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THE LEGISLATIVE ASSEMBLY OF MANITOBA  
8:00 o'clock, Friday, March 6, 1964

MR. EVANS: Madam Speaker, would you be good enough to call Bill 37, 38 and 63.

MADAM SPEAKER: The adjourned debate on the second reading of the proposed motion of the Honourable the Minister of Public Utilities, the Honourable the Member for Gladstone.

MR. GUTTORMSON: Madam Speaker, may we have the indulgence of the House to have this matter stand?

MADAM SPEAKER: Agreed? The adjourned debate on the second reading of the Honourable the Minister of Public Utilities, the Honourable the Member for Rhineland. Do you wish to let it stand?

HON. S. E. McLEAN, Q.C. (Attorney-General)(Dauphin) presented Bill No. 63, an Act to Amend the Municipal Boundaries Act 2, for second reading.

Madam Speaker presented the motion.

MR. McLEAN: Madam Speaker, members will remember that when we were in the committee stage I pointed out that this Bill was passed a year ago to provide for the boundaries of the new judicial districts as were then discussed by the members. It was found that there were some corrections required in order to make the boundaries coincide with municipal boundaries. These don't materially affect the judicial districts, it may just add a little bit here or take a little bit away in some other place, but we thought it was advisable to have the boundaries of the judicial districts -- the proposed judicial districts -- coincide with the boundaries of municipalities; and we therefore thought it advisable to simply repeal the former Act and bring forward a new Act which is the one that's before the House at this time.

MR. GUTTORMSON: I'd like to direct a question to the -- can I direct this question without losing my opportunity to speak on the bill. As this Bill is drafted, Grand Rapids is in the northern judicial district. Is this correct? Madam Speaker, I'd like to suggest to the Minister that he might give consideration to changing section 9 of the Bill. As I understand it, and the Minister has just confirmed it for me, the area of Grand Rapids is now located in the northern judicial district. This is most awkward for the people living in that area because there is no means of communication between The Pas and Grand Rapids except by air transportation, and this causes considerable inconvenience to those people who wish to go to the courts which are normally held, as I understand it, at The Pas. I have felt that, as I have run into cases once in a while at The Pas, that Grand Rapids should be located in the same judicial district as Winnipeg is because we have a road into the Grand Rapids, all our communication is in that way; and I have run into a considerable number of complaints about this situation because of the transportation facilities and what-not. For anyone who wishes to go from Grand Rapids to The Pas, as the Minister knows, unless they use air transportation, they've got to come right into Winnipeg and go north again, and until such time as we have a road between The Pas and Grand Rapids -- and I don't know when that's going to be -- I would like to suggest that the Minister give every consideration to leaving Grand Rapids in the same judicial district as Winnipeg.

MR. McLEAN: If no one else wishes to speak, Madam Speaker, I certainly would be very happy to look at that. I think the point made by the Honourable the Member for St. George is quite well taken.

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

MR. EVANS: Madam Speaker, would you be good enough to call the debate on the Committee of Ways and Means.

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 of the Honourable the Member for Brokenhead. The Honourable the Member for Rhineland.

MR. EVANS: In the absence of the honourable member, then, Madam Speaker, shall we let the item stand.

MADAM SPEAKER: Agreed.

MR. MOLGAT: Madam Speaker, . . . intention to proceed with Bill No. 50, the amendment to the Lord's Day Act '58. Right?

MR. EVANS: Not at the present time, Madam Speaker.

(Mr. Evans, Cont'd.)

Madam Speaker, I beg to move, seconded by the Honourable the Minister of Mines and Natural Resources, 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 with the Honourable Member for St. Matthews in the Chair.

MR. CHAIRMAN: Department 6. Item 17 passed.

MR. CHERNIACK: Mr. Chairman, I listened with interest last night and again this afternoon in relation to some of the aspects of the financing of the floodway set up in this item 17. I'm not sure that I fully understood it, but I want to repeat what I understood so that I can be corrected if I am wrong. I understood from the Honourable Minister yesterday that some \$9 million was spent last year, of which less than \$3 million was the provincial portion, and some \$6 million was the federal portion. This I thought was clear cut. I also understood that when \$15,360,000 was estimated for last year that that was estimated on the basis of what it was expected could be done on the assumption that the conditions would be favourable, and in view of there being adverse weather conditions that it couldn't be done. But what we heard this afternoon from the Provincial Treasurer did serve to confuse me, Mr. Chairman, because I understood the Provincial Treasurer to say that although the province is doing the work as it can do it, basing it in some manner of progression which is not necessarily equal in each year, the federal government is making its contribution based on an equal annual contribution; therefore, I am stuck by that description when we are told or were told yesterday that the federal government had put up some \$6 million last year.

As I understand it, the formula is such that the provincial government pays something over half of the total -- the Federal does, is it -- 58% I believe, and provincial 42%, which isn't really under \$3 million from the province and \$6 million from the federal government, so I assume that the figures given yesterday are not necessarily the amount of work done but rather the monies paid. I'd like to get that clarified and it's obviously not clear to me.

And while I'm asking the question Mr. Chairman, I'm confused by the impression I have that when some \$15 million worth of work was planned for last year on the basis of what could be expected if weather was favourable, just how can we expect some \$21 million worth of work to be done in this coming year, assuming conditions to be favourable. In other words -- and I'll come right to the nub of what I think is the problem in my mind -- and that is, is it possible that the \$21 million for this year is but "wishful thinking," and if it is wishful thinking, and if it is really an exaggerated or a completely optimistic view of it, are we not in effect padding the amount which we say we expect to spend -- and when I say we, I of course mean the government expects to spend.

And while I'm on this, and not to be popping up and down too often I hope, may I just ask two relatively minor questions. Firstly, did I understand the provincial treasurer correctly today, when I think he implied, or inferred, that the provincial government would be paying the interest on the monies advanced over and above the portion received from the federal government from what it should pay, because he did say that it will all even out in the long run through the contract, and if not paid this year, will be paid in following years. And then he made a remark which I didn't catch too clearly, but it seemed to me he made some remark that unlike the school board, the province is prepared to pay the interest for the financing and advance of grants. And if that is what I heard him say, I think he was referring to a resolution that is now before the House presented by the Honourable Member from Portage about grants being paid so that school boards don't suffer the cost of interest. So that I just want it cleared if the Honourable Minister knows whether or not it is expected that the provincial government will pay interest on the monies which the federal government will have been late in paying in relation to the expenditure. And my third question, which is really not closely related to the other two, is that I want to confirm what we were told last year, and that is that the recreation portion of the floodway plans is the responsibility of the Department of Mines and Resources. And if that is confirmed then I will postpone all questions I have about recreation until we deal with Mines and Resources.

MR. HUTTON: Mr. Chairman, I guess one can understand the confusion on this question

(Mr. Hutton, Cont'd.) . . . of financing. I'll deal first with the fact that it appears from the monies paid out that we didn't make very good use of the \$15 million. This is accounted for by the fact that some of the contracts that we were intending to call were not called for various reasons, on some of them we got late approval. Every contract that we call must be approved by Ottawa, the tendering form specifications and so on, and then once the tenders have been received and opened then we have to submit the successful tender to Ottawa for approval. It takes time and in some cases the tender wasn't called or it became too late to call them.

There's another big factor in this though, and that is that some of these contracts run for two years, and even though we have called contracts, or have let contracts, in some cases we haven't made payments, because of the fact that the work hasn't been completed. The total value of work under contract today, and not completed, is over \$7 million. There's almost \$1 million in holdbacks that have not been paid to date. So this puts a different complexion on the figures that I gave last night, as work that has been completed and paid for in that current year. It's a little hard for me to stand here and give you the bookkeeping items on contracts that are called in one year and completed in another year. We are coming into a period on the floodway when the first contracts are going to be in the process of completion, the second group of contracts are underway, and we'll be calling contracts on say the latter portion of the work; so that you get this disparity between the monies paid out and the actual value of the contracts that are underway and being worked on at a given time. Our goal this year is to catch up on the contracts that were not let this year and to get this new program underway in 1964.

Now the next question that -- but just on this question of weather. I didn't mean to imply when I spoke about the variation that can occur in the work done that we ran into weather problems last year, because it was indeed a most favourable construction season. What I was trying to convey was the fact that there can be wide variations in the estimates of the work that we plan on completing and that which may be accomplished due to the interference of weather. We have calculated that you might only accomplish 65 percent of your goal if the weather were to be adverse. It's something that we have to take into account when we are planning our program for the coming year, and financing it, because if we were to put the emphasis on the fact that weather could interfere and that we might only complete 65 percent of our workload, and we were to call tenders on that basis, then we might get a tremendous workload out; and if the weather turned, well there would be a tremendous amount of work done. On the other hand, if we were to calculate on the basis of the best year that you could have and the weather turned against you, then our work schedule and our schedule for completion of the project would get out of kilter. If you get a figure given on the payments that are made, don't expect it necessarily to reflect 58 percent federal contribution, 42 percent Manitoba, because it depends upon the nature of the work. In the case of excavation, the federal share is 75 percent; in the case of structures, it's 37-1/2; so it depends on the combinations that you get and the value of contracts that fall into each category.

Now, on the question of the province paying carrying charges. As I stated last night, we had to reach a decision as to how we were going to schedule the floodway. In order to reach a completion date in the spring of '68, these contracts had to be let, not just in terms of volume but certain works have to be scheduled in sequence, that is, in order to carry out one project, you have to have another one done first. So it became apparent that if we were to try and fit our work program, physical work program, into equal annual instalments such as the federal government wants to make, it would be impossible for us to complete the project on time. So the province came to the decision that we should proceed according to the schedule that the advisory board recommended in order to reach this completion date on time and be prepared to carry any carrying charges that might accrue to Manitoba.

But even though the federal government has said they will pay 7 million, 400 and some thousand dollars in five annual instalments, this doesn't necessarily mean that we are going to face any large carrying charges. It will all depend upon the completion date of outstanding contracts. That is to say, for instance, in respect to this year's work -- the work that is being tendered -- it will depend upon when our commitments fall due and when the federal government money is available. It might be a year; it might be only a matter of a couple of months to meet outstanding commitments. I think that covers the questions that the honourable member asked.

MR. MOLGAT: Mr. Chairman, I'm very interested in the comments of the Minister of

(Mr. Molgat cont'd) . . . . Agriculture in this regard, but I think there should be some real concern here about what is going in the floodway construction. Now the Minister has told us a number of times already during the discussions here in estimates of the importance of the schedule, and having things done on schedule, and we certainly have a number of statements made in that regard before. The Minister, for example, was quoted back in February of '63 -- this is a Tribune article, and he said then: "Mr. Hutton maintains there's been no undue delay so far and his department intends to proceed according to the schedule." This is back in February a year ago. He said, "If this schedule isn't followed closely," -- this is a direct quote -- "We can get into all sorts of trouble," says Agriculture Minister George Hutton, whose department is in charge of the project. Later on in much more recent times we had the Premier of the Province saying that, "Manitoba Premier Duff Roblin indicated Friday," -- and this is dated October 12th, 1963, "That this government will proceed full speed ahead with work on the \$63 million Red River Floodway." Mr. Roblin said, "The government has no plans to alter or delay the floodway construction schedule which calls for the big ditch to open during the 1967-68 season." He was commenting on complaints by some contractors that further floodway work should be delayed until next spring when the contractors aren't tied up. He says, "it wouldn't be unnatural if I didn't want to keep the floodway work within the province, provided contractors' prices and other conditions are equal; but at the same time we have a construction time table that mustn't lag behind."

