



Second Session - Thirty-Fifth Legislature  
of the  
**Legislative Assembly of Manitoba**

---

**STANDING COMMITTEE**

on

**PUBLIC ACCOUNTS**

---

40 Elizabeth II

---

*Chairman  
Mr. Leonard Evans  
Constituency of Brandon East*



**VOL. XL No. 1 - 10 a.m., THURSDAY, APRIL 4, 1991**



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Fifth Legislature**

**Members, Constituencies and Political Affiliation**

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARR, James	Crescentwood	Liberal
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Woleseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALLOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Thursday, April 4, 1991

**TIME — 10 a.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. Leonard Evans (Brandon East)**

**ATTENDANCE - 10 — QUORUM - 6**

*Members of the Committee present:*

Hon. Mr. Manness

Messrs. Alcock, Evans (Brandon East),  
Helwer, Laurendeau, Maloway, McAlpine,  
Reimer, Rose, Santos

**APPEARING:**

Sharon Carstairs, MLA for River Heights

Fred Jackson, Provincial Auditor

Charlie Curtis, Deputy Minister, Department of  
Finance

**MATTERS UNDER DISCUSSION:**

The Public Accounts and Supplement for the years ended March 31, 1989, and March 31, 1990; and the Provincial Auditor's Reports for the years ended March 31, 1989, and March 31, 1990.

\* \* \*

**Mr. Chairman:** Good morning. The Public Accounts Committee of the Manitoba Legislature will now come to order. The Public Accounts Annual Reports, Volumes 1, 2 and 3 for the fiscal years ending March 31, 1989 and March 31, 1990, the Provincial Auditor's Annual Report and the Supplement for the fiscal year ending March 31, 1989, and the Provincial Auditor's Annual Report for the fiscal year ending March 31, 1990, will be considered today.

There has been agreement that we will dispense with the usual opening statements because this committee, indeed, has met earlier this year, so I ask the committee's guidance. Do you wish to now proceed into these reports? Would you like to consider 1989 and then subsequently 1990? Would you like to consider them page by page, or do you have some suggestions?

**Mr. Jim Maloway (Elmwood):** I would suggest we do what we did last time, and that is allow questions in the broadest possible scope and not deal with any specific sections or pages at this time. Then we will pass at the end whatever reports we want to pass today. We will pass them at the end of that meeting.

\* (1005)

**Mrs. Sharon Carstairs (Leader of the Second Opposition):** Yes, I concur with that, and I think that the nature of this committee is to be as broadly based as possible.

**Mr. Marcel Laurendeau (St. Norbert):** I do not mind being broadly based, but seeing as we have already dealt with the major portions of the older reports, I would like to see us pass the other reports. We can just hold on to the last ones, and we can pass them at the end. You are going to be asking a broad base of questions anyway. We have already agreed to that, so let us pass the old ones and just leave the last two so we can have the other ones out of the way.

**Mrs. Carstairs:** I disagree with the member for St. Norbert. You cannot keep it as broadly based as we want to keep it and be passing documents at the same time, so we will—

**Mr. Laurendeau:** In that case, I would like to move that we go line by line. We do not want to play games. Let us go line by line. I am not willing to go with the whole thing unless we move the other reports. If we are not going to start and play it fair, let us not do it at all.

We are here now. You have already had an opportunity on that last one. Let us get some of it out of the way. Why do you want to hold on to them forever?

**Mr. Chairman:** We have to have some agreement as to how we are going to proceed. You made a suggestion to go line by line. I guess you normally have a formal motion for that or, no, we would not have a formal motion, we would have some agreement or perhaps a vote. But I think the main point is to allow members of the committee to ask

pertinent questions relating to these reports and to do this expeditiously and, hopefully, pass them at some stage.

I think that is the bottom line as to the efficiency of how the committee operates, and my own view, if I may be permitted, is that from my experience of being here for a number of years, it does not make that much difference if you go line by line. In fact, sometimes it is a little slower than if you go page by page or report by report. I think it is a matter of being reasonable, and I as the Chair would like to see the committee work expeditiously. I certainly would.

**Mr. Laurendeau:** I would too, but I do not see the idea of dragging these reports from one to the next meeting to the next meeting and then going at random throughout all reports. I will leave it up to thee.

**Mr. Chairman:** Thank you. Mr. Manness, did you want—

**Hon. Clayton Manness (Minister of Finance):** Mr. Chairman, I think this decision is crucial right now, I mean as to whether or not this is going to be just a free-wheeling type of committee meeting this morning or whether or not the questions that will be posed—the last time we sat here, I felt badly for the Provincial Auditor because very, very few questions were addressed to him.

The purpose of this committee was to consider the reports as referred by the Legislature. To the extent that the Provincial Auditor is here, to the extent that he has referred on certain matters within his report to the Legislature, certainly all those matters are fully open for discussion. I have also signified to the Legislature that further questions at this time could be posed to Mr. Jackson with respect to some tendering practices and I would say that is open.

Just to allow this as a free-wheeling exercise, I say to you, it will not be productive. So I ask members to at least consider the Public Accounts and whatever questions, of course, they have to the Provincial Auditor is strictly their right to pose.

\* (1010)

**Mrs. Carstairs:** I would like to suggest to the Finance minister (Mr. Manness) that, in that he would like to have a very unusual process during Estimates at this particular point in time in the main Chamber, that we have been co-operative in suggesting that he would like to have that kind of

open process before his budget is submitted, that he should afford the opposition the same kind of openness in the examination of this documentation.

**Mr. Manness:** Mr. Chairman, that is the point I make. The documentation is the Public Accounts lying on the table stacked about three inches in front of you. That is the purpose for which we are here, and I say, yes, members of this committee have every right to delve into great degree on the Public Accounts. That is why we were asked to come here today. All I am saying is that if everything under the sun is open in this committee, I am afraid it potentially might break down very quickly. So, Mr. Chairman, you are going to have to rule accordingly.

**Mr. Chairman:** Thank you, Mr. Manness. As I said earlier, we want to be expeditious, we want to be—maybe that is not the right term—but we want to be efficient, yet we want to give all members of the committee an opportunity to ask any questions that they see fit of the Auditor, particularly with regard to the Public Accounts of Manitoba, but I as Chairman will undertake to ensure that we are as directed and as focused as we might be.

I would prefer not to go line by line, unless the committee overrules me, and to deal with the reports. We did deal with two years last time, so I think we could just carry on in that way, but keeping in mind that we should be pertinent in our questions and try to be as efficient as possible in this process. So can we now proceed?

We are dispensing with opening statements, so to that extent we are saving a bit of time.

**Mr. Maloway:** Mr. Chairman, can I start questioning now?

**Mr. Chairman:** Yes.

**Mr. Maloway:** Mr. Chairperson, I would like to begin with a few questions on the tendering process that the province has, and with the happening of the last couple of months, there is certainly an appearance of unfairness. What I would like to ask the Auditor is, could he outline for us, briefly, what the process is right now for the tendering process?

**Mr. Fred Jackson (Provincial Auditor):** There are several approaches used in securing either goods or services for the province. They can range from a formal tender process that ends up being advertised in the newspaper, media on one or more occasions. It can range from a listing that the Government Services department has of individuals or firms that

have shown an interest in providing a particular type of service and, if it is a relatively low dollar value item, it could be on a phone-call basis for at least three interested parties, so there is a whole range of purchasing practices.

**Mr. Maloway:** Mr. Chairperson, but specifically when we are dealing with leases, is there a certain tender process that is normally followed, or do you have a variation of the different types that you described?

**Mr. Jackson:** Mr. Chairman, I think what is of particular interest is the Manitoba Housing and Renewal lease arrangements that were undertaken, and I will attempt to answer the questions from that perspective.

On April 6 and 7 of 1990, advertisements were run in the newspapers as to the Department of Government Services wanting to secure space for the Manitoba Housing and Renewal Corporation. From those newspaper advertisements, 14 responses were received and evaluated.

**Mr. Maloway:** So would the Auditor concur with the statement, though, that when it comes to commercial tenancies, commercial leases, that it is normal practice to have a public tendering process in this province? Has there been any deviation over the years from that process?

**Mr. Jackson:** Mr. Chairman, I would not be in a position to respond that there has been any deviation, but I would think that for any large space thing, if you are dealing with a tenant and you have got a reasonable price and you may decide that you are getting adequate service from that landlord, then you may work to continue that arrangement. If you saw fit that you did not want to continue that arrangement, you would likely go to a public tender.

**Mr. Maloway:** So you are saying that there are some exceptions, some other exceptions to the public tender process in place right now in this province, as it regards commercial leases?

**Mr. Jackson:** Mr. Chairman, that is my understanding.

\* (1015)

**Mr. Maloway:** Mr. Chairperson, I wonder if the minister could endeavour to provide the committee with a list of the leases in the province, indicating which ones have been decided through the open tender process versus which ones were decided by

another method. Would that be possible for the minister to—?

**Mr. Manness:** Mr. Chairman, I, on the surface, have no problem with attempting, in principle, to provide that. I do not know how onerous the task is. I mean, we have literally thousands of leases. I know the value of all our leases is somewhere around \$20 million, not including Manitoba Properties Inc., and certainly there are renewals that come in. In cases, certainly there are new leases struck out. I can tell you in the first instance, we almost always from a Treasury Board standpoint insist that the department engage itself in open public tender. I do not know the magnitude of the task.

I am saying in principle I do not have any problem if the member is asking for the lease documents, asking for a report or just a statement as to which leases have been entered into as a result of open tendering practices versus some deviation from them.

**Mr. Maloway:** Mr. Chairperson, to be more specific, I would suggest that we would be interested in the exceptions. I do not think we are interested in going through mountains and mountains of leases that have been chosen through the public tender process. We are interested in the exceptions. How many are there, and which ones are they? That should not be that difficult to find, I would not think.

**Mr. Manness:** Mr. Chairman, again I do not have any problem with that. Again there are situation in the past where, once the information and the tenders have come in and because there is not in a lot of cases a comparable bid, the Department of Government Services, I know, has gone back to those who have provided tenders and tried to get a better understanding in a lot of cases, and in certain cases have negotiated, given the fact that the government is not always required to take necessarily the lowest bid. If in its wisdom it senses that somebody cannot perform, and if in its wisdom it believes that for whatever reason a mistake may have been made in the tendering, it, of course, reserves the right to dialogue and give greater explanation.

I hear what the member is asking. I will seek to answer him more definitively within this sitting, and I will send the question out as to what is all involved to try and support his request.

