

EVENING SITTING

COMMITTEE OF FINANCE

General Revenue Fund
Justice
Vote 3

The Chair: — I will ask the Minister of Justice to introduce his officials.

Hon. Mr. Mitchell: — Thank you, Mr. Chair. I have with me tonight Mr. Brent Cotter who is the deputy minister, sitting on my left. Behind Brent is Ms. Twyla Meredith who is the director of the administrative services branch. Beside Twyla is Keith Laxdal, the associate deputy minister of the finance and administration division. Terry Thompson is here somewhere; everybody knows Terry. Terry Thompson who is the assistant deputy minister of the solicitor general division. And on my right is Doug Moen who is the coordinator of legislative services. There are other officials here but those are the ones that I'll introduce to the House.

Item 1

Mr. Toth: — Thank you very much, Mr. Chairman, and I welcome the minister and his officials to our deliberations tonight.

I want to thank the minister for sending over a copy of answers. I just received them so I haven't had a chance to really go through them with any diligence to see indeed if . . . The minister's assured me he's answered them to the best of his ability, which I take there's a lot of ability there and that they probably have been answered as well as we could expect any of the questions to be answered.

Mr. Minister, there's a number of case areas that I want to address tonight and they're in light of proceedings of this House. The area of Justice is an area that has attracted the attention of folks not only in this province but across the nation, especially in this past year with a number of circumstances that have taken place.

And one of the major things that happened — and it happened roughly about a year ago — was a community in my area was really jolted in the violent death of an individual by the name of Mr. Dove. A number of questions have risen. And as we've had discussion over the past . . . on numerous occasions over the past number of years I think, Mr. Minister, we're all aware of the fact that even though there was a lot of anger and people were really annoyed at how the case was handled . . . Then there are other cases that transpired across this country with similar circumstances — maybe not totally the same, but similar circumstances — and the outcome of trials, what had taken place.

The thing that really cropped up in our area . . . and I think it cropped up across the province of Saskatchewan, and it's evident by the number of

petitions that I'd like to table before the Assembly tonight. I believe, Mr. Minister, you may have received a copy of a number of these. But due to the fact that they aren't official or don't have the official format to them, I wasn't able to table them before, but I'd like to table them tonight. Mr. Minister, the petitions that I'm tabling were signed by individuals from right across the province and not just across this province, but across our dominion in fact, many communities outside of the province.

As I said earlier, as we discussed it, even the community of Whitewood and the town of Whitewood, town council, sent a letter and asked you and your department to bring forward some of the concerns they have. And I realize some of the concerns that they raised may not be totally within your jurisdiction. I think some of the issues fall within federal jurisdiction. But I think it would be appropriate, Mr. Minister, to at least take a moment tonight and address the issues such as plea bargaining. And we've had an argument back and forth as to whether there was plea bargaining or the bargaining process. So the arguments that took place and the specific Dove case can be termed plea bargaining.

But I think it would be appropriate, Mr. Minister, to take a moment to describe in some detail or give us a bit of an overview of the process of bargaining and how people are charged in this province, how sentencing occurs, how you go to court, and the whole format. So for people's information . . . because I know a lot of people are not totally familiar. And the only reason I've been given a little bit of an idea of the format that takes place is just through the involvement of this special case.

So I'm wondering, Mr. Minister, if you could give us a moment to lay out that process. And I believe your officials have talked to individuals in the Whitewood area. I'm sure there's probably discussion has taken place with individuals in the Kamsack area. There's a couple of circumstances or deaths in that area somewhat almost similar.

And I'm sure that your department has had a lot of these questions that have been raised over the past year and have had — I don't know if you'd want to call it — had the privilege of going out to a lot of communities to discuss formats of how the law works in Saskatchewan.

So I'm wondering, Mr. Minister, if you would take a minute just to explain that process. And also a while back I did ask you for the number of plea bargainings that may have been entered into in the province, and maybe you could release those figures as well, in the province or even across Canada, if you wouldn't mind, Mr. Minister.

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, I want to thank you for that question. I think it's a natural subject to raise in light of recent events. And of course it's a very, very complex question.

I want to begin by saying a few words about the Dove case. It was a tragic situation and a very regrettable one and a senseless killing of Mr. Dove. It presented a difficult situation for the prosecutors in the department, and I believe the member understands why.

Everyone in our country who is charged with an offence is presumed to be innocent until they are proven guilty beyond a reasonable doubt. That's a high standard of proof for prosecutors to establish. And it is the rule in all criminal offences, whether it is a murder or whether it is a minor criminal offence. The presumption of innocence applies and the standard of proof is proof beyond a reasonable doubt.

And I just might take a moment to contrast that to a different kind of a court case, a civil case in which one citizen is suing another for a sum of money or for a breach of contract where the standard of proof is proof on a balance of probabilities. So it's sufficient in those cases for a court to say, the answer is probably this, therefore the judge says, I will make this order.

In a criminal case, the standard is higher, the proof has to be beyond a reasonable doubt. If there is any doubt that can be categorized legally as being reasonable then the accused is entitled to the benefit of that doubt.

I know the member knows this, but I just think it's worth saying that for readers of this record as who may be interested in the situation like the Dove case.

But bringing that to the facts of the Dove situation, the prosecutors were in a position of not having . . . of having only a certain amount of admissible evidence. And the problem was that it appeared, in the judgement of the prosecutors, that that evidence would not be sufficient to satisfy the standard. And we were in the middle of a preliminary hearing when certain events that I'll describe in a moment occurred.

The department was in the middle of a preliminary hearing and they were sort of acutely conscious of the fact that there were shortcomings in the evidence, and the prospect was real and immediate that the accused may be . . . the charges may be dismissed at the preliminary hearing, and the accused people free to walk out of that hearing. And in this context came an approach from the accused people that they were prepared to plead guilty to a reduced charge of manslaughter.

The department carefully reviewed that and decided that in the circumstances, namely the lack of evidence, the absence of enough evidence to be of the opinion that we could prove the case beyond a reasonable doubt, it was an offer that really had to be accepted. Not to accept it would have meant we would go ahead with the murder charges and the prospect was real and immediate that the accused people might walk away, might just walk free.

And I say to the member that if we thought we had an uproar over the kind of sentences given in respect to

the manslaughter charges, you can imagine the kind of uproar there would have been if they had walked free from the courtroom at the end of the preliminary hearing.

So the prosecutors who make the decisions in these matters — these are not political decisions, I'm not involved in that process at all — the prosecutors made the professional judgement that in all these circumstances they should accept the offer of a guilty plea to manslaughter, and they did.

Then the question became one of sentence, and as the member knows, the court has established by a long series of cases, ranges within which various offences will be punished. And it all depends on the circumstances of the case and the circumstances of the accused and the number of times they've been convicted of related offences.

But to make a long story short, there is a range, and the judge in the cases connected to the death of Mr. Dove handed down a sentence which was well within the range. It wasn't at the top of the range, wasn't at the bottom of the range, but it was clearly in the range and that was the sentence that was handed down, and it was a sentence that we simply have to accept as being within the range.

In our system the courts are charged with the responsibility of determining what the sentence will be. It's not a political decision; it's not a professional decision. It's a judicial one and the judiciary are, of course, central and key to the operation of the whole system of criminal justice. And they determined . . . the judge, appropriate judge determined that this was the appropriate sentence. As I say, it was within the range so it wasn't the kind of thing you could race off to the Court of Appeal with. You just simply have to accept the judgement of the judge in the circumstances and so it was.

Now the community reacted in the way that it did and I know that. You've made me aware of that and I've had a lot of direct mail myself and I can understand that because a respected and valued member of the community was the subject of this outrage, and that of course roused the ire of a lot of people, and I understand it and I sympathize with them. But the system operated in such a way throughout, I think, that was in accordance with the highest standards of integrity — both as far as the court is concerned, certainly as far as the prosecutors are concerned, certainly as far as defence counsel is concerned. And while we may not like the result, and while the citizens of Whitewood and your constituency certainly don't like the result, it is the system operating within its normal boundaries. And so at the end of the day, what I say to myself is that we have to accept that.

(1915)

Just one more word before I sit down, and I'm sorry to take so much time. I think we're limited in our time tonight. But I . . . The time has long passed since statutes set out ranges. At one time our laws used to

say a minimum of so many years and a maximum of so many years. That was the legislature or parliament legislating a range. Now for many years we have moved away from that system. Many years ago the country moved away from it. And we provide the maximum range. So in the case of murder the maximum sentence is life and in the case of certain other serious offences, the maximum is 14 years. It means that the court has the jurisdiction to impose a sentence anywhere up to that maximum. No minimum is prescribed, but of course over the years ranges have been established by virtue of a string of decisions, a line of decisions. And that establishes a range which is present in the case of manslaughter convictions, and the sentences in the charges relating to the death of Mr. Dove were within that range.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, I would like to think that our judicial system does indeed give the view to the population in general that indeed a person is indeed innocent until proven guilty; but we know that as soon as something hits the public limelight that the public in their mind makes a decision and they kind of decide exactly where they stand on a certain issue.

And a lot of times people's lives can be really challenged by some of the circumstances thrown at them when in fact at the end of the day they may be proven certainly not guilty — may be totally innocent. I'll maybe bring that up just a little later as I think of some of the accusations that, because of the way our society is going on the cases of sexual assault charges, or family assault charges . . . and some ways of maybe addressing it to be a little firmer so that we're not dragging people through the mire to prove their innocence when they may be innocent all the time.

But I want to . . . Another question regarding the sentencing here, and, Mr. Minister, you laid out the facts regarding the Dove trial . . . or not the trial but the circumstances that led up to the sentencing of the individuals who I guess pleaded . . . I take it they must have pled guilty to manslaughter in order to receive that because we didn't have a trial take place here.

What I'm wondering, Mr. Minister, and in light of the fact that there was a real lack of evidence here to really proceed further or to even push for a greater sentence, the public in general feels that . . . and I personally at times too think that in a lot of cases there's a lot of leniency regarding sentencing. And to be honest with you I really wouldn't want to be the judge sitting on the bench to hit the hammer and say, I sentence you to 10, 15, or 20 years. Even if the person is as guilty as guilty can be, we're still all human.

But in this case what I would like to know, Mr. Minister, is the individuals that have pleaded guilty, have accepted a manslaughter charge, have been given sentences, and what I would consider possibly could be minor, but at the end of the day if facts come out — and we've seen that in some other recent examples, the facts come out to indicate that there was indeed possibly the individuals charged were indeed guilty, if you will, of murder in the first degree

or whatever the circumstances is — do I take it that the sentence is agreed to, that's it, the case is closed? Or can it be opened up or would it have been better in the long run to have allowed, if there wasn't sufficient evidence, to bring that out in a courtroom or at a hearing to indicate there isn't the evidence, it's kind of kiboshed.

And I know the public may not have accepted it, but it seemed to me from people I talked to, they would have felt more comfortable if indeed the evidence wasn't strong enough, if there is a possibility that the sentences if meted out today if indeed . . . if at the end of the day the accused are found to have been guilty as guilty as can be, and then I don't know if they can be brought to trial again or if indeed this case is now closed totally.

Hon. Mr. Mitchell: — People can only be tried once in respect of a particular fact situation. So that when the manslaughter charges were brought into court and guilty pleas entered to them and the sentence imposed in respect of those, that is the end of the matter so far as criminality for the death of Mr. Dove is concerned.

Later, as you say, it may turn out that other evidence comes to light; there may have been an eyewitness that nobody ever has heard of to this point who comes forward. And so, as you say, that may prove that it was in fact a murder. We couldn't do anything about that because the case is over; it's closed, finished, done with. It's referred to as double jeopardy and there just cannot be any double jeopardy so far as our criminal law is concerned. So that would be the end of the matter.

It is also a fact that trials have to proceed in a timely way. You have these prisoners in custody and they're subject to a charge and they are entitled to have their cases heard within a reasonable time. If you don't proceed with the trial within a reasonable time, you stand the distinct possibility of having the charges dismissed because the Charter of Rights and Freedoms does require that these cases be dealt with in a reasonable time.