Mr. Chairman, these are merely indications that not just here in the session this year but for some months the government has been saying all the way along that we must do this according to schedule. The Minister repeated it here. But, Mr. Chairman, he's not doing this according to schedule, because the facts are, according to his own estimate, that last year his schedule called for the province, according to the estimates that were passed in this House, to spend \$7 million, and the Minister told us last night that all he spent was two million, seven. In other words, not even 40 percent of the proposed construction. So the only conclusion we can draw, Mr. Chairman, is that with last year's season being one of the best construction seasons we have seen in the Province of Manitoba -- an ideal summer in the area concerned for construction -- the government and the Minister were unable to even complete 40 percent of their work. They weren't even able to do that, and yet they tell us here in the committee that the most important thing in this matter is to work according to schedule. Now how can we expect on this basis that the government will accomplish the work that is laid out; that it will proceed to do the works that its asking our authority now to vote the money for, and not cause a great deal of trouble; because, Mr. Chairman, there are already problems developing in the Province of Manitoba as a result of the work that has been done.

I quote again from a newspaper article, this is the Tribune, 16 of October: "Shortage of plant hikes cost." "Total cost of Manitoba's multi-million dollar water control project is expected to rise because there isn't enough earth-moving equipment in the province to do all the work." Mr. Chairman, we have just been through our best year, the government hasn't even done -- according to the Minister's figures, unless the figures are not correct -- but according to the figures he gave us yesterday, they didn't even do last year, in the best possible year we've had, 40 percent of their work. They claim they have to work according to schedule. What exactly is going on in this floodway? Can we expect it to be completed according to the date that they set out or have they no intention whatever of doing so?

MR. HUTTON: Mr. Chairman, at the risk of talking too much, I told the Honourable the Leader of the Opposition that there was over \$7 million under contract that hasn't been paid. He wants us to let \$15 million worth of work in one year? And spend all the money, when the contracts, some of them, run for two years -- the completion date as called for is two years. -- (Interjection) -- No, but there is outstanding, there's a million dollars on holdbacks alone. We voted \$1.5 million for property acquisition which hasn't been settled. There's two items right there, \$2-1/2 million.

If the Honourable the Leader of the Opposition would have listened to what I had said he wouldn't expect us to show a balanced book here right in the middle of a construction of over a \$60 million project. Now we originally estimated for the \$15 million. Even today some of these bills are falling due and if you were to come into the department in any week you would find that the payments are increasing, but when the estimates were made up this is what they

(Mr. Hutton, cont'd)... stood at, this is what we had to put down because we only could estimate a figure at that time -- but monies have been paid out since that time. The revised actual expenditure now stands at about \$10 million. And then as I say there's these other factors. Some of these contracts for excavation south of the outlet structure couldn't be tendered and put under way until the outlet structure was completed. That's all it is. We'll spend the money; we'll get the work done; but give us a little bit of time. We did have a good year and there is a lot of work done, but these contracts aren't completed and therefore you're going to get a disparity between what was authorized by the House last year and what we paid out.

MR. MOLGAT: Mr. Chairman, I want to assure my honourable friend that I have no hesitations whatever that his government is going to spend the money. That is one thing that they have proven themselves most adept at. -- (Interjection) -- I'm in fact highly worried about the amount of money that they spend without production; but what I'm concerned about in this particular item is his constant statement and the referrals all the time that this must be done according to schedule and I don't see indications that we are following the schedule.

MR. CHERNIACK: Mr. Chairman, I have no desire to call the Honourable Minister to task on this question of scheduling at all. I have a different approach to this that I am trying to understand and that is the budgeting aspect of it. I know that in all budgets there has to be somewhere a balancing figure, somewhere or other the income has to balance the expenditure, and I am wondering whether in view of the fact that this was the item used -- no I want to correct that sentence. This happens to be the item where the big difference occurred between income and expenditure on the expenditure side. I would like to discover whether there is some formula which was used to achieve this \$21 million figure for this coming year. Is this something that was planned a number of years ago and happens to come up this year? I understand that it is no longer the amount which is expected to be worked during the year but rather expected to be paid out during the year; therefore it apparently includes payouts for work which has already been done or is being done during the "current" fiscal year. I am still looking for some indication of how this figure of \$21,166,000 was arrived at and I'm afraid I haven't yet heard the explanation. May I just repeat the one question which could be answered by a yes or a no, it was the last one I asked before and that is: Is the Department of Mines and Resources charged with the problem of recreation on the floodway?

MR. HUTTON: Yes. The work that wasn't undertaken last year is included in the \$21 million, the work that wasn't undertaken last year is also covered in here in the \$21 million. We have money here now to pay for the work that wasn't done last year and the work that we want to get underway to get our program back on schedule by the fall of '64.

MR. CHERNIACK: Mr. Chairman, that means then that it's the work which wasn't done last year which it is hoped will be done this year, plus the work that was normally expected to be done this year, that makes up the \$21 million, plus -- and possibly I'm helping the Honourable Minister now -- plus I presume the \$1 million of holdback which was done but not paid; and plus possibly the \$1 million which was expropriated and not paid for, these too might be in there; and if we take off these \$2 million of monies that are already committed but not spent, we still have some \$19 million of monies which consist of work not yet done. My question to the Honourable Minister is, is it expected that the work will be done and paid for in this coming fiscal year.

MR. HUTTON: No. There is a lot of work that's going to be undertaken this year but will never be completed -- some of these contracts run into millions of yards of excavation.

MR. CHERNIACK: Mr. Chairman then I don't understand why we are setting up the figure of \$21 million, which I understand represents monies to be paid out. If the work is undertaken but will not be completed and billed for, then why is that amount included here?

MR. MOLGAT: Mr. Chairman I think if the Minister were honest with the House he would simply say that what the government is doing is it's padding the estimates. That is exactly what they have been doing. They did this on the previous figure, Item No. 16. That was indicated yesterday in debate here, that the government knows full well that when it sets up a figure of \$1.3 million it is going to get from the federal government possibly 50 percent of it. The Minister admitted this here yesterday in committee and yet he puts in a figure of \$1.3, which means that at the end of the year the Provincial Treasurer is going to get up and

(Mr. Molgat, cont'd)...tell us that they have had a surplus this year because they didn't spend all the money that they had. Well it's quite obvious because they start off by putting figures in the estimates that they have no intention of spending; that they know full well are not accurate; they represent figures on which they are going to get a rebate from Ottawa. And the same thing occurs here on this item for the Red River Floodway. The Minister asked us last year for \$7 million; he spent \$2.7 million. He is asking us this year for \$9.2 million. On that basis we can expect him to spend presumably some \$3 or \$4 million. So at the end of the year the government will tell the people of Manitoba, look what good fellows we are; we didn't really spend all this money; we are not the big spenders and so on; we have an under-expenditure; and this is going to be what they will tell us.

MR. HUTTON: Mr. Chairman, it is obvious that it doesn't matter what I say, the Honourable the Leader of the Opposition is going to be happy with it because he is going to hit me one way or another, so I don't think there is much use in my trying to convince him.

MR. MOLGAT: The Honourable Minister can refuse to answer if he wishes, Mr. Chairman, but those are certainly the figures that he gave this committee. He admitted that yesterday and he is admitting it again today by refusing to answer.

I'd now like the Minister to tell us in answer to a question I asked him yesterday, and that is: what are the most recent estimates of the cost of the Floodway? Yesterday I asked him about the Winnipeg floodway, the Shellmouth and the Portage. He told me then that the Shellmouth was still estimated at \$7-1/2 million, which I think was the original estimate; the Portage was estimated at \$11.5 million, which was the original estimate, plus some new figures for the change in route -- and he said he didn't know how much that was. He didn't give us the figures then, Mr. Chairman for the estimates on the Winnipeg Floodway; but he did say that he expected it would be no more than the original estimate. Well I would like him to verify that to the House and to give us the original estimate, whether he still thinks that it is exactly within those limits, because indications are Mr. Chairman, that costs are going up.

I just read a little while ago, and I can read again, a newsclipping from the Tribune, 16th of October, which was that the total cost of Manitoba's multi-million dollar water control project is expected to rise because there isn't enough earth-moving equipment in the province to do all the work. Now, some very few days ago there was an estimate in the newspapers, again, that another major project in Winnipeg -- not concerned with my honourable friend's but still paid for by people of Winnipeg -- that the City Hall was going to cost a good deal more than had been originally expected. In October, as well, we had from Metro this time a large headline October 18th, from the Free Press: "Construction costs for sewage project rise \$1.6 million" -- says that "costs have increased \$1.6 million since estimates of \$12.9 million were made a year and a half ago on Metro's major sewage improvement program for the northern half of Greater Winnipeg." So we are finding costs increasing in Metro construction; we are finding costs increasing in the City of Winnipeg City Hall, on fairly recent estimates; we are finding stories that the cost of Manitoba's water control project are going to increase. The Minister says that the Floodway is not going to increase. Well, I am glad to hear that but I would like him to confirm to the House the original estimate figure and whether he still estimates that that is going to be accurate.

MR. HUTTON: \$63 million roughly -- a little better than \$63 million as I recall, was the original estimate. The only thing that I can say to the Honourable Leader of the Opposition is the thing that I told him yesterday. And that is, to date all the contracts that we have called have been at estimate or below. Let me quote: "To date no contract on main channel excavation has exceeded these estimates which were originally made in 1952 and again reviewed in 1958. All tenders through 1963, 5 years after the most recent updating, have indicated that they still hold firm." Now I'm not going to make the statement that this will continue, but to date the original estimates are holding firm.

MR. MOLGAT: Mr. Chairman, if I may just complete this, then we can expect that the total cost, excavation, structures and all the rest will be within the \$63 million originally estimated.

MR. HUTTON: .....on the basis of tendering to date.



MR. SCHREYER: Mr. Chairman, it's good news to hear from the Minister that the complete cost of the floodway construction is not going to exceed the initial estimate. This is good news because otherwise we wouldn't really know where we were going. It's also good news because, according to my understanding of the matter, the excavating contractors were bidding and bidding successfully for work on the floodway at what I understood to be rates much in excess of that prevailing up to that time. Now it seems that we are in the unique position of having the government happy because their original estimates are running true, and also having the contractors happy because they are earning more than they had ever dreamed of -- (Interjection) -- It is, so everybody is happy -- that's fine -- but I want to see whether or not this is really going to work out just as Utopian as the Minister would like it to -- (Interjection) -- Yes, I know we do.

I also want to ask the Minister, and this will be a relatively simple question for him to answer in the light of the rather complicated ones that have been thrown at him lately, is he telling us with all full candour that out of the \$21 million that we are appropriating here that the odds are excellent that we are going to spend all of it this coming year? I don't think that we will have a construction year that will be any better than the one that we have just left last year, and yet we under-spent it last year quite considerably. I would also like to ask the Minister, of this \$21 million -- if it's possible for him to tell us -- of this \$21 million, how much of that is for structural work -- nothing to do with excavation, but structural. I'm just interested in that.

And finally, Mr. Chairman, I want to harp back once more, one last time to this matter of submersible bridges. I know that the Member for Lakeside has given up hope about convincing the Minister of the desirability of the Holland dam. I feel even more frustrated, even less chance I'm sure for me convincing the Minister about the desirability of living up to a commitment that was made either directly or by implication.

I want to read a clipping taken from the Free Press of June 21, 1961, which is the first of several such reports that appeared in the newspaper that summer and fall, and it goes on as follows: "The bridges would be used to carry nearly all street crossings over the floodway 99 percent of the time. The other one percent of the time would occur in years when the floodway was in use, then the bridges would be under water. There would be about three high level bridges large enough to carry the traffic in the seasons when the floodway was in operation. Under this scheme, the government would beautify the banks of the floodway and a small creek would run down the middle of it" -- I take it that still stands, there will be a creek down the middle -- "except in years when the Red River was high enough to make use of the floodway necessary. Each of the crossings in other seasons would necessitate only a small bridge over the creek and this could be built at a cost drastically lower than the high level structures proposed by the floodway engineers. The idea to use the submersible bridges did not come from the engineering experts. It came from laymen, that is Cabinet Ministers who asked why the Winnipeg Floodway could not make use of a device that is common in other areas which have one rainy season in the year and require floodways to carry off the water. These, too, use submersible bridges. The answer of the experts was to refer the proposal to those consulting engineers who are now making soil tests on the floodway route. If these engineers say the soil at the bottom of the floodway would hold an underwater bridge, then the scheme would probably be adopted."