**Mr. Chairman:** I believe Mr. Jackson had his hand up.

**Mr. Jackson:** Mr. Chairman, it is my understanding that in some of the rural settings there is not an opportunity to get as competitive tenders as there are in a large urban center. I would also wonder if the member might be interested in setting a time frame as to how extensive this should be, covering what period of time.

**Mr. Maloway:** Initially I would suggest that we look back for a year, and if we do not find anything out of order in the first year, then we make the assumption that things are probably okay.

Mr. Chairman, if I might ask another question. If the government—and I think the government should—reopen the public tenders and do it right this time, how long would the process take?

\* (1020)

**Mr. Manness:** I honestly cannot answer that question. I am not intimate with it. I would have to think. In other cases where we have engaged in negotiations after tenders have first come in and then seen problems and then retendered, usually it is another minimum two-month to three-month process.

**Mr. Maloway:** Perhaps the minister could tell me why the government has not voluntarily taken that route. Why has the government insisted that nothing more can be done and that they are prepared to live with what they have already decided?

**Mr. Manness:** Again, from memory, we have a lease coming due in the existing location in Manitoba Housing on Broadway—I forget the specific number—and there is some urgency to have a location for the new entity, given some of the consolidation that is taking place.

**Mr. Maloway:** Well, given that there is that sense of unfairness out there and certainly some questions from the unsuccessful bidders, it seems to me that the only fair thing to do at this point is to allow a public tender process to be completed fairly. When you consider that the materials have been presented already once in the public process, second through their nine-day closed session, surely it would not take more than a matter of days for the process to be completed fairly. If the successful bidders in the closed process manage to win again, so be it, but at least we will have cleared up the process.

**Mr. Jackson:** Mr. Chairman, I was under the impression that the minister had provided an opportunity for the Provincial Auditor to do some preliminary review of the leasing arrangements regarding MH&RC, and I would be prepared to comment further on the information that we have determined from that brief review, if that was of interest to anyone.

**Floor Comment:** Certainly.

**Mr. Chairman:** Agreed?

**Mr. Jackson:** Just in the way of a brief comment as to time frames, when we looked at this situation, the first activity that we saw was on March 6 of 1990, where Treasury Board under Minute 9A90 had approved and authorized Government Services to undertake a proposal call for the required service. That was in March 1990. Work proceeded to get information out.

I indicated that on April 6 and 7 there were the advertisements that were run in the newspapers. There was an analysis of the situation, and they were hoping to do business with one of the firms that had submitted the lowest bid. That lowest bid firm withdrew their proposal from consideration at about the time it was being selected as the No. 1 tenderee. It was withdrawn because of an indication of a change in company strategy in regard to the Winnipeg area.

Government Services subsequently in October prepared a TB, Treasury Board submission, recommending a lease be arranged with Continental Equities for 10 years from August 1 of 1991. In November of 1990, which is getting to be almost six months after the original work was undertaken, arrangements were made to have the firm provide contractual indemnification and to provide financing arrangements and guarantees.

In January of 1991, it was decided that Continental Equities had not met the requirements as stipulated in the commitment. That is January of 1991. I believe that is some 10 months after the first arrangements were made to secure space. On January 21, 1991, terms of commitment were considered not to have been met, and with the concurrence of the Attorney General's department and on their advice, a letter was sent to Continental Equities terminating the letter of commitment. On January 21, the department proceeded to get back to each of the original proponents to provide space, plus two new firms that had shown interest in

obtaining an opportunity to bid on this. So on January 21 not only had all of the individuals that had been offered the original thing through public tender, but two additional firms that had shown interest in providing space since that time were provided with the opportunity of providing revised and/or new bids to provide this space.

\* (1025)

On January 30, the second round of responses was reopened by the department. That was followed by analysis by the department. They came to a conclusion on February 22 and made a recommendation to Treasury Board as to what they considered to be the successful proponent.

We have not had an opportunity to deal in depth with the information that we have been provided with. We have copies of the analysis that was done. We have an indication of where the various proponents to provide the space placed in the second round of negotiations. I can tell you that under the straight-cost situation, five of the proponents beat the lowest considered-to-be-appropriate bidder in the open tender basis, and on the net worth basis, six of the secondary proponents beat the lowest acceptable tender on the first round, the net present value. Both of those are apparently techniques that are used by individuals in trying to evaluate proposals put forward by landlords.

I think reference was made in a newspaper article that the department had contacted a federal agency to get some comment as to whether the techniques used by the department were considered to be reasonable. We have a copy of that letter. We have reviewed it, and they in fact did comment that the approach taken for analysis was similar to what they would use. They also, by the way, had not had an opportunity or did not take the opportunity to do a detailed review of each of the things. They were just commenting on the approach that was used.

**Mr. Chairman:** Mr. Maloway, I know you have a series of questions, but Mrs. Carstairs has some subsequent commitments, so I wonder if you could yield now to Mrs. Carstairs to give her an opportunity to ask a series of questions. Thank you.

**Mrs. Carstairs:** Thank you, Mr. Chair. I would like to begin on a more philosophical note, and that is, can the Auditor tell the committee if in his judgment the public tendering process has served the province well in terms of leases on buildings?

**Mr. Jackson:** Yes, the public tender approach has served the province well.

**Mrs. Carstairs:** In terms of statements that have been made, particularly by the Premier, over the last few days, it has been difficult to determine exactly who would ultimately make the decision to go to a private tendering process or a private option bid process as opposed to the public process. In all of the information that you have supplied to us, you have indicated that all of the decisions were in fact made by Treasury Board, that no decisions were made other than the presentation of the analysis to the Treasury Board. Do you believe that it is reasonable, therefore, to think that it would have been staff persons who would have determined that the movement would have been made from a public process to a private process?

\* (1030)

**Mr. Jackson:** Mr. Chairman, I have to be very careful in my approach to answering what we consider to be a public process and what might be considered to be a private process, specifically in this instance. The vehicle by which the original proponents showed an interest in this was a result of an advertised public tender vehicle. When significant time had elapsed—and I am relating to discussions staff have had and I have had with senior officials in the Department of Government Services—it became obvious that certain economic conditions had changed pretty significantly in the province and in the realty market.

There was a thought that there could be some benefit by recircularizing the individuals who had responded as a result of public tender. When that was done, there was not a new public tender, if you will. What there was was a recircularization to anyone who had shown interest in the first public tender plus anyone who had come forward in the interval and showed an interest subsequent to the public tender closing, so in a sense you do not have the benefit, if you will perhaps, of a whole new public tender, but you are dealing with the people who showed an interest in the first public tender, and you are dealing with people who showed any interest to the department as a result of the first tender going out.

No one, least of all me, could provide any kind of guarantee that if a formal public tender had taken place again, you might not have gotten some other participants, but the people who were circularized

were those who had shown an interest in the first public tender and anyone who had shown an interest to the department subsequent to that first public tender.

**Mrs. Carstairs:** Surely when you go to a private process and you make it available to those who have presented bids in the past through the public process and then two new firms who may have expressed some interest outside of the public tender process, but you do not try to see if there are any new firms that may be interested in that process, then you have in fact excluded individuals from participating, and that surely does not meet the reasonable requirements of what we call public tendering.

**Mr. Jackson:** Mr. Chairman, I can only concur with the member.

**Mrs. Carstairs:** Can the Auditor, and I would like to refer back to part of my other question which was that in his experience in the public tendering process, would decisions to change the way in which the process be conducted—in his experience has he, for example, seen examples of bureaucrats making the decision that they would change those processes, or has that decision primarily been made by the minister or by Treasury Board as a whole in order that the process, which was once for a public and now private, has changed, if you will, direction?

**Mr. Jackson:** Mr. Chairman, I think I have even been involved in a situation where it was considered, because of time constraints, that there just was not time to go through a full public tender process. Sometimes that does come into play. My understanding in this Manitoba Housing and Renewal Corporation, talking with departmental officials who had the responsibility for securing a space, is that all of the decisions that were taken were those of departmental officials, and their decisions culminated in recommendations to Treasury Board in all matters dealing with this particular instance.

**Mrs. Carstairs:** When you presented the second-round bids you indicated that five were, in fact, lower than the first round, but in net worth actually six were lower than the others. Can you give us any example of how much lower they were and if, in fact, in the second round the lowest bid was the one that was accepted?

**Mr. Jackson:** I can tell you this, Mr. Chairman—I have two schedules here. One is the net

present-value method, and the other is the straight-line method. In the net present-value method, the lowest offer that was considered to be acceptable, that the department was proceeding with—I will not go into the thousands, but it was \$3.5 million. There were, under the second situation and, again, it is my understanding primarily because of changed economic conditions, there was one bid at \$2.9 million, \$3.0 million, \$3.4 million, \$3.2 million and \$3.3 million. The next one was at \$3.7 million, which was higher than the first round.

Under the straight-line method, the lowest acceptable offer under the open-tender method was \$7.7 million—I am sorry, I will give you a different set of figures. It was \$6.7 million. The other bids that came in were \$5.6 million, \$6.1 million, \$5.9 million, \$6.3 million, \$6.4 million, \$6.1 million. There were others that were higher than that other lower figure.

**Mrs. Carstairs:** In your first set of figures, the 2.9 to 3.7 set, can you tell us who the \$2.9 million bid was?

**Mr. Jackson:** Yes. It was the successful applicant.

**Mrs. Carstairs:** What had that bid been in the first round?

**Mr. Jackson:** I do not have that bid with me, but it would have been higher than the 3.5 that I gave you.

**Mr. Maloway:** The previous questioner's question was one that I was wanting to ask as well. What I was interested in knowing is whether we could have the actual in percentage drops for each of these companies that submitted a second time and reduced their pricing on the tenders. The Provincial Auditor has said that in the case of the successful bidder, we do not have that information available as to what the bid was under the public tender process, is that correct?

**Mr. Jackson:** I am sorry, Mr. Chairman, we could obtain that information. I do not have it with me today.

**Mr. Maloway:** How soon could that information for the successful company and the other companies be available?

**Mr. Jackson:** Twenty-four hours.

**Mr. Maloway:** I did want to ask at this point a series of questions regarding the audit process itself that



the Provincial Auditor has just gone through. How much time did you have to complete this audit?

\* (1040)

**Mr. Jackson:** Mr. Chairman, we have not completed an audit. We have done some preliminary work in this area. For us to have completed the audit, we would want to analyze all of the information ourselves and relate our analysis to the analysis that was done by the Department of Government Services to see in how many instances we came to the same conclusions and in how many instances, if any, our conclusions differed.

