant. Very often, I'm told by the Attorney-General of Ontario that the evidence that's given by the Crown is very often conclusive and in favour of the release of the prisoner and the Chief Justice then makes an order which is passed on through the regular channels and the Order-in-Council is based upon this order made by the Chief Justice. I think that scheme has a fair amount to commend it, as a matter of fact I can say to the House that we have had preliminary discussion with the court in Manitoba to determine whether or not it could be established here. I am personally in favour of any scheme which would reintroduce into the release of such persons from institutions the judicial function. It must be remembered that they are confined to these institutions by judicial order. It would seem only appropriate that they should perhaps be released from these institutions by judicial order. I think the scheme has much to commend it and while I can't report accurately or definitely to the House at this time on the progress of our negotiations, I must admit to the House that we are pursuing that line of investigation in Manitoba to see if that system would be feasible in this province.

MR. GUTTORMSON: At the present time the lawyer for an accused person wishing to get that person free, they must make a submission to the Cabinet and they make the decision, in

(Mr. Guttormson, cont'd)... effect.

MR. LYON: Yes, that's it, Mr. Chairman, and the procedure is for the provincial psychiatrist to make a report to the Attorney-General and I must say that that report carries a great deal of weight. One of the great factors to be considered in all of these cases is whether or not there will be a recurrence of the type of mental illness which caused the crime to arise in the first place and if there is any danger of recurrence why then of course that operates as the strong deterrent against the release because there is a great onus placed on the Lieutenant-Governor and on the Executive Council to protect the public interest in this regard as well as the interest of the person who is confined. While there is no desire to keep persons incarcerated either in a mental institution or in a provincial jail for a period beyond their recovery, still we must look very carefully at all of the psychiatric reports and the behavior reports which are made before such a decision can be made. It is a serious decision for any group to make and at the present time it is made, as I say, largely on the advice of the provincial psychiatrist. I may say too, that I'm sure this practice was followed in the past but I have made it a point to make sure that periodic reports are made to me on these persons that we have in this condition in Manitoba so that we will know from time to time at regular intervals how they are progressing from a mental standpoint.

MR. ORLIKOW: Mr. Chairman, how many cases are there?

MR. LYON: Four. Four in Provincial Institutions.

MR. GRAY: Mr. Chairman, the same procedure applies to the habitual criminals?

MR. LYON: To the whom?

MR. GRAY: Habitual criminals?

MR. LYON: No. The habitual criminals, we have no jurisdiction over habitual criminals, that is a review which is made by the Minister of Justice. I think it's every five years unless I'm mistaken, or three years. Every three years. The habitual criminal is sentenced of course to... a habitual criminal or the criminal sexual psychopath is sentenced to an undetermined period in a penitentiary of course, as they don't come into provincial institutions at all and the period of review is every three years. It's entirely a federal matter.

MR. CHAIRMAN: 5. (b) (1) Salaries - Passed. (2) Supplies, Expenses, Equipment and Renewals - Sub-total \$774,785.00 -- Less (3) Living Accommodation - \$1,560.00 Total - \$773,225.00 -- (4) Farm E.J.D.: (4) Salaries (5) Supplies, Less - Sale of Produce to Institutions and Board Supplied to Employees - \$12,060.00: Total \$16,860.00 Total for Gaols - \$790,085.00 --- (5) (c) Law Enforcement and Police Services \$851,500.00

MR. HRYHORCZUK: Mr. Chairman, I notice a considerable increase in your - is that an increase in the salaries under the contract or is that an increase in the personnel?

MR. LYON: There was an increase in personnel, Mr. Chairman, under the contract. We now have 295 R. C. M. P. constables under contract - an increase of 11 actually. There is a differential factor which brings the total R. C. M. P. personnel in Manitoba under provincial contract up to 311, I believe the figure is and I may say that at the present time I have on my desk a request from the Commissioner asking for a further increase of R. C. M. P. under this contract for the next fiscal year.

