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RADISSON	Russell Paulley	435 Yale Ave. W., Transcona 25, Man.
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ST. BONIFACE	Laurent Desjardins	138 Dollard Blvd., St. Boniface 6, Man.
ST. GEORGE	Elman Guttormson	Lundar, Man.
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ST. JOHN'S	Saul Cherniack, Q.C.	333 St. John's Ave., Winnipeg 4
ST. MATTHEWS	W. G. Martin	924 Palmerston Ave., Winnipeg 10
ST. VITAL	Fred Groves	3 Kingston Row, St. Vital, Winnipeg 8
STE. ROSE	Gildas Molgat	Room 250, Legislative Bldg., Winnipeg 1
SELKIRK	T. P. Hillhouse, Q.C.	Dominion Bank Bldg., Selkirk, Man.
SEVEN OAKS	Arthur E. Wright	168 Burrin Ave., Winnipeg 17
SOURIS-LANSDOWNE	M. E. McKellar	Nesbitt, Man.
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WOLSELEY	Hon. Duff Roblin	Legislative Bldg., Winnipeg 1

THE LEGISLATIVE ASSEMBLY OF MANITOBA
2:30 o'clock, Thursday, March 12th, 1964.

Opening Prayer by Madam Speaker.

MADAM SPEAKER: Presenting Petitions
Reading and Receiving Petitions
Presenting Reports by Standing and Special Committees
Notices of Motion
Introduction of Bills

HON. MAITLAND B. STEINKOPF, Q.C. (Minister of Public Utilities) (River Heights) introduced Bill No. 39, An Act respecting Joint Stock Companies and other corporations.

MR. T.P. HILLHOUSE, Q.C. (Selkirk) introduced Bill No. 91, An Act to amend The Law Society Act.

MADAM SPEAKER: Before the Orders of the Day I would like to attract your attention to the gallery where there are seated some 20 students from Edmund Partridge School, students who are in Grade VIII, under the direction of their teacher, Miss Murray. This school is situated in the constituency of the Honourable the Member for Seven Oaks. There are some 50 Grade XI students from Westwood Collegiate, under the direction of their teacher, Mr. Avery. This school is situated in the constituency of the Honourable the Member for Assiniboia. We welcome you here this afternoon. We hope that all that you see and hear in this Legislative Assembly will be of help to you in your studies. May this visit be an inspiration and stimulate your interest in provincial affairs. Come back and visit us again.

HON. STEWART E. McLEAN, Q.C. (Attorney-General) (Dauphin): Madam Speaker, before the Orders of the Day, I should like to make a statement. Some questions have been raised touching upon the administration of justice in Manitoba. I desire to inform the members of the House that I have addressed letters to the Chief Justice of Manitoba and the Chief Justice of the Court of Queen's Bench for Manitoba as follows: "The Hon. G.E. Tritschler, Chief Justice, Court of Queen's Bench for Manitoba, Law Courts Building, Winnipeg, Manitoba. My dear Chief Justice: During the debate on the estimates of the Department of the Attorney-General in the current session of the Legislature, certain questions have arisen with respect to the administration of justice, with particular reference to indictments for capital murder. In this connection we enclose: Debates and Proceedings of the Legislative Assembly of Manitoba for March 9, 1964, afternoon, see pages 882 to 886 inclusive; March 9, 1964, evening, see pages 895, 896, 899 and 900; March 10, 1964, afternoon, see page 919; editorial - "Murder Trials"-- appearing in the Winnipeg Free Press, March 11, 1964; article entitled "Deals in Administration of Justice" in the Winnipeg Tribune, dated March 11, 1964. The debate and consequent comment have raised certain questions concerning the administration of justice with respect to capital murder indictments, and in particular, the conduct of the Department of the Attorney-General and the law officers of the Crown relating thereto. As the Attorney-General of Manitoba, I would like you to consider these matters. In particular I would ask you, after such consultation with the members of your Court, as you deem advisable, to advise me whether or not there was any impropriety in the manner in which the Department of the Attorney-General or the law officers of the Crown conducted the following recent cases: Regina vs John Patton Thomas More; Regina vs Michael Sednyk; Regina vs John Henry Wichikowski; Regina vs Stephen Kozaruk; Regina vs Mary Elizabeth Sutherland.

In reference to the foregoing cases, I would ask you to advise me on the following points: (a) Was there, in your opinion, any impropriety in the acceptance of a reduced plea? (b) Did the law officers of the Crown act in a proper manner to ensure that justice was done? I would hope that you would feel free to write me fully and frankly in this regard, together with any recommendations you or the members of your Court might consider to be in the interests of the administration of justice. Please feel free to let me have the benefit of your full views. The law officers of the Crown are available at any time for personal appearance before you and the members of the Court. Any further information you may require will be made available at your request. I am taking the liberty of informing the Legislature of this letter. I hope I may have the privilege of informing the Legislature of your reply. Yours truly, Stewart E. McLean, Attorney-General."

"The Honourable C.C. Miller, Chief Justice of Manitoba, Law Courts Building,

(Mr. McLean, cont'd)...Winnipeg, Manitoba. My dear Chief Justice: I am enclosing a letter which I have addressed to the Honourable the Chief Justice of the Court of Queen's Bench for Manitoba. Also enclosed is the material referred to in the first paragraph of that letter. While not all of the cases referred to in my letter to the Chief Justice of the Court of Queen's Bench have been before your Court, I would like you to consider the matters referred to in my letter and let me have your views with respect thereto.

I would hope that you would feel free to write to me fully and frankly in this regard, together with any recommendations you or the members of your Court might consider to be in the interests of the administration of justice. The law officers of the Crown are available at any time for personal appearance before you and the members of the Court. Any further information you may require will be made available at your request. I am taking the liberty of informing the Legislature of this letter. I hope I may have the privilege of informing the Legislature of your reply."

Madam Speaker, I table copies of the letters.

MR. GILDAS MOLGAT (Leader of the Opposition) (Ste. Rose): Madam Speaker, I am not a lawyer and I don't know what is the proper action in cases of this sort, and whether the proposal of the Minister is appropriate or not appropriate, so on that score I reserve judgment. On the overall idea of having this matter investigated further, Madam Speaker, I could not be more in accord. I believe that the points that have been raised strike, as I said before, at the very root of our system. I think it is proper that it should be investigated. I repeat, that I don't know whether this is the proper manner to have it investigated or not. I certainly have some doubts. I think this places our Chief Justices of the Court of Appeal and the Court of Queen's Bench in a difficult position. It seems to me that this might better have been done, Madam Speaker, by having an independent committee, possibly ask the Law Society, possibly have some body who is not directly responsible for the administration of justice do this. So on that score, I reserve judgment, but I certainly agree, Madam Speaker, that this matter requires much fuller investigation and that in addition to having the officers of the court that my friend should also see to it that other people who have been involved, the defence attorney also be called to testify.

MR. RUSSELL PAULLEY (Leader of the New Democratic Party) (Radisson): Madam Speaker, if I may .....

MADAM SPEAKER: This is a statement that has been made by the Minister and in my opinion, if you wanted to ask a question on it, this is allowable, but I don't believe -- it's a motion and therefore I don't believe that it is debatable.

HON. STERLING R. LYON, Q.C. (Minister of Mines & Natural Resources) (Fort Garry): Madam Speaker I only desire to say that in connection with the allegations made the other day by the Leader of the Opposition -- (Interjections) --

MADAM SPEAKER: Order please, is the Honourable Minister making a statement?

MR. LYON: Yes I am, Madam Speaker. I merely intend to say that with respect to those allegations I intend to make a response at the first convenient opportunity.

MR. MOLGAT: Madam Speaker, if I may inquire into the rules, why is it that the Minister is allowed to make a statement and my honourable friend the Leader of the NDP is not?

MR. PAULLEY: May I assure you Madam Speaker, that the Honourable the Leader of the New Democratic Party does not require the services of the Leader of the Official Opposition. When the Leader of the New Democratic Party wishes to make a full statement he will do so without any help from anyone.

MADAM SPEAKER: Orders of the Day

MR. MOLGAT: Madam Speaker, I would like to address a question to the Minister of Labour. I see he has returned from Ottawa where he was at a conference with the federal government. I understand the conference was to investigate the possibility of a National Labour Code, particularly with references to minimum wages, normal working hours, statutory holidays and vacation with pay. I wonder if the Minister could now that he has been to the conference, inform the House as to the position and the recommendations that he made as the Minister of Labour for Manitoba on these four items, that is minimum wages, normal working hours, statutory holidays and vacations with pay.

HON. OBIE BAIZLEY (Minister of Labour) (Osborne): Madam Speaker, I welcome the opportunity to make a statement to the honourable members. I think that honourable members

(Mr. Baizley, cont'd)...should know that matters discussed at the conference were apprenticeship training, a new manpower consultative service being organized under federal jurisdiction -- this is to assist industry and help provinces with their research into the impact of automation. There was discussions on labour management co-operation; there was talk of ratification of the ILO convention; there was emergency manpower planning and labour standards, as the Honourable Leader of the Liberal Party has indicated. And I might say that the honourable gentlemen should know that this was not a conference where firm positions were taken but it was rather a forum and an exchange of views of Ministers and their Deputies.

I feel that it was most helpful and I'm quite confident that the matters that the honourable member raised will be brought up at estimate time, and I am sure that he is well aware that those particular items that he was asking about are items of federal jurisdiction and really are not for the province to be concerned with.

MR. MOLGAT: Madam Speaker, a subsequent question? Am I to take it then that the Province of Manitoba made no recommendation with regard to these four items that I mentioned?

MR. BAIZLEY: No.

HON. GURNEY EVANS (Minister of Industry and Commerce) (Fort Rouge): Madam Speaker, I wish to lay on the table of the House Return to an Order of the House No. 25 and Return to an Order of the House No. 26, both on the motion of the Honourable the Leader of the New Democratic Party.

MR. E.R. SCHREYER (Brokenhead): Madam Speaker, before the Orders of the Day I would like to direct a question to the First Minister. In view of the fact that the Province of Quebec has apparently been successful in its representations to Ottawa to have the Eskimo population of that province brought under its sovereignty, I want to ask the First Minister if he has contemplated similar action in this jurisdiction.

HON. DUFF ROBLIN (Premier) (Wolseley): Madam Speaker I have no desire to inject myself into the bilingual problems between the federal government and the Province of Quebec or the bicultural problems. That I regard to be their own business. We, I am pleased to say have an Eskimo population of about 400 around Port Churchill in the northern part of Manitoba and without quarreling about jurisdiction, as long as they remain within our borders we will treat them as we do all other citizens of Manitoba.

MR. STEINKOPF: Madam Speaker, before the Orders of the Day, I would like to reply to a question directed to me by the Honourable Member for Gladstone that had to do with the number of ski-dos that were licensed for any departments of the government. The answer is that there are 13 ski-dos licensed that are owned by the Province of Manitoba and these are all in the Department of Mines and Natural Resources.

MR. RICHARD SEABORN (Wellington): Madam Speaker, before the Orders of the Day I wonder if you could give me the name of a broad-minded dentist. The Honourable Member for St. Vital broke a tooth this morning.

MR. GORDON E. JOHNSTON (Portage la Prairie): Madam Speaker, before the Orders of the Day I wonder if I could ask the Attorney-General when I can expect to have a reply to my Order for Return regarding the number of escapes at the Boys Home at Portage la Prairie.

MR. McLEAN: Soon.

MR. JOHNSTON: Will it be before your Estimates are completed?

MR. McLEAN: I couldn't give any undertaking about that.

MADAM SPEAKER: Orders of the Day

Order for Return standing in the name of the Honourable the Member for Brokenhead.

MR. SCHREYER: Madam Speaker, I move, seconded by the Honourable Member for Seven Oaks that an Order of the House do issue for a Return showing a copy of the transcript of evidence which was given at the arbitration board hearing of Faryna vs. the R.M. of St. Andrews on November 4, 1955 under The Land Drainage Arrangement Act.

This transcript of evidence being contained in a departmental file as attested to by the writer of the following letter: "Mike Faryna, Esq., R.R. No. 1 Selkirk, Manitoba. Dear Sir: This is to confirm that prior to the trial of your action against the Municipality in December of 1961 you and the writer attended at the Department of Water Resources. At that time the department file contained a transcript of evidence which seemed to be part of the evidence of yourself taken at the Arbitration Board hearing of November 4, 1955 under 'The Land Drainage

(Mr. Schreyer, cont'd)...Arrangement Act'. Yours truly, Inkster, Walker, Irish and Hughes per J. Barry Hughes."

Madam Speaker put the question.

HON. GEORGE HUTTON (Minister of Agriculture) (Rockwood-Iberville): Madam Speaker, I can only accept this order on the understanding that we have searched all the available government files and are unable to locate the document referred to. I think that the mover of the order understands this. We will use our good offices in the hope that the material might be located in the hands of the board members who served at that time, but I can give no undertaking that we can deliver this document.

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

HON. CHARLES H. WITNEY (Minister of Health) (Flin Flon): Madam Speaker, I move, seconded by the Honourable the Minister witnout portfolio that Madam Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole to consider the following bill: No. 24, An Act to Amend the Pharmaceutical Act.

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

MR. CHAIRMAN: Bill No. 24 I believe that on all the members' desks there is a copy of the amendments that were passed in the Committee and are now ready for us to consider. Yesterday it was a little confusing because we didn't know just exactly what was happening. Now we.....

Before No. 1 there are three new sections added, so I'll read them and you can follow it from your own copies there.

Section 1 passed, Section 2 passed, Section 3 passed. What was section 1 in the printed Bill now becomes section 4 and reads as follows: "Schedules A and B of the Act are repealed and the following Schedules are substitued therefore."

