

EVENING SITTING
COMMITTEE OF FINANCE

General Revenue Fund
Justice
Vote 3

Subvote (JU01)

The Chair: — I would invite the Minister of Justice to introduce his officials.

Hon. Mr. Cline: — Thank you, Mr. Deputy Speaker. Sitting beside me, to my left, is Mr. Doug Moen, the deputy minister and Deputy Attorney General. And to my right is Murray Brown, the acting executive director of public prosecutions. To the left of Mr. Moen is Betty Ann Pottruff, the director of policy planning and evaluation for the Department of Justice.

Behind Mr. Brown is Rick Peach, the director of law enforcement operations. Behind me is Mr. Gord Sisson, director of administrative services. Behind Mr. Moen is Elizabeth Smith, the executive assistant to the deputy minister. Behind Ms. Smith, actually behind Mr. Sisson, is Jan Turner, the executive director of community justice.

And also sitting at the back are Susan Amrud, the executive director of public law; Rod Crook, the executive director of courts and civil justice division; Keith Laxdal, the associate deputy minister of finance and administration; and Gerald Tegart, executive director of the civil law division. And those are the officials that are present in the legislative Chamber.

Ms. Julé: — Thank you, Mr. Chairman. Good evening to the minister and his officials. Mr. Minister, I have a variety of questions again this evening for you. As well, some of my colleagues will enter into questioning.

Mr. Minister, I'd like to first begin by asking you how many seats are available in the College of Law for the year 2003.

Hon. Mr. Cline: — I believe there are approximately 105 to 110 seats for first year law students, and probably a similar number for second or third year although the number of students sometimes drops off so that there is a lesser number in the upper years, maybe 90, something like that.

Ms. Julé: — All right. Mr. Minister, in reference to first year students, how many of those seats are awarded to Saskatchewan residents?

Hon. Mr. Cline: — It is roughly 70 per cent in province and 30 per cent out of province.

Ms. Julé: — Thank you, Mr. Minister. And how many of those seats then would be awarded to out-of-country students?

Hon. Mr. Cline: — It would be a very small number. In any given year it would certainly be less than 5 per cent, if any.

Ms. Julé: — Thank you. Mr. Chairman, to the minister. Mr.

Minister, from your point of view and your knowledge, is there a sense of satisfaction from students within this province as to the ability for them to be able to access those seats?

Hon. Mr. Cline: — I think there probably is, generally speaking. There are many applicants for law school who are not admitted to law school, so in that sense there are always some applicants who would be disappointed. But generally speaking, you know, persons who have an aptitude for the law are generally able to get into law school. We haven't heard a lot of complaints that law school is inaccessible on the basis of the number of positions available. It may be inaccessible to people who are not considered to be suitable candidates for law school because of either low marks or low performance on the law school admission test.

Ms. Julé: — Thank you, Mr. Minister. Mr. Chair, to the minister, I would appreciate, Mr. Minister, if your officials could compile the numbers for me in regards to the number of students from Saskatchewan that are able to access those seats or have accessed them in the last, let's say, three years, as well as the number of students from out of province that have accessed those seats, and also from out-of-country students. And I know that sometimes those numbers are not always available at hand during estimates, but I would appreciate that information.

Mr. Minister, just on another vein here, I would like some clarification on the laws regarding bankruptcy in this province, specifically bankruptcy pertaining to farmers. It's my understanding that if a farmer goes bankrupt, that there is something incorporated into the law that protects them from losing all of their assets and so they may maintain assets that would allow them to continue their operation so that their entire livelihood is not just finished.

And I understand also that there is a certain period before a farmer's credit rating can be approved again in the province, and I'm wondering if you can inform me of what that time period would be. What I'm referring to is before . . . the time period that would lapse before a farmer could, in fact, get a line of credit from a banking institution again.

Hon. Mr. Cline: — In answer to the question, Mr. Deputy Speaker, first of all I would say to the member that, yes, if a farmer goes bankrupt there are certain assets that would be exempt from seizure under the provincial Exemptions Act. The Bankruptcy Act, of course, is a federal statute but it recognizes provincial lists of exemptions, and then the province has The Exemptions Act. And then additionally the farmer would be protected under the farm security Act which would have certain provisions with respect to how the financial institution could interact with the farmer, taking the land away. There would be certain measures that had to be . . . certain rights that had to be extended to the farmer. I believe it's a three-year leaseback and the like and then the right of first refusal.

Now in answer to the other part of the question, when could a farmer re-establish a line of credit. Well the first part of the answer would be, if the farmer went bankrupt the farmer would have to be, I think, discharged in bankruptcy. That is, the bankruptcy court would have to give the farmer a discharge in

bankruptcy so that the farmer was no longer in a position of being a bankrupt. Once that happened, I believe the farmer could go out and establish a line of credit or another indebtedness somewhere else.

And whether or not the farmer would be successful in that regard would not, I think, be so much a matter of law as a matter of contract with the financial institution. In other words, if the bank or credit union or other financial institution wanted to establish a line of credit, they could do so. If for some reason they didn't see the farmer as creditworthy, that would be a matter of their judgment more than the law.