So it was not an option for us to just wait and wait and wait, and hope that something came to light. The obligation was on the Crown to move these cases along. We did, although we were concerned about the standard, you know, the amount of evidence before the court and we were trying very hard to make sure that all the evidence that there was had been brought forward and we were . . . in other words, just to put it plainly, bluntly, sir, we were trying to prove the case. So we're trying to ensure that the police had brought in all the evidence that there was to bring in and that sort of thing. And we were very fearful that the charges would be dismissed when the offer for a guilty plea was made. That was the circumstance.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, I guess another question that arises here is what about victim's rights? Is the department . . . do they have a position or, if you will, a program in place that kind of deals with or addresses the concerns of the victim, the

victim's families, or has a way of . . . Because when you look at it, like we can look at the case of Mr. Dove's case, certainly as a victim his life has been taken and he's not around any more, but certainly he's got a wife and he's got family that have . . . their lives have been tremendously hurt by the circumstances.

And this is just one. There are many other circumstances where there are innocent victims out there become victimized by the whole crime scene.

Is there a process the department has, or are we looking at a way in which we can deal with victims of crime and maybe address the concerns, not only the concerns they have, but it seems to me in a lot of instances there may be some monetary factors come into play as well that could be affected. And I'm wondering if the department has anything to address those concerns.

Hon. Mr. Mitchell: — Mr. Chair, and to the member, I'm glad that you raised the point because it's a very, very important one. In the particular circumstances of the Dove case, I would like to say a few things in connection with the question that you raised.

It's an example of how I think the system should proceed. The RCMP (Royal Canadian Mounted Police) had a relatively senior officer in direct and immediate touch with her, and that officer remained in touch with her as this investigation went along, and in touch with other members of the Dove family because it is a common experience that victims are . . . after they've . . . after the initial contact with the police are just left out of the whole process.

As a result they often don't know what's happening. They don't know what progress the police are making, or how the investigation is going, or whether there are going to be charges, and perhaps only learn of charges if it is published in the newspaper. And that is quite beside any of the emotional trauma, and the great stress placed upon individuals who are the victims of crime.

I want to say to the member that in the life of the previous government a legislation was brought before this House to establish the victim's fund. And that is a very important development, exactly along the line that the member has raised, where a fund of money has been accumulating specifically to provide for services or . . . services in respect of victims to ease their plight, to help them over the bad time, to assist them in coming to terms with the situation that faces them.

And that fund continues. The fund is built up by a surcharge on fines. And it . . . the money has been accumulating in that fund since it was established. The level now is . . . it's been coming in at the rate of \$1.8 million per year and the present level is about \$5.3 million. I'm indebted to my officials for helping me out as I go along here. And we have been working quite diligently at assessing possible uses for that fund. And I just want to take advantage of the member's question to just cite a few of these because I think it's

very interesting.

There have been victims' assistance units developed in the police offices in Regina, Saskatoon and Yorkton. I think the member knows I was in Saskatoon just the other day officially opening, with Chief Maguire, the victims' assistance unit in that city. And that's staffed entirely by volunteers other than a supervisor. And we used the victims' fund to set the office up within the police department and provided assistance for the hiring of the staff person.

And then there are volunteers from the community who are volunteering their own time to assist in the actual program which consists of getting in touch with the victims of a crime committed in Saskatoon at the earliest possible moment. As soon as the police are involved, the victims' assistance unit is also involved. And the unit focuses on the victim immediately and provides whatever help is appropriate in the circumstance, whether it's to be referred to some agency that exists out there for the purpose, say a transition house or a sexual assault service or whatever it happens to be and providing the victim with information and staying in touch with the victim and referring to counselling or some of the family service bureaus, and whatever is appropriate so that the victim is provided with all the information we can possibly provide to him or her, and stay with them until the trauma is passed, you know, whatever that consists of. This operates outside the police process because it's not concerned with the detection of the crime or the laying of a charge or the proving of the case, but is dedicated solely to the needs of the victims of crime.

(1930)

I just want to briefly mention other projects that have been approved. A child witness coordinator has been hired to assist child victims in relation to the Martensville cases.

There have been waiting-rooms furnished so far in Regina, Saskatoon, and Melfort — and other similar facilities are planned — a waiting-room where certain witnesses can go while they're waiting to be called at the trial. And in particular this is intended for young children rather than having them wait in the courtroom or outside the courtroom. We have a special room for them away from everybody involved in the case, away from the accused — you know who I mean, the person who the child is going to give evidence in respect of. They're inexpensive rooms but they're nicely furnished so that the child can have some comfort and not be frightened by the whole process.

We have purchased closed-circuit and video equipment for the Saskatoon court-house to be used in trials involving child victims so that they don't have to give their evidence in the scary atmosphere of a big courtroom filled with people, including the accused person.

We have provided funding for mediation programs in

Saskatoon and North Battleford. We provided a grant to a new program for victims of spousal assaults in Regina, and we have extended a grant to the Saskatoon sexual assault program to expand services to victims of sexual assault.

Those are some of the ways in which we've used the fund to respond to the needs of victims. I just want to say to the member, as I take my seat, that he made a good point by his question. We are very concerned about the victims of crime. Often the system is accused of being more attentive to the rights of accused people than it is for the situation in which victims find themselves, the rights of victims. I accept the point and we are trying to move in that direction as best we can.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, would there be, say, monetary compensation from this fund to victims? Say, the circumstances that could be arising where the major income earner to a home where family . . . his life has suddenly been snatched away and this family has been left in kind of a limbo. They don't have any income coming in. Would that be circumstances that would be looked at by this fund or a way of maybe trying to help victims at the time?

Hon. Mr. Mitchell: — The member will recall that we had a crimes compensation program in this province from the early '70s onwards. There was a board set up to hear applications from victims of crime to be compensated for the crime.

For one reason or another through the '70s and the '80s and into the '90s, that program was little known — incredibly. No matter all the efforts that were made over the years to publicize its existence, it didn't seem to be known to the people who suffered from . . . who became the victim of crime, who were a victim.

The program was accessed by only a relatively few people. I've no idea why that was the case. I've no idea why. In certain areas it would be known and there'd be a lot of claims from the area. Some crimes seem to attract more . . . or attract more applications. But generally it just didn't work anything like the drafters of the program in the 1970s had imagined that it would.

None the less, the cost of delivering that program in its last year was something like \$900,000 — \$900,000. We looked at it, as I believe your administration had, and felt that it just wasn't doing the job because it didn't . . . most people didn't know about it and there didn't seem to be any way of getting the information out.

And we were making . . . we were cutting all over the place at the time anyway in connection with the budgetary process, so we decided to eliminate that . . . I was going to say eliminate that program — to drastically reduce that program, which we did. And it is now budgeted, as you'll notice, at \$450,000. We still will compensate the victims of crime for a lot of things: for their out-of-pocket expenses, for their wage loss, for counselling. What we have stopped doing is

to compensate them for pain and suffering, for sort of the general damages head of it. So we compensate them for their real out-of-pocket expenses but we don't compensate them for pain and suffering.

Take the victim of an assault for example. We will compensate them for any direct expenses that they incur. We will compensate them for any loss of wages. We will compensate them if they need any counselling. I don't know if they would or not but in some kinds of assault clearly they would. But we don't give them that lump sum damages like they could get if they went to the court system and sued for damages.

So there is a program still there but it's reduced in the way that I described. It's administered now out of the department rather than by a separate board. But the member will recall this because we passed that legislation last year. That's our effort as far as compensating the victims of crime are concerned.

Mr. Toth: — Well thank you, Mr. Minister. Possibly, Mr. Minister, as well though, maybe when you've got counselling services available there and it would seem to me that a counsellor would have a fairly sound or positive idea on whether a person or not is in circumstances that they might require some financial assistance. And maybe through that source we could have at least informed them and give them . . . given them the details or the particulars how they could at least contact the board, or in this case now the department, to make their case and apply for any monetary help. And that might be something that could be looked at.

Another question I would like to ask. In general, how many charges that appear before the courts may start out or end up in the preliminary process as being possibly charged with murder and then over the stages of preliminary hearings and what have you, how many of those charges would, say, have turned from say murder to manslaughter pleas or bargains, or just through the courts even have been assessed as manslaughter rather than murder charges.

Hon. Mr. Mitchell: — There are 26, 27 murders a year usually, and in 1992 about half of those wound up being a manslaughter conviction. So if we say that there were 26 murders in 1992, that means about 13 of them would have wound up as manslaughter convictions. And it's about half and half whether the charges are reduced before or during the trial, or the jury finds the accused guilty of manslaughter but not murder.

Now going back to 1991, there were 26 murder charges in that year and 9 of them wound up as manslaughter convictions. And again it would be split about half between reduced charges before or during the trial and convictions for manslaughter instead of murder.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, another question that arises — and I'm not exactly sure whether this falls in the jurisdictional powers of the province or your department — is early release

and early release programs. And I'm just wondering what format the department has taken, whether we've made some recommendations; if it's not really in our jurisdiction or our area to follow up on, that if we've made recommendations, say, to the federal Justice department regarding this because we've . . .

Here again, there's been a number of concerns have been raised, circumstances that have taken place, and I think we're fortunate in this province that we really haven't had significant crimes committed due to early release. But in Canada in the last year or so, there have been a number of crimes that have been committed by individuals who were given an early release because possibly the courts felt or it was felt that they had reformed, individuals had reformed, and had paid their due sentence or penalty.

And I'm wondering if the Saskatchewan Department of Justice has discussed the issue and made any recommendations regarding the early release program because, Mr. Minister, quite frankly, I'm not really standing here suggesting that we should just firm it up for everybody.

I think there has to be some real sound guidelines in place because there's no doubt that there have been individuals over the years have been charged, have been sentenced, and over the period of paying their penalty for the crime they've committed have reached a point of being sorry for their crime and could become very productive individuals of the community.

In other cases, individuals have no regrets at all; they're not sorry at all. They may appear on the outside or on the top surface to look as if they've really reformed and would be model citizens to be released out to work in the public. And it would seem to me that we probably should have a stricter code of release that really looks at the whole case in general, the circumstances in general where a person applies for parole or early release.

And at the same time, it would seem to me, Mr. Minister, that maybe one of the problems that people run into, even receiving an early release, is the fact that if an individual has been incarcerated for some five or ten years, it may be difficult for that person or persons to get back into the mainstream of life. And through the psychological anguish of not being able to really get back in the mainstream, of not being able to find a steady job, or not being able to find a location where they're accepted as normal human beings, they end up possibly back into some of the crimes that they entered prison in the first place.

So I'm wondering what recommendations you would make, that the department has made, where we're going in this area.

Hon. Mr. Mitchell: — Mr. Chairman, in answer to the member's questions, I wrote to the Hon. Doug Lewis, the Solicitor General of Canada, in March of this year and said to him that I had concerns about the early release by means of parole or otherwise, of offenders

who have been convicted of offences involving extreme violence. I supported his initiatives to ensure that dangerous offenders are not released prematurely and I also assured him that we were anxious, that is Saskatchewan was anxious, to participate in consultations regarding parole and early release, and the development of new programs which will assist in the rehabilitation of offenders while at the same time ensuring that society is protected from violent persons.

Coincidentally I am meeting with Mr. Lewis in Saskatoon on Monday . . . Tuesday, pardon me, Tuesday of next week, and one of the items on our agenda is this same question. The member and I have discussed this matter in this House before on the record and off the record, and I know his thinking and I share the substantial points that he makes.

(1945)

We of course have jurisdiction with respect to people sentenced to the correctional centre and that involves people who are sentenced for less than two years. And we have an early release program and we have been very meticulous about that program over the years. We have established a criteria that had been in effect for some time concerning early release, and generally speaking, we try to be careful not to release anyone into the community who is going to be a risk to the life and limb of people.