And that's the first of three or four such reports, Mr. Chairman. And right after that, starting the winter of 1961-62, the negotiations for the purchase of land began and, as I said before, many were of the impression that these submersible bridges or fords or dry crossings, whatever you want to call them would be there, would be available for use, and so land on the far side would still be accessible without too much inconvenience and they negotiated on this basis. Now, as I say, I more or less reconciled myself to the fact that this will not be done, but I do want the Minister to tell me what the main consideration was which prompted him to make the decision that these would not be gone ahead with. Obviously he had a reason and perhaps it was a good reason. I would like to hear what it was.

I should point out to the Minister that there is no area along the floodway that really requires nor demands such a dry land crossing except in one place, and that is in the Narol district. It's not required in the Gonor district north, it's not required in the East St. Paul

(Mr. Schreyer, cont'd)...district or Birds Hill. For my knowledge it wouldn't be required anywhere further south, but there is one place where it is required and urgently wanted by these farmers, and so the least that we ask of the Minister is to explain to us just why it's simply not possible to provide a cut up the bank so as to lower the ratio of climb so that the slope can be negotiated by implements, tractors, to provide a cut up at a diagonal and down at a diagonal, and a small bridge over the inner creek and then a cut up at a diagonal and one down on the other side and just one such. Now is that going to cost so much? I don't believe it, so why can't this be done?

MR. HUTTON: The engineers studied the possibility of this and it couldn't be done for the simple reason that they felt that, due to the soil conditions that we have in the valley here and on the basis of their experience with ford crossings, they would be exposing the project or the channel itself to the effects of erosion that are oftentimes associated with obstacles which this would be. This is a designed floodway and the idea is to move that water at a uniform velocity. By keeping the velocity of the moving water constant, they can minimize erosion of the channel. Even with the most careful construction you are going to upset the velocity of a stream of water that size and you create currents and eddies and so forth, and you might end up with a crossing after there has been water going down there with a foot of mud on it after it's been used in the spring, or it might create real problems of stability in the bank of the channel. That is why they came to the decision that it was not practical nor wise to try and build one of these ford crossings.

I have seen them in my own area and the one that we had experience with out there wasn't very satisfactory. I know that several of them were replaced here not very long ago on one of the drainage ditches east of Transcona, and one can only accept the experience and the judgment of the engineers in this matter. But I say, Mr. Chairman, again, that regardless of the speculation about this, that nobody -- just nobody settled for their land in respect to the floodway on the basis that they were going to be provided a handy crossing.

As a matter of fact, on most of that land of which the honourable member is speaking, we made a standing offer to purchase that part of the property that had been severed. We made a standing offer. We paid severance in respect of all that property. Now when you pay severance and you pay damages for severing the property, you don't turn around and build costly ford crossings as well. It would have been cheaper for us to buy all the land on the other side.

I attended a meeting in that general area where the people were concerned about this land on the other side and they wanted to hold onto it, and when they found out that this land was going to be served by a new highway 59 which was to be relocated and which will be relocated -- is being relocated, a new four-lane highway -- many of them wanted to hang onto that property. I just will not accept the charge or the alleged bad faith of the governments, or those authorized to represent them, that they misrepresented this thing and that they achieved settlement under false pretense of any kind. These people were completely aware of the situation.

MR. SCHREYER: All right, Mr. Chairman, that's fine. This appeared in the paper in June, 1961. Undoubtedly his competent engineering staff looked at it and didn't waste too much time in setting about to study the feasibility. Now from his own recollection, can the Minister tell us when they, or he, or both in concert came to the conclusion that such crossings weren't feasible? Could he tell us when such a conclusion was reached?

MR. HUTTON: No, I can't remember.

MR. SCHREYER: Well, Mr. Chairman, this is the unfortunate part because it wouldn't have been so bad if right after June, 1961 they had set about to study this and then come to the conclusion that it wasn't feasible, they should have then said so and done so with despatch. But the fact of the matter is that nothing about this was said until August 2, 1963, after most of the negotiations had been settled except for the ones that are still outstanding, and they are very few in number along the whole course of the floodway.

All right, Mr. Chairman, but members should know that this is rather a strange situation. Some of these people if they wanted at all to get to their land on the other side will have to go eight miles. That is the situation that will obtain now. I suppose they can get fined under The Noxious Weeds Act. There's no one living over on the other side that has a

(Mr. Schreyer, cont'd)...farming operation and machinery there. It's a rather unique situation. There are no farms there with buildings and machinery, so you're going to have this rather desolate country; you're going to have weeds growing; you're going to have a fire threat, because there is some considerable bush; no people living in close proximity; and all this for want of one crossing.

Now I take it that the reason for not providing it is not primarily financial but rather they're afraid to spoil the greenery of the banks, and also they're afraid that it might pose some sort of erosion problem. They're not asking for anything elaborate. I leave this whole thing by saying to the Minister that I hope he will look at it once more in the hope that something very crude but serviceable might be provided.

MR. WRIGHT: Mr. Chairman, we've heard much about the financial aspect. Is the Minister satisfied that the physical part of the building of the floodway is proceeding on schedule?

MR. HUTTON: Yes, I would say that we are -- satisfied isn't a very good word to use at this stage of the game. In spite of temporary satisfaction there's a great deal of anxiety that we can continue to get reasonably good weather -- reasonably good weather, and there's an anxiety to keep it rolling. We are, as I outlined, a little bit behind but our plans are that by this fall, the end of this construction season, we will be 50 percent complete.

MR. WRIGHT: Mr. Chairman, the reason I asked that question is because last year we had a fantastic season for building, and if we should get an adverse stretch of weather this summer, then I can see some cause for anxiety. So we have to take precautions along this line and it has been mentioned that there is a shortage of equipment in the area. Is the government doing anything about this shortage of equipment or are you encouraging -- bringing it from elsewhere?

MR. GUTTORMSON: Mr. Chairman, I believe the Minister has said previously that all the land that the government intends to purchase for this floodway has been completed. Is this correct? Are more purchases to be made? What is the amount of money expended up till now on land, or have you given that figure? Could the Minister indicate, or has he any figures available that could indicate what the maximum amount he's had to pay for perhaps a certain farm, I mean how much an acre, what the top price was in this particular area?

MR. HUTTON: I haven't that at hand. If you'll check Hansard, I gave it to the House I think last year or the year before.

MR. GUTTORMSON: Was it true that some of the land went as high as \$1,000 an acre in some isolated cases?

MR. HUTTON: It might if it was in a sub-divided area or an area that was being developed residentially or something like that.

MR. MOLGAT: Mr. Chairman, I thank the Minister for having given us the estimate of \$63 million and that he expects that this will be met. I would recommend, however, that he get in touch with his colleague the Minister of Public Works because the two of them have differing views on the subject, because the Minister of Public Works was quoted as having said that the total cost of Manitoba's multi-million dollar water control projects is expected to rise because of the scarcity of earth-moving equipment in the province. "Public Works Minister Walter Weir said Tuesday, he said a recent survey indicates provincial contractors have not enough heavy equipment to handle both water control and highway construction over the next few years. This, he added, will bring contractors in from the outside and the province will have to pay higher costs." So my two honourable friends apparently don't have the same views on the same subjects. I'd recommend that the front bench get together as to what they expect to happen in the Province of Manitoba.

I want to go on though, Mr. Chairman, to another subject and that's the statement of the Minister that he will use Lake Manitoba as a storage reservoir. Well in order to be a storage reservoir, Mr. Chairman, there must be a means of getting the water out of Lake Manitoba and back into the populated area at the southern end, because if we're simply going to take the water out of the north end through the Fairford Channel which presently exists, this does not provide water in the areas where it's needed, because the Fairford River and connecting with the Dauphin simply takes the water directly out to Lake Winnipeg and hurries it on to Hudson Bay. So one can only assume that if the Minister is going to use Lake

(Mr. Molgat, cont'd)...Manitoba for storage purposes, then he must have a definite plan for the removal of that water from Lake Manitoba back into the Assiniboine basin, or back into the area where it's required.

Now he didn't indicate so far in the estimates that he has such a plan. There was a time when he did though, and this goes back for some three years because then, and I'm quoting now from a report of the 30th of November 1961, where the headline was: "Report Backs Canal -- Could Relieve Sewage Grief in Metro. Strong support for a million dollar channel which would carry water from Lake Manitoba to the Assiniboine River is contained in a report in the hands of the Provincial Government." And it goes on to say what this channel could do. Then the next headline was on the 21st of December, and it says -- and this was from the Tribune, the previous one was the Free Press -- and this one says: "Province Upholds Flushing Canal -- Nineteen Million Help to Metro Claimed. The Provincial Government hopes to save Metro voters about \$19 million by digging a flushing canal from Lake Manitoba to the Assiniboine River in 1967." And it says, "They figure" -- I'm not quite sure who the "they" are but they're government planners apparently -- and this is a quote: "The people of Greater Winnipeg are entitled to save \$19 million by building a \$1 million canal which would dilute river waters and do much of the work envisaged in the \$20 million sewage treatment scheme." I must say that there was some objection to this and the statements apparently were made at a meeting in Portage. "These statements followed a public meeting in Portage Wednesday night called to protest plans to build the diversion. Agricultural Minister George Hutton defended the plan against bitter opposition from Al Hochbaum, Director of the Delta Water Fowl Station. Mr. Hochbaum claimed the diversion and the \$1 million channel to dilute river waters were planned so "Lake Manitoba will be used to flush Winnipeg toilets"."

Now subsequent to that, Mr. Chairman, the Minister of Agriculture apparently committed himself to this because this is a headline on the 29th of December, 1961. The headline from the Free Press is: "Canal Sure -- Hutton; '67 Earliest Starting Date. The Provincial Government is certain to build a flushing canal from Lake Manitoba to the Assiniboine River. "When the need arises, " but the job will not be started before 1967 Agriculture Minister George Hutton said Friday."

Well, Mr. Chairman, I come back to the original point, that if you're going to use Lake Manitoba as a storage reservoir as my honourable friend claims, then you must have a means of taking the water out of Lake Manitoba if it's going to be useful. It is not going to be useful insofar as the southern portion of the province is concerned until such time as you do build such a canal, because once you get the water into Lake Manitoba, at the moment there's only one way of taking it out of there, and that's through the normal channels of the Fairford River at the north end. So I would like to hear from the Honourable Minister exactly what the plans are for this second channel out which can be the only reasonable basis on which he can claim to use Lake Manitoba as a storage reservoir.

MR. CHAIRMAN: Resolution 41 --

MR. TANCHAK: Mr. Chairman, last night I asked the Minister a question, and that's regarding the flooding of the area south of Winnipeg in the upper streams of the Red River. I don't think that the Minister answered. Maybe he overlooked it, or probably he didn't feel like answering. But I'd like to remind him that these people also suffered damage in the previous floods and it was total inundation of most of the towns and villages south of Ste. Agathe. Now there are quite a few people who come up to me and they say that they would settle, they would buy property there, even start businesses, as I mentioned the other day, but they're reluctant to do that and they keep asking me, "Can't you get the Minister to give his policy on this? Will they help us out and to what extent?" and so on. I asked the Minister yesterday but I didn't get any reply. I would like a reply to this question please.

MR. HUTTON: .....program on the Red River was proven by the Royal Commission to be a very costly thing. I advise that you read it in respect of that matter.