**Mr. Manness:** Mr. Chairman, on that point I would like to, on behalf of all legislators, thank Mr. Jackson who received a call, or at least notice of the government's request to him that he involve himself in some study of this matter—I think late yesterday morning—and quickly, I am led to believe, was able to access certain individuals and put the questions and bring forward the information that he has. Certainly, no way does the government believe that Mr. Jackson had an opportunity to do a full audit in the course of yesterday afternoon.

**Mr. Maloway:** Perhaps the Auditor could tell us how many hours he spent on this particular analysis. Let me get a perspective on this.

**Mr. Jackson:** Our analysis, actually, Mr. Chairman, is not our analysis. What I have quoted from is an analysis done by the Department of Government Services. We have had an opportunity, in some cases, to see supporting information relative to the analysis. We have had an opportunity to see some of the bids. We have had an opportunity to do some preliminary work. We started at 9:03 yesterday morning, and from that point on to the remainder of the day one staff member was involved. The Provincial Auditor was personally involved for about two hours, so we are talking about eight and a half hours in total.

**Mr. Maloway:** Do you feel that was sufficient time to come up with a conclusion on this particular matter?

**Mr. Jackson:** As I have already indicated, all we have done so far is a very brief, preliminary, rough and dirty crosscut, broad-brush approach to this. I would think that we would be into the area of perhaps 100 to 150 hours before we felt comfortable with having a full and complete understanding of this situation.

**Mr. Manness:** I think there are some matters dealing with the process that have to be made by me as representing the government at this time. Mr. Chairman and members of the committee, there is no more vexing problem those of us who sit on Treasury Board have to deal with than when we have to consider leases, whether they are renewals or whether it is a call for new tenders, the reason being the tenders come forward in a mix. They just do not come in in a standardized fashion, and to work towards some type of standardization so that government, in this case Treasury Board, can try and decide, ultimately, who to favour in a sense of bid, some assumptions must be made.

We ask—and this analysis is done almost always by Department of Government Services staff. For instance, they might try to standardize some length-of-term bid. Sometimes they are bumped up; sometimes they are triple-net reductions—terminology I do not even understand, but people who are in this business tend to understand. There are discount rates applied all working toward some standardization.

You have heard Mr. Jackson talk about net present value. That is one measure to try and find the full value of the lease that you might enter into over a period of years, five years, 10 or 15. We are trying to look towards longer leases. We are told, firstly, by people in the industry that is a more efficient manner in which to engage government activity. Secondly, there is a downturn, obviously, in the real estate market right now, and it probably would be more efficient for government to try and lock itself into longer leases. Again, when the tenders come in covering different time periods, some method has to be found to try and standardize them so that they can be provided on a basis and prepared for a judgment by Treasury Board.

The department does this analysis and with that, of course, provides qualifiers, not in an objective form, but in a subjective form, qualifications around whether or not they sense that the tenderer has the financial capability to do what it says it will do as far as building a new building, if that is required, or whether or not they can deliver in time, given their track record, because that is obviously important. These are some of the areas that are brought with the hard analysis by the Department of Government Services to the Treasury Board for decision. That is why we do not always necessarily accept the lowest bid.

I am talking now—these are general statements I am making with respect to how it is that Treasury Board tries to sit in judgment with respect to certain leasing decisions that come before us. We are asked to decide, and let me state though for the record, at least since I have been on Treasury Board, and that has been since 1988, that we do so without favour, without outside influence and without bias.

**Mr. Maloway:** Mr. Jackson, in the eight hours that you spent on this inquiry, I was interested in knowing whether you interviewed any of the unsuccessful bidders, because there have been some complaints. In fact, one of them is in court this morning. Were you in a position to interview any of the 13, I guess it is, unsuccessful bidders?

**Mr. Jackson:** By design, we did not attempt to interview any unsuccessful bidders within the time frame that we had to work with. However, I might add, one of the unsuccessful bidders that I have referred to already contacted my office. We have made arrangements for a tentative appointment to meet with him in the next week, once our staff felt more comfortable with the leasing technology, the terms, definitions, that are used in the business.

The minister had already referred to a method used to ranking individuals. Four methods were used in this particular thing. There was the economic ranking using straight line, an economic ranking using NPV, net economic ranking, and a ranking of program-to-building floor plate. I will be honest; I did not even understand what floor plate was. Floor plate is basically the layout of the floor space as to its utility for the purposes to which it was put. This is an interesting thing from this analysis perspective.

From a ranking of program-to-building floor plate, the No. 6 ranking from a straight-line basis, the No. 5 ranking from an NPV value basis, the No. 4 ranking from a net economic ranking, turned out to be the No. 2 ranking from an actual space efficiency perspective. So there are many considerations.

I equate this just a little bit from a layman's perspective of going in and buying a new car. I found that I can get big money for my used car from one dealer. I can get very low money for that same car from another dealer, and what I tend to want to find out is what is my net difference. Even as a layperson, my staff have had instructions to develop some definitions, so that I would be able to relate

intelligently with you people in the future when some of these terms come up. That has already started.

**Mr. Maloway:** My next question of Mr. Jackson is whether he has had, in his eight and a half hours, time to investigate the Maple Leaf Fund's possible connections here.

**Mr. Jackson:** Mr. Chairman, I take that to be a secondary or a tertiary issue in relation to this leasing space situation. It is certainly something, then, I am cognizant of as a result of some of the interest that has been shown in the Legislature. It is something that we will want to be doing as a special project as to the monitoring of certain of these projects. It seems to be at least partially a provincial responsibility. That has not been started at this point in time.

\* (1050)

**Mr. Maloway:** I also wonder if the Provincial Auditor had any time to interview people who had access to the bids in an effort to determine whether anybody with information could have provided that information to one of the bidders.

**Mr. Jackson:** That was one of the first things that we undertook to do. We undertook to find out what were the procedures that were normally in place for the public tender situation, what the procedures were for the secondary round. We determined who the individuals were. We spoke to the individuals. We inquired whether, in their view, adequate procedures were taken so that there would not be any leakage of information. We also determined whether the bids were opened all at the same time in the presence of both individuals and did the analysis start immediately? We got satisfactory responses from those individuals. However, let me say at the outset, there are all kinds of opportunities for something to go awry, but I am not in any position to say that happened, and there is nothing that came to my attention that would indicate that it did.

**Mr. Maloway:** Based on those answers, and based on the fact that you have suggested that you would require probably 150 hours to complete a proper and complete examination of this matter, and you have only had eight and a half hours up until now, would the minister undertake to ask for that or request that time be given?

**Mr. Manness:** Mr. Chairman, the Provincial Auditor does not take direction from me. When I ask for a special audit—in essence, this is almost a special

audit. It has not been formalized in the sense that I have asked for it by way of letter, but nothing precludes the Provincial Auditor to looking into anything that he so wishes. He is a servant of the Legislature.

**Mr. Jackson:** Perhaps to assist the members in understanding the relationship that we have with the executive government, the Minister of Finance or the Lieutenant-Governor-in-Council may request the Provincial Auditor to undertake a special audit. If the Provincial Auditor so decides that it is not in the best interests of his office or would interfere with his other responsibilities, he may decline. On the other hand, there has been no indication in any of the Provincial Auditor's reports to the Legislature in all the time that I have been associated with the office, that any information that the Provincial Auditor requested of any minister, senior public servant or staff member has ever been denied. We have already received an indication of the interest of this matter on behalf of the Legislature. We will be acting on behalf of the Legislature to spend our 150 hours or more, if that is necessary.

**Mr. Reg Alcock (Osborne):** I just have a couple of quick questions to the minister. I appreciate what the Auditor is saying. This is a very serious issue, and I know that he will investigate it thoroughly. I am a little concerned, though, on Tuesday when the minister first spoke on this issue, he stood up in the House and said that he would see that the Auditor was aware of this so that the Auditor was in a position to speak to this issue today. I am wondering why it took him from 2:30 Tuesday afternoon to sometime late Wednesday morning to even request the Auditor look at this.

**Mr. Manness:** Mr. Chairman, I undertook to formally request of Mr. Jackson to be prepared to the extent that he could be to answer questions on this. I did that. The member may want to take issue with the timing, but I did as I said I would do in the House.

**Mr. Alcock:** Almost a full day later. Given the shortness of time and the seriousness of the allegations, I would have thought the minister would have gone immediately from the House to ask the Auditor to be prepared for this on the Thursday morning, not wait until noon the next day.

**Mr. Manness:** Mr. Chairman, I have no reply to that. I said I would undertake to do something and I did it.

**Mr. Jackson:** I am sorry, Mr. Chairman, perhaps I did not make myself clear. I had thought I had indicated earlier that at 9:03 of the following morning I was in touch with the senior executive in the Department of Government Services and was over in his office, I think, at 9:08.

**Mr. Alcock:** Well, I can respond to that. Mr. Jackson was in touch because he received information. The deputy minister or the minister indicated in response that it was late Wednesday morning. It is true that the Auditor approached the minister, that the minister did not approach the Auditor.

**Mr. Manness:** Mr. Chairman, I do not know what point it is Mr. Alcock is trying to make. I discussed with my deputy on coming in first thing in the morning. I asked him to be in touch with Mr. Jackson. My deputy indicated he had a meeting with Mr. Jackson at eleven o'clock, at which time he would be taking that information forward subsequent, as I have just learned from Mr. Jackson right now, he started previous to that eleven o'clock meeting. I do not know what point it is the member is trying to make.

**Mr. Maloway:** I would like to ask the Provincial Auditor whether he had an opportunity or whether he plans to review the Treasury Board documents' minutes.

**Mr. Jackson:** Mr. Chairman, we have started our review of the Treasury Board documents.

**Mr. Maloway:** Did I also understand the Provincial Auditor, from his previous answer to a previous question, that he in fact planned to conduct an audit of sufficient scope to qualify as a special audit?

**Mr. Jackson:** Mr. Chairman, one of the things we do is that we classify our work as to its source. If, in fact, before we started this, we had had a formal request by the Minister of Finance (Mr. Manness), we would have considered what we were undertaking to be a special audit. If it is something that we initiate on our own as a result of interest shown in the Legislature, we consider that to be a special project. We started this as a special project. Each will receive appropriate attention.

**Mr. Maloway:** Can the Provincial Auditor give us any idea as to when the findings of the special project will be available?

**Mr. Jackson:** I have indicated that at our first broad-brush approach to this, we think that

approximately 150 hours would stand us in reasonable stead to have looked at the information that would be beneficial for purposes of reaching a conclusion on this. That is roughly one staff person's time for a month. I would say that in about a month time, we would be able to conclude this matter.