We, for example, would not consider for early release anyone who had caused the death of a person in the commission of a crime within the last two years; or anyone who had attempted murder; anyone involved in a significant prison breach of conduct, you know, who wasn't a good prisoner; anyone who was serving a long sentence who was . . . happened to be in the correctional centre, and that sometimes occurs. No one is eligible until they have served at least one-sixth of their total sentence length before becoming eligible. And generally speaking, we give favourable consideration to people who we don't think will pose any threat to the life and limb of people on the outside.

It's always a tough call, because I can appreciate the difficulty that the administrators of the correctional centres have in assessing whether a person is likely to commit a crime if they're back out on the street early. And if there is a danger of doing that, then we don't do it. If, though, the judgement of the correctional people is that this person has learned his lesson — or her lesson in the case of Pine Grove — then an early release, the prospect of an early release can be a very beneficial thing. The prisoners in effect earn it and work towards it and appreciate it. And we believe it makes a significant difference in their attitude when they are out, that they have gotten out early and they are impressed by that and are less likely to commit another crime and go back into jail. If they go back a second time, their chances of getting out early are dim, slim.

We worry a lot about it and when something happens where a person on an early release commits another

crime, it's a great embarrassment to the correctional service, to the department, to the government. And it always is, of course, properly so, picked up by the media and publicized because the public are interested in that sort of thing. So we try and be as careful as we can. Sometimes we miss but mostly we don't.

The federal government has a more serious problem there because they've got the hard cases in the penitentiary, people who are convicted of more serious crimes. And as I indicated to the member, I wrote to Mr. Lewis and I have a meeting with him again next week to discuss this very point.

Mr. Toth: — Mr. Minister, when we talk about sentencing and talk about young offenders . . . and I believe last year we raised the question as well as to how we treat individuals who have a minor crime. Maybe it's a minor sentence, whether it's minors or whether it's an individual, say — well, just throwing an age out, even in their 20's or 30's — never really been involved in a crime before, and involved in, say, a crime of minor proportions, which a lot of times you'll probably find people regret that they even allowed themselves into those circumstances.

And as I mentioned, I believe last year too I brought out the fact that I don't necessarily believe or personally believe that people should always be incarcerated for some of their crimes that maybe we should . . . could do more for society by having people pay for their crimes in other forms, maybe of services to communities or repayment to individuals that . . . or compensation to individuals that have been hurt through the crime. I'm wondering what has the department done, or had any further discussion through this past year regarding circumstances in that area, what's been done and where are we today?

Hon. Mr. Mitchell: — I think that the member's question contains many of the elements that will be important . . . I insist the member listen to the answer to the very interesting question that he asked me. You can read about it tomorrow if you miss it tonight.

I was saying that some of the elements of the member's question will, I think, be prominent features in the way in which crime is treated for the future, in the future. It is the case now with respect to many of the points that you raise. Our prosecutors are very interested in the matter of how convicted people are sentenced or how convicted people are handled by the court and they try hard to gauge in each particular case what we think would be an appropriate way of handling the case and include that in our submissions to the court when the judge is deciding what sentence should be opposed or what disposition should be made of the case before him or her that will frequently involve a recommendation for a probation or an agreement with a submission for probation. At any given moment there are probably 3,000 people in this province who have been convicted of a crime or pleaded guilty to a crime and who have been allowed to remain free on probation.

We try and cooperate with that because it is a fact that very often the worst thing you can do with a particular offender is to send them off to jail. People learn bad things in jail. And I won't say in all cases, by any means, but in many cases one of the . . . probably the worst thing you could do in relation to that particular accused is to send that person off to the correctional centre for any period of time. Sometimes it's the only thing to do. Each case has to be judged on its own merits.

We also have a developing program with respect to electronic monitoring, and some of the judges are quite interested in this. You'll be aware that Judge Vancise of the Court of Appeal voluntarily submitted to electronic monitoring experience one weekend just to get a sense of how it worked.

So obviously the courts are interested in it, and it would seem to have a good deal of prospect for the treatment or the disposition of a number of cases where the court wants to limit the subject's freedom in punishment for the behaviour that led to the offence or led to the conviction while at the same time not wanting to send the accused off to the correctional centre to serve time behind bars. So the accused can have their freedom limited by being in their own home and not free to get out and move about the community and thereby suffer some significant penalty while not being in the correctional centre. And we like that program; we like what we know of it, and we think that the system will move in that direction.

We also are very interested in diversion projects. This is a subject that has been discussed often in recent years and particularly recent months in connection with predominantly aboriginal communities where an effort will be made to deal with an offence in some way other than through the regular court system. And aboriginal communities have very often set up circles of elders and community leaders to try and deal with deviant behaviour, bad behaviour, criminal activities of a relatively minor nature without actually having to involve the judges and the prosecutors and the defence and the court, the correctional centres, but to deal with it on a sort of human-to-human basis right in the community.

And I think that has a lot of prospects, and we're trying some of that in connection with the mainstream community as well as the aboriginal communities and seeing if we can't make a little better progress rather than just automatically drag everybody into court and handle them without regard to their own situation and the circumstances, the particular circumstances of that case. So I think that we're going to see a lot of developments in this area over the next few years.

The member will know that in the United States in recent years they decided that what they needed to do in order to rid the U.S. (United States) of crime was to build more prisons and send more people to jail. And they've done that, but nothing good has happened to the crime rate and the program hasn't produced the kind of result that they thought it would. So I believe

that that's not the future.

I believe the future lies in being more . . . in the court system, in the justice system acting in more appropriate ways as far as individual accused are concerned. And some of those ideas the member has mentioned, and I think the future lies in that direction.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, I was wondering for a minute if you were thinking of volunteering for that surveillance program.

Mr. Minister, there's no doubt that the penal system is a costly system. And no matter how we work it out, it costs a fair bit to try and rehabilitate criminals — I shouldn't use the word criminals because maybe not everybody could be . . . yes, they've committed a crime but there are certain degrees of criminality I guess, if you want to put it that way. But just to put everybody and incarcerate them behind bars is not necessarily the appropriate form of trying to make productive citizens out of individuals. And I appreciate your comments.

And I also want to commend you for the fact that we're looking at ways of dealing with certain groups in communities, and I think you're quite well aware of the healing lodge proposed — or I believe it's already in the process of being constructed in the Maple Creek area. And it's much to my chagrin, and the chagrin of a number of people out in the Moose Mountain area, who may have submitted a proposal as well. Certainly the unfortunate part when . . . it's a costly . . . Penal systems are costly but they're also good economic generators to the communities that they're part of.

What I'm wondering right now, Mr. Minister, is at present we have a young offenders' camp at Kenosee, and I've been informed it hasn't been utilized. There haven't been as many young people have been sent out to work in the camp or be involved in the camp. And I don't know how many other camps we have around the province. Now I'm not sure if that's exactly true, or what's being done, or if the department is looking seriously at maybe closing down camps like this where we give young offenders an opportunity to at least be involved and do something. And that's a way of partly paying off their crime and getting them out of the behind-bars routine more so into more of a I guess a more homey type of atmosphere. I wonder if the minister could respond?

(2000)

Hon. Mr. Mitchell: — Mr. Chairman, and Mr. Member, I'm not going to be able to be of much help to you on the question because the young offenders' program is not in the Department of Justice. We know things about it but it's located in the Department of Social Services.

With specific reference to the Kenosee camp, we just don't know the answer to your question. We suspect that generally these are low-risk prisoners, offenders, who are in these camp situations, and there are diversion projects under way there also, and it may be

connected to those too. But I'm afraid I just don't know the precise answer to that situation.

Mr. Toth: — So what you're saying then, Mr. Minister, is that the Department of Justice really isn't involved at all with that program. And if you will it's what . . . am I to take it, to understand that person for a very minor crime who — in most cases they would be considered minors — are put in the hands of then the Social Services and they then provide a program for them? Is that what you're saying? That Social Services then provides a format to give them . . . to provide some work and to take care of them through a period of time while they're serving time for a crime committed.

Hon. Mr. Mitchell: — The young offenders are of course determined by age under the federal legislation. And the court, in dealing with these young offender cases, will prescribe what kind of custody or what kind of situation the sentence is to be served.

And there will be custody situations like a correctional centre, and there are those facilities of course around Saskatchewan. And then there are other kinds of facilities of which the Kenosee facility is one, where they are the low risk kind of offenders who can have fairly easy contact with the community.

But beyond those sort of general statements about the young offenders' program, I just can't go into any detail because it is not and has never been our program in the Department of Justice.

Mr. Toth: — Thank you, Mr. Minister. A question regarding . . . I mentioned it just a while back. Sexual assault or sexual harassment, child abuse — how many of these cases would come before the courts in a year? The concern I have, and I'm just wondering, is what kind of a format does the department have in place when you're dealing with situations like this.

And there again I come to the point of an individual being innocent until proven guilty. And certainly I'm aware of a couple of situations in particular where people, specifically parents, have had accusations made, and teachers have had accusations made against them which in the end have been proven to be totally false. But the fact is, once an accusation is made, once it becomes public, it creates a major problem for the individual. It creates a problem for a family. It creates a problem whether it's in the school, whether it's in a business.

It would seem to me, Mr. Minister . . . I'm not trying to put such restrictions on it that people are fearful to come forward if they do have a complaint to lay, that we have a process in place that indeed addresses the concerns of making sure that people do have the ability to come forward with charges of assault that are looked at appropriately, and yet at the same time protecting the victim until indeed guilt or innocence is proven. And as well, Mr. Minister, as I indicated earlier, how many of those would you see in any given year?

Hon. Mr. Mitchell: — Mr. Chairman, and to the

member, we don't have numbers for you. We don't keep track of numbers in a way that would enable us to answer the question of how many sexual assaults and child abuse cases and, as you say, harassment cases, that there have been. We just . . . we can't answer that question.

I have the impression — and I think you do too — that there are a lot of them, particularly with respect to child abuse. Sometimes it just seems like there's an epidemic out there and I am unable to understand why. But it certainly is a huge problem for our society, I think, in light of what we hear in the media and what we experience in the department.

The presumption of innocence applies in all of these cases. As I was saying earlier, every offender or every alleged offender with respect to these offences must be proven guilty beyond a reasonable doubt. We have no policies that there be 100 per cent prosecutions, let's say. You know, we retain the practice — quite properly so, I think — of assessing each case as to whether there is a reasonable likelihood of being able to obtain a prosecution.

That is pursuant to the simple idea that you would not unnecessarily put any citizen through the trouble and expense and trauma of a trial if you did not believe that you had a reasonable likelihood of convicting that person, and I think that's fair. I think it would be irresponsible of the Crown just to prosecute for the sake of looking good, or prosecute for the sake of prosecuting.

I think that this kind of assessment is a desirable thing. It's a very difficult thing, a very difficult thing, because the prosecutors are working from statements and evidence that has been gathered by someone else and are trying to assess the impact that that will have on the judge or the jury when that evidence is heard in open court. And that's very, very difficult. Sometimes the assessments don't turn out to be correct; sometimes they do.

We try in this way to avoid situations where the charges are false. But it's very difficult, and as I said, sometimes the assessments don't . . . turn out not to be correct. But we do our best.

The member asked about efforts to protect the victim and that also is difficult. Let me take the Martensville case though, where the evidence is going into court now, you know; some of it's already in. One of these cases has been tried. A young offender has been tried. The evidence is of a nature where the department felt that it should apply for an order from the court that the evidence not be publicized, not be published.

That was in an effort to protect the victims who are giving evidence and who don't want to see their evidence spread out all over the media with all of the implications from that. And that's an example of some of the things that we can do to protect victims and save them from all sorts of grief as a result of their evidence being public.

The last thing I want to say in respect to that question is that the whole system is set up in such a way to ensure that innocent people aren't convicted. That's been the thrust of the English common law with respect to the handling of criminal cases for hundreds of years. Better that any number of guilty people should go free than one innocent person is convicted and jailed. And so the presumption of innocence applies and the burden of proof applies as I've explained to the member already.

And there will be cases where the evidence isn't up to the mark and the citizen is quite properly acquitted. There are other cases where the evidence that's given in court doesn't match the evidence that was given in a statement, and in those circumstances it looks like the person has been improperly charged or falsely charged, as the member . . . falsely accused, I think was the term the member used, and it may appear that way.