I would like the Honourable the Leader of the Opposition to come and view "Our Rivers, Masters or Servants" and he'll learn all about our water conservation program in Manitoba. We'll show it to him in pictures and maybe he'll be able to understand it that way. I'd like to say on the question of the Honourable the Minister of Public Works and myself being at loggerheads, we're not at all. We're the best of friends and we think quite along the same lines. He's

(Mr. Hutton, cont'd)...perfectly right when he says the costs of excavation are rising. The fact is that although the first earth-moving contract that was tendered brought in a low bid of something around 22 cents, this has moved up into the area of 30 cents. This is still below the estimates that were made some five years ago and even as far back as 1952, so the two statements can be completely reconciled.

MR. MOLGAT: Mr. Chairman, I am happy to hear that my honourable friend then is saying that something that was done in 1952, which was prior to the present administration was well done, because it is not too often that we hear that from that side of the House. However, this is certainly a departure from what my honourable friend is usually saying.

But let's come back now to the diversion back out of Lake Manitoba. Does the Minister agree that the only means of using Lake Manitoba as a reservoir, the only practical means is to have another channel out so that you can take the water back? He nods his head. In other words he agrees. Now could he indicate then that in view of the fact that he is proceeding with the Portage diversion as a water control and conservation measure, Mr. Chairman, not as a flood control measure, that is one aspect, but he also sells it to the people of Manitoba as water control and conservation. Well, then he must I think, in fairness, tell the people of Manitoba, and at the moment the House, whom he is asking to vote money for these projects, when and how he is going to take the water back out of Lake Manitoba to make use of it in the areas where it is required.

MR. HUTTON: By way of a channel which would empty into the Assiniboine via ..... Creek. -- (Interjection) -- When? When it is needed.

MR. MOLGAT: But, Mr. Chairman, then the Minister is asking the House to vote money to put water in Lake Manitoba with no plans whatever to take it back out again. That's basically what he is telling the House. If he wants to sell this as a flood control measure as such, that's fine, but let him tell quite frankly to the people of Manitoba that it is not a water control and conservation measure until such time as he has specific plans to take the water back out of Lake Manitoba.

MR. SCHREYER: Mr. Chairman, in view of the seeming disagreement between the Minister of Public Works and the Minister of Conservation as to the matter of costs or rates for excavation of the floodway and so on, road building, I'd like to ask the Minister, and I think it is pertinent, has his department computed the average cubic yard rate that was paid last year on the various contracts that were bid? I would think it would be relatively simple to compute it, and as a matter of interest to us if he has such a figure would he please give it to us.

MR. HUTTON: It would be utterly meaningless unless the costs of a particular project is related to the particular conditions of the soil where work is being done.

MR. CHAIRMAN: 41 passed...

MR. TANCHAK: Mr. Chairman, I am still not satisfied with the answers I got from the Minister. He invites me to read the report again on the floodway. I did read it, and I read it more than once, and I know that it did mention that there was compensation made and we all know that the former government did compensate the people, and most of them were happy, but I've never heard this government or the Minister come out and tell us definitely that there will be compensation in cases when the flood damages the property. I've never heard the Minister say that and I would like to know his policy on that.

MR. HUTTON: We have a standing policy of assisting where damage to permanent buildings occurs from the overflow of our major rivers and springs.

MR. SCHREYER: I suggest to the Minister that he let us decide what figures are meaningful or not meaningful. It seems that he has the idea, as does the Minister of Public Works, that they are not going to give traffic count figures because they are not meaningful; they're not going to give average rate per cubic yard figures because they think that's not meaningful. To take this to its logical conclusion they'll start some day refusing to give us any kind of data altogether. To put it another way then, Mr. Chairman, could the Minister tell us what the highest rate per cubic yard paid was last year, and the lowest rate per cubic yard that was paid to any one contractor? Can he tell us that?

MR. HUTTON: Not off the top of my head, no. If the Honourable Member would like to come to my office next week I will have that information for him.

MR. GUTTORMSON: Mr. Chairman, I understand that one of the many people that the government purchased land from was a man called Henry Shale of Honor. Could he tell me what the total price the man was paid for his property?

MR. HUTTON: I can't off the top of my head, no.

MR. GUTTORMSON: I can understand that. Would the Minister undertake to tell the House perhaps next week then, what the total price was paid to this man for all his property?

MR. HUTTON: .....an Order for Return?

MR. CAMPBELL: Mr. Chairman, I have a question that I think my honourable friend can't answer off the top of his head either, but I'd like to get it off the top of the table over here. I asked him yesterday if he would lay on the table -- with copies for each of the groups -- copies of the agreements that cover the floodway and the Portage diversion.

MR. HUTTON: .....Order for Return.

MR. CAMPBELL: Oh, I hope the member won't put me to the trouble of putting in an Order for Return because surely these are public policy, and surely the Members of the House can be trusted with them. I took it as a certainty that I had only to ask the Honourable Minister and he would gladly deliver them to us, because otherwise I would have had an Order for Return in before this because probably it has caught on that I'm a bit interested in one of them at least. Wouldn't he agree without the necessity of an Order for Return that he -- here we are appropriating a lot of money to my honourable friend -- wouldn't he agree that it is just a plain case of ordinary business to provide us with copies of the agreements under which these projects are carried on between the two governments?

MR. HUTTON: No objection to it at all. I'd be happy to but there is a little formality that we have to go through, and that is to get the permission of the Federal Government. I don't think that they will object if I table these documents so that the Honourable Member for Lakeside can peruse them.

MR. CAMPBELL: Do I take it that in order to keep my honourable friend on side that I have to ask for an Order for Return? I would authorize -- (Interjection) -- pardon?

MR. HUTTON: I'll write immediately.

MR. CAMPBELL: I would authorize him to tell them down there that I want them, if he thinks that would help any.

MR. HUTTON: It probably would.

MR. CAMPBELL: Don't write, phone this time.

MR. MOLGAT: Mr. Chairman, before we leave this resolution, I note that the Minister was not prepared to give the answer to the Member for Brokenhead on the cost, and he said come to my office next week and I'll give you the information. Well, if the Member from Brokenhead is satisfied with that set-up, that is his affair. But I don't think that this is good practice, Mr. Chairman, because if this is legitimate public information, then there is no reason that the information shouldn't be given here in the House; because if it comes here in the House, Mr. Chairman, then it becomes part of the record. It is available to all the Members of the House and available to the people of Manitoba. It is in the Hansard, anyone can get the information. Whereas this business of come to my office and I'll talk to you is not a desirable method of conducting public business, and I'd recommend to the Minister that he table the information rather than tell members, come to my office next week and I'll talk to you.

Mr. Chairman, I'd like to go on now to another subject and that is Lake Winnipegosis.

MR. SCHREYER: Mr. Chairman, if the Leader wouldn't mind.

MR. MOLGAT: Not a bit.

MR. SCHREYER: I just want to say that I am a reasonable sort of fellow; I don't want to be a party to some kind of subversion if that is what you are afraid of and so I would.....

MR. MOLGAT: No, I wasn't suggesting that you were jumping to any subversion at all. I've no objection to your visiting the Minister in his office as often as you like. That is certainly a matter strictly between the two honourable gentlemen, Mr. Chairman. I'm only referring to the information which was being asked, which I think was reasonable information and which is legitimate questions that the Members of this House should be asking. That's the purpose of this Committee. It is our job to see to it that the information which we believe is in the interests of the people of Manitoba be produced. So that was the only reason for my bringing up that subject.

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

Now, going on to Lake Winnipegosis, Mr. Chairman, the Minister indicated yesterday -- I think just in an aside in what he was saying -- that there were some long range plans for the control of Lake Winnipegosis, and I'm very pleased to hear this because it is one lake that could be very easily controlled, and which requires control if we are going to make full use of the water resources of the province. At the moment Lake Winnipegosis has no control whatever. It flows freely through the West Waterhen into Waterhen Lake and through the East Waterhen into Lake Manitoba. It is a lake that is subject to a great deal of fluctuation; the charts in the annual report indicate this clearly. Page 101 gives the fluctuations from the year 1913 to the year 1963, and if you observe those charts you will see that the fluctuations on that lake are much more extreme than those on Lake Manitoba itself. Whenever Lake Manitoba fluctuates you find in almost all cases a greater fluctuation in Lake Winnipegosis. Similarly, if you go to page 121 where you have the fluctuation within the year, that is from April of '62 to March of '63 the period covered by this report, you find again the same thing that Lake Winnipegosis is subject to a great deal more fluctuation within the year. So I would be very interested in hearing from the Minister what is the schedule; what are the plans for the control on Lake Winnipegosis; because this ties in directly with the use of Lake Manitoba; because unless you have a control structure on Lake Winnipegosis, once again, you cannot make use of Lake Manitoba because there may be a great deal of water coming in from the north end to Lake Winnipegosis -- the main supply of Lake Manitoba -- which would throw out completely the activities that are envisaged at the south end of Lake Manitoba through the Portage diversion, or the canal. So I don't think that you can deal with the Portage diversion again, as I was pointing out a few moments ago, when you cannot deal with it without the outlet channel; nor can you deal with it without the direct consideration of Lake Winnipegosis and control on it. Now we'd appreciate it if the Minister could tell the committee at this time, what is the time table and the schedule and what are the plans for the control on that body of water?

MR. HUTTON: I want to congratulate the Honourable Leader of the Opposition because he has grasped our concept of harnessing Lake Manitoba and Lake Winnipegosis. I have a request to make. I know he has more influence on the Honourable Member for Lakeside than I do, and maybe he would explain to that honourable gentleman what this is all about.

In respect to the scheduling, I can only say what I am saying to the good people of Lake Winnipegosis these days and that is, that the development of Lake Winnipegosis is inevitable. It is part of the overall program but I can't give any dates or scheduling for the project at this time. It's safe to say that when we get the Assiniboine work done, the present projects on the Red and the Assiniboine, that most certainly we will be turning our attention to other links in this chain of water conservation in Manitoba.

MR. CHAIRMAN: Resolution 41, passed.

.....Continued on next page.

MR. CHAIRMAN: Department VII -- the Attorney General, Item 1.

MR. McLEAN: Mr. Chairman, just a word before we begin. I should like to take this opportunity of expressing my personal appreciation, and I am certain the appreciation of all of us for the work which is performed by the members of the staff of the Attorney-General's Department. Although I have not been long in the department I have been most favourably impressed by the dedication to their task and the quality of service that is done by the people there, and I would like to take this opportunity of recording that fact and the appreciation which I am certain all of us feel.

Normally one would not make any mention of a particular member of the staff, but perhaps I might be allowed on this occasion to mention especially the Deputy Attorney-General Brigadier Kay, because of the fact that this year he will complete his service in that office and his service with the Province of Manitoba. He has had a long and distinguished career in the service of the people of the Province of Manitoba and has for many years been the able Deputy Attorney-General, and has been relied on by a number of Ministers who have occupied the position which I now have the privilege of holding. Later this year he will complete his service and take time to journey and indulge his hobbies, and I am certain that this would be an appropriate occasion to say to him on behalf of the Members of the House, and on behalf of the people whom he has served so diligently how much his work has been appreciated and that we wish him a happy retirement and continued interest in the work which is carried on here.

I was interested, Mr. Chairman, in noting that just a little better than \$5½ million in the Department of the Attorney-General takes 2½ pages in our book, whereas the \$41½ million in the Department of Education with which I was recently associated takes only a page and one half. I'm not too certain what that proves but it was rather an interesting thing to observe.

Members of the Committee, Mr. Chairman, will note that we are asking for approval to spend in the coming fiscal year \$5.7 million as compared to just over \$5 million for the fiscal year in which we now are, an increase of some \$700,000.00. It is my hope that in whatever time is required that the members will be prepared to approve these proposed expenditures. I will be glad Mr. Chairman, to share with the members of the committee what little bit I know about the department.

