

# LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, 1 May, 1985.

Time — 2:00 p.m.

**OPENING PRAYER** by Mr. Speaker.

**MR. SPEAKER, Hon. J. Walding:** Presenting Petitions . . . Reading and Receiving Petitions . . . Presenting Reports by Standing and Special Committees . . .

## MINISTERIAL STATEMENTS AND TABLING OF REPORTS

**MR. SPEAKER:** The Honourable Attorney-General.

**HON. R. PENNER:** Thank you, Mr. Speaker. I would like to table for the information of members - it will be circulated to each member in advance of my Estimates beginning this afternoon - some supplementary information for that legislative review of the Estimates of the Department of the Attorney-General.

**MR. SPEAKER:** Notices of Motion . . .

## INTRODUCTION OF BILLS

**HON. R. PENNER** introduced, by leave, Bill No. 32, An Act to amend The Real Property Act; Bill No. 33, An Act to amend The Registry Act; and Bill No. 34, An Act to amend The Special Survey Act.

## INTRODUCTION OF GUESTS

**MR. SPEAKER:** Prior to Oral Questions, may I direct the attention of honourable members to the gallery where we have 35 students from the W.C. Miller Collegiate under the direction of Mr. Schmidt. The school is in the constituency of the Honourable Member for Rhineland.

There are 60 students of Grade 9 standing from the Charleswood Junior High School. They are under the direction of Mr. Lerner. The school is in the constituency of the Honourable Member for Charleswood.

On behalf of all of the members, I welcome you here this afternoon.

Also prior to Oral Questions, I have a statement for the House.

## SPEAKER'S RULING

**MR. SPEAKER:** On Thursday, April 25th, the Honourable Member for Sturgeon Creek, raised a matter of privilege regarding an incident which occurred on April 23rd.

Following the advice of several members, I took the matter under advisement in order to investigate further.

I have carefully perused Hansard and consulted with several persons who were present at that time.

The naming and expulsion of a member is a serious matter, and the circumstances surrounding the incident

deserve the most careful and detailed research. Even if the expulsion is only for a short time, the naming remains on the member's record and must be conducted in accordance with the proper procedures.

It is clear that the proceedings of Tuesday evening were somewhat boisterous and that the debate generated considerable heat, leading the Chairman to terminate the proceedings of the committee and report the disorder to the House.

The decision of the Chairman cannot be questioned and his judgment must be respected.

The events which followed showed an uncertainty on the part of everyone present as to the correct procedure to be followed. The confusion is not surprising since the last time there was a similar occurrence was in 1971.

In order to avoid any future confusion in similar circumstances it would therefore seem prudent that guidelines be prepared which would specify the correct procedures to be followed.

There is no doubt that the Honourable Member for Sturgeon Creek was not given the opportunity to withdraw his comments or make a satisfactory explanation prior to being named. Whether this opportunity is necessary where the offence has been committed in the committee is not made clear in Beauchesne, but our Rule 14(2) concludes with the words, "as if the offence had been committed in the House." This provision, and the desirability of consistency, indicates that the Honourable Member for Sturgeon Creek should have received the opportunity to withdraw his admitted remark.

In speaking to the matter of privilege the Honourable Member for Sturgeon Creek noted the omission of the opportunity to withdraw his remarks, but did not specify what privilege had been breached.

Thus, there is prima facie evidence of a breach of order in that there was a departure from the normal operating procedures of the House. There is no prima facie evidence of a breach of privilege that would give the matter precedence over other matters on the Order Paper.

## ORAL QUESTIONS

### Manfor - Salary of CEO

**MR. SPEAKER:** The Honourable Member for Swan River.

**MR. D. GOURLAY:** Thank you, Mr. Speaker. I direct a question to the Minister responsible for Manfor. Last Thursday the Minister took as notice the question of personal items that Mr. Sweeney, President and Chief Executive Officer of Manfor, could charge on his expense account. Mr. Sweeney was reported in last Friday's Free Press as hotly denying charging cigarettes on his expense account, saying that that's very dirty pool.

In view of the denial on the part of Mr. Sweeney, has the Minister yet determined whether or not Mr. Sweeney has indeed charged such items on his expense account?

**MR. SPEAKER:** The Honourable Minister of Business Development.

**HON. J. STORIE:** Mr. Speaker, I did raise the matter with the chairman of the board and had his assurance that the matter would be reviewed in due course.

**MR. D. GOURLAY:** I direct a further question to the same Minister, and ask the Minister whether Mr. Sweeney has the right to charge these kind of items on his expense account?

**HON. J. STORIE:** Mr. Speaker, I should make it clear that both the chairman of the board and myself, and I believe all members would agree, that in terms of the contract and what is viewed as a reasonable expense, that those kinds of items would definitely not be deemed to be reasonable items.

**MR. D. GOURLAY:** Well, Mr. Speaker, I'd like to table a copy of an expense account that I received, signed by Mr. Sweeney, indeed indicating that he has charged cigarettes and other personal items to his expense account that has been approved and I would like to table this in the Legislature.

**MR. SPEAKER:** Question.

### **Manfor - Contract of Mr. Bourgeois**

**MR. D. GOURLAY:** A further question to the Minister responsible for Manfor. Last week the Minister advised the House that Alan Bourgeois is still employed at Manfor. It is my understanding that Mr. Bourgeois had a contract with Manfor that expired on March 14, 1985. It provided Mr. Bourgeois with a retainer for services at the rate of \$7,000 per month, paid in advance, which is \$84,000 per year, with a priority call on the services for 15 days per month plus expenses and office, etc. Can the Minister advise the House if this contract has been renewed and, if so, for what period of time?

**HON. J. STORIE:** Mr. Speaker, I believe it was certainly the intention of Manfor to continue with that contract. I can get back to the member with specific information about the renewal dates and so forth.

**MR. D. GOURLAY:** I wonder if the Minister can indicate to the House whether this is a full-time employment position or is it still a part-time position.

**HON. J. STORIE:** Mr. Speaker, it is a full-time position.

### **Boundaries re flood agreement**

**MR. SPEAKER:** The Honourable Minister of Agriculture.

**HON. B. URUSKI:** Thank you, Mr. Speaker. The Member for Swan River raised a number of issues with the Premier yesterday concerning the boundaries in his constituency with respect to the flooding agreement between Manitoba and Canada.

Mr. Speaker, before I answer those specific questions as to the way the boundaries were drawn and who was

consulted, I should point out to the honourable member that the conditions in which the boundaries were viewed to be drawn is that farmers had to experience severe flooding of crop land in three of the last five years, with 1984 as one of those years that were in fact being flooded. That was the criteria on which the basis of the boundaries were drawn up.

They were drawn in a similar fashion that the boundaries were drawn for the drought agreement. They were drawn by provincial officials, Manitoba Crop Insurance officials, in consultation with Federal Government officials, farmers and officials of the rural municipalities and LGDs in the most severely affected areas.

Those boundaries were drawn to deal with only the most severely affected areas. That's not to say, Sir, that there weren't flooding occurrences in other parts of the province or individual farmers beyond the most severe areas as is the case and has been the case with respect to the drought agreement.

Mr. Speaker, it came to our attention that once the boundaries were drawn that there were concerns raised by farmers beyond the boundaries as was the case similarly in the drought areas.

Having those concerns drawn to our attention, Sir, the Premier during this interval met with the Federal Minister of Agriculture and raised this concern. The Federal Minister indicated that he would in fact consider an extension of the boundaries. Subsequent to that, I followed up with a telex to the Minister of Agriculture on March 22nd of 1985 suggesting whether they would be prepared to consider extension of the program to additional areas beyond the area.

We did receive a response to the telex on April 19th indicating, Mr. Speaker, and I would just quote the relevant part of the telex, "I am most concerned that if the area in Manitoba were expanded that farmers in areas bordering the Saskatchewan program would expect similar treatment. In the interests of equity, it would be difficult to refuse such a request. However, funding for an extension of the program in Saskatchewan would need to come from the 1985-86 fiscal year. Given severe fiscal restraint, it would not be possible to fund such an extension. Therefore, I cannot consider an extension of the area covered under the Manitoba program, because most of the major problem areas should now be covered, and because of the precedent it would set concerning an expansion of the Saskatchewan program."

That was the position of the Federal Government after our request of them. It is true, Sir, as the member raised, that there may not have been consultations with municipal officials in the immediate area of Swan River, because I believe the R.M. of Swan River, there may have been some flooding. That area was not considered the most severe area in terms of the last three to five years.

**MR. SPEAKER:** The Honourable Member for Swan River.

**MR. D. GOURLAY:** Thank you, Mr. Speaker. My question to the Minister of Agriculture is: why didn't he consult with local municipal officials in the area affected, which is the LGD of Mountain? Those people

were not part of the program in determining the areas to be covered. As I understand it, the local crop insurance people were not also contacted. So my question to the Minister, why weren't those local people involved in determining the disaster area in the first place?

**HON. B. URUSKI:** Mr. Speaker, I will repeat to the honourable member again, the officials in the LGD of Mountain, the Crop Insurance Corporation and our staff officials and the federal officials were all involved in determining of the boundaries.

**MR. D. GOURLAY:** I would ask the Minister again if he can confirm that the LGD of Mountain and other officials from that municipality or local government district were involved initially in determining the disaster area? I know that they were involved after the fact . . .

**MR. SPEAKER:** Question.

**MR. D. GOURLAY:** . . . In signing the forms or verifying the losses.

**HON. B. URUSKI:** Mr. Speaker, I checked with our staff and I'm advised by our staff in the northwest region that consultations did take place between municipal officials . . .

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please.

**HON. B. URUSKI:** Well, Mr. Speaker, the honourable members can make whatever allegations they wish to make. Consultations took place between staff, both federal, provincial and municipal in establishing the program in a similar manner as they were in establishing the drought areas. However, in the drought area, Sir, the lead in terms of establishing the boundaries was taken by PFRA in consultation with both federal and provincial crop insurance and our staff, because PFRA handled the administration.

In this program, our staff handled the administration and the consultation took place between, as I have said earlier. The actual approvals of the application forms certainly were done by actual councillors in the area in consultation with our staff to determine the actual eligibility to see whether or not there were requests beyond what was considered the flood areas. But, Mr. Speaker, my staff advised me that all municipal officials in the relevant areas were consulted prior to the boundaries being set up.

**MR. D. GOURLAY:** I would ask the Minister of Agriculture if he could provide to the House the names of those people who were involved in the local area in determining the initial boundary set up for disaster assistance?

**HON. B. URUSKI:** Mr. Speaker, I certainly will want to do that and I'm sure the member will be raising those questions when we get into the details of my Estimates. We'll have staff from the regions in terms of the directors and the like and we will be able to provide that information for the honourable member.

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, I wish to ask a question of the Government House Leader, as we are very much concerned at the absence of the Premier and seven other Cabinet Ministers from the question period. Questions are prepared for the question period and approximately half of the Cabinet, including the Premier, are missing. I would ask the Government House Leader if in the future he would raise this issue with the Premier and Cabinet and ensure that a reasonable number of Cabinet Ministers are in the House during question period to answer questions?

**MR. SPEAKER:** Order please, order please. Order please.

Members should not comment on the presence or the absence of other members of the House.

### Federal deficit - article by R.D.C. Ruhr

**MR. SPEAKER:** The Honourable Minister of Natural Resources.

**HON. S. USKIW:** Mr. Speaker, yesterday the Member for Turtle Mountain raised a question with respect to an article in the Winnipeg Free Press dated April 28th, an article submitted by a member of my staff having to do with commentary on the national policy on deficit financing.

I want to say to the Member for Turtle Mountain that article does not represent the opinion of the department, lest there be any misunderstanding, that it was written by the individual on behalf of the individual, and that the error as I see it is in the submission of the person's full resume to the Free Press which was printed, and left the impression perhaps that that is a statement of public policy on the part of the department. I simply want to refute that because that is not the case.

I have consulted with the department with respect to process and procedures where members feel or are compelled to make their views known, for whatever reason, that they should not use departmental titles, letterheads, etc., and that if they submit resumes, they should only submit their personal residence and whatever other titles they have, but not their departmental titles, so that there would be no misinterpretation as to the source of the information that is being conveyed. A more formal message is going out to senior officials with respect to that.

### Chairman of Board of MTS - replacement experienced in telecommunications

**MR. SPEAKER:** The Honourable Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Speaker. My question is for the Deputy Premier.

Mr. Speaker, in view of the fact that a recent member of this House has now resigned as Chairman of the Board for the Manitoba Telephone System, I would ask the Deputy Premier if in the search for a replacement

Chairman for the Board of MTS whether they are searching for an individual who has previous experience in the telecommunications field so that that person might be able to offer further guidance to the board of directors and to the Telephone System?

**MR. SPEAKER:** The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, when this Minister and this government has decided on the person who will be appointed to chair the Manitoba Telephone System Board, the announcement will be made in due course.

**MR. D. ORCHARD:** Mr. Speaker, a supplementary question to the Minister responsible for the Telephone System. Yesterday in the committee the General Manager of the Manitoba Telephone System indicated future problems the system may be experiencing. My question is rather relevant as to the qualifications the government is seeking in recruiting a new chairman, as to whether they will seek out an individual with experience in telecommunications to help guide the system through this perceived rough time that they are facing in the near future.

**HON. A. MACKLING:** Mr. Speaker, we will be seeking in the appointment of that person someone, first of all, with good common sense; secondly, with the kind of ability that the former chairperson had, to be able to meet and deal with people and problems and defend the interests of the province in having the best telephone system in North America.

**MR. D. ORCHARD:** Mr. Speaker, I take from that answer that the Minister is offering the House and the people of Manitoba the assurance that the appointment of the new board chairman to the Manitoba Telephone System will not be an appointment purely based on political patronage.

**A MEMBER:** Are you Irish?

**MR. SPEAKER:** Order please.  
The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, I hesitate to answer that rather frivolous question with a flippant answer, and I won't. What we seek as a government are appointments of people who are able, who are honest and sincere, have good common sense and will fight for the interests of Manitobans.

#### **Premier Richard Hatfield - assistance to**

**MR. SPEAKER:** The Honourable Member for Elmwood.

**MR. R. DOERN:** Mr. Speaker, I'd like to direct a question to the Deputy Premier and ask her whether, in addition to Ontario, any government employees took a leave of absence to assist their French language ally, Premier Richard Hatfield, in the recent by-election in New Brunswick, and also to acquire experience for Manitoba's June election - that is losing experience.

Mr. Speaker, I assumed the government would spring to the defence of its allies, but apparently they're not.

**MR. SPEAKER:** Question.

#### **Air Canada - use of**

**MR. R. DOERN:** Mr. Speaker, I would then direct a question to the Minister of Labour, and ask him whether it is government policy to use Air Canada as an airline?

**MR. SPEAKER:** The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker . . .

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order please.

**HON. A. MACKLING:** It is the policy of this government to use the best transportation system available for any particular occasion in time; and where that warrants, yes, we use Air Canada. We use CP Air. We use Pacific Western Air. We even resort to using our own government air services from time to time where that is appropriate.

**MR. R. DOERN:** Mr. Speaker, on those rare occasions where you do use Air Canada, and given that there is now a strike taking place, has the government instructed its employees to not cross picket lines during the period of that strike?

**HON. A. MACKLING:** Mr. Speaker, I know of no formal . . .

**MR. SPEAKER:** Order please, order please. Order please.

The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, I know of no formal instruction of any kind that has emanated from any one of my colleagues, including the Premier's Office, in respect to this, but I know that members of the Civil Service belong to a very efficient and a very concerned bargaining unit. I am sure that their concerns respect the legitimate interests and concerns of the airline employees who are now on strike.

#### **Provincial Parks - fees to cottage owners**

**MR. SPEAKER:** The Honourable Member for Emerson.

**MR. A. DRIEDGER:** Thank you, Mr. Speaker. My question is to the Minister of Natural Resources.

I wonder if the Minister could indicate whether there have been major increases in the fees for cottage lots for owners that have cottages in the provincial parks.

**MR. SPEAKER:** The Honourable Minister of Natural Resources.

**HON. S. URUSKI:** Mr. Speaker, I believe the existing fee structure has been there for some period of time, but there is a review under way at the moment.

**MR. A. DRIEDGER:** To the same Minister, can the Minister indicate whether that review, those potential increased fees are going to be in effect for this year or whether that's for next year?

**HON. S. URUSKI:** Well, Mr. Speaker, when there is a new policy or a change in fees we will announce it. I don't know when that will take place, or if it will, but any changes will be announced in due course.

**MR. A. DRIEDGER:** To the same Minister then, can he indicate whether any notices have been sent out for this year?

**HON. S. URUSKI:** Well, Mr. Speaker, I would assume that any decisions that have been made over the last period of months has been conveyed to the general public. Unless the member wishes to be more specific then I can't really respond to him.

### Deputy Ministers re spring campaign

**MR. SPEAKER:** The Honourable Minister of Business Development.

**HON. J. STORIE:** Thank you, Mr. Speaker. Yesterday the Premier took as notice a number of questions from the Member for Pembina. Whether those were actually questions or despicable accusations is open to interpretation. However, one of the allegations made by the Member for Pembina was that somehow the Deputy Minister of the Department of Business Development and Tourism was shirking his responsibility in not attending a meeting of the International Coalition.

Mr. Speaker, in the first place, that body and the individual's membership and duties on that body are of a voluntary nature. In the second place, Mr. Speaker, an accusation was made that somehow the member was involved in partisan activities in dereliction of his duties. I think the record has been made clear, both by the president of the organization, touted by the member, and by the fact that the member was with other staff in my office doing his duties, as he has from the day of his employment.

Mr. Speaker, I think it's unfortunate that such unsubstantiated, such fabricated allegations are promoted by members such as the Member for Pembina. I find that insulting to members in the House; I find that insulting to the civil servants; I find that insulting, particularly for individuals who aren't here to defend themselves, and the Member for Pembina, Mr. Speaker, should apologize to this House, should apologize to the member if he has any class at all.

**MR. SPEAKER:** Order please. The Honourable Member for Pembina.

**MR. D. ORCHARD:** Mr. Speaker, would the Minister care to indicate to the House whether the chairman of the International Coalition did announce to the meeting that his Deputy Minister would not be there because he was working on a spring election campaign?

**HON. J. STORIE:** Mr. Speaker, I have not spoken to the president of that organization. There is a press

report in the paper in which he denies that, Mr. Speaker. It is certainly not the case that the Deputy Minister ever contacted or spoke in such a manner to that individual. The Deputy Minister called more than a month ago to inform that individual that he would not be attending because, Mr. Speaker, he was promoting a work shop in the community of Selkirk for the business people, the Chamber of Commerce and the Council in that community, for their betterment. He was doing that, again, Mr. Speaker, on his own behalf and in a voluntary way. The kind of maligning that occurs by this particular member is insulting to us all, and particularly insulting to the Civil Service.

**MR. D. ORCHARD:** Mr. Speaker, a supplementary question to the Minister.

Would the Minister, instead of using second-hand and third-hand information and innuendo, check the statement made by the president at the meeting in Grand Forks before he makes accusations in this House about people imputing motives?

**HON. J. STORIE:** Mr. Speaker, I have spoken with the individual who is involved in this incident, and I trust the integrity of that individual a lot more than the individual across the floor.

### Vicon - finalization of sale

**MR. SPEAKER:** The Honourable Member for Roblin-Russell.

**MR. W. MCKENZIE:** Thank you, Mr. Speaker. Speaking of apologies, I have a problem. I have a question for the First Minister, the Minister of Co-operative Development, or the Minister of Industry and Technology. They're not here, what do I do?

Mr. Speaker, I will address it to the Deputy Premier. Can I ask the Deputy Premier, Manitoba co-operative unions representing employees of Manitoba Co-op Implements, credit unions, banks and many small businesses across rural Manitoba have been waiting weeks for the finalization of the negotiations which could lead to Vicon Inc. establishing a new farm implement manufacturing plant in our province, can the Deputy Premier advise the House has the agreement been finalized and, if not, when can we expect it to be finalized?

**MR. SPEAKER:** The Honourable Minister of Community Services.

**HON. M. SMITH:** Mr. Speaker, I will take that as notice.

**MR. W. MCKENZIE:** I would ask the Honourable Minister if she would give us, especially the small businesses across rural Manitoba and the co-operatives that are offering farm implements that are made by that firm, are really concerned about the finalization of these agreements to see if their contracts are valid and where they stand. I wonder if the Deputy Premier could give us a definite answer by, hopefully, next week.

**MR. SPEAKER:** The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, the honourable member knows that the Minister of Industry, Trade and

Technology, his staff and staff persons from the Department of Labour have been working with the proposed purchasers of the CCIL plant, and the bargaining agent trying to work out arrangements so that that plant will continue in operation. Those negotiations are not simple; they are complex; they are taking time. But rather, Mr. Speaker, than the situation being as the Member for St. Norbert rising in this House and asking me to confirm that the plant had already been moved to Saskatchewan, which was misleading the members of this House, that has not occurred, and both the company and the union are trying to work out arrangements to continue that operation in Manitoba.

I resent the kind of questions that are asked in this House, misleading questions that try to destroy the integrity of both the company and the union involved.

**MR. SPEAKER:** Order please. The honourable member knows that he should not accuse another member of this House of misleading others.

The Honourable Member for Roblin-Russell.

**MR. W. McKENZIE:** Mr. Speaker . . .

**MR. SPEAKER:** The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, if the words I used indicated that the honourable member misled the House, I retract that, and say that the premise he put in his question was false and therefore may have tended to mislead some members of the House.

**MR. SPEAKER:** The Honourable Member for Roblin-Russell.

**MR. W. McKENZIE:** Mr. Speaker, the Minister of Labour, I'm sure, destroys any possible hope that we had for agriculture in this province by those allegations.

**MR. SPEAKER:** Question.

**MR. W. McKENZIE:** Can I ask the Minister of Labour, does he or this government understand what an important role small business, the farm implement business, plays in the economy of our province?

**MR. SPEAKER:** Order please. The understanding of a Minister is not the proper subject of an oral question. Would the honourable member wish to ask a question seeking information?

### Negotiations with China re surplus products

**MR. W. McKENZIE:** Mr. Speaker, can I ask the Minister again another question for the Deputy Premier? Further to last week's discussions with Ambassador Yu Zhan, the Chinese Commissioner, the Government of Manitoba and the Government of Canada regarding the development of potash industries in western Manitoba, the Russell-Binscarth area, it's evident from what I can gather that east-west trade is the key to these ongoing negotiations.

**MR. SPEAKER:** Question.

**MR. W. McKENZIE:** Can I ask the Deputy Premier, have you or your government included Manitoba sugar as surplus agricultural product in this province as one of the items that be included in the package, especially since the Ambassador has mentioned in those talks that food items could be one of the key factors in the finalization of this package?

**MR. SPEAKER:** I have an idea that is a frivolous question, but if the Honourable Minister of Agriculture has an answer he may give it.

**HON. B. URUSKI:** Mr. Speaker, I think the premise of the question is not frivolous, but the information that the honourable member has provided this House, that somehow 10 percent of Canadian production by Manitoba producers is excess to Canadian needs. Mr. Speaker, the honourable member's premise is frivolous in terms of suggesting that somehow there is surplus of sugar products for export out of this province.

Mr. Speaker, I think the honourable member should check his facts on the matter. The fact of the matter is, Sir, what is causing the depression in the sugar industry is the low world prices that have caused the collapse of the pricing in the sugar industry and caused the problems of producers and workers because of imports, not because there is a surplus in this country.

The question with respect to our discussions with the Chinese Ambassador, Sir, we certainly are in discussion with him insofar as the potential of agricultural trade, the potential for breeding stock, the potential of the frozen embryos, all those kinds of technologies that Canada and Manitoba can play a role in. These are the areas that we have been exploring with them, as well as of course our discussions on potash.