**Mr. Maloway:** That 150 hours to complete that audit then within the next month, as the Provincial Auditor suggested, is going to require resources. Does the Provincial Auditor's Department have that amount of resources available? If not, where is he going to get them?

**Mr. Jackson:** We have two main priorities in our operations. The first is our annual report to the Legislature. The second is any matter that the Legislature has made us aware of that it considers to be important. All other matters take a secondary position in our office. We have sufficient resources to make this a priority and complete it with dispatch.

**Mr. Maloway:** I would like to ask the minister that in the interim, while the Provincial Auditor is conducting his 150 hours for his special project investigation, would the minister reconsider the granting of the tender and put the process on hold or perhaps call for public tenders again, which is what we have been asking for?

**Mr. Manness:** I cannot respond as to the present status. I do not know what contractual agreement has been entered into at this point in time; maybe the Provincial Auditor does, with respect to the final acceptance of one of the proponents. So I cannot make that commitment at this time. I am missing an awful lot of information with respect to the present status of the issue.

\* (1100)

**Mr. Jackson:** I understand from my staff member that a lease agreement has been provided to the landlord and the potential landlord, and the landlord has signed the lease arrangement.

**Mr. Maloway:** What remedy would the government have in this situation, then, if, in fact, after 150 hours the Provincial Auditor comes back and decides that there was a smoking gun here and there were some serious violations? How do we extract ourselves from the conditions of the lease?

**Mr. Manness:** The member, of course, is hypothecating. He said "if" at least once in that treatise, and I am saying to him, I am of the view,

having sat on Treasury Board and was involved in making the decisions, that there has been no wrongdoing. That is why we entered into the lease. So I would say, at this point in time, no remedy is required. I am certain, as indeed the Premier (Mr. Filmon) is, that there has been no wrongdoing.

Now the question—this started as a request of the Provincial Auditor to report on the process, and through the Provincial Auditor's investigation, if you can come up with a recommendation as to improving on the process, I would suggest, then, that open government is more open and is better because of it. I would hope to think that would be the request and the desire of members at this table.

**Mr. Maloway:** The Premier, over the last couple of days, has made several conflicting statements as to who was responsible for the decision to go into this nine-day private process. Could the minister shed some more light on that, or the Provincial Auditor, as to who actually made the decision for the process to go into the closed method?

**Mr. Manness:** I cannot shed any light other than to say that the department, being very cognizant that so much time had been used up, as Mr. Jackson has indicated, and feeling a tremendous pressure, came forward with a recommendation taking into account all those who had bid previously and, as Mr. Jackson says, those also who had shown an interest. That process of one last chance be given to all, that recommendation came from the department and was ultimately accepted by Treasury Board.

**Mr. Maloway:** Could the minister identify who specifically made that order or that recommendation in the department?

**Mr. Manness:** Mr. Chairman, I cannot. Maybe the Auditor can.

**Mr. Jackson:** That would be one of the inclusions that we would expect to have in our report at the end of our 150 hours. I can tell you right now that, in speaking with senior officials yesterday, I was advised that the decision making was totally within the department. They came forward with recommendations that they hoped Treasury Board would accept, and Treasury Board accepted the recommendations.

**Mr. Maloway:** I would like to ask the minister who was chairing the Treasury Board meeting that day?

**Mr. Manness:** In the last two months, I have had at least 300 Treasury Board meetings. Maybe I

exaggerate a little bit, but I can tell you I cannot recall. I am sure the minutes will reflect that adequately.

**Mr. Maloway:** I would like to ask a couple of questions about the Maple Leaf Fund, as to whether the minister has any knowledge as to whether the Maple Leaf Fund is actually registered to sell securities, because I have seen an article where they have suggested that it is in a position to sell securities and others that would indicate that it has nothing to do with security sales.

**Mr. Manness:** Mr. Chairman, I cannot answer that question.

**Mr. Maloway:** The Premier was very surprised that the government was being criticized for trying to save money, and it seems that while the tender process itself is designed to give the government the best possible price for the product, it would seem that what we are looking at here is to have a fair process. Now if it is true that the taxpayers have saved \$1 million by granting this lease to the lowest bidder, then it only seems to me that the trend seems to be down here. If we go for a third round of open bids, perhaps we will even save more. The Premier's argument is that by opening it a second time, we could save \$1 million. I would like to know how much more we could save by opening it a third time. Does the minister think that would be possible, to save even more money if we were to open it and do a full public tender, do it correctly the third time?

**Mr. Manness:** The question is hypothetical at this point because, of course, as Mr. Jackson has indicated, we have entered into a lease arrangement with the successful proponent.

**Mr. Maloway:** Mr. Shenkarow evidently admitted meeting with a senior Government Services department official who managed the tender call, and I would like to ask the Auditor whether he spoke with that official to find out what the conversation was about.

**Mr. Jackson:** Mr. Chairman, as I have indicated, we have attempted to determine some of the basics in this particular lease arrangement within the time frame that we have had to work. We have not had an opportunity at this point to interview any of the senior officials as to meetings that they have held with any of the participants. We do not know if that was the only meeting that was held with one participant, or whether they had a meeting with each

of the participants, or even whether they had a group meeting with all the participants.

**Mr. Alcock:** I would like to move into a slightly different area, but on the same question of the auditing that has been done on this department, and it arises out of the last time that this committee met. The Auditor has, in this case, had a little more time to investigate some of the concerns that have been raised by members of the department and the public and others, and I would like to ask him if he could respond at this point to some of the concerns that were raised, specifically concerns that were detailed in a letter that I sent to him on the 15th of February.

**Mr. Manness:** Mr. Alcock says "this department." We have been talking now about the Department of Government Services. Is that what he means? What specifically is he talking about, this department?

**Mr. Alcock:** The Department of Finance.

**Mr. Jackson:** Mr. Chairman, it would be helpful to me if the member would put specific questions, because there were a number of allegations that were brought forward. Perhaps if he could relate each allegation, I may comment individually.

**Mr. Alcock:** I will walk through them in some detail. The first allegation—and I think it is an allegation that has been confirmed by and admitted to by the minister at this point—is that certain firms are charging provincial sales tax on items that they should not be charging provincial sales tax on and are retaining that difference, and that concern was raised. I believe the substance of the allegation was admitted to. I believe that there was no suggestion that the firms doing it were necessarily doing it intentionally. They could be doing it accidentally, but the allegation is that the department is not taking any action to see that that money is returned to consumers.

\* (1110)

**Mr. Jackson:** I believe there were some indications in some of the material that were made public earlier as to the possibility of tax being collected in excess of the amounts that were subsequently transferred to the Department of Finance. It is my understanding that the Department of Finance is charged with the responsibility of collecting the amounts due under the act and that it sets out and accomplishes the requirements of the act.

In some of the discussions that I have read about, there was real concern about the moral or ethical nature of some business people charging more than they passed over to the tax department. It is also my understanding that that is a matter under consideration by senior tax department officials, and they are considering changes in legislation that would provide the tax department with the opportunity of either collecting as due to the tax office the amounts the tax collector collected or the 7 percent, whichever is the greater amount.

**Mr. Alcock:** Let me just ask for some clarification on that then. At the present time, does the situation exist, as would be indicated in the documents that we have seen, that in certain cases, whether it was done by intention or by accident, monies were being collected in the name of collecting provincial sales tax that would not normally be collectible under the application of the code. I recognize this is a complicated area, particularly with the bringing in of the GST now. There is an awful lot of confusion, and I am as subject to it as anybody else.

In this particular case, people are applying provincial sales tax to things that they are not required to apply it to and then either taking that money and remitting it to the government, because they believe that they are doing the right thing and are passing on the tax or, in the specific file that was referenced in the last meeting, they are keeping the difference. They are remitting to the government only what is specifically due the government out of the legislation and they are pocketing the difference. Has that situation occurred?

**Mr. Jackson:** It is my understanding that situation has occurred, and it was my understanding that senior officials recognized that at our last meeting and also put forward their position that it had been considered they had no legal basis for either collecting, at this point in time, amounts in excess of what the law required them to collect or acting as a consumer advocate and insisting that the vendor repay money.

**Mr. Alcock:** Mr. Jackson, do you have any sense of the amounts that are involved?

**Mr. Jackson:** Mr. Chairman, I understood that this problem seemed to be more commonplace in certain service installer type operations such as the linoleum flooring or the carpeting area, and I understood as well that the department had taken some steps to revise, clarify and issue new

information circulars to help both the trade and perhaps pass some information along to the Department of Consumer and Corporate Affairs so that the consumers would have a better understanding of their rights and responsibilities as well.

**Mr. Manness:** Mr. Chairman, we are prepared to circulate a copy of the circular that went out to all sales-tax collectors dated January 30, 1991, where again without knowing the motives in the situation where this has occurred in a couple of instances. Without knowing the motives, we have again sent out a circular reminding all those who collect provincial sales tax on behalf of the province as to their requirements. I am prepared to provide copies to all members of the committee. Do we have copies that we can share with the members of the committee?

**Mr. Alcock:** I am quite prepared to take the point of view that the people who have been doing this are not doing it for any sort of fraudulent or illegitimate reasons. They may well be doing it because that is the way they understand that they are supposed to be doing it. In fact, the regulation is a complex one and the difference would seem to be between labour that is provided on the delivery of goods outside of the premises. If it is in a shop, it is taxable under the PST. If it is off premises, in a home, or in the case of an automotive operation, if it was on the road, the labour portion would not be taxable.

The question, though, is, we know this now. The Auditor has confirmed that monies have been collected from people that are not legitimately collectible under PST. So the minister has said, well, we are now going to tell everybody that they should not be doing that. What about those cases where you know that people have paid PST? Are you taking any action to see that those people get that money back?

**Mr. Manness:** Mr. Chairman, I guess I question how that might be done. I question, first of all, how it could be quantified to the total value and the extent then to which it can be apportioned out to all those that have occurred and, again, I will ask Mr. Curtis to give greater insight as to how many documented cases we have as to how many times it may have happened and, secondly, to provide some greater insight into this whole issue.

**Mr. Charlie Curtis (Deputy Minister, Department of Finance):** Mr. Chairman, I think from what we

have been able to determine, I would agree with Mr. Alcock that the instances where we have seen billings provided to us that reflect the sales tax, the supplier has attempted to reflect an amount that he thought was appropriate, even though he would already have paid it himself. So in the billing there would have been, in fact, a sales tax paid and, in the cases we have looked at, would have been the amount that was due to us.