MR. HRYHORCZUK: What range?

MR. LYON: The rate of course is \$2707.00 as it has been in the past.

MR. ORLIKOW: Mr. Chairman, I suppose that the Minister hasn't had an opportunity to discuss the terms of the contract relative to what arose down east?

MR. LYON: No, Mr. Chairman, I am advised by the Office of the Minister of Justice - I was in touch with them recently - advised that the conference which he had planned to hold, I believe it was in April, has been postponed. It was postponed at the time, not so much on account of that incident but one of the by-products of the incident namely the retirement of Commissioner Nicholson. They wish to give Commissioner Rivet Karnack time to get his feet under him so to speak and I understand that the conference will be convened either later this year or early in 1960.

MR. ORLIKOW: Mr. Chairman, . . . . short, a very short. . . . . as far as I'm concerned explanation of what is involved in this. Is it all for the R. C. M. P. and what are the general terms under which they operate and so on.

MR. LYON: This is, this item as far as 5. (c), Law Enforcement and Police Services, involves as I have mentioned 295 men at \$2707.00 per annum from April 1st, 1959 to May 31st, '59,

(Mr. Lyon, cont'd.) . . . that is a period of two months for a total of \$133,095.00. Second item was 295 men at the increased rate of \$2865.00 - I neglected to mention that - the increased rate of \$2865.00 per annum from June 1st, 1959 to March 31st, 1960 a period of ten months for a total of \$704,313.00. There is another item of refundable allowances for escorts set at \$5,000. - that's rail transportation and so on. Police costs payable to the R. C. M. P. Benefit Fund \$9,000. That is the tariff of fees payable under the Criminal Code - the tariff which police under the Criminal Code are entitled to receive. Now R. C. M. P. constables under the internal regulations of that force are not as individuals entitled to receive this tariff so the money that would ordinarily accrue to the constable goes into the R. C. M. P. Benefit Fund. Municipal constables, I'm not aware of the situation with respect to the City of Winnipeg whether it goes to the Police Athletic Association - in most cases it goes to a Police Benefit Fund rather than to the individual and then there is an allowance - that is a total actually of \$851,500.00.

MR. HRYHORCZUK: May I ask a question, Mr. Chairman? Has the highway patrol been increased with the increase in the number of personnel?

MR. LYON: Yes, part of the reason for the increase was an increase in the highway patrol. I don't have the breakdown here but I would undertake to bring it before the committee, Mr. Chairman, because I know that is a figure in which many members of the House will be interested and the future augmentation of the force in Manitoba, one of the main reasons for that is to increase highway patrols within the Province.

MR. GUTTORMSON: Mr. Chairman, is there any set policy regarding the . . . when you bring a man back from another Province to face charges in this province. For instance if the man has committed a crime in Manitoba and flees to say Quebec and is arrested there, the authorities here must get permission from your Department before they can bring that person back. Is there any policy as to when you will bring them back and when you won't bother to bring him back?

MR. LYON: By and large, Mr. Chairman, the policy depends to a large extent upon the seriousness of the offence. I would say this, that in my experience in the Department in my experience as head of the Department I would say that very seldom if ever did I run across a case where a serious offence had been committed and the accused person found in another province where he was not brought back. Now, we have provincial offences - Highway Traffic Act offences - 55-1 such as the Honourable, the Leader of the C. C. F. Party was discussing where your maximum fine is I think \$50.00 - it ranges from \$10.00 to \$50.00 - you may find that you have a person who has received a speeding ticket and then you find he turns up in Port Arthur - he failed to answer his summons and police find him in Port Arthur. It does pose then a rather ticklish question as to whether or not you should spend public monies to the extent of maybe \$200.00 for transportation to bring a man back to pay a fine of at the most \$50.00. Now I can't say that there is any fixed rule of thumb that is applied but in those situations, in summary conviction offences of a minor nature, certainly the cost factor is looked at. Indictable offences, offences under the Criminal Code which are deemed to be serious offences, the cost factor is certainly a secondary consideration; the main factor is, have the police located the man and if so how soon can we get him back?