You will notice then at the beginning of Part 1 the word "note" is added and then after the word "that" in the same line, the "subject to section 30 (2A) and 40."

Section 4, Schedule A, part 1 passed. In part 2 you have at the beginning the word "note" and then after the word .... in this part 2 the item which begins with "arsenic"that the following words are added, "except where sold for agricultural or veterinary use." A little further down when you come to "mercurial salts" the words added "and except where sold for agricultural or veterinary use." Just below potassium cyanide the words added, "except where sold for agricultural or veterinary use." Part 2 passed.

MR. M.N. HRYHORCZUK, Q.C. (Ethelbert Plains): Just one moment, Mr. Chairman, in that potassium cyanide there is something else in there -- metallic cyanides. Now I take it this amendment only applies to the potassium cyanide. Does it leave the other words of this particular description in there or is that stricken out?

MR. WITNEY: Mr. Chairman, it reads potassium cyanide and all other metallic cyanides except where sold for agricultural or veterinary use.

MR. CHAIRMAN: Part 3 now the Act at the beginning you add the word "note" and then after the word "that" "subject to sections 30 (2A) and 40." Part 3 passed. Schedule B, the explanatory word "note" at the beginning and .... Schedule B passed, part 1 and the same thing in Schedule B, part 2, agreed? What was No. 2 of the Act now becomes 5 pased. Preamble passed, title passed, bill be reported passed.

Committee rise and report. Call in the Speaker. Madam Speaker, the Committee of the Whole has considered a certain bill and directed me to report as follows: Bill No. 24 without amendments, and beg leave to sit again.

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

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

MR. WITNEY: I move, seconded by the Honourable the Minister without Portfolio that Bill No. 24, an Act to amend The Pharmaceutical Act be now read a third time and passed.

Madam Speaker presented the motion.

MR. HRYHORCZUK: Madam Speaker on a point of order, shouldn't that motion read "as amended?" No? Okay.

MADAM SPEAKER: I am informed by the Clerk of the House that the bill was reported as amended, in law amendments. In here it does not have to be.

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

MADAM SPEAKER: May it please Your Honour the Legislative Assembly at its present session has several bills which in the name of the Assembly, I present to Your Honour, and to which bills I respectfully request Your Honour's Assent.

MR. CLERK:

No. 2 - An Act to amend The Insurance Act.
No. 3 - An Act to amend The Soldiers' Taxation Relief Act.
No. 4 - An Act to amend The Change of Name Act.
No. 6 - An Act to amend The Municipal Boundaries Act (1).
No. 7 - An Act to amend The Metropolitan Winnipeg Act.
No. 8 - An Act to amend The Local Government Districts Act.
No. 9 - An Act to amend The Municipal Act.
No. 10 - An Act respecting the Provisions of Planning Services to Municipalities and Agencies of the Government and for the Preparation of Planning Schemes for Regulating the use and development of lands and buildings.
No. 11 - An Act to amend The Alcoholism Foundation Act.
No. 12 - An Act to amend The Health Services Act.
No. 13 - An Act to amend The Psychiatric Nurses Association Act.
No. 14 - An Act to amend The Public Libraries Act.
No. 15 - An Act to remove The City of St. Boniface, the City of Portage la Prairie and the City of St. James from supervision of The Municipal Board.
No. 19 - An Act to amend The Winter Employment Act.
No. 22 - An Act to amend The Testators Family Maintenance Act.
No. 24 - An Act to amend The Pharmaceutical Act.
No. 27 - An Act to amend The County Courts Act.
No. 28 - An Act to amend The Amusements Act.
No. 31 - An Act to amend The Wives' and Children's Maintenance Act.
No. 34 - An Act to amend The Companies Act.
No. 35 - An Act respecting the Dower of Married Persons.
No. 45 - An Act to amend The Trustees Act.

In Her Majesty's name, His Honour the Lietuenant-Governor doth assent to these Bills.

MADAM SPEAKER: We, Her Majesty's most dutiful and faithful subjects, the Legislative Assembly of Manitoba in session assembled, approach Your Honour with sentiments of unfeigned devotion and loyalty to Her Majesty's person and Government, and beg for Your Honour the acceptance of these Bills:

No. 46 - An Act for granting to Her Majesty Certain Further Sums of Money for the Public Service of the Province for the Fiscal Year ending the 31st of March, 1964.
No. 86 - An Act for granting to Her Majesty Certain Sums of Money for the Public Service of the Province for the Fiscal Year ending the 31st day of March, 1965.

MR. CLERK: His Honour the Lieutenant-Governor, doth thank Her Majesty's dutiful and loyal subjects, accepts their benevolence, and assents to these Bills in Her Majesty's name.

MADAM SPEAKER: The adjourned debate on the Second Reading of Bill 38. The Honourable the Member for St. Boniface.

MR. LAURENT DESJARDINS (St. Boniface): Madam Speaker, I was under the impression that yesterday's Hansard would be on our desk this morning -- today, and unfortunately I can't see it, but in view of the fact that there was so much commotion when I asked that this matter be allowed to stand yesterday I think it would be better to say a few words on this today. I don't intend to be long but I certainly join those who oppose this bill. I think that it is obvious that again this government is showing that it will not accept its responsibility. I think that we have had so much examples of this in the past and now we have this bill that there is something else they won't have to face.

Last year when this inquiry was going on in Grand Rapids, I guess this was kind of embarrassing to them and now they want to divorce themselves from certain utilities. It is pretty sickening to see here that we are supposed to represent the people of Manitoba and all we

(Mr. Desjardins, cont'd)...have is commissions, committees and so on and then a Minister will stand up and blame civil servants themselves, like the former Attorney-General has been doing a number of years. We never know where we stand, we change the rules at nearly every session and every day.

Last year during the estimates on Health, I criticized the Manitoba Hospital Plan. I felt that there was lack of co-operation there between the chairman and the different hospitals, the administrators, and this is what the then Minister of Health had to say -- and I'd like to quote -- it is from March 22, 1963 on page 588: "I'm sorry the Honourable Member for St. Boniface is out of the House but I wish he would return because as a member of this Legislature and a member of the Hospital Board in this province, the unmitigated attack on the Chairman of this Hospital Commission just brings me to my feet with all the wrath that I can possibly get into my soul. Because this man is a civil servant; he is responsible; he can direct his remarks to the Minister, not to the Chairman of Manitoba's best utility, in my opinion." That gives you an example, this is called a utility; now we want a divorce, the government doesn't want to accept the responsibility, they want these utilities to govern themselves. So I'd like to know what the policy of the government is. One day they say, "Talk to the Minister," the next day they say, "Talk to the civil servant." Whenever it suits them to, when they feel that it is safe, well all right, "Talk to us; we are responsible, you know." And then the former Attorney-General stands up here and he blames everybody else in his department, he didn't know anything about it. I say the former Attorney-General, this is what he has been doing in the past. Then this government -- we have quite a few motions in front of us, setting up committees for this and committees for that; things that have been studied for five or six years we must have a committee. It is all right. The people of Manitoba expect that there will be some politics, but it seems to me that sometimes, at least once in a while we should stop playing politics and we should accept our responsibility. This bill is certainly not conducive to that; this again is to just blame somebody else or let somebody else fight with our responsibilities. There is a lot of money of the people of Manitoba going in this Hydro and I think that the people are entitled -- this is our job here, to find out that this is done properly to find out and to ask questions if we have to.

Not too long ago we have had the Minister of Industry and Commerce who is always complaining now about this TCA outfit. What would he say if all of a sudden, and what has been said by the people here, when we blame the chairman and the president of TCA? This is not fair and in Canada after all it's the people's money and it's time that the government take an active part and do something about it. It doesn't matter what government, this is what has been said -- a Conservative or a Liberal Government, it's always been said by all of us -- not only by my friend across here, by all of us. And this is the kind of thing we are having and now they are saying, "Well, we haven't got the time" and I wish I had answered. The Minister said something that he cannot answer only the things that they know. Gosh, I remember a few Ministers there that I've had if they were requested to answer only what they knew they wouldn't say a word. So this is an easy way out.

I think that this is a very unfair way; I think that the people of Manitoba are getting fed up with this government who are ready to spend an awful lot of money but cannot make a single decision. And I'd like to know the decision that this government has made. I did admire them a while when they brought in this Metro. I fought against Metro but I admire them, because this was supposed to be -- it took a little bit of courage. Barely a year after there was a commission to study Metro. Just before the election there was a commission to study Metro, so they wouldn't have to worry about Metro. Let's not talk about Metro. Why? Because the Mayor of Winnipeg was attacking Metro and the government did not dare fight with this Mayor. They figured he was a little too strong and politically it wasn't safe. And I think that the people of Manitoba are getting a little fed up with this thing. If we are going to have these people that will accept responsibility and accept an election in this House, it is time that they take a little bit of pride and interest and responsibility to direct the affairs of Manitoba. We are not just here -- 57 of us getting close to $5,000. a year, to name commissions and committees. I think it is about time we start doing a little bit of our work and accept the responsibility; and if we are afraid to do that, if we just want to play politics, I think that we shouldn't run for election. I think this again is certainly a way of evading this

(Mr. Desjardins, cont'd)...responsibility and I for one certainly will not vote for this motion.

MR. MARK G. SMERCHANSKI (Burrows): Madam Speaker, I move, seconded by the Honourable Member for LaVerendrye, the debate be adjourned.

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

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 50. The Honourable the Member for St. George.

MR. ELMAN GUTTORMSON (St. George): Madam Speaker, I am not prepared to go on today but I have no objections to any other member of the House speaking on this bill.

MADAM SPEAKER: Does any other member wish to speak? Agreed to stand? Stand.

MR. BAIZLEY presented Bill No. 58, An Act to amend The Workmen's Compensation Act for second reading.

Madam Speaker put the question.

MR. BAIZLEY: Madam Speaker, during the last year we gave consideration to benefits that have been paid under our Act and their relationship to benefits paid under Workmen's Compensation Act in other jurisdictions and it was generally found that our scale of workmen's compensation benefits is in line with the benefits paid in comparable jurisdictions but the adjustments were indicated in several areas. Now the major change by this bill is (1) to upgrade past pension awards; and (2) to fix a minimum pension for certain current and future awards. For the purpose of this bill August 5, 1959 has been selected as the dividing line between past awards and certain current future awards. This date was selected because it was the last date that was used in '59 for previous upgrading; and I have been advised that it is not going to adversely affect any of the present awards or awards that have occurred since that time. In the case of pensions awarded to those permanently and totally, or permanently and partially disabled in respect of an injury that occurred prior to August 5, 1959, payments will be upgraded on the basis of a minimum of $150 a month, or 150 percent of the pension previously payable. In the case of pensions payable to those permanently and totally or permanently and partially disabled after August 5, 1959, payments will be made on the basis of a minimum of $150 a month or of actual average earnings. You might wish to know that the total capitalized cost of this upgrading of past awards will amount to about $1,400,000.00. The cost of upgrading the past awarded pensions and fixing minimums for certain current and future awards will be borne out of the funds of the Board.

This bill will also increase funeral benefits, in the case of fatal accidents from $200 to $300.00. It will not affect other payments made to dependents by reason of death of a workman. The bill will also remove the $30,000 ceiling now placed on the amount of money that the board may expend annually for vocational training of injured workmen. I believe it's generally agreed that every possible effort should be made to help and rehabilitate these workmen with vocational training to enable them to enter a useful life again in society; and under these circumstances it would seem there would not be too much objection, or probably no objection at all to eliminating this figure.

The other changes in the Act, or in the Bill, are minor administrative ones which were necessary to correct a few minor errors in the text of the legislation.

MR. STEVE PATRICK (Assiniboia): Madam Speaker, I rise not to object to the bill but I would like to make a few comments in connection with the guiding principle as far as the earnings and the ceiling of the workmen is concerned. I know at the present time under the present Act an injured workman receives 75 percent of his annual earnings. Well it appears to me by placing a ceiling on annual earnings for compensation the more highly skilled and the more valuable workman is being penalized and does not receive full compensation in respect to his earnings. I have a graph here which would indicate, for instance the miners particularly -- it would also affect many other employees -- but the miners would be greatly affected because many of them are in a somewhat higher earning bracket because of the isolated places of the mines and they do come into a higher income bracket. For instance, an employee making $7,200 under the present legislation would only receive $5,400, he would be penalized somewhat of 30 percent, or $1,650.00. This would also affect for instance, Hydro, the Telephone, field engineers, because they would come under somewhat higher earnings than most of the other people in this field. So I would like to serve notice that I will be making an amendment in committee. I know the present ceiling is $5,000.00. I understand the two provinces on each

(Mr. Patrick, cont'd)...side of us, for instance Saskatchewan and Ontario, the present limitation is $6,000.00. I don't necessarily agree that we should do everything what Saskatchewan or Ontario do, but it seems to me that we are penalizing the more highly skilled workman in this field. According to this graph I have here it seems that tradesmen, anyone making $200 or $2.40 per hour is certainly affected and I know that there's many, particularly in the mining and field engineers in our utilities that are affected. This is my only objection, but I serve notice that I will be making an amendment in committee.

MR. PAULLEY: Madam Speaker, I just wish to make a brief comment on the bill. I'm happy to find that the party to my right is beginning to take a little interest in the affairs of labour. I appreciate very much the fact that the Honourable Member for Assiniboia is the spokesman apparently for labour now in the Liberal Party because I remember many struggles not so very long ago of attempting to get an increase from the then $4,000 ceiling to $5,000.00. It was a saw-off after a lot of pressure on the then government of the day to increase it up by $500 to $4,500.00. The present administration has increased it to $5,000.00. But I do agree, however, notwithstanding the belated interest of the Liberal Party, I do agree that the ceiling should have been changed by an Act at this session at least to $6,000.00.