So I think the crucial answer really is, is the farmer discharged from bankruptcy or not. And if the farmer is not discharged from bankruptcy, the timing of which would be up to the bankruptcy court, then the farmer really couldn't establish new credit. But if the farmer was discharged in bankruptcy, then the farmer certainly, I think, could establish new credit, but the financial institution would have to approve that. So it would be a matter of finding a bank or credit union that was willing to lend the farmer the money.

Ms. Julé: — Thank you, Mr. Chair.

Mr. Minister, I find this very interesting and so your response leads me to a further question here. What would be . . . To your knowledge of the banking institutions and their regulations and so on, what would be needed in order for a bank to reconsider establishing a line of credit for a farmer? You know, if they are discharged from bankruptcy they must be required to meet certain conditions in order for that to happen. Could you outline for me those conditions as far as your understanding is?

Hon. Mr. Cline: — Well it will vary from financial institution to financial institution, but generally speaking the financial institution would look at the farmer who had been discharged in bankruptcy and ask itself the question, are we secured for the loan or the line of credit?

And so they would be looking at one of two things. The first thing could be assets. Does the farmer have some assets to put up by way of security, which the farmer would have acquired subsequent to the discharge in bankruptcy or have been left with after the bankruptcy because some items might be exempt?

And the other thing they would look at, of course, would be the income of the farmer, what is the income of the farmer likely to be.

And if they felt that the assets or the income, or a combination of those two, would give them security that the loan would be paid off, then they would extend the loan to the farmer.

And, of course, in some instances the farmer might be in a better position to get a line of credit after discharge in bankruptcy than before because the debts of the farmer at least would have been dealt with in the bankruptcy. So that the farmer might be going to the financial institution and although the farmer would have gone bankrupt once, at least there's no debts outstanding.

And if there's some security, perhaps in the family, for

example, that there's money with other family members, then they might be able to assist the farmer in establishing a new line of credit.

Ms. Julé: — Thank you, Mr. Minister. Mr. Chair, it makes good sense that a banking institution would be considering assets as well as income in order to re-establish a line of credit for a farmer.

However, it's come to my attention from a constituent that in Saskatchewan the minimum waiting period to re-establish a line of credit is 14 years. And it has come to my attention too that every other jurisdiction in this country requires only a seven-year waiting period. So I'd ask the minister if he can verify that.

Hon. Mr. Cline: — I should say that what the member is referring to I think, Mr. Deputy Speaker, is the report that is kept by a private credit reporting agency, which is not an arm of the government but just a private firm or a number of private firms that keep records.

And the member . . . I think what the member is getting at is that under the law of Saskatchewan, the credit rating reporting agency has to wipe out the negative implications on a credit rating after 14 years. And the member is correct that in some provinces I believe the rule is after seven years they take the negative things out.

And now I should say that the fact that there are negative references on a credit rating do not preclude a financial institution legally from extending credit. But they may not wish to from a practical point of view because the bankruptcy, for example, is recorded there.

And in terms of the length of time that it can be recorded in Saskatchewan, it could be recorded for 14 years after the person went bankrupt. In some provinces that number would be seven years and I understand that it has worked that way in Saskatchewan for some decades — many years — and so there is that difference in our law.

Ms. Julé: — Thank you, Mr. Minister. Mr. Chair, to the minister. Mr. Minister, I'm wondering why the discrepancy between Saskatchewan . . . or the discrepancy of regulation and law for Saskatchewan as compared to all of the other provinces in Canada. I can understand that there is, I guess, a time where the recording of the bankruptcy can be on file for 14 years, and so be it.

But what that seems to do for farmers that are trying to re-establish a line of credit is whatever the bank is that they may be applying for that line of credit to would look at their file and look at their record. And if it's still on record that they are under . . . they are facing bankruptcy, then of course they wouldn't be able to establish a line of credit. Their reputation would not be re-established.

So why is it that in this province there's a 14-year period of time where that stays on record as compared to every other province in Canada where it only stays on record for seven years?

(19:15)

Hon. Mr. Cline: — Well I think that's a very good question. It's a provision that, you know, wasn't brought in by this government or maybe even the previous government. It's been there for a long time. But having said that, I think we need to take a serious look at it and maybe consider even in the next legislative session changing the law so that it says seven years rather than 14.

Now I should say as a practical matter that if I have been bankrupt — which I hasten to add I haven't been, in case anybody's wondering — but if I have gone bankrupt and I go to the bank, the bankruptcy may or may not be on my credit rating record at the credit reporting agency but the financial institution may ask me if I've ever gone bankrupt. I don't think there's any law that says they can't ask. So as a practical matter, my banker might know I have been bankrupt in the past in any event. So what The Credit Reporting Agencies Act says wouldn't necessarily be the be-all and the end-all.

But getting back to the question, well why is it like this, the only answer is, that's how it originally was put into our legislation or it has been for a long time. But having said that, from my point of view, I don't see why, if it would be helpful to people, we couldn't change the law to be consistent with some of the other provinces which say seven years. And I'll ask my department to bring that, to consider that, and unless there's some reason why they can't, to bring that forward as part of their next legislative package which they normally prepare over the summer.

Ms. Julé: — Well thank you, Mr. Chair. Thank you, Mr. Minister. I'm happy to hear that because I think it's important for all legislation to be reviewed and looked at and to make sure that we have, I guess, fairness and as much as an advantage in this province with updated legislation as people in other provinces would have.