MR. GUTTORMSON: For instance, Mr. Chairman, a man may have forged a cheque which carries a maximum penalty of fourteen years, but the Department doesn't feel the sentence warrants bringing him back to face charges?

MR. LYON: Well those cases, Mr. Chairman, are most often referred from the Crown Attorney involved to the Deputy Minister and to my office. I know of no requests that have come through in . . . . .

(Mr. Lyon, cont'd.) .. my time in office which has not been approved. It may be possible that the Crown Attorney himself, looking at a situation where there is maybe an outstanding cheque of \$25.00 involved, might take it upon himself to say "no, this is far too small an amount because we are going to bring back a man - perhaps a first offender - we are going to bring him back a thousand miles at considerable expense, perhaps see him face a fine of \$25.00". Of course there is provision if that person is a confirmed criminal and he gets into trouble, as forgers and utterers usually do, they are caught sooner or later pulling the same tricks in other provinces. Immediately they end up in an institution in another province and then the operation of 4213 of the Criminal Code comes into effect. We still have an outstanding warrant in Manitoba that prisoner in another province can be asked whether or not he wishes to plead guilty to that offense in the other province, and if he signifies a desire to do so, then the information will be transferred to the other province and he will plead guilty to it in that other jurisdiction.

MR. GUTTORMSON: At the request of the accused?

MR. LYON: Yes, at the request of the accused, although very often the police go out and interview, or the police, in the course of interviewing the accused for the offense committed in the other jurisdiction, will find that the accused voluntarily "fesses up" as they say to a number of other offenses that he has committed and that sometimes expresses the desire to clean up all of them which is a very desirable thing. Clean up all of them at one time and serve one sentence for all of the offenses that are outstanding against him across the country.

MR. PREFONTAINE: Mr. Chairman, with respect to highway patrols, I would like to ask the Minister whether it would not be possible to have a detachment located on 59 highway south. There has been a fatal accident a year ago at Ile de Chenes. This highway is not patrolled at all, it is becoming a very important highway and I was wondering if it were possible that this highway should be patrolled. I would say that the local constable was doing some of that work around St. Pierre and St. Malo and Ile de Chenes but this particular gentleman died this morning while visiting in Montreal with his son, so that I would like, I am sure that the Chamber of Commerce at St. Pierre and St. Malo will be after the Minister and I would like him to use his influence if possible to have a detachment patrol that important highway.

MR. LYON: Mr. Chairman, I am very sorry to hear of the passing on of this gentleman. I, although he wasn't named I believe I was acquainted with him. (Interjection) Yes, and I can say in connection with the highway patrol in that particular area that we have received strong submissions from the mayor and council of the town of St. Pierre with respect to the establishment of a detachment in that town and without giving away any secrets, I think that before too long there will be, perhaps a favourable consideration given to the establishment of a detachment in that area if not in St. Pierre, and one of the purposes of course would be for the patrol of #59.

MR. CHAIRMAN: 5. (c) (Passed). 5. (d) Police Courts, (1) Salaries \$78,060.00 (2) Supplies \$45,000.00 -- Total \$123,060.00. Resolution #40 - Administration of Justice \$1,981,215.00. Passed. Item 6. Miscellaneous. (a) Uniformity of Legislation and Canadian Bar Association - Passed. (b) Litigation - Passed.

MR. PREFONTAINE: Mr. Chairman, the work of the committee on the uniformity of legislation is about completed for the time being?

MR. LYON: I'm sorry I didn't catch the latter part of the question Mr. Chairman.

MR. PREFONTAINE: Has the work of the committee on uniformity of legislation completed, or still carrying on?