I think it is a question of whether, in fact, it is an overpayment, because in most of these contracts the contract is for a price. If the individual asks or wants to know what tax has been included, then the supplier can, in fact, show it to him, but it is not a question of whether that tax has been paid or is payable, because we have already obtained the tax when the supplier has remitted it to us directly.

**Mr. Alcock:** Let us take an example then. If the supplier has remitted the tax to you and then turns around and bills the purchaser for an amount that he applies tax to that is greater than the amount that he has remitted to you, that would seem to be the circumstance that has arisen.

I have a second series of bills here that would, again, seem to raise that same question. That difference, in some circumstances, we are informed, is being passed directly to the department. The person believes they are collecting tax and, the amount of tax they collect, they remit. In fact, I believe the department has taken the position that any taxes, any monies collected in the name of the tax are not the property of business but, in fact, are being held in trust for the department. I believe that is the position that the department has taken, so these monies then are being taken into trust for the department when there is no legislative reason for them to be taken.

The question is: Given that there is a legislative reason for it, are they going to be returned to the people who paid them?

**Mr. Curtis:** Mr. Chairman, we, of course, have no idea what amounts in all cases have been levied and reflected to customers by suppliers. Only those audits that we have uncovered do we have any idea what amounts are due us or have been reflected to the customer. Certainly we have a legal opinion that indicates to us that our obligation or our requirement is to obtain the tax that is owing to us; and, if that is being done, then that is the amount that we can legally obtain from the supplier.

**Mr. Alcock:** So is the department, then, taking the position that it has no obligation to the consumer? I can understand, you cannot be accountable for everything that is out there that you do not know about. But, when you come across a file and you audit it and you can identify a sum of money that is determined to be not due the department yet has been collected from consumers, are you saying the department has no responsibility to see that those consumers get those funds back or those funds are taken into trust the way you claim tax monies are supposed to be handled? We seem to be on two sides of this issue at the same time.

\* (1120)

**Mr. Manness:** Mr. Alcock is right. It is one of the great difficulties that we have had, when he says, you are trying to be on two sides. We are not trying to be on two sides. We have a situation where we have taxing statutes similar to what exist everywhere in this country, no different with respect to what the obligation is of a tax collector, an agent of the government, if you will, who is put in place to collect provincial sales tax versus the right of the consumer to know what taxes are being paid and, of course, to safeguard that they do not pay tax in excess of the established rate of 7 per cent.

Mr. Alcock was wondering why we cannot take all of those—and some certain reporters who have asked me—various issues and put them into The Sales Tax Act, consumer protection and yet agency requirements to collect sales tax on behalf of the government. I am here to say that in the legal opinion that we have and the extent that we are trying to get our arms around this issue, we cannot do it purely within the taxation statutes.

So what we have attempted to do is look at it in two ways: first of all, by way of this circular which members now have sent out at the end of January to indicate to all of those unsuspecting collectors who may have applied tax twice or, in the case where they were unscrupulously trying to apply tax twice, and that cannot in this way be proven, to send the circular out to again provide them with the process and the procedures that are in place; secondly, on the consumer side, as I have indicated, we have approached the Department of Consumer Affairs, and I will try and provide the information, with an information bulletin for homeowners, to try and have them, through their consumer awareness bulletins, try and make consumers aware of the potential double taxation in those cases where it

happens either as an accident or, indeed, maybe as a result of unscrupulous motives of certain businesses.

We have looked at this issue as to what other jurisdictions are doing, and we are doing all we can at this point in time to try and correct the problem.

**Mr. Alcock:** So then, if I understand the minister correctly, what you are saying is that all those people who may have paid excessive amounts of tax, even though you are aware of the fact that they have done it, in many cases who they are, that you are unable to take any action to see that that money is returned to them?

**Mr. Manness:** The Government of Manitoba is not aware who may have—Mr. Curtis said they are not aware of those who may have overpaid tax as consumers.

**Mr. Curtis:** I just want to make a point, Mr. Chairman, that we do a very limited number of audits or reviews of these particular contractors. In the one case where we came across an item that appeared to us to be an understatement of tax, we did a detailed audit. It was as a result of that audit that we were advised we could not attempt to claim as sales tax the amounts that were reflected on the billings to the customers. We had, in fact, received the proper amount of sales tax from the supplier. It was this particular case that was reported upon. If we follow our legal opinion, then we cannot take any action with respect to the amounts that were shown and paid by the customer. It does not mean to say that the customers cannot claim those amounts from the supplier if they feel they have been overbilled. It is not possible for us to do an audit of all the contractors in the province who might have had this sort of a problem.

**Mr. Alcock:** Yes, I appreciate that, and I said that in my first question. The question I asked, though, is that as a result of that detailed audit and in at least that case—there was an admission that there was more than one case. In fact, I have documents today that suggest a separate case with a separate supplier, the same problem. I believe the error was made absolutely unintentionally. At the same time, you are aware and, in the case of the detailed audits, you are not only aware of the amounts, you do the audits based on the billing, the receipts and such that are kept by the organization so, in many cases, you are aware of the individuals. At least you have a name on that.

The only question is: Despite the fact that you are aware of all this, am I to understand you are taking no action to see that those people get that money back?

**Mr. Manness:** Mr. Chairman, our problem is that in taxation, we do not have, I am led to believe, the legal authority to take action. Now if an individual has been overcharged tax, they have means under consumer and corporate affairs legislation to take action.

**Mr. Alcock:** I will leave that for the time being. I would like to go back to the Auditor, given the relatively small amount of time we have. There were other allegations that were raised. One of them was relative to the splitting of payrolls to avoid paying the payroll tax, and I am wondering if the Auditor can venture an opinion on what he has found to date.

**Mr. Jackson:** It is my understanding that one of the things that happens in the business world is that there are tax advisers and consultants, and one of their roles is to work to minimize taxation being paid. Through discussion with individuals and looking at certain files in the Department of Finance, we concluded that there were some arrangements being taken to minimize taxation through the reorganization of corporation entities so that taxes would be reduced.

**Mr. Alcock:** So you have been able to confirm that certain organizations are taking advantage of what may be a loophole in the way in which we apply taxes provincially, and they are, in fact, changing or reorganizing so their payrolls fall below the exemption?

**Mr. Manness:** Mr. Chairman, I guess I have to react to Mr. Alcock's term, the word "loophole." I mean, he is very well aware, I would think—

**Mr. Alcock:** A window? A door?

**Mr. Manness:**—seeing he is such a student of taxation matters, that I brought in legislation and a policy change with respect to the land transfer tax that prevented splitting, because splitting was going on with respect to land transfer tax. As Mr. Jackson has said, there are taxation lawyers out there who try to find ways for corporate entities and, indeed, individuals to minimize tax, and there is absolutely nothing wrong with that. So Mr. Alcock uses the word "loophole."



We have become cognizant now, just recently, over the last several weeks that there are those who are trying to split corporations down into associations in an attempt to reduce their liability under payroll tax. I am here to tell members that the government is certainly studying all its options and will be most likely moving to in some fashion stop this. This is nothing new, as between the corporate world and governments, who impose taxation. I just wanted to put that onto the record.

\* (1130)

**Mr. Alcock:** Just by way of clarification, then, to the minister, is the minister saying that within this session of the Legislature we will see legislation that will make it impossible for companies to take advantage of this?

**Mr. Manness:** Mr. Chairman, I am in a privileged position. This is a tax matter in the sense that there is a budget coming down. There may or may not be other changes with respect to the payroll tax, and so I find myself not being able to make total comment in this area. I can assure the member that we are quantifying to the extent that we can the loss of tax that may be applicable in this area, and we will react very quickly, if need be certainly within this session.

**Mr. Alcock:** Well, the minister just said he is quantifying the amount of tax. Can he quantify it for us, the amount of taxes being lost as a result of this practice?

**Mr. Manness:** Mr. Chairman, the answer is no, not at this point. That process is occurring at this point.

**Mr. Alcock:** Of course, an announcement at the time of the budget may get lost in the furor over the harmonization with the GST.

I do have another question to Mr. Jackson, and that is relative to allegations that were made about the application of payroll tax to trucking companies. I guess the question I have has two parts to it. The first is: Is it the case at present that certain trucking companies operating within Manitoba or outside of the borders of Manitoba are being assessed payroll tax and paying it, and others have found ways to avoid paying it, at least in the interim?

**Mr. Jackson:** Excuse me, Mr. Chairman, would you please repeat the question?

**Mr. Alcock:** There was an allegation raised, and this is one of the concerns that I forwarded to the Auditor in my letter of February 15, that certain trucking companies were—there was an unequal

application of tax law relative to payroll tax in trucking companies, that the circumstances that existed at that point in time are that some trucking companies were following the legislation as they understood it and paying payroll tax, others had sought to contest that and were being allowed to not pay the tax as a result of that contest, and there was some concern about the applicability of the law.

**Mr. Jackson:** When we have attempted to review some of the taxation of the trucking industry through the payroll tax, we found that there seems to be the potential for some inequity as to truckers who are trucking only within the province and truckers who have interprovincial routes. Attempts were made in two changes in regulations, one I believe in 1988 and one in 1989, to make changes so that Manitoba truckers on interprovincial trucking had a more competitive role to play in relation to trucking outside of the province.

With the first set of changes that was made, it was made to provide relief for interprovincial truckers on mileage that was associated with payroll taxes outside the borders of the province. The second change was to recognize that those truckers should perhaps get relief on mileage in relation to interprovincial routes from the destination of the point of origin of the thing to the borders of the Manitoba boundary.

One of the things that remains is that that leaves perhaps the potential for inequity between the solely province-of-Manitoba trucker trucking only within the borders of Manitoba, as opposed to his competitor, who might be also a Manitoba trucker who is trucking from Manitoba on an interprovincial basis. So there is that chance for inequity.

Then, if you approach it on a broader basis, perhaps there are railroads that might be concerned about some relief in some ways that they might not be afforded. So it is a very difficult thing to get equity completely, and it is something that, over the passage of time, people are working to achieve.

**Mr. Manness:** I thank Mr. Jackson for laying out the dimensions of the problem. Of course, in the Department of Finance we are only mere mortals.

**An Honourable Member:** Some of us are more mere than others.

**Mr. Manness:** Mr. Alcock, of course, would have the instant solution to all of these problems, because he is a taxation expert at this point, but I say to members of the committee that this again has been

very much a vexing problem. Once we saw that trucking head offices were locating outside of Manitoba and taking jobs with them, as indeed the province of Ontario I understand has experienced, once they have implemented the payroll tax, significant shift of some of their trucking head offices outside of their borders—

**An Honourable Member:** Where?

**Mr. Manness:** To Buffalo—that we had to take some action. Let me assure, though, members of the committee that we are auditing all trucking companies, and those that are not paying payroll tax fully on behalf of their employees who are located here, fully in the situations where they do all of their travelling miles in the province of Manitoba, if they are found not paying tax, an assessment will be provided, and they will be expected to pay the payroll taxes their competitors are.