Mr. Minister, I'm going to be asking you some questions about, I believe it's called The Matrimonial Property Act that we brought into this legislature — we passed in this legislature, rather — I'm not quite sure; I'd say two years ago.

I've had some comment from people throughout the province about the implications of that Act, and I'll just go to the heart of the matter. It's my understanding that this provincial government brought The Matrimonial Property Act into being in order to be in line with changes to the Divorce Act federally. So I'd ask the minister if that's correct.

Hon. Mr. Cline: — No, no, the change was not made to comply with the Divorce Act in the sense that, under the Constitution of Canada, marriage and divorce are matters within the competence of the federal government so that the Divorce Act is federal. But matrimonial property is under provincial jurisdiction so that each province has their own matrimonial property Act.

Now there have been some things happening at the federal level, partly driven by court decisions as to what is, you know, what is a marriage for the purpose of things like the Income Tax Act, the Canada Pension Plan Act, and so on. And so those have

certainly influenced what the province has done. But strictly speaking, the provinces are responsible for matrimonial property legislation.

I should say that now The Matrimonial Property Act is The Family Property Act because it used to apply to people who were legally married and it would say — I mean legally married in the traditional sense — and it would say, if you've been married, then this is what happens to your property when you split up. Now it's called The Family Property Act because it really has rules applying to any couple that have lived together in a conjugal relationship for at least two years. And that could be a couple traditionally, legally married in the traditional sense; it could be a couple that have lived together common law, and that couple could be either an opposite-sex couple or it could be a same-sex couple. And of course the courts have informed governments that they require governments to treat people more equally than before, and they have struck down laws that do not recognize conjugal relationships of people who are unmarried or people who may be of the same sex.

And so governments, ours and others, are trying to comply with the imperative of that, and also comply with what are considered to be, by many people, social norms — that many people live common law today and that they will acquire certain rights by doing so. And so that's the reason why The Family Property Act is structured the way it is.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, there really are some major implications under this new law — this Family Property Act. And I guess again your response begs more questions about what is marriage, what constitutes common law, what is a conjugal relationship.

Now I'll just start by asking you first — because the changes were made to accommodate people that were not in the traditional marriage but in a common-law marriage or a same-sex marriage as well as common law between gender differences — so what constitutes common law in Saskatchewan? Could you give me the definition of that?

Hon. Mr. Cline: — Well I should say, Mr. Deputy Speaker, that in terms of what constitutes marriage, that is within the jurisdiction of the federal government to decide. But in terms of what a relationship means for particular purposes under provincial law, there will be different rules depending upon the law we're talking about.

For example, with respect to The Family Property Act, for that to apply a couple would have had to live together in a conjugal relationship for at least two years, and then that Act would come into play. But as I understand it with respect to pension plans and whether one would acquire certain rights under pension plans, those might come into effect if a couple had resided together for one year only, and the reason is pension plans have to be consistent with the Income Tax Act of Canada. And that Act, as I understand it, says that there are certain rights if people have lived together for one year. So the same definition would apply or the same rule would apply for provincial purposes as well.

So if it's for the purpose of pensions, there's a one-year rule; for the purpose of family property, there's a two-year rule. For the

purpose of child support, there would be a two-year rule. That is, if a couple resided together — let's say one of them had children already from a previous relationship — and then that couple was together for a few years and split up, the couple . . . or the person with children might go after the other person for child support, even though they're not married, if that person had been living in the household and had stood in the position of a parent for those children for at least two years.

So we have these rules that tell us when do property rights come into effect, when would child support obligations possibly start, when would there be some consideration under a pension plan — let's say if one person dies, whether somebody should get survivor's benefits. That rule would be one year. I think under the Canada Pension Plan Act they've had a one-year rule for some years, if my memory serves me correctly.

So those are the rules we have. In terms of the definition of marriage, that is not something that we have jurisdiction over. It's something that the federal parliament would have jurisdiction over, as guided by the courts.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, I believe that, or to my knowledge there is some discretion left to the judges of the courts in this province as to how to define common law. So I'm not interested right now in questioning marriage relationships that might split or child custody. What I am considering and what I'm asking is in reference to family property and property rights.

Now if in fact it's true that the judges have some leeway to make a determination on what constitutes common law, then that . . . I would assume from that finding that there is no real definitive wording in the Act that would define common law. And if there's not then it has to be up to the judge to determine it.

So when it comes down to judges determining what common law is, there is a great variation based on what the judge thinks to his knowledge might be a relationship where two people have spent enough time, but not necessarily time under the same roof even, but that they have spent some time together and have given each other the indication that there has been some level of commitment here for a year or two.

So I guess I'll just go back to asking you, is it in this province of Saskatchewan under the auspices and the direction of a judge to determine and define what common law is in any given situation?

Hon. Mr. Cline: — Yes, Mr. Deputy Speaker, I think that's accurate, that it's up to the judge in any given situation to define whether there is a spousal relationship and whether that has existed for two years because these things will often be a matter of fact; questions of fact will arise.

For example, it is not uncommon to see a man and a woman, let us say, who are not married, cohabiting in the sense that they share a residence but they cannot be said to be in a spousal relationship. They could be what are commonly referred to as roommates or perhaps their relationship may have another level to it, but they may not themselves consider themselves to be in a spousal in that sense.