MR. LYON: Mr. Chairman, the committee on uniform commissioners on legislation is a continuing committee which meets annually for the week in advance of the Canadian Bar, the Annual Canadian Bar meeting. The customary, from this Province for the permanent members of the commission are the Deputy-Attorney General, Brigadier Kay, Mr. Rutherford, Mr. Tallin was included last year and Mr. Ivan Deacon, Q.C. is also a member representing the profession in Manitoba. That commission meets annually, this year I believe the meeting is in Victoria for the week prior to the Canadian Bar meeting in Vancouver. Different projects are considered - last year, when I attended the meeting the rules of the road were under consideration, the hostelry legislation was under consideration, continuing pro-

(Mr. Lyon, cont'd.) . . jects are given to various provinces involved. I know for many years Manitoba, was one of the favourite provinces for taking on some of these projects and Mr. Rutherford and Mr. Deacon have done commendable work in this field, not only on behalf of the province but essentially on behalf of the whole country because of these uniform statutes are then adopted right across the country. Perhaps one of the best examples of it is the Wills Act which we have in Manitoba which is uniform in most provinces, most of the common law provinces across Canada but it is a continuing committee which meets each year.

MR. PREFONTAINE: And there work on Companies Act which has been . . . . .

MR. LYON: Oh yes, that was a separate matter altogether, Mr. Chairman.

MR. CHAIRMAN: (d) Incidentals

MR. PAULLEY: Mr. Chairman, just before leave or go on to incidentals. For years we had an appropriation of \$5,000.00 or \$6,000.00 on railway taxation, and there's none for this year. If memory serves me correctly was that not dealing with the C.P.R. case and taxation, has it all been completed now and what was the disposition and how does it stand?

MR. LYON: The C.P.R. case was - decision was handed down by the Supreme Court last fall. It was either last fall or early this year, and the decision to put it bluntly our brief did not win the day. The items that were carried forward from year to year for the legal fees in connection with that case. That case was handled by, the provincial brief was handled by a local legal firm with the assistance of Mr. John Allen, the former Deputy Attorney-General who was on staff as a special assistant for many years and there is no item required this year because the fee has been received and paid and there is no further litigation contemplated. There was a question as to whether or not we would go on to the Privy Council. We looked at the matter quite closely and we had -- opinions had previously been given by Lord Halsam on this matter who is, of course, an expert in the field of Privy Council appeals and a distinguished barrister in Britain and based upon those opinions and upon, I would say as well, based very much upon the idea that even though we had the right to go to the Privy Council because the case had started prior to the abolishing of appeals to that Board we felt that the Supreme Court judgment in this matter should be final.

MR. PAULEY: Was it a unanimous decision or was this a split decision of the Supreme Court?

MR. LYON: I'm just speaking from memory. I believe it was a split decision. I don't recall it being a unanimous decision. There aren't too many unanimous decisions coming out of Appeal Courts. No, even the lawyers don't agree.

MR. CHAIRMAN: Item 41. Miscellaneous - \$8,425.00. Item 7 Juvenile and Family Courts, Probation and Parole (a) Salaries (1)

MR. HRYHORCZUK: Mr. Chairman, just one question. Has the Minister . . . . did he have any success in obtaining further psychiatrists to the staff or psychologists?

MR. LYON: Mr. Chairman, we had success in obtaining the services of a part-time psychologist for a number of months during the past fiscal year. For personal reasons that psychologist had to leave the service of the government but in the report which was submitted by Dr. Little to the Director of Corrections on his annual work, he pointed out the very beneficial work that was done by this psychologist, specially in the field of testing. Aptitude tests and so on and so forth, and we are convinced that just as soon as we can find a suitable replacement for this position of psychologist, that person will be hired. This is the item under which the question of Dr. Little was raised I will search for that salary item and give the information to the Honourable Member for St. Johns.

MR. ORLIKOW: I wasn't concerned about his salary - I'm sure that whatever he's getting is less than he'd make in private practice. I was not too interested in how much he was making. I am concerned - I would like some information as to the work he's doing, where it is done and so on. I don't think we're going to finish the items today, I'm perfectly willing to have it stand over until tomorrow.