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Mr. Speaker, I rise on a matter of privilege with respect to the accusation by the Minister responsible for being in the hip pockets of union-organized leadership in this province on behalf of the NDP.

**MR. SPEAKER:** Order please, order please. In order not to interrupt the proceedings of Oral Questions, which is of considerable interest to all members I know, would the honourable member wish to raise his matter of privilege following Oral Questions?

The Honourable Member for Roblin-Russell.

### Negotiations with China re surplus products

**MR. W. McKENZIE:** Mr. Speaker, further to the Minister of Agriculture then on the same subject matter, can I ask the Honourable Minister, the possibility of exchanging primary products as well as finished products from this province, was that not included in the negotiations with China?

**MR. SPEAKER:** The Honourable Minister of Agriculture.

**HON. B. URUSKI:** Mr. Speaker, those kinds of discussions that are under way presently are exploratory discussions. As the member knows, members of government and staff have visited and we are endeavouring through the Canadian Government to extend as many trade opportunities as we can to production from this province, whether it be on the finished state or in the technology state. We are exploring whatever avenues that may be open to us.

### **Brandon University act**

**MR. SPEAKER:** The Honourable Member for Turtle Mountain.

**MR. B. RANSOM:** Thank you, Mr. Speaker. My question is to the Minister of Education. Has the Minister of Education had an opportunity to review the proposed Brandon University Act?

**MR. SPEAKER:** The Honourable Minister of Education.

**HON. M. HEMPHILL:** No, Mr. Speaker. The act presently is under discussion between the Brandon University Board and the Universities Grants Commission.

**MR. B. RANSOM:** A supplementary to the Minister, does she expect that act will be reviewed and introduced into this Legislature during this Session?

**HON. M. HEMPHILL:** Mr. Speaker, it will be clear which acts in Education will be introduced in this Legislature when they are introduced.

### **Manitoba Labour Board - support staff to Dept. of Labour**

**MR. SPEAKER:** The Honourable Minister of Labour.

**HON. A. MACKLING:** Mr. Speaker, the other day the Leader of the Opposition asked me a question in respect to any change in staffing in relationship to the Manitoba Labour Board as it relates to the department. I answered that as far as I knew there was no change in the staffing practice that existed before, and my answer remains - there has been no change and none intended.

### **St. Pierre parents re - additional English-speaking programs**

**MR. SPEAKER:** The Honourable Member for Elmwood.

**MR. R. DOERN:** Mr. Speaker, I'd like to direct a question to the Minister of Education concerning the complaints of French-speaking parents in St. Pierre and their call for more English and less French. Can the school division structure its Français Program of 75 percent French to a lower figure of 50 percent or less, because of student problems in learning and speaking the English language?

**MR. SPEAKER:** The Honourable Minister of Education.

**HON. M. HEMPHILL:** Mr. Speaker, the decisions that are being made and the questions that are being raised

by the community are under the authority of the school division. It is up to the school division under the law to determine the programs, and of course we hope that will be done, with discussions and consultation with parents.

In this case, there is an issue where there are a number of parents wanting one program and a number of parents petitioning and wanting another. Of course, these are very difficult decisions for any school board or any elected body to resolve. It's my understanding that discussions are under way between the community and the division. The board has agreed to look at the points the community have raised and to deal with them by a certain point in time. I'm sure we all hope that they will resolve it to everybody's satisfaction.

**MR. R. DOERN:** Mr. Speaker, the Minister didn't answer my question, so I'll try to focus on it. Is it a government requirement that the 75 percent figure be in place, or is that a maximum so that the division has some flexibility about the precise proportions that they wish to select?

**HON. M. HEMPHILL:** There is flexibility with the division, Mr. Speaker.

**MR. R. DOERN:** Mr. Speaker, I would then ask the Minister whether she has had any reports from other school divisions with similar problems, that is, students learning broken English and broken French rather than achieving a proficiency in bilingualism?

**HON. M. HEMPHILL:** Mr. Speaker, of course this is something that we don't just depend on second- or third-party information or people saying that they think that the quality of the program may not be too good. We do testing and serious examination to make sure that there is no loss with students studying the French language or any other language. Our surveys and our studies show and they confirm what the national surveys and studies show, that is, that students taking other language programs are not deficient or do not do any worse in terms of other programs and that includes English.

So there may be some problems related to student ability in learning English or other courses, but there is no indication or no statistical information that suggests it can be related to the learning of language. Those students who are taking French programs and other heritage language programs do as well in their other subjects as do those who do not.

### **Inspections of hen flocks - precautions re disease**

**MR. SPEAKER:** The Honourable Member for Virden.

**MR. H. GRAHAM:** Thank you very much, Mr. Speaker. I have a question for the Minister of Agriculture. It is my understanding at the present time that there are inspectors travelling throughout the province inspecting flocks of chickens to comply with the new terms on the reductions in the hen flocks. I wonder if the Minister can give us the guidelines for the precautions taken by those inspectors to ensure that disease is not carried



from one farm to another. What precautions are being taken?

**MR. SPEAKER:** The Honourable Minister of Agriculture.

**HON. B. URUSKI:** Mr. Speaker, the honourable member should be aware that there is no reduction in the existing flock numbers by the premise of his question. The existing producers who have the exemption of 500 birds, there was no reduction at all on existing producers. The change that the marketing board made was on the starting up of new producers. So there was no change to existing producers, but in terms of how the board carries out its inspections, I am assuming that they use the protection of the changing of rubber or plastic boots, as normally one would in entering premises if they in fact are checking. But I'll take the question as notice and just find out what procedures the boards do use in terms of those inspectors. But the premise of his question was not accurate, Mr. Speaker.

**MR. H. GRAHAM:** A supplementary question to the Minister.

Does a producer have the right to refuse an inspector to come on their premises until they are satisfied that proper sanitation methods are followed?

**HON. B. URUSKI:** Mr. Speaker, I'll have to take it as notice, but I believe the regulations that are in place today are the same as were in place when they were in government and previous governments in terms of the program. But I will ascertain what the rules are in terms of whether they can. I believe some of the inspections - there is legislation, both federal and provincial, in terms of the authority of inspectors to enter upon property.

### **Children's Aid Society - regional centres - satellite offices**

**MR. SPEAKER:** The Honourable Member for Fort Garry.

**MR. C. BIRT:** My question is to the Minister of Community Services. I'm wondering if the Minister can advise, now that the Children's Aid of the City of Winnipeg has been divided into six regional centres throughout Winnipeg, whether or not each division will be establishing satellite offices.

**MR. SPEAKER:** The Honourable Minister of Community Services.

**HON. M. SMITH:** Mr. Speaker, each region will have a central location, and they are enabled to set up resource centres in the area which may, in some cases, be new premises; in others, they may just link up with people who are already working in the community, but who are prepared to work as a working co-operation.

**MR. C. BIRT:** Can the Minister advise whether each new region will be establishing satellite offices; and if

so, how many offices; and thirdly, will they be using employees of the existing Children's Aid structure or will there be new people hired for those satellite offices?

**HON. M. SMITH:** Mr. Speaker, if the member means a central office for each region, if that's what he refers to as satellite offices, yes, each region will have a central cluster of offices. If he is referring to satellites within each region beyond this central office, the practice will vary within the region. They have a certain budget. They are being encouraged to develop preventative and community support services within their budget and each will follow a slightly different pattern. I did report some weeks ago in detail the current situation of staffing, redeployment and so on. I'd be happy to make that available to the member again. Basically, the same number of staff are being used and redeployed.

Beyond this year, each region will have to operate within their budget and so they may vary in their staffing pattern, but the change has been accommodated basically within the existing budget.

**MR. SPEAKER:** Order please. The time for Oral Questions has expired.

### **MATTER OF PRIVILEGE**

**MR. SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Thank you, Mr. Speaker. As I indicated earlier, Sir, I rise on a matter of privilege with respect to the comments made by the Minister of Labour to date, and I will conclude, Mr. Speaker, with a substantive motion.

Mr. Speaker, the Minister of Labour indicated that I had misled the House and that I had used false information with respect to the subject of Vicon locating outside of Manitoba. I refer to Hansard, Mr. Speaker, Friday, March 8th, to which the Minister is referring. I asked this question on Page 13, Mr. Speaker. I said, "My question is to the Minister of Labour. With respect to the specific effects of the labour legislation passed by this government at the last Session, and about which we raised serious concerns, could the Minister advise whether Vicon, which purchased Co-op Implements will, as a result of an impasse with the union, as a result of the labour legislation passed by this government, whether Vicon will be locating its head office and new plant in Saskatchewan resulting in a loss of jobs for Manitoba?" Mr. Speaker, that was purely an informational question that I was asking.

I went on later, on Page 14, to say, "Mr. Speaker, in view of the fact that the union leader clearly indicated the real problem by saying, in this province the law of the province is if you buy a plant - and that's whether it has failed or not - you inherit the present collective agreement in force, and that's the problem." Now, Mr. Speaker, that question was based on the reported comment of the leader of the Steelworkers' Union involved in the Vicon plant.

My questions were either informational or were based on a reported statement of the union leadership. Mr. Speaker, I reject the accusation that I used misleading information or false information.



Mr. Speaker, I would therefore move, seconded by the Member for Sturgeon Creek, that this House hereby request the Minister of Labour to withdraw his incorrect allegations that the Member for St. Norbert misled the House or used false information.

**MR. SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Mr. Speaker, I think the alleged breach of privilege here is, Sir, not a breach of privilege, but rather a point of order. The use of unparliamentary language, Sir, is referenced in Beauchesne — (Interjection) — I'll come to that in a moment - is referenced in those citations referring to unparliamentary language as being points of order, Sir. If the accusation being made in this motion is that the honourable member is in some way in contempt of the House, Sir, then it could be extended to be an argument for a breach of privilege. I submit, Sir, that since privilege is really the law of contempt of parliament, such is not the case in this instance.

I do recall, Sir, although I've been unable to locate the reference, allegations in questions from members opposite in early March of this Session to which the Minister of Labour referred, that there was a strong likelihood or indeed in some cases, although I don't recall the specific date of the reference, certainly a strong likelihood and in some cases an alleged certainty that a decision had been made with regard to the Vicon plant to go to Saskatchewan.

Sir, the fact of the matter is that no decision has been made and to present that kind of information to the House, Sir, and you may wish to peruse Hansard to find those exact references, it may be the Minister of Labour can assist us in that regard.

Sir, part of the problem, and it occurred earlier today - and I wish to bring it to your attention, Sir, as forcefully as I can for the benefit of members opposite - relates to the failure of some members in this House to observe our citation in Beauchesne's Fifth Edition No. 362 which requires members to determine the validity of allegations that they bring before this House, and when, Sir, allegations are brought before the House that something is happening, that layoffs are occurring, that somebody's off preparing for an election despite their Civil Service status, or that a plant is moving to Saskatchewan, that's what creates the problem. To accuse the Minister of Labour then to be in breach of privilege because, Sir, he says that that kind of information misleads, I wouldn't suggest, Sir, that it deliberately misleads, but it certainly misleads out of ignorance.

Sir, Citation 362 is deliberately designed by those parliamentarians who contributed a great deal more to this than anyone in this House, and to this process, designed to prevent that kind of thing disrupting the processes in this House. Sir, I submit the member has raised an important point, although I submit it is not a question of privilege, an important point of order. I think it is a due caution to all members to begin to observe that citation more accurately, and we would not have had the exchange we had between the Minister of Business Development and Tourism and the Member for Pembina today, an exchange earlier this week

between the Member for Elmwood and rumours of hundreds of layoffs presented to this House and, Sir, the whole question of Vicon which has been raised today.

Again, Sir, I hesitate to use the word I hear from my rear of innuendo but certainly, Sir, when a member presents facts to the House which are not checked, they then, Sir, become an allegation without substance and they, Sir, then are misleading, not through deliberate action, but certainly misleading through ignorance.

I think the Minister of Labour's suggestion in that regard, if I may treat this as a point of order, with regard to unparliamentary language, Sir, is accurate in that regard. I refer you, Sir, to the listing of unparliamentary language that is provided, and the reference to the word "misleading" on Page 112, Sir, in the list of appropriate references that have been ruled parliamentary. The determination of the word "misleading" in the past in Ottawa, Sir, has been whether or not it has been with deliberate action. I don't think the Minister of Labour suggested that, in fact, when he was challenged on whether or not he was suggesting it was deliberate, he withdrew any such suggestion and told the House that had not been his intention, and he did not use the word deliberate.

So, Sir, I submit, first, there is no breach of privilege; secondly, the appropriate point for the member to raise is a question of unparliamentary language which is appropriately a point of order, that the language is not unparliamentary, Sir, but that all members would be well-advised to heed the caution of Citation 362.

**MR. SPEAKER:** The Honourable Member for Sturgeon Creek to the same point.

**MR. F. JOHNSTON:** Mr. Speaker, on the same point, the House Leader has described a lot of other questions in the House and is trying to, I would suggest, indicate what questions are allowable and what questions aren't allowable in this House which, Sir, I believe is your decision.

Mr. Speaker, my colleague, to bring it back down to what actually happens, is asked a question in this House that said whether this industry would be moving to Saskatchewan or not. The Minister of Labour a few minutes ago stood up and said that my colleague, the Member for St. Norbert, misled the House and said that the company was moving to Saskatchewan or Regina. Mr. Speaker, that is a false . . . And then he gets up and makes an apology. He made an allegation which was absolutely wrong, and it was proven wrong, and he should, Sir, apologize for doing so.

**MR. SPEAKER:** The Honourable Minister of Labour to the same point.

**HON. A. MACKLING:** Mr. Speaker, on the day, March 8th, the Honourable Member for St. Norbert asked the question, and he's referred to the question, and I would like to read the question in full, and then I will comment on it as I have subsequently.

"Thank you, Mr. Speaker. My question is to the Minister of Labour. With respect to the specific effects of the labour legislation passed by this government at the last Session, and about which we raised serious

concerns, could the Minister advise whether Vicon, which purchased Co-op Implements will, as a result of an impasse with the union, as a result of the labour legislation passed by this government, whether Vicon will be locating its head office and new plant in Saskatchewan resulting in a loss of jobs for Manitoba?"

Mr. Speaker, I gave answer to that question, saying that I had basically heard nothing of that, but what I say, and what I said earlier today, is that there is a suggestion in the question that implies a state of fact, implies two false states of fact. The first one is that the company is moving to Saskatchewan; secondly, and this I hadn't dwelled on earlier, that the proposed move, if there is a move, results from labour legislation which we passed.

The honourable member was Attorney-General in a government that had the same labour legislation that Vicon and CCIL are dealing with - successor rights in respect to union contracts. Now no labour legislation which we passed in the last Session had affected the problems that Vicon and CCIL and the union were dealing with.

So, Mr. Speaker, when I say, out of ignorance or for whatever reason, the honourable member puts this kind of a question people, perhaps not in this House, but people who report such questions, believe that the honourable member is stating as fact, first, that there's a move and, secondly, the problem is with the legislation that was passed. Both of those things were wrong, Mr. Speaker, and the honourable member should have known that.

**MR. SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Yes, Mr. Speaker, thank you for recognizing me. I made reference to the distinction between a matter of privilege and point of order with regard to unparliamentary language. I would refer you, Sir, to Citation 323(1), I had not referenced that earlier.

**MR. SPEAKER:** Order please. I thank those members who have offered their advice in order to check precisely on what has been said. I will take the matter under advisement and check Hansard.

## ORDERS OF THE DAY

**MR. SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Thank you, Mr. Speaker. I believe there may be a predisposition to dispense with Private Members' Hour today. If we have leave to do that, I would then move the Supply Motion, Sir.

**MR. SPEAKER:** Is there leave to dispense with Private Members' Hour today? Leave has been granted.

**HON. A. ANSTETT:** Thank you, Mr. Speaker. We will be in Estimates in the House in the Department of Health, and we will be starting the Department of the Attorney-General in Committee Room 255.

I would therefore move, Mr. Speaker, seconded by the Honourable Attorney-General, that Mr. Speaker do

now leave the Chair and the House resolve itself into a Committee to consider of the Supply to be granted to Her Majesty.

**MOTION presented and carried** and the House resolved itself into a Committee to consider of the Supply to be granted to Her Majesty with the Honourable Member for River East in the Chair for the Department of Health; and the Honourable Member for Burrows in the Chair for the Department of the Attorney-General.

## CONCURRENT COMMITTEES OF SUPPLY SUPPLY - ATTORNEY-GENERAL

**MR. CHAIRMAN, C. Santos:** Committee, please come to order. This section of the Committee of Supply will be dealing with the Estimates of the Department of the Attorney-General. We shall begin with a statement from the Honourable Minister responsible for the department.  
Mr. Attorney-General.

**HON. R. PENNER:** Thank you, Mr. Chairperson, my statement will be brief.

After three successive years of major changes, fiscal 1985-86, for this department will be primarily, by no means exclusively, a year of consolidation and departmental reorganization in order to attain greater efficiency in program management, program delivery and program evaluation.

With court amalgamation, that is the amalgamation of the Court of Queen's Bench and the county courts, the creation of the Family Division of the Queen's Bench, the start up in February of this year of the Law Enforcement Review Agency, and the introduction on April 1st last of The Young Offenders Act, April 1st of the year before, all of this behind us the focus now is rather more on the strengthening of existing programs than on the introductions of new ones.

In order to improve the management, the delivery and the evaluation of our programs, the following steps are being taken. First of all departmental reorganization - and I would refer members to the chart which is found in Schedule 1 to the Supplementary Information, and that gives some indication of the reorganization which is taking place and which is almost complete. It's complete in terms of its structural set-up, not yet complete in terms of the hiring of the key players. So just by looking at the chart, you'll note that we have a flatter, a somewhat more decentralized, organizational structure with six major divisions reporting through a senior manager to the deputy and ultimately, of course, through the deputy to the Attorney-General and most of these are headed by an ADM, so that we have the Justice Division with an ADM, and that's Norm Larsen, in place effective August 1st, last.

The Legal Services Director position is vacant and has been bulletined, interviews have taken place, and that will be filled shortly. The former Director of Legal Services, Civil Litigation as we called it then, now being the ADM Legislative Counsel, so we have as the next major budgetary unit, the Legislative Counsel's office and members will note that the Legal Translation unit,

which was formerly lodged with Cultural Affairs, is now under the direction of the ADM Legislative Counsel; that's a unit presently of approximately 11 persons with an addition of four other persons to take place during the course of this fiscal year.

By far the largest courts division in the structure is the third one, the Courts Division, and members will note on the chart that we give an approximation of the budget and the SYs in each one of these units, and that is headed up by Marvin Bruce, formerly Director of Court Services, now ADM Court Services.

The Property Rights Division is one we retain the traditional title of Registrar General and that includes the Land Titles Offices and the Personal Property Security Registry.

Finance, we maintain the title of Executive Director as the head of that unit, Pat Sinnott, and we have a Criminal Justice Division headed by an ADM, John Guy, and those are the six main budgetary units. As we go through the Estimates, we have indicated how these units, in fact, are now structured, and this is a bit of a change from previous years.

**MR. C. BIRT:** Is that the head of the Land Title's Office?

**HON. R. PENNER:** Yes, the Registrar General.

Still dealing with the general question of reorganization, program management and program delivery, we're placing considerable stress in this year on developing a Research, Planning and Evaluation unit. Reference to this may be found in Reference 3 to the first section. We'll be looking at that shortly, but this we think to be a very important unit. You have the delivery of programs in a whole number of areas and they go on sometimes for years without someone, who is not part of the delivery of that program, taking an objective look at what its goals are, whether or not it's meeting these goals, and whether or not the delivery of the program can be improved.

Negotiations are presently under way to retain for one year a consultant with impressive credentials in program evaluation in order to establish this unit within the department.

Further, with respect to program management delivery and so on, Systems Development continues. The Systems Development consists of computerization within the Land Titles system; the further development of the Manitoba Justice Information System; the development of a computerized record keeping system for The Young Offenders Act in the introduction of quick law.

Let me just say a few words about each one of these. With respect to the Land Titles computerization schedule, the General Registry was the first unit that we had earmarked for computerization, and in fact I can announce here that tomorrow morning at 9 o'clock we will be officially launching the computerized G.R., General Register, and staff savings in the system associated with that computerization are four staff years.

But of far more importance - not that that is unimportant - we estimate that the computerized system which will speed up transactions through the land titles system enormously, will in fact save the general public as much as \$1.5 million a year because of a shorter

time required for bridge financing as transactions go through. The use, incidentally, of the computer search is free. It's a user-friendly system and it will be off the launching pad tomorrow morning.

With respect to the Manitoba justice information system, that development is continuing. We are also, with federal funding, developing a record keeping system for the YOA, The Young Offenders Act. We expect to end up, as both of these systems develop, with an integrated system which will operate internally across courts and externally with other services, notably corrections and the operation of the Remand Centre.

Quick law, the other system's development to which I referred, is a computerized way to enable legal staff to search through the reported cases to find cases that have relevance to a particular legal issue that has come up in a civil or criminal trial. There is presently now in the new court building, which was opened up at the beginning of this month, a quick law terminal, and members who are interested are invited to go across.

You will find if they have a key word, let's say assessment - I use that because it was the key word last night - they want to find out something about assessment, what reported cases there have been, they type in the word "assessment." If they've misspelled it, the computer tells them to look it up in the dictionary, then turns to a dictionary page for them and gives them the right spelling. They get it right this time and out will come a printout of what is called the head note of the leading cases - the leading cases being because the computer doesn't think quite as efficiently as lawyers like Mr. Mercier and Mr. Birt - those cases in which the word is used most frequently.

So it saves an enormous amount of time in legal research because a lawyer with some training, by looking at a head note can tell whether or not that case is relevant to the issue the lawyer has in mind. So systems development is taking place and some resources are allocated to that in this year.

With respect to staff additions, I would draw members' attention to an attachment in the kit which, first of all, gives a reconciliation from '84-85 voted to staff changes during the course of '84-85 and then subsequently. At the moment I'm just commenting on the fact that related to this question of management efficiency evaluation, some of the staff changes in this connection are the addition of an administrative assistant for the deputy, the addition of a budget analyst to the finance and administration branch, additions to the staff of the law enforcement administration unit.

Let me just say parenthetically about this last item, we have found since we retained a Director of Law Enforcement Services, Charlie Hill, a year ago in November, that we're much better able to get a handle on the largest single component in the budget of the Department of the Attorney-General. That's the RCMP cost which is now in excess of \$28 million; that's a huge amount.

We have found that the RCMP, of course, are very responsive as we work with them on the budget. We have been able to, with the staff that we have, get a much better handle on that budget, on the allocation of resources. With some strength in there, we expect to do even a better job.

That, Mr. Chairperson, deals in the first instance with the first point that I am making about the primary

emphasis being on consolidation, reorganization, program management, program delivery and program evaluation. However, we are certainly not standing still with respect to legislation.

Let me just touch on three major items of legislation that will be introduced through this department. One is a new provincial Young Offenders Act. I had hoped to be able to introduce that last year, but it required a lot more study and thought than time allowed last year. I expect to be able to table a bill in this Session. It will, of course, deal with the methods, procedures to be used in dealing with young persons between the ages of 12 and 18 who are charged with a provincial offence, because the federal Young Offenders Act only sets up a procedure for dealing with young people in that age category charged with a federal offence.

Freedom of Information, as I indicated in the House yesterday, that bill is now complete in terms of drafting and is in translation, and I expect will be distributed in the House within the next couple of weeks. That will be a fairly major program delivery question that has to be resolved. I do not anticipate that a bill will be proclaimed any sooner than from three to perhaps six months after enactment, so that we can complete those steps which are necessary for program delivery.