So it really is a matter of, a question of fact and the judge in many instances will have to make a determination whether these two people have indeed intended to commit themselves to a relationship which would be considered spousal. And I don't think you could ever get away from the fact that this will always require some judicial discretion where there is a dispute between the parties.

Obviously there are many instances where people will have lived together common law for many years and they'll both agree that well yes, we lived together as man and wife. There will be other instances where they may be together but they will disagree as to the nature and quality of their relationship. And there will be other instances where people reside together and the relationship has a certain quality at the beginning, perhaps roommates, and develops into a different sort of relationship. And there may be a factual argument as to what sort of relationship it developed into and when that occurred.

So yes, you'll get into these difficult factual disagreements and in our system that's why we have judges. They have to listen to the parties, listen to other parties who may have observed the relationship or heard what they had to say about one another, and then make a determination whether this was a spousal relationship or whether it was some relationship having a different kind of quality.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, there has been a case in Saskatchewan that shocked me, frankly. The case went like this.

Joe met Jane and they began a relationship. And that relationship did not take them to a point where they lived under the same roof, where they lived in the same residence, or even the same building, but they spent enough time together for two years. For instance, they went on holidays together and they also spent weekends with each other but that was about it for two years. They introduced each other to family members, each other's family members. And then there was a breakup of that relationship.

(19:30)

And the female in this case sued the male for property rights, you know for . . . suit for assets that were existing in his name. And in fact this woman was granted that suit; she won this. At the same time this man was yet married to someone else. He wasn't divorced.

And so it's just very interesting how that would work because I think if this is the law that we have in the province right now, and it's subject to discretion by a judge and that judge may or may not award something to the person that is in a common-law relationship like that, it has great implications, and I think for a lot of people. And subsequent to the case that I'd heard about, and in fact one of the lawyers that I know was advising people of this because I mean it can have far-reaching effects for many people.

So I'm just kind of wondering if there's any . . . Like the guidelines, for instance, for the judiciary must be, I would think, more succinct than to give them sort of a blanket ability to make a call at their own discretion.

And I also understood, Mr. Minister, that The Family Property Act, as I'd mentioned when I began my questioning, was an Act that came in in this province in preparation for a change to regulations in the Divorce Act, I believe it was, federally. And then that Act, federally, did not go through.

And we are sitting now in this province with this piece of legislation that is not in line with the federal legislation anyway. And also we're sitting with implications like this. So I wonder if the minister would comment, please.

Hon. Mr. Cline: — Well I want to make it clear that, you know, I can't comment on specific cases that may have been decided by the courts. But obviously in the case that the member's referring to, the judge decided that there was a spousal relationship for two years and one of the parties, at least, disagrees with that. But there are rights of appeal if the judge is incorrect.

I do want to make it clear that the judges do not have a blank cheque. They have to determine that two people have lived in a spousal relationship for two years — not six months or a year but two years — and that they've been living together in effect as spouses. And that's a matter of fact.

And the member is correct that people have to be cognizant of what the law is and what their obligations may become and what their liabilities may be if they get involved in a situation where they live with another person, whether they're already married or not.

And I would say that it's important for everyone to realize that living with another person is a serious, large, important step. And when you make a decision to live with someone as a spouse, whether married or not, you must give some thought to it and what the legal implications may be — point number one.

Point number two, there are what are called prenuptial agreements. If people wish to contract out of the implication of the law, The Family Property Act, they can sign an agreement saying, it doesn't apply to us. But if they don't sign that kind of agreement, then some implications may flow.

But I just make the observation that in the last 20 years, I would say society has changed a lot. Some will like it, some will not; but the reality is people do live together quite commonly without being legally married.

And the public expects governments to respond to social reality and to say, for example, if a couple have lived together and they're not married but maybe they have a child, that certain rights must be assured, say, for the mother of the child if the relationship ends, whether or not they're legally married.

And that's just a reality of modern life. And some people will be very vulnerable, they'll be vulnerable spouses, and they need to be protected.

And so I don't disagree with the member that the law is changing. The law is somewhat complex; it relies upon the judges to make certain determinations. But the reason that the laws change is because society has changed. And people are living in ways that are different than the ways that they lived in

the past, in many more cases than used to be common.

And so that is the reason why the law has changed to recognize people that live together common law and to give them some property rights after a certain length of time.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, I guess when The Family Property Act came into being in the province, the intent at least that was . . . the intent of that piece of legislation was to change the law to include provisions for fairness as far as division of property and so on in respect to same-sex couples.

But the implications I think went a little bit further than most people realised in that, you know, when you have now common-law couples who are also subject to that change and, you know, what constitutes common law or the lack of definition for common law really does pose, I think, a problem. And I think that's something else that should be and could be worked on.

Mr. Minister, I'd like to just move my questioning to the most recent Ombudsman's report, and it's just a matter of interest on my part. The Ombudsman made some reference to . . . Well actually her report contains some recommendations that reflected on the condition of the prison facilities here, or correctional institutes. So one of her recommendations certainly implied that she thought it would be a good idea to renovate the Regina jail or else have a new building.

And I'm wondering if your department has done any kind of analysis and assessment on what it might cost for renovations or for rebuilding the facility entirely?