MR. GRAY: Usually, juvenile courts or the judges in the juvenile courts takes them a longer time to dispose a case because they're dealing with juveniles. The judges no doubt are there to correct and prevent further crimes. My question is whether there are sufficient Juvenile Judges in the province to deal with the juveniles. As I said sometimes it may take him a day to deal with a single case because he's dealing with a young offender and their

(Mr. Gray, cont'd.) . . duties are to see that the offender is treading on a straight path so my question is whether at the present time when there is so many juvenile delinquents whether we have sufficient judges in Juvenile Courts.

MR. LYON: . . . . . of the Greater Winnipeg area the Honourable Member for Inkster may be aware, we have a Juvenile Family Court which is composed of judges Heaney, Watson and Nelly McNichols Saunders. Those three persons devote their full time to juvenile and family court matters in the Greater Winnipeg, or the City of Winnipeg area. In the City of St. Boniface. Each police magistrate who is appointed in Manitoba, as a police magistrate is also appointed the Juvenile Court judge and so we have as many Juvenile Court judges in Manitoba as we have police magistrates. The only place where I have seen, in my experience, any backlog at all would be in the Winnipeg Juvenile Court, and very often assistance is brought in - sometimes through sickness or holiday relief, extra assistance has to be brought in by one of the magistrates sitting as the Juvenile Court judge for a few days to clear up the backlog of cases. But by and large, there is no great backlog. The dockets, it's true are heavy. Judge Heaney concerns himself primarily with juvenile matters in the Winnipeg Juvenile Family Court. While the dockets are growing there's no great backlog building up of cases which have not been heard and disposed of. While I'm on my feet I might give an answer to the Honourable Member from St. Johns with respect to the work conducted by the Psychiatric Clinic under Dr. G. A. Little, the Psychiatrist.

In connection with the part-time psychologist who is working with Dr. Little, he has this to say in his summary: "I'm including a summary of the work done by our part-time psychologist who was with us for the months of September, October and November. The majority of the tests were psychometric tests or measurements of intelligence as time was too limited to permit too much in the way of projective tests. The latter gave valuable information on motivations and feelings at the unconscious level. They're quite helpful both from the standpoint of diagnosis and therapy. Unfortunately pressure . . . ." and then he goes into why the part-time psychologist left. But he made this assessment, he said, "She made a very useful contribution during her short stay with us and most important I think is the fact that it gave us the opportunity to assess the importance of psychological facilities in our work. I found it particularly helpful myself and there were many favourable comments from the judges and the probation staff. I would certainly recommend that this vacancy be filled as soon as possible and we are making attempts to do that at the present time." The breakdown of his report shows cases seen in the psychiatric clinic, Winnipeg Juvenile and Family Court from January 1st, to December 31st, 1958. Number of adults seen - males 45, females 37, for a total of 82. Number of juveniles seen - male 132, females 73, for a total of 205. The sources of these referrals were as follows: Juveniles courts 135; St. Boniface Juvenile Court 7; Home of the Good Shepherd - 31; Manitoba Home For Girls - 9; Manitoba Home For Boys - 7; Crown Attorneys referred 1; Children's Aid Society of Winnipeg referred 3; Children's Aid Society of Eastern Manitoba referred 3; Department of Health and Public Welfare referred 2; Headingley Jail referred 1; on that point I should mention that from time to time there are considerable number of referrals from the Gaol to the Provincial Psychiatrist who has just recently retired, Dr. Pincock and there are the figures to show what the number of referrals from Headingley to him. Parents referred 1; St. Joseph's Vocational School referred 1; Selkirk Juvenile Court referred 1; Sheriff's office referred 1; the Department of the Attorney-General referred 1; Sir Hugh John MacDonald Memorial Hostel referred 1 for a total of 205. The adult referrals - 58 came from Family Court, I think it's significant to note that the Family Court facilities are being utilized in a greater measure each year and the fact that this service is now available over there is a commendable thing and the fact that it is being utilized by Family Court Probation people, counsellors, is also a significant fact in I think, the number of cases I have heard of much good has accrued to the person received the psychiatric treatment. The adult probation service referred 13; - these are adults again - Sheriff's office referred 2; Headingley Gaol referred 5; Crown Attorneys referred 1; Stoney Mountain Penitentiary referred 1; 1 was taken in on the recommendation of the psychiatrist himself; Children's Aid Society of Winnipeg referred 1 for a total of 82. During the period August 1st, 1958 to December 1st, 1958, the psychologist completed 94 tests on 43 males and 51 females.