Now in this connection, Madam Speaker, I know that within the ranks of labour there had been expressions of opinions that this had been almost promised, or indicated -- let's use the word indicated -- by members of the administration opposite that this would be done at this session. My honourable friend the First Minister shakes his head. All I can say to him not withstanding the nodding head, or the shaking head, that this was an impression in general throughout the ranks of labour, Madam Speaker, that there would be an increase from the $5,000 to the $6,000 this year, and we regret, and labour regrets, and will regret the fact that this provision is not made in the bill.

Another feature of the bill that I think is worthy of comment, Madam Speaker, is the increase in the suggested amount for funeral expenses from $200 to $300.00. I doubt whether this is adequate in view of the continuing rising costs of burial and funeral expenses. If the government would see fit to accompany the increase to $300 with a leveling off, or a general reduction in the cost of dying in the Province of Manitoba, and indeed throughout the western world, well then maybe the figure of $300 would be acceptable. But I question, Madam Speaker, the adequacy of the new figure of $300 because as I recall some of the prices that have been indicated far exceed this.

However, we are not going to oppose naturally the bill going to the Committee on Industrial Relations, but like the Member for Assiniboia I can assure the Minister of Labour and the government that the question as to whether or not there should have been an increase in the fees, the question as to the adequacy of the raises indicated in some of the other benefits will be raised in the committee and we will have a discussion at that time.

MR. HRYHORCZUK: Madam Speaker, I just rise to assure my seat mate here, the Honourable Leader of the NDP that we are not interested in labour because of our sympathy for his party. We do feel sympathy for labour because of his party and the inadequacy of what they have done for the party so far and we feel that it is our duty to do everything we can for labour.

MR. S. PETERS (Elmwood): Madam Speaker, I just want to assure the Honourable Member from Assiniboia that when he brings in his amendment if it is adequate enough he will get my support, but if it isn't, I'll be amending his amendment.

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

MADAM SPEAKER: The second reading of Bill No. 40. The Honourable the Minister of .....

MR. ROBLIN: Madam Speaker, instead of calling that item on our Paper, I wonder if you'd be kind enough to call the Ways and Means Committee. I understand the Honourable Member for Radisson does not propose to speak today, but I think we should call it for the sake of the record and then proceed with the resolution on the marketing report, and then come back to Supply after that. So the next item would be the Ways and Means Committee.

MADAM SPEAKER: The adjourned debate on the proposed motion of the Honourable the First Minister and the proposed amendment of the Honourable the Leader of the Opposition, and the proposed amendment to the amendment by the Honourable the Member for Brokenhead.

(Madam Speaker, cont'd)...The Honourable the Leader of the New Democratic Party.

MR. PAULLEY: Madam Speaker, I wonder if I may have the indulgence of the House to allow this matter to stand. I adjourned it yesterday but I had hoped before I had adjourned the debate that my honourable friend the First Minister might have made a few contributions -- and I could have replied to anything he had to say at that time very quickly. However, now I have to prepare a speech to be made on the debate.

MADAM SPEAKER: Agreed. The adjourned debate on the proposed motion of the Honourable the Member for Morris. The Honourable the Member for Souris-Lansdowne.

MR. M.E. McKELLAR (Souris-Lansdowne): Madam Speaker, first of all before I start the speech I'd like to say that I'm sorry that the Chairman of the Livestock Committee is not able to be with us today. We're all hoping that he'll soon regain his health and be back in his seat to take part in the debate with us here.

First I would like to congratulate all the members who served in the select committee of the Legislature appointed to inquire into all phases of the livestock marketing system in Manitoba. Some of the gentlemen who contributed to this work are no longer members of this Assembly but they can point with pride to the contribution they made to this excellent analysis of current conditions. There has never been a study comparable to this one made in the history of this province and as the report indicates there is a growing and widespread concern for the restoration of competition in the market place where this has disappeared due to technilogical changes. There is also concern on the part of the majority of producers that I know, that we retain as much freedom of choice as possible in marketing our livestock. It was with a great sense of relief that I read in the committee's report that on the basis of their investigations they came to the conclusion that it would be not necessary to rob the producer of his right to make the final decision in order to restore competition in the market place. The majority of producers and the public at large will support a system which preserves traditional freedom and offers an efficient competitive market. Not nearly so many people will support a plan which relies on regimentation for success and which may not offer any higher returns in the market place.

I would like to quote from an article in the March issue of "The Canadian Cattlemen." It is written by Mr. Ernie Ellis, Secretary of the Manitoba Livestock Growers. My constituency was the cradle of this organization. They represent progressive livestock producers large and small across Manitoba. They do want to know, are sure that the marketing system in doing a good job, but they are also opposed to compulsion and regimentation, because they believe as the committee found that there is no guarantee of higher returns to the producer. I would like to read you Mr. Ellis' article in The Canadian Cattlemen: "Marketing methods to be satisfactory must be flexible and voluntary. The restoration of the public yards for competitive bidding in hogs would be a step in the right direction. In this regard it is gratifying to note that the recent report of the Livestock Commission to the Legislature has stated that a voluntary teletype hog auction would go a long way towards meeting all the most widely sought objectives of producers and other groups interested in hog marketing. While all the recommendations of the commission may not be possible, it is worth noting that the committee held its first hearing September of 1961. Since that time it has conducted the most intensive investigation into all the known methods of livestock marketing over a large area of the North American Continent. With the information gathered it indicates that a method of marketing can be involved which to be successful does not necessarily have to be compulsory. Considering the time spent on research and assembling this marketing information, it would be reasonable to expect that producer organizations and political parties would attach some importance to the findings and at least be prepared to implement its recommendations on a trial basis. It is discouraging and alarming therefore to note that this is not the case. For some obscure reason the forces for compulsion are still at work; their's is not a fight for better marketing methods but a fight for monopoly. The sooner this objective is clearly understood by those believing in democracy, then the less danger there will be for the loss of individual freedom. Let us not become apathetic or lulled into a sense of false security. Wars have been fought to keep democracy safe. Surely we in peacetime can do our part to see that that is not filtered away piecemeal for some ....imaginary economic advance. It will be interesting indeed when the Commission's report is debated in the legislature to note that those who still insist there should

(Mr. McKellar, cont'd)...be a plebicite held to determine whether or not a system of compulsory board marketing be introduced. It will be an indication of their desire to protect the democratic rights of the individual."

Madam Speaker, I am sure that many members share my consternation when the Liberal Party indicated their support for a referendum on a compulsory hog marketing board before the recommendations of the select committee were implemented. I can only trust that these self-styled champions of individual freedom will not persevere in this fundamental elaboration and departure from the very principles of individual freedom. There should be unanimous support for this report of this all party committee. Thank you.

MR. ALBERT VIELFAURE (La Verendrye): Madam Speaker, I agree with quite a few of the things that the former speaker said, and one of them is that the producers in the province are not unanimous in their decisions as to what kind of .....

MR. ROBLIN: I'm sorry to interrupt my honourable friend but I just think we may have a ticklish point of order here to decide. My honourable friend intervened in the debate the other day to present a resolution which was not accepted at the time and he made some remarks then, and I'm curious to know whether that constitutes having made a speech in this debate or not. My opinion is that it does. I'm sorry I'd love to hear what he has to say, but I'm rather of the opinion that he has exhausted his right to speak and I refer the matter to you Madam to ask for your view.

MR. MOLGAT: Madam Speaker, I think that the point here was that the member was not speaking on the main resolution, because if my memory serves me right, the member moved an amendment. This was the first thing that he did, then he proceeded to speak on that amendment -- not on the resolution, but merely on the amendment to that resolution. Now it turned out that that amendment was ruled out of order by the Speaker -- subsequently -- not that day, but subsequently, so it appears to me that the honourable member by virtue of having his amendment ruled out of order, has never spoken on this resolution at all.

MADAM SPEAKER: The Honourable Member for La Verendrye presented his motion first and he spoke afterwards. In other words, he has not exhausted his right to speak on the main motion and he may speak now.

MR. ROBLIN: Madam Speaker, you have satisfied my curiosity on that point.

MR. VIELFAURE: I'm very happy to win over the First Minister on the first....

MR. ROBLIN: It happens all the time.

MR. VIELFAURE: Of course, it wouldn't be due to the knowledge of the rules on my side I will agree.

As I was just saying a few minutes ago, I agree with the former speaker when he said that most of the producers organizations in the province were not unanimous in their desire as to what kind of a marketing board they did want -- and I would even say, if they want a marketing board or not. In my own mind, most of the producers are suggesting a producer controlled marketing board, and one of the reasons I think is that in the past I have been familiar many a time when farmers or producer organizations approached the government for some help or some legislation and they were often told -- and rightly so I think -- that they should do something for themselves instead of asking the government to do it for them. And I think that right now, many of them are willing to put this in practice and organize, finance and manage their own marketing boards; and I think at this time it would be advisable to give these people a chance to express themselves whether they want a board or not and what kind of board they do want.

Therefore I would like to move, seconded by the Honourable Member for Carillon, that while concurring in the report, this House is of the opinion that whereas there has been a great deal of public discussion on the merits of the hog producers marketing board in Manitoba; and whereas consideration is being given to the establishment of similar boards in the Province of Saskatchewan and Alberta, and a vote will likely be held in Saskatchewan shortly; and whereas there is presently a request on behalf of the farm organizations of this province for a vote on the establishment of a hog producers marketing board under the Natural Products Marketing Act; therefore be it resolved that this House request the government to instruct the marketing board under the Natural Products Marketing Act, to proceed with a vote on the establishment of a Producers Marketing Board in the Province of Manitoba and that the recommendation of the committee to establish a state controlled hog marketing commission be not implemented until the result of such a vote has been determined.

Madam Speaker presented the motion.

MADAM SPEAKER: It's a lengthy motion; I would like to take it under consideration and I will

(Madam Speaker cont'd) .....give the results,its admissibility at a later date.

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

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

MR. CHAIRMAN: Department 7, Item 5 passed.

MR. LYON: Mr. Chairman, at this stage I would like to make a personal statement in response to an allegation which was made in this House the other day by the Leader of the Opposition which was at that time ruled out of order. I thought perhaps he might raise the matter again, since he hasn't I wish to respond to it at that time.

He made a serious allegation at that time Mr. Chairman, to the effect that I as a Minister of the Crown had misled the House in connection with my statements relative to the case of Regina versus Kozaruk. The Leader of the Opposition says, as is the fact, that I denied that any arrangement had been made between the Crown and the defense concerning the acceptance of a reduced plea of manslaughter on the indictment of capital murder with which he was charged. In support of this allegation he points to the letter of Mr. Frank Allen, Kozaruk's counsel, written to the Secretary of the Indigent Committee of the Law Society, not certainly to the Department of the Attorney-General, and states that because Mr. Allen is under the impression that he had such an arrangement with the Crown, then of necessity, my denial of this represents a mistatement on my part to the House. I think that should be repeated because really this is the essence of his case: that because Mr. Allen in a letter written to the Indigent Committee of the Law Society states that he is under the impression that he had this arrangement with the Crown, then of necessity my denial of this represents a misstatement on my part to the House. And this we must remember must all be considered in the context that I told my honourable friend, I told the House the other night that I was aware of the misunderstanding that had arisen. I was aware of this. But notwithstanding it I made the statement then, I made it that night twice and I make it again today, that no such arrangement was made. Well Mr. Chairman, the facts do not bear out the position taken by the Leader of the Opposition and at the risk of repeating what has already been said in this regard let me make quite clear again the course of events in this case insofar as I had any personal connection with it.

By way of background we recall that Kozaruk in July of 1962 was charged in Winnipeg with the June 9th murder of one Annie Yourkin. On the 13th of June, in Saskatoon, just four days after the Winnipeg death, the police were called to the Queen's Hotel in that city where they found a dead woman and also Kozaruk, lying on the floor drunk. Kozaruk was charged with capital murder in Saskatoon in connection with the Saskatoon death. He was tried before a Judge and jury and he was found not guilty of murder but guilty of manslaughter and sentenced to six years imprisonment in the Prince Albert Penitentiary.

The Department of the Attorney-General in Winnipeg applied to have Kozaruk transferred to Stony Mountain Penitentiary while he was serving this six year sentence in the Prince Albert Penitentiary in order that the Crown might proceed with the Manitoba charge. Kozaruk being indigent, applied to the Indigent Committee of the Law Society for counsel and Mr. Frank Allen was appointed. A few days before the opening of the fall assize in 1963, this past fall - - and I can't accurately recall whether it was the Wednesday or the Thursday preceeding that, because it was just a brief interview that we had -- the deputy Attorney-General O. M. M. Kay, Q. C., the senior Crown Attorney Allan Sarchuk met with me concerning a request by Mr. Allan for assistance from the Crown in bringing psychiatric evidence from Saskatchewan. I concurred then in the recommendation of the Deputy Minister -- and I mentioned it the other night -- first, that Mr. Allen should make a motion to the Court for an order directing the Crown to call a psychiatrist; and secondly, that if the court so instructed the Crown would take the necessary steps to have a psychiatrist brought to Winnipeg and pay for his expenses. That, as I mentioned before, Mr. Chairman, was the reason they had requested an interview with me to discuss this question of psychiatric expense, and I concurred in the recommendation that they made.