I can say to the member though that it did not appear that way to the prosecutors as they were assessing whether or not to proceed with the case. It's just that the evidence doesn't turn out to be as the statements indicated it would be, and so you have those cases that occur. It's unfortunate. And we try to ensure that they don't happen, but they do. And I guess we just have to put up with that.

Mr. Toth: — Mr. Minister, how many lawsuits have been filed by individuals against the province this past year? And what cost would that be to the province?

(2015)

Hon. Mr. Mitchell: — Again I can't answer the member's question. But I can more than answer it in another sense.

What I have sent across to the hon. member is a list of all of the litigation that is outstanding against the government. We don't keep track of when it comes in, of when the actions are started. And then the files come in and they're handed out to solicitors in the department and we just simply have no record of the actions that have been started with this year or last year or any particular year.

But all of the actions that are outstanding against the Government of Saskatchewan are included in the document that I sent across to the member. And the listing covers some 13 pages, so those are all of them. And I cannot talk about the cost. I'm not sure what the member means by cost, whether it's how much we're sued for, or what had been the cost of defending these claims, or what the situation is. But this is all the information that I can give you tonight.

Mr. Toth: — Thank you, Mr. Minister. It seems to me that certainly when files are brought before lawsuits are raised that there is a cost in following through and going to court, carrying the cases and what have you that . . . And I can appreciate the fact when I look at the list you've given me here that it would be difficult to know exactly right now what the cost would be. I

noticed on page 8 there's yes and no's here, Mr. Minister. Would I take it that yes would indicate that case had been completed; no is an indication that those cases are still ongoing?

Hon. Mr. Mitchell: — The right-hand column, activity in the last 12 months, it means that there has been some step taken or something happened on that file in the last year. Some of these files are very old, and they're still open because they haven't gone to trial and haven't been concluded, haven't been settled. And if nothing has happened on them in the last 12 months, then we've put a no opposite the claim. And if something has happened, we put a yes. It gives you some rough idea of whether or not they're active.

Mr. Toth: — I notice on page no. 8 we have *Messer v. Government of Saskatchewan*. Would that be the former minister of . . . On page no. 8 we have one case, agricultural case, *Messer v. the Government of Saskatchewan*. Is that the present chief executive officer of the Power Corporation?

Hon. Mr. Mitchell: — Yes. Just while I'm on my feet I might mention that this listing does not include any of the constitutional cases. We'll provide those to you separately.

Mr. Toth: — Well I sure hope with all this hot weather that he gets his fly problem under control for your sake.

Another thing, Mr. Minister. Regarding the GRIP (gross revenue insurance program) question and the major changes that were made to the GRIP last year — and I know there were a number of trials or cases that were brought before the courts in Saskatchewan against the government on this issue — and I wonder if you could kind of . . . or let us know exactly where proceedings are to date, whether there are still ongoing litigations against the province regarding GRIP. I'm wondering, Mr. Chairman, if we could just have . . . it's a little hard to hear with some of the discussion that's taking place.

The Chair: — The member makes a good point, and I would ask the cooperation of the other members of the House so that the proceedings can carry on uninterrupted, and specially would address my remarks to those who are behind the rail and insist on carry on conversations. Perhaps they could do so outside the Chamber.

Hon. Mr. Mitchell: — Let me try and summarize the note I have on this subject. An action was commenced by a group of five farmers, represented by your friend and mine, Grant Schmidt, claiming specific performance of their original GRIP 1991 contract, and they obtained an interim injunction from the Court of Queen's Bench prohibiting the Crop Insurance from requiring any of the participating farmers to make an election whether they would participate in the 1992 program. Then the matter was taken to the Court of Appeal and the Court of Appeal agreed to hear the application.

The legislation then that went through this House, was passed in, I think, the month of August 1992. The matter then went to the Court of Appeal and was argued in front of the Court of Appeal. The Court of Appeal declined to make an order, declined to . . . the matter — I'm being instructed as I go here — the matter was argued last week and the decision was reserved. So the appeal has been argued in the Court of Appeal. And that brings up right up to date on it.

Mr. Toth: — Are there any other actions against the government regarding the GRIP program other than the one that you've raised that's being presently represented by counsel from the former minister of Labour in the province of Saskatchewan? Are there any other actions by any other groups on the GRIP question as well?

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, there are four or five actions that have been commenced with respect to the GRIP program. There has been no action beyond the starting of the action. They've been awaiting the result of the case that we've just discussed where Mr. Grant Schmidt is the lawyer. I can't tell you on this which ones they are, but they're included on this list.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, you're aware of the debate that took place in the legislature last year regarding that very question of the government's ability to change a contract well after the fact. And maybe it would be fairer to ask the minister as the Minister of Justice and as a person, an MLA (Member of the Legislative Assembly) in this Assembly who the people of Saskatchewan have put their trust in, whether or not the government's actions last year were fair, whether they dealt with individuals fairly, whether they were justified.

And in light of the fact that I think at the end of the day, even just the actions being taken in the courts, certainly there is a fair bit of time that's going to be taken up. There's going to be a lot of costs: the time of your judges, your court costs, a lot of . . . I'd like to know as well what type of monetary values we're going to be looking at the end of the day regarding these actions that have been taken due to the government decision.

Hon. Mr. Mitchell: — The issue that the hon. member raises is an issue in these actions that we've been talking about, that is the effect on the contracts, the effect that the legislation had on the contracts. And the member asks whether that's fair, and I cannot comment on that because it is at issue in these actions. Similarly I don't know what they may be entitled to if they're successful. We're defending these actions. As we explained during the debate on that Bill, the government is confident that what it did was legal and appropriate. But it's for the courts to determine, and it would not be appropriate at all for me to comment on it.

Mr. Toth: — Mr. Minister, one question I had kind of given just before I sat down, I'm wondering: has the department given consideration to the type of costs

that you might face at the end and by the time we've reached the end of all the litigations that are taking place regarding the GRIP question, are you anticipating . . . do you have any kind of monetary figure that you might be facing. I know it could be, depending on the case is arrived at, that the resolve of the case, whether if there's certainly a resolve in favour of the farmers, it could be millions of dollars, I would imagine, could be involved. But I'm wondering if there's any thought has been given as to the cost to the taxpayer because of these actions.

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, these are actions for damages. These are actions where the plaintiffs are claiming damages against the government in respect of the GRIP situation.

I just can't possibly answer the member's question. I mean it would potentially prejudice the proceedings, and it would be inappropriate for any minister of the Crown, and particularly for me, to even try to answer your question. And I think I just have to leave it on that basis.

We are defending these actions, we intend to continue defending them, and we will just simply have to wait and see what the courts decide.

Mr. Toth: — Well, Mr. Minister, if I, after having watched Perry Mason over the years . . . it would be nice to kind of stand here and just bring points forward and being able to say at the end of the day, I told you so, and turn around, someone pops up and says they're guilty. Yes, right, we assume responsibility.

But when we look at the circumstances here, and as the minister has indicated, he doesn't really want to maybe prejudice the case. I guess in some ways, it's certainly a comment — and I didn't really expect that you would indicate how you really felt in certain circumstances because I appreciate the fact that even suggestions or comments made in here will make their way outside and could . . . although the farmers in Saskatchewan need all the help they can get at the present time.

But, Mr. Minister, who's handling the case for the department? To what law firm is defending it?

(2030)

Hon. Mr. Mitchell: — There are two defendants in these actions. One is the Crop Insurance Corporation who retain their own counsel on it, and I'm afraid I don't know who that is.

So far as the government is concerned, it's represented by the Department of Justice and one of our law officers, Don McKillop, is handling all of these cases.

Mr. Toth: — Mr. Minister, moving on. How many lawsuits has the government entered into this year itself, actions against individuals or corporations in the province of Saskatchewan?

Hon. Mr. Mitchell: — We have some such actions; they are all collection actions where money is owed to the Crown. I think there are three of them on this list. I think there are three of them on this list, and I just can't put my hand on them right now, but they would be actions where the government is shown as the plaintiff. And if the member likes, we could dig those out for you.

Now these are cases where the amount is over \$20,000. There are other collections — I don't know how many — where we're suing for lesser amounts. And I think we could dig those out if we . . . I am advised there are hundreds of those where the collection involves less than that amount. Some of them are being handled by collection agencies, some of them are subject to action in the courts. And just to repeat myself, the actions that have been begun are all in respect of money owing to the Crown.

Mr. Toth: — Thank you, Mr. Minister. Mr. Minister, another area I'd like to move on to and I'd like to maybe get some responses on is another major question that has arisen. And recently I've received . . . And it's unfortunate that I didn't get a hold of one of the secretaries in time to ask them for the file that we've developed on it. But a number of individuals — and I'm not sure if they're working out of a law school in Ontario — have raised the question of Mr. Milgaard and whether he has been fairly treated in his case.

And it's been an ongoing case, and it would seem to me that there are a lot of unanswered questions regarding the Milgaard file yet. And certainly his mother has indicated that she feels there's a number of injustices that are still sitting there that haven't been addressed, haven't been answered. And I'm wondering exactly where we are to date with the Milgaard file. We've been kind of waiting for . . . It seems to me that, I believe, there is a process or an appeal process that's taking place. I'm not sure. Is it on in Alberta, or is there some address being given to the file?

I'm wondering what the situation regarding Mr. Milgaard is today, in light of some of the accusations he's laid, and the fact that after a number of years it would appear from evidence or just proceedings that have taken place over the past number of years, that for 23 years maybe indeed we're dealing with an individual whose real guilt or innocence wasn't really proven and he's given up a fair bit of his life.

Certainly there is a portion of his life that he's lost completely where he wasn't a productive member in society; an area of time that he probably would've been more than happy to have been at a job or been raising a family or at least doing something to better his life. And now he's in a position where it's very difficult for him to even at his age to find employment with the lack of education that he possibly has.

And I'm wondering, Mr. Minister, if you could bring us up to date as to what is transpiring regarding the Milgaard file.

Hon. Mr. Mitchell: — Yes. Well here we are again one year later. And I wonder if a year from now, if I'm still the Justice minister and the member is still the Justice critic, whether we'll be discussing the Milgaard case again. I just want to very briefly talk about the general position and then I want to answer the member's question about what's happened recently on this matter.

Our position is that this matter has been the subject of a very intensive public inquiry by the highest court in Canada, by the Supreme Court of Canada. Five judges sat for a total of 14 hearing days and heard all of the evidence that any interested party wanted to bring with respect to this matter.

After 14 days of hearing in which all aspects of the case were examined into or where everybody including David Milgaard's counsel had the opportunity to bring any evidence that might have affected the court's decision, the Supreme Court of Canada said a number of things.

First of all, it refused to find David Milgaard innocent, as they had been invited to find. They refused to find him innocent. They refused to find him innocent either using the test of proof beyond a reasonable doubt, which I've mentioned earlier to the member; and further, they refused to find him innocent on the test of a balance of probabilities, the sort of civil law test that I was discussing earlier with the member.

In short, the Supreme Court of Canada refused to find him innocent. Now I have been asked by all kinds of people — some in the media, some in the public, some in the Milgaard family — to find him innocent. And I don't know how I can do that when the Supreme Court of Canada, after 14 days of inquiry, can't find him innocent on either . . . using either of those tests. Then how am I . . . how is someone like me able to suddenly pronounce on the matter?

The Supreme Court of Canada ordered a new trial. The case had happened some 20 years previously with all of the evidentiary problems that that presents. But more to the point, the Supreme Court said that if we did proceed with a new trial, and if he was convicted again, then they were recommending to the federal Minister of Justice that he be pardoned. So what would be the point of going to a new trial? And accordingly I decided, after due consideration, that we would not try him again.

So we entered a stay of proceedings and the matter is over. I say the matter is over because in a stay we would have a period of one year in which we could proceed with the charge and the year is expired. So the matter is done. He is entitled to whatever presumptions apply to his situation and I don't know what the legal result of all that is. But in the result, Mr. Milgaard is out and free and able to conduct his life however he wishes.