MR. HRYHORCZUK: Mr. Chairman, I don't know whether this is a proper question

(Mr. Hryhorczuk, cont'd.) .. or not but could the Minister give us the name of the Crown Attorney that was referred to - the psychiatrist.

MR. LYON: The juvenile ....?

MR. HRYHORCZUK: No, no, the Crown Attorney.

MR. LYON: No, I meant that the Crown Attorney referred somebody else. Sometimes the Crown Attorneys tell me they're so over worked that they perhaps should go over to Dr. Little for a treatment but I think they're feeling a wee bit better now, these days.

MR. CHAIRMAN: 7. (a) (1)

MR. ORLIKOW: Mr. Chairman, I wonder if we could get a breakdown of what the 23 - who the 23 people are. Not who they are but what classification they are.

MR. LYON: Yes, Mr. Chairman, 7. (a) (1) includes the Directorate of Probation and Parole; it includes the Director of Corrections, Probation and Parole Officers 2; Mr. Shalowski, C. J. Cherneski; W. N. Zimmerman, H. J. Curtis, M. M. E. Bell, B. B. Cooper, B. Marr - if you want the names - just the numbers

MR. ORLIKOW: .....

MR. LYON: These are all probation and parole officers. The director of corrections and the medical officer, Dr. Little. Under the assistance item we have one provisional probation parole officer and one would be the part-time psychologist who is included under that item.

MR. ORLIKOW: Mr. Chairman, would this be the proper time to ask the Honourable the Attorney-General if he has any comment to make on the question which I raised this afternoon - the relationship between the director of corrections and the other parts of the Department, the Gaols and ..... care services and so on.

MR. LYON: This is certainly the proper item, Mr. Chairman. The director of corrections in Manitoba is of course, Mr. A. J. Kitchen who has been with the department for a number of years having come here from the Province of British Columbia. He was given the title of Director of Corrections I believe approximately three years ago and his former function was largely in connection with the probation field. It has always been my conception of that position, that my conception of it of course coincides very closely with the conception of the Honourable, the Member from St. Johns, that he should be responsible primarily for reporting to the Deputy Attorney General who is his immediate superior, the operation of not only probation service but institutions. To that extent, at the present time Mr. Kitchen has been doing -- that responsibility has been accorded to him, he has been in effect doing the work for the Department in connection with correctional camps, in connection with the staffing of the Home for Girls, the question that was raised earlier this afternoon, and more and more dealing with the question of segregation and the utilization of our buildings at Headingley Gaol and other places. It is my hope that, as I mentioned in my remarks yesterday, we can perhaps achieve the-round out this position to its full sphere of importance during the next fiscal year. At the present time, as I say, most of these new projects as, I think they properly should be, are being conducted by the Director of Corrections in Manitoba. I notice the Chairman is looking at the clock. There's not too much else I can say on that topic except to say that I do concur generally speaking with the views of the Honourable Member for St. John and I hope that his suggestion will be a fait accomplis by the time the next estimates come before this House.