In the course of this discussion, Mr. Sarchuk mentioned to the Deputy Attorney-General and myself that Mr. Allen had approached him and offered to have his client plead guilty to manslaughter -- I make that point quite clear, Mr. Allen had approached the Crown -- because

(Mr. Lyon cont'd) ..... my honourable friend the member from St. George when he was first making his remarks about this matter left the impression that the instigation for this had come from the Crown to Mr. Allen rather than the reverse procedure, and I quote from his remarks which are found in Hansard on Page 883. Page 883, March 9th, at the top of the page, quoting from the Honourable Member for St. George: "Subsequently because the defence counsel for Kozaruk was unhappy with the situation and indicated that he would not defend this man unless he could bring witnesses to the trial, he was told that the Attorney-General would accept a plea of manslaughter if the counsel for the accused could guarantee him that the accused Kozaruk would plead guilty when he appeared in court." That may have just been the way my honourable friend expressed himself -- I'm not casting any aspersions on that at all - - but I merely do wish to point out that the initiation in seeking a plea of manslaughter came from, naturally, the defence counsel for the Crown.

MR. MOLGAT: Mr. Chairman, on a point, I think it's correct though that Mr. Allen's letter is perfectly clear on this score, is it not? Mr. Allen's letter indicates that he did approach the Crown and that he was refused and that subsequently the Crown approached him.

MR. LYON: We'll come to Mr. Allen's letter in a moment.

MR. MOLGAT: Well, if you'll read Mr. Allen's letter this will be quite clear.

MR. LYON: Mr. Chairman, continuing with this narrative of the first discussion that took place in my office, in the course of this discussion Sarchuk mentioned to us that Allen had approached him and offered to have his client plead guilty to manslaughter. Some discussion took place about this offer of a reduced plea to the indictment in relation to the facts of the case as found from the preliminary enquiries. No decision was made at that time but the Crown Attorney was asked to get further information before the matter would be further considered. He was given no instructions, either directly or by implication, to accept Mr. Allen's offer. On the contrary, the matter was merely left open for further consideration.

On Friday, October 4th, and this interview -- the first one took place either on the Wednesday or the Thursday, I can't accurately recall, but if pressed I would say probably on the Wednesday -- on Friday, October 4th, Mr. Kay and Mr. Sarchuk both met with me again concerning the Kozaruk case. They reported to me at that time that while Kozaruk was willing to plead guilty to manslaughter and while the court would accept such a plea, they would not recommend it. The opinion of the Assistant Deputy Attorney-General, Gordon Pilkey, Q.C., had also been sought and he along with the Deputy Minister and the senior Crown Attorney recommended against the acceptance of this plea. In this advice, Mr. Chairman, I concurred and the senior Crown Attorney was instructed to so advise Mr. Allen of our decision.

Later that same evening at my home I was contacted by phone by Mr. Allen--and I believe I mentioned this the other night--contacted by telephone by Mr. Allen, who stated to me that he had been guaranteed by Mr. Sarchuk that the Crown would accept a plea of manslaughter from his client. I advised Mr. Allen at that time that this could not be the case, since I had only considered the matter and decided against it that afternoon. I confirmed to him the Crown's decision not to accept the lesser plea that he had offered. He asked me to meet with him the next morning, but as I was engaged I suggested that he arrange to meet with the Deputy Minister, which I understand he did. This, by the way, was the only conversation that I had with Mr. Allen concerning this case. It was after the decision had been communicated to him.

Since it was apparent, however, from Mr. Allen's statement to me that he felt there had been some commitment from the Crown, I consulted Mr. Sarchuk and Mr. Kay to determine the cause of this misunderstanding. Mr. Sarchuk emphatically stated to me at the time, and has confirmed it since, that any of his conversations with Mr. Allen concerning the manslaughter plea were premised on the basis that he had not received final instructions from the Minister--that he had not received these final instructions from the Minister. He confirmed that this was made clear to Mr. Allen on any occasion when the matter was discussed between them in that period. He insists that at no time did he guarantee to Mr. Allen, or anyone else, that the Crown would accept a plea to manslaughter on this indictment. Now this is what Mr. Sarchuk says to me.

In furtherance of that statement, Mr. Chairman, I merely call your attention again to the letter that Mr. Allen wrote to the Indigent Committee of the Law Society wherein the same matter is mentioned. I'm quoting now from Page 895 of Hansard of March 9th, where Mr. Allen's letter was being read to the Assembly by the Member for St. George. Near the top of the page

(Mr. Lyon cont'd) .....Mr. Allen is quoted by the member: "During this conversation, Mr. Sarchuk maintained that he had informed me that the arrangement was all subject to the Minister's approval." -- This is Mr. Allen speaking. "This I emphatically dispute." says Mr. Allen. "In any event, I made every effort to induce the Attorney-General and the Deputy to accept the plea of manslaughter", and so on.

So Mr. Allen himself admits that there was this dispute, or misunderstanding between him and Mr. Sarchuk. Mr. Sarchuk says there was no reason for misunderstanding because I had made no commitement, but obviously you see the clash of understanding between these two men. Mr. Sarchuk confirmed to me that this statement of his was made clear to Mr. Allen on any occasion when the matter was discussed between them. He insists that at no time did he guarantee to Mr. Allen, or anyone else, that the Crown would accept his plea to manslaughter on this indictment.

I spoike to Mr. Kay as well at that time, Mr. Chairman, and he too confirmed, then and now, that at no time had the Crown either agreed to accept a manslaughter plea or to give Mr. Allen any undertaking or guarantee that such a plea would be accepted. That is the recollection of the Deputy Attorney-General at that time and at the present time.

For my part, Mr. Chairman, I did not speak to Mr. Allen until after my decision had been made not to accept his client's plea to manslaughter. I didn't speak to him myself until the evening after it had been communicated to him. Notwithstanding the fact it was apparent that Mr. Allen was under a misapprehension about his plea being accepted and that he still made strong submissions to the department on his client's behalf -- and he did by his own words, and there's nothing improper about that at all -- the decision remained undisturbed to proceed with the indictment as laid.

During the week of October 7th Kozaruk's arraignment was deferred until the end of the assize. In the meantime, Kozaruk requested a change of counsel. The Indigent Committee of the Law Society met with the Deputy Attorney-General in his office, with Mr. Sarchuk, and I was called in for this meeting. They requested at that time a traversal of this case until the spring or the February Assize, which was just recently concluded, because, they said, of their inability to secure new counsel on such short notice for the accused Kozaruk who, remember, was still charged with capital murder. This request was acquiesed in by the Crown and the case was traversed to the February Assize. It should be remembered that Kozaruk was serving his six-year term, the Saskatchewan term, so this delay did not effect his rights of freedom or anything like that at all. He was already under sentence.

At the February assize Kozaruk was arraigned on the indictment of capital murder, not on the indictment of non-capital or on the indictment of manslaughter but on the indictment of capital murder, and he pleaded not guilty to this indictment. He was represented at this trial again by Mr. Frank Allen. The jury was selected and the jury was sworn and the Crown proceeded with its case. The Crown called several witnesses on Monday, Tuesday, and part of Wednesday of the week that the case proceeded, all on the indictment of capital murder. Finally, through his counsel on the Wednesday, the accused indicated to the court that he wished to change his plea from not guilty to capital murder to guily of non-capital murder. This plea was accepted by the court and the Crown and the accused, and he was then sentenced to life imprisonment for non-capital murder of Annie Yourkin.

Now with respect to the statements made the other day by the Honourable the Leader of the Opposition, that is the story -- that is the story as I mentioned it the other night and I repeat it again today. The question is whether or not there was an acceptance by the Crown of the plea of manslaughter, and it's on the basis of this that he makes the allegation that I attempted, or did mislead the House in what I said.

Well, Mr. Chairman, I can only appeal to reason, fairness and justice in the House, and I know that there is that in ample quantity here, and I make this submission to you that the senior Crown Attorney who was the man who was conducting the negotiations with Mr. Allen says emphatically "No, there was no arrangement to accept the plea of manslaughter to this charge." If we need further evidence of that, Mr. Allen himself reports that in his letter to the Indigent Committee. He and Mr. Sarchuk disagreed, misunderstood one another on that point. Sarchuk takes one point of view; Mr. Allen takes the other; but they disagree on it. Sarchuk sticks to his point of view.

(Mr. Lyon cont'd) .....

The Deputy Attorney-General Orville M.M. Kay, Q.C., who has been deputy here for 13 years says, "No, there was not commitment made at all in this regard." I know, Mr. Chairman, that there was no commitment made because I didn't speak to Mr. Allen until after the affair took place. I know that the matter was considered and that one decision was made, and that decision was not to accept the plea of manslaughter.

Mr. Allen obviously had a misunderstanding with Sarchuk. I do not say for a moment, Mr. Chairman, that Mr. Allen is not entitled to this difference of opinion. He says that he felt the arrangement was made and if this is his honest opinion, certainly he's entitled to hold it. There is this difference of opinion, however, between him and Mr. Sarchuk. It's all set out quite clearly in the evidence that is before us, but, Mr. Chairman, in fairness I think that my statement, which I gave to the House the other night and which I have given again today, supported as it is by the statement of the Deputy Attorney-General and the senior Crown Attorney, and if I may say so, Mr. Chairman, by what actually transpired, is entitled to be belived equally as much as the statement of Mr. Allen written in the letter to the Indigent Committee. That is the only argument that I advance with respect to the allegation of misleading the House that has been made by the Leader of the Opposition. I gave this statement before hearing his letter. I didn't receive that letter. I gave it before I even heard of this letter. I gave the same statement after I had heard the letter and I repeat it again today, that no such arrangement was made by the Crown with respect to this case. Well now, Mr. Chairman, I believe that covers the point of the alleged misleading of the House and I ask in fairness that my statement in this regard be accepted.

I come, however, to some of the other points with respect to this matter that has been raised, some of the comments that have been made by other members who have participated in the debate. If I may say so, as I mentioned at the outset of my remarks the other night, that the point that the honourable member raises is a point that a number of people enquire about from time to time. I attempted the other night to describe the new jurisprudence that is building up around the question of capital murder and non-capital murder and so on.

Comments are made, and I think my honourable friend from St. George said this: "Well, if you're not going to proceed with capital murder, why lay the charge in the first place?" That's a legitimate question -- that is a legitimate question. Lawyers often ask it; I have asked it on occasion. But there is an answer, of course. We've got to consider the practice in a Crown office when we come to consider this whole question, because the laying of an Information, as we all I think know, is really the first step in any prosecution and it involves an appraisal of the facts and of the law at the very outset and very often you haven't got very much to go on. I've gone through this; I know a number of some others in the House have probably done the same. For a police officer who presents himself at your office door at 9:00 o'clock in the morning, he has with him a couple of pieces of paper with a statement on it; he gives you a brief outline of what took place the night before; he says he has a man arrested, in the cells say at Vaughan Street; he tells you what the circumstances are; and he asks you "What is the charge going to be", so if the man appears in court at 10:00 o'clock there will be a charge on which he can be kept in prison.

You have to make sometimes -- Crown Attorneys have to make pretty snap judgments with respect to capital cases, non-capital cases, the whole spectrum of criminal cases that you run into in Crown procedure. The first man who must make a decision usually is the peace officer or the constable, because although any citizen can lay the Information, nine times out of ten it is the peace officer who is the first man along and who takes charge of the situation. When a peace officer lays the Information he usually, as I have mentioned, has the opportunity to discuss the salient features with the Crown Attorney and obtain his view, but even this doesn't always obtain. So there is one of the situations that you run into.

And because this initial laying of the Information is a step which often must be taken promptly -- must be taken promptly, because as I've mentioned and as we all know, the police cannot hold people indefinitely without a proper charge being laid. In fact the common law position is 24 hours without a charge being laid.

In many cases, charges have to be laid on the basis of a few hours' investigation where a death is involved, and there is a reluctance to lay a lesser charge than the facts might support.

(Mr. Lyon cont'd) ..... Because remember your initial charge is laid on the barest of facts, and very often have not -- certainly the Crown Attorney has not had the opportunity to interview the witnesses, he must take the word of the peace officer and the charge is then proceeded with. There is a reluctance to lay a lesser charge than the facts sometimes might support, or the facts as they come out later on otherwise might support, and this reluctance, I suggest, stems from at least two sources. First of all, the practical effects. If a charge of manslaughter is laid initially, and then later the evidence proves that it is non-capital murder or capital murder, the Crown's position before a jury is greatly weakened on such cases, even notwithstanding the fact that there might be evidence there to support a more serious charge. Secondly, there is an effect on the accused person as well, because laying a less serious offence and then raising it is not necessarily beneficial to the accused, and so it is not in the interest of either the Crown or the accused and it is seldom if ever done, to lay a lesser offence than the facts may subsequently support. The result is that in borderline cases the most serious charge is laid, often in the clear expectation that it may have to be reduced at a later stage. That is common Crown office practice not only in Manitoba but in other provinces.

Mr. Chairman, when a prosecution has proceeded to the point where the preliminary enquiry has been held, Crown Attorneys are frequently faced with the necessity of changing the initial charge. Now you might well ask, why is this the case? Why don't they know what they've got? Well the facts are these: that witnesses who have initially given statements to the police, these statements have been read over by the Crown Attorney, he gets into court, these people are put under oath, they are examined, they don't say exactly the same as they have said in their statements to the police; they get under cross-examination, their statements are changed even more; and so you find that what on paper appears to be a very solid witness in support of a Crown's case, eventually will end up after examination and cross-examination under oath as not very strong at all, and it can have a weakening effect upon a case. So these situations do occur; recollections falter; the effluxion of time sometimes causes memories to be less razor-sharp than they were initially after the crime.

And this is the rule, I may say, rather than the exception. The simple effluxion of time weakens the strongest case. Crown Attorneys have to reassess their cases constantly up to the moment of trial. Crown Attorneys have to be given this discretion. Their qualifications and training and experience justify its exercise. If I may say so, Mr. Chairman, an all or nothing approach really would subvert the proper administration of justice just as effectively as an excessively lenient one. I don't think that on reflection my honourable friend from St. George would really want to advocate an all or nothing approach. Once the charge was laid you proceed with it at all costs. I really don't think, if he thinks about this matter, he would want to proceed on that proposition very far.