In this set of circumstances there is simply no basis on which we would order an inquiry. It just simply is . . . it lies ill; it's not appropriate. It lies ill in the mouth of the

Milgaard lawyers to say there is other evidence that hasn't been looked at, considering that they had the opportunity to introduce that same evidence before the Supreme Court of Canada to prove the innocence of Mr. Milgaard.

And for reasons that I can't possibly know, they decided not to do that. Well I am not going to order another inquiry to look at evidence that they decided not to call before the Supreme Court. And in light of all of that, it is just not, it is just not . . . it would not be responsible for us to consider paying taxpayers' money as some kind of compensation in those circumstances, and so I've refused to do that.

Now I want to deal with recent events. The member will know that I received in an indirect way from the Milgaard lawyers a one-page statement signed by someone who said that he had been employed in the Department of Justice back in the 1970s and making certain allegations that involved the Premier and the hon. member from Regina South. I referred that statement to the RCMP.

It is my understanding that the RCMP subsequently interviewed the Milgaards and I believe conferred with — or at least interviewed — the Milgaard lawyers, and they went away from those interviews with a longer list of other matters, of other things that the Milgaards felt should be looked into. And it is my understanding that the RCMP continue with that investigation.

We have not received the results of that investigation but we have arranged, we have arranged with the Alberta Attorney General's Department to be the instructing department — receiving department — with respect to that report. So the RCMP are dealing with the Alberta Attorney General's Department in respect of those allegations.

We did that because two members of this legislature were part of the investigation and in those circumstances it would not be appropriate that they would report . . . that the RCMP would report and confer with our department.

So we await the result of that investigation and I have no idea — I cannot tell the member — when we will receive that report because we haven't been told.

The member will also know that Milgaard has begun an action against the prosecutor at the trial, Mr. T.D.R. Caldwell, and against the member from Regina South, and against the Saskatoon . . . I think the Saskatoon City Police and the city of Saskatoon, in respect of some of their complaints. The action is being defended by all defendants and I'm just not able to tell the member at what stage that is, whether defences have been filed or whether any further proceedings have been taken.

Mr. Toth: — Well thank you, Mr. Minister. Certainly it's a complicated file — I guess if you would call it that. When you look at an individual having spent 23 years behind bars, and at the end of the day there's still

... I think a lot of people would feel that there's still some reasonable doubt as to whether the verdict or the case as it was presented some, well it would be about 25 years ago now, indeed the decision that was arrived at at that time was maybe fair, and it's hard for us to really sit here today, 25 years later, when a lot of the individuals involved ... I guess in some cases some people are no longer with us to confirm some of the actions that were taken. But at the same time you can appreciate where an individual like Mr. Milgaard is as well when you look at the fact that some \$619,000 have been spent just on that one case alone.

And Mr. Milgaard today is out there and how he's existing to my knowledge, he's basically just living off social assistance. It appears to me that he really has no other recourse because it's been, I'm sure, awful difficult for him to have been incarcerated for some 23 years, come out into society, and no real opportunities, never really had any opportunities, hasn't got any real work experience. With a criminal record on your back, it's quite difficult to get back into society and become part of society and involved and caring for yourself.

I would imagine that Mr. Milgaard goes through some very difficult days mentally as he tries to get his life back together. So it would almost appear to me that at least there would have been some fairness if — whether it was the federal court or through an inquiry on the provincial side — we could have arrived at something that would have at least given some compensation for years lost. But I guess if you can't arrive at the guilt or innocence, or we're not going anywhere with it, it's hard to just establish what would have been fair compensation.

(2045)

Mr. Minister, another question I'd like to get into for a few moments is the whole case that's before us regarding Bill 38. And the Human Rights Code, I believe, comes under your jurisdiction as well. I'm wondering, Mr. Minister, if any polling or any discussion with polling was done. What consultations took place regarding the whole implementation or bringing forward of Bill 38?

Hon. Mr. Mitchell: — The answer, Mr. Chairman, is no, the government has not done any polling with respect to any aspect of the matters contained in Bill 38.

Mr. Toth: — Mr. Minister, it would appear to me and appear to ... I'm sure that your office, I'm sure many of your colleagues ... as my colleagues have received requests from people all across the province regarding this issue. They've raised a number of concerns. Certainly we've had some discussions on it and I appreciate the time you've given. A number of people have ... would want to say that they've appreciated the time that you have given as well, to at least listen to the concerns they have.

And one has to wonder about the real necessity ... Now I know we're going to get into some of this

argument as we get ... proceed through Bill 38 and get into committee as well.

But when you look at all the factors and if indeed the major concern before us is discrimination based on employment and housing, why, as a government, you wouldn't have looked at what other jurisdictions have done, such as the state of Massachusetts where they have brought in specific legislation that outlaws discrimination against certain sectors of our society, in this case the homosexual community, for housing and employment. That basically what it did was strengthen their present Human Rights Code rather than opening up the Human Rights Code by adding to the Human Rights Code as we are doing in our province, Mr. Minister. I wonder if you could respond.

Hon. Mr. Mitchell: — I will indeed. I just want to go back to the polling question for a moment. I answered the member's question in categorical terms and that's the correct answer as far as I know. I am not aware of any polling having been done or that is currently under way, and I ... but I want to tell the member, I don't necessarily know of all the polling that is currently being done. And if I learn otherwise, I will ... if I learn otherwise I'll tell the member.

I want to now come to the question of why these prohibitions against discrimination have been included in the Human Rights Code rather than in other statutes, and the answer is very simple. This matter has been dealt with by most of the other jurisdictions in Canada and in each case this legislation has been included in their Human Rights Code. And so when we made the decision to proceed with these prohibitions we put them in our Human Rights Code as has the other provinces. I don't know what there would be about Saskatchewan that would lead us to do it in a different way. And frankly it seemed to us to be appropriate to deal with it as a matter of human rights. After all, we're talking here about a prohibition against discrimination. And that's what the Human Rights Code is all about. It's a prohibition against discrimination.

So when we decided not to discriminate in employment on the basis of gender, that was put in the Human Rights Code. It was not put in an employment code or an employment law or a labour standards Act or anything like that. It was a matter of basic human rights. That's how we view it as the member knows, and that's why we put it in ... proposed it as an amendment to our Human Rights Code.

Mr. Muirhead: — Mr. Minister, I'd like to ask you a few questions too on Bill 38. Could you tell me who drafted the Bill? Was it your department officials? Or outsiders? Or whatever, Mr. Minister.

Hon. Mr. Mitchell: — It was drafted by the drafting people in the Department of Justice.

Mr. Muirhead: — Mr. Chair, and Mr. Minister, did you get advice from

outsiders when you were drafting, or just directly all your advice just come from your own department officials? Was there any advice from outsiders?

Hon. Mr. Mitchell: — Mr. Chairman, and to the member. It was all internal. We didn't have any assistance in the drafting process from anybody else.

Mr. Muirhead: — Thank you, Mr. Minister. I heard your comments and read *Hansard* on your explanation on second reading. I'd just like you to maybe — we're not going to get into the Bill here, anything that we can talk about in committee or whatever on the Bill — I'd just like to ask you, maybe just in your own words, to tell us your main objective, just in a few short words, your main objective of bringing this Bill to the House in the first place, the highlights of why.

Hon. Mr. Mitchell: — It's a very simple matter, very simple answer to that question, Mr. Chairman. It is that we considered that it is necessary in this province to introduce a law that will prohibit discrimination in respect of the matters covered in the Human Rights Code on the basis of the three new matters that are being introduced. It was simply a question of dealing with the question of discrimination — no more, no less.

Mr. Muirhead: — Mr. Chairman, Mr. Minister, thank you. Now any time any government brings any Bill to a legislature, pretty well all over America, there's some reason for it and there must be somebody asking or pressure or a request or whatever. Now I never heard public . . . and I've been a politician for . . . well it's 21 years I believe since I was campaign manager for Doug Neil when he won the election in '71, so it's 22 years and I've been an MLA for 15 years — I've never had a request or any discussions on such a thing.

Where did you get this pressure from, or these requests from, and what information do you have to show us how . . .

The Chair: — Order. I've listened to the exchange between the member for Arm River and the minister, and the questions pertain specifically to Bill 38, in fact in a member's ultimate question, he referred to Bill 38. And although it may be appropriate to ask questions of any expenditures that might be related to Bill 38 — I suppose polling might be one — to deal with the principles of the Bill, to deal with the antecedents of the Bill, seems to me at this point not to be an appropriate line of inquiry in the estimates that are before us.

And I don't want to limit the member, but I would point out that Bill 38 is before the Assembly. It is in adjourned debate stage. It will, I assume, reach the stage of committee where there will be opportunity to ask the minister all manner and nature of questions. And therefore would caution the member to not proceed with this line of questioning at this time.

Mr. Muirhead: — Mr. Chairman, okay, thank you. We'll just rephrase that question a little bit. Let's forget about Bill 38 and let's just talk about requests from

anyone pertaining to human rights. You don't need to talk about Bill 38; forget about it's even happen then. Where did you get any request talking about special rights for homosexuals . . . for human rights or for homosexual and lesbian people? Where do you get that request from? Forget about Bill 38.

Hon. Mr. Mitchell: — Well the answer, Mr. Chairman, is from many, many sources over many, many years. I personally have had any number of people over many years talk to me about introducing the sexual orientation aspect to the Human Rights Code. Some of these representations come from people who I am told are part of the homosexual community, and others come from people that are concerned with human rights. There's a human rights association, and some of the people that I know belong to that association. I don't know them . . . as far as I know they're not members of our political party, but they're concerned with human rights.

Within our party there are a lot of people who have been raising this issue over many years, and I've heard it in my own constituency association meetings as something that our party should do if we were to win an election. This is discussions during the '80s. The member will remember I was a candidate in 1982 in the same constituency that I now represent and then I ran again in '86 and was elected. And during that time, just any number of people who have an interest in the human rights legislation . . . there are quite a few in our party that would raise this matter.

I believe it has also been the subject of resolutions accepted at our annual conventions. Now I have not checked that personally, but my recollection is that this matter has been debated on the floor of our conventions and has been passed. I could confirm that for the member, but as I stand here, I believe that to be the case.

I have also been involved in I think one meeting with one of the organizations of lesbians and gay men who have specifically requested that information. I know there have been others, but I personally recall having been involved in one of them. There may have been more. Now that I mention it, I think there was second one years ago that I was at. So that would be another source.

In addition to that, we have been aware that this legislation has been passed in other provinces in Canada. That's well known of course to us as it is to you. And most recently it was introduced in the federal House of Commons by Kim Campbell when she was the Justice minister.

So there's a lot of sources for this idea. It's not something we just dreamed up or found lying on our desk one day. It's been the subject of a lot of discussion over the years, and clearly something in our view that Saskatchewan must do. It just doesn't make sense nor is it fair that the majority of Canadians enjoy this protection while people in our province do not. That just doesn't seem reasonable.

Mr. Muirhead: — Mr. Chairman, I guess that kind of throws it wide open for me to talk about the legislation because I said we won't talk about Bill 38 and the minister did refer to the legislation.

But anyway, but having said that, I guess I'm proud that I'm not in the same groups of people as you're in because that just never happened to me. You've only been a politician for a few years, Mr. Minister, and you've never knocked rural Saskatchewan like I have, and I've never had the requests, so I guess different types of people must come to you.

You must have different types of people that your associate . . . that I do then. And I'm proud that I don't have to have these kind of people come to me wanting special rights. Now I don't want them to be discriminated upon below my level, but I don't want them to be above my level.

And I think that is absolutely . . . I like, Mr. Minister . . . my question to you, Mr. Minister, is can you table in this House, in these estimates . . . it has nothing to do with Bill 38, it's doing with any request you've had for special rights for homosexual and lesbian people. Can you table any legislation or any requests in writing that you've ever had, and how many or what because I doubt it's as many people as you say it is.

Hon. Mr. Mitchell: — Well I didn't say to the member, nor is it my recollection, that I have received a written request, although I may have. I don't recall with these meetings whether they were a written brief or not. I suppose I could check that. So I can't do that.