**Mr. Alcock:** Mr. Chairperson, some mortals are perhaps more mere than others, but I would never profess to be a taxation expert. I demonstrate my inexpertise every day, I am afraid.

There do seem to be significant problems. I mean, now we have talked of three separate areas where there are issues that seem to be rolling along with action being taken only after they are brought to the attention. There seems to be very little proaction taking place, and that brings me to another question that I want to raise with the Auditor, and it is really the final one of the—

**Mr. Manness:** Mr. Chairman, I am sorry for interrupting, but I cannot leave that unchallenged. Mr. Alcock is trying to paint the portrait that in every area of taxation there are amounts of money somehow not being sought after by the department and that indeed something is anew here, something is happening in Manitoba where elsewhere that does not happen. I mean, this is the area of taxation.

We bring forward \$1.6 billion a year in this department. What I know is that when we compare our collection activities across Canada, we are third or fourth best as far as receivables. I know that we will try and improve upon that record. You are never satisfied until you are the best but, Mr. Chairman, to try and portray that there is massive wrongdoing or oversight on behalf of an incredibly hard working force within the Taxation Division I think is unfair to departmental staff, departmental management, and I think that it has to be put on the record that it is

unfortunate that there are those in society who would attack individuals, both in management and those involved in collecting tax day to day, that they are not doing a job in keeping with the expectations of the province.

**Mr. Alcock:** The minister brings me to my final question and makes my point for me. It is those who are collecting tax every day, it is those who are in the field who are having to act on our behalf in what is not the most popular of jobs. Tax collectors do not win popularity contests, and they deserve our support. It is those tax collectors who are coming forward and raising some of these very concerns, who are saying that this minister is not acting to protect the interests of consumers or to see that tax law is applied equitably.

My final question to the Auditor relates to an issue that came up at the last Public Accounts, and I am sure he spoke of it then, and I am sure he has more time to consider it, given the work they have been doing in the department, and that is the overall management of the change that is taking place in the department and the morale of the employees who are acting on our behalf, these very employees that Mr. Manness purports to be so concerned about.

**Mr. Chairman:** I am sorry. I was not sure whether there was a question there.

**Mr. Alcock:** A question to Mr. Jackson.

**Mr. Jackson:** I think it was indicated by both Department of Finance officials and by myself that there was recognized some elements in the department where there is low morale. I alluded to one of the reasons that was there for that, and that was that back in 1989 the department announced a reorganization. That reorganization that was announced has been moving along; there has been a fair bit of progress in the last three months. To achieve that progress that was achieved in the last three months, a lot of work had to be done with revising job descriptions, seeking clarification and approval from our Civil Service Commission as to rates of pay, et cetera, for the revised reorganizational structure that was being developed, but it is only in the last three months that a lot of that has come to fruition.

\* (1140)

My experience is that when people are going through change, they tend to imagine the worst.

They imagine the worst for themselves, and it works to the disadvantage of morale overall. The longer it goes on, the worse it gets. It is my understanding that in the last month or so, a number of changes that have been made have worked in the way of new space allocations, fulfilling of key jobs, et cetera, that are working to relieve some of this frustration, but I know that there is particular frustration with the two classification series that the department had put up with the intention of recognizing from their perspective the higher level of responsibilities that they expected individuals to be discharging. There was some frustration in that those higher levels were not recognized by the central classification authorities. So that, in a sense, also engendered certain levels of frustration.

**Mr. Alcock:** This is a very complex area, and it is an area where people are under a lot of pressure. I myself made a serious error in understanding how tax law was applied this morning as we were talking about the GST and the application of PST to labour and parts and in-premises, off-premises. I mean, there is no question that this is a complex business, and I think it is important that the public receive as much clarity as possible.

The problem is, when you are making a change then of this sort, where you are taking employees and expecting them to change their role in the face of complex regulations and complex legislation—is in your opinion enough being done to see that employees are being communicated with, that they have the information and the assurances that they require in order to feel some level of comfort about the changes that are taking place? I mean, two years is an extremely long time for a department to be in turmoil and the question is: Are the needs of the employees who are expected to carry out these tasks being addressed in this reorganization as well as in the functionality of it?

**Mr. Jackson:** I can perhaps only comment on this in a very indirect way. One of the things that is normal when we conduct a special audit is contact from disaffected, disenchanting employees in the organization where we are undertaking a special audit. This has been a unique experience to us in that while we took care, we thought, to identify that we were there to help resolve certain of the alleged problems, not a single staff member came forward to present any issues to us that would be useful in resolving the situation.

As a consequence, we did not feel that we would be as fair as we might be into the situation if we did not, on a random basis, select a representative number of employees to speak to. Unfortunately, we have selected 15 and we have interviewed eight, I believe, as at this date, and the employees did not have an awful lot to offer as to changes that could be made in improving the morale within the department.

My own experience tells me that communication is an awfully important vehicle. One of the changes that has been made is from individuals to relate to one taxing authority from four, and over time they will be expected to relate to all four taxing authorities. It would be perhaps a good opportunity to ask the department officials as to the training that has been taking place for those employees and the planned training, so that they will feel comfortable moving from one taxing aspect of an act to all four, and over what time frame that is supposed to be happening.

**Mr. Alcock:** I will relinquish to Mr. Maloway, and maybe we can ask some of those questions during Finance Estimates.

**Mr. Maloway:** Mr. Chairperson, before I ask some more questions about the Maple Leaf Fund, I did have a question here concerning the nature of business that a company known as PS Promotions is involved in. I notice that they have a contract or had a contract with IT&T for \$11,800, and they had another contract with Executive Council for \$16,585. I think they even may have more contracts with various departments of the government, but those are the two that I picked out in a cursory glance through. I wondered if I could be told who owns it and what their background is and what they do.

**Mr. Manness:** Mr. Chairman, this is not a proper way to ask these questions. I can remember when my predecessor, Mr. Kostyra, was here—and if the member is referring to appendices in Public Accounts Volume No. 2—he asked me, as I asked members at this table in January, if there were items that were of import, that they wanted to ask questions, I asked them just to give me notice.

**Mr. Maloway:** I do not expect an answer right now.

**Mr. Manness:** Could I respond? We used to do that. We used to provide Mr. Kostyra with a long list of questions that we may have on certain contracts

or individuals. I just ask for the same courtesy from the member.

**Mr. Maloway:** I do not expect a quick answer, Clayton.

**Mr. Manness:** Well.

**Mr. Chairman:** Thank you, Mr. Minister. I gather that the minister has taken the question as notice.

**Mr. Manness:** Of course. It is the member's right to ask. I am just asking for notice. If he has a long list of these, would he please provide that list to me, and I will undertake to provide answers to him?

**Mr. Maloway:** That is the only one I had on my list at this time, and I did not expect that the minister, consistent with his past practice in Estimates last fall, would get back to me very quickly with an answer; but certainly, you know, if he could endeavour to do so in the next month or so, it would be appreciated.

I did want to ask a question regarding the current reorganization of the Finance department but, more specifically, a question about the educational leave policy of members of that department. I was wondering, is there a policy the Finance department has or government has that allows for members of the management or work force in the Finance department to go on paid educational leave or to take courses at university and so on?

**Mr. Chairman:** Mr. Maloway, again, while I would like to be liberal in the range of questions that are being asked, some of these questions are better asked in Estimates, the Department of Finance and perhaps other forums. Our purpose this morning, apart from agreeing to discuss, as we have done, the tendering practices by agreement and by a statement previously made by the Premier in the House, before us we have the Public Accounts for the years ending March 31, 1989 and 1990, plus the Provincial Auditor's Annual Reports and Supplement for the last couple of years. I would ask the member to attempt to direct his questions in line with these documents before us.

**Mr. Maloway:** I have a number of questions concerning the Maple Leaf Fund, which I will get into, and a number of other areas but, before I get to those, I would like to get an update from the minister as to the situation regarding the arrears in the province as to whether or not there are changes. Perhaps there are no changes between now and the last time he gave me the totals, but the payroll tax

arrears, his last figure that he had given me was as at October 1990. It was a total of \$1.32 million. Has that figure changed positively or negatively since that time?

**Mr. Manness:** Mr. Chairman, I will undertake to provide that information to the member.

**Mr. Maloway:** Also, I would like to ask the minister—I had asked him previously about the insurance corporation tax, and I do not recall getting an answer as to whether there were any arrears in that particular field. My recollection is that the minister was going to get back to me. It was one of the last questions we asked last time.

**Mr. Manness:** I thought I had indicated to the member that there are no arrears in that field.

**Mr. Maloway:** The corporation capital tax arrears, the last date we have a figure for was October 31, 1990. It was \$1.506 million at that point. Has there been a change in that arrears situation?

**Mr. Manness:** Okay. I will undertake to provide that information to the member.

**Mr. Maloway:** Perhaps the minister then could undertake to provide me with the same sort of information for the tobacco tax, which was then in arrears at \$1.8 million; the gasoline tax, which was zero at the time; and the mining tax, which was also zero at the time.

The minister did announce two years ago, I believe, a tax holiday for new corporations, and what I have been endeavouring to discover from the minister is how many such corporations have been given this tax holiday and how much revenue has been lost because of that exemption.

\* (1150)

**Mr. Manness:** Okay, Mr. Chairman. I provided a general answer to that question last time. I did not realize the member was looking specifically for a hard number of people who had been granted remissions. That number changes, of course. From time to time it increases.

**Mr. Maloway:** I would like it once.

**Mr. Manness:** I gave it to you in the general fashion once.

**Mr. Maloway:** No. You did not.

**Mr. Manness:** I will try to give a number as of the end of December 1990.

**Mr. Maloway:** I will admit that when I asked the question last November and again in January, the minister did endeavour to provide some sort of an answer, but it certainly did not have the specifics in it that I was requesting at the time as to how many or how much revenue was lost. I will also ask him at this point if he could endeavour to give us the list.

**Mr. Manness:** I can give the member some of that information now. Staff has prepared in response to the question put last time with respect to the holiday for small businesses: the first year of the program, 147 applications were received; of these, 75 represented taxable firms; the total tax saved by these firms is estimated at \$260,000; 48 were eligible but were not taxable in their first year of operation; 24 were disallowed.