Well, Mr. Chairman, the allegation has been made that by accepting a plea to a lesser count the Crown is taking the issue out of the hands of the jury, and I must say that at first flush you can almost accept that argument because that is the practical effect of it. But I point out as well that every time an accused pleads guilty to the indictment or the charge that is laid before a court, is he not also taking the charge away from the jury? If a man is charged with rape before a jury, and it's a compulsory jury trial, and he pleads guilty to that charge, he is taking that charge away from the jury. But he is pleading guilty to it. The court can deal with it; the Court sentences. The man is charged with armed robbery before a jury, he pleads guilty to the charge, yes he is taking the case away from the jury, of course he is, but he is going to be sentenced for it because he has pleaded guilty. A man is charged with any offence and he pleads guilty, whether it is reduced or not, by this test he is taking the charge away from the jury because the jury does not have the opportunity to deliberate upon it and that we accept. That is the case, but it is not as bad a case as my honourable friend makes out because we must remember that what -- 75 to 80 percent of our cases are disposed of by what -- pleas of guilty. So if this is the case my honourable friend will have to admit that by pleas of guilty or pleas of any sort, you are depriving an accused, of his own volition, of the right to a trial. Well, 75 to 90 percent of the accused don't want a trial and they have the right to determine whether or not they will have the trial, and so I don't think that that argument is necessarily as formidable when one looks at it in the light of what actually transpires in our courts.

And, Mr. Chairman, if I may say so, the argument must fall on another basis as well,

(Mr. Lyon cont'd) ..... because if there is no evidence before the Court of Queen's Bench on an indictable offence, if there is no evidence to support the first count in the indictment or any other count in the indictment, that count will never be submitted to the jury for the trial judge will take that count away from the jury and will direct the jury to bring in a verdict of not guilty on that count because there is no evidence to support it.

I know my honourable friend has covered enough cases in the assizes to know that this does take place. I have had it happen to me. I've seen many other Crown Attorneys, many other cases in court where the trial judge at the end of the Crown's case on the Indictment, the jury is sitting there, the trial judge will say: "There are four counts in this indictment, the first count charges such and such, in my opinion there has been no evidence adduced to support that count. I therefore take that count away from the jury." And they can do this in the absence of evidence. It is their duty to do it in the absence of evidence because this is a matter of law. This is not a question of fact; it is a question of law over which the jury has no control whatsoever. And where it is obvious, Mr. Chairman, to an experienced Crown Attorney from a perusal of the transcript of the evidence and an interview with the witnesses that the evidence cannot establish the essential ingredients of capital murder, then is he not entitled to accept a plea to a lesser count in that circumstance?

Well, you know very often we turn to English cases when we want to find something articulated a little bit better than we can articulate it ourselves, and while this is not a criminal case, it is a case that is reported in the 1961 All England Report at Page 1085. It had to do with a private prosecution and with the right of counsel of the prosecution to withdraw the charge that was being proceeded with. This is the judgment of Lord Justice Ormorod of the British Court of Appeal, and he was quoting with approval what had been said by the trial judge in this particular appeal. He said; "This prosecution was being conducted on the instruction of the defendant by the late Sir Godfrey Russell Dyck, Q.C., leading Mr. Christopher Legge. It is a long established factor, says the court, that if counsel in charge of a prosecution at any stage is convinced that there is no evidence against the defendant or so little evidence that it would not be safe to leave the case to the jury, it is then the duty of counsel to acquaint the court with his views and to ask for leave to withdraw the prosectuion. I certainly have never known such an application to be refused. As I say, that is well established as being the duty of counsel and it does not depend upon any instructions at all. Whoever is instructing counsel, whether it be a private person or the director of public prosecutions, may violently disagree with counsel's view, or, as a matter of courtesy, the prosecutor would naturally be informed by counsel of what he proposed to do. But it would be quite wrong of counsel to accept any instructions to go on with the prosecution once he had formed a view that the prosecution should not continue."

Now as I say, this is not directly on the point because it relates to not a murder trial but it relates to the attitude of the court in Great Britain to this question of the duty of counsel, the weight of evidence in matters of prosecution. So I can say, Mr. Chairman, that where it is obvious to an experienced Crown Attorney from a perusal of the transcript that the necessary ingredients for capital murder are not there, is he not entitled to take a lesser plea or to request permission to take a lesser plea? In Britian, as we have seen, the common law rule is that he does not even have to request permission, that he should do it on his own volition because he is an officer of the court and is expected to give to the court the best advice that he can while seized of this particular case.

If this were not the case and if the Crown were forced to proceed with this all or nothing at all business, you would tie up juries, you would tie up prosecutors, defence, courts and everybody else on cases which, at the end of the Crown's case, the judge might well turn around and take the whole thing away from the jury, and everybody would know in advance that this was the case. This is why -- this is the failure of this argument of all or nothing at all. You can't always proceed with a charge with the same count exactly as it is laid. You must have this discretion; the Crown must always have the discretion to accept the lesser plea if it feels that plea is brought in the interests of the proper administration of justice. That is the guilding rule -- that is the guiding rule that the Crown Attorney is to follow.

As I mentioned the other night, not only during this administration but during the administration that preceded us, I have never known it to vary. These are all men who are trained in their jobs; they make valued judgments every day, they have to do this; and they give opinions

(Mr. Lyon cont'd) ..... to senior Crown Attorneys, the Deputy Attorney-General or the Minister as the case may be, based on these valued judgments that they must come to from time to time with respect to criminal cases. I have never seen it otherwise, that the motivating factor in such matters is always the question of are the ends of justice being properly served by accepting this plea.

Well, these are a few perhaps rambling thoughts, Mr. Chairman, with respect to why the Crown does from time to time accept lesser pleas on counts, on capital murder indictments and on indictments of other serious offences. I think the Crown must always be left this discretion. I think with respect that we must give to the Department of the Attorney-General that measure of faith that I think they are entitled to have from this Legislature and indeed from the people of Manitoba, because I don't think that anybody can point a finger of scorn at that department and point out where there has been any lack of integrity, any impropriety carried on by them with respect to reduction of counts that have taken place in indictments or in any other offence. That's a pretty good thing to say -- to be able to say -- that we can respect the integrity of the law officers of the Crown who work for us.

Let me tell you, and I'm sure that the Honourable Member from Ethelbert Plains would confirm this and I know that my successor confirms it, that as Attorney-General it is a wonderful feeling to know that you can rely upon the advice that you receive from these people all over the province and you know that you are receiving good advice from men well trained in their jobs, from men who have practiced for long periods very often in the criminal law field and who know what they are talking about, who can gauge cases and who can give advice on the basis of years of experience. This is the situation we have today, the situation we had last fall Mr. Chairman. This is the situation I hope the department will always continue to have because it has served the people of Manitoba so well in years gone by.

So these are the comments I would make in that regard. I express to the House my regret that the Leader of the Opposition has seen fit to make this allegation of impropriety or misleading the House against me. I don't feel that I deserve it. I have stated before you the facts as I know them personally and I leave it to your good judgment as to whether or not my words are entitled to belief.

MR. CHAIRMAN: May I interrupt proceedings for one moment. A few minutes ago, there arrived in the Chamber 130 pupils from St. Anne's Collegiate, whose teacher is Mr. Stan Bisson. This schools is situated in the constituency of LaVerendrye. My bilingualism needs a little fixing.

I would like to say just what the Speaker would say had she been in the Chair before we went into Committee: That is that we hope that this visit to the Legislature in your school years will be a very pleasant memory in all the days that are to come; that you will recall that you have had this intimate glimpse of seeing one of Her Majesty's Legislatures at work, framing laws and carrying on the work for the well being and good of the people. Come and visit us again.

MR. MOLGAT: Mr. Chairman, before I proceed might I enquire whether it is your intention to follow Madam Speaker's statement and make the little comment in French as well?

MR. CHAIRMAN: Well I intended seeing her beforehand but she was taking a course in Ukrainian language.

MR. MOLGAT: Thank you Mr. Chairman, we can then proceed with the business at hand. Now the ex-Attorney-General has got up this afternoon to try and change what was said here in the House previously and attempt to cover himself with the statements that were made.

Mr. Chairman, I'd like to say at the outset this -- that the letter that was quoted here in the House by the Member for St. George constituency was not written by a novice. Mr. Frank Allen was a member of the Department of the Attorney-General here for several years, six years I believe, as a Crown Attorney. Mr. Allen is well versed in the operation of the department of the Attorney-General. He is a qualified lawyer. He's been on the Government side of the issue, he knows the workings of the department. Now he's out in private practice and he's on the other side of the question. I point this out Mr. Chairman to make it quite clear that Mr. Allen knows what he is talking about. He isn't an individual who has just come out of the blue with no background. Now what is it that Mr. Allen says in his letter Mr. Chairman? He says at the outset that shortly after the preliminary enquiry, I had a discussion with Mr. A. A.

(Mr. Molgat cont'd) .....Sarchuk, Crown Attorney at which time Mr. Sarchuk intimated that the Crown would be prepared in a general way with Kozaruk to set the plea of non-capital murder. This was discussed in a general way with Kozaruk on two or three occasions and I advised him that I felt on the strength of the evidence, that he would be wise to enter a plea to this reduced charge. However, Kozaruk was not prepared to do so. He stated he would be prepared to enter a plea of manslaughter, fully realizing that he would be sentenced for a very long term, possibly life imprisonment. For this he had reasons that were not overly logical to me, but were very valid in his mind. At a later date I advised Mr. Sarchuk what my client stated and I was told by Mr. Sarchuk, most emphatically, that the Crown could not consider a plea on charge of manslaughter.

I go on to the following page -- (interjection) -- this is on page 893 about the centre of the page -- page 894 second full paragraph. On Wednesday, October 2nd -- I say again, Mr. Chairman on the original discussion he is advised by the Crown that they will not accept the plea of manslaughter -- on Wednesday, October 2nd, I telephoned Mr. Sarchuk and sought an appointment with him for Thursday, October 3rd. The writer and Mr. Nurgitz attended at 10 a.m. in Mr. Sarchuk's office at which time Mr. Sarchuk was of the opinion that we were there in an effort to induce the Crown to accept the plea of manslaughter. At this time Mr. Sarchuk was advised that if the Crown, I think it should read, would accept it, we would then accept the plea, but he told me emphatically that they would not accept it. Second statement Mr. Chairman, that the Crown would not accept such a plea. I frankly had not expected that they would do so said Mr. Allen. Then he carries on -- we then began discussing whether the Crown would or would not pay the expenses of bringing Mr. McDonald to the trial. So this on the second encounter, it's quite clear again that the Crown emphatically refuses the plea and Mr. Allen says, I wasn't there for that purpose, but this is what was brought up. Then between 3:30 and 3:40 p.m. October 3rd Mr. Sarchuk 'phoned me and advised me that he had just come from the Minister's office and had been instructed to find out whether or not I could guarantee that Kozaruk would plead guilty to manslaughter. Now nothing could be clearer Mr. Chairman.

My immediate response was that I could. However, I then said I had better not commit myself without seeing my client. Was I to understand the Crown would accept such a plea? Mr Sarchuk advised me that the acceptance of such a plea could be subject to the approval of the Court. This being understood, I proceeded to the Manitoba Penitentiary, accompanied by Mr. Nurgitz and arriving after visiting hours, made a special arrangement to see Kozaruk who authorized me to assure the Crown that he would enter a plea to manslaughter.

Some intervening space at the bottom of the page. At 8:30 the next morning -- he attempted to get Mr. Sarchuk and I couldn't -- at 8:30 the next morning Mr. Sarchuk 'phoned me at my residence at which time I advised him that my client was prepared to enter a plea of manslaughter and asked him when we could see the Judge to get approval. Mr. Sarchuk advised me that he had seen Mr. Justice Nitikman the day before and the Court had approved the acceptance of such a plea. The rest of our conversation dealt with when the plea should be entered, and representations made with respect to sentence. Mr. Sarchuk advised me he would see the court in this regard and phone me later in the day. Then the final statement, the top of page 895, that Mr. Allen had not heard anything further during the day but he had received a telephone call from Mr. Nurgitiz in the evening saying that Mr. Sarchuk had communicated with him and advised that the Minister had changed his mind concerning a plea of manslaughter.

Mr. Chairman, these are clear cut statements -- two previous statements where the Crown Attorney says most emphatically that the Crown will refuse a plea of manslaughter. Further statement that he has just come from the Minister's office and has been instructed by the Minister to do this. Then he proceeds to go and see Mr. Justice Nitikman to get this approved. Mr. Chairman, the Crown Attorney would not after having said originally twice on instruction that he would not accept a plea of manslaughter, wouldn't turn around on his own volition and take these steps. Surely the Minister does not expect the House, when he says that we simply have to accept the statements as they are -- there they are Mr. Chairman.

Now Mr. Chairman I repeat, this is from a man who has been working as a Crown Attorney for this government; who knows the workings of this government; and I suggest to the government that if they are not prepared to accept these statements then let them call an enquiry into the subject. Not a committe of the House Mr. Chairman -- I've had experience with

(Mr. Molgat cont'd) ..... committees that these honourable gentlemen set up -- but an independent committee Mr. Chairman, possibly the Law Society and let us get these people out before them. Let's ask Mr. Allen, let's ask Mr. Nurgitz and we'll get at the bottom of this thing.