MR. CHAIRMAN: (2) Directorate of Probation and Parole

MR. GUTTORMSON: Mr. Chairman, I certainly would endorse the program announced by the Minister regarding probation officers. I think they do an excellent job and I think they have kept a large number of persons out of jail that otherwise would have been incarcerated if they hadn't been interviewed by probation officers. My point in raising this, though is that fact my knowledge of two cases where the probation officer's report was completely ignored. One was where a man faced six charges of theft; he had a previous record; he was on suspended sentence; he was about twenty years of age; he pleaded guilty to the offences and he was remanded for probationary report. The probation officer investigated the case and then submitted a report outlining the background of this particular accused and recommended that this person was unfit for probation and strongly urged that this man be sent to prison. The magistrate in this case, reprimanded the accused on five of the charges and fined him on the



(Mr. Guttormson, cont'd.) .. other one. Subsequently this same man became involved in a gang fight and stabbed another youth, and only by the Grace of God is that boy still alive because it hit a rib instead of the knife being deflected into the heart it was deflected away from the heart and this man is now before the court.

Another instance, a man came before the court charged with bigamy. The probation officer investigated his case after he pleaded guilty and the probation officer strongly recommended that this person receive suspended sentence in view of his past. The magistrate ignored it and sent him to prison. His case was appealed and subsequently the sentence was reduced. I was just wondering if there is any policy pertaining to the responsibilities -- the magistrates must listen to these probation officers or just . . . are they just to listen to them and use their own discretion in all cases.

MR. LYON: The honourable member, of course, answered his own question in his last few words because of course the position of the probation officer in the judicial setup is that he is there to give advice to the court. He is not there to make a firm recommendation to the court and if the court doesn't accept it why the probation officer goes off in a corner and sulks. That is not the situation at all. The probation officer is there as an officer of the court and his prime purpose, just as the purpose of the Crown Attorney and of the defence counsel is to assist the court in arriving at what the court deems to be a just and an equitable sentence in the circumstances of the particular case. Now the fact that a magistrate agrees or disagrees with the probation officer is, I would say, a matter of no concern to me at all. The magistrate has complete and unrestricted discretion in the passing of sentences. The magistrate, if he wishes can take cognizance of what the probation officer says; if he wishes to disregard that advice he may do so, and no one from myself on down can interfere with that absolute discretion of the magistrate nor would I countenance any interference with magistrates making these decisions as they must. The position of the probation officer, which you cited in this case which I'm not aware, if he subsequently proved to be right in his assessment of the man, why perhaps the second time he's before that magistrate, the magistrate may listen to him a little bit more carefully but nothing can interfere with the absolute discretion of the magistrate to pass sentence upon the accused - that is his complete jurisdiction and within his complete control. The Court of Appeal can interfere with it on appeal if they like to but certainly no one appearing as a probation officer has a right to expect in all cases, that his thoughts or his advice will be accepted any more than defence counsel appearing before a court will expect in all cases that his advice to the court will be accepted or Crown counsel for that matter. Crown counsels sometimes say to the magistrate - "this is a very serious offence, I would suggest a sentence in the range of three to five years," and the magistrate hands down a sentence of 12 months. Well the Crown counsel may privately sulk about it - if he does, he shouldn't - because that's the absolute discretion of the magistrate, and that's his power and the purpose as I say of these counsel and the probation officers is to act as an officer of the court and to assist the magistrate in reaching this decision.

MR. CHAIRMAN: (b) Supplies. Resolution 42. Juvenile and Family Courts, Probation and Parole \$233,760.00. Passed.

Committee rise and report. Call in the Speaker.

Mr. Speaker the Committee of Supply have adopted certain resolutions and directed me to report the same and ask leave to sit again.

MR. W. G. MARTIN (St. Matthews): Mr. Speaker, I beg to move, seconded by the Honourable Member for Winnipeg Centre that report of the committee be received.

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

MR. ROBLIN: Mr. Speaker, I beg to move, seconded by the Honourable the Minister of Agriculture that the House do now adjourn.

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

MR. SPEAKER: The House do now adjourn and stand adjourned until 2:30 tomorrow afternoon.