**Mr. Maloway:** The information then is that 24 were disallowed. Could the minister tell us once again how he decided to disallow those 24, because I understand the process is such that he personally signs a letter or signs some sort of document granting each one of these companies the remission, deciding whether they get or they do not get it? I am just wondering how he had decided to disallow these 24 when he had accepted the other 147.

**Mr. Manness:** Mr. Chairman, the analysis is done by staff, who look into the application in detail. They decide on the basis, so I am told, as to whether or not there has been significant change in ownership, whether or not there is an at-arm's-length change in activity by an individual and, on that basis, bring forward a recommendation to me. Let me say at this point in time that staff in the department is very much reviewing the criteria and indeed the whole small business tax holiday issue.

**Mr. Maloway:** Just to follow up on the minister's last comments then, when he says that the department is reviewing the tax holiday program, am I to understand from that that it has not been successful? I mean, what would prompt them to review it?

**Mr. Manness:** It was brought forward to promote the generations of small businesses, to help, and it certainly has done that in a significant fashion. I for one am a little concerned as to the candidates that I see coming forward. I would like to see a larger preponderance of wealth creating in the sense of manufacturing, primary industry, and a lesser number of service industries coming forward. It is

in that context, as I said from Day One, that I would review that program, and I am presently evaluating it now after a year or two.

**Mr. Maloway:** On that note, could you give us some idea of what sort of service businesses are coming forward for the tax remission, just two or three examples?

**Mr. Manness:** Mr. Chairman, I see some service stations that have come forward, I see some hardware stores, to use examples.

**Mr. Maloway:** Mr. Chairperson, I did want to ask a question about the Maple Leaf Fund, and that is as to the role in the province of the Maple Leaf Fund. What is its role in this province?

**Mr. Manness:** Mr. Chairman, I do not know why I am being asked this question now. I cannot answer that. I am not a director on the board of the Maple Leaf Fund. I am not the Minister of Consumer and Corporate Affairs, who has responsibility for the securities regulations and information. I cannot answer the question.

**Mr. Maloway:** Mr. Chairperson, a problem arises. Problems do arise when there are no clear lines of authority, and a situation like this seems to be tailor-made for that sort of situation. We have the Minister of Industry, Trade and commerce admitting in a press article that he thought that they were supposed to be regulated federally. Then he subsequently finds out that it is his responsibility. There is so much confusion out there as to who is supposed to regulate those funds.

Surely, as the Minister of Finance you should, I think, be on top of this whole area to at least know where the regulations are and who regulates them because, after all, what you are talking about here, as I understand it, is basically blind investments almost of \$100,000 or more given to a company and the company turns around and invests them in any number of projects in the province—

### Point of Order

**Mr. Manness:** Mr. Chairman, the province did not set these up. These are immigration investor funds. The province has not set them up. The province has not partaken in any element. If they are regulated at all, they are regulated federally, and this is the one province in Canada that has not been a beneficiary in the sense of capital, low-priced capital coming into its borders. So I do not know what point

the member is trying to make. I think we are a long way off of tendering process, and that was the basis on which Mr. Jackson was asked to come here today and make comment within this area.

Mr. Chairman, I think that the whole commentary on the Maple Leaf Fund is out of order at this point.

**Mr. Chairman:** Thank you, Mr. Minister. I am not sure that is a point of order, but it is a point of clarification and, again, I would ask all members of the committee to try to be relevant to the Annual Reports before us but, by previous agreement, to discuss the tendering practices. So we should try to direct our questions and our comments in these areas. So I have Mr. Maloway, Mr. Alcock, Mr. Santos and Mr. Laurendeau on the list.

\* \* \*

**Mr. Maloway:** I will defer to the member for Burrows (Mr. Martindale), who has a few questions to ask.

**Mr. Chairman:** Well, first I have to go to Mr. Alcock and then to—

**Mr. Conrad Santos (Broadway):** I have not had a chance, Mr. Chairman. I only have four questions.

I am very much concerned about the public practice about deviation from public tender. The government of the day is simply a trustee of public resources. Our system of government has devised no better way of assuring public accountability than established procedure sanctioned by practice, and this is the process of public tender. Whenever there is any deviation from such a rule, it has to be justified.

I would like to ask a few questions to clarify this procedure. I would like to direct my question to the Auditor. Under what circumstances would deviations from public tender be justified?

\* (1200)

**Mr. Jackson:** Mr. Chairman, as I have indicated previously, there are several different approaches for acquiring services or goods within the Province of Manitoba, one of which is by public tender, which is generally reserved for large-dollar ticket items. Then there is purchasing that is done on a regular basis with those companies that have expressed the desire to be suppliers of certain goods and services.

Also, if the dollar level is relatively low, purchasing is often done on either a simple phone-call basis to

two or three suppliers that you know have an interest in this area of operations. If it is an emergency situation with a relatively low dollar value, there is something called a field purchase that takes place, where you just walk into a Canadian Tire store or a GM dealership and acquire the part that you need to get your vehicle back and running.

**Mr. Santos:** I heard in the discussion that there are certain places where the government is not bound to accept the lowest bid, even in a public tender, and that is when, for example, one of the tenderers cannot perform or mistakes have been made.

My question is: Are there no eligibility requirements as to which firm or company can legitimately submit public tender bids to a public tender process, so as to avoid situations where the successful low bidder is found out later to not have the resources to undertake what he is supposed to undertake?

**Mr. Jackson:** Mr. Chairman, I believe what might be envisioned here would be something terribly complex and difficult to draft to cover any wide range of operations. I can relate one simple example that I related to when we were acquiring certain equipment a number of years ago. It was for cheque bursters, if my memory serves me right.

We were dealing with two competent suppliers. The prices were quite competitive. However, during the demonstration process one piece of equipment performed exceptionally well, and the other piece of equipment did not perform worthwhile at all. We obviously selected the piece that performed. It came in at a higher cost than the other piece. We were charged with the administration of using that piece of equipment to service the government generally. In our view, it would have been irresponsible to choose the lower priced piece of equipment and not be able to serve the public.

**Mr. Santos:** Whenever there are any cases or situations that will justify private bid process as distinguished from the public, what is the crucial element that separates the public tendering process from a private system of competition for contracts?

**Mr. Jackson:** I would say the main criteria that would separate public tender from a private type situation would be the opportunity to publish something in a newspaper that would be able to attract the attention of any interested party to submit a tender to that situation. That would differ from a private arrangement where only those people that

one thought might be interested in submitting would be given the opportunity to submit.

**Mr. Santos:** It is usually the case that it is a matter of information whether one would be interested or not. When there is no information because there is no public advertisement, therefore the other firm will be excluded unless they had initially been a participant in the initial tendering process. So it is no justification to say that only those who had been notified before or had participated before will have the prerogative to participate in any subsequent private selection bids. If a renewal of an existing list is about to come and the government intends, in the long range, not to renew the lease with the existing tenant, would they normally resort to the procedure of public tender?

**Mr. Jackson:** Mr. Chairman, that is my understanding.

**Mr. Santos:** Question: Let us say there is an existing lease, it is about to expire, it is a long-range lease, and the government is thinking of moving onto other premises or a new landlord. In the search for a new landlord and before the existing lease expired, will it be appropriate to have a public tendering process?

**Mr. Jackson:** Mr. Chairman, I think it would be most appropriate.

**Mr. Santos:** When a situation like what had transpired happened, that there is no such public tendering process, because the reasoning is to take advantage of the existing low demand in the market and therefore to undertake to have a long-term lease so as to clinch the rate for a long period of time that will save the government some money, is that enough justification to deviate from public tendering process?

**Mr. Jackson:** Mr. Chairman, we are almost dealing with something that is hypothetical here. On the one hand, I think what is being put forward is that there has been a real potential for the government to save money by not public tendering, and I am being asked if that is enough of a justification to avoid a public tender.

The public tender system is geared to ensure that you are getting the lowest possible price for the service that you are looking for so, without the public tender, there is never a certainty that you have the lowest possible price.

**Mr. Manness:** Mr. Chairman, I feel I have to state at this point that in the observation of those who have been involved in Treasury Board activities for years, covering various governments, there has been not a board that is more demanding that there be a tendering process.

As a matter of fact, when we look at our preclearances every week on Treasury Board, for instance and from time to time, particularly in the Department of Health for supplies, there will be a sole tenderer. The board almost always will not accept it without seeking greater clarity as to why there has only been a sole tenderer.

It is of great concern to this government when only one tenderer comes forth, and it tends to happen mainly in the Department of Health, where there are specialized supply requirements and, believe it or not, from time to time in the Department of Highways for the supply of certain materials.

Let me say, Mr. Chairman, the open public tendering process is something that is held in very high regard by this government and only under the rarest of circumstances is it in any way denied and, in this case, we are talking about of course the early and open approach was followed and indeed it ensued many, many months of time.

**Mr. Santos:** If I may reply, Mr. Chairman, there is no difference at all in the public eye between the procedural aspects and the substantive outcome of public decision making. If the public tendering process had been honoured by practice to be the only way by which people who are holders of positions of power and authority can be held accountable, I suggest that we should always observe as much as possible the public tendering process, because the outcome of decision is sometimes determined by the procedure, not by the substantive contents. That is the reason why we are geared to certain procedures in our course of government.

For example, there is a requirement about first reading, second reading, third reading of bills. These are routine things that we have to adhere to if the legislation is to be valid. If we are spending public money and we are restricting opportunities to sift out the lowest bid by making it a private bidding process rather than a public tendering process, there must be enough justification to do so. In the absence of justification, I suggest the public all the more will have lesser and lesser confidence in the

process of government, and we will not be helping at all the attitude of the public towards public officials and our public process.

**Mr. Chairman:** Thank you, Mr. Santos. I believe Mr. Laurendeau had indicated he wished to be on the list. He is passing.

\* (1210)

**Mr. Alcock:** I have some questions, and I am looking at '89. Maybe we can be prepared to deal with '89. There is an ongoing issue that has been raised. When I say issue, I do not mean it is an issue that represents a contest between the government and the opposition because, certainly, the minister has been supportive of the efforts to review the way in which the Public Accounts Committee process works. I noticed in the '89 Supplement, Mr. Jackson, that you referenced timeliness of reporting of the Public Accounts as an issue. That was one of the issues that had come up in some of the discussions relative to ways in which the work of this committee might be improved. I am wondering if you could make some comments on your recommendations.

**Mr. Jackson:** At an earlier meeting, timing was referred to again, and I commented that after a certain point of time as an audit office, we failed to see almost any relevance to a report that would be almost two years old at the point that it had to be reviewed. That is the position that we are in for our report as at March 31, 1989. With the passage of time, any report that is commenting on certain situations tends to lose its relevance over time.