MR. GUTTORMSON: Mr. Chairman, I listened with a great deal of interest to the statements made by the Minister. He points out that there are sometimes snap decisions and for this reason they have to change their mind but I would like to remind him that when these cases come to the Court, sometimes weeks and sometimes months have elapsed between the commission of the crime and the date of the trial and in between that time we've had a preliminary hearing, at which time a magistrate has heard all the evidence and he decides whether in his opinion there is enough evidence to commit the accused on the charge that is before him. So I can hardly buy the answer that just before a man is going on trial before a judge and jury it's a snap decision and for this reason they make this decision to reduce it. He points out in the Kozaruk trial that the Crown had already proceeded with the charge of capital murder and that several witnesses had been heard when it was suggested that they would reduce the charge to -- I'll repeat it. If I understood him correctly he said the trial had proceeded, several witnesses had been heard and then the defense approached the Crown and agreed to plead guilty to a charge of non-capital murder. Is that not what the Minister said?

MR. LYON: ..... said that the accused advised through his counsel that he wished to change his plea from not guilty to capital murder to guilty of non-capital murder and this was accepted by the Crown and by the court.

MR. GUTTORMSON: Well that's exactly what I say. I'm not disputing that. The Minister is playing with words. The Crown -- I must assume that when they went into this trial with the charge of capital murder, they must have felt that this charge was warranted so why then would they agree after the trial was underway to accept a plea of guilty to a lesser charge? He says, "surely the Member for St. George wouldn't want an all or nothing policy." I quite agree with him, I'm not suggesting that they should all be one charge. I'm fully aware too, that the Attorney-General can lay any charge he so desires. I have cases here where charges have been laid as a result of death and the Crown has, in its opinion, has proceeded with a manslaughter charge in the first instance. I know of other cases where the Crown in the first instance has proceeded with non-capital murder because that's the opinion the Crown felt of the case. I know of others where they have gone just with assault. But I say, here we have, in the period of six months, five cases where men have been charged with a capital offence and in four of them they have decided to accept a plea to a lesser charge. I recall one case -- (interjection) -- well if you're not listening that's up to you.

MR. SCHREYER: You're not making your point.

MR. GUTTORMSON: The Minister says that we have different reasons for changing our minds and he blames it on the snap decision -- this is the point I'm making, and as I say, I'm fully aware that the Crown can accept any plea they choose, but the point I'm making is, why change your mind after you've even got the trial underway, after you've had an opportunity to hear all the witnesses at the preliminary hearing; you've had a chance to hear the statements of the various witnesses? This is the point I'm making because at the preliminary hearing, if the Crown felt that the wrong charge had been laid this is a very opportune time to say, "Well, we'll proceed with a lesser charge" because they've heard the evidence, they know all the facts, they're basically the same facts that are going to be proceeded with at the jury trial.

I recall one case -- I wasn't present but -- where an accused at the trial -- and I don't know whether the Minister was in attendance or not at that time -- the accused kept jumping up at the trial and admitting his guilt to a charge of murder and the trial went on because they wouldn't accept it .....

MR. LYON: Just on a point of order ....

MR. GUTTORMSON: Would you let me finish the remark. I know what you're going to say.

MR. LYON: What am I going to say then? You can't accept it by statute, that's why.

MR. GUTTORMSON: That's right. You couldn't accept it because it was in the days before they changed the Criminal Code. At that time if a man was charged with murder, he couldn't plead to it. He had to go all the way. He couldn't plead guilty to such a charge.

Now, I think one of the most damning statements in the debate was made by the present Attorney-General because, during the debate the other night, he stood up in his place and said

(Mr. Guttormson cont'd) ..... -- I haven't got his exact words but I can find them -- he said he challenged me to come back in another six months and find out if the statistics were the same, and I read into those remarks that the policy is certainly going to change with him as Minister, because otherwise why would he challenge me to come and be able to duplicate similar facts if he felt that the previous practice was correct?

MR. McLEAN: Mr. Chairman, I think there's one or two observations I might make with regard to the speech of the Honourable the Leader of the Opposition who I note is not in his place but I rise now because this is immediately following what he had to say.

He refers to Mr. Allen and it is well known, and indeed true, that Mr. Allen was a former member of the staff of the Department of the Attorney-General and in the mind of the Leader of the Opposition that conferred upon Mr. Allen some special knowledge and ability and in both matters I would concur. But I think, Mr. Chairman, in the context of the charge and allegation by the Honourable the Leader of the Opposition that the Honourable Minister of Mines and Natural Resources, who was formerly the Attorney-General, misled the House, that it is well to consider the context and the circumstances surrounding the letter written by Mr. Allen, and upon which the Honourable the Leader of the Opposition chooses to base his allegation, refusing, of course, to acknowledge that the facts as recited by the Honourable the Minister of Mines and Resources are as equally to be believed as are the statements contained in a letter written by Mr. Allen to the Secretary of the Law Society's Indigent Committee. But, Mr. Chairman, let us remember that Mr. Allen's letter was written after he had been rejected in open court by the accused Stephen Kozaruk. It was written to explain, no doubt, why his association with the case had come to an end. It was written to the Law Society through whose offices he had been appointed. And I think we are entitled to remember that fact when considering the contents of Mr. Allen's letter.

Now, Mr. Chairman, there's another thing because if it is true, as indeed it is, that Mr. Allen was a former member of the staff of the Attorney-General -- indeed he was -- and he was personally acquainted with the Honourable the Minister of Mines and Natural Resources while he was the Attorney-General of this province. And it is of some considerable significance, Mr. Chairman -- very considerable significance -- in fact, significance which obviously has not been attacked by the other members of this committee, that he did not see fit to send a copy of his letter to the Attorney-General of Manitoba; that he did not see fit to report these matters of which he complains to the man that he knew was responsible for the administration of justice in Manitoba, and the one whom he knew, because of his special experience, was the person who could rectify any compaints that he had. He sent his letter to the Secretary of the Law Society Committee and did not in any way communicate with the Attorney-General and I would think, Mr. Chairman, that those are facts which ought to be noted if we're considering, and if we are asked to consider the contents of Mr. Allen's letter. I want on this occasion to have them noted on the record because in my opinion that is important information for us to have in relation to the matters which have been discussed before the committee.

MR. DESJARDINS: Mr. Chairman, I don't profess to know too much about this and I haven't taken part in any debate, but after listening to the Attorney-General who has pretty well insinuated, I might say accused, a certain Mr. Allen of lying -- I think he's made if fairly clear -- I think that he should accept the challenge to have an enquiry on this, probably the Law Society. I don't think that it's right to question a man here, why his motive, why he didn't send a copy of this letter to the Attorney-General. It seems to me that maybe he was complaining about the Attorney-General and he was asking the Law Society -- he was complaining to the Law Society anyway. I'm not choosing sides on this, I don't know enough about it but I certainly don't like the Attorney-General to get up and insinuate that a man is lying when he is not here to defend himself; and if he's so sure he's lying, I would suggest that he accept a challenge to have this placed in the hands of the Law Society and let's have an inquiry and let's hear what this man has to say, instead of calling him a liar here where he can't answer.

MR. LYON: Mr. Sarchuk I could point out is not here to defend himself. Orville M. M. Kay, to whom we paid some considerable tribute in this House the other night, is not here to defend himself. I'm defending them as is the Attorney-General, and I cast no aspersions upon Mr. Allen. I didn't in my statement. I say he's entitled to his views but I merely ask the House to receive with the same degree of fairness and understanding the view of the other side supported

(Mr. Lyon cont'd) ...by Mr. Sarchuk, who isn't here to defend himself, Mr. Kay, who isn't here to defend himself, and given by a member of the House as his word the other night and again today.

Now having said that I want to move on to another subject that has caused some little debate in the House on this item. And that is the subject that was raised the other night by the Honourable Member for St. George when he led the particularly vicious kind of attack on one of the judicial officers of this province and I refer to him by name because my honourable friend didn't. He was referring to Magistrate Ian Dubienski of the City of Winnipeg Magistrate's Court.

Mr. Chairman, I sometimes wonder that if the administration of justice in this province, or any other province for that matter, were left to the likes of the Member for St. George what sort of a state this province would be in. I sometimes wonder that if a person has to feel that he must substitute his opinion, his grand opinion, in a case where the opinion of a duly appointed police magistrate, and that if his opinion does not agree -- the police magistrate's doesn't agree with the member's opinion, then the police magistrate should be fired. Now, let me be the first to say -- let me be the first to say, that Magistrate Dubienski's judgments, a number of them, have been appealed by the Crown. I know, because I approved the appeals that were made. The findings, the sentences in particular cases were appealed by us because we did not think that they were in aaccordance with the facts. Some of these sentences were illegal sentences. They were sentences of suspended sentences given where there had been a previous conviction and the suspended sentence under the Criminal Code was not available in those circumstances. I want my friend to realize this, I don't disagree that the Crown has to appeal these cases where it feels the sentences are inadequate but surely, Mr. Chairman, surely this is not cause for a summary dismissal of a police magistrate. This is not cause for that at all. What sort of a state would we have? What sort of administration of justice would we have in a country if the Crown on one side and private suitors on the other -- let's look at civil matters for instance, that somebody was suing the Crown, the Federal Crown who appoint the Superior Court Judges, and the Crown lost the case and it was a big judgment, say for $100,000; if you follow the reasoning of my honourable friend from St. George, the Crown then turns around and says, "Because we disagreed with you on that case, we fire you." Well what sort of chaos would that lead to in the administration of justice in our country? This just cannot be tolerated. I'm surprised that thoughts like this in the year 1964 are even given in a responsible Legislative Assembly in a democratic country. The sanctity of the judiciary is an important thing in our whole system of justice. As Attorney-General I can tell you this, that I disagreed as I have mentioned before, with a number of the sentences made by that magistrate and, well, with sentences given by other police magistrates in other courts in this province, and we took the recourse that is open to the Crown; we appealed those sentences to a higher court. Sometimes the Crown was successful, sometimes it wasn't successful. We must always remember that magistrates -- judges, are human beings. They're not perfect, and so long as the law is administered by people, the law is not going to be perfect. We can't expect it to be perfect all the time and that's why we have Courts of Appeal.

But, Mr. Chairman, can you imagine what the situation would be if we followed the reasoning of the Member for St. George where, because of a number of appeals that had been made from a particular magistrate the Attorney-General were then to call in that magistrate and say, "Now you better start changing you ways Mr. Magistrate or we're going to fire you." Is that the sort of administration of justice we want in the province? I don't know about my honourable friend, but I think there are others -- I know there are others in this House who would stand up and would cry to the rooftop that this would be mal-administration of justice, and so it would. So it would, for an Attorney-General to try to direct a court and tell them what verdicts they should be bringing in. The Attorney-General has his remedy. His remedy is appeal. And if other situations continue and there's a perversity then there are proceedings for impeachment and so on. The Canadian Bar Association for the past five years has had a special committee studying security of tenure for magistrates for the very reason as mentioned by the Member for St. George, because there are people like him who feel that there should be this kind of interference.

The Province of Saskatchewan, I believe, was one of the first provinces that I heard of to provide appointments for magistrates which were not renewable by the Lieutenant-Governor-

(Mr. Lyon cont'd) ..... in-Council I don't necessarily agree with that point of view. I think the present system works quite well so long as you have people administering it, as I must say we have had during all of my experience in connection with the law, through two administrations in this province, people who are not going to interfere with the judicial process, who are not going to interfere with the judiciary in the province. So I think the security of tenure of magistrates something that has been studied by the Canadian Bar, is an important thing, just as important as it is in our Superior Courts. In the Superior Court a judge can only be dismissed for cause. It has to be that way, particularly in Superior Courts because you would have situations arising such as the member spoke of where, at whim, if you didn't like the civil or the criminal decision you were getting from a judge, well you fire him. Well, this is foreign to our concept of doing things in Canada, it is foreign to our concept of doing things in Manitoba. I hope it will always be foreign to our concept of doing things in the administration of justice because if it isn't, it will be a sorry day for the people.

Now I don't have his remarks in front of me. I don't have the details. He makes the statement. Let me say his statements are factual. I make no point about that at all. He says that this magistrate has been appealed on a large number of occasions and this is true, but I ask him to reconsider whether he wishes, in the light of that alone, to suggest that the magistrate should be dismissed or should resign from office. I don't think he should. I don't think he should. And I suggest that this principle, this idea, has no place in the proper administration of justice in this or in any other province.

MR. DESJARDINS: It's all right to change the subject when you're cornered and start bringing something else. The Minister is terrific at that. He can change anything and come back in another door and talk about something else. But the Attorney-General of this province, who is a lawyer I believe, has insulted another lawyer right in this House, has called him a liar, insinuated that this was sour grapes and he was just crying because he wasn't satisfied and that he was trying to cover something up and I don't think that's fair at all. The former Attorney-General said that Mr. Sarchuk wasn't here to defend himself. Let's bring him in too. But let's have this enquiry, let's accept this enquiry, let's go to the Law Society and find out who is lying. I certainly don't think it's very worthy of the Attorney-General to stand up and accuse one of his colleagues of lying. Does he know if he is lying? Can you prove that he is lying? Nobody has accused Mr. Sarchuk of lying. It is all right that you take the word of the former Attorney-General. We've had both cases before the Attorney-General stood up and started accusing somebody that's not here to defend himself, and if you are so sure he's lying, Mr. Chairman, if he's so sure he's lying, I would suggest that he accept the suggestion of my leader and call this enquiry and let's get this straightened out once and for all. We don't know, we might find out that this is the reason why we have a new Attorney-General. We might find out that this is the reason. I don't know. But I think the people of Manitoba are entitled to know. I think that this should be done immediately or the Attorney-General should withdraw his remarks about his accusation on a gentleman that's not here to defend himself.

MR. SCHREYER: When the Minister of Mines and Resources raises the matter of the relationship between the judiciary and the Legislative Branch, he raises something which is a matter of profound political theory and discussion. I think that a reasonable view to take in this is that the judiciary has always been for the past few centuries considered to be independent of the Legislative and Executive Branches but not independent in the sense of complete and splendid isolation. I think we can go too far in the direction of independence when you get to the point where you advocate complete and splendid isolation for the judiciary. It is, it seems to me appropriate from time to time, for someone to question what the judiciary is doing.