It may well be the case - I should make note of it here - that the program will actually be delivered through the Department of Cultural Affairs, because that's where the major responsibility for government documents, the Provincial Archives and so on, now rests. Rather than have responsibility for the handling and processing of documents over time fractured between two departments, it may well be the case that responsibility for the administration of freedom of information will rest with that department, although its day-to-day administration will involve responsibilities of all departments.

Again, in terms of legislation, really, the major thrust of the department this year will be with Charter compliance and, as the members are aware, we have already placed on the Order Paper a first reading of the equality rights, a Statute Law Amendment Bill, which will deal almost exclusively with Section 15 matters, but we will also be introducing another Charter-related bill which will deal primarily but not quite exclusively with Section 8 Charter matters, that is, search and seizure matters. So those are the main legislative thrusts.

There are a number of other pieces of legislation, some of which have already been introduced for first reading. Another, The Transboundary Pollution Reciprocal Enforcement Act - what's the name of that one, Gerry? - is being introduced for second reading, but these are by way of amendments to existing legislation rather than new thrusts.

With respect to program changes and enrichment, although again while this may be primarily a year of consolidation and reorganization, we're, as I said a moment ago, far from standing still.

In the area of the activities of the Human Rights Commission, there has been a backlog. There have been delays in the processing of complaints that are not acceptable, and we are adding almost immediately two Human Rights officers and an additional administrative support person to the staff of Human Rights Commission. We think that this will cut down

the backlog to a very great extent, and we are also in the process, or we will shortly be bulletining and hiring a lawyer who will be housed with Civil Litigation but whose primary responsibility will be with respect to the Human Rights Commission. What we've been doing for the last two or three years - I believe it was the same with the previous government - is to a considerable extent using outside lawyers. That will still be the case in some instances, but the Human Rights Commission feels it can function better with a lawyer who is regularly used for Human Rights adjudications to represent the Commission and to give the Commission itself advice.

In Legal Aid, we have the previous year developed a Legal Aid response unit for The Young Offenders Act. We've been assisted in this with federal funding. The unit consists of four persons. They were previously on term, now, in this fiscal year, will show up as permanent staff. We are also anxious to develop a better response unit for the Family Law cases. We, over a year ago, entered into an experiment where we had our Ellen Street office concentrated exclusively on criminal cases and that has worked with such efficiency and has been so successful that we are now attempting to develop a specific unit for Family Law because the main work that Legal Aid does is with respect to criminal matters and family law.

As part of being able to set up a more efficient way of delivering legal services in this specialized way, we have taken steps to close one office, the Lasem office, and the staff from that office has been reallocated to the Main Street and Ellen Street offices of the Legal Aid Services Society.

We have also - and this is something that the Member for St. Norbert raised last year - in this fiscal year are hiring - we are in the process of doing that now - a new lawyer to conduct a trial program for a year in pursuing maintenance judgments for social assistance recipients.

There has been some question about whether or not this really works to the advantage of the recipients and of government, of course, and rather than leave it as a question we've decided that we should in fact hire a lawyer who will for a year, take nothing but those cases to see how many cases there are and what the net results to the system are. So that is being done.

Again there will be in terms of some program changes and program enrichment, further expansion of our principal Native policing programs. We hope to be able to add through the RCMP unit an additional 10 special Native constables to the complement and that would boost the number of specials from 30 to 40. These have been very successful in the northern detachments.

Indeed I should point out that what we have done is move the specials either on to the reserves, where that has been okayed by the Band Council, or at least immediately adjacent to a reserve, so that there is a much quicker response. Our special constable programs - and these are not band constables - these are members of the RCMP - are recruited from the Native population, trained in the regular RCMP training facility in Regina, and then placed in a unit that either services a reserve or is located on a reserve. So there will be some expansion there.

That expansion, incidentally, is primarily by internal reorganization. We found that when we were able to

add the special constables, that within the system as a whole where there are vacancies in the non-Native establishment, that the RCMP uses those vacancies as staff positions for the Native constabulary.

Furthermore, with respect to the same expansion of Native policing programs, members will note in the grants which are given by this department that for the last two or three years we have given a grant to the Dakota-Ojibway Tribal Council for its policing program of \$100,000 - it used to be 80; then it was 100 - and we have enriched that program on our part by an additional grant of \$50,000 to bring the total grant to \$150,000, and the Federal Government has also greatly increased its contribution to the same program.

I mentioned in my introduction a few moments ago that we saw the launching of the Law Enforcement Review Agency in February. We're not planning any additional resources at this time although a fairly significant number of representations have been made to the Commission, some 50, and statistics will be provided on that.

Only 28 of the 50 were adjudged by the Commissioner to fall within the purview of the act. Of these - let me just note at the moment - five have been resolved informally and 23 are still under review, investigation or conciliation. A preliminary judgment of the program indicates that it does, as hoped, work very well as a conciliatory mediative-type agency, and that we may - at least for the first part of this year as things presently look - be able to continue without having to add staff.

Finally by way of introduction, Mr. Chairperson, let me identify issues which in a sense are still on the back burner but by no means forgotten. I'll just give some examples, all of them within the court system. We still have to address the problem or the question - I'm not so sure that it's a problem - of the Small Claims Court and that was something again that the Member for St. Norbert has raised from time to time, and I would be happy to discuss it with him. In fact I had anticipated that we would be able to perhaps move on the recommendations of the Law Reform Commission and that this might be an opportune time because of the amalgamation of the County Court and the Queen's Bench, but that hasn't been possible given the other priorities which have occupied the time and attention of the department in reorganization.

But we might well consider the question, given that it's quite likely the Small Claims Court will stay as it is structurally at least for the foreseeable future, look again at its jurisdiction. That is the size of the claims that can be litigated in a Small Claims Court, whether that shouldn't move up to something like \$2,000 or something of that kind. That could usefully be discussed here or in the House.

With respect to courts still, I think there is room for a considerable improvement in Northern services. We did make a forward step a couple of years ago by the appointment of a resident provincial court judge in Thompson. There may be room for an additional provincial court judge in the North. That is presently under review. There may be room for an additional Crown Attorney in the North; that is also under review. The idea there, of course, being to have resident services in a sense, although one can never have fully resident services in the North, but at least services that don't have to fly up from Winnipeg, located in The Pas

or Thompson or Flin Flon, and cut down on the circuits that are flown out of Winnipeg.

Again another thing that is still very much under consideration is to make the jurisdiction of the Family Division of the Court of Queen's Bench province-wide. In my view, it is proving to be an outstanding success in a whole number of ways and I wanted to make sure that happened, that it wasn't overburdened, that it wasn't overdriving its headlights, so to speak, before we expanded the services of the Family Division beyond its present boundaries. That will be looked at during the course of the year.

There is a resource implication to that, and that raises the next issue that is, in a sense, on the back burner and that is the addition of a second master for the Family Court. The master who we presently have, Marilyn Goldberg, is very very good, but is doing an enormous amount of work and even without expansion some relief may be necessary there. But certainly with expansion we would need an additional Family Court Master to handle all of the interlocutory matters that arise in family matters.

So in sum as an introduction, Mr. Chairperson, I have sought to indicate that while we are looking at increasing efficiency in program management, delivery and evaluation - and some steps are being taken in those regards - we are moving ahead legislatively and in terms of program changes and enrichment. There is still, of course, lots to do. I suspect that in the Department of the Attorney-General, there always will be.

**MR. CHAIRMAN:** Thank you. The Chair now calls upon the leading critic of the opposition to kindly present his customary reply to the opening statement, if he so desires.

**MR. G. MERCIER:** Thank you, Mr. Chairman. I will be brief.

Firstly, I would note the Attorney-General's remark with respect to retaining an additional counsel to attempt to enforce family maintenance orders on behalf of social assistance recipients. As the Attorney-General indicated, this was a matter that I raised during the Estimates at the last Session of the Legislature because it had come to my attention that Legal Aid was not granting Legal Aid certificates to people on social assistance to obtain maintenance orders and to enforce them.

I believe this, as the Attorney-General has called it an experiment perhaps for one year, will result in some substantial cost savings to the public purse as the whole maintenance enforcement system that we established has proved to be.

I'm disappointed, Mr. Chairman, that there will be no progress made during this year with respect to increasing the jurisdiction of the Small Claims Court. The present limit of \$1,000 has been in effect for a significant number of years now, and inflation alone would justify an increase in the jurisdiction of the Small Claims Court. I think when one recognizes the difficulty that many people have in attempting to force smaller claims because of the lawyers' fees that are involved, they find that the legal costs do not justify attempting to enforce small claims. That's why I proposed at the last Session of the Legislature that the limit be increased

to at least \$3,000 and I am disappointed that no action will be taken in that regard this year.

With respect to the legislation that the Attorney-General has indicated, the major pieces of legislation that he intends to introduce - and he specifically referred to The Freedom of Information Act - I suggest to him that perhaps events of the last few weeks and months would indicate that it's not necessary. I think the opposition is receiving, I would think, almost all of the information that is available.

**HON. R. PENNER:** I'd rather you get it from other channels, control channels.

**MR. G. MERCIER:** Mr. Chairman, on another smaller matter, the Minister referred to a potential saving of \$1.5 million, I think, to users of the Land Titles Office because of a computerized system. Really I don't think that type of saving will really take place. What the purchasers of property will be doing is instead of paying interest to the vendors the interest will be going to the lenders and the mortgage institutions. You perhaps may want to amplify on how we arrived at that potential saving of \$1.5 million, but I don't think it's there.

Mr. Chairman, what I am concerned about and I think is the prevalent view of the vast majority of Manitobans, is that we deal with the Estimates of this Attorney-General in the fourth Session of this government's term. It appears to me that there has been a growing disrespect for the administration of the justice system in Manitoba and for law and order. There is a concern that the system has been politicized and there is a concern that many issues have not been dealt with properly. I'm not going to go into detail with them on them right now, but hopefully we will deal with them in detail as we go through the Estimates.

But the handling of the Dr. Morgentaler prosecution, the handling of the Grenada Inquiry Recommendations, the administration of the Human Rights Commission, the administration of Legal Aid, the Law Enforcement Review Agency and others I think have caused concern amongst many Manitobans, and we will hopefully deal with those individual items as we go through the Estimates. Those, Mr. Chairman, are all the remarks I wish to make at this time.

**MR. CHAIRMAN:** Thank you.

At this point in time, the Chair now formally invites the members of the departmental staff to kindly take their respective places.

Deferring the consideration of Item No. 1, which relates to the Minister's Salary, 1.(a), we shall start with Item No. 1.(b)(1) Administration and Finance, Executive Support: Salaries; 1.(b)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, under this item, could the Attorney-General indicate how many executive assistants or special assistants he now has?

**HON. R. PENNER:** How many executive assistants?

**MR. G. MERCIER:** Executive assistants or special assistants?

**HON. R. PENNER:** I have one executive assistant and one special assistant.

**MR. G. MERCIER:** Could the Minister indicate the names of the E.A. and special assistant and their salaries?

**HON. R. PENNER:** Yes, I could. About the salaries, I'll have to get the information in a moment. The executive assistant is Val Bingeman and the special assistant is Nancy Allen.

**MR. G. MERCIER:** I think the Minister is getting their salaries.

**HON. R. PENNER:** We'll get that information tomorrow.

**MR. G. MERCIER:** Mr. Chairman, could the Minister indicate the salary of the Deputy Minister?

**HON. R. PENNER:** The Deputy Minister is on executive assignment - I guess it's called, is it? - from the Federal Government. I'll take that as notice and get you the information tomorrow.

**MR. G. MERCIER:** Is the Deputy Minister on a contract of any sort?

**HON. R. PENNER:** I think the program is called Executive Interchange in which he is still technically on staff with the federal Department of the Solicitor General and we pay his salary at the level that he was when brought here and maintain his benefits. This is done for a period of up to two years, usually for a variety of reasons that include: it may be often that an executive or senior manager is only needed for a short period of time - well, of course, that's not applicable here - or that the person moving with family and all from one city to another and not sure that the adjustment will be made and reasons of that kind. I'm happy to say that this particular appointment is working out very very well and we hope that it will continue. I'm advised that there is in fact a signed interchange agreement for a three-year period, and that is an agreement with the Federal Government.

**MR. G. MERCIER:** Mr. Chairman, does that mean the province is required to maintain the Deputy Minister in its employment for a period of three years? Is it a three-year, no-cut contract?

**HON. R. PENNER:** No, I don't think so. It's up to three years, but it's not a no-cut contract.

**MR. G. MERCIER:** Mr. Chairman, was there a selection committee that recommended the Deputy Minister for appointment?

**HON. R. PENNER:** Yes, there was.

**MR. G. MERCIER:** Did they recommend him?

**HON. R. PENNER:** Yes, they did.

**MR. CHAIRMAN:** Can we have some pace here because the recorder will have some difficulty?

**MR. G. MERCIER:** Who was on this selection committee?

**HON. R. PENNER:** We'll get used to the rhythm here in a moment. The final selection was made by a committee composed of the Clerk of Executive Council, the Premier and myself, I believe, were the three people who were involved.

**MR. G. MERCIER:** Was there a committee further down the line that recommended Mr. Elton, or reviewed the applicants?

**HON. R. PENNER:** Yes, there was a committee further down the line who reviewed the applicants, and at that time the present incumbent was not an applicant.

**MR. G. MERCIER:** So the Deputy Minister then was not considered by that committee?

**HON. R. PENNER:** Yes, that's right. That was my response.

**MR. G. MERCIER:** Who was on that committee?

**HON. R. PENNER:** The Clerk of Executive Council, the head of the Civil Service, not the Commission, but Paul Hart, the Civil Service Commissioner, were two of the people who were on that committee. I'm not sure who else, I'll have to check.

**MR. G. MERCIER:** Could the Attorney-General indicate why he didn't ask that committee to consider the present Deputy Minister's application? Why didn't you have that committee, who I assume made some recommendations, also consider the present Deputy Minister's application?

**HON. R. PENNER:** Ultimately, as the member should know, the choice of a Deputy Minister is made by the Premier. That is always the case, and the Premier was thoroughly familiar with the applications that had been made, with the evaluations that had been made of those applications, and with the fact that at that point in time we did not feel that given the complexity of the department, the problems with which it had to deal, the need for departmental reorganization, that the persons who had applied although of good quality - this is not to denigrate them at all - quite met the bill.

So a further search was undertaken with the assistance of senior people in the federal bureaucracy, and a number of names were suggested as people who might be contacted for further interviews. The present deputy was one of those whose name was made known to us. Another person, formerly occupying a very senior position in the federal bureaucracy but subsequently employed by another province, was made known to us.

These two persons were interviewed at some considerable length. They were both judged to be of great quality, capable of bringing to the department some levels of expertise that were not available in those who had applied; could bring a familiarity with upper level management which was not yet within the experience of those who had applied. They were clearly judged by those who interviewed them, who had connections with the earlier interviews, to be of very great quality, so it boiled down to a consideration of

these two persons and ultimately the present deputy was hired.

I must say I think that everybody who has been connected with the process in any way, either as an applicant or as one who was involved in the selection process, is firmly of the view that a very sound decision was made.

I also think that sometimes it is salutary to bring in occasionally someone from the outside who can bring a new perspective to a department that has been under the same management basically, well, in our case, for over 10 years.

**MR. G. MERCIER:** Has the present Deputy Minister had any practical experience in criminal prosecutions?

**HON. R. PENNER:** No, not in criminal prosecutions, although he is considered an expert in the criminal law. He, of course, was with the Solicitor-General's Department as a senior policy advisor and worked closely in a number of areas with police and policing with which he is very familiar, and had great familiarity with the RCMP; let me say, its administration structure and indeed the personnel who had worked.

He was primarily the one who had developed The Young Offenders Act and had worked very closely for a period of over a year in not only developing the act but developing some of the agreements with the provinces as to how the act should be administered; had taught criminal law in two universities in both official languages, the University of Montreal and the University of Ottawa, and had done some of the major studies for the Law Reform Commission of Canada on criminal law; and was recognized both nationally and internationally as a criminal law scholar.

**MR. G. MERCIER:** Mr. Chairman, with respect to another matter, there was an Order-in-Council on October 31, 1984 which changed Mr. Guy's salary as Assistant Deputy Minister from \$62,000-some to \$67,000.00. I think I had noted previously that Mr. Larsen was originally appointed as an Assistant Deputy Minister in the range of \$67,000. Was this Order-in-Council passed simply to make Mr. Guy's salary equivalent to Mr. Larsen's?

**HON. R. PENNER:** It's my information that first of all, Mr. Guy is, I believe, a step ahead of Mr. Larsen in terms of salary; that the Order-in-Council didn't come through until that time due to an oversight. I will check into it, but it was made retroactive. I think the starting date for both was the same.

**MR. G. MERCIER:** Would they now have equivalent salaries, or Mr. Guy may be a step ahead.?

**HON. R. PENNER:** I think Mr. Guy is a step ahead.

**MR. G. MERCIER:** Which would be more appropriate. Mr. Chairman, could the Minister explain the need for the administrative assistant for the Deputy Minister?

**HON. R. PENNER:** The Deputy Minister we now have is very deeply involved in the management of the department at every level, as I think a deputy should



be. With the six major budgetary units, a whole number of boards and commissions, the senior management responsibility for a budget in excess of \$70 million, his ability to have a hands-on approach which I think has served the department exceptionally well, requires the services to him of an administrative assistant so that the Deputy Minister doesn't simply become swamped by paper. It's quite common, of course, in departments to have an administrative assistant to a Deputy Minister. Some, in fact, have more than one administrative assistants.

**MR. G. MERCIER:** Was that position advertised through the Civil Service Commission, or was that an Order-in-Council appointment?

**HON. R. PENNER:** Neither; it hasn't been filled yet.

**MR. G. MERCIER:** Oh, it hasn't.

**HON. R. PENNER:** Yes, it will be bulletined.

**MR. G. MERCIER:** It will be bulletined, okay.

Mr. Chairman, I wonder if the Minister could advise where in his Estimates we would consider grants by the department. I know there are very few, but under what item would we discuss, or where are they included there?

**HON. R. PENNER:** Actually, they are very few and they fall under a number of budgetary items. For example, the grant of \$150,000 to the Dakota-Ojibway Tribal Council for its policing program comes under the budgetary unit, policing programs, 04-4(a). But they are very few. Let me just give the Member for St. Norbert what they are and under what budgetary units they fall.

To the Canadian Provincial Judges Association, an operational grant which has been the same for the last few years, of \$3,000; to the Manitoba Association for Rights and Liberties under 04-6(a)(2), that's Human Rights, \$25,000; that's been the same for the past three years.

To the Uniform Law Conference of Canada under 04-3(b), \$4,000; that's been the same for several years. I mentioned the DOTC, that's raised to \$150,000 from \$100,000; Legal Aid is shown as a grant but it's just the budgetary operation of a major unit.

The only other grant this year which is a one-time only, or at least an infrequent grant to the Canadian Provincial Judges Association as an addition to their operational grant, an additional 14,000 because of the annual Convention of the Canadian Provincial Judges being held here in September of 1985.

**MR. G. MERCIER:** Mr. Chairman, if those are all the grants for this 1985-86 fiscal year, then perhaps I would use this area to ask the Attorney-General about a grant that was made to the Charter of Rights Coalition which the Attorney-General announced on March 21st of this year. I take it that was included in the 1984-85 budget.

**HON. R. PENNER:** That is right; that was '84-85. It was a special grant.

**MR. G. MERCIER:** Could the Attorney-General indicate who the Charter of Rights Coalition are?

**HON. R. PENNER:** As the name implies, it's a coalition of various groups, Women in Law - I'll get the other names and I'll get the names of the officials for the member and provide them tomorrow.

**MR. G. MERCIER:** When does the Attorney-General expect to receive the report from the coalition?

**HON. R. PENNER:** I've already received an interim report, and it's presently being studied by our research officer in the department who is working on the Section 15 bill. I expect to receive a final report in another three months.

**MR. G. MERCIER:** What is the \$21,000 supposed to be covering?

**HON. R. PENNER:** First of all, let me say it matches a grant from the Secretary of State, and the total of some 40-odd thousand covers the retainer of a full-time lawyer, a lawyer working full time and I think some support staff and the rental of an office.

**MR. G. MERCIER:** For how long a period of time would that lawyer be on staff?

**HON. R. PENNER:** The budget that I have just talked about is a six-month budget.

**MR. G. MERCIER:** There is no intention then to renew this grant after the final report is made?

**HON. R. PENNER:** There is no intention of doing so.

**MR. G. MERCIER:** Will the Attorney-General table the reports from the coalition in the House?

**HON. R. PENNER:** In due course, yes.

**MR. G. MERCIER:** Mr. Chairman, on another matter which I think this is really the only area where I can raise it, the Attorney-General proclaimed on December 29, 1984, The Election Finances Act with the exception of certain sections. Could the Attorney-General comment on his reasoning behind not proclaiming those sections of The Election Finances Act? I think that evolves out of the decision that was made in Alberta that certain amendments to the federal Elections Act, which are somewhat the same as our Election Finances Act, violated freedom of expression under the Charter.

**HON. R. PENNER:** That's right, and that is why those sections which we felt might be affected by that judgment were not proclaimed. We wanted to study the matter further, and we felt that it would be inadvisable to proclaim sections of a bill and bringing them into force when a court had questioned the validity of similar sections in federal legislation.

**MR. G. MERCIER:** Mr. Chairman, I concur with that decision. In fact, I believe we raised that argument when we were considering The Election Finances Act. Is this a final decision not to proclaim those sections, or are those sections of the act subject to some revision at this Session of the Legislature?

**HON. R. PENNER:** Well, no final decision has been made. The matter is still under review, but I would not want to mislead the member by saying it's under active review or to suggest that there is any intention of bringing in amendments to The Election Finances Act in this Session. Why would we? There is no election in the offing.

**MR. G. MERCIER:** Would the effect then, Mr. Chairman - and I ask the Attorney-General to correct me if I'm wrong - will be by not proclaiming those sections, that that will enable individuals and groups in Manitoba to advertise or promote support for individual candidates or parties in the next provincial election without any restriction on their expenses or activity?

**HON. R. PENNER:** As the member knows, the concern was, and to a certain extent still is, and I believe that concern was indeed shared by the previous administration in some of the language used by it in the original drafting of The Election Finances Act before it was revised, that you set up a scheme where you try to make an election a fair game and you set certain restrictions on the amount that a party can spend and you don't want to leave it so open-ended, so much like a sieve, that a party could really make a mockery of the provisions by setting up a shadow organization which would, not being a registered political party, not participating directly by the nomination of candidates and so on, could spend literally hundreds and hundreds of thousands, if not millions, in election advertising that was supportive of one party or one particular group of candidates. So the attempt was made honestly in order to bolster the scheme to prevent that happening.

However, the wording that was used as really tested in the Alberta case raised the question of whether or not the freedom of expression of individuals who ought to be able to say their piece either individually or collectively at any time including, indeed perhaps especially an election campaign, that inadvertently the provisions might attack those rights. When we looked closely at the decision in Alberta, the National Citizens Coalition case in Alberta, we felt that those particular sections indeed might create a problem.

There were alternatives that were considered before we moved to proclaim the act, but we're not fully satisfied with those alternatives. So I have simply left the matter in abeyance at least for the time being.

**MR. G. MERCIER:** Mr. Chairman, on the question of The Election Finances Act, I appreciate that the Chief Electoral Officer is a servant and officer of the Assembly, but in the event that he had some difficulties with the legislation I would presume that he would go to the Attorney-General.