Hon. Mr. Cline: — No, my department would not be at all engaged in that because it is being done by the Department of Corrections and Public Safety, and I know that the minister in charge of Corrections would be pleased to answer that question in his estimates. It's not something that falls under my department.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, in reference to child custody in this province, there has been I think a lot of, a lot of engagement in the need for . . . engaged talk in the need for children to be able to testify by a tape recording. And I'm wondering if there is . . . if that is permissible, if that's accepted in courts.

I'm wondering also whether or not there is an age differentiation as far as the testimony acceptance. Like, how old would a child have to be before their taped testimony would be accepted by the courts, or if in fact age even makes any difference?

Hon. Mr. Cline: — Mr. Deputy Speaker, my officials advise me that yes, the evidence of a child 14 years or under can be videotaped and admitted on that basis under the evidence Act. And there's consideration being given to raising that age to 18 to be consistent with I believe the federal legislation, the Youth Criminal Justice Act . . . or actually the Criminal Code that allows similar evidence for people under the age of 18 years.

Ms. Julé: — Thank you, Mr. Minister. You said 14 and under.

So I'm wondering if you can give me the minimum age that a testimony would be received.

Hon. Mr. Cline: — I'm advised that there is no set minimum age. The question would be for the court to determine whether the child had some understanding of the process and the importance of telling the truth.

Ms. Julé: — Okay, thank you, Mr. Minister. Mr. Minister, I'd just like to switch over now. I'll switch my questioning to the sex offender registry and the possibility of that happening within the province.

Mr. Minister, we've had some interesting question and answer periods on the sex offender registry and I hold before me today a press release from Newswatch that has some response from Minister Nilson to my question.

And the question that I had asked during question period, first of all, was referring to the need for the province to set up a database, and a minister other than yourself responding and of course responding the same way that the Minister of Justice responds: the federal government is setting up a sex offender . . . a national system and they were working on that since last December, when they introduced legislation to make that happen.

Now the other part of the response from one of the government members on your side of the House was, our officials are working together with the federal people on setting up this process. We're doing that so that we can have a system that covers the whole country.

So, Mr. Minister, I'd just like to get into some more . . . some of the intricate details. And I'd like to ask you, in working with the sex offender registry, with the other provinces, with the federal people particularly on setting this up, I'd like to ask, you know, what was the process that you went through? What kind of discussion took place as far as the mechanics of setting up the sex offender registry? What was necessary for the provinces to do?

(19:45)

Hon. Mr. Cline: — I'm advised, Mr. Deputy Speaker, that all of the provinces were involved in the planning and development of the legislation that is currently before the federal parliament. And they were involved in developing the criteria for the registry and the structure of the legislation.

I'm also advised that when the legislation is passed, the provinces will have to play a role with respect to the implementation of the legislation in the sense of training of police and other officials to actually register and make entries onto the registry of sex offenders, also dealing with the police and the courts in terms of anything else that may be required to have a name go onto the registry.

The idea — and the legislation was introduced in December of last year — is that there will be a national sex offender registry which will establish a sex offender database on the Canadian police information computer, require those convicted of specific sex offences or offences found to have a sexual component to

register following a court order for registration. So in other words, the judges which operate in each province will have to make an order that certain people be included in the register.

Offenders will be required to register within 15 days after the order is made, if not in custody, or within 15 days from the release from custody. So the probation officials that operate in each province will have to ensure as a condition of either sentencing or release that the offenders actually get down and register themselves.

The length of registration will vary depending upon the offence. The offenders are required to keep information — addresses, telephone numbers, and so on — current. So if they deal with provincial officials with respect to probation, we will have to make sure that if they change their address that that goes into the registry. So there will be some monitoring and work that provinces will have to do.

And so the provinces have been involved with respect to both the legislation itself and will be involved in terms of the actual on the ground implementation and operation of the system to make sure that the offenders do what in fact they're supposed to do, and to make sure that the courts and probation officers are aware of all the situations where someone must have their name and address on the registry.

Ms. Julé: — Thank you. Mr. Minister, I wasn't quite so interested in what the registry would be like. I was quite aware of that quite some time ago, of the fact that offenders would have to register themselves and that kind of thing and what kind of material would have to be contained, or information rather, would have to be provided to the police. I recognize that.

What I was wondering is if in fact it is true that officials are working together at this time and have been for a year since the feds pointed out that they were going to have a national sex offender registry — and it would seem to me that provincial officials in saying that they're working together would be able to explain what kind of . . . the nature of the work — what kind of input did each province have?

Obviously Ontario has set up their own database and so has Alberta and, I believe, Manitoba. So if those requirements were there for each province to get that material ready so that in fact, when the legislation is passed, you've got a working . . . something that's workable here, why wouldn't the provinces then . . . all the provinces do that? Get their database ready and have it ready for entry into the national registry?

Hon. Mr. Cline: — I would like to point out, Mr. Deputy Speaker, only Ontario has a sex offender registry. Alberta and Manitoba do not have sexual offender registries. They simply don't.

And what Ontario and . . . or, I'm sorry, Manitoba and Alberta have are certain disclosure systems, which we also have in this province pursuant to legislation that was passed in 1996. We have a public disclosure system. And if the way in which police recommend public disclosure is through a Web site as they're doing in Manitoba, I believe, then that can certainly be done here as well.