Now the member for St. George has been, I feel, slightly misconstrued when he raises the matter of the way in which this particular police magistrate has been dispensing with justice in his magistrate's court. I don't know enough about that particular case, but I daresay that one very good gauge or measurement to use is that if a judge or a magistrate consistently and often passes sentence that is appealed and appealed successfully it is an indication that there is something wrong and it is an indication that perhaps it would be in the interests of justice to have that particular magistrate removed, for the reason that he could be an encumbrance in the administration of justice.

Now of course you have to use that power of removal with the greatest and utmost kind of

(Mr. Schreyer cont'd) ..... reservation and discretion. I daresay that if one looks at this particular case you will find that the number of successful appeals, although they seem large, are really quite small in proportion to the total number of cases heard and sentences and decisions passed. But whatever the actual facts of the matter are, I suggest that a member of this Assembly does have the right, when going through the process of control of the purse in the estimates, to question certain incidents which appear on surface to show that a particular magistrate is handling his duties in such a way as to cause many appeals, and many successful ones.

Now having appeared to come to the defence of the Member from St. George who I'm sure wouldn't want me to in any case, I want to come around to the second aspect of most of his statements here in this Legislature. For the past 72 hours, Mr. Chairman, the member for St. George and the Attorney-General and the Minister of Mines, have been engated in a three - cornered by-play here as to -- I presume -- whether or not this government has been doing right in the accepting of pleas -- at least the department, in the acceptance of pleas to lesser charges. Mr. Chairman, I get the distinct impression, the longer I listen, that we are chasing a butterfly. There is nothing tangible involved here, Mr. Chairman. It's been given a lot of coverage, it's been taking up 72 hours of time in this Assembly and I feel, for one, that it's been a bunch of nonsense, quite frankly, because I've read completely through the letter and the reports made regarding the letter and so on, and when you are all finished you end up with a miasma. There's nothing there, it's cloudy, hazy and that's what you are left with.

MR. MOLGAT: Mr. Chairman, there's no nonsense when you're dealing with people's lives. There's no nonsense when you are dealing with basic responsibilities of justice in this province and that's the whole basis of the argument that has gone on in this House, that if justice is being tampered with, then the people of Manitoba have a right to know. That's the basis of the whole thing. Now, Mr. Chairman, the Ministers across the way are saying that Mr. Allen is not correct, saying that Mr. Sarchuk is not here to defend himself. We have no arguments with Mr. Sarchuk or Mr. Kay or other officials of the department. We are concerned with the Ministers who are responsible. These are the only people that we are concerned with, not with any of their staff and I want to make that exceedingly clear. I repeat again, Mr. Chairman, the answer to this is to have a completely independent enquiry and I ask now of the Minister, is he prepared to have such an independent enquiry, not dominated by the government but independent, at which all of these people will be able to appear?

MR. GUTTORMSON: Mr. Chairman, the former Attorney-General in his usual hatchet manner -- (interjections) -- All right, go ahead, go ahead. There are no personalities have been brought into this thing as far as I'm concerned. -- (Interjections) -- All right. He refers to my vicious attack the other evening. I don't know whether that is when he was running out or in at the time, so I don't think he heard my remark. The present Attorney-General spoke on this very matter and I listened to him with great care. And the Minister, I agreed with his remarks; he pointed out that this was a very difficult matter, about magistrates. He made no bones about it. At what point, he said, does the Attorney-General decide that a certain magistrate isn't doing his job, and I couldn't agree more with him.

If the former Attorney-General cares to look at Hansard, I never at any time suggested that the Attorney-General dismiss this man. No, I never suggested it, because I said, when I prefaced my remarks, that I agreed with the Attorney-General that it was an awkward situation even if he felt that any particular magistrate may not be doing the job that he thought he was doing and it was for that reason that I suggested that if this magistrate was not cut out to do this type of work, that he offer his resignation; because, Mr. Chairman, I won't make any bones about it, being a magistrate is not an easy job -- I don't care -- for anybody and some people just can't do it and that's no criticism of them. After all, some people can do certain jobs, others can do other jobs and for a man to sit on a bench and judge his fellowman is not an easy one. Some people have the make-up in which they can do it. I suggested that this particular magistrate that I referred to just didn't have that make-up. I don't question the man's integrity; I never did. I suggested this man is an outstanding citizen in the community. I cast no aspersions on his character. I never did. But the point I make is that this is a difficult job. If he finds it difficult and that he can't do the job, then perhaps he shouldn't be doing the job. I said he should make the decision, not the Attorney-General because, as I said before, at what

(Mr. Guttormson cont'd) . . point do we ask the Attorney-General to relieve magistrates? I never suggested for a moment, and I won't suggest it now, because this is too difficult a job for an Attorney-General to make and for that reason I made the suggestion to the magistrate to act on his own.

I was disappointed when I read in the paper a quotation by the present Attorney-General when he said that if I had my way, that only magistrates who were harsh -- or words to that effect -- that were severe, would sit on the bench. Now if he didn't say that that's what was quoted.

MR. McLEAN: Mr. Chairman, I made no such statement at any time. If it was quoted in the paper that was completely in error.

MR. GUTTORMSON: Well I'm not suggesting you said it: I'm just quoting the quotations. I don't know. I read it. It's in an article in the Winnipeg Tribune today. It said that the Minister said that, it gave the impression that if I had my way --

MR. McLEAN: You're keeping on repeating it and I'm saying that I never said it and it 's not true.

MR. GUTTORMSON: All right. The Minister says he didn't make that remark about me. Well that's fine. But if he didn't say it I wish he had arose in his place and made the correction in the paper then because if I may read it .....

MR. CHAIRMAN: The Minister has made his denial. I think that should be satisfactory.

MR. ROBLIN: Mr. Chairman, may I suggest to the Committee that we have probably ventilated this question of the magistrate in this matter sufficiently. Both sides have made their point and I wonder whether it is really wise for us to continue on this point. I leave it to the discretion of my honourable friend opposite, but it seems to me that we would be wise to leave this matter where it lays now and not to continue to make this matter even more painful and difficult than it is at the present.

MR. GUTTORMSON: Mr. Chairman, I'll conclude my remarks. I don't dispute with what the First Minister has said, but it is rather difficult when the bench comes out and makes an attack and he asks me to refrain from replying. I can understand him not wanting the subject to be discussed any more and I don't impute any motives for that. I think it has been aired and I quite agree with him.

MR. ROBLIN: I just want to leave it to my friend's good judgment. I don't wish to do anything more than that.

MR. GUTTORMSON: Well, Mr. Chairman, I'll conclude my remarks by saying this. I imputed no motives; I have nothing against this magistrate that I didn't name, of course it was known because he was mentioned in another speech. I want to make it abundantly clear I have nothing against him. I don't impute any motives for any of his decisions but I have raised it because in the interests of justice I feel that if it is something that the public is concerned with, that it should be raised here. For that reason I think the Minister ..... was a vicious attack; it was unfounded and unfair. He says that human beings aren't perfect. I couldn't agree more with him. I have been in the courts when magistrates have imposed leniency on some sentences when I thought they should have been lenient myself.

The only thing I have pointed out is that there was such a large number, and the point that the Chief Justice of this province had said, and I'll read one sentence of his enquiry before I sit down: "because I do not know how we can bring home to the magistrates that Section 638 must be observed and a suspended sentence must not be imposed contrary to this section." The Chief Justice was concerned and this is one of his judgments. So if he is concerned, then I say, haven't I a right and others the right -- and as far as leniency of sentences I haven't been appealing these sentences. The Attorney-General's Department has been concerned because they must have felt these sentences were lenient and they themselves instituted the appeal.

MR. PAULLEY: Mr. Chairman, I'd just like to say one word in connection with this. I've been rather patient throughout all of the deliberations. I join with the Honourable Member for Brokenhead when he says there has been a lot of malarkey and a lot of long-windedness in this whole debate. Suggestions have been made during the debate, if I recall correctly, the first suggestion of a public enquiry into the administration of justice in the province came from myself and not the Leader of the Liberal Opposition. He seems to have jumped on that bandwagon and repeated it quite frequently within the last few days.

However, I just want to rise to say this, Mr. Chairman, there have been accusations and counter-accusations against a particular magistrate of the courts in the Province of Manitoba; there have been suggestions that maybe he should retire or maybe he should quit, or maybe this or maybe that. May I use my place in the Legislature to appeal to him not to pay any attention to such suggestions, that in the process of democracy and justice in Canada we have set up two or three different levels of courts that where a magistrate, in the opinion of the Crown or indeed in the opinion of the accused, where it's considered by either one of them that justice has not been meted out properly, either one has the right of appeal against the sentence that has been imposed.

It's not a one-way street at all. Some might suggest, if one reads the debates that have taken place here -- and if a magistrate is erring in the opinion of some, in the cause of leniency or in his opinion more just, I respectfully suggest that if one reviews many sentences that have been passed out in the past of the opposite nature, it is a happy condition that we have a change of opinion in some quarters at least.

So I merely say, Mr. Chairman, I hope the magistrate who unfortunately has been under focus, under the spotlight in the Province of Manitoba and in this House over the past few days, pays no material attention to the debate; that he continues in his office using his good judgment and allow the process of justice to continue, where either the Crown or the accused can make an appeal of a decision which he makes. And while it may cost a little bit more to make appeals either by one party or the other, after all we do expend monies in other directions which may not be quite as worthwhile. I join with my colleague from Brokenhead that I think this matter has been aired enough and appeal to the magistrate under question not to give in, but to continue the job he is doing in the Courts of Manitoba.

MR. GUTTORMSON: Mr. Chairman, a matter I would like to raise at this time deals with a situation in my constituency and I'd like to make some suggestions to the Attorney-General to consider rectifying the situation. At the present time in my constituency, a police court sits only once a month and it is causing quite an inconvenience to accused persons, particularly those who are unable to post bail. I know of some cases where a man perhaps is arrested the day after the hearing and subsequently he is incarcerated because he can't raise bail, and very often he is remaining in custody until a month later. Then when he does appear a month later, he may make a decision that he wants to plead not guilty, or obtain counsel if he has not already done so, and then he might have to wait another month and sometimes this goes on for many months. So I'd like to suggest to the Minister that he consider making some changes so that we can have a court held in the area perhaps once a week. I think it's unfair that an accused person must wait so long to have his trial disposed of.

Another matter I'd like to ask the Minister, has he or the previous Minister received any request from the RCMP to provide clerks in the different courts in the rural areas to read the charges because they themselves no longer wish to do the job?

MR. McLEAN: In connection with the first question, Mr. Chairman, I wonder is the Honourable Member for St. George, is he speaking about a particular court at a particular location? The constituency must embrace a number of points in that area. I'm just wondering is it one court that the member is speaking of, or two or three courts?

MR. GUTTORMSON: No, I was specifically referring to one court, the one that is held in Lundar. Although I'm not as familiar with other courts, I'm advised that other courts in the Interlake have this same problem, but I was specifically referring to Lundar. I had thought perhaps the Minister might see fit to appoint a magistrate who could travel the area to these different courts perhaps once a week, because I understand there are four or five different locations in the area that have different court days -- that is in the Interlake area -- and one magistrate could serve that purpose by going from one area to another. As it is, the

(Mr. Guttormson, cont'd)...magistrate that we have at Lundar is a part-time magistrate, working out of Selkirk I believe.

MR. HILLHOUSE: Mr. Chairman, at one time there was two magistrates in the Interlake area. There was Mr. Rutherford, he worked out of Eriksdale and there was a magistrate working out of Stonewall at one time, and now we have him working out of Selkirk. Now that area is too large for a part-time man, but it could be handled by a full-time man. I know in the case of Selkirk itself, that court in Selkirk now is -- it's a pretty large docket -- because in order to cut down the travelling of the part-time magistrate, we are now trying in Selkirk cases that arise in Winnipeg Beach, Gimli, Libau, Scanterbury, all over the area. The Court sits there once a week; it sits on a Friday.

Now usually there are anywhere from 5 to 25 juvenile cases on a Friday morning, and as the Honourable the Attorney-General knows, that where a juvenile court is held the same time as an adult court -- if the juvenile court follows the adult court there must be a lapse of a half hour, so what happens down there is that they take the juvenile cases in the morning and sometimes it's half past one or two o'clock in the afternoon before the adults are reached, and a lot of those people have come great distances. I think perhaps the answer to the problem in the Interlake area would lie in the appointment of a full-time magistrate.

Now I'm not making any criticism against the present magistrate. As a matter of fact, I think he'd be an excellent appointment if the Crown so desired. I don't know whether he wants it or not but I think he would be an excellent appointee. But I think that in the interests of the administration of justice that it would perhaps solve the problem to which the Honourable Member for St. George refers, and I know that it would go a long way to solving the problem which exists at Selkirk and in respect of which a great number of members of the Bar Association feel quite dissatisfied, not with the magistrate but with the time that he has for a court which sits once a week.

MR. McLEAN: Mr. Chairman, I agree with the comments that have been made both by the Honourable Member for St. George and the Honourable Member for Selkirk. I'll certainly look into the situation at Lundar because that would seem not too satisfactory to have a court only once a month. I'm hoping that we will be able to work out a system whereby we will have a regular circuit of courts and not too far removed. For example, in the case of Lundar, if it happened that the circuit called for a court every two weeks at Lundar, it may be that on the opposite weeks the court would be held at some point not too far from Lundar, in which case a person who was anxious and who wished to have his case dealt with could go perhaps to another location, because oftentimes there is not enough for every week. However, I'll certainly look into it. As a matter of fact, Mr. Chairman, I have under consideration some arrangements that I'm hopeful will take care of the Selkirk situation and the Interlake situation. The discussions are underway at the present time.