I would ask the Attorney-General whether he has received any recommendations from the Chief Electoral Officer with respect to problems arising as a result of The Election Finances Act and as a result of, I know, meetings he has held with representatives of all political parties where it would appear that some practical problems had been created with the wording in the legislation, and whether he's considering any amendments at this Session? I raise that because it might very well be that, as a result, all of the political

parties involved may very well concur in some amendments to The Election Finances Act.

**HON. R. PENNER:** I am unaware of any representations that are made by the Chief Electoral Officer to this point. Certainly, in my recollection, none have been made to me, but I'll check it out. I'll also check whether representations have been made to anyone else in government. If the Chief Electoral Officer has such representations they would, of course, be given very very serious consideration. So I'll certainly check into that, but I have no immediate recollection of any such representations being received in the last several months.

**MR. G. MERCIER:** Mr. Chairman, I appreciate the Attorney-General's answer and I take it from that, and I would appreciate it if he would do so, to consult either him, or perhaps the Government House Leader is more appropriate, I'm not sure, but consult with the Chief Electoral Officer to determine whether or not any amendments are recommended. Because, as I say, it may very well be that from what I have heard, from our representatives who met with the Chief Electoral Officer, that there are certainly some problems with the Act caused by the wording. It might very well be that all parties might agree to some amendments which would resolve some problems in the next election.

**MR. CHAIRMAN:** Any other questions?

1.(b)(1)—pass - the Member for St. Norbert.

**MR. G. MERCIER:** Just one other question. Could the Attorney-General indicate what the salary will be of the Administrative Assistant to the Deputy Minister?

**HON. R. PENNER:** Again, I'll take that as notice and provide the information tomorrow.

**MR. G. MERCIER:** That's fine. Pass.

**MR. CHAIRMAN:** 1.(b)(1)—pass; 1.(b)(2)—pass.

1.(c)(1) Research, Planning and Evaluation: Salaries; 1.(c)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, I take it that there are 3.2 persons involved in this department. Could the Minister advise who works in this area?

**HON. R. PENNER:** The staff presently in Research and Planning are the ADM Justice Mr. Larsen, one support staff, and there is 1.2 vacancies waiting to be filled.

**MR. G. MERCIER:** Mr. Larsen's salary is paid out of Research, Planning and Evaluation?

**HON. R. PENNER:** Yes, it's located in that unit.

**MR. G. MERCIER:** There is one other staff member at the present time?

**HON. R. PENNER:** Yes, secretary to Mr. Larsen.

**MR. G. MERCIER:** A secretary? And there is a position vacant?

**HON. R. PENNER:** 1.2.

**MR. G. MERCIER:** And what is the function of that 1.2, that's the nuclear family, is it?

**HON. R. PENNER:** Yes it is. What we are planning to do is indicated in my opening remarks, and that's why we have the positions there, is to employ a term position, probably on a contract against which term will be allocated. A person as a consultant, a person who has expertise in the area of program evaluation to establish the unit, to take a good look at the way in which the programs we have, how they're structured, how they are presently accountable, in a program sense, not in an audit sense, and to make recommendations for the development and putting in place of evaluative mechanisms with some recommendations as to how, over that long term, that unit is to be staffed. In fact, I'm able to say that we have been able to enter into an agreement, by way of contract, with the University of Manitoba to in a sense purchase the services for a year of Professor Steve Brickley, a sociologist with great credentials in this field who's done a lot of excellent evaluations.

**MR. G. MERCIER:** A sociologist? What is his salary?

**HON. R. PENNER:** I think the contract cost is about \$52,000 or \$53,000, something of that order.

**MR. G. MERCIER:** Mr. Chairman, earlier I believe the Attorney-General indicated that the Charter of Rights Coalition would report to this area, to the Research area; is that correct?

**HON. R. PENNER:** No, this is more Research and Planning in terms of program delivery, rather than legal research. The Charter of Rights Coalition reports to the Research Director located in the office of Legislative Counsel.

**MR. G. MERCIER:** Mr. Chairman, in September, 1984, the Attorney-General rescinded an Order-in-Council and appointed Virginia Devine as Planning and Program Analyst on the department staff with a salary of \$42,478.00. Is she located in this area?

**HON. R. PENNER:** She's not in our establishment.

**MR. G. MERCIER:** I am referring to a copy of Orders-in-Council, September - it would appear to be September 20th, something, it might be the 26th or 28th of 1984 - and it refers to the Attorney-General, rescind O/C 201/84, and appointment of Virginia Devine as a planning and program analyst on the department staff, \$42,478.00.

**HON. R. PENNER:** I'll take that as notice.

**MR. G. MERCIER:** Is Virginia Devine employed on the Minister's staff or somewhere within the department?

**HON. R. PENNER:** No, she's not working for me at the moment. She was.

**MR. G. MERCIER:** Who is she working for now?

**HON. R. PENNER:** I'll take that as notice and provide you with the information tomorrow.

**MR. G. MERCIER:** Was Virginia Devine not an E.A. or a special assistant to the Attorney-General?

**HON. R. PENNER:** She was originally an E.A., and then she was an S.A.

**MR. G. MERCIER:** The Attorney-General probably won't have these figures with him at the moment, but could he indicate what her salary level was as an executive assistant and a special assistant?

**HON. R. PENNER:** As an executive assistant, it would have been in the range of around 29 to 31, somewhere around there. As a special assistant, it would have been around 35 to 37, somewhere around there, as things then were.

**MR. G. MERCIER:** When was she no longer employed by the Attorney-General, then? When did she leave?

**HON. R. PENNER:** I'll take that as notice when the transitional dates were.

**MR. G. MERCIER:** Could the Attorney-General indicate what Other Expenditures in the amount of \$145,000 are? What do they generally cover?

**HON. R. PENNER:** The 145.1 are monies we've sort of pooled from within the department in order to provide a pool of money for the studies that will be done in order to set up the Planning, Research and Evaluation unit as it is presently being designed, and as it will be further designed by Professor Brickley.

It is also available for any studies that might be done with respect to matters relating to intergovernmental issues that might arise, matters of jurisdiction between this government and other governments arising out of the application of the Charter. So it's a pool of money that is available for studies.

For example, when trying to divide the responsibilities for legal analysis and legal study which is presently located within the division of the Legislative Counsel and under their research director there and the application in a program sense of things arising out of, let's say, Section 15 of the Charter, where you have to look at a study that might be done in terms of program delivery. So we have a pool of money that's available through the year for studies of that kind.

**MR. CHAIRMAN:** 1.(c)(1)—pass; 1.(c)(2) - the Member for St. Norbert.

**MR. G. MERCIER:** Just one question, this Professor Brickley, will he be working full-time for this department?

**HON. R. PENNER:** Yes.

**MR. G. MERCIER:** What will he be doing for the Attorney-General's Department in his field of sociology?

**HON. R. PENNER:** Program evaluation. Let me take a couple of examples. We have a Victim-Witness Assistance project. Program evaluation, whether done directly by Mr. Brickey or someone under him who is developing as an evaluation officer within the department, would take a look at how that program is operating. What was it designed to do?

How does it deal with the victims of crime? Does it have adequate resources? Does it do staff training? Does it have adequate budget? Is it misusing its budget in a sense of not directing its energies in a way that would more appropriately satisfy the problems of victims of crime? What is it doing in the witness field? How is it co-ordinating the delivery of its particular program with other programs within the department? How does it relate to the demands placed upon it by the prosecutorial branch of the department?

So that's what a program evaluator does. A program evaluator would take a look at certain aspects of Legal Aid delivery with respect to how the system deals with the actual handling of clients on the human side, let's say, not just as legal problems. A program evaluator might take a look at any one of a number of programs of that kind. They might take a look at the way in which we deal with criminal injuries compensation, and evaluate it as a program from the point of view of program delivery.

It's not something that requires legal expertise. It is not a legal analysis.

**MR. G. MERCIER:** Is there any other Attorney-General's department in Canada that will have a sociologist on staff?

**HON. R. PENNER:** The member, I think, perhaps misunderstands. Professor Brickey is not being brought on staff as a permanent member of staff. We're purchasing his services for one year. He continues on as a full-time Professor of Sociology at the University of Manitoba, that's where his career path is and will continue.

Bringing his particular expertise to look at the multifarious activities of the department, so many of which these days are in sort of the human justice area, and take a look at the needs of the department from the point of view of program evaluation which in my very strong view, has to be a continuing function of government in every department, whether or not those who will subsequently carry on the program are at that level remains to be seen, although I would doubt it. That is, they wouldn't be full-time professors of sociology or people with a Ph.D., although I wish we had the resources to purchase people of that quality. There are a number of people out there with these kinds of skills, or there are people within the department who might be trained by someone like Professor Brickey to be our ongoing program evaluators.

**MR. G. MERCIER:** How was Professor Brickey selected?

**HON. R. PENNER:** Not by bulleting, we didn't bulletin the position. His name was known to us because of some of the work that he's had published on evaluating various kinds of criminal justice programs. He is the

author of a number of articles on the criminal justice system. So we felt that he had another dimension, in addition to that of a sociologist, who has some particular expertise in the area of program evaluation, and that is, he was not unfamiliar with the system.

**MR. G. MERCIER:** I wonder if the Attorney-General could undertake to perhaps provide me with some copies of the articles and works of Professor Brickey.

**HON. R. PENNER:** Sure. I am glad to help you build up your library.

**MR. CHAIRMAN:** 1.(c)(1)—pass; 1.(c)(2)—pass.

1.(d)(1) Financial and Administrative Services: Salaries; 1.(d)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** To just take it generally, Mr. Chairman, the additional funds required for salaries is due to the additional person budget analyst that will be hired in this area?

**HON. R. PENNER:** I am sorry; I missed the question.

**MR. G. MERCIER:** I take it the additional expenditures on salaries are mainly due to the increase of one person as a Budget Analyst?

**HON. R. PENNER:** Mainly due to that, yes.

**MR. G. MERCIER:** Pass.

**MR. CHAIRMAN:** 1.(d)(1)—pass; 1.(d)(2)—pass.

1.(e)(1) Personnel Services: Salaries; 1.(e)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Could the Attorney-General indicate whether the Attorney-General's Department has established a committee to do its own hiring for the Attorney-General's Department? I believe there are, as I recollect, arrangements that could be made by departments with the Civil Service Commission to be responsible for a department's own hiring.

**HON. R. PENNER:** Yes, we do have a delegated authority for that below a certain level, but we don't do that on a departmental basis for the senior positions.

**MR. G. MERCIER:** It's not done for the senior positions?

**HON. R. PENNER:** No, we don't. For the senior we don't have delegated authority of the kind that you are referring to below a certain level.

**MR. G. MERCIER:** Okay.

**MR. CHAIRMAN:** The Member for Fort Garry.

**MR. C. BIRT:** In a recent collective agreement that was signed with the MGEA, and I believe most of the staff of the Attorney-General's are covered by it, except for the Crown Attorneys, there was one week of extra holiday granted to them for this year; how are you covering that during this year? Are you hiring additional

staff or will the work just be shared amongst the existing personnel?

**HON. R. PENNER:** Substantially it will be covered within existing staff, but you will note, indeed, and it's appropriate to ask that question at this time, that the increase of one SY in Personnel Services is indeed to provide a central resource to all divisions for temporary clerical assistance to cut down on overtime, that is, as a float person, which will help give us flexibility within the various administrative units where we can't cover off completely within existing staff.

**MR. C. BIRT:** Was this person hired because of the agreement with MGEA?

**HON. R. PENNER:** No, this person really would have been hired in any event.

**MR. C. BIRT:** I understand then that you would just be sharing the workload during the existing year with the extra holiday time going to the staff? You won't be hiring any temporary staff or anything like this to cover off the extra holiday?

**HON. R. PENNER:** I can't say that for certain. We are certainly going to make the effort to handle the extra holiday time within existing resources. I should point out, incidentally, in case my previous answer misled the member, that the additional SY is not a person, but it's term time. That is, we can hire up to 52 weeks of time, but we may hire someone for 2 weeks, we may hire someone for 3 weeks, and so on. We may hire five people at the same time during the summer for four weeks each, or something of that kind.

**MR. C. BIRT:** I believe there was a policy directive, and I would like to know whether it's still in place, where I believe Treasury Board says there shall be at least a 7 percent vacancy in staff positions; is that policy still in effect?

**HON. R. PENNER:** No, it is not. That policy, which was put in place temporarily as we went through the Estimate exercise so that we could, against any eventuality, have a pool of vacancies to use in case of worst possible scenarios, was retained during the whole of the Estimate period. With the conclusion of the preparation of the Estimates, then that particular way of controlling or building a pool, really, was no longer needed. We still, of course - all of us - must live within our staff allocations and cannot increase staff allocations without going through Treasury Board.

**MR. CHAIRMAN:** 1.(e)(1)—pass; 1.(e)(2)—pass.  
1.(f)(1) Computer Services: Salaries; 1.(f)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, would this item include the work being done at the Land Titles Office, or does the Land Titles Office appropriation contain

**HON. R. PENNER:** This particular budgetary unit is used primarily for developmental work, and it was used

for developmental work with respect to the Land Titles systems. But once that is done and the decisions have been made as to what is to go in place, then the actual purchase of the hardware and software fall within the budgetary allocation of the particular unit.

**MR. G. MERCIER:** I note that in the Supplementary information there is an increase in operating costs related to the re-establishment of the Manitoba Justice Information System project. I believe this is the project that has been worked on for probably eight or nine years; is it finally now coming to some fruition, and is it actually to be implemented in some way this year?

**HON. R. PENNER:** It's still a developmental year, I am sorry to say, the fact that, for fiscal reasons, we had to take sort of a one-year holiday on the development and, indeed, the projected trial application of the program has been a bit of a setback, and we have to go back to the developmental board. We are now looking, as we develop this system, which is a little different than the promise system - I think it's not dissimilar from the system that's in place in Saskatchewan. We might still use the updated version of promise or the system that's being used in Saskatchewan, and that's part of the developmental work that is presently being done.

**MR. G. MERCIER:** I wonder if the Attorney-General could indicate just very generally and quickly what main computer systems are now in effect in the department.

**HON. R. PENNER:** Personal Property Security Registry; the Statutes of Manitoba - there is a program operated out of Mr. Moylan's office which keeps the Statutes updated for purposes of the consolidation and ultimately for purposes of revision; the Enforcement of Maintenance Judgments System; the General Register of the Land Titles Office, which I referred to earlier this afternoon; there is a Q.B. Registry System that's a computerized system; a smaller system for jury selection which is now done by the computer, rather than the old meeting in the office of the Chief Judge of the Country Court. We have all of the JPs and stipendiary magistrates on a computer printout system, that's a minor program; security guards are similar. There are two or three other minor systems.

**MR. G. MERCIER:** Does the department generally tender out for computer services or use Manitoba Data Services?

**HON. R. PENNER:** The way the system works now is that, in fact, a department has some initiative in looking around, because it's familiar with the kinds of systems which are adaptable to its particular programs; but before it can make a decision it has to go through the Information Management Division in Finance, it's located in Finance.

Mr. Sinnott just points out - just some additional information - that the larger programs, Personal Property Security Registrar and LTO General Registrar are operated through the Manitoba Data Services Main Frame, whereas the other ones I mentioned we do in-house on smaller units.

**MR. G. MERCIER:** Pass.

**MR. CHAIRMAN:** 1.(f)(1)—pass; 1.(f)(2)—pass.  
1.(g)(1) Communications: Salaries; 1.(g)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, can the Minister indicate, is this salary for one or two persons?

**HON. R. PENNER:** One person.

**MR. G. MERCIER:** And who is that?

**HON. R. PENNER:** Brian Phillips, in the yellow polka-dot tie.

**MR. G. MERCIER:** The Attorney-General supplied us with a list - I take it the program for 1985-86 - could he indicate whether the French Language Services in Courts brochure has yet been published?

**HON. R. PENNER:** Not yet.

**MR. G. MERCIER:** When is that expected to be published?

**HON. R. PENNER:** A little later in the year, I haven't got an exact date at the moment.

**MR. G. MERCIER:** What is the Attorney-General's Department general brochure? What will that be?

**HON. R. PENNER:** That will be something very similar to brochures of this kind run by other departments and by other A-Gs which will describe the organization of the department, the programs that it delivers, the offices that can be contacted for various kinds of services, very informational.

**MR. G. MERCIER:** Mainly for use between governments and departments?

**HON. R. PENNER:** Available to, but not designed to be generally distributed to the public.

**MR. G. MERCIER:** Mr. Chairman, I believe a year or two ago I raised, when we were dealing with an amendment to The Public Trustee Act, I believe it was, that took away, or certainly gave to the executor of an estate the discretion to invest estate monies in, basically, whatever a reasonable person supposedly would invest those monies in, and took away certain specific requirements to invest in only . . .

**HON. R. PENNER:** The prudent-man rule.

**MR. G. MERCIER:** The prudent-man rule.

**HON. R. PENNER:** The prudent-person rule.

**MR. G. MERCIER:** I raised, at that particular time, the issue that in many cases, many people being prudent, but being perhaps unskilled or never having been involved in the investment of funds before, but becoming executors of estates, which could perhaps

involve minors, should have available to them some general information on the performance of their duties, and the suggestion I made at that time was that perhaps through the public trustees office there might be some information made available to persons, perhaps through the Surrogate Court office. At the time it might prove helpful, in view of the taking away of those specific restrictions on investments which, at least, were certainly a guideline and obviously a very safe way for executors to invest the funds. I suppose I could raise this under Public Trustee but, in view of the fact, that this is a communications area, has any consideration been given to the Public Trustee's office developing some helpful information to executors or trustees on the investment of state funds?

**HON. R. PENNER:** No consideration is presently being given, but I certainly will take that as a suggestion. Mr. Phillips is here, we can discuss it with Mr. Raichura in the Public Trustee's office. I think it's a good suggestion, and it's something that I would be prepared to look at in this fiscal year.

**MR. G. MERCIER:** Mr. Chairman, I wonder if the Attorney-General could indicate whether Mr. Phillips, as Communications Director for this department, received the memorandum dated April 23, 1985, from Mr. Garth Cramer, Secretary to the Premier's Office, a copy of which was sent to all Ministers, NDP MLAs, E.A.s, Special Assistants and Communications Directors with regard to alleged fact sheets for use in the NDP spring campaign, and whether Mr. Phillips used that information and participated in the NDP spring campaign.

**HON. R. PENNER:** Have you got a wrong number? Mr. Phillips did receive it, and there the matter rests.

**MR. G. MERCIER:** I appreciate, Mr. Chairman, that the Premier in response to my questions yesterday did indicate that he thought it was wrong. I presume that feeling would be reinforced by the Attorney-General that his communications director should not be involved in partisan political activities like that.

**HON. R. PENNER:** It was never the intention that any communication director in government anywhere be involved in those activities other than, I suppose, if as individuals they were members of ours or any other political party.

The intention clearly, albeit misdirected in a sense in the way in which the covering letter was put together, was simply to say here's a number of factions. You might find these interesting or useful, that was the intention. But the Premier has already indicated that he thought it was not appropriate to have sent them out in the way in which that did happen, and I share his views.

**MR. CHAIRMAN:** 1.(g)(1)—pass; 1.(g)(2)—pass.

There will be no resolution on this item because of the Minister's Salary.

Item No. 2.(a)(1) Criminal Justice, Crown Prosecutors: Salaries, 2.(a)(2) Other Expenditures - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, I'm referring to a bulletin from the Deputy Attorney-General's office dated March 22, 1985, advertising the position of Director of Prosecutions. Could the Attorney-General indicate when he anticipates the appointment of a Director of Prosecutions?

**HON. R. PENNER:** Very soon. I am not immediately familiar with when the closing date of that bulletin was. — (Interjection) — April 25th? So we haven't had a board on that yet. I haven't seen nor would I see at this stage the applications. We have had the board on the Director of Civil Litigation - that will come up later - but no decision has been made there yet.

**MR. G. MERCIER:** Who will sit on the board to recommend the appointment of the Director of Prosecutions?

**HON. R. PENNER:** The Deputy Attorney-General, Mr. John Guy; the Assistant Deputy Minister of Criminal Justice; our Director of Personnel Services, Art Proulx; and likely one outside person. I think that it was the Deputy's notion that we should have perhaps somebody from the private bar, but there are some concerns about how that might be done, or another senior person from another department. But that hasn't been decided.

**MR. G. MERCIER:** Mr. Chairman, the bulletin indicates that the director has principal responsibility for supervision of criminal prosecutions with the exception of special prosecutions and counsel positions. Could the Minister indicate what he means by principal responsibility for supervision of criminal prosecutions?

**HON. R. PENNER:** That is, in effect, the day-to-day administrative responsibility for all criminal prosecutions, whether through the Young Offenders system or through the adult system or at the appellate level.

The Director of Prosecutions has to make sure that he has adequate staff to carry out the responsibilities which the department has to prosecute criminal offences; that they're adequately trained and deployed; and that decisions of that managerial character are taken.

When we talk about principal responsibility, I think that's meant to indicate as it must that it's not sole responsibility, that the ADM, Criminal will play a key role in the ongoing functions of the Criminal Prosecutions Branch and will be responsible for the development of policy, procedures, training and working with the rest of the department and indeed interdepartmentally in special areas where there are other departmental components.

These are things that the ADM normally would do, although that doesn't exclude the involvement of the Director of Prosecutions from being involved in such things as wife abuse committees and committees on special areas of responsibility such as that.

**MR. G. MERCIER:** Mr. Chairman, could the Attorney-General indicate on how many occasions during his tenure as Attorney-General he has either not consulted the Director of Prosecutions before making a decision

with respect to a criminal prosecution, or has overruled in some manner the recommendation of the Director of Prosecutions?

**HON. R. PENNER:** I don't think I have ever overruled the recommendation of the Director of Prosecutions. I think we should recall that there hasn't been a Director of Prosecutions since approximately August 1st when the former Director of Prosecutions became the ADM, Criminal. But leaving that distinction aside, I can't really think at the moment of any recommendation made by the Director of Prosecutions which might come to me either directly or indirectly which I have overruled.

During the time I've been in office, there may have been four, perhaps five requests to me to directly indict, and I have accepted recommendations with respect to direct indictment in all but one of those cases.

**MR. G. MERCIER:** Mr. Chairman, could the Attorney-General indicate why he chose to issue a press release on November 20, 1984, announcing that charges were going to be laid with respect to individuals involved in A.E. McKenzie?

**HON. R. PENNER:** I hate to answer a question with a question but, why not?

**MR. G. MERCIER:** Mr. Chairman, I think it is extremely unusual for an Attorney-General to issue a press release on the laying of criminal charges.

**HON. R. PENNER:** I can certainly agree with that, it is unusual. I don't know if I would say it's extremely unusual but the circumstances in this case were unusual. The member will have no difficulty recalling that the issue was raised for the first time in the House and was given a high profile in the House, had been a matter of considerable public discussion by the way in which it had been raised in the House.

Questions have been asked from time to time about whether or not the RCMP were on the case, and if they were on the case when would they be reporting? Was there a report that the Attorney-General had received? So it seemed to me appropriate in those circumstances, which are unusual circumstances, that once the investigation had been complete and the recommendation with respect to charges made in the first instance by the RCMP and accepted by the head of the Special Prosecutions Branch as being appropriate that I chose to announce them.

**MR. CHAIRMAN:** The Member for Ellice.

**MR. B. CORRIN:** Mr. Chairman, through you to the Honourable Attorney-General, I wanted to know in what circumstances the Attorney-General would approve the procedure by way of direct indictment against an accused individual?

**HON. R. PENNER:** The two or three situations that I can think of, so that I can answer it actually instead of hypothetically, involved these kind of circumstances where let's say three or four persons were accused of the same offence. It was clear that their involvement was approximately the same. Three of the four had



had a preliminary. The fourth had absconded, not to be found. A lengthy preliminary had been held in which the Crown had put in all of the case that it had to put in, and the defence had really cross-examined to a fare-thee-well, so that there were no new issues that one could readily identify with respect to the fourth person. The fourth person is found and brought back to the jurisdiction. Rather than going through the preliminary again, an application would be made for a direct indictment, so that would be one circumstance.