But I'm answering the member's assertion that somehow there are all these sex offender registries elsewhere. Well there aren't. There are some provisions with respect to public disclosure. We also have legislation concerning public disclosure.

The officials have been working with the federal government to develop a national system. And the reason for that, as I've indicated in this House before and in the media, is that sex offenders are mobile — they may move from Calgary to Vancouver to Saskatoon — and we need a national registry. And what that is is really an investigative tool for the police, that they can monitor the whereabouts and track the movements of sex offenders so that when problems arise, that may assist them in locating the perpetrator.

Now having said that, we also know, and we're seeing in Toronto now where there's a horrible situation, notwithstanding a sex registry, that there is a predator on the loose who has killed one child and there's speculation that he has — he, I'm assuming, could be she — that person has attempted to pick up other children, notwithstanding the sex registry, which brings to mind the importance of other measures, that is educating children, informing them of the need not to go with people they don't know, of keeping people together and not having children alone and vulnerable to predators.

And in that regard I want to say, as I've said before, that we pursue a number of measures to try to protect children from sexual predators, including release conditions for people who have been convicted of sex crimes, peace bonds that people may be required to enter into, The Public Disclosure Act which I've mentioned, the national flagging system which alerts prosecutors across the country to consider a dangerous offender application or a long-term offender application if a particular person is before them, and also dangerous offender and long-term offender designation, which are applications that we make as the Crown to have people held in jail as dangerous offenders.

And as of March 20 of this year, for example, there were five applications before the courts to have accused people declared to be dangerous offenders, which would mean that they would go to jail and not be let out. And other people have been found to be dangerous offenders — since 1975, a total of 26 — and those are people that are locked up and not let out. So there are those things that we do.

I think a national sex offender registry would be one tool that would assist the police. It would not be a panacea or an answer to all problems. There would be the need for vigilance at the community level by parents, by teachers, by other people having contact with children, and there would be the need for government to take the steps that I've described in dealing with people that we know to be sex offenders.

So a national sex registry, we support it. In fact it came about as the result of a resolution put forward by Saskatchewan to the federal and provincial ministers of Justice. It is one thing we can do. It will not be a complete answer and we need to take a variety of other measures to protect children from sexual predators.

Ms. Julé: — Thank you, Mr. Chair. Thank you, Mr. Minister.

Mr. Minister, I'm well aware that Saskatchewan definitely did put forward their desire to see a national sex offender registry and I think I'd remind the minister that that happened after the opposition initiated and prompted the government to do so. But nonetheless it was done and I'm very pleased that the necessity for that was put forward by the province of Saskatchewan.

But it remains, Mr. Minister, that Manitoba and Alberta and Ontario have set up a Web site. Now, Mr. Minister, you've made the comment, just a moment ago, that it's important for communities to be vigilant. A Web site, with high-risk offenders on that Web site, high-risk offenders that are in this province, their picture and their description and their whereabouts, would assist the community in being vigilant and aware. I think that that's the least that we can do.

As you mentioned, none of these measures are a total panacea in themselves as far as addressing the danger that is at hand for children and residents of Saskatchewan. But I think it's incumbent upon us to make sure that we do everything possible.

So if we had a Web site set up, which I understand from the other three provinces is not a very costly measure, we would be able to provide the public with that awareness tool. It would not be costly and it could be — all of that data that's entered in there — could be used for the national sex offender registry.

So I'm at a loss as to understand why we wouldn't in this province set up that kind of Web site. Can the minister tell me why his NDP (New Democratic Party) government is refusing to do this?

Hon. Mr. Cline: — Well I should point out first of all that with respect to sex offender notification through The Public Disclosure Act, which was passed by this legislature in 1996, there have been two states in the United States, namely California and Alaska, who have had those programs thrown out entirely by the courts on the basis that the notification on the Web site was too broad and went beyond the purpose of the legislation.

So one concern that our province has had has been that the legislation has to withstand constitutional challenge. And that's something that's considered with respect to any legislation.

Now the other point I want to make is that The Public Disclosure Act, so that there's no misunderstanding, allows disclosure to the public that there is a sex offender in the area. The question is whether the notification should be to a given area and a given community or whether it should be on the Web site which goes to the world at large.

One of the fears . . . well there are two fears and from a practical sense that have gone along with this. One fear is the fear of vigilantism — that notification to the world at large may cause a vigilante response to someone who has been a sex offender, perhaps has not reoffended but is living in the community. And one of the goals of the correctional system of course is to rehabilitate people where possible.

The other fear is that you make life so difficult in the community at large and the entire world that you drive sex offenders completely underground, so that in other words,

instead of living in the community, having their whereabouts monitored by the police, and notifying the community as opposed to the world at large, but monitoring the person, that you just lose track of the person because they find the weight of the whole world who has been notified about them, you know, is coming down on their shoulders. And it isn't out of any sympathy for the sex offender in that sense, but from a practical point of view.

(20:00)

I'm advised that the people working under The Public Disclosure Act, determining what the appropriate level of disclosure should be, have advised against Web site disclosure for the reasons that I've indicated, that they think public safety is better enhanced by a limited disclosure to people in that community as opposed to Web site, and that's some of the reasoning.

Having said that, these are matters that should be obviously carefully considered, and experience will be had in Alberta, Manitoba, Saskatchewan, and Ontario, and this is a new area and we will learn the best way to do these things and also we will learn that some ways may not be the best way to do these things.