**Mr. Alcock:** There were a series of recommendations that were worked on by a committee and, as we were indicating, counsel. Public Accounts Committee says it had some discussions about ways in which the activities of this committee in this and other provinces could be improved. In your estimation, based on the audits you have done in the two reports that are before us, have there been steps toward implementing some of those recommendations?

**Mr. Jackson:** Yes, Mr. Chairman, over the past number of years, a number of changes that were made were done with the interest of improving the efficiency of the committee, one of which was referred to earlier at this meeting. That was, if members had an intention of pursuing a certain avenue of questions or had specific questions that they would like a department, not necessarily the

Department of Finance, but that the Department of Finance might want to work to get information on, those questions could be put to departmental officials in advance of the meeting so that they could have answers to those questions at the time the committee met. It was thought that that would provide greater efficiency on the part of departmental officials and enable this committee to function better at the time that it met.

One of the recommendations that we have been making for a number of years I commented on at our last committee. I think that it is significant to establish an agenda before the committee meets so that time frames might be established through consensus and key issues might be addressed with a reasonable time frame so that the whole of the meeting does not consider matters other than the purposes for which the committee was called.

**Mr. Manness:** Mr. Chairman, this is a good area of questioning. I mean, I am wondering then how it is—and I support some of the things the Auditor has said. For instance, over two years now I have tried to call an expeditious meeting of this Public Accounts meeting in fairness to try and give the year-end Public Accounts a quick review in the sense of not waiting too long. January, I called it this year for the 29th and 30th, and the purpose, of course, was to deal specifically with the report of the Provincial Auditor. Certain members of this committee posed very few questions to Mr. Jackson. They indeed wanted to spend much more time dealing with finance issues of the day that had been reported in the paper just previously.

Mr. Jackson, would you think that—and this is a tough question to answer—do you feel that your agenda then, as you talk about putting forward an agenda, would preclude that type of open questioning, or indeed is your time here at times being wasted in the sense that so very few questions are directed to you even though the purpose of the committee was to deal with your report?

**Mr. Jackson:** I see no difficulty at all with establishing an agenda. If we are advised that there may be key issues that are occurring currently that are of interest to the Legislative Assembly, that we may make some useful input into, I see no reason why that could not be slated. It would be my preference if there would be an agreed time frame for that matter to be discussed. If some further discussion was necessary, perhaps it should be taking place at another committee of the Legislature



or the Legislature itself or at some subsequent meeting of this committee.

Speaking on behalf of our office, we feel that we could do a better service for the members if we were advised ahead of time and could be better prepared to address any question that the members had. We learn from any attendance that we have at one of the legislative committees, so we do not consider it a waste of our time because we consider it a learning experience. However, if we had our choices, we probably could feel that we could put our time to better advantage elsewhere.

**Mr. Alcock:** It is interesting, because the minister goes to the heart of the questions and some of the work that has already been done. In fact, there were recommendations forthcoming before the last election that, I believe, the minister was supporting—at least part of them, in any event—to change the way in which this committee works.

I would disagree with the minister if he is suggesting the kind of questions that have been raised at this committee are inappropriate given the seriousness of the allegations and the fact that it is one of the very few occasions when the Provincial Auditor is before a committee. I think that, when there are questions of the nature that have been in the minds of the public to be raised, we should avail ourselves of the opportunities to raise them.

At the same time, the process might be expedited and might be better organized if we followed some of the recommendations about regular sittings, about structured times of the year that are spent in Public Accounts, ability to call forward departments and ability to question members in different departments. I mean, there is not just one recommendation, there is a whole series of recommendations that have been made. I guess I would like to hear from the minister specifically as to how he intends to implement some of them, if any.

**Mr. Manness:** Mr. Chairman, I came here in January and thought that would be the first item of business. Mr. Alcock shows that would not be the first item of business. He had much more important issues on his mind, and he basically consumed, for the most part, two meetings, at which time I thought there was a desire to talk about some of these potential changes, meaningful changes, around this committee. It was not a very important issue with him at that point in time.

Last year previous, we held four or five meetings at least of Public Accounts, and the '89 report still is not passed. What is important to the members of this committee? I guess it is obviously to try and make headlines or expand on headlines of the day. I mean, that is what seems to be important and, indeed, certain members of the opposition forewarned me of that when I listened particularly to Mr. Herold Driedger's attempts to try and make this a more meaningful committee. Certain members of the opposition said, let it go as it has in the past. Indeed, Mr. Alcock seems to be one of them because for the last three or four meetings he has chosen just to almost totally ignore the reason that we were called here, that is, to consider the Public Accounts for years past, plus the report of the provincial Legislature. So Mr. Alcock is talking out of both sides of his mouth on this issue, to my point of view.

**Mr. Alcock:** Now I am asking you the very question that you said you have been waiting so anxiously to have asked. Which one of these recommendations, or are you prepared to implement the recommendations in order to see that there are changes to this committee so that it can be more effective?

\* (1220)

**Mr. Manness:** I remember Mr. Driedger took as his guideline some of the work that had been done in the public sector committee reviews elsewhere, and it says—again, one of the guidelines, of course, that he wanted to build upon was that to be successful in conducting a searching and rigorous scrutiny of government expenditures, the guidelines state that the Public Accounts committee should operate in a nonpartisan fashion and be totally objective.

I asked Mr. Alcock if that is the basis in which he is prepared to see the future of this committee, and if he is saying yes, then let us begin the dialogue.

**Mr. Alcock:** The limit does seem to be that anytime one raises a question of this minister on the operations of those departments under his control, they are all of a sudden retreating into partisan rhetoric. I mean, surely the role of the Public Accounts committee is to question the activities of the government.

The minister has made many statements about—one of the most important activities of government is to pass and review the Estimates and the operations of government, and yet when we

come before one of the few bodies that exist to allow us to look back on what has gone on, the minister objects to having questions raised that may call into question the competence of his management.

**Mr. Manness:** Mr. Chairman, nothing is further from the truth. I am accountable and responsible for things that happen within the Department of Finance. At this sitting, I am also responsible for things that have happened in the government as a whole, as reflected within the Public Accounts of 1988-89 and 1989-90.

Now the member may want to tell me what percent of the time in today's committee meeting, plus the days of January 29 and 30, what proportion of the time has been directed towards questions dealing with the financial accounts of the province, with expenditures of the province, dealing with accounts of the province. If he wants to survey in a time manner the number of minutes, the percentage of the time that has been directed to that, I think he might be able to find 2 percent.

**Mr. Alcock:** I would just point out to them it was this minister who referred us to this committee to discuss the issues of tendering. It was his setting of that particular agenda. I am surprised to think that the minister would be suggesting that we are not, when the Auditor is before us, to ask questions about the practices of government that fall within the responsibilities of the Auditor.

**Mr. Manness:** I am not reacting to that. I am reacting to what Mr. Alcock said, which was the minister seems to be sensitive to questions asked of things that have happened in the past. No, that is my purpose here. My comment is that too few questions are asked as to what has occurred in the past, and to which I, and indeed this government, should be held accountable.

Yes, the member is right with respect to the commitment made in the House on Tuesday, that Mr. Jackson, to the extent he could be prepared to answer certain questions on tendering practices, that has happened.

**Mr. Alcock:** Let me go back to the original question then. There are recommendations around changing the way in which this committee operates. Is the minister intending to implement some of those changes now, this year?

**Mr. Manness:** Mr. Chairman, it is time again to open the dialogue between all of the parties. I will

not unilaterally force my will on a standing committee of the Legislature, and obviously one of the key players in this attempt to work towards rule changes was Mr. Driedger. I think he did so in fear of his own caucus at some of the changes he proposed. If Mr. Alcock wants to delegate somebody else from his own caucus to be part of that discussion, certainly, and if somebody from the NDP caucus wishes to be part of that, by all means, let us begin the dialogue.

**Mr. Chairman:** Thank you, Mr. Minister. I was going to state as Chair I was planning to write a letter to the minister and each party representative based on recommendations made by the Provincial Auditor as to the way this committee should proceed in the future as the basis for this discussion that the minister refers to, so we can do that and hopefully at some future time, we will have this discussion. Thank you.

**Mr. Maloway:** Mr. Chairperson, I just have a few quick questions before we wrap up for the day concerning the payroll tax break that has been evidently given to some trucking companies. I would like to know how many trucking companies are receiving the payroll tax break at this point.

**Mr. Manness:** Under the law, none.

**Mr. Maloway:** None, okay.

Mr. Chairman, the minister is suggesting that all of the trucking companies in the province are not getting a break as far as health and education tax levies are concerned, because that flies in the face with what has been reported in the press.

**Mr. Manness:** Mr. Chairman, Mr. Maloway has been a politician for a long time. He came in 1981. If he believes everything he reads in the press, then I say he has not learned one of the basic rules of being in political life.

I am saying to the member, those individuals, companies, who are resident in Manitoba and who do all of their trucking within Manitoba are fully expected to pay the payroll tax on head office staff and, indeed, on trucking miles on the wages of truckers who spend all of their time in the province.

**Mr. Maloway:** Mr. Chairman, and the minister is confirming that all of the trucking firms in Manitoba, on that basis, are in fact paying their health and education tax, that no trucking firm has come to them asking for an exemption on that part of the business?

**Mr. Manness:** Mr. Chairman, he says on that part of the business. In the sense that they are doing all of their trucking within Manitoba, that is their total business, and I am saying to him, I have had no request of people being relieved, but furthermore, if there are some who are not paying the tax, they are doing it in contravention of the law. Once an assessment is done on them, that will be brought to their attention and it will be a tax payable.

**Mr. Maloway:** Mr. Chairperson, so how many companies that are of an interprovincial nature, that are doing their business outside the province then, are getting an exemption under the health and education tax? Is that the total number of the firms or the percentage of the total firms?

**Mr. Manness:** Now under the law, all of them who have mileages and have driven outside of the province, indeed with the latest regulation change,

even the miles of those drivers inside the province are now payroll exempt, but their head office staff are still having payroll tax assessed as against them.

**Mr. Chairman:** I believe we are drawing near time for the normal adjournment hour. I wonder if there is agreement to at least pass the first set of reports for the year 1989 because we have to—

**An Honourable Member:** No, no.

**Mr. Chairman:** No agreement to pass the report for the year ending March 31, 1989?

**An Honourable Member:** No agreement.

**Mr. Chairman:** Okay, if there is no agreement I guess we will carry on at the next meeting. The meeting is now adjourned.

**COMMITTEE ROSE AT:** 12:29 p.m.