Another circumstance, specifically the Play All case with which the Member for St. Norbert is familiar, circumstances in which it seemed that the Crown in fact had an extraordinarily powerful case, a very well-documented case, a case that cried out for a full trial in the Crown's view, and in which the presiding judge at the preliminary had, it is thought, somewhat too perfunctorily after weeks and weeks of evidence, simply said, I don't think there's enough here, goodbye. In those cases, an application was made to the Attorney-General ultimately to prefer an indictment, and it was thought that in the interests of justice the matter should be tried. So the indictment was preferred there. Those kinds of circumstances, rather unusual circumstances, I don't really feel that an Attorney-General should prefer an indictment too frequently.

There was another circumstance that undoubtedly will be the subject of discussion a bit later in which the preliminary had taken place on the basis of conspiracy charges; that is, with respect to Dr. Morgentaler and a number of accused, six others. After perusing the reasons for committal given and reported by the presiding judge, it seemed appropriate to prefer an indictment against three of the persons on the substantive charges rather than conspiracy as being a better option both from the Crown's point of view and the defence's point of view, so that all of the issues that ought to be raised in a case of this kind could be raised.

The one recent application that I had just within weeks involved a situation where the charges had been dismissed against one person by a judge - no, there had been a committal, but the committal was quashed because the trial judge erred procedurally. It was felt that the case was not of sufficient seriousness to warrant putting the accused to trial under those circumstances, and I chose not to prefer the indictment.

**MR. B. CORRIN:** On another subject to do with criminal justice and prosecution, I'm interested in the Attorney-General's view of the possibility of amendments to the Code that would enable judges with jurisdiction in the criminal courts to remit costs at their discretion in cases of acquittal where they deemed the prosecution to have had very little merit.

**HON. R. PENNER:** This is a matter which has come up from time to time as a matter of discussion between meetings of provincial Attorneys-General, and I think is the subject of an ongoing study by the Law Reform Commission of Canada. I think I'd rather reserve on that. It certainly, I know, is used in England, that is, in limited circumstances.

There is a difficulty that I think the member would realize, that in a way it puts the system in the position

of having to do a post-mortem, as it were, of a trial to determine whether the acquittal was because there was just no case there at all or at least really very much of an insufficient case in which perhaps the matter ought not to have been brought to trial to begin with, as seen retrospectively through the evidence that was ultimately adduced, or whether the acquittal was based on a technicality. Judgment being made as to whether or not someone who was acquitted "merely" on a technicality ought to be given costs as compared to someone who perhaps ought not to have been put to the trial to begin with.

**MR. CHAIRMAN:** The Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, does the Attorney-General review applications for wiretap evidence?

**HON. R. PENNER:** The way in which the system works, and I think that system was put in place when the member was Attorney-General, it's still the case that a Crown Attorney proposing to make an application will call upon me and will give advance notice and indicate that the application is to be made and just very roughly go over the grounds, assuring me that all other forms of investigation have been tried and failed.

In those circumstances - I don't think I have ever turned down an application quite frankly. I think there is pretty careful screening before a Crown Attorney comes to me. It's still of course up to a judge of the Court of Queen's Bench to give the authorization. I simply authorize the Crown Attorney to go ahead with the application, but I don't think I've ever turned down an application.

**MR. G. MERCIER:** Mr. Chairman, just for the record, I developed that particular system of requesting the Crown Attorneys to review the application with me during, perhaps, the final year of office when, at the time that the statistics are published in the Manitoba Gazette, there always appeared to be a great uproar about an invasion of privacy and the fact that the Crown virtually has a 100 percent batting record with the judges on their applications. But I simply wanted to satisfy myself that the applications were, in my humble view, appropriate and there was no improper invasion of privacy. During that one year period of time, in which I did that, I can say to the Attorney-General, I think there was only one instance in which I had a concern because it involved a - well, I have to be careful because of the provisions of the code - but it involved a possible invasion of other persons' privacy, and that concern was in fact shared by the Crown Attorney.

I take it now, if the Attorney-General has followed that practice for the last three-and-a-half years, not having rejected any application by the Crown, he is quite satisfied with the thoroughness of the investigation that is undertaken beforehand, and that the provisions of the code are being applied for, and that in virtually 100 percent of the cases the applications are justified.

**HON. R. PENNER:** I am glad the member has raised the question. It seems to me maybe the time has come to re-evaluate the system. I think once we have our new Director of Prosecutions in place and the

reorganization of the department complete, we might look at a different way of taking care of the same concerns. I mean, I don't mind listening to a Crown Attorney tell me the sordid stories giving rise to the application, but I often wish that I didn't know the information really.

**MR. G. MERCIER:** I don't think you really want to.

**HON. R. PENNER:** Yes.

**MR. CHAIRMAN:** 2.(a)(1) - the Member for Virden.

**MR. H. GRAHAM:** Well, Mr. Chairman, dealing with the same issue on wiretap, can the Attorney-General either correct me if I am incorrect, but is it the role of the judge, in an application for a wiretap, to ensure that every possible means has been used to acquire information before they apply for a wiretap?

**HON. R. PENNER:** Yes, that's what the judge is supposed to do, one of the things the judge is supposed to do.

**MR. CHAIRMAN:** The Member for St. Norbert.

**MR. G. MERCIER:** The Attorney-General would then disagree with the former member, Mr. Hanuschak, who once said to me in Estimates that the police should only listen to one side of the conversation.

**HON. R. PENNER:** Well, lacking perhaps that kind of intellectual depth, I couldn't come to the same conclusion. Did he really say that?

**MR. B. CORRIN:** Yes . . .

**MR. CHAIRMAN:** 2.(a)(1) . . .

**MR. G. MERCIER:** I won't even repeat what the Member for Ellice was just saying.

**MR. CHAIRMAN:** The Member for Ellice.

**MR. B. CORRIN:** Expletive deleted. Mr. Chairman, I have a concern which I have addressed to the Honourable Attorney-General by way of a rather lengthy written submission some time ago, and I might add that this very morning I received a reply from the Assistant Deputy Attorney-General. It involves a particular section of the Criminal Code, being 533(1) of the code. Just very very briefly, this section of the code, for other members present who are unfamiliar with it, involves the jurisdiction of a court to release exhibits for independent analysis and testing in the course of a criminal hearing, either preliminary or trial.

The Assistant Deputy Attorney-General has taken the position, which he has copied to other members of the department, that the matter does not present a problem. He cites, I might add, a Provincial Court decision in British Columbia as authority for that particular proposition.

**HON. R. PENNER:** How high can you get!

**MR. B. CORRIN:** I immediately became skeptical as soon as I saw that citation. The opinion which was written by another member of the department indicates - I am just quoting and paraphrasing - "that different decisions do go different ways with respect to whether or not a Provincial Court has the power to make such an order."

My concern, very simply, is that of course most people accused of criminal activity come before the provincial courts, obviously, because it's the first and simplest recourse. It's the most economical approach to dealing with a criminal prosecution usually, and it's also the court, of course, that deals with the matter of committal on a preliminary hearing. So it makes imminent good sense to me that we should secure the interests and rights of accused with respect to their ability to obtain independent analysis of exhibits being held against them.

I am advised by other counsel that this is a predicament and a problem from time to time, and that different judges have different opinions of the law and, indeed, the court cases seem to be conflicting on the subject.

I would ask the Attorney-General whether he agrees with the opinion of the departmental counsel that the matter is not worthy of further pursuit, or whether he is willing to give consideration to continuing discussion and deliberation in this regard.

**HON. R. PENNER:** I will take the matter under advisement. I do note that I received the opinion and immediately passed it on to the Member for Ellice since it had been some time since he had made the request. But I will readily admit I have not done more than skip through it and considered it, but I would be glad to consider it.

**MR. B. CORRIN:** I might add that I personally have the highest regard and respect for the Attorney-General's capacity to deal with these matters and, indeed, in some respects, if I might be allowed, Mr. Chairperson, I have more confidence in his personal ability to deal with these matters than some of the people who write memorandums for him. I think that many members of the Bar would share my confidence in that respect.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** 2.(a)(1) - the Member for St. Norbert.

**MR. G. MERCIER:** Mr. Chairman, in February of this year there was a news report that the Attorney-General would decide this week whether to order the seizure of controversial joke books from the shelves of Coles book stores. Was that a decision he made on his own without recommendation from staff?

**HON. R. PENNER:** Which decision are you referring to? The decision to consider it, or the ultimate decision?

**MR. G. MERCIER:** The ultimate decision.

**HON. R. PENNER:** Well, the ultimate decision was not to seize, and that was based on recommendations from staff.

**MR. G. MERCIER:** Okay, Mr. Chairman, perhaps a final matter before we close, the Attorney-General had announced a policy of prosecuting wife beaters and certainly it's an offence no one can condone.

There were numerous concerns expressed about the effects of that decision, wives not appearing as witnesses in prosecutions, hurting in some instances the chances of reconciliation because it was said that 90 percent of them reconciled. Is the Attorney-General's announced policy still in effect or have there been any revisions to that policy?

**HON. R. PENNER:** No, the policy is still in effect. I think the policy does need perhaps a fuller explanation than it is sometimes given. The policy is not an indiscriminate policy. We certainly do in circumstances where the alleged offence is relatively minor and representations are strongly made that a couple really want to try and work it out and some serious attempt has been made to work it out, Crown Attorneys do have the discretion to say, "Okay, we'll stay."

Where there has been an assault occasioning bodily harm, however, we will not normally let the matter rest in that way. Ultimately, a Crown Attorney has to decide and we haven't taken that discretion, whether or not it is completely futile, and in those circumstances we don't say to a Crown Attorney, "Well, you go to court, even if it is completely futile." So we haven't really put handcuffs on the discretion of the Crown Attorneys in these cases.

The weakness of the program, we would all readily admit, comes with respect to disposition, and certainly it's not a program designed to put abusers in jail. It's really to provide a safety net for abused spouses. There is lots of evidence to show that counselling can help and would be a very welcome disposition by trial judges. In fact, they're using it. The difficulty is we don't yet have enough counselling services and we work closely with the Department of Community Services and Corrections which is allocating a lot of additional resources to the development of counselling services. A grant was made recently, for example, to Klinik, to do an evaluation of counselling services to see what is in place and how they might be strengthened.

**MR. G. MERCIER:** Just before we rise, Mr. Chairman, I wonder if the Attorney-General will want to take this as notice, but their reports indicated in 1983 there were some 818 spouse abuse related charges laid by police - I take it that was in the City of Winnipeg - and 241 charges were stayed, 93 dismissed and 14 were acquitted and another 220 charges were still pending as of January 1st.

I wonder if the Attorney-General could update those statistics for us for say the January 1, 1984, as far forward as he can. And also, last year, he provided - I believe it was in the House - statistics with respect to the prevalence of break and enter.

**HON. R. PENNER:** In those circumstances?

**MR. G. MERCIER:** Apart from the wife abuse cases, but they were provided us last year as the results of some questions we had with respect to the statistics for total break and enter offences reported, etc., and

he dealt with Brandon, Winnipeg and rural, and they were up to the end of 1983, and I wonder if those figures could be updated for 1984.

**HON. R. PENNER:** Yes, I'll bring current statistics, both with respect to wife abuse and B and E, tomorrow. Committee rise.

**MR. CHAIRMAN:** The hour being 5:30, committee rise.

## SUPPLY - HEALTH

**MR. CHAIRMAN:** Committee come to order. We are considering the Estimates of the Department of Health, Item 7. Manitoba Health Services Commission, the Medical Program - the Honourable Minister of Health.

**HON. L. DESJARDINS:** Mr. Chairman, I have an answer that I took as notice yesterday.

In 1983, there were 225 GFP's associated with the St. Boniface and the Health Sciences Centre. We have record of payment of 207 of them. The university and hospitals have various fee sharing and recovery arrangements which can reduce or enhance the individual salaries. Additional source of income to these physicians include: university salaries, salary from private industry, other Provincial Government agencies, research funding for private health organizations, and the Federal Government.

The 207 GFP's receiving remuneration from the Commission for the fiscal year '83-84 were as follows: salary, hospital and provincial agencies, \$4,773,141; and fee for service, \$10,701,421 for a total of \$15,474,562.00. That works to an average remuneration of \$74,756.00.00 As I mentioned, I want to emphasize this is only from the Commission and there is many other ways of earning money.

**MR. D. ORCHARD:** I thank the Minister for that answer. Now, I realize the Minister would not probably have a complete list where else these GFPs would receive remuneration but, presumably, the largest next departmental or hence government remuneration will probably be through Education through UGC in all probability.—(Interjection) — Yes, from university in terms of their salaries.

Mr. Chairman, the Minister gave me some information just before we commenced the Committee in terms of the notification of benefits paid by the Commission to individuals in Manitoba. Now, I understand that the 6,000 statements per month represents 1 percent to 2 percent. If I was to receive a statement as an individual, would that be my personal record or would it be my family plan? Which goes out? — (Interjection) — It would be the family plan then.

Now, can the Minister indicate whether through the mailing of these benefits; 6,000 per month - that's roughly 72,000 per year - of the 72,000 is there a percentage the MHSC has of statements in which an incorrect billing or an improper billing has been identified as the result of mailing out those statements?

**HON. L. DESJARDINS:** Mr. Chairman, we have no records per se. I think it falls in the different categories. There's a small percentage of people, very small, that

there's claim being made and they've never seen the doctors.

Now, there are some that on the first reaction of the patient might be this is a case and then they are reminded that they probably didn't see a doctor, but they went for an x-ray or something like that, lab. That is one of the cases.

Then, at times the doctors have claimed the wrong amount and that has been corrected. There's some corrections that are usually made after.

**MR. D. ORCHARD:** I take it from the Minister's answer then that the amount of incorrect billing, and to use the terminology in the Minister's answer, any possible inappropriate billing. The incident of that has been very low and that's why perchance the department doesn't feel it would be beneficial to go to the higher expense to mail out once annually, as Alberta does. They don't think there'd be sufficient identification of improper billing or inappropriate billing to make that program pay then I take it.

Mr. Chairman, on the subject of physicians' billings, etc. etc., does the Minister or the department have any indication that there is an overuse of referral services, etc. etc., within the medical profession? The terminology, I believe, is patient sharing. From time to time it's been pointed out to me that there may be a lot of interdisciplinary referrals of a patient. I wonder if the Minister has any concerns with that practice, whether the Minister or the Commission believes that that is a practice that has to be looked at and discussed with MMA and the College of Physicians and Surgeons to see whether it is a serious enough or a costly enough problem, that it needs some remedial attention and possibly some remedial policy?

**HON. L. DESJARDINS:** Mr. Chairman, this is something that should be dealt with the peers. In other words: medical people in the Medical Review Committee are the one that acts as watchdog for this abuse, if any. There is no doubt that there is a tendency - in the Evans Report it will show that there is a tendency of seeing more doctors. I think there is a chart in there that you will see they had different charts, that at one time it was people went to see two different doctors; now they might see three or four. There's more specialists, but there's also, I think, a table in there that shows from GP to GPs also. That is a concern. I don't know what the answer is. It is a concern. It is one of the things that those committees will be studying to see if there's a need for that.

**MR. D. ORCHARD:** Well, in part the Minister has answered one of the next questions I was going to pose, but he might want to expand on it.

Given that, I believe, over the last decade or 12 years or in that general period, there has been a higher degree of specialization. The Minister referred to that in our discussion earlier on this week in terms of availability of physicians for rural and remote and medically underserved areas by practicing physicians, that one of the causative factors appears to be the increase in specialization of medical doctors and a lessening of the general practitioner in terms of the graduate discipline. Is there, in terms of, particularly internal

medicine, the possibility that some of the increased referral of patients to various doctors of differing disciplines or specialties, that that is a natural evolution of the specialization in medicine today? And a growing concern that people, if they've got a problem and their physicians want to basically, I guess you could say, leave no stone unturned to determine the problem if any exists, and that increased specialization does mean that one physician may only be examining for one specific type of ailment. That would cause the increase in patient sharing, if you will.

**HON. L. DESJARDINS:** Mr. Chairman, that no doubt is one of the reasons but this is one that we could understand. I think it needs to be scrutinized also, but the remarkable thing that I mentioned, but I didn't elaborate on, the remarkable thing in the Evans Report is the sharing between GPs, not necessarily a GP and a specialist, there seems to be more of that.

**MR. D. ORCHARD:** In terms of that phenomenon or that method of practice, is Manitoba unique in the physicians' sharing of patients or is that a national phenomenon in which we don't differ significantly from other provinces?

**HON. L. DESJARDINS:** Mr. Chairman, it is our understanding, unofficially anyway, that no, certainly, this is not restricted to Manitoba, but Manitoba is the first one to be collecting that kind of data. We would like to have more from other provinces and we'll certainly share with them, give them to access to what we have. Right now we're the only one that seems to be collecting data.

**MR. D. ORCHARD:** But unofficial information would indicate that we're not overly sharing patients, compared to other provinces, I take it from the Minister's answer? — (Interjection) — The Minister indicates not enough information.

Mr. Chairman, I'd live to move to another area and ask the Minister upon whose advice the Minister made the decision to change the method of patient billing for the chiropractors of the province?

**HON. L. DESJARDINS:** Mr. Chairman, I think that I made that very clear on a number of occasions. I don't mind repeating it again. Every year, of course, every department and the Commission, such as a department, will look to see if there are anomalies, if there are certain things that, as far as they're concerned, are not correct, are not fair, and they then make recommendations, especially in the years when we were looking at the deficit that we had and the large increase in services and costs. Those things are looked at and that was one of the things that was brought to Cabinet at the time.

Now, as far as I'm concerned, there was never any doubt in my mind that it wasn't the way to go. The way to go - there were a lot of statements made that talked about those that needed it the most would suffer and that's not true. It could be those that needed it the most were those that didn't need it the most.

There is no doubt the chiropractors would like to see full coverage, like everybody else, and they saw

their chance on this thing to push for extra coverage and there was a lot of misunderstanding, a lot of things that were said around that time. But the point is that you had an individual, he's alone, he happens not to be married, not have any dependant, he was allowed \$102.00. Now if he was married and had up to one dependant, the amount then went to \$204.00. It didn't matter if there was only one of the three or two that took advantage of the service, they could go for the whole thing. The third one, if there is four or more, and then they would be limited to a total of \$306, but there again if there was only one that availed himself of the service of the chiropractors, then that person could get \$306. Or, you have a situation where one individual, it doesn't matter, nothing can be proved for a minute to indicate that he needs it less than the others; in fact, he might need it a heck of a lot more, whatever the case may be, and he is entitled to a maximum of \$102, whereas his neighbour, because of certain circumstances, could go to \$306.00. We felt that wasn't wrong.

Now if we looked at what was done in other provinces, there's one province that still did . . . now if must say there's another province that had full coverage also, so exclude that. Now of those provinces, 10 had nothing at all; no insured program for chiropractors at all, not a penny. So what we did, and there was a misunderstanding as I explained at this time, certainly a misunderstanding as far as I'm concerned, that there was an agreement signed, apparently, between the chiropractors, the Association of Chiropractors and the commission, not the government but the commission, that they were supposed to discuss these things. I did know about this agreement, I still feel that the discussion would not be on government policy - if they do like any that we've always discussed, and I knew that that we've always discussed with the chiropractors and the dentists, and those people for work paid for by the government.

In spite of that, not even knowing about this agreement, when this was presented to Cabinet, recommended it to the Cabinet, and it was accepted by Cabinet. I informed the Commission that nothing would be done until they had a chance to talk to the chiropractors to see what they had to say. That seems to be something that's forgotten. If you're talking about people in good faith, it's got to come from both sides.

Now the president, who I had no problem with at any time before, I found very co-operative, who I tried to work with as much as I could. In fact, I stated in this House that I was instrumental in trying - and that's no mean feat - to bring, or having brought two or three of the executives to have lunch with the College of Physicians and Surgeons. I'm not saying that the results were fantastic, but that's not my fault. We tried to get them together.

Now that person, the president, was phoned and he was a bit disappointed and he said we have no intention of fighting with the government, we want to co-operate, we'll do everything we can, and there won't be any criticism or anything at all; nothing was said about a contract. He said, I should talk to my executive, so he gave the time and the date that he was going to meet with his executive; still nothing was done through all that time.

The date after he was supposed to be in touch with the executive, he was phoned and he repeated the

same thing, that nothing would be done. It was only a couple of days after that all hell broke loose, that they threatened to take us to court and this was the situation then.

I met with them. First they wanted to meet with me - it had to be within three days. He didn't want to meet with anybody else. Those three days, three to five days or so, happened to be three days that the Cabinet was unavailable, we were altogether to start the work on the Estimates, so I suggested that he meet with my Deputy Minister and I would meet him after. He wanted no part of that.

Finally, I met him a few days after that with his lawyer and we had a discussion. I told him, fine, that they could discuss, I realized that there were certain things to discuss; for instance, the fees. They've discussed that every year, that's what I thought they were talking about - the fees and any of those things like that, not necessarily an anomaly that was corrected. They could mention that, although that was a fait accompli, by that time it was done.

I also talked about the possibility - they reminded me that I had gone on record as saying that I favoured full coverage and, in principle, I do. I was at a chiropractor just a few hours ago, to be honest with you, so I do believe in chiropractors. I have no trouble. I would want to learn what we have through the medical profession and bring certain safeguards before we do that. But definitely, it is not the time to do that, after all we've heard this week and last week and so on, but we did take a certain amount of money and we increased their visits of up to 50 percent, from one and 10 to one and 15, I think it was.

They said that we didn't want to meet with them, and after they had come to see me I suggested that, fine, whatever they wanted, any presentation they wanted to make. Now they didn't do anything for a while. Then I made the announcement and they sent a letter to probably all the members of the House and they mentioned about them having a letter. As I told them, I had never seen that, this letter crossed from the Commission; it was sent to me while we had made the arrangements. The president said, I'll be away, but we'll be getting in touch with you when we come back.

In the meantime they organized, at every chiropractor's office, letters that he sent with all information, which is their right, but if anybody broke the discussions and the negotiating, it was them at that time. Fine, I'll accept that there was a misunderstanding, and even then the agreement was never signed between myself and them. Then we met with their lawyer and themselves. They said, alright, we're going to send you what we have and we'll see if we can get together.

That wasn't done until for a long time, until they had done everything they could to put pressure - and a news release and everything, which is their right. They did a good job, but this is exactly what happened. After that I got a letter. They wanted me to see if I could authorize the Commission to negotiate certain things. That, to me, was an indication then, that the Commission had no authority to discuss certain things, so therefore their agreement with them - I would imagine, if that goes to court and it probably will go - that will be an issue.

They took it for granted that the Commission did not have an authorization. I can't see the Commission

forcing us to negotiate, but it wasn't a question of who was the force, who was legal. It was an oversight, if anything. It was something that we did know; we brought it to their attention. It would have been very, very easy to say, hey, we have an agreement. We remind you that we have an agreement, but they admitted themselves that they didn't know. It was only a couple of days after that he said he was annoyed.

It's very obvious what happened. It's very obvious that the President of the Chiropractor's Association did what he thought was right, did what he thought was best, but then he wasn't so well received by his membership and they weren't happy and they criticized him and he didn't take the responsibility on his shoulders, but tried to blame us. That was his way out, so that is okay.