MR. HILLHOUSE: Mr. Chairman, I would like to join with the Honourable the Attorney-General in extending to Brigadier Kay the thanks and appreciation of every member on the Opposition side of the House for the wonderful service that he has extended to the province during his tenure of office. I have known the Brigadier personally for a number of years and I have always found him to be exceedingly courteous, and exceedingly efficient in the performance of any duties entrusted to his care. I would also like to extend to the other members of the Minister's department my thanks and appreciation for what they have done towards the administration of justice during the time that they have held their various posts. I think the Attorney-General's Department is exceedingly fortunate in the type of men whom they have employed in their prosecution staffs, and in their civil litigation staffs, and I think they are a credit to the department and a credit to the Province of Manitoba.

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

MR. CAMPBELL: Mr. Chairman, before this item is passed, I would like as an old friend to join in the tribute that is paid to the Deputy Attorney-General. I was in a fairly responsible position in this government when Orville Kay was appointed to this position. He followed a distinguished line of very able public servants in that position, and I'm sure that he has maintained the high traditions that have gone with the occupancy of that position through the years.

In addition to regarding him as a very capable, efficient, courteous civil servant, I have come through the years to consider Orville Kay a personal friend. I notice that among the senior civil servants around here that the ones whom I knew best seem to be getting along to that retirement age, and it's one of the remarkable things about this life that some people who used to be in the same age group as myself have run along to where they are getting to retirement age, whereas I, on the other hand, have no such problem to face at all. But as I see these other fellows coming along to a period where they can enjoy a well earned respite from their heavy labours, I must say that sometimes maybe, especially around 11 or 12 o'clock midnight that a fellow may be inclined to envy them just a wee little bit. Certainly my very



(Mr. Campbell cont'd) . . . . . best wishes can be extended to Orville Kay and I express my appreciation of the excellent service and hope that he will enjoy a long period of happy retirement.

MR. GRAY: Mr. Chairman, Mr. Kay worked under five or six Attorney-Generals since I sat in this House and the Attorney-General's position -- apparently many were anxious to have it because of Mr. Kay. Personally, I don't know him too well, although I met him about 30 years ago, or longer. We see each other occasionally and I'm one of those members that if I have a real case, or a real problem I go to the Attorney-General and naturally he hands it over immediately to the deputy. Sometimes he makes a note of it, other times he just calls him in and says here you are, take it or leave it.

All the time, although being a prosecutor -- in a way -- and as you know, I dislike the term prosecutors, I've argued here year after year that the term prosecutor be changed to something else because it puts a scare on people . . . . . prosecutor, but fortunately I've never heard anything in the term of a prosecutor which Mr. Kay expressed in his work. I think of him more or less as an advisor than a prosecutor, although his position is to look after prosecution. So I join all those who have spoken with regret at losing him and we do hope that in the years he was here he has no doubt trained someone who could equal him.

In connection with this department's estimates I see that the Minister has chosen not to make a general speech so I'd better wait with my complaints, if any, until the items appear for discussion.

MR. CHAIRMAN: 1 Resolution . . . . .

MR. CHERNIACK: Mr. Chairman, with the item of 1 (a) I would feel out of place if I did not too, recognize the contribution that the staff, and especially the legal branch of the staff has made to the administration of this department. I will not repeat what has been said before except to say that as one of the youngest, or most recent of the members of this august Assembly, I have had occasion to deal with him in another capacity altogether, and have found all of them to be well trained, sincere in their work and most helpful to the people that had to work with them, and even against them. My one regret has always been that for some reason or other it seemed getting difficult for the government to retain many of its youthful people who were in the Attorney-General's Department. Some of them rose to great heights in the profession, and others rose or sank to heights in politics. But be that as it may, at all times they have maintained a level which makes a member of their profession proud of them. Proud to the extent that I wondered last year, and I still wonder, Mr. Chairman, as to the apparent necessity of different departments of government to engage legal help from outside of the department. I would have felt that the Attorney-General might be somewhat hurt at the thought that he cannot, or is not called upon to provide the service of legal assistance to some of the departments who have gone outside of the government in order to obtain them. I could well understand that when they are unusual circumstances which require a special block of a person's time to prosecute a certain matter, that it is not good business to tie up the time of one staff man, but members may recall that the Honourable Member for Logan put in an Order for Return asking for particulars of legal counsel engaged from outside of the government service and we have not yet received the reply; but he did leave with me the reply to his question which he asked last year, and I find that in many cases it is obviously justified the hiring of legal talent from outside of the government. Yet I could not understand an item of about well close to \$10,000 for legal matters re the Red River Floodway as having to be done from outside because I'm sure this was a sort of continuing process that I would think could have been handled well by the Attorney-General's Department. I notice that the Department of Education, with which the present Attorney-General might have some recollection, engaged a firm of solicitors for arbitration board proceedings and I wonder that he couldn't have found that type of service in the Attorney-General's Department.

I notice that the Department of Industry and Commerce found it advisable to engage a firm of lawyers from outside of the department to attend to registrations in Ontario and Saskatchewan and annual returns in Ontario, Saskatchewan and Alberta. I don't want to derogate the competence of the firm that was engaged but I suspect very much that the Provincial Secretary, who last year may have been fairly closely associated with the Department of Industry and Commerce, could probably have arranged for annual returns to have been filed in a fairly

(Mr. Cherniack cont'd) . . . . . routine sort of way.

I notice that the Manitoba Crop Insurance Corporation retained a firm of solicitors for day to day legal advice, drafting contracts, etc. The Milk Control Board engaged a firm of solicitors with respect to bonding and to Milk Control Board orders. The Liquor Control Board Commission engaged a firm of solicitors to handle the drawing of leases and the negotiations in respect of the purchase of land. The Manitoba Hospital Commission engaged a firm of solicitors to act as legal consultants to the Commission in handling of third party recoveries and other legal matters. The Municipal Board engaged a firm of solicitors outside of the department retained by the Board and Local Government District as legal counsel.

The Manitoba Hydro engaged a firm of solicitors in connection with certain statistics, which I can well understand would be done by an outside firm, but also in conducting expropriation proceedings, negotiations and civil claims and similar matters. It seems to me that when it comes to matters of expropriation, for example, and I'm suggesting this only as an example, that a person charged with that responsibility learns that specialized form of work so well that he is more capable of handling that than is a person who does many fields of work, and I say that with some knowledge of the manner in which expropriations are handled by the City of Winnipeg and the Metropolitan Corporation.

So that I would urge the new Attorney-General to see whether he cannot effect savings and service for the other departments of the government by investigating the extent to which he could contribute to their proper administration and to save them money. I am not suggesting that the departments had any other reason in hiring outside counsel, but if they did no doubt they will be prepared to tell us.

Now that is one aspect under this item, Mr. Chairman. The other one is the item which seems to me to roam through so many of the other items, that I might just as well suggest to the Minister -- well confirm to the Minister that I am sure that he has already acquainted himself with the Community Welfare Planning Council report on services for juvenile and adult offenders. I am certain that the Minister is very familiar with it. I note that at the end of it there is a summary of recommendations being made which total a nice round number of 50. I would hope that the Department of the Attorney-General has had sufficient time to review this report, it having been published over two months ago, that the Honourable Minister should be able to point out to us in his budget estimates those items of the 50 recommendations which have been looked at and will be dealt with by his department in this year. For the moment I have nothing further to say about that.

And thirdly, Mr. Chairman, and again because I don't know just where else it would fit in, I would like to appeal to the Honourable the Attorney-General to look into the question which has come to the fore not in Winnipeg and Manitoba only latterly, but elsewhere on this continent, and that is the realization of the serious problem of battered babies, and I use that expression because I find that it is becoming a description of the problem of babies that are brought to hospitals and to doctors with evidence, or indications that they have been physically beaten and usually, of course, by their parents. The medical profession and the law enforcement agencies are discovering that the number, the percentage of these babies is much greater than has been suspected; many times because parents who indulge in this -- and I use that word indulge for want of a better one that might come to mind -- are people who either, because of uncontrolled tempers, or because of being drunk, or other mental reasons have an outlet in beating up their children. They still apparently retain the sense to see to it that these babies are not taken to the same doctor, or to the same hospital for treatment lest the doctor or the hospital begin to recognize a repetition. I would draw to the Honourable Minister's attention the suggestions that have been made elsewhere to the effect that there be some form of clearing bureau which could best be administered I presume, either by the Department of Health or the Attorney-General's Department -- a clearing bureau where doctors and hospitals would be able to report suspicions, so that files could accumulate and a cross-indexing could bring up the names of parents, or of children in which this problem may be a real one. This, as I say, is a specific matter which I could have mentioned in another item but I couldn't quite decide where it would come in, so that I suggest it to the Honourable Minister for the consideration of his department.

MR. CHAIRMAN: Resolution 42, passed. . . . .

MR. GUTTORMSON: Is the Minister not going to reply?

MR. McLEAN: Mr. Chairman, I don't know what you would say in reply when you agree with everything that has been said.

With regard to other solicitors, my understanding is that we already have in the Department of the Attorney-General more solicitors, more counsel than in any other of the western provinces. This is a matter of a judgment to what extent work ought to be done by four government departments, by the Department of the Attorney-General. Take for example there may be cases where it would not be warranted to employ additional full-time staff for work that is not necessarily going to be continuing. That is, I don't suppose that we are going to build a Red River floodway very frequently, and one would question whether it would be advisable to engage additional staff for these extra load jobs.

I myself if I must, and I presume the committee wishes me to be honest with them, I rather favour the concept of engaging outside counsel and solicitors. I think it can be shown that it's as cheap, if not cheaper, than employing people on a full time basis, and that there are many instances where the work is more efficiently done. I think there is something to be said for the possibility of employing, if I may say so, Mr. Chairman, a Hillhouse, or a Cherniack, or a Hryhorczuk to do work in which they are particularly adept.

I have checked and certainly studied the report of the committee in the welfare report. In fact, Mr. Chairman, I can inform the Honourable the Member for St. John's that he will be interested to know that our first calculation of the cost, and it will be recognized that this is approximate only, of the recommendations that have been made amounts to \$17,539,890.00. That figure has given us a little pause.

I think that in answer as to what will be dealt with this year, the members of the committee will recall that in the Speech from the Throne there was a statement to the effect that monies would be included, would be asked for, for the new detention home and I presume that is part at least of the answer to the question he has asked.

With respect to battered babies, what the honourable member has said, I have no particular comment. I am a little puzzled to know why there needed to be any special clearing house for battered babies any more than we would have a clearing house for thieves, or -- at least, I'm just not too certain why we need anything special for people who disobey the law, as they undoubtedly are doing in this instance, any more than a clearing house for other categories of people who break the law. I rather assume that is part of the job of the police force, and I would assume they do it.

MR. CHERNIACK: Mr. Chairman, just on this last point of battered babies. The trouble with noting the occurrence is that battered babies are usually not able to tell the story of what happened to them and how they got banged up, and therefore it is necessary for the agencies that see the children to guess at what may have happened in order to report it. A single case with a logical story reported by a parent is certainly one which could not justify prosecution, but if the same parent reports the same child having been hurt on several occasions and reported to different doctors or different hospitals, these single instances can be brought together to show a pattern of conduct. And, as I say, since the babies can't speak for themselves, it is only a clearing-house that could key up or point up what may have occurred.

MR. HILLHOUSE: Mr. Chairman, assuming that we can overcome the difficulties inherent in The Legislative Assembly Act, I wonder if the honourable the Attorney-General can tell Cherniack, Hillhouse and Hryhorczuk how they can get on that list?

MR. McLEAN: I'd be glad to.

MR. ALBERT VIELFAURE (La Verendrye): On this department I would have a suggestion, but being a backbencher trying to suggest to lawyers, I'll have to explain the situation to which I am offering a suggestion.