(2100)

Further, and just my last comment on this particular question, I do not, nor does the government of which I am a part, view this as a case of special rights. We simply view this as a question of protection from discrimination. And with great respect — and the member knows the respect that I have for him — protecting someone from discrimination is not a special right. I've tried to make that clear in my speech, and I thought I was so persuasive in second reading that the member wouldn't raise the question again, but I do not view this Bill as conferring special rights on anybody.

Mr. Muirhead: — Mr. Minister, I appreciate your comments, and I do believe that that's what you believe. But I don't agree with you, and I have my rights not to have to agree with you. And I'm going to give you that right that whatever you want to believe, that is your right. But I believe it's wrong, absolutely wrong and I have my rights. So there's no way, Mr. Minister, you can stand on your feet and say that you've said your statement and that I must put it to rest and not mention it to you again.

Let's ask another question because if you haven't got mail piled up in your office, asking one way or another about this — we won't mention the Bill as I've said — just about protection of human rights for special people, homosexual, lesbian people . . . You must

have lots of letters and lots of comments and lots of phone calls one way or another. If you can't recall having any asking for it, I'm sure you've got a few thousand the other way or a few hundreds or whatever. How many comments or how many letters are you getting saying we don't want this Bill?

Hon. Mr. Mitchell: — Oh, I've received many such letters. I've also received letters supporting the Bill. But I've certainly received more letters opposing it. I've tried to answer each of those letters, and I believe I have.

It seems to me that, with only a few exceptions, the basis of the opposition stated in the letters were based on a misunderstanding of the legislation as I interpret it. And in my responses, I've tried to point that out. In other words, the legislation doesn't confer any special rights. I've just made that argument; that's my belief. I said that to the member. And it doesn't do anything like promote the lifestyle or anything like that. It's just simply a matter of prohibiting discrimination, and that's how I've tried to respond to these letters.

I might just mention before I take my seat that the public reaction, the reaction of individuals of the public to this proposal depends to a great extent upon how the matter is . . . what question is asked, how the matter is presented. If it is a question of prohibiting discrimination, then in my experience, a large majority of people support it. I venture to say that there are people sitting opposite me who support that idea. I won't attempt to say whether I think you support it or not. That's for you to say. But just a simple prohibition against discrimination.

The opposition comes for a concern about what else may be involved in that, where that may lead, what that may mean in respect of other questions. If you ask the question in terms of do you favour legislation that promotes homosexuality, then you get a different answer.

But we don't think the legislation does that. We think the legislation is very narrow and very important, and asked, as I suggested, asked in those terms, enjoys a great deal of public support.

The member characterized my remarks the other night as arrogant when I said that I thought this legislation enjoyed the support of a number of people. I know he wasn't personally attacking me or anything like that, but I assure him I was not being arrogant. I was simply stating that asking the questions in the terms I've suggested, it's been my experience that this proposal enjoys broad support from the public.

Mr. Muirhead: — Mr. Minister, perhaps the statements you have said publicly and have said in second reading and you've said in interviews, perhaps there is a lot of public backing for what you said. And if what you've said, maybe even I could go along with some of the things because I do not believe that whether you're . . . whoever you are, black, white, brown, any colour, any type of religion, whoever you are, a gay person, lesbian, homosexual — they have

rights. I believe that, and I think you know that I believe that. They have to have a place to live and they have to have a job. I agree with that.

But I do not believe that I've ever heard any big issues in this province where somebody has lost their jobs because . . . finds out that they were. Mr. Minister, I don't know what happens in your bedrooms. You don't know what happens in my bedroom. That's not for your business. It's not my business. And it's not anybody's business what happens in these people's bedrooms. So if they would just keep it to themselves, you wouldn't have a problem.

But you're going to have a bigger problem. That's my view. You'll have a bigger problem once . . . because what these people want is to be recognized to say that they are homosexuals in the workplace; I am a lesbian in the workplace.

And you're going to see this happen like it happens in all the main socialist countries of the world — I'm not talking about you people being socialist because we're getting socialism in all governments — that where this is happening, it's promoting it and it's making more trouble for them.

But on the line of questioning that I was going to get in there, that's better off to come in committee or whatever. What I am going to say to you: you did comment on what your party thinks about this type of thinking, on protection, special protection or whatever you want to call it, whatever rights for homosexuals and gay people.

What does the party . . . I know what the party thinks because I had the statement and it's in *Hansard* here where I read out a resolution from your own party. I put it in my second-reading speech, what your party said. But what does your party agree, that you're going far enough or just . . . because I do believe that you think that this is all this Bill means, is just what you say it means. I believe that that's what you believe.

But time may tell before this Bill is through or whatever that it may mean more, because the people that draft it could be wrong and we don't know that. And I'm not a lawyer and I'm not here to say that. But what I am saying is, does your . . . do the people that are backing this — you are the one that mentioned the party and that's where you get a lot of the requests from — are they saying that you should go farther? Are they satisfied that just need protection for these people in the workplace and a place to live? Is that what your party's saying?

Hon. Mr. Mitchell: — Nobody has suggested to me that we should go farther and as a matter of fact in my second-reading speech, I made it just perfectly clear, perfectly clear, that it was this far and no farther; that this was not the thin edge of the wedge, that we've just drawn the line here and speaking on behalf of this government we will not go any farther with respect to these questions, than Bill 38.

Mr. Muirhead: — Mr. Minister, then I will have to

make this comment. We've got one of our other . . . another member wants to get back in again. And we can get into these things on Committee of the Whole or whatever. But I will read you this from your own party convention.

Be it resolved that this annual convention express its grave concern that our government has failed to live up to the promise to establish protection against discrimination because of sexual orientation and has thereby left gay men and lesbians exposed to harassment and just denials of their rights, benefits and opportunities generally available to all.

Be it resolved that this convention urges the NDP government to recommit itself to amending the Saskatchewan Human Rights Code to specifically prohibit discrimination based on sexual orientation; and further, to review all provincial statutes with the object of amending the definition of the term spouse, family and marriage status wherever they occur to include same-sex partners so as to ensure that lesbian and gay partners enjoy the same benefits as are available to heterosexual partners under pension, disability, sickness and other benefit plans.

So, Mr. Minister, you must not have been at some of these here conventions where these things were at. Maybe I should have been there and I could have stopped it.

Hon. Mr. Mitchell: — Mr. Chairman and to the member, I am advised — I haven't checked personally — I am advised that that resolution was not passed by convention, it didn't reach the floor of plenary. It clearly passed at some constituency level, but was not accepted by the provincial convention. Now I'll double-check that for the member.

But in any event, we're just not going to do it. We've said no, we're not going to do it; we're not going to do it in this Bill; we're not going to do it in the life of this government, period.

Mr. D'Autremont: — Thank you, Mr. Chairman. I have a couple of questions for the minister. The first question is, Mr. Minister, when a case is before the prosecutor, how do they determine whether or not they should proceed with a particular case? What qualifications do they apply to that?

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, the prosecutors will review all of the material that's on the file. That would typically be statements and information that come from the police. And they would assess that material to determine whether there is a reasonable case there, a reasonable likelihood of obtaining a conviction. And they do that with every case.

Mr. D'Autremont: — Thank you, Mr. Minister. If a case was to involve sexual improprieties and it took place a number of years before and the parents of the

children involved had made some arrangements with the parents of the alleged accused, would that have an affect on a particular case? Would that arrangement by the parents have an affect later if the victims of the case wished to bring a charge forward?

Hon. Mr. Mitchell: — We're having a bit of a discussion here about exactly what the member was trying to ask, and we have differing views as to what the question was. So could I ask you to restate the question? And I'll answer it.

Mr. D'Autremont: — If an arrangement had been made years before between the parents of the children who were supposedly molested and the potential accused person, would that have any effect later on if one of those victims wanted to bring forward a complaint that would arise into charges?

Hon. Mr. Mitchell: — If that arrangement had been made without any reference to the police or the justice system, then it would not have an effect. If, however, the situation had been resolved in some way involving the police or involving the department, then the result might be different. But a private arrangement? No. That wouldn't affect the potential criminal responsibility later on.

Mr. D'Autremont: — Thank you, Mr. Minister. So any private arrangements between parents would have absolutely no affect, would not be taken under consideration by the prosecutor when he looks at the evidence dealing with a possible charge.

(2115)

Hon. Mr. Mitchell: — The private arrangement of which the member speaks is not irrelevant. It could be taken into consideration by the prosecutors in determining how the case should be handled. So I perhaps . . . I should have perhaps qualified my earlier statement. I mean it's not irrelevant, but it doesn't operate as a bar, some kind of a statutory bar to prosecution, nor does it relieve the wrongdoer of criminal responsibility by itself. But it is something that the prosecutors would take into account in deciding whether or not to proceed with the prosecution.

Mr. D'Autremont: — Well, Mr. Minister, that's somewhat different to what you said earlier because there is that potential situation with a constituent of mine, a group of constituents, involved in exactly that type of a situation. And the prosecutor in the case said because an arrangement had been agreed to by the parents, that charges could not be laid against that individual by the victims later. And this is causing a great deal of concern by the victims themselves and with their siblings at this present time.

So perhaps, Mr. Minister, what I should do with this is bring it to you personally and let you have a look at it.

Hon. Mr. Mitchell: — Yes, I would appreciate that. We'll look into it. And I regret having sort of spoken too categorically in the first part of my answer, but I'd

be glad to see the member and chase this thing down.

Mr. Toth: — Thank you, Mr. Chairman. Mr. Minister, I just remembered . . . I almost forgot to bring a bit of information with me and I'm glad my colleague came in at the time.

I'm going to ask you a question here, read a bit of information into the record, and you could respond to it. It's regarding the Joe Olson case, down, I believe, at Oxbow. And that was that young gentleman who lost his life, was the owner of a car dealership down there, and a number of questions have arisen. I've sent a question, a letter to your office, requesting some clarification based on information that's been requested on my behalf by family members, parents, grandparents and certainly the wife of the deceased.

And just for the record here, I'm going to just read a couple of paragraphs.

I have some grave, very grave concerns regarding the present thinking of our justice system. The concerns I have been fuelled by the cases in the past few months for the loss of life of Joe Olson, William Dove and the two gentlemen at Kamsack occurred, and in particular, the sentencing of these cases.

And three things are brought out. First, it appears as though you are no longer placing any value on a human life. Second, the innocent family members are put through tremendous emotional stress for a longer period of time, waiting for justice to be served, than the guilty served for the criminal offence. Third, when a conviction is handed down, it seems as though the sentencing is nothing more than a slap on the wrist.

I feel some thought should go into what it takes to mould a human life — the time, the caring, the effort of all those involved in that life. And when someone takes a life, the time that person serves for the life they have taken should be reflected in the sentence.

But the sentence handed out in the above-mentioned case, or cases, this was not revealed. For just a moment think of how you would feel if Joel Olson was your son. What kind of justice would you want served? It's hard to be rational when you're personally involved. It's not that I'm writing to promote the idea of reopening the case to reflect on the severity of the crime and hand down a punishment that would fit a crime of this magnitude . . .

And it goes on. I think, Mr. Minister, that basically brings out the questions and the concerns that arise from that case as well. And I'm wondering if you could comment, just bring us up to date. It's a situation that certainly is affecting a young family down in that area, and at the same time I want to also lay on the Table a number of petitions that were presented to me as well. I wonder if you can make a comment on that, Mr.

Minister, please?

Hon. Mr. Mitchell: — Yes, Mr. Chairman. The case went to trial, a murder charge was laid, and the prosecution was on the murder charge at the conclusion of the evidence in argument. The court found the accused guilty of manslaughter and imposed a two-year sentence. On March 18 of this year the department appealed that sentence to the Saskatchewan Court of Appeal. We were not able to appeal the conviction because we did not consider that there was any legal ground for appealing the conviction, but we appealed the sentence on the basis that we did not believe the sentence was adequate.