What I would undertake to do is to monitor progress in this regard as we move forward, while at the same time reminding everyone that the sex registry and the notification will not make everybody safe, that there are a variety of things that need to be done to try to keep people safe and it requires the response of people at the community level, educating children, not leaving them unsupervised in certain situations, and so on.

Ms. Julé: — Thank you, Mr. Chair, and thank you, Mr. Minister. Mr. Minister, I think that there is every member in this legislature as well as just about every sensible, thinking person in this province that would agree that there are a number of measures that have to be taken to ensure that our children are not in danger of being assaulted by sexual offenders.

But I also know that there has been education of many children and a lot of those children are still in danger because the actions of a sexual offender are often ingrained into the way they are. And there is a propensity for repeating that offence and that has been proven by social scientists that this is not . . . this is not a behaviour that is easily rehabilitated.

And so, Mr. Minister, I'm not referring to sexual offenders after the first offence. I'm referring to having a Web site set up for repeat offenders that are considered high risk and that are still able to serve a sentence in jail and then be discharged.

A point in case is Karla Homolka. It looks to me like from what we're hearing in the news that they are going to be released. There is no requirement for their registry anywhere. There is nothing, unless we take some measures provincially like a Web site, to notify the general public that these people may be in their area. And I think it's the very least that we owe our children, as well as all citizens of our province, to ensure that they have a fighting chance to know who is in their midst and how to be aware of that, and vigilant.

And so, Mr. Minister, I'm thinking also that if Alberta, Manitoba, and Ontario have set up a Web site and they're taking the initiative to do so based on their belief that a province has got to do everything that it can possibly do to ensure the safety of its citizens, why then would our province not take the same measure?

And I understand some of the reasons that you've given. But they just don't kind of cut it with me, I guess. Fear of vigilante? Well I'm sorry. I mean, that might be a concern; there's no doubt about it.

But I think on the other end of the spectrum we've got to remember that children also have a right to be protected. And we're not looking as much at that right of children if we're forever finding reasons why we should be protecting an offender.

So I know that's not your intention to protect an offender. I'm just saying that the action we take to deal with these matters really does reveal whether or not we're protecting children or we're protecting an offender.

And so I've said a whole lot here and I'm just kind of wondering if the minister could maybe comment again as far as, I guess, the right of children, the right for society to be protected and therefore the necessity of a provincial government to take action, every action they can, to do so.

Hon. Mr. Cline: — Mr. Deputy Speaker, I want the member opposite to know that the police and the prosecutors work every day to protect children. The police and the prosecutors consider it a very important priority to protect children. There is no one in this legislature that doesn't think it's important to try to protect children.

And as I have said to that member repeatedly — but I will repeat it again — we don't just pay lip service to protecting children from sexual predators. We are taking action to protect children from sexual predators. I want the member to know that the public prosecutions division of the Department of Justice has within the last 10 years conducted more dangerous offender applications than it had cumulatively in all previous years, that is the previous 80 to 90 years.

The member says, well if somebody has repeatedly sexually abused children, then certain steps should be taken and she's referring to notification and so on. I'm saying to the member, as I have said repeatedly, when someone repeatedly sexually abuses children we do not cut any slack in the Department of Justice. We apply under the rules to have them declared a dangerous sexual offender and to have them locked up.

And for the information of the member, we have obtained in the last 10 years 22 dangerous offender designations. Those are people that are locked up for good and 15 long-term offender designations in the last five years. There are nine more dangerous and long-term offender applications pending.

Public prosecutions has also identified 21 other cases — these are now before the courts — where a dangerous or long-term offender application might be made in the event of a conviction. In other words we're watching people who have been convicted

of abusing children. We say, if they're convicted again, we're going to apply to have them locked up for good. And we don't cut them any slack.

And what I want to make clear to the member is, no one takes this lightly — no one — on that side of the House or this side of the House. And the prosecutors don't take it lightly and the police don't take it lightly. And we all abhor that in our society and all across the country these kinds of offences occur. We take steps to try to prevent them. We take steps to deal with them and I've identified some of the steps.

I also indicated to the member today, and I've indicated before, there is a national flagging system of potential dangerous offenders maintained using the police computer system. Saskatchewan participates in that network to ensure that dangerous, potential dangerous offenders are identified and tracked no matter what jurisdiction they happen to be in.

In other words if we have a dangerous offender, we co-operate with the other provinces to say — or someone might be a potentially dangerous offender — this person would be dangerous; if this person comes up in your system, talk to us about what they may have done before and let's try to make sure they don't disappear into some other jurisdiction.

And since January 1996, we have flagged 52 Saskatchewan offenders on the national flagging system. We also . . . Through the prosecutions, we're committed to the early identification of cases in the criminal justice system which might warrant a dangerous or long-term offender application in the event of a conviction.

What I'm trying to say is, these matters are not easy. There's no state that can all the time be watching every person to make sure that they're not doing something wrong. And there are people that are doing things wrong.

But what I object to is the implication in the question that somehow the system does not take the rights of child victims seriously because somehow someone's more concerned about offenders. No. We're concerned about complying with the Constitution for sure, and doing things in a lawful manner.