During the course of the year, one of my constituents who works in a big hotel in Winnipeg as a beer vendor -- I mean selling these boxes of 24's through the little hole in the door, and I am told that business is thriving in that part of the business -- and on Friday nights and Saturday nights there are line-ups that want to buy the product. Now the way I understand it, the gentleman that does the selling there has to please the customers like any other salesman, but also he has to be judge as to who is 21 years and who is not. Now it so happened to this friend of mine that he did not judge right apparently and sold to someone under 21. The

(Mr. Vielfaure cont'd) . . . . . young fellow was apprehended and my friend was fined \$100 for having sold this case of beer to the young man.

Now my objection here is that I think that the fine is imposed on the wrong man. This gentleman is working for wages, which are usually not too high: he has no ambition I would say to sell more, and even if he was the owner, so far as I know, the profit is very little and there is not that much incentive in trying to sell to a minor. I do not know what the fine was to the fellow that bought the case, however, I doubt if it was over \$100.00. To me, the man that bought it was much more guilty than the man that sold it, and definitely the young fellow knew that he was committing an offence when he definitely knew he was not 21 and did buy the case of beer. However, the man that sold made the mistake, I would say, in judging his age.

Now I'm not saying this as criticism to the Attorney-General of course, because I will be frank. This gentleman approached me and I approached the department and I corresponded with Mr. Kay who was lauded before, and I can also say that I was very well treated, and he referred me to the Remission Board. This friend of mine wrote a letter to the Remission Board and \$50.00 of the fine was remitted. However, immediately after this he repeated his mistake and again sold a case of beer to a minor and was again fined \$50.00, so he did get a bargain in a way, but it still cost him \$100.00.

Well maybe somebody will say, "well the fellow just doesn't know who is 21 and who isn't." However, he tells me that in the two weeks previous to his first offense he had turned down 12 people, and out of them one was 37 years old. He came back with his birth certificate and a friend and proved that he was 37. Now maybe he's not a good judge, but I still think that this is quite a penalty to impose on somebody. I would just like to ask the members of this House, if I was to ask them whether I'm 40 or 41, and I'll tell you that I am very close to one or the other, but I'd like to know how many could judge exactly whether I am 40 or 41, if 41 was the limit.

Therefore, Mr. Chairman, I would like to suggest, as much as I hate to do it because I don't know too much about law, but I would sure like to suggest that the penalty be imposed on the buyer. He should have a heavy penalty. Anybody that is not 21 knows that he shouldn't buy a case of beer. I would relieve the poor vendor who has no initiative -- whether he is the owner or the workman -- if he is a workman he's not getting any commission, and if he is the owner, the profit is so little that I don't think this is any incentive for him to try and sell more. Therefore, I would suggest to the Attorney-General that something be done along that line so that the young fellow who buys the beer be punished instead of the one that sells it.

MR. McLEAN: Mr. Chairman, I have three comments. First of all, I would want to assure the Honourable Member for La Verendrye that judging from his appearance he's still not old enough to buy beer at the hotel. Second, this is a troublesome problem but the purchaser can be prosecuted, and I think we would find that in every instance he is, he or she is prosecuted. Third, we have under consideration some legislation which we may ask the House to consider this session which may go some distance at least to correct this rather troublesome problem. We acknowledge that it is. I have had some discussions with the Chairman of the Commission and the Enforcement Officer. It is a difficult problem. Sometimes quick judgments have to be made and we recognize that. We'll have a look at the legislation when it comes and we may feel that it will help.

MR. HILLHOUSE: Mr. Chairman, I would like to support the Honourable Member for La Verendrye. From my own personal knowledge I have found that in all of these prosecutions that I have come across, the seller has been punished much more than the purchaser and I think it's placing far too much onus upon a vendor. I think that section of The Liquor Control Act should be amended so as to make it only an offence to sell knowingly to a minor. Now the onus is upon the vendor to make sure that that person is of full age, and I know the difficulty that one has today in determining whether a person is 21 or 22 or 23. I know that there is the onus upon them. They can ask the individual to produce a birth certificate, they can ask them to produce proof of age and so on and so forth, but under the circumstances related by the Honourable Member for La Verendrye where the man was busy, I think he did all that he possibly could do by judging the best way he possibly could as to whether that person was 21 or not. I don't think the onus should be placed upon the vendor: it should be placed upon the purchaser.

MR. CHAIRMAN: Resolution 42 -- passed, Item 2, Land Titles Office . . . .

MR. HILLHOUSE: Mr. Chairman, I wonder if the Attorney-General could tell me as to whether or not there are any plans to rebuild the Winnipeg Land Titles Office which has served its purpose but is now completely out-dated for the amount of business that is done there.

MR. McLEAN: No plans at the present time, Mr. Chairman.

MR. CHAIRMAN: Resolution 42 -- passed, Item 3, Law Courts, Resolution 44 . . .

MR. CHERNIACK: Mr. Chairman, on Item 44, I would ask the Honourable Minister to look into a continually vexatious problem and that is the provision of court reporters. I'm wondering whether he is aware of the present adequacy or inadequacy of the court reporters, not only in the Winnipeg courts but throughout the province.

MR. McLEAN: Mr. Chairman, I know of the problem. When I was in my other location as Minister of Education, the then Attorney-General and myself had some discussions about instituting a course at the Manitoba Institute of Technology for court reporters who use that machine -- I don't know the name of it -- which seems to be very efficient, and that idea has not been dropped. We are aware of the problem and I think we are hopeful that we may be able to work out some means of providing training because it is quite obvious that this is a most useful field of employment and a most lucrative form of employment for enterprising people. I would hope that we might make use of that fact to encourage people to take training in that field and be available.

MR. CHAIRMAN: Resolution 44 -- passed, Item 4, Legislative Counsel, Resolution 45. . .

MR. MOLGAT: Mr. Chairman, I believe that under this item comes the revision of the Statutes -- is that correct -- and that this was in process. I don't know whether the Minister said anything about this, I was away for a few minutes. I wonder if he could advise us as to the present state of the revision and when we may expect to have the new revised statutes.

MR. McLEAN: Mr. Chairman, as members will recall, Mr. Rutherford formerly the Legislative Counsel has been continued on as the revising officer and it is my understanding that he is making good progress. Because of Mr. Rutherford's rather extensive knowledge and experience in his capacity, we do I must confess on occasions take him away from his purely revision work for special tasks. However, I think one could say that good progress is being made.

Now it is my understanding that we are a full year away from the time when we will be right into the final part of putting the revision into force, and it is anticipated that in the fiscal year 1965-66 it will be coming in, and that would seem to indicate, though I wish it clearly understood that no final dates can be put on this at the moment, it would seem to indicate that sometime during the year 1966 we might be coming to the point where we would have the statutes in their final form. It is anticipated that in 1965-66 that the additional staff that would be required to assist Mr. Rutherford in completing the task will be provided. It's not being provided in this coming fiscal year but it is, at the moment, one year away. Members of the committee will recognize of course that some of the statutes which are finding their way through now are in effect. Revisions -- for example the new Wills Act if we get it through the Law Amendments Committee, and one or two others and this in a sense is part of this overall task.

MR. HILLHOUSE: Is it the intention when the Statutes are revised to have them published in loose leaf form?

MR. McLEAN: I knew, Mr. Chairman, that I should have checked back. The Law Reform Committee has undertaken a survey to determine how many it is felt that lawyers or law officers would be primarily interested in, and I think my answer at the moment, Mr. Chairman, would have to be that no final decision has been made on that. It's open and I'm well aware of the views which the Honourable Member for Selkirk has in that matter, and I'm just not too certain what report the Law Reform Committee may have for us. We have made use of that committee to advise us with respect to it.

MR. HILLHOUSE: Mr. Chairman, another question. Perhaps it overlaps your department and that of Municipal Affairs, but I believe too, that Mr. Rutherford is working on a revision of The Municipal Act at the present time?

MR. McLEAN: That is correct.

MR. GRAY: Mr. Chairman, I got up already seven times. My first question is whether the Legislative Counsel that we have at the present time has a deputy? The reason for my

(Mr. Gray cont'd) . . . . . question is this: in my experience in this House we have found that it is sometimes very hard to get a new man for a top position and usually it would be less difficult to take care and protect the top officials if they should have a deputy who at some day in the future could step in immediately -- or rather be trained by the one that was retiring which happened in this particular case now.

MR. McLEAN: Mr. Chairman, the present Legislative Counsel, Mr. Tallin, was the Deputy Legislative Counsel to Mr. Rutherford when he was the Legislative Counsel and he succeeded him. Mr. Tallin's deputy is Mr. Balkaran and I'm pleased to report to the committee that he is doing excellent work, and the team of Tallin and Balkaran are doing splendid service for us.

MR. CHERNIACK: Mr. Chairman, I am wondering whether the revision of statutes, or the consolidation of the existing statutes could not be speeded up. I think there's no doubt that Mr. Rutherford's ability is so highly recognized that I imagine that he is taken off his routine tasks very often. This type of work is a continuing task. I don't know whether at any time you could say that it is finished because the minute it is printed it is already out of date to the extent of at least one year, and sometimes more, and certainly consolidations keep on going on to the extent that government slowly move in a progressive way towards changes in legislation. So that I really wonder how much progress has been made in the last year.

I also recall that the last year the then Honourable Attorney-General spoke with enthusiasm about the Law Reform Committee, and I would guess that the present Attorney-General may too speak with enthusiasm about it. When he does so, I wonder if he can also tell us how often it has met: what it has done: and what it is presently working on. I am under the impression that -- I was going to say that it did the work on The Dower Act but no, I think some committee of the Bar Association has worked on that -- The Wills Act I think was possibly done by the Law Reform Committee. But I am wondering whether these persons, all of whom are busy and who are giving of their time freely and without stint, are giving as much time as we can cajole them into giving in the hopes that we can do a quicker job in that very valuable work which they are doing. I do find that when we meet here in Law Amendments and spend the little time that we are able to spend on these revised statutes, that I for one have a feeling of nervousness lest we are passing by something of importance, and the Honourable the Attorney-General as chairman of the committee was able himself to immediately pick out one or two little, or apparently little matters which certainly needed further investigation. So that I would urge the Attorney-General to do everything possible to keep this Law Reform Committee working, keep their enthusiasm up so they can come along with more work that has been carefully thought out as theirs has been, and I want to give credit to them for what they have done, but hope that they will do more and more as time goes on.

MR. HILLHOUSE: Before the Attorney-General answers I wonder if he would put me right in what my interpretation of the Law Reform Committee is. It is my understanding that this is a committee of barristers who freely give their time by making suggestions, is it not, to the government as to those laws in which reform should be affected, but that they do not draft the legislation themselves?

MR. McLEAN: Mr. Chairman, first of all with regards to the revision of statutes, the Honourable Member for St. John's has asked whether we are doing it quickly enough, I'm not too certain that I'm in a good position to answer that question other than to indicate that I myself am anxious that the job be done as quickly as possible, and it might be that if we could employ some more outside solicitors we might get the work done more quickly. My own view about this -- and the Honourable Member for St. John's has made a good point that this is after all a continuing task. My own view at the moment would be that we might -- assuming we get this upcoming revision completed -- that we might be well advised to consider employing an additional person in the office of the Legislative Counsel and that each year we would bring along a number of statutes revised and updated, and in that sense keep our statute law pretty well under hand. Now that is an opinion expressed without prejudice to change if I later might change my opinion on it.