I received the letter and I said, well, you just finished telling everybody you're taking me to court. Do you want to negotiate? And I said, before I instruct the Commission to do anything, if you're willing, one on one, we'll have a discussion to see if this could be straightened out. He thought it was a good idea, but then he wanted to come with his lawyer. I said, the minute you come with your lawyer, then I bring the Commission and so on. It's something that can be done, but that is not what I was trying to do to straighten this thing out. I said, choose - if you want to do that, well then go back to the Commission.

So then he was instructed to go and I think he agreed it would go to the Commission, and I think that there was another letter saying, well what's the use of going to them if they're not authorized to do it. If it's going to be on the straight and narrow and if it's going to go to the courts and all that, as far as I'm concerned, he could go and meet with the Commission where they haven't got the mandate or the right or the power to grant certain things and the authority, they will come and check with us like they do on every other group. So that is exactly the way it happened.

There had been some criticism also from people, especially Mennonites and Hutterites, large families, who believe less in doctors than in chiropractors and they have large families and only three of them could go for their full time. Now this way, it's open to everybody. In other words, if there's 10 in the family it's 10 times \$102.00.

**MR. D. ORCHARD:** Mr. Chairman, the Minister seemed to answer my question in that he indicated the Commission undertook an analysis of how chiropractic benefits were handled in other provinces and indicated to the Minister that here was an area that needed to change. Do I take from that answer that the Minister was advised by the Commission that the billing system in Manitoba was different from other provinces and could be changed in the manner that he first proposed?

**HON. L. DESJARDINS:** I don't think there's any reason to answer the question and get involved in it. I think I've probably gone a little further than most people would. I told you exactly the way it happened. From now on the responsibilities are mine, not the Commission's. We made the decisions, not the government. The Commission will do what you tell them to do. If you tell them how it is done in other provinces,

what is spent in other provinces, they'll do it; so I don't want to answer in any way that might seem as if I'm blaming the Commission for anything. They give me the information and I make the decisions.

**MR. D. ORCHARD:** Then could the Minister indicate who developed his initial saving figure of \$600,000 with the change in billing?

**HON. L. DESJARDINS:** Yes, that information came from the Commission, from the past patterns, and that was before, of course, we added visits. In other words, then it wouldn't be so many people that could go for double the visits. It would be everybody that would get 50 percent more visits. It would be fair and more appropriate.

**MR. D. ORCHARD:** Mr. Chairman, the Minister is confusing what he originally proposed with what he's ended up with, because he made his January 2nd or the end of January announcement attached to this equalization, as he calls it, of benefits amongst individuals to family members on the basis that it would be fairer to everyone; and I suppose, from that answer of fairness, one could conclude it would be particularly fair to the budget of the department because there was, at that time, a \$600,000 saving from the change in the family billing structure.

Mr. Chairman, the Minister has indicated that he doesn't want to get into who provided him with what information and on what advice, but I would ask the Minister then a question along these lines. When the Minister had made the decision - as Ministers and governments have the full ability to do - that they were going to change the method of billing as it pertained to chiropractors, was the Commission made aware of the government's intention to undertake that change and achieve, at that time, the \$600,000 saving.

**HON. L. DESJARDINS:** The Commission or the association?

**MR. D. ORCHARD:** The Commission.

**HON. L. DESJARDINS:** Well, the commission made the initial recommendation, and got the information that we requested. That went to Cabinet where we review all programs, like any other one has to bring in programs like that and that was done. The Commission was told that that would be going on, but in the meantime, they were told that nothing would happen until we had a chance to talk to the chiropractors.

This is what I said earlier, that they've discussed with the chiropractors and they were told fine, there was no problem, on two occasions.

**MR. D. ORCHARD:** In the point in time that the Commission was made aware of the Cabinet decision, and prior to discussions with the Chiropractic Association, is the Minister indicating that no one in the Commission made him aware of the agreement that was in effect and carried on, if I can find it in the agreement, and carried on until March 31, 1985. Clause 5 of the agreement between the Chiropractors'



Association and the Health Services Commission, indicate in Clause 5 that either party may, not earlier than five months prior to March 31, 1985, give notice in writing to the other of a desire to negotiate increases in the fee schedule. That isn't the clause I'm looking for. I believe this agreement was to be in effect, yes, here it is, it's in the first clause, for the period April 1, 1984 to March 31, 1985, the schedule of fees, including the maximum yearly visits payable by the Commission shall be, etc., etc.

Now the Minister has indicated that information was requested and provided in terms of what the financial impact would be of a change in the billing structure, whereby the family benefit was eliminated and the individual benefit would prevail and the Commission provided the Minister with that information and when the Minister indicated that the decision was going to be implemented, presumably sometime at the latest in the 1st or 2nd of January, 1985, was the Commission not able to make the Minister aware that this agreement was in effect for another three months at that time?

**HON. L. DESJARDINS:** I'm going to answer this to the best of my ability, then I want to serve notice that this is in front of the courts and I don't intend to be questioned like I was in a court of law, yes and no. At this time I will give you as much information as I have, but I don't intend to get involved in this any further because it is something that is being brought to the courts.

I was not made aware of the situation at all by the Commission, because the Commission was, and are still under the impression that they lived up to their agreement and I was made aware of that by the chiropractors, to my surprise.

**MR. D. ORCHARD:** Mr. Chairman, I'm not arguing as if I'm in a court of law, and I'm not questioning the Minister for a legal opinion as to whether this agreement is binding. I have no idea whether it is or it isn't, and I presume that the appropriate decision-makers will give the Minister that opinion, but Mr. Chairman, the point I'm trying to make with the Minister is that he did initiate a change in billing and the Health Services Commission was involved in that change of billing in terms of providing the Minister with information as to financial impact, etc., etc., on the proposed change, and I think that the Minister makes a case that the chiropractors didn't know until a couple of days after a certain communication with the Minister that this agreement existed. Well, you can explain what you said then if you find difficulty with what I've said, you indicated earlier on that the chiropractors, when you discussed it with the president and the second time he still wasn't aware of this agreement, and a few days after that he is supposedly to have been made aware of it and then decided that the Minister's course of action was inappropriate.

Mr. Chairman, I think it is incumbent that we understand, as legislators and as taxpayers, the sort of course of action that appears to have taken place here. We've had a government make a political decision, which they can make, there's no argument with the ability of the Minister or this government and this Cabinet to make the kind of decision they did, but there

has to be some assumption of responsibility for the fact that this new billing arrangement has been made without the Commission even apparently making the Minister aware, as he's indicated earlier on, that an agreement was in existence.

The legality of that agreement I don't even want to discuss, but that to me, the existence of that agreement signed July 30th, dated July 20th, I think is a reasonably important document in existence and important, not only to the chiropractors, but for instance, to any organization who might have similar agreements that they believe are binding or incumbent and require the government to do certain things. The Minister announced his change, then found out of this agreement, and the point I'm making with him at this stage of the game is that appears to be a lack of communication and a lack of providing the Minister with the full information as to what his abilities and what his responsibilities were towards the Chiropractic Association and their patients. That communication and that knowledge does not seem to have existed until after the fact.

That, I suggest, Mr. Chairman, is why this dispute has flared up to such an extent that indeed it is before the courts and hasn't been resolved in an atmosphere of co-operation and negotiation. The agreement even provides for an establishment of a chiropractic consultative committee upon which they would meet at least quarterly to promote co-operation and understanding between the Commission and the association.

The whole existence of this agreement was, I believe, an attempt to set out some reasonable guidelines, some reasonable course of action that both parties could follow over the fiscal year '84-'85, and provided in it the kind of committee structure and ongoing consultation that would prevent the very atmosphere, the adversarial atmosphere of confrontation that is there between this Minister and this association right now. Such an adversarial atmosphere that indeed, the association has decided that court action is the only appropriate way to deal with this Minister and this government.

Now that, Sir, to me points out that things are not going along quite as smoothly and quite as openly as the Minister would have us believe, and if he has an explanation as to why he wasn't made aware of the existence of this agreement prior to making his amounts change in the fee schedules in January, I'd appreciate hearing that explanation from the Minister.

**HON. L. DESJARDINS:** Mr. Chairman, I'm going to answer once more and once more only. I stated that the Commission did not inform me of the agreement because they, to this day, did not feel that they had broken the agreement at all. I'm talking about originally. It came to my mind, if I remember right, somewhere around there anyway, but the first time that I noticed that I was told that everything was fine, I what they asked us to do, we got in touch with them and the president was all very co-operative, he wanted to co-operate with the government, and everything will be fine, but he wanted to talk to his executive. He did talk to the executive, then we phoned him back and that was it.

I was not informed by the Commission. I was informed, and it came to my attention when it was



brought in by the chiropractors. Let's look at the tradition and what has happened. They have never had a meeting for consultation. The contract talked about a meeting every four months or so. There was a meeting once a year to discuss the fees, the same as you do with anything else, the fees that were allowed. In fact, when I saw them, when they came over to see me and I told them that there were still a lot of things to discuss. There was the question of that money, some of it could be put back in to increase the . . . on a one-to-one person, especially if we were eventually going to go to the full coverage. That was the goal.

I didn't make any commitment; I said there could be; I said anything could be negotiated. The only thing I told them could not be negotiated was this question - they brought that, to my surprise - that had been told about over a year before that there would be no extra billing. No extra billing would be, of course, for just those that are covered. They can charge what they want after that, and they've done that. That was a non-issue and something that we didn't intend to discuss with anybody. The decision that we made, we made it known.

There is that professional jealousy between these two groups - for some reason they're under the impression that the MMA sold out the right to extra bill, to have arbitration. That is not the case either because we had nothing to sell; that was gone. They talked about binding arbitration and I read the Letter of Intent here a couple of days ago, at least what that was all about. But I told them when they were here with this, when the president was here with his lawyer, if he wanted to discuss, fine. No announcements were made at the time of any increase, although we talked about the increase with the MMA.

They told us that he was going to be away, but he kept on and they had a fantastically organized campaign through all the offices of chiropractors around, pushing and pushing while we were supposed to negotiate. And then, that was the question that he wanted me to answer, I'll answer it - then the decision was made without going to them, definitely. At that stage it was obvious that they had been invited to negotiate and they said they'd get back to us and they kept on organizing political organization and there's no way that is negotiating when one team is going to try to turn the public or anybody against one. That's the choice they made. Therefore, we made the decision without talking to them, also to increase the coverage.

**MR. D. ORCHARD:** Mr. Chairman, can the Minister indicate - in his communication with the president about the change in billing structure, I believe the Minister has indicated it was January 2nd. Did he indicate to the President of the Chiropractor's Association that this was a decision of government and that it was not negotiable?

**HON. L. DESJARDINS:** I had the January 2nd meeting with the . . .

**MR. D. ORCHARD:** Mr. Chairman, leaving January 2nd out, if it isn't the magical date that the Minister contacted the President of the Chiropractor's Association - when he contacted the President of the

Chiropractor's Association, did he indicate to him that the government was going to change the family billing process and that the decision was made and that it wasn't open to negotiation?

**HON. L. DESJARDINS:** I don't know how many times I'll have to answer these questions to say the same thing. The first and only time that I met with the president of the chiropractors and his lawyer in my office, at his request, we talked about the concern. They, themselves, said it looked like there was a misunderstanding, and when they left, they left us with the impression that, at my invitation, they were going to prepare a brief of some kind and meet with us to discuss that. But he did say that he was going on holidays and that nothing would be done until he came back.

The same day, if not before, an organization started in every single chiropractor's office, with letters, my phone calls, phone calls to the Premier and everybody else - letters making statements, some of them were erroneous, from the president. I don't call that wanting to negotiate; that is breaking negotiations. They broke negotiations and therefore, if that was the case, we had no idea what they had in mind to come back, if they thought they were going to keep on for a year and then figured, well, public opinion will force us. We made the decision and they were advised.

**MR. D. ORCHARD:** So then the Minister did say in his last sentence, and if I am misinterpreting him, I know he will stand up and correct me. But he is saying that when he did meet with them, he advised them of the change and told them that the decision was final and that there would be no negotiations as to that decision.

Basis that, when you put an organization in the position where you make decisions unilaterally without the kind of consultation that the Minister referred to earlier, that once a year they meet to discuss fee schedules, etc., it would seem to me that the Minister can't really heap all of the blame on the chiropractors for starting a letter-writing campaign and a phone-call campaign because if, as the Minister is trying to let this committee understand, he wanted to negotiate with them; if he had said that here was the plan that the government was thinking of doing, but yet were open to suggestions, if that had been said to the chiropractors, I am reasonably certain that they wouldn't have started a letter campaign and a telephone campaign which deluged the Premier's office with over 17,000 letters.

Mr. Chairman, what I believe, and the Minister can correct me if I'm wrong - is that they were given a proposition, an offer they could not refuse, that the government had made up their minds there was no further negotiation - (Interjection) - the Minister says from his seat that that is not true - then how would the Minister explain that an organization would then, if they were offered the opportunity to negotiate with the Minister, why would they go on a letter writing campaign and a telephone campaign when they had the opportunity to negotiate with the government, if that opportunity to negotiate, in fact, existed?

I believe, Sir, that the Minister did not indicate that there was any room for negotiation, that this was the

changed schedule, and that it was up to the chiropractors to take it or leave it. Otherwise, Mr. Chairman, they don't go out spending time and effort looking to pick fights with people instead of negotiating - if a negotiating offer was there.

So if the Minister is saying that they were given the opportunity by the Minister after his announcement of their intentions to negotiate a fee schedule, then I'd appreciate his clarifying it.

**MR. DEPUTY CHAIRMAN, D. Scott:** The Minister of Health.

**HON. L. DESJARDINS:** Yes, I will. February 22, 1985, the Minister of Health and Manitoba Health Services Commission officials met with the President of the Manitoba Chiropractor's Association and their legal counsel. At that meeting, the Minister of Health suggested that the Manitoba Chiropractor's Association submit a brief to the Manitoba Health Services Commission, including any and all items that are of concern to the Association. I'm still waiting for that.

**MR. D. ORCHARD:** Mr. Chairman, on that February 22nd, what was the proposal that the Minister had given to the Chiropractor's Association as to their new revised fee schedule?

**HON. L. DESJARDINS:** Mr. Chairman, I do not intend to pursue this any more. It's in front of the courts. I don't need someone to act as judge here today. I know what he wants to do. I've answered every question clearly, two or three times.

**MR. D. ORCHARD:** Like hell you have.

**HON. L. DESJARDINS:** I don't intend to answer any more. He can go to court and watch the court proceedings.

**MR. D. ORCHARD:** Mr. Chairman, the Minister of Health has got an obvious problem. When he is backed into the corner, having fully identified that he's done something wrong, he takes his ball home and goes home and won't allow anymore questions. "I've had enough," he says, "I'm not going to talk about this anymore."

If the Minister had done his job as a Minister, as a responsible Minister, he wouldn't be in the jam right now with a lawsuit facing his department. — (Interjection) — Oh, no jam at all. It's just fine for citizens of this province to have to take this government to court, to remedy actions that this Minister has forced upon them. He won't admit the fact, Sir . . .

**HON. B. URUSKI:** Why don't you go eat a grasshopper?

**MR. D. ORCHARD:** Mr. Chairman, you know the Minister of Agriculture has found some new-found intelligence over there. He hasn't been in on the Health Estimates discussions to date, and, Mr. Chairman, the Minister of Finance doesn't have any intelligence that he can share with this committee either.

Mr. Chairman, what the Minister of Health has got is a problem wherein he thought - because there are

only 100 chiropractors, less than 100 chiropractors - that he could take and . . .

**HON. L. DESJARDINS:** I did more for those people than you ever did.

**MR. D. ORCHARD:** Mr. Chairman, the Minister says from his seat that he did more for those people than we ever did. I fail to recollect the time in our four years of government where they sued us and they are taking the Minister to court.

**HON. L. DESJARDINS:** They've got no hope.

**MR. D. ORCHARD:** And he says they've got no hope. That's fine. I don't really want to involve myself in a court action in here. But, Mr. Chairman, the Minister has got a problem. He came up with a scheme to save the department \$600,000 - that was step No. 1; he wasn't aware of an agreement - that was step No. 2; because the MHSC didn't make him aware of the agreement.

Now he contacts this group and says, I think we have to change the way you're billing.

**HON. L. DESJARDINS:** They contacted me.

**MR. D. ORCHARD:** Well, Mr. Chairman, the Minister is changing his story again. He's saying that they contacted him. Fine, we'll accept what the Minister is now saying as how it happened. That's fine.

Mr. Chairman, the Minister gave the association a take-it or leave-it proposition. There was no negotiation that he allowed and, Mr. Chairman, when they sent to the Health Services Commission a — (Interjection) — the Minister says that on April 22nd he gave them the offer to come up with a brief to discuss and theoretically negotiate the . . .

**HON. L. DESJARDINS:** You know you're changing everything. You're going to try to make a case and you haven't got a case.

**MR. D. ORCHARD:** Mr. Chairman, if the Minister wants to discuss this he can stand up, but I thought he said he didn't want to discuss it anymore. — (Interjection) — Fine, then do you want to stand up and correct something? - stand up. Stand up.

**HON. L. DESJARDINS:** The least you can do is when you ask questions, accept those questions and don't purposely try to change the date because you've got something in mind that you're trying to set us up. It won't work.

**MR. D. ORCHARD:** It won't work.

**HON. L. DESJARDINS:** It won't work a bit, not a bit. You're not that bright.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. DEPUTY CHAIRMAN:** Order, order. Let's get some order in the committee.

**HON. V. SCHROEDER:** I don't think the tough approach is working, Don.

**MR. DEPUTY CHAIRMAN:** The Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Chairman. On February 22nd, the Minister indicates that he offered this proposal to the Chiropractic Association to negotiate and set a new fee schedule, theoretically, and discuss the various problems they were having.

Now on March 8th, a letter was sent by the Chiropractic Association to the Manitoba Health Services Commission, and in that letter they offered that they were willing to commence negotiations and they gave them a range of dates from April 8th to April 17th - five days that they would sit down with the commission.

Now the Minister indicates that there was never any proposal made. He may well be correct because obviously they wanted to meet and talk over and negotiate, as the Minister said they normally do once a year.

Now, Mr. Chairman, having sent that letter to the Manitoba Health Services Commission offering a series of dates, the Minister on March 14th announces another change to the plan. He says that the Chiropractic Association didn't negotiate with them. They weren't interested in negotiations.

They sent him a letter on March 8th offering to negotiate. It says here, "We would advise that the Association's committee is available on the following dates to commence negotiations." You know I think that that's fairly clear - the intent of the Chiropractic Association - that they wished to negotiate with the government but the Minister has already said this afternoon, because they undertook this letter-writing and phone-call campaign and attempted to do their negotiations that way, that he unilaterally decided to raise the visit level to 15 visits and to change the fee schedule in that manner.

Now, Mr. Chairman, the Minister can't have it both ways. He can't say that the Chiropractic Association didn't want to negotiate. He can't say that he gave them the offer to negotiate because why else would they have undertaken the letter campaign if they had the opportunity to negotiate with the Minister and the Commission? — (Interjection) — Yes, Mr. Chairman, I'm asking the Minister but now all of a sudden he doesn't want to answer, except from his seat.

**HON. L. DESJARDINS:** I answered it four times.

**MR. D. ORCHARD:** Mr. Chairman, I just don't see that this group of individuals who, as the Minister has said earlier this afternoon, that he did so much for them, so much more for them than we did when we were government. The Minister has indicated that they were treated very well by him.

Now, if they were treated so well by the Minister, and he was offering to negotiate with them, and they sent the Commission a letter setting up a series of dates to negotiate, why didn't the Minister negotiate before he made his announcement on April 14th? Is that a fair enough question?

**HON. L. DESJARDINS:** I told you

**MR. D. ORCHARD:** You told me. What was the answer?

**HON. L. DESJARDINS:** You're right up to a point, until you want to change it for your own good. The situation is that when they came to my office, it was agreed that there might have been a misunderstanding. The president did not deny for one second that he had told us on two occasions, it's all right. You know when somebody is told it's all right, what do you need to negotiate for? You're told that they don't give the government a bad time. We want to co-operate. Okay.

Then I said to him and I just finished reading that, bring in, we'll negotiate. There's nothing to prevent negotiating and he said, "With what?" We'll negotiate everything. Everything is going to be on the table. All right.

Now it is true that they said and I mentioned that earlier today, I think I'll take my friend's date - I think he said March 8th or something - and I sent this thing a few days after. I never saw that letter of March 8th. I mentioned that, that it got crossed and went to the commission and didn't come to me and this decision had been made. All right, why? And I'm ready to stick everything on that.

When he left the office on February 22nd, it was agreed that we would negotiate, but he would be away for awhile and as soon as he came in, we would negotiate and they would send us a list of all they wanted to do. That was not done, that's what you forget. Then they started - and they had that in their possession - and that's when they started going around, writing letters, and so on.

Now you asked me why. Yes I think I know why. Because they got a good thing, the people were - they did a darn good job of organizing and then it became a different issue altogether and you know that. Nobody was talking about the issue of changing the anomaly - that didn't work. They were all talking about full coverage. I was getting phone calls from people that were saying, we're at the chiropractor six times a week - well there's something wrong if you go six times a week and they wanted to be covered. That's exactly what was done.

Now they didn't accept the responsibility for that. They said they wanted to negotiate and if my friend can tell me of one example where people that are negotiating are trying to work against the other side, at the same time or antagonize the other side or get public opinion on that - if that's negotiating - I've never heard that kind of negotiating at all. It was then, and only then, that we acted independently. They wanted to do that because they were putting all their marbles in one basket and they were going out for full coverage. That's exactly what happened.

**MR. D. ORCHARD:** Mr. Chairman, the Minister is indicating certain procedures in the negotiation. He hasn't indicated whether I'm incorrect in the fact that the chiropractors when presented with his new billing schedule, which originally was to reduce every individual to \$102 coverage and no family accumulation of benefit, that was non-negotiable. That is why, I believe, the Chiropractic Association took him on in the manner that they did, because the Minister did not say there was any negotiations for that. It was a unilateral

announcement by the Minister that this is the way it's going to be.

Subsequent to that . . .

**HON. L. DESJARDINS:** This is the thing we had phoned them about before.

**MR. D. ORCHARD:** Mr. Chairman, the Minister, because of pressure and I don't know whether he got calls in terms of patients wanting full coverage - I'm certainly not aware of that - but if the Minister says that's the phone calls he got, then the Minister can certainly, no doubt, back that up.

Mr. Chairman, then the Minister made his change after pressure and the Premier receiving a bunch of letters to increase it to 15 visits. In his announcement on March 14, he ends his press release by saying that the cost will be about \$300,000, but he is confident that chiropractic coverage is now more equitable and fair to Manitobans.

Now, I would have a question for the Minister. The original change in the family benefit billing, which was disallowed and is still disallowed under the new benefit schedule, but the original change was going to accumulate a saving of some \$600,000.00. The change in the addition of five visits is going to add \$300,000 of that saving back in. Could the Minister indicate how many patients are going to be affected by the \$300,000 reduction in the funding of the Chiropractic Program as a result of his amended fee schedule?

**HON. L. DESJARDINS:** No, I don't know that. The only thing is that approximately \$300,000, and I would imagine if there's any abuse there that's where you'll find most of the abuse.

I think it is much more practical to say to all Manitobans, this fellow is not married, so he's going to get less than others. Instead of saying that, you'll say everybody we're increasing this, probably going towards the full coverage, and here you're going to have a 50 percent increase in your visits. I think that's damn good.

**MR. D. ORCHARD:** Mr. Chairman, is the Minister saying that under his equalized visit schedule where all Manitobans, including the single individual as well as the family member, will now have 15 visits? Is the Minister now saying that there will be no Manitobans who will now have fewer benefits covered under his new fee schedule?

**HON. L. DESJARDINS:** I don't know if I got the question correctly. Everybody will get 16 visits. Those that went only nine times and if they go 16, of course, they'll get more. Those that were going to the full limit of \$306 now will lose \$150.00. It's not the end of the world, but the chiropractors will lose a few bucks too.