Mr. Toth: — Thank you, Mr. Minister, and I'm sure that the Olson families would appreciate the effort that has been put into it. It would certainly appear to me that two years really isn't much of a time in consideration of the fact that a person of that young an age . . . his life is just totally gone and taken from his family.

One more question. I believe the department is also responsible for police services in the province. And in the town of Martensville . . . Number one, I guess, there's a couple questions related to this. There's been an ongoing debate in this province regarding RCMP services, the cost of these services, the portion that the federal government puts into it, what percentage comes from the federal government and the province. And I'm wondering, Mr. Minister, where we are today regarding negotiations on RCMP services?

The second question, Mr. Minister, is regarding the situation in Martensville where the community of Martensville has decided to not continue with their local police force. There's some circumstances surrounding that as well in light of accusations that have arisen where they brought the RCMP in. Now a number of local community people have also raised the concern that they would still like to have a local police force. I don't know if your department's had any requests come out of the town on that, but I wonder if you could just make a few comments on these questions before we move to voting off Justice estimates.

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, the member will recall that last year at about this time we signed a policing agreement with the federal government, a 20-year agreement. It provides for a cost sharing of 70 per cent provincial, 30 per cent federal.

The town of Martensville has recently decided, by a motion of its town council, to disband its own police force, and they will henceforth be policed by the RCMP. We are at the present time providing services on an interim basis pursuant to The Police Act, and this legislature has enabled us to now sign an extended policing agreement with the town of Martensville under which they will pay for the cost of policing. It will not be a cost to the province.

We have supported the town with a grant in respect to

some of the costs that they've incurred through these extraordinary times, and we believe that we are not aware of there being any opposition to the RCMP in the town of Martensville, but there well may be. We have acted on the request of the town council, so I think that was appropriate.

Mr. Toth: — Just one comment. Mr. Minister, certainly I want to thank you for your responses tonight. I also want to thank you for sending over these written answers. I just wish I'd had a little more time because there's a lot of good questions in those written responses. But I want to thank you for the time and thank your officials for their involvement in the debate this evening.

Hon. Mr. Mitchell: — Well I would like to thank the member for his courtesy and the thorough way in which he approached this matter. And I'd like to thank all of my own officials, a department of which we can all be proud, I think, doing a very difficult job under difficult circumstances and doing it well.

Item 1 agreed to.

Items 2 to 8 inclusive agreed to.

Vote 3 agreed to.

**Supplementary Estimates 1992-93
Consolidated Fund
Budgetary Expenditure
Justice
Vote 3**

Item 1 — Statutory

Vote 3 agreed to.

**General Revenue Fund
Indian and Metis Affairs Secretariat
Vote 25**

The Chair: — I would ask the minister to please introduce his officials.

Hon. Mr. Mitchell: — Thank you, Mr. Chairman. I would like to introduce Mr. Marv Hendrickson, who is the deputy minister and is seated to my left. Behind Mr. Hendrickson is Mr. Victor Taylor, who is the assistant deputy minister, and behind me is Mr. John Reid, the executive director of strategic planning.

Item 1

Mr. Swenson: — Thank you, Mr. Chairman. Mr. Minister, I've got a couple of items here that I wish to bring to your attention on behalf of Saskatchewan people before I ask you a few other things. One is, and it's a copy of a petition presented by the Onion Lake Band Indian Reserve 119-120 that I believe that you are aware of requesting the Royal Canadian Mounted Police to conduct an investigation into the allocation of band monies. I'm going to lay this on the Table like I say. I'm sure that you have copies of it. I'd like some comment from you on that.

(2130)

And also, Mr. Minister, while you're commenting on that one, I have a letter here from the RM of Rosthern No. 403. This was sent February 16, '93, to the director of Indian and Metis Affairs Secretariat pertaining to a land claim by the One Arrow Band on a community pasture, Rosthern community pasture. This is from the administrator, Mr. Spriggs, talking about the formation of this pasture and how, in his opinion and his RM's (rural municipality) opinion, this should not have been deemed Crown land to begin with, and that this particular claim has no business being part of the structure.

So I also believe, Mr. Minister, that you'll have this letter in your possession, and if need be I can supply copies. If you could comment on those two issues before I get into some other things.

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, dealing with the document from the Onion Lake Band, we are not aware of that particular matter. I don't recall it nor do my officials. We don't make any grants to that band. The federal government does and it may be that they have the matter under review. But we will look into the matter and give you such information as we're able to uncover.

With respect to the letter from the RM of Rosthern, again I have no recollection of receiving that letter nor have my officials.

I might just comment though in general that with respect to these entitlement claims, they are made and they are taken subject to third-party interests. And we believe that the way it would work with the community pasture is that the patrons of the pasture — if that's the right term — the people using the pasture have a third-party interest as that term is understood under the agreement. And it would take a majority vote of the pasture patrons in order for the land to be claimed successfully by the One Arrow Band. Now I may be wrong, but just in general that's how it would work, so it may work like that in this situation. Again though, we'll check out the letter and get back to you with more information.

Mr. Swenson: — I've asked the staff to provide you with a copy of that letter. It's not a very good copy unfortunately. There's one paragraph that is very difficult to read, but I think you'll get the gist of the letter. And I'm surprised that it hasn't showed up there some place because that's who it was addressed to. And if you would look at both issues.

The other one with the Onion Lake Band, there's some very serious allegations there of fraud and misuse of funds and that type of thing, and I would have thought someone in your department would have been aware of that type of issue coming to the forefront. I'll leave it in your hands, Mr. Minister, to give me a report sooner than later on that particular issue.

Now there's a couple of other things that I wish to

touch on, Mr. Minister, and I don't think they'll need to take a long time. I wonder if you could give me a quick summary of your negotiations with the White Bear Band and the Bear Claw situation other than the legal stuff. We all understand the situation is now before the courts, and they are going to determine whatever. And I would suggest to you, Mr. Minister, that this was inevitable, that the flawed process that the government undertook prior to simply muddled the water a little bit. But I wonder if you could tell me where exactly you are at as the minister responsible for Indian-native affairs vis-a-vis this particular band.

Hon. Mr. Mitchell: — Mr. Chairman, and to the member, I and my officials were involved in the negotiations with the band prior to the band opening the casino on the reserve and those negotiations were not fruitful. The thrust of those negotiations had been to attempt to bring the White Bear proposal within the four corners of the provincial gaming policy as that had been publicly announced. And we were not able to successfully conclude those negotiations and the member will know then what happened after that.

Quite recently, I can give the member a report of developments, although I personally have not been involved. I've dropped out of those negotiations because it just didn't seem appropriate for Justice to be involved in those negotiations while the charges were outstanding.

But my colleague, the minister who is responsible for gaming, has, I am informed, had a meeting with White Bear officials and a very constructive meeting. I'm informed that the thrust of that meeting was that White Bear is very interested in establishing a casino within the policy and are going to put together a proposal to that end. And there are no other developments of which I am aware.

Mr. Swenson: — Mr. Minister, have any of the Indian bands in the province indicated to you that this is sort of an unnatural relationship to be drawing, and exhibition associations and agricultural societies that have been long-standing institutions in the province, along with Indians bands, in order . . . As my former position as minister, I guess, allows me to listen to a lot of people from the Indian and Metis community, and it isn't a particularly easy relationship, Mr. Minister, to establish nor to look at a long-term marriage of mutual convenience, and I'm afraid that the price of divorce may be more than what Saskatchewan's public and society will be willing to accept because I'm afraid the divorce will be very messy.

And I really hope that you as the minister responsible for aboriginal people in this province is listening to those concerns. And I shudder to think what the Agriculture minister may have to do in some cases here too, down the road. It doesn't seem to me, Mr. Minister, an alliance that will be here a hundred years from now. I'd like your comments on it.

Hon. Mr. Mitchell: — There is no question, Mr. Chairman, and Mr. Member, that this is a bit of an unnatural situation that is developing. First of all, may

I say that the negotiations between the groups involved have been proceeding very well with respect to a proposal to establish a casino at North Battleford, and that Prince Albert also seems quite enthusiastic about it. But there are certainly people in this loop that have some misgivings and they're trying to work those out.

The exhibition associations are our natural partners in whatever happens here because they have been running casinos in some of our larger centres for a long time. And it's no secret that those casinos are a very important source of funding for the exhibition associations. I think it's correct to say that without them they would be in really great financial difficulty. Of course the way the Criminal Code is structured with respect to this area, the participation of exhibition associations is practically a necessity.

The Indians were the first off the mark with respect to the idea of establishing casinos in Saskatchewan in any significant way. They had their . . . their research included trips to Minnesota and they had quite well-developed plans when they came to talk to us about opening casinos. At the time they were talking about opening their own casinos where they would have, in effect, a monopoly on it. And our view was that could not happen in light of the situation with the exhibition associations.

And those two streams led to the idea that perhaps joint ventures between these partners could be a workable thing. I think it can. I have no way of knowing whether it can hold up or not, but I don't see any reason why not. The Indian and Metis community and leadership, as the member will know from his own experience, are very mature and have acquired a considerable amount of experience with respect to commercial matters. And the exhibition associations have had a long experience in the subject in casinos, especially in the board games, the card games.

While it's not the sort of thing that you would just naturally think of, I think that there would be nothing preventing their success. If Saskatchewan people are willing to patronize these casinos — and I guess they are; all indications are that they are — then I think they can succeed, and I'm optimistic. I'm really, sincerely hopeful in believing that the divorce that the member refers to will never take place.

Mr. Swenson: — I'm not going to belabour the point, Mr. Minister, but I'm being told is everybody thinks it's a great proposition as long as they don't have to share the proceeds. There is a great expectation amongst many parties that they can use this to get ahead, but when they have to split it many ways, it is going to be more difficult. And I would suggest that some of the problems that your government has with your current minister of gaming and some of his problems with other companies are because the Department of Finance has more to say about this equation than the exhibition associations and the Indian bands and others.

That is going to put a lot of pressure on this particular

marriage. It's like having to live with your mother-in-law who constantly demands certain amounts at all times. I just say, watch it close, Mr. Minister.

(2145)

There's a couple of other things here, and then we can wrap this up. I notice in the information you sent over, and I would thank you for all of it, and thank your officials, that you have about a page and a third of terminations here, and you also have about a page and a third of new employees.

And I would just like the minister to go on record again — as he did last year — that there would be none of the employed positions here, any type of back-filling going on in this particular department, with political people, given that the number of terminations and the number of new hirings are almost exactly the same. So I'm sure the minister won't have any problem giving me the assurance that he hasn't back-filled any of these positions with New Democrat types.

Hon. Mr. Mitchell: — I'll try to answer the member's questions. With respect to the terminations, some of these are not people who have been terminated and are out of the government service, their employment in one classification terminated and they were promoted into another classification; they include movement within the branch.

The people who have been terminated right out were . . . There were five of them and with reference to this sheet, the first person mentioned, the training consultant; the third person mentioned; the fifth person mentioned, the secretary; the sixth person mentioned, the director; and then the first person mentioned under non-permanent — those were all position deletions as a result of budget cuts and none of those have been replaced by anybody.

Item 1 agreed to.

Items 2 and 3 agreed to.

Item 4

Mr. Swenson: — Mr. Minister, the two Bills which you introduced into the legislature the other day pertaining to agreements between the federal government and yourself on the, I believe, Natural Resources Transfer Act of 1930 and the other one. Are they directly impacting on these amounts of monies that are being voted here as far as the treaty land entitlement process?

Hon. Mr. Mitchell: — The two pieces of legislation were to, in effect, to implement the agreement so far as the provinces are concerned. We agreed to do a number of things under those agreements and those things are reflected in those two pieces of legislation. The money that's provided there is our annual contribution to that agreement that we've agreed to make, and that will continue for a period of some 10 more years, 10 more years.

Mr. Swenson: — My question was what's being voted here this year? Is there anything that because those Acts are being introduced in the legislature that there's going to be a direct ramification? I mean we're talking about mineral rights and . . . Are any of the moves being made which will impact on those two Acts also impacting on this budgetary item here?