With regard to the RCMP, I have had no request from the RCMP for a clerk. What we have had is notice from the RCMP that they do not wish to perform the sort of clerical duties in the magistrate's courts. The requests all come from the magistrates who are asking for additional help insofar as their courts are concerned. That's not too helpful an answer, except that we do not have a request from the RCMP, we just simply have their desire expressed to us that they don't wish to have the responsibility of clerical duties. I, at the moment, lean to the view that for the matter of reading informations and charges, really that is a function that should be performed by the magistrate, although I'm aware that certain of these duties have been performed by the RCMP, but we are on notice that they don't wish to do it any longer.

MR. HILLHOUSE: .....the Honourable Min ister that the Crown Attorneys are reading the charges in the courts that I have appeared in.

MR. GUTTORMSON: Mr. Chairman, just for purposes of interest, and this is not -- I must be careful how I phrase this or otherwise I'll be accused of casting disparaging remarks. The magistrate working that area is on the young side compared with regular magistrates and, as I say, I have never heard any criticism of this man at any time. I was just interested in knowing -- is it common to, or is there any age limit that the Attorney-General feels that a man is ready to be a magistrate, or just as long as he's over 21, is this considered adequate?

MR. McLEAN: There's no legal age limit. I would agree that a magistrate ought to be one who has had some experience. One has to deal with the situations as they exist. For example,

(Mr. McLean, cont'd)...I think that Magistrate Taylor at Flin Flon was appointed when he was quite young in terms of age and experience, but that was under circumstances where he was the only person available for appointment because the senior man in the other law office in Flin Flon was the Crown Attorney, so it was the case perhaps of appointing someone, younger than might normally be the case, for that reason. The same was true I believe in the case of an appointment of a magistrate at Thompson, who has since resigned, but he was appointed quite young.

At Selkirk we have the unfortunate situation that of course the ablest person available for that appointment is a member of the Legislative Assembly of Manitoba and is not available for appointment, but I would have to acknowledge that the person appointed is young. This is not to say that these men are not able to magistrate, but I would agree that all things considered, wherever possible, it would be advisable to have a magistrate not of any particular age but perhaps with some experience before the courts before his appointment.

MR. GUTTORMSON: Mr. Chairman, one last question. I might point out that there is another man who I consider fairly able in the Interlake in addition to my colleague that he might consider sometime if he's looking for a magistrate. He's situated at Ashern.

One question has been brought to my attention and I'd just like to ask the Minister his reaction. In the Grand Rapids area, I am told the administrator of that district is also the J. P. for the same area, and there are people in the area that feel that this may be handing too much power to one man. Has the Minister any feeling on this particular matter?

MR. McLEAN: .....in this way, Mr. Chairman, if I were the administrator I wouldn't want to be the J. P. My recollection is that perhaps under the circumstances at the time that the administrator may have been the only person that was considered suitable. It's perhaps not the most desirable situation. The only thing that one can say in defence is that the functions of the J. P. are relatively minor, and that is partially an explanation for it. It's not the most desirable situation.

MR. CHAIRMAN: (a) --

MR. LEONARD A. BARKMAN (Carillon): Mr. Chairman, before you go on, the matter of bad or phoney or NSF cheques was brought up the other day by the Member of Gladstone I believe it was, and I did not hear an answer from the Minister on that. Possibly the member was very fortunate, he did only lose $25.00, because I am sure there are a lot of members in this House who have lost a lot more than that, and this seems to becoming quite a serious thing. I realize possibly that this matter may come under the Criminal Code. Is it not possible that heavier fines be put on infractions of this type? It seems to becoming far too common that this is happening so often and in sums that seem to be done deliberately. I think that we have a good example possibly when we look at some of the laws across the line here. They seem to take the matter more serious or have it better under their control, and I certainly wish that we could get something -- possibly heavier fines -- and maybe the Minister has some other suggestions. I notice that he did not comment on it the other day but I certainly would appreciate it if he would.

MR. McLEAN: Mr. Chairman, this is a serious problem. I think we have to remember that there are two different situations which can develop. One is the case of a post-dated cheque which is regarded by the law as simply on the equivalent of a promissory note. It is a promise to pay on a certain date and there are many instances where people receive post-dated cheques under the impression that it is satisfactory. This really creates a civil obligation as between the two persons concerned.

With regard to other cheques, that is NSF cheques, generally I would think a great deal of the time of the police and the courts are taken up with dealing with these charges. Many times of course the persons concerned are not available. That is, often the offence is committed by some person who is moving about from place to place but the police -- I am sure if one were to examine their files and their records, would find that they spend a good deal of time checking on these charges, and there are many charges of this nature come before the courts.

The suggestion of a heavier sentence is worthwhile considering and certainly that is something that we could look at, and I say that without having made any analysis of the penalties that are imposed on charges of this kind. Unfortunately, in most instances the person who has issued an NSF cheque and is subsequently charged is quite often -- well, a person who has no funds. He's perhaps almost, if not a public charge, and the question may arise whether any

(Mr. McLean, cont'd)...useful purpose is served by imposing a heavy penalty which would result in him having to be kept in jail. I just mention that. As the Honourable the Member for Carillon will recognize, these folks are oftentimes the sort of folks that have difficulty in maintaining themselves or looking after themselves, and questions, I'm sure, must arise as to what extent it does any good to imprison them. I would say, however, that we'd be very happy to look at what is happening in regards to sentences on these charges and perhaps it's necessary to take action.

MR. CHAIRMAN: 5 (a) -- passed; (b) -- passed; (c) -- passed; (c) -- passed. Resolution 46 -- passed. Item 6, Miscellaneous -- passed. Item 7, Juvenile Family Courts -- passed. Resolution 48 -- passed. Item 9, Resolution 49, Detention Homes --

MR. JOHNSTON: Mr. Chairman, if I may say a word here. I'd like to ask the Minister if he is considering tightening security measures on minimum detention homes and I'd like to speak for a few moments on the Boys' Home at Portage la Prairie.

Now in my first remarks I would like to pay tribute to Mr. Bruce Jones and the dedicated men that he has under him and the work that they are doing with the boys that are placed under their care. I think we all know that there are different types of boys sent to a home of this nature for different reasons, and I believe one of the reasons that boys are sent there is that they have come from a place where they have no home or a place that might be called worse than home. In other words, they are there because they need care and they are not getting it in their present environment. We have other boys that are sent there who have made mistakes. They have been through the suspended sentence stage and they still need correction and they are sent on to a place of this nature. Then again we have boys who are put there who are -- well, you humanously say, "There is no such thing as an incorrigible" -- but there are certainly some people who come very close to this classification. So we have in a place like this a variety of boys and a variety of ages.

Now we know that the sociologists recommend in a minimum security situation that bars and heavy screening and fences and lights and so on are not desirable and that they affect the personality of the boy and they to some extent are damaging to the work of the people who are trying to straighten these boys out and put them on the right road.

However, at the risk of being misinterpreted in asking for more authority to be placed in the hands of the administrators and the instructors at these places, and also under certain circumstances asking for more segregation -- while presently the segregation I understand is only as to age, I believe there should be a form of segregation put in that takes into account the personalities of the boys; the nature of their wilfulness, shall we say; so that when in a cottage, we'll say at night when the surveillance is not there, that the stronger character person, or boy, immediately takes over this group -- and I'm talking now about the high number of escapes that have been evident at this home. It's quite an easy thing to say that everyone that goes out on a night escape is maybe a bad boy. I don't believe this one bit, but I do believe that where there are stronger-willed boys, stronger character -- and just because they have a stronger character doesn't necessarily mean they are using it for good -- but a stronger-willed boy or an older boy who has physical strength and can put fear into others, can take over, and this has happened. I know from what I have been told about this particular place that perhaps six boys will go out on a night escape and two or three of them, the only reason they are going is that they were swayed or placed in a position that they didn't like to say no. I believe that the ring-leaders should be segregated away from the other boys. Segregation should not only be a matter of age.

What I'm suggesting in this particular instance is one cottage or one dormitory where the tougher cases are taken and tougher security measures are instituted. I believe that every member in this House here that has a family, no matter how good their boys and girls are, there is a time in that home where there is discipline needed and I believe this goes on into a case like this, that the instructors or the house fathers and mothers in these homes should have a little more authority over their boys that they can discipline. I'm not urging the lash or any harsh measures like that, but I believe there is a place for corporal punishment where a boy has been out on two escapes -- one or two escapes.

Now I'd like to quote some figures that I have here of what can happen when the security is too easy. These figures, incidentally, I have taken from newspaper accounts and from my work

(Mr. Johnston, cont'd)...that I have engaged in on City Council in Portage la Prairie. The Boys' Home in 1962, there were over 70 escapes, this out of a body of I believe under 130. In 1963, there were 97 escapes, again out of a total group of around 130. In the month of December, 1963, and the month of January, 1964, that is two months, there were 28 escapes. Now aside from the poor effect it has on the other boys in the Home, what about the effect it has on the community and the municipal people who have to help out at a time like this?

I'll take one particular instance, last January, where there were six escapees during the night, and from the time it was discovered at 8:00 o'clock in the morning until 9:00 o'clock at night, which is a total of 13 hours, there was something like six police cars -- pardon me -- there was something like, yes, six police cars and about seven men involved, RCMP -- police cars and RCMP constables and one dog. Now in the course of the 13 hours three of the boys were picked up. So this means to the taxpayers at large -- it would probably cost Manitoba taxpayers some hundreds of dollars for thatone day alone, and that isn't the end of it. There is the court time that is involved and there is the matter of the law-breaking of the boys themselves while they were out. For example, in the past two months in the Portage area, attributed to this Boys' Home there have been approximately 10 housebreaks, six stolen cars, two thefts of money, two items of stolen clothing, and last but by no means least, because this could lead to further trouble, there was a rifle and a shotgun taken.

Now my contention is this, that for want of security, more serious happenings in the lives of these boys could happen. I'm sure that had there been better security and had the supervisors and the superintendent been given more authority over their boys, that this would not have taken place, at least part of these actions that I've detailed would not have taken place. What I'm suggesting to the Attorney-General in this case is that a tightening up of security will be beneficial to the boys in the long run.

MR. MORRIS A. GRAY (Inkster): .....it hurts to hear from a father of children, a respectable citizen of his community, to use his term "corporal punishment" and other punishments. I would like to ask the honourable gentleman how many children have been prevented from escaping by the kind attitude of those in charge of the detention homes. You said so many out of 109. It isn't 109; 109 were there at that time. What they are carrying through the years, many many hundreds -- many many hundreds -- and so far it has proven for generations that punishment does not help. If I could save the life and the future of one child, I wouldn't worry about the taxpayers' money or placating them.

So far no child has escaped from the detention homes and remained out. Sooner or later they get him. It is not for us to deal directly with those children who have committed an offence, because 99 percent I am sure do not escape because they are treated as human beings; they are treated as children who have committed foolish crimes. They are children of parents, young ones who still have their life ahead of them, and let's not preach those barbaric attitudes that were in existence years ago. Teach them, train them, engage the best superintendent possible, pay them to become a father or a mother of those children. I have noticed them when they were at the girls' home when they were at the old place at Enniskillen and Main Street. They were kep in fire hazard places. Now they have a home and I would urge the honourable gentlemen to go down there occasionally and visit them and see how happy they are and how willing they are to make amends for the mistakes they have made.

MR. JOHNSTON: Mr. Chairman, if I may reply to the Honourable Member from Inkster. I am not advocating or did I ever suggest a return to barbaric methods, but I am suggesting to you that when you put 25 boys in a cottage and you close the door at night and all they have to do, if they take the impulse -- and we know how impulsive teenagers are -- all they have to do is raise the window and climb out. This is certainly placing temptation in their way. And also I would say to the Honourable Member from Inkster that I have some experience in what I'm talking about. In Portage there has been church programs to work with the boys and I have taken an active part in this. I have taken a boy from the school into my home for nearly a year and I think I know a little bit about their problems in this particular instance. At no time do I think you could read into my remarks a return to barbaric punishment.

MR. GUTTORMSON: Does the Minister want to reply? The subject of juveniles was raised. I'd like the Minister to clarify a point. I'm told that some time ago a juvenile appeared in Juvenile Court and was sentenced by the court to a term of imprisonment in the Boys' Home, and

(Mr. Guttormson, cont'd)...my information is that the boy, because of the overcrowded conditions at the Detention Home or wherever he was scheduled to go -- it wasn't an adult detention home or adult jail -- he was sent home by the court and said we will pick you up when there is space in the detention home for you. Would the Minister indicate whether he knows of this case? It seems silly if this should be the case.

MR. McLEAN: I don't know of the case to which the Honourable Member for St. George refers at this moment. I'll be glad to see what information I can get and inform the committee.

Just a word with regard to the point made by the Honourable the Member for Portage la Prairie. I understand that there is some problems about security at the Home for Boys at Portage la Prairie. There are no specific provisions with regard to additional security measures although we are providing for additional staff at the Home, which is related to the problem of security. My further understanding, and I confess to be not fully conversant with the situation there, is that part of the problem is that perhaps there is too wide an age group in the Home and the problem to which the honourable the member refers, namely that of older boys perhaps influencing younger boys and creating difficulties of discipline, is a real one and members will recall that this problem is referred to in the report of the Welfare Council people when they speak about the Home at Portage.

This comes really to the question of segregation, and a starting point with regard to segregation is that of maybe paying some attention to the age groups concerned there and then of course perhaps the possibility of segregation as to those who are perhaps frequent offenders from those who are not frequent. This of course becomes much more difficult even within the situation that's there. I'm glad to have his observations and to say that I'm aware of the problems and I hope to have a good opportunity of discussing them and perhaps some action can taken to deal with it.

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