**MR. D. ORCHARD:** Mr. Chairman, the Minister is indicating that there will be individuals, and particular family individuals then, that under the new program will have a reduction in benefits?

**HON. L. DESJARDINS:** Yes, and there's also some large families that could have a big increase in the program per family, a big increase, a large increase.

**MR. D. ORCHARD:** Mr. Chairman, that may well be, but the Minister is indicating that under the new announced 15 visit limit that people who formerly were able to use the accumulated family benefits will now be able to avail themselves of fewer government paid chiropractic visits. That's going to represent a \$300,000 saving . . .

**HON. L. DESJARDINS:** And their wife and so on, if she has an accident could go.

**MR. D. ORCHARD:** Mr. Chairman, you know the Minister is talking from his seat, but his basic last answer was that there are Manitobans that, under the new billing schedule, will receive less visits covered under the plan.

**HON. L. DESJARDINS:** Of course. If they went 30 visits and they go 16, of course, they will be.

**MR. D. ORCHARD:** That will save the Manitoba Health Services Commission \$300,000 this year.

Now, Mr. Chairman, the Minister can't identify the number of individual Manitobans that will be affected under this program. That would be Manitobans that used more than 16 chiropractic visits. He doesn't have that information available. Would the Minister agree that generally people who use chiropractic services, as an average - this is information that the chiropractors themselves have as a result of their patient service, that generally these are working families that are using chiropractic services. Often the main income earner in a family is the one that was benefiting from the old schedule and the family visit plan to come up with more visits if his particular condition needed it.

**HON. L. DESJARDINS:** What kind of a question is that - is it this one that would benefit more if he's the one that needs it? Of course, it would be.

I am one of the persons that probably attends a chiropractor certainly more often than anybody in this House. I've never apologized for it. I'm very pleased especially with my chiropractor. I was there today. — (Interjection) — Yes, I can give you the name, not as Minister of Health but as an individual I'll give you the name, because I have full confidence in him. — (Interjection) —

When I've gone, I've seen women, I've seen old people, I've seen everybody and it's not necessarily the same thing. It's not just the bread winner that goes for a sore back, you can rest assured of that. It is something that some people don't believe in chiropractors, they don't go and others do. In many instances, some have been pushed to exactly that number of visits. Everything is legal. I think it's going to profit by it now of having and if anything sell the idea to more people, because they'll get 50 percent more visits. It's the same thing.

You can make a point on Pharmacare also and go and see some little old fellow that's got a drugstore in his home that's going in and see three or four different doctors a day so he can get drugs. If we stopped that, we're abusing the system.

I said that we're trying to keep a good system. We're going towards the full coverage. It might take awhile

because of the situation. The physiotherapists would like to be covered. Maybe it wouldn't be a bad idea also. The dieticians want to be covered, but this group felt this is our chance to go for the bundle and that's exactly why they acted the way they did. It is unfair, especially in the way we have been treating them and always in good faith. I think it is very unfair after telling us we're not going to raise hell, everything is fine on two occasions, and then having this kind of a setup. I think that the person is wrong and should be ashamed of himself.

**MR. D. ORCHARD:** Well, Mr. Chairman, you know the Minister makes a feeble case to justify what he's done.

The Minister, and I'll remind him again, that back over his career as Minister of Health, the Minister has had a reputation for bulldozing things through.

**HON. L. DESJARDINS:** Never mind other things, talk about the facts.

**MR. D. ORCHARD:** That's not a fact? — (Interjection) — Oh, okay. What's the proper word? — (Interjection) — Well, Mr. Chairman, — (Interjection) — . . .

**MR. DEPUTY CHAIRMAN:** Order, order.

**MR. D. ORCHARD:** Mr. Chairman, the Minister used to be proud of the reputation he had of being a tough negotiator and a hard-nosed . . .

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. D. ORCHARD:** Mr. Chairman, the Minister took on a group of chiropractors and he decided to change their fee schedule. Originally he decided to change their billing schedule so that they were down to 11 visits and he would accomplish for the government a \$600,000 saving.

The Minister and I will disagree on the level of consultation that was done with the organization — (Interjection) — the Minister says I was there in the negotiations? — (Interjection) — That's right, I'm disagreeing with the level of negotiation that the Minister had with that organization, because I don't believe organizations go out to pick a fight and to spend money on legal costs with the government, just because they want to, because they enjoy taking the government to court.

You know, people don't use the court system to remedy something that doesn't exist or to remedy something that has been handled properly; people use the court system to remedy situations where they don't believe they have been treated properly. Unfortunately, if the Minister wishes to laugh about the court case, that's fine, that's his business. That's his business entirely.

But sir, he announced a change which would save the government some \$600,000.00. Then under some pressure, some well-organized pressure, I have to say, the association succeeded in convincing the government that the Minister's original proposal for change was not a good one — (Interjection) — Mr. Chairman, if that's the Minister's method of negotiation, then he really does waste a lot of the people's time in

not putting his cards on the table and dealing with them honestly. If that was his method of negotiation, as he says from his seat, and that's the kind of negotiation that people can expect from this government, then we have a lot of problems, and the people of Manitoba have a lot of problems in dealing with this government. If they can't deal with this government in an open and forthright manner, but rather they're going to have prospects thrown at them that they know they can't accept and won't accept and when they put pressure on them, the government's going to back down and that's their method of negotiation, the Minister says? That is a bizarre sort of thing for a Minister of Health, and the most responsible Minister in this government to say is their method of negotiation. That is an incredible statement for him to make from his seat.

But that is the way they intended to negotiate, to box an organization into the corner, give them a proposition they couldn't accept, wouldn't accept because of concern for their patients, and then back down after they put some pressure on them. That is really open government. That is really a delightful way for this government to treat organizations that it deals with on a regular basis.

Mr. Chairman, if that's the way the Minister indicates their design was and their intention was, fine. Fine. That's the way they negotiate. Mr. Chairman, the Minister picked on a group of individuals who are relatively few, less than a hundred in Manitoba. And he decided to unilaterally change their fee schedule. \$600,000 was the saving figure. He didn't for instance, do that with the MMA, no, because there are 2,000 of them, a little more powerful group. But he'll do it to the chiropractors — (Interjection) — he'll do it to the chiropractors.

Mr. Chairman, there are two issues here that the Minister can't avoid. First of all, there was an agreement that the Health Services Commission had signed which was in effect until March 31, 1985, and secondly, there is the question, obviously, that the Chiropractor's Association have put forward on to the level of negotiation of this Minister and his department allowed them.

Mr. Chairman, the Minister now has a program that saves the treasury \$300,000 in terms of its billing practice. Mr. Chairman, the Minister has received letters indicating the value of the chiropractic service to those ordinary Manitobans that they often claim to be championing their cause and working on their behalf, because it is these ordinary Manitobans that are affected by this change in benefit limit. It's not people like the Minister of Health who, as he says, is a frequent user of chiropractic services, it's not him that's affected by the change, it's the ordinary Manitoban. And some of those, Mr. Chairman, are senior citizens on fixed income; some of those are members of working families on not sizable incomes, and the Minister has taken away a potential of — (Interjection) — Mr. Chairman, the Minister has introduced to Manitobans, a utilization fee in chiropractic services that didn't exist before, because individual Manitobans who used more than 16 visits in a year prior to this, now are faced with a utilization fee by this Minister and this government.

**A MEMBER:** Nonsense.

**MR. D. ORCHARD:** Well, Mr. Chairman, if the Minister wants to refute that now a Manitoban in a family of three or more, who had benefits up to \$302, which translated into some 30-plus visits, is now, after 16 visits, going to be paying the entire cost out of his pocket, whereas before he had assistance from the government, then the Minister is going to have a tough case, and that is the whole reason he is budgeting a \$300,000 saving.

Mr. Chairman, the Minister sits back and chuckles. But it isn't the first time, you know, that he's made his Premier look extremely silly. And the Minister is making his Premier look extremely silly again. Because this government, back in 1981, used as an election document - and I referred to it in my opening remarks - this election document was a solemn promise from Howard Pawley, signed by Howard Pawley, that they would provide health care and not cutbacks.

Mr. Chairman, that was a solemn promise in 1981. Just about, oh, two or three weeks ago, maybe a month ago now when we were in the Budget speech, I think it was a Friday, the First Minister stood in his place and he berated every government across Canada, those evil right-of-centre governments that were going to tear away benefits to their citizens and take away privileges that exist, merely to save some money, and he said that his government wouldn't do such a thing, because his government cared for the ordinary Manitoban. And then that Monday, this Minister announces a brand-new group of Manitobans who are going to pay per diems in mental health institutions, and patients who are long-term residents of our hospitals, our senior citizens.

He made his Premier look silly again when he announced that after the Premier solemnly pledged in 1981, and reiterated that pledge the Friday before the Minister made his announcement. He made his Premier look silly.

Mr. Chairman, we've got another document signed by that man of great promise, the Premier, Howard Pawley, "Dear Friends: We care about ordinary Manitobans." A document that was distributed in the Swan River constituency in April. Mr. Chairman, there's a section in the centre of it that says, "Health Care," and it says, "The NDP started universal health care and has always fought for important social programs. We intend to protect health care no matter who wants to cut it back or slap on extra charges. Our seniors in particular need to have assurances that their right to universal health programs won't be tampered with. The NDP gives that pledge because we care." That's signed by one Howard Pawley.

Once again, the Minister of Health has made his Premier look silly, because the Minister of Health has cut back, that's one of the words in here, and has slapped on extra charges to heavy users of the chiropractic profession, and they've done it in two ways. First of all, they've reduced the family benefit, and they're saving \$300,000.00. They are cutting back. \$300,000 in the chiropractic service to Manitobans. A cutback. Cold, clear and simple. A cutback.

And, the people who need and use the chiropractors for more than 16 visits a year, who were formerly covered under the old billing system, are now going to pay the extra charges of those visits directly out of their pockets.

The Minister of Health has made his Premier look silly. He's talking about, the Premier says they will protect health care no matter who wants to cut it back or slap on extra charges. Obviously, the Premier didn't talk to his Minister of Health before he signed this document, another solemn promise by the First Minister, because his Minister of Health has once again cut back the chiropractic service and slapped on extra charges, the exact words that his Premier promised they wouldn't do. In April of 1985, his Premier is still promising this, while the Minister of Health is going around and cutting back chiropractic services by \$300,000 and slapping extra charges on the users of the system.

Mr. Chairman, if it hadn't have been for the pressure that the chiropractic patients - not the chiropractors, but their patients - put on this government with 17,000 letters coming into them, the cutback would have been even greater. The cutback would have been \$600,000, not \$300,000.00. So you know, the Minister of Health, he says, "Oh no, we've protected health care; we haven't cut it back. We've done a great job in health care;" would have cut it back \$600,000 to chiropractic patients. He had to be satisfied with pressure from the ordinary people of Manitoba to only cut it back by \$300,000, and he will stand up, Mr. Chairman, and try to tell the people of Manitoba that this NDP Government has kept its election promises and has not cut back health care.

Mr. Chairman, that is simply not true, and the Minister knows it; he laughs about, but then I'd laugh about it too if I made my Premier look as silly as the Health Minister has made his Premier look as silly, and I'd laugh, doing it as often as the Health Minister has made his Premier look silly.

**MR. CHAIRMAN, P. EYLER:** The Member for Inkster.

**MR. D. SCOTT:** Thank you very much, Mr. Chairperson.

I haven't paid a lot of attention to much of the debate, because I, partially, have been in the other committee room as well throughout the Department of Health Estimates, but I really think it quite hilarious some of the presentations made by the Conservative Health critic to date, the Member for Pembina.

Today he finally told us how Tories negotiate. He told us that the government's supposed to put all its cards on the table, face up, and then negotiate. That is the same sort of process that they had gone in to with selling electricity to Alberta and Saskatchewan. It's the same thing they did when they were dealing with Alcan; it's the same thing when they were dealing with the International Mineral Corporation, put all your cards up front, show them what it is and then negotiate. We've got nothing to negotiate with.

We have a Minister of Health here who has a responsibility to negotiate with all sorts of different professions in the health field. He has, in effect, through setting both levels of Estimates and delegating responsibility, a good portion of it at least, to the Manitoba Health Services Commission, to negotiate with all the nurses, the thousands of nurses across the provinces. He has to negotiate with all the different groups of doctors that there are and there must be 20 different groups of medical doctors. He has to negotiate fees and structures with the staff and all the institutions as well, the non-medical staff.

He has the paraprofessionals, such as the physiotherapists, the radiotherapists and all of those, the radiologists, who are in our hospitals and in settling and moving towards what shall be wage settlements and fee structures, the Member for Pembina says you're supposed to tell what your end result is, put it on the table and then negotiate. Well, that's absolute balderdash, Mr. Chairman, absolute balderdash.

The members opposite should be skulking out of this Chamber in shame, having had the key to Tory economic policy and the key to Tory Governments laid out on the table here this afternoon.

In dealing with the chiropractic issue, in dealing with it in particular, I think the issue itself is far deeper than we're just talking on issues of fees here. It goes into a great deal more depth where the medical professions throughout, be they through professional medical schools, be they through chiropractor schools, be they through our universities in a degree-granting program in various therapies - visual therapy, occupational therapy, whatever. There is a decided lack of both, one could say, I guess, jurisdiction and responsibility in diagnosing the illness of patients.

I have a great number of friends who are physiotherapists and I have a tremendous amount of respect for the programs that they go through at university, through the programs that they go through after university training, which are in most instances optional, but which many physios choose to take to increase their skills to be offered; and yet these people have better knowledge and better training in the soft tissue of the body, the muscles, the ligaments and connecting, of course, with our skeletal structure, more training than our medical doctors do, virtually equivalent training, in some degrees at least, to the - I'm going to lose the terminology, the proper medical terminology for a doctor who specializes in the skeleton. Is it osteopath? — (Interjection) — That's not it then, and yet, for physiotherapist to be able to practice, he must or she must first have a medical doctor inspect the patient, or at least see the patient, when, in most instances, it is the physios themselves that does the diagnosis of the ailment of what is wrong with the patient; and yet they still require, and have to have a medical doctor's okay or approval for them to even be able to treat a patient, when in our hospital settings in particular they will get referred to them, to please diagnose from a medical doctor or even a - I still haven't got someone to help me out with the term - I'll use the term osteopath, thinking that is the proper terminology for a doctor specializing in the skeleton of the body - that they will have referred to them - and I've seen these referrals, people have showed them to me - of sore neck, of sore lower back or sore leg; and a physiotherapist then, through their expertise, is set to give the exact diagnosis of what is the cause of the ailment. Then, more often than not, to also do the treatment.

Quite frequently, through our medical profession and with medical doctors in particular, a lot of them, rather than referring them on to physios and, in some instances, perhaps the chiropractors as well, will prescribe drugs instead and the drugs are not going to treat the problem in most instances. The drugs, in some instances, may well even do more damage than good because they will numb the senses. The individual

will go on, get back into a normal life and yet not have the muscle structure around that injury strengthened so as not to increase the injury or not to increase the tension if the muscles are pulling unevenly on a critical part of the body such as a back problem.

So I think there's a responsibility that our orthopedic - that's the word I was looking for - surgeons, in particular, are not following up before, not just themselves, but other members of the medical profession, before they end up prescribing some sort of a drug to try and dull the pain; and what then happens is the patient says, this is no darn good. They want better treatment or they want some treatment. They want some relief that is not simply a chemically induced relief so they head off and, more often than not, they end up going to a chiropractor. The chiropractors themselves, I think, are certainly serving a need.

I just wish that the availability to providing the services that the chiropractors in many instances patients go to, that sometimes, and I believe and this has certainly been substantiated and it's one of the reasons that chiropractors are only licensed to recover a portion or all of their fees in five provinces under Medicare, is that sometimes they start getting into treating all kinds of different things which are not necessarily going to end up in any kind of a cure other than for the patient to actually feel a little bit better. I don't mean this as a slam necessarily against the chiropractors themselves, but I do think that their profession, the same as every other profession, needs an awful lot more policing.

In the legal profession even more so than the medical profession, you will frequently get lawyers who are disbarred or had their licence suspended for unethical practice. You will get that, unfortunately, far more rarely in the medical profession. The other professions, the nurses themselves, they have the powers and do exercise to take away a person's right if they are found, in the nurses' judgment, to be guilty of malpractice or unprofessional conduct. We have . . .

**MR. CHAIRMAN:** Order please. Perhaps members could hold their private conversations in a quieter manner or in another place.

The Member for Inkster.

**MR. D. SCOTT:** The College of Physicians and Surgeons has the same responsibility.

I have heard very rarely of the College of Physicians and Surgeons reprimanding any of their members because of how they carry on their practices. I'm sure it would be deemed as being unethical practices if our physicians, or if our lawyers and, certainly, other professions started to put up petitions in their offices to require people or ask people, and it's difficult when you're a patient, and you are asked by the person who is the medical professional you are seeking advice from, and he asks you or his staff asks you, the patient, to sign a petition to send to the government to protest over a perceived reduction in a global amount of money that the chiropractor or that professional can charge an individual. I think that borders on the unethical.

I think that it is not dissimilar to someone else in society that has a certain sway over members of a public that they serve. It could be outside of the professional statutes for sure, because I've never heard



of this happening in another profession. Perhaps other people have heard incidents where it has happened.

In another area that I know of it happening is in religion. It's pretty difficult if a religious leader is standing at the door of the church after the service where he has preached and given a certain sermon, for them to stand there with a petition asking his congregation to please sign the petition. An awful lot of the congregation will be intimidated to sign that petition whether they really agree with it or not. I think that it is somewhat undue influence, an exercise of influence, for any profession to try and do the very same thing with its people, especially when the goal is to increase the amount of fees that one can collect.

I really question the ethics of sending or holding a petition in chiropractors' offices and having them there for their patients to sign or having the chiropractor asking if you would mind signing, or the staff saying we're doing this petition to the government to keep the government from putting any restrictions or any additional restrictions on the amount that we're allowed to charge to be covered for Medicare. I think that is pushing things a fair bit.

I wanted to take the floor at this time to express my concern in that area. I would like to see, I guess, tighter regulations. I'd like to see tougher policing on behalf of many professions that we have. When we give any degree of self-governance to a professional organization, it puts that much more onus on that organization to make sure that all their members who carry their designation of practising their profession and their occupation to the highest degree of professional ethics that is possible.

That is the principal *raison d'être* that Legislatures pass such things as professional bills and give those people the responsibility of self-governance. It's a tremendous responsibility put upon the professions.

I think that we as legislators should perhaps go back and review the status of the professional bills that we have passed in this House to see how well they are being governed, to see how well they are taking up that responsibility which we have delegated. Although we can never delegate the complete responsibility, we can delegate some authority. We delegate that through legislation to the bodies. I think it would do us well if we as a Legislature went in to do a review of all of our professional bills and to see just exactly where they stood.

On the issue here itself, it certainly seems that the chiropractors have launched an extensive campaign over the winter months to try and get the government to change its mind. It decided to a fair degree to negotiate not through a bargaining table through their organization, but through petitions. I do not think that has gained them a great deal of more credibility for their cause by so doing. It may show volumes of names coming forward, but whether it does what the chiropractors have actually intended to do, and that is raise respect for the profession, I personally question whether that has been achieved.

So, Mr. Chairman, we're just talking of fees and whatnot; we're just scratching the surface of what the real problem is, and that is the diagnostic services and the treatment that is available to people with muscular-skeletal injuries. There are a number of different professions that can, and are qualified, to be able to

handle those; some more than others; some have greater responsibility with even less training, and I ask does that make sense.

I ask, in essence, for the Health Services Commission to review the role that the different professions and para-professions play in the exercise of both diagnostic services and treatment. I think that once that is done, then perhaps we can end up resolving this issue much clearer. We can see a clearer drawing of lines between the different groups if the lines need to be drawn, or whether we should open it up so that all are fully covered under Medicare.

So, Mr. Chairman, with those few words, I have, I guess, said my piece on this issue and I would suggest that we move on and pass this item and move on to the next item.

**MR. CHAIRMAN:** The Member for Emerson.

**MR. A. DRIEDGER:** Thank you, Mr. Chairman.

I would be remiss if I did not raise some concerns at this time as well about the chiropractors, and my impression as a layman, certainly not having any medical qualifications, I'd just like to maybe indicate how I view the situation on what has happened with the Minister's actions.

I can't help but think that it's either we hold suspect the chiropractors that they are not utilizing or over-using the privileges that they have under the system, why else would we have to put a control on there; or the other thing is that there are individuals - people that are abusing the system.

Mr. Chairman, I'm not that old, but I can recall, as a youngster, that we used very few doctor services. It had to be a very extreme case when people used doctor services in our area. But at that time, and especially I suppose among the Mennonite people, a chiropractor was almost a way of life, much more so than a doctor.

Most of these people were self-trained - really untrained in many cases - but provided a service that was a standard thing, almost more so than a doctor. A doctor was the supreme case and the average things that happened - a twisted foot, even a sore back, stuff of that nature - everybody went to a chiropractor, unlicensed.

You know that was their way of life. When something happened, you'd go to the chiropractor. If you didn't have money, you'd take along a can of preserves or a bag of potatoes or something like that, and that's not that terribly long ago. They provided an acceptable service at that time.

I think possibly now we'd be a little concerned, because we have trained chiropractors now that have got licensed, have gone to school and stuff like that. Now all of a sudden we say, hey, either the chiropractors or the people that use the services, somebody is abusing the system. We've got to put a ceiling on that.

I just want to draw this scenario to the Minister's attention of what can happen. Well, we're putting on a limit of 16 visits, and who will this affect?

**HON. L. DESJARDINS:** We only had 11, do you realize that?

**MR. D. ORCHARD:** Well a family had more than that.

**MR. A. DRIEDGER:** Under a family, no, no, I've got my points. But 16 for the individual, who will this affect?

It will basically affect somebody who's got some affliction where he maybe needs regular treatments. To put a limit of 16 on an individual - and I want to just make reference to my son who had torn his ligaments and has been going to treatments and stuff of that nature.

I just want to raise the issue here of what can possibly happen by putting that kind of a limit on there, because people instead of maybe working out a consultative approach with the chiropractors so that they will not take and abuse the system, what we're going to do in cases where people need the system - and obviously it's going to be somebody that's got some kind of a major problem and he has to go back for more than 16 visits - we're going to maybe chase him back to the point where we're going to have chiropractors coming up again that are not trained.

We still have some that are in the system right now, people that prefer to go there right now. We're going to take and say to these people, well, the government's not going to pick up the cost, either you pay that cost, or they'll start going back to the old chiropractors that used to provide that kind of a service. — (Interjection) — Well I could mention a few in my area there, because until the age of 18 I didn't know anything else except a chiropractor and these were not licensed ones, not one, and we have a few operating right. I better not put the names on the record because they could get into a problem with the medical profession.

But I'm just saying that all I wanted to do was raise the possibility that maybe these kind of chiropractors - unlicensed - are going to start cropping up a bit more prominently again, for people who want a certain type of service and by restricting the visits to 16, that possibility is going to be there much more.

Anyway, I just wanted to put those comments on the record, Mr. Chairman, and I don't think it's such a good idea, because if the Minister doesn't believe that the chiropractors are going to operate an honourable business or that people, by and large, are going to be abusing the system, there must be a different way of doing that, other than putting a limit on the visits that they can have.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. CHAIRMAN:** Order please.

The Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Chairman.

You know, Mr. Chairman, I was somewhat amused by the Member for Inkster and his contribution to debate this afternoon. I have to admit I had to step outside for some urgent business at the start of his remarks, but I did hear the latter part of them.