Hon. Mr. Mitchell: — It's a very complex kind of question, Mr. Chairman, but the answer is no, not directly. We have agreed in the framework agreement to implement the things that are in the Bill. We have also agreed in that same framework to pay the money. They are connected directly in that sense, but they are independent in the sense that they go off in separate directions and they don't directly impact on each other.

Mr. Swenson: — Well, Mr. Chairman, I just say to the minister, I would hope that as some of these larger events unfold, that he will endeavour to keep the opposition informed because they definitely impact on a lot of people. And I think the more people that are informed when some of these acquisitions happen, the less chance there is for misunderstanding by the wider public.

And if the minister will agree to that, then I would just like to say, Mr. Chairman, that I appreciate the answers and the officials waiting around and coming in tonight, and I have no further questions.

Hon. Mr. Mitchell: — I want to say that we will keep the Leader of the Opposition informed about these entitlement acquisitions as they take place because he states the case correctly.

And while I'm on my feet, Mr. Chairman, may I also thank my officials, a small department with a very broad mandate. If you compare the size of the unit that we have in this province compared to that in other provinces who have fewer Indian and Metis people, it is remarkable that they're able to keep on top of the issues in the way that they do.

Item 4 agreed to.

Vote 25 agreed to.

**Supplementary Estimates 1992-93
Consolidated Fund
Budgetary Expenditure
Indian and Metis Affairs Secretariat
Vote 25**

Item 1 agreed to.

Vote 25 agreed to.

**General Revenue Fund
Saskatchewan Municipal Board
Vote 22**

Item 1

Hon. Mr. Lingenfelter: — Mr. Chairman, it's my pleasure to introduce Marilyn Turanich, the secretary of the Saskatchewan Municipal Board. And I just want to say that I have here some general answers that the hon. member opposite will probably need to start his questioning.

Mr. Boyd: — Thank you, Mr. Chairman. Mr. Minister, have all of the general questions, the standard questions, have they been answered?

Hon. Mr. Lingenfelter: — Yes, Mr. Chairman, I say to the hon. member, that all the standard questions that we've been answering for each department, as I understand it, have been answered in this grouping.

Mr. Boyd: — Thank you, Mr. Chairman. Mr. Minister, I also welcome your official as well. Excuse me, I didn't say that earlier.

We just had a couple of areas that we wanted to touch on, nothing too terribly significant but something of a concern to a lady who formerly was a board member of the Saskatchewan Municipal Board. I just wanted to touch on a Wanda Eifler. I understand she was a board member for a number of years and then at some point was let go. Now I just wanted to . . . Is the minister aware of the situation, if he could outline it a little bit.

Hon. Mr. Lingenfelter: — For the hon. member's information, Wanda Eifler had been a member for a number of years and the severance occurred in February of 1992, little over a year ago. The circumstances there were that there was a severance package paid out, and I think in the end the settlement was reached that was, my understanding at least, satisfactory to the two parties.

Mr. Boyd: — There was a severance package, Mr. Minister?

Hon. Mr. Lingenfelter: — My understanding is that the severance judgement was 18 months. And so it fell well within the parameters maybe to the longish end of what these severances would normally be. More standard probably might be 12 months, but in this case the settlement was more in the area of 12 months salary . . . in the area of 18 months salary.

Mr. Boyd: — Mr. Minister, my information is different than that but we'll rely on your information with respect to that. I understand there has been an opportunity . . . there was an opening for a board member in October of '92. Is that correct?

Hon. Mr. Lingenfelter: — Just going back to the previous question, I want to indicate to the hon. member that if there are other questions about the severance, about the length and that, I would be certainly available and I know the minister would be available to talk to him. But my understanding, the information that I have here, is that it was about 18 months, or very close to that amount. But if there are other questions and you care to follow that up, I know the minister would be more than willing to sit down and talk about it.

The opening that occurred in October of '92, the vacancy that occurred at that point in time, is still open as we speak now, and I would imagine is under active consideration as to whether to fill or whether . . . at what point that will be filled I'm just not quite sure.

Mr. Boyd: — Mr. Chairman, Mr. Minister, I understand that Wanda Eifler had an opportunity to meet with the minister responsible at some point and discuss the upcoming candidate selection, and at that time was told that she would be given a great deal of consideration for the job. I'm wondering if you could just bring us up to date on that.

(2200)

Hon. Mr. Lingenfelter: — That I don't know. But here again, I will certainly get that information for you. What I do know is at this point in time there is no nomination before government for that position. If there was a meeting held previously, I would have to go and check back and get that information for you.

Mr. Boyd: — Thank you. What was the reason for her being let go in the first place?

Hon. Mr. Lingenfelter: — The information that I have is that there was a hope — as in many areas of government at that time — to downsize boards, commissions. And I believe at the present time we have roughly two-thirds the number of board members, boards and board members, as existed when we came into government in 1991.

So we've made an attempt, trying to keep the boards intact in the ability to do their work but downsize them in such a way as to save money for the taxpayers of the province. And this obviously hasn't been altogether easy because in some cases people who we obviously would not have a problem with staying on boards were deleted from boards in order to achieve the kind of savings that we have found necessary in trying to bring the budget in at a reasonable level. And in fact by the year 1996-97, that budget year, Mr. Chairman, actually already announced that we're going to balance the books of the province. This is a small but yet important part of doing that.

Mr. Boyd: — Thank you, Mr. Minister. Mr. Minister, so then in the department's judgement and Municipal Board's judgement, that was the only reason she was let go, for budgetary reasons. The fact that she was doing a good job, judging by the number of years that she was in that position, it was simply a budgetary concern and had nothing to do with her qualifications or her experience.

Hon. Mr. Lingenfelter: — Yes. My understanding is that we reduced the numbers on the board from 15 to 11 and this was one of the positions that was reduced, and basically for the reason that I mentioned.

Mr. Boyd: — So, Mr. Minister, as far as you're concerned, you're comfortable that her qualifications and her experience were such that she would be

capable of doing the job, and did a good job while she was in place.

Hon. Mr. Lingenfelter: — The member will know that I have not had experience in working with the individual that we're talking about. But the best advice that we had, or that I have, is that the problem was not with the quality of work.

Mr. Boyd: — I see. Okay. So, my understanding . . . I'm having difficulty understanding here then, Mr. Minister.

This lady was let go earlier in the year, November of '90. Or pardon me, early — I just forget the exact time here — but early in '92, sometime. And the reason she was let go was for budgetary reasons, and you've established that reason, and I understand that it had nothing to do with her qualifications or experience — she was doing a good job.

And yet, she had an opportunity to have a visit with the minister about it and she was told that it was for budgetary reasons — the reason she was being let go. It had nothing to do with her experience or her qualifications. Simply budgetary reasons.

And the minister told her, indicated to her that if the economy improves or a board member is required, that she should reapply. And so, Mr. Minister, that's exactly what took place. There was a board appointment opened up in October 31, '92 on the Saskatchewan Municipal Board, and Wanda Eifler did make application to the board for that job, for that appoint . . . for that job. And I have her résumé here and I have everything else that she put forward at that time.

So we have a situation where an employee of the Municipal Board was let go for no other reason than budgetary reasons, given the assurance from the minister that if the position opened up again, that she should reapply. And she wasn't let go for anything such as a misconduct or her lack of qualifications or anything like that. She was clearly established that she was let go simply for budgetary reasons.

And yet when the job position opened up — and she clearly has the qualifications and experience — the chairman wrote back to her and said, the successful applicant will be selected following interviews with those candidates whose qualifications and experience appear to be closely match the requirements of the position. As a result, we will not be pursuing your application further at this time.

Now there seems to be some inconsistency here, Mr. Minister, because she wasn't let go for any problem with her qualifications or her experience because she had worked there for nine years, obviously she had experience. She wasn't let go because of anything to do with her qualifications because you have already established here earlier that her qualifications were fine. The only reason she was let go was because of a budgetary concern.

So, Mr. Minister, is there any other reason that would come to your attention that she may have been let go for? What reason? Because it doesn't seem to be very consistent here, Mr. Minister. She's qualified and she's experienced. She was told by the minister to reapply if the job did come open. The job did come open and she reapplied, and she was told she doesn't have the qualifications and experience. I wonder if you'd care to clarify that for us?

Hon. Mr. Lingenfelter: — I just want to make it absolutely clear to the hon. member opposite that the understanding here is, is that there was downsizing going on on the board and therefore there was a reduction . . . I just want to get you the amount of money that was saved by the reduction because it was rather significant. In fact, in the year 1993-94, we expect the saving will be \$180,000 which is significant on one small change. And when you add these up across government, it's not hundreds of thousands of dollars but millions of dollars that is being saved by these changes. That's the one point.

When going through these selections in downsizing of boards, there were a number of people changed because the government wanted to have new people on boards. That's the prerogative of government. It happens often times when governments change; often times not only on boards but also in the staffing of departments. Ministers and governments will want to change their deputies, their associate deputy ministers, executive directors, not because the individuals who are there aren't doing a good job but because government needs new direction. And this often happens and as not only often happens, is expected.

In this case the downsizing took place and then later on an opening occurred. There was . . . applications were taken for the position, my understanding, 65 people applied for that position, and the person, the individual that you're referring to was one of the 65.

Now as the process goes on, the chairman of the board has a role to play in selecting and short-listing the group that will be finally appointed. And of the 65, at the end of the day, someone will come forward. But to say that all of the people who don't get there are unqualified flies in the face of how the process works. It could easily be that 30 or 40 of the individuals who have applied, of the 65 who have applied, could do a good job on the board. But at the end of day, only one can fill the position. And so I think . . . understand what the board, the chairman of the board was saying in the letter, is that at this time — I don't have a copy of the letter here — but there might be someone who was more qualified.

Mr. Boyd: — Thank you, Mr. Chairman, Mr. Minister. Well it seems a little bit hard to believe that there would be someone more qualified for the job than someone who has actually been working on the job for nine years, has obviously the qualifications to do the job because they had worked there for nine years and has the experience obviously. Nine years gives you a fairly significant amount of experience.

And then you tell us that she is . . . and the minister says she was only let go for budgetary reasons and then we find out that when the job opens up again, it seems like this would be a prime candidate for the new job, and then you go on to justify it by saying that you've saved \$180,000. Well I doubt very much that Ms. Eifler was being paid \$180,000. So the savings were insignificant as far as her dismissal is concerned in the overall scheme of things, I would believe, particularly within months you ask for, you open up a competition for another board member. If the savings were so significant why did you open up the possibility, or why did you open up competition once again for another board member?

Mr. Minister, I don't know whether you can answer these questions or not. I think we're going to have to have the minister herself answer these questions and I wonder if you'd care to comment on that, or would you care to report progress. Because I don't think I'm getting the kind of answer that we're entitled to or expecting on something like this, Mr. Minister, because clearly there's some serious inconsistencies with your responses and what's being . . . what you're telling us here this evening.

Hon. Mr. Lingenfelter: — I mean we can easily report progress and I guess that's what I'll do when I complete my comments. The simple fact is that Ms. Eifler was making 60,000, was being paid 60,000 a year and it doesn't take a mathematician to figure out that when you make these kind of reductions, this adds up very quickly . . .

An Hon. Member: — It doesn't add to 180.

Hon. Mr. Lingenfelter: — When you reduce by four? By three?

An Hon. Member: — There was other board members let go at the same time?

Hon. Mr. Lingenfelter: — Yes. And so I'm not sure that it's me not giving the information to you or you not being able to multiply 60,000 by 3, which adds up to 180,000. But at any rate . . . (inaudible interjection) . . . But you're the one who made the sarcastic comment to start with . . .

An Hon. Member: — Was her total salary \$180,000?

Hon. Mr. Lingenfelter: — For three people.

An Hon. Member: — No, what's hers, I said.

Hon. Mr. Lingenfelter: — No, I said it was 60.

An Hon. Member: — Okay, no problem then.

Hon. Mr. Lingenfelter: — And we reduced by three. That's 180,000, but because you're not able to understand that, I move the committee rise, report progress, and ask leave to sit again.

The committee reported progress.

The Assembly adjourned at 10:14 p.m.