Now, Mr. Chairman, with regard to the Law Reform Committee, the situation is as has been indicated by the Honourable Member for Selkirk, that it is a committee to advise, not to draft legislation, but to consider drafts that are prepared by the Legislative Counsel, and

(Mr. McLean cont'd) . . . . members will be interested to know that Mr. Rutherford who is the revising officer is the secretary of the Law Reform Committee, which is one of the tasks that he was asked by my predecessor to undertake. They discuss general proposals -- let me illustrate it in this way. For example, we have before us this year I believe one or two private bills respecting the bringing of actions after the expiration of time limits, and there were some last year. Well, the Law Reform Committee has been discussing, and indeed have now struck off a committee to bring in a recommendation to that committee with regard to a new approach to the Statute of Limitations. Now if that committee were able to, or have some general consensus of a new approach to the whole matter of the Statute of Limitations, if they're in agreement, and subject of course to the approval of the Attorney-General, the Legislative Counsel would prepare a statute which eventually would find its way to this legislature and to our own Law Amendments committee. This is the type of thing and they discuss from their common experience what would be the best principles to build into any revision of the statutes.

Let me tell you of one other subject that they are discussing at the present time. There is this continuing problem about automobiles, and whether or not there should be a registration of automobiles, a sort of a title system such as we have with respect to land. The Law Reform Committee is considering whether there are certain basic principles that could be laid down for a statute which could be considered for the registration of titles to automobiles, and how it would operate. Those two illustrations, perhaps, Mr. Chairman, will give some idea of the sort of thing.

Now, I think, and my colleague and predecessor may be able to correct me, but my recollection is that in 1963 the committee met on four different occasions. When they do meet they meet for a whole day and that's either not enough time, or too much, depending on I suppose one's point of view. I am inclined to think perhaps that is about as much as one could ask for people who are otherwise quite busily engaged. We were discussing at our last meeting which was on January 25th of this year, the matter of our meetings in 1964 and it was left that I would make a proposal to them as soon as the House has risen with respect to our meetings this year. We have a number of matters, I have indicated two of them which the committee has under consideration. There are of course quite a few others. I think if I recall correctly, there were something like 18 items on our agenda at the January meeting.

MR. CAMPBELL: Mr. Chairman, I am sorry that I had to be out for a short time and perhaps I missed some of the discussion regarding the Law Reform Committee. I take it that it has been only recently set up. Is that correct, just a year or so ago?

MR. McLEAN: Eighteen months, I think. Yes.

MR. CAMPBELL: Does it operate simply by invitation of the Attorney-General? I understand from my colleague the member from Selkirk that it is entirely voluntary, but how is membership on it determined, and is anyone who qualifies eligible to come -- I'm not seeking an invitation -- but is it a large committee, and if it's not too large, could we have the names of those who presently compose the committee?

MR. McLEAN: Mr. Chairman, the members of the committee -- it's formally constituted by Order-in-Council under The Attorney-General's Act. I am not too certain how to describe how the members -- my colleague the former Attorney-General invited the persons who are members of the committee to join it and when they had accepted the Order-in-Council was passed appointing them. Naturally the largest number come from the metropolitan area of Winnipeg but they are representative of the legal profession throughout the province and representative of those hold Q. C. 's and those who don't hold Q. C. 's -- I haven't got the file with me as to the names. I would be glad to provide that when the committee meets next. I would say that it is a broadly representative group; representative both as to experienced and particular interest of the members.

MR. CHAIRMAN: Resolution 45, passed. Item 5, Administration of Justice, (a) . . . . .

MR. GUTTORMSON: Mr. Chairman, I don't know whether the present Minister can answer this question. If not, perhaps the former Minister will do so. There's been considerable interest in a case that took place in this province during the past year. I am referring to a man named Kozaruk. These are the newspapers. This man was charged with capital murder -- or he came to trial in the fall of 1963, and then we read in the newspapers that this man didn't go to trial and the case was disposed of at the last assize. Could the Minister indicate why the long

(Mr. Guttormson cont'd) . . . . . delay.

MR. McLEAN: Yes, Mr. Chairman, Kozaruk had been tried on an offence, a capital offence at Saskatoon, Saskatchewan and was in fact in the penitentiary as a result of that trial. It was an offence similar to that which he was alleged to have committed in Manitoba. He was brought back to the penitentiary here in Manitoba in order that he might be proceeded against with respect to the offence here. Not having counsel, counsel was appointed for him through the arrangements with the Manitoba Law Society and when he came up for trial on the first occasion, there was some discussion -- he had evidently wished to enter a plea of guilty of manslaughter and the Crown was not prepared to accept such a plea -- and when the case came on for trial at the first instance, the accused spoke to the court personally and said that he did not wish to have the person who had been assigned to him by the Law Society act on his behalf.

That necessarily brought proceedings to a stop and the Law Society was immediately consulted, but they informed the department that they couldn't possibly engage other counsel in order to proceed at that particular assize. So the case was traversed to the next assize which is the one which has just recently concluded. By that time the matter did proceed. Rather curiously, when the accused came for trial at the later assize he was represented by the same counsel that he had previously refused to have act for him, and I am unable to explain what change had occurred in his own thinking about the matter. The fact that the case was traversed from the one assize to the other arose as a result of his own statement to the court that he didn't wish that particular counsel to act on his behalf at that time and the inability of the Law Society to obtain another counsel for him in order to proceed at that assize.

MR. GRAY: Mr. Chairman, under this item we have all kinds of officials including prosecutors. I have raised this question here for many years that the word "prosecuted", particularly from the country where I was raised, throws a fear on the public in general and they are of the idea, and I think I agree with them -- not only in European countries, but even right here in Canada -- they have the idea that prosecutor is here to find him guilty, to find the accused guilty; whereas in my opinion in a democratic country, a prosecutor -- I don't like the word prosecutor, but let's call it if it means that -- his duty is to find the facts for the court, to present the case of his guilt or otherwise. But it's not the business of the prosecutor -- it's the business of the servant of the government to try everything possible to prosecute him and find him guilty. It seems to me that this is their job -- find him guilty and get paid; if you don't find him guilty, you probably not get paid. I don't mean literally, but that's just the way it sounds. Would it be -- first of all, to find a way of changing the word. You could say "attorney" or you could say the counsel for the state. If only you could find a word which the -- you could use the same word and not put fear in the minds of the accused and be found guilty even before the jury hands over the verdict. That's number one.

Secondly, is it the business of the Attorney-General to appeal a case after a jury found a man either guilty and the judge gave him a lighter sentence or the -- he is already tried by a jury; he's looked after by a competent judge and the judges from Canada, from what I know are very honest, respectable, hard-working men, trying their best, giving the accused the benefit of the doubt; then if he is sentenced to two years or three years and maybe the Attorney-General feels that the sentence is too light, then they appeal the case and either the same sentence remains or sometimes he succeeds in getting the sentence raised to five or ten or fifteen years, irrespective of the . . . . . Then my question is: is it necessary, is it a democratic system of judgment? Isn't there a possibility that the Crown lawyers -- I don't want to call them the prosecutors, I'll try and call them some other names -- has the interest also of the prisoner in mind? We know -- there is a case in Quebec today -- we know that sometimes judges and juries and even the so-called prosecutors make a mistake, so why not give the benefit of the doubt to the accused who is being tried?

So first of all I'd like the Attorney-General's Department to think seriously about changing the term "prosecutor", and secondly, I think that his business should be not to appeal a case after it's being heard by a judge and a jury.

MR. McLEAN: Mr. Chairman, I'm at one with the Honourable Member for Inkster respecting the name given to the Crown Prosecutor. I have always favoured myself the term "Crown Attorney" and I have the impression that that is being used perhaps more often. I



(Mr. McLean cont'd) . . . . . myself always use that term and I agree that it's perhaps a better title than that of Crown Prosecutor. Just as I have never liked the term "Police Court", I much prefer the term "Magistrate's Court". I think it has a better connotation. Of course the Honourable Member for Inkster will understand that whatever you call him, a Crown Attorney always has to perform an unpleasant task in relation to some person or persons who are accused of an offence, and it doesn't make much difference what you would call him, he's not likely to be very well liked by someone involved in that case.

Now with regard to the matter of appeals, this is one in which a person cannot just give a blanket answer that would apply in every case, because just as an accused person who may feel that he has been unjustly dealt with by the trial court has the right to appeal and to ask for a review of his conviction or his sentence, so it is the duty, if one uses that expression, of the Crown to watch on the other side of the question in order to ensure that there is no miscarriage of justice. Members will recall that a year ago when we were here, reference was made to the case of a former magistrate who had been charged with the theft of a very substantial sum of money and who had been given an extremely minimal sentence by the magistrate. In that case the Crown appealed from the sentence, asking for a more severe sentence because that given in the first instance appeared to be, well not adequate under all of the circumstances. Well that's the sort of thing that of course the Crown must do and one can't say in advance that irrespective of the sentence imposed that the Crown will never appeal. The Crown must be diligent to protect the interest of the public in the way of law enforcement.

I would imagine, however, that with regard to those cases which are heard by a jury, that there are relatively few occasions when appeals are ever taken to the Court of Appeal, and only those cases are appealed where there is some obvious miscarriage of justice. I have -- for example a matter was drawn to my attention not too long ago where a jury rendered a verdict which was favourable to the accused but which many people in the community concerned felt was not adequate and they pressed that we should appeal. On an examination of the case, however, it was found that the case had been properly conducted; that the jury had been properly charged; and within their jurisdiction they brought in their verdict. There being nothing wrong in the way in which they had proceeded, irrespective of what one thought of their decision, there was no appeal taken and I would be inclined to think that that would be the more common situation than the reverse. It is not an easy matter to answer, as I say, in advance or for every case. Each case must be judged on its circumstances and bearing only in mind the responsibility which the Attorney-General's Department has, to see that the law is enforced and that the public interests are protected.

MR. S. PETERS (Elmwood): Mr. Chairman, I believe it is under this item that we could bring up the -- has the Attorney-General's Department given consideration to appointing Public Defenders in Magistrates' Courts? I know that if a person has no money and is brought before the court that he can be supplied a lawyer through the Law Society, but I don't think this is quite good enough. I think that there should be someone there available to advise these people of what their rights are. Many times, persons are picked up by the police and deals are made, "if you plead guilty we'll give you a year, or we'll give you two years," and the fellow thinks he is getting off with something and agrees to go along with it and then finds out that he wasn't very wise in making this deal, and I would suggest to the Attorney-General that this is something that they should take under consideration.

Another thing that I would ask him is, what is being done in regards to uniformity of sentence? You read in the newspapers of a person being charged with a serious crime and being his first offence, being found guilty, or pleading guilty and getting a sentence of four or five years; and then a week later you read of a very similar case, the same charge, and a fellow that has a record, and because he had money and was able to get proper legal advice, gets off with a two year sentence. There is something wrong. This is one subject that I've brought up I think at nearly every session that I've sat here, and I'm just wondering what the Attorney-General can tell us of what's being done to put uniformity in sentences.

MR. McLEAN: Mr. Chairman, the subject of Public Defender is one that is always under consideration in the sense that it's a matter that is before the public. We believe that in Manitoba we have a system which is actually better than a Public Defender, as I believe the Honourable Member for Elmwood understands that term and as I understand it myself,

(Mr. McLean cont'd) . . . . .that is, the arrangement whereby counsel are provided through the Law Society. This, from a practical point of view, is less costly to the province. Secondly, it gives the accused an element of choice. That is, it isn't a case where he must have one individual person act for him but within a certain range at least he has an element of choice, and that is sometimes important. Then thirdly, I've never been very keen about the idea of a Public Defender because as a practical matter I don't think it would work. I say this because a person employed as a Public Defender, and paid by the province would -- this is the sort of thing which I would anticipate would happen, that the Crown Attorney who is employed by the Province, and the Public Defender who is employed by the province would naturally take a short cut -- because lawyers like to do that, the same as anyone else -- and we would find the accused person being advised by the Public Defender to to the sort of thing, enter the sort of plea which would be most convenient to he and the Crown Attorney. For my money, if I were an accused person I wouldn't go within 100 miles of a Public Defender. I think the present situation has more to commend itself and there is need, of course, to ensure that that system is working and one wouldn't say that it is working perfectly, although the members of the Law Society are doing a splendid job.