In the latter part of them the Member for Inkster was questioning the ethics of the chiropractic profession, saying that he didn't believe it was ethical that they would institute a letter-writing campaign to the — (Interjection) — Oh, the Minister said, "He didn't say that." I know he didn't say that, but your colleague, the Member for Inkster, got up and put on the record that he didn't believe that was an ethical thing to do.

Like the Minister of Health has lots of help over on that side of the House and lots of intelligent comment from time-to-time contributed by his side, but the Member for Inkster questions the ethics of the chiropractors in instituting a letter-writing campaign, etc. etc.

Well you know, Mr. Chairman, that's an interesting point for a member of this government to question the ethics of an organization. I indicated this afternoon that they would not have implemented a letter-writing campaign if they would have believed they could have undertaken meaningful negotiations with the Minister and his department.

But the Member for Inkster, he calls that unethical, that they're not acting in an ethical way by using letter tactics, letter-writing campaigns to bring their message to the Premier and to the Minister of Health. The Minister of Health I don't think has any objection, but the Member for Inkster says that's not ethical.

I just would like the Member for Inkster to consider for a moment the ethics involved where an organization can sign an agreement that's in effect for a given period of time and find the agreement broken, unilaterally, by the government. Because you see, Mr. Chairman, if it's unethical for the chiropractors - in the Member for Inkster's terminology - to attempt to get their message to the government, not by writing themselves, not by the chiropractors writing to the government, but having their patients write to them.

I suspect that if the Minister wanted or their First Minister wanted to bring into the House some of those 17,000 letters - if they didn't hit the paper shredder as soon as they came in - if he wanted to bring some of those letters in, he would find probably on a number of them it wasn't simply the signing of a form letter, but there was personal comments attached to them as to the value of the chiropractic service to their health.

Mr. Chairman, the Member for Inkster calls that unethical. You know most societies would call that freedom of expression, that they're letting the government know where they are erring in their policy decisions, and that's some of those ordinary Manitobans that this New Democratic Government attempts to say they are defending and representing and protecting the interests of.

It was 17,500 ordinary Manitobans that let this government know, on their own free will - nobody twisted their arm, nobody forced them to sign the letter, nobody forced them to send it to the Premier and to the Minister of Health, nobody forced them to phone the Premier's Office or the Minister of Health's Offices. They did that on their volition and that is the ultimate of a democracy is to have that freedom to do that and when members, like the Member for Inkster, can't prevent it from happening, then he goes on and says that the association, the chiropractors are unethical.

Well you know, Mr. Chairman, the Minister of Health may have his areas of problems and disagreement with the chiropractors, but I'm sure that he wouldn't say they were unethical in the way that they approached their problem with the Minister and with this government.

So the Member for Inkster has laid out his version of ethics and I guess maybe — (Interjection) — Well, Mr. Chairman, the Government House Leader talked about ethics. I've mentioned to him about his ethics

when he stands up in a public meeting, in his own constituency, to a group of 1,500 or so constituents that want to hear the truth about the French language issue, and he doesn't have enough ethics to tell them the truth on the platform.

So, Mr. Chairman, the Government House Leader from time to time will also bend his ethics if his political hide is on the line, such as it was in Springfield; the truth about how the SFM was created and where you misled your people in Springfield constituency with a convoluted story. So, Mr. Chairman, the Member for Springfield can talk all he wants about ethics, but he didn't have any.

So, Mr. Chairman, . . .

**MR. CHAIRMAN:** Order please.

The statements of the Government House Leader in Springfield on the French language issue are not particularly relevant to the Medical Program which is under discussion today. Perhaps we could not range too far afield in our debate on this particular item.

The Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Chairman. I realize that the Minister's statements in Springfield aren't probably relevant to the conversation, but neither were his remarks . . .

**MR. CHAIRMAN:** Order please.

The Government House Leader on a point of order.

**HON. A. ANSTETT:** Yes, Mr. Chairman.

The honourable member used the word "mislead" in application to me in those remarks on which you've just called him to order. Despite the fact that the remarks may not have been appropriate to the debate, I believe the term used was unparliamentary unless the honourable member is prepared to suggest that, although I disassociate myself entirely from the suggestion he made, I would appreciate clarification from him as to whether or not that the allegation was that those remarks were made deliberately or not. Because Sir, if he's prepared to suggest that they were, then I would suggest that the use of the word "mislead" is unparliamentary and he should be asked to withdraw. I think he should clarify that for the House.

**MR. CHAIRMAN:** It is not clear to me at this time whether or the context of those words was the intention to infer a deliberate misleading of people. Could the Member for Pembina make clear that statement?

**MR. D. ORCHARD:** Mr. Chairman, only the Member for Springfield knows whether he deliberately was misleading his people. He can answer that to his people in the election.

**MR. CHAIRMAN:** The Member for Ste. Rose to the same point.

**MR. A. ADAM:** Well, I'm rising perhaps on a point of order . . .

**MR. CHAIRMAN:** Order please, order please.

The Member for Ste. Rose.

**MR. A. ADAM:** I'm rising on a point of order because there must be some rule in regards to repetitiveness . . .

**MR. CHAIRMAN:** Order please.

**MR. A. ADAM:** . . . and what we've heard, the argument that the Member for Pembina was making in regard to the comments made by the Member for Inkster were repetitive to the point of being boring. I've only been in this committee this afternoon for perhaps the last hour - I've been in the other committee - and the time that I've been here, I've heard those comments being repeated about five, six times. Surely, there must be some rule on repetitiveness in the House, Mr. Chairman.

**MR. CHAIRMAN:** I thank the member for his comments. They would have been appropriately raised at the time of their occurrence.

Order please. The Member for Pembina has indicated that he does not know whether the Honourable House Leader was deliberately misleading. I believe that indicates that he is not accusing but merely stating that perhaps there was a situation of misleading.

I would rule that there is no particular point of order at this particular time, other than the relevance of the debate which was mentioned previously.

The Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Chairman.

Mr. Chairman, before we finish off with the Medical Program, could I ask the Minister a few general questions in terms of the fee - well, there are not that many - and you may have to answer one before I can ask the next one.

Mr. Chairman, I don't have the Order-in-Council with me - I checked through my stuff - but the Order-in-Council that was passed just recently allowed for a 2 percent fee increase to, as I understand it, the Medicare payment services. Now, it's my understanding that the agreement with the MMA allowed for a 1.7 percent increase. What is the difference in terms of the Order-in-Council at 2 percent and the 1.7 that I think has been indicated in terms of the agreement with the MMA?

**HON. L. DESJARDINS:** The balance of .5 million was to provide shoring up in some of the discipline. It was the MMA will decide. I think that they've had one-third of that. They've already signed one-third of that in psychiatry, for instance, and I think in ophthalmology. Just a minute, I think I've got it here.

"Average physician overhead increase 1.56 applied for an overall tentative increase of 2 percent with individual blocks receiving varying increases. Percentage increases in fee by block range from a low of 1.18 percent for plastic surgery to a high of 20.98 for physician medicine."

It is to shore up the dose that they figured are a little low.

**MR. D. ORCHARD:** Well, Mr. Chairman, that leads to some confusion. As I say, I don't have the Order-in-Council with me, but it was a straight 2 percent increase.

Is the Minister saying that the 1.7 percent on individual fee structure or fee schedule, plus the 500,000 of global funding that was distributed by the MMA to shore up different disciplines, equated to 2 percent in combination? Okay, fine.

Then, Mr. Chairman, under the Medical Program, if you take your percentage from the budgeted 200,690,000 last year and you figure your percentage to arrive at the 209,258,000 that's projected to be spent for this year, you've got something in the neighborhood of 4.5 percent. If 2 percent goes to fee schedules, what else absorbs the additional increase? - 2 percent on this would be roughly \$4 million for even figures.

**HON. L. DESJARDINS:** Volume increase is the other one.

**MR. D. ORCHARD:** So then, what is the percentage of volume increase that you're using here?

**HON. L. DESJARDINS:** The volume is around 2 percent. Now, there's some other money in there. I said just awhile ago that we were ready to negotiate with some of the other groups. That has never been done. There's a certain amount of money now for the other people that contract with us.

**MR. D. ORCHARD:** Okay. Now, given that in striking the Budget from year to year, two factors have to fit into the calculation. First of all, you have to have a close approximation of what you spent in the previous year and how close you were to expending the 200 million last year, No. 1, and, then, you add in a negotiated fee increase whatever that may be on the fee schedule and No. 2, you have to factor in an anticipation of volume.

Now it's the anticipation of volume that is of interest. Now I don't have the announcement with me - and this is an announcement that goes back several years - in terms of projected number of, for instance, as one procedure, open heart surgery to be done at St. Boniface. They were projecting in - I even believe it might have been when we were government and the Member for Fort Garry was the Health Minister, it's a number of years and I don't even know if it's this Minister - but basically what I'm looking for is whether, under the volume approach, and I'm making the assumption that under medical, the physician's fees for performing various surgical procedures, are within the \$200 million, and I believe that's correct, that is the government budgeting for a universal increase across the board for all medical procedures such as open heart surgery, etc. etc. — (Interjection) — The Minister indicates it's a lump sum. Then what happens in the circumstance - and I know this is partially tied into the hospital budget - but if under some set of circumstances that the surgical wards . . . I'll restate this. Say that circumstances in the various hospitals, such as Brandon or Misericordia and the other major hospitals in Winnipeg, are such that they are able to reduce the backlog of surgery so that more elective surgery, and in case of major operations like open heart surgery, more cases are able to be done, what control - I realize the hospitals, in terms of the services for operating theatres, support staff, etc. etc. are under

a global budget, but in terms of funding medical procedures, is there a circumstance or a check and balance in the department that, as you approach year end, 10 months into the year, with two months to go and you're very close to the 209, surely if your volume has been greater than anticipated that you don't say, you've gotta slow down fellas, you simply will go to Treasury Board and fund an increase in medical services if that occurs, if a backlog is able to be brought down and more surgery takes place?

**MR. CHAIRMAN:** Mr. Minister.

**HON. L. DESJARDINS:** Mr. Chairman, that would be a deficit that would be recovered and placed in the Estimates the following year. But what is quite interesting are the negotiations that we've had with the MMA. One of the things that have been coming up is the volume because the volume can keep going up and up and up and some people then, not satisfied with the increase in premiums, use the volume. This is not finalized, but one of the things, and the MMA has accepted to look at that with us, they would look at the volume and there would be no volume. The increase would be for everything. Now the volumes would be under certain strict rules that nobody can control, but the volume could become a very important thing. Right now, there is nothing at all. We'll pay whatever the bill is.

**MR. D. ORCHARD:** Just let me make sure that I understood what the Minister said.

In terms of the hospital budget for the operating theatre, that would be deficit and carried forward, but surely — (Interjection) — Medicare as well? You're able to run the deficit here and pay them . . .

**HON. L. DESJARDINS:** It's straight volume.

**MR. D. ORCHARD:** Okay, so that's the way you would resolve that.

Mr. Chairman, the Minister mentioned an interesting proposition, in that negotiations, discussions are under way with MMA in terms of, if I understand him correctly, of putting some checks on the volumes of operations so that a - pick a figure - say there were 400 open heart surgery operations done in a given year that the total couldn't exceed that, no matter whether that total was achieved with a month to go in the operating year or whatever. Mr. Chairman, is that the correct understanding of the negotiations that the Minister's currently having with MMA?

**HON. L. DESJARDINS:** I wouldn't promote that and I emphasize there's no agreement yet, but we're looking at that very seriously. While the Commission would retain the responsibility to fund all the insured services in a given year, the cost of services exceeding the arbitrated global award would be deducted from the base by the parties during subsequent negotiations unless the cost overrun could be justified by one sum or all of the following reasons:

An anticipated increase in the number of insured persons; an increase in the number of positions billing the Manitoba Health Services Commission - we would

look at that somewhere else; unanticipated public health problems, for example, major immunization programs, epidemics and so on; and unanticipated major shift in health care delivery.

So we'd try to be fair and have some of the things that they couldn't control, but the rest of it would be in the global thing, but then that could also be arbitrated by the compulsory binding arbitration clause, if they wish.

**MR. D. ORCHARD:** Mr. Chairman, this brings up an interesting sort of a question in that budget being the problem, in that there's not unlimited dollars and you do have a control, in terms of your set increase to the fee schedule, that is finite. I mean it isn't going to be 3 percent; it's going to be 2 percent, on average, this year, and next year it may be whatever the arbitrator - if it comes to that - indicates it should be.

The second area of cost control, or of cost escalation, is in terms of volume and the Minister's indicating that they're looking seriously at a structure by which volume will be contained. Mr. Chairman, that to some people may well be classified as a capping of service, of medical procedure. Is that a fair comment to make?

**HON. L. DESJARDINS:** Capping would be something where you say there's no more money for a certain amount, even if you have to reduce and that. This is an agreed, an understanding that we have between two parties that they could deliver the service for this amount of money. There's a way out there that I read, in case, let's say, there's an epidemic, well then of course that will be looked at; so therefore they will have to adjust . . . The services will not be capped, but once they've got their budget, it's just like you or I when we're given a budget, let's say that we work for the Government of Manitoba so therefore we have to stick to our budget. The situation is that we'd have to make do. It might be that after a certain time that they see that there's too many of them, well then, they would cut down on the cost of visits and so on. That is to control maybe the return visits that are not necessary.

It's not capping, because if they're not satisfied with what is negotiated, well that will go to arbitration also; and if I see something unforeseen that nobody could control, well then that of course will be taken care of.

**MR. D. ORCHARD:** Agreed, epidemics are beyond control, naturally, so that you could have a 2 or 3 percent rise in the office visits to a general practitioner if you had an extremely bad case of influenza go throughout the province, which is beyond anybody's budgetary controls.

Would you like to take a little break?

**HON. L. DESJARDINS:** It's just my girdle.

**MR. D. ORCHARD:** Is it Playtex? Mr. Chairman, you see this is an interesting — (Interjection) — Yes, we're really getting into health problems here now, aren't we? — (Interjection) — You should go see your chiropractor and you wouldn't have to wear that. — (Interjection) — I know, that's exactly what we're talking about. But, Mr. Chairman, the Minister is in the fortunate position where he doesn't have to worry about what it would cost him after his third visit.

Mr. Chairman, the circumstance is right now, for instance, that the medical staff in Brandon General Hospital indicated last week that they are backed up in elective surgery, there is a minimum six-month wait, etc., etc.

Now theoretically, the Minister, in his Capital Budget, has said we have got some dollars specifically earmarked to take the problem areas away. Now if they decide that Brandon General Hospital is indeed a problem area and they are going to make some facility adjustments there which will allow Brandon to operate more in line with what the physicians and with what the administrators and the board out there believe would be expected of them to deliver health care in the region, then that would mean that probably their volume of service, and particularly their volume of surgical services, would go up. But there's nothing in what the Minister said in terms of the four exceptions to the volume limitation that would necessarily accommodate that.

The point I'm making with the Minister is that if Brandon General Hospital, as an example, is able to resolve through facility additions their backlog in surgery, are they then going to run into a system of capping on volume - as the Minister indicates they are going to resolve with the MMA - which would not necessarily make them able to use their additional bed capacity for elective surgery?

**HON. L. DESJARDINS:** We can't confuse Medicare and hospitalization. What we've talked about is Medicare so far. Now on hospitalization, certain things like the operation and all that, let's say they're delayed for some of these elective surgeries, it's not because of Medicare, it's because of the hospitals and the facilities. So that would be taken care of and the hospital's deficit doesn't work like that at all. It's what they can justify.

Now as far as getting paid for these operations, it will be in the global thing like everybody else. My honourable friend has stated that we've tried to correct the problems. There are problems, but the problems are not all ours. As I said, there is a system - you can build a hospital here today and tomorrow the beds would be filled and they'll be wanting more beds. You could build one with 20 less beds, the same thing would be there.

Because of the situation in Brandon with the doctors and all that, they'd be using - I'm not criticizing - I'm saying they're using the hospital a lot more than other areas and that's what I was reading awhile ago. You know they had this big press conference and they're saying how bad it was.

But in Winnipeg, the residents of Winnipeg, that was in 1981-82, per thousand population had 931 beds and I'm talking about acute beds now. And Brandon has 1,340 - excuse me - not beds, admissions that I'm talking about for a thousand. So that means that in Brandon the people are going to the hospital and it's the same comparison. We didn't keep older people and younger people and that sort of thing. Those were eliminated.

In rural Manitoba, it's 12.47. Rural Manitoba, for instance, in many of these hospitals or most of these hospitals, they're not filled. In fact they're using them

to give personal care to people that have been panelled. But that is the situation.

Now if you would take 100 - Winnipeg is 100 percent - well then you'd have Winnipeg 100 percent, you'd have Brandon 143.9 percent. So these are some of the things that we want these committees to look at and that's what I'm talking about when I'm talking about motivation and all that.

Some of the problems are definitely ours, but they're not all our problems. As I say we all have to get together and see what's going on because we can't just keep on building beds every time somebody feels they should have another bed.

So it depends what the situation is, the numbers of doctors and all that, and then the practice starts and then this is what we want to do. We're trying to get the answers for that.

**MR. D. ORCHARD:** Mr. Chairman, I'm not questioning that aspect of it because I appreciate that hospital budgets, in terms of the volume of patient throughput, can vary. But under the Medicare line and this is where the Minister mentioned the proposition with the MMA to institute some sort of volume control - the point I'm making is that under the Medical Program line, you will end up with surgeons who, on elective surgery - whether it be knee replacement . . .

**HON. L. DESJARDINS:** That's not this year.

**MR. D. ORCHARD:** No, I realize it's not this year. But the Minister has indicated that in striking each year's budget, they have to consider two factors, the scheduled fee increase and the projection on the volume. The fee increase will be something that is entirely within government control, because before you go into a year you're going to have, by arbitration or by agreement, a schedule set. — (Interjection) — Yes, the fee schedule is going to be basically a highly calculated dollar volume because it's going to be something you're going to set.

The volume, on the other hand, can vary for all the circumstances the Minister says. And what I'm trying to find out from the Minister is if, in this study that is ongoing with the MMA, that we're going to end up - and I don't know what procedures to use - but if you do 400 open hearts one year, that the volume you're going to allow because the budget will dictate you can't go much farther, is 410 next year. That's the limit that you can't exceed and if you're doing - does the Minister understand?

**HON. L. DESJARDINS:** You're saying if we have to take into consideration the increase that we give Medicare, that must be reflected in the hospitals? Is that what you're saying?

**MR. D. ORCHARD:** No, no.

**HON. L. DESJARDINS:** No?

**MR. D. ORCHARD:** No, Mr. Chairman. The Minister is under negotiation right now with MMA and the he and his department theoretically are having MMA take a look at the volume of operations because in some cases where the fee schedule has not gone up sufficiently

that a doctor may increase his volume and that way achieve a higher level of compensation for his year's practice.

The Minister indicated that the MMA is taking a look in co-operation with the department at the volume-related problem as it drives the budget up. What I'm getting at is, how does the Minister anticipate being able to avoid the criticism if you establish a volume formula with MMA, which is not based on the need that may be out there but rather the budget that's available to fund the system? How do you avoid the criticism that you're not capping some procedures?

**HON. L. DESJARDINS:** My honourable friend said that it's not based on the need out there. That's where I would differ from him. It has to be based on the need, like everything else is based on the need now. There might be an argument on that and then you go to binding arbitration at the request of the medical profession. So as I say, if this is done right and if we enlist their support, it will be a lot easier. But there will be some criticism, the same as 5 percent or so of the medical profession that are criticizing now because there's no extra billing. I think that I gave an example of what extra billing was today, very confidentially, of somebody getting \$300,000 or so and extra billing for another \$100,000.00. So these are the things. There will be some criticism but I think we could like it with everybody together. We'll have to, as I say, because we're out to survive and keep the program going, but that doesn't mean that we're going to start giving less than what is needed. That's it, what is needed. Do you have to send a patient to five different doctors? Does everybody have to see them? It's not going to be easy. It's going to be very, very hard, but if we enlist them and a lot of this, they're taking the responsibility for themselves. They might even suggest to us this should not be insured, for instance. There's abuse in that.

**MR. D. ORCHARD:** Well, Mr. Chairman, the Minister indicated that we're taking a look at volume related with MMA, the volume of procedures. I'm not concerned about whether you're going to take a look at how many times a referral is made of a patient amongst a physician group. That isn't what I was getting at; I'm getting at the elective surgery. I know that's a volume increase, but we're talking about one of the major complaints that's out there now is the increase in waiting time for elective surgery of various kinds. What I'm trying to elicit from the Minister is whether the study in co-operation with the MMA is going to take, on a surgical procedure - because you're only going to do it once for the patient - whether you are setting the stage for a volume cap, if you will, or a limit to the volume that you're going to do that's not driven by the need because the elective surgery lineups are there - the need is there - but rather is set by the amount of dollars that can be dedicated under Medical Services.

**HON. L. DESJARDINS:** It can't work like that. We have no intention of capping it in that way it was explained. It'll be capped, if you want to use capped, by saying there's not going to be more money when there is a system operating, and they figured well this is it, that we want the safeguard because there's too many

people. Like I said, there was a cardiologist and heart surgeon told me himself that we must have a waiting list. We're in danger. If we haven't got at least 1,000 waiting list for heart by-passes, we're in trouble. That's exactly what he told me.

Therefore, these things will be taken into consideration, but never do we want to see - nor would the MMA enable us to or work with us, if we say we've got to cut down, it's a dangerous thing, we haven't got the money. No, before that I think you would have to see people paying part of the shot or something. I don't think we could do that.

**MR. D. ORCHARD:** Well, Mr. Chairman, I appreciate that clarification because that was the impression that one could have got from what the Minister was talking about in terms of the MMA. The Minister's last comment is something that we may all be forced to take a look at at some point in time. There's no question.

I appreciate having that clarification and, Mr. Chairman, I think we can close before 5:30 by passing the Medical line and that'll leave Hospitals and Personal Care Home Program and Construction for next day we're there.

**MR. CHAIRMAN:** Medical Program—pass - the Member for Ste. Rose on a point of order?

**MR. A. ADAM:** No. I had a point that I wanted to make on this particular line. It's not very long and I would like to put the comment on the record.

**MR. CHAIRMAN:** I will not pass it now and recognize the Member for Ste. Rose at the next meeting.  
Committee rise.

### IN SESSION

**MR. P. EYLER:** Mr. Speaker, the Committee of Supply has considered certain Resolutions, directs me to report progress and asks leave to sit again.

**MR. SPEAKER, Hon. J. Walding:** The Honourable Member for River East.

**MR. P. EYLER:** Mr. Speaker, I move, seconded by the Member for St. Johns that the Report of the Committee be received.

**MOTION presented and carried** and the House adjourned and stands adjourned until 2:00 p.m. tomorrow (Thursday).

### ERRATUM

The following was omitted from the end of the 8:00 p.m. sitting of 30 April, 1985.

**MR. DEPUTY SPEAKER:** The Government House Leader.

**HON. A. ANSTETT:** Thank you, Mr. Speaker.

I believe if we wait momentarily the Chairman of the Committee of Supply sitting in Room 255 will be here to report for the Committee.

**MR. DEPUTY SPEAKER:** The Honourable Member for Burrows.

**MR. C. SANTOS:** Mr. Speaker, the Committee of Supply has adopted certain resolutions, directs me to report the same and asks leave to sit again.

I move, seconded by the Honourable Member for Wolseley, that the report of the Committee be received.

**MOTION presented and carried.**

**MR. DEPUTY SPEAKER:** The Honourable Government House Leader.

**HON. A. ANSTETT:** Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the House do now adjourn.

**MOTION presented and carried** and the House adjourned and stands adjourned until 2:00 p.m. tomorrow (Wednesday).