Now with regard to the uniformity of sentences. This is a difficult thing because of course you don't put the facts into a computer and get the sentence, and there are so many factors that become involved in the question of sentence. Indeed, when we remember that in one sense at least the jury system grew up around this concept that it was not bound by previous decisions; it was a group of citizens whose duty it was to pass judgment on that and while, of course, they don't have the task of imposing sentence, but the point I'm wanting to make is that that was based on the concept that each case had to be judged by itself in a sense, without reference to others.

Well I think that there has to be this measure of latitude and people being people, we will have differences in sentences. That is not to say, however, that some effort must not be made, and my predecessor was rather active in this field because he instituted conferences of magistrates, before whom most of the cases come now, when this matter of sentences was discussed and considered, and I have the impression that as a result of those conferences that a greater degree of uniformity has resulted in Manitoba. There will still be variations, or what appear to be variations and I think the only thing we could say would be that we would continue this inter-communication among magistrates in the hope that this same general approach would be adopted, but we'll never have absolute or complete uniformity. I don't think that it's humanly possible.

MR. PETERS: The Attorney-General said that he doesn't believe in the Public Defender system. He's just been the Attorney-General for a few months and he has already made up his mind that he thinks that this is the best system. I ask him to take it under consideration and he's already made up his mind. I think what the Attorney-General should do is find out what they are doing in other jurisdictions. What are they doing in the other provinces? What are they doing in some of the states of the United States, and then he can come back and say, "Well we've checked it and this is the best system," and then I'll go along with him. But for him to get up and say that he just doesn't believe in the Public Defender system, I can't go along with that Mr. Chairman.

MR. McLEAN: Mr. Chairman, I ain't gonna fight with my friend under any circumstances tonight. I want to remind him though that I was practising law a few years before I became the Attorney-General.

MR. PETERS: That doesn't give you license to say that you're right and everybody else is wrong.

MR. SCHREYER: Mr. Chairman, I'd be interested in hearing from my learned friend whether that statement he made applies to all cases that are handled by the different legal firms on a gratis basis. Now it's my understanding that with regard to lesser cases that the present system is, in fact, among the best means possible. But what about the cases involving the more serious criminal charges where the accused requires free legal aid? Is the Attorney-General completely sure that we can make no improvement at this level? This is the point I think that the member for Elmwood is more concerned with, and from my understanding of the matter this is the area where the Attorney-General is a little vulnerable in making that

(Mr. Schreyer cont'd) . . . . . statement.

I also want to raise another matter, Mr. Chairman, I'm sure the Attorney-General is more aware than anyone else here in this Chamber that the habeas corpus is the most important procedural civil right that we possess. However it's not necessarily sacred in the sense that we shouldn't look as to ways and means of bringing it into play just a little more easily than has been the case up to now. I'm referring specifically to the case of the accused from St. Vital where, as I understand it, he was held in custody for two weeks. It's precisely this kind of case where an accused has no friends who can apply for a writ of habeas corpus, that the Attorney-General should be looking into ways and means of instructing someone, or having the machinery within his own department to ask for a writ if necessary. Now of course, it doesn't have to be by writ of habeas corpus, he can simply instruct the release. But why wait for two weeks and if he were on his toes, it seems to me that in this particular case that order for release or, doing it the other way, perhaps it's a little unorthodox or an innovation, the other way would be to have some Crown Attorney, or someone in his department apply for such a writ on behalf of a friendless accused who has no friends or kinfolk who are interested enough to apply for a writ of habeas corpus on his behalf.

MR. McLEAN: Mr. Chairman, I think I have -- I hope there's no one under any misunderstanding that I'm not interested in looking at the way in which free legal aid is provided, I'm not really that solidified in my thinking yet. I have the impression that it's in the serious, what one might describe as the serious cases, that the present system is working most effectively. The Honourable Member for Brokenhead used the word "gratis" but let us not forget that the province pays the counsel that are designated by the Law Society, and on a schedule of fees which has been approved by the Law Society and accepted by those concerned. I just make that comment so there will be no misunderstanding.

Now on the matter of the habeas corpus. The honourable member is quite right, maybe two weeks was too long in the case of the chap from St. Vital. The only comment I would make -- again this is not one of these things that can be answered with a blanket answer that applies to every instance other than the fact that it is the responsibility of the Attorney-General to see that no person in the particular circumstances of this particular person is held longer than necessary; but there may be a variation in the length of time that it is necessary to hold such a person because of the progress of the investigation, and that progress is something that can really only be known to the Attorney-General's Department. That is, it is not something that one can broadcast in the newspaper or tell one's friends because the information being gathered, that may or may not result in a charge being laid, must until the point is reached when the decision is made either to lay a charge or not lay a charge, must remain confidential. So that it may appear to the outside that a person is being held too long when, as a matter of fact, it is only a matter of public prudence that the person be held in view of the information or the facts which may be known to the Attorney-General. But subject to that, I would say that it is in the first instance, in the particular type of case, it is the responsibility of the Attorney-General to ensure that a person is not held too long as a material witness, or not held too long on a coroner's warrant.

In this particular instance, I am inclined to think that we waited too long and for that I accept the full responsibility. I think we might have released this chap about four days earlier than he was released.

MR. SCHREYER: Mr. Chairman, I have two questions, one academic and the other one rather practical. When the Attorney-General's department effects a release as in this case, is it done by simple order of the department or is it done by applying for a writ? The second question is, in view of the fact that the Attorney-General himself admits that something went amiss here, has he ordered any investigation of sorts into the matter? Well, since something did go amiss in this case that we are talking about, have you ordered any kind of investigation or has it already been completed? Is that the investigation which terminated when you ordered the release?

MR. McLEAN: Mr. Chairman, in this instance there was no order, that is no writ. It was simply a request to the officers in the department to arrange to have the person held appear before a magistrate and be released, subject of course to his appearance at the coroner's inquest. The investigation, Mr. Chairman, would have to be an investigation of myself.

(Mr. McLean cont'd) . . . . . I was aware one week before this person was released that he was being held. Now I didn't do anything about it for reasons which I would be able to explain if necessary, but there is no one else who needs to be investigated in connection with it but myself.

Mr. Chairman, if I may answer a question and get it off the deck for the Honourable the Member for Lakeside who asked the names of the members of the Law Reform Committee, maybe I can take these chaps off this tack they are on here by reading this list: Maurice J. Arpin, Lorne Campbell, A.S. Dewar, Mr. Brian Dickson prior to his appointment as a member of Her Majesty's Court of Queen's Bench is a member, James Doak of Virden, Irwin Dorfman, William Dorward of Killarney, Gordon C. Hall, Duncan J. Jessiman, Joseph C. Miller of Portage la Prairie, Frank O. Meighen of Brandon, A.A. Moffat, G.P.R. Tallin the Dean of the Law School, Vaughan Baird, Roy Gallagher, A.A. Hirschfield of a well-known town called Dauphin, Charles Huband, Arthur V. Morrow, Winston R. Norton, John Scollin, David Sokolov and Montague Israels. Now in addition to this group, I had better mention that without benefit of order-in-council we have been receiving considerable assistance from Mr. David Jones who will be coming along next week in connection with one of the bills; Mr. Davies of the Telephone System has been most helpful and has been attending the meetings; and Mr. Funnell, who is the solicitor for the Manitoba Hydro Board, while not a formal member of the board, has been at a number of the meetings and has been assisting us.

MR. CAMPBELL: An impressive list, Mr. Chairman, and I thank the Minister for getting it for me. I must say that I take a little different view from some of my friends on the left here with regard to the administration of justice. Just as some of them have mentioned their point of view in the House before, so have I mentioned mine, and I think in the public interest we should be taking a look at a good many cases of where the sentences in the public view are not severe enough. I continue to think about the protection of the citizens against some of these people who persist in defying the law, and with all due respect to those who hold the view that we should have public defenders and that we should not have appealed cases and all this sort of thing, I think that there are many cases where the sentences should be appealed. I think it is only tonight's paper that carries the accounts of not one, but two rape cases in this area, where I would think that public attention should be called to the fact that in cases like this that we need severe sentences and a good many others as well. I have been quite in favour of the fact, I've applauded it in fact, where I have seen that some sentences have been appealed and I think very rightly so, and I believe there is a case of one magistrate here where the sentence was actually trebled or something of that effect.

And that brings me to the case of the magistrate that I intended to speak about. I know that we are not supposed here to be criticizing occupants of the Bench in general, and I certainly am not going to name anyone in particular, but I am told that at least one of the magistrates -- I am not acquainted with the different courts but I guess you would call this the Police Magistrate -- that at least one of them is allowed to practise privately as well as occupy the position of magistrate and receive what to me seems to be a very good salary, because I believe the salaries were raised fairly recently, and if my information is correct, this is the same magistrate who seems to require some appeals against his sentences.

I hold in my hand here a copy of a sheet of the Western Weekly Reports, the date is January 23, 1963 and it reads in part as follows: "The judgment of the Court was delivered by Miller, Chief Justice, Manitoba (in part)." I don't know the significance of the "in part." Chief Justice Miller is quoted here as saying: "We have to approach these Crown appeals against sentence from two different angles." Then there is a whole paragraph, which I'm perfectly willing to read if anyone wishes to hear it because I certainly do not want to take this out of context -- a whole paragraph that I'll not read unless anyone wishes me to -- this is still Chief Justice Miller speaking and he says: "I do not know how we can bring home to the magistrates that Section 638 must be observed and that suspended sentences must not be imposed contrary to that section. We have had several appeals by the Crown against decisions of magistrates who in sentencing have ignored the prohibition of the above section of the Criminal Code. It may be that Crown Counsel on the case are omitting to bring to the magistrate's attention previous convictions and the above section of the Code, nevertheless, in most of the

(Mr. Campbell cont'd) . . . . .

Crown appeals against suspended sentences that have come before us, the previous conviction showed on the record so it should have been obvious that the accused were not entitled to receive suspended sentences. As emphatically as I can, I want to draw to magistrates' attention that in the future they should carefully consider the effect of Section 638 of the Code before imposing a suspended sentence and make certain that that section does not preclude the making of such a disposition."

Now, Mr. Chairman, under those circumstances, for goodness sake I would think the Crown would have to appeal. I just do not agree with the statement that we should not be asking -- or we should be recommending to the Crown that they do not appeal. What I would like to know is that when the Chief Justice of Manitoba himself speaks out against a case of this kind, is there some checking up done with the magistrates themselves? I think, and I am not referring to any other courts, but I think that it is high time that some of these sentences were looked at and looked at very carefully. I would like, with all due respect to my honourable friends who take the other view, I would like to keep before the Attorney-General's department the high cost of crime to the individuals. And while I don't believe any more in persecution than anyone else does, on the other hand I believe that the rights of the private citizen have to be observed.

Now, having stated my belief in that regard, I come back to the original question in the case of this magistrate that I'm speaking of. Has there been some discussion in his case in particular with the Attorney-General's Department, and does he happen to be the same magistrate that I'm speaking of that is allowed to practice privately as well as draw a pretty good salary from the Attorney-General's Department?

MR. EVANS: I think it is now practically 11:00 o'clock and I'm sure the Honourable the Attorney-General would wish to reply at length, and for that reason I move the committee rise.

MR. CHAIRMAN: Committee rise and report. Call in the Speaker. Madam Speaker, the Committee of Supply has adopted several resolutions, directed me to report the same and asks leave to sit again.

MR. MARTIN: Madam Speaker, I beg to move, seconded by the Honourable Member from Brandon, that the report of the committee be received.

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

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

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