But if there is any way that we can protect children by having somebody convicted and locked up, and if they do it again by locking them up for good, not only do we want to do it, we are doing it. We are doing it. And I'm going to underline that because I've said it many times that we're doing it; we doing it more than we have in the past.

And my point is there is no one in this House that doesn't take this matter seriously. And there is no police officer, no prosecutor that won't do everything we can do to protect children from being victims of sexual crime.

That is the position of the member opposite. That is my position. It's the position of every member of the House. It's the position of the Department of Justice. It's the position of every prosecutor in this province. And it's the position of every police force in this province as well.

Some Hon. Members: Hear, hear!

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, the reiteration that everyone in this legislature, every member of this legislature care about children has not been disputed by myself. Mr. Minister, what I'm saying is it's necessary to take some actions that we need to take where we see that there may be a way to protect even better.

So, Mr. Minister, my reference is when I make the comments to you about what yet can be done, and my reference to other provinces and what they are doing, I want to be considered seriously.

And I'm looking at these other provinces — Manitoba, Alberta, and Ontario — who have set up Web sites. I believe that the members of their legislatures are also just as concerned. I believe that they've looked at all of the laws they have in place and all the activity under that law that is taking place to protect children.

But for some reason, Mr. Minister, there are people there that still believe that even more should be done, and a public awareness tool is one of those things that we can do. A Web site is a public awareness tool. It helps people protect themselves.

Yes, the police and the prosecutors are doing a great job. I have no doubt about that and I agree with you on that, but I also recognize, as every one of those police officers out there — prosecutors, judges, everybody in the province that is in the system that deals with this matter — recognize that when an offender is released from prison, there is no tracking in the system, no way of tracking where they go. They can up and take off and no one knows. They don't know where they've gone and they have no obligation at this point to make disclosure to the police force in the next community that they're going to, of their whereabouts.

So that's not in place yet because the national sex offender registry is not in place. I believe that we have a lot of measures in our system that are working to a degree, but they're parts of a workable solution for this. We need to incorporate other parts that will make it even safer.

And I'm just asking that the province consider that there are most likely reasons that other provinces, like Manitoba and Alberta and Ontario, put in a Web site. I think they believe that it would be a public awareness tool to ensure that people in our communities could protect themselves. So if the minister would care to comment, I would be happy to receive his response.

Hon. Mr. Cline: — Well as I tried to indicate to the member earlier, Mr. Deputy Speaker, in 1996 this legislature passed The Public Disclosure Act. That Act allows for the disclosure to the community of the presence of a sex offender in that community.

Since 1996 there have been 17 situations where disclosure has been approved under that Act. In other words, the community is notified . . . I should say 17 applications and 13 approvals for disclosure. So the community has been advised of the presence of a dangerous sexual offender, or a sexual offender . . . well in every case they would be dangerous in that sense, but not so declared by the courts perhaps.

But the difference here is, the member says well just post it on

the Web site and out it goes. And instead we ask a committee that's comprised of community members what they think is the best way to disclose it to the public. It isn't a matter of whether it's disclosed or not disclosed; it's what steps are taken.

(20:15)

And my officials advise me that, for example, if there's a sex offender in a given community, the school will be made aware of that. The daycare centres will be made aware of that, other places where children may congregate. There may be posters put up in the area. There may be notification in a publication like a newspaper. There may be notification electronically through the airwaves. There are a variety of ways that people can be notified. So yes, Manitoba does it also through the Internet and it's on . . . there's a Web-based notification system.

What we do in this province is to ask the committee what would be the best way to notify the community. Now my understanding is if they wanted to say, well alert the world by putting it on the Internet, well they could do so. We ask them what their advice is for the protection of the community. They come up with the suggestions and they've done so in 13 cases.

Now if there are any cases where there's a sex offender present and a possibility that they will reoffend, the system is in place to bring about public disclosure. What we're talking about is whether there is . . . whether it's a necessary prerequisite that the public disclosure be on a Web site. And in 13 cases the community has said, well here's how we think you should disclose. And we work with the community in that regard as the legislation contemplates.

And frankly I think that what you should do is target the warning to the community that is in danger, not . . . It doesn't matter to me if it's on the Web and somebody in Singapore or Beijing can read it. It matters to me whether the community concerned is aware that that person is present. And I understand there may be notification of other police forces where the person may go to as well, but it's targeted as opposed to just kind of a shotgun approach on the Web.

But as I said to the member before, if the committee of lay people — public advisers I think — in communities has been incorrect in the way in which people are notified, if there are better ways of doing it, then we should monitor it. We should look at it always with the intent of having the best system to protect children from sex abusers.

I can tell you that the committee, you know, is . . . has a clergy person on it, someone familiar with victim services, senior officers with the RCMP (Royal Canadian Mounted Police), Regina and Saskatoon police services, a psychologist, a retired judge, and an individual who works with victims and communities and offenders, as well as a lawyer. And they're people of experience that try to figure out what is the best way to notify. And we can have disagreements over, well, is this in fact the best way to notify or is there something else you should do?

But I just want everybody to understand there's no sort of cavalier attitude that, well we're just not going to do this. There is an attitude that we think, based upon the advice that comes

from the community, this is the best way to — in the short run and the long run — to protect the community. This is what we think we should do.

I've tried to explain why. If indeed experience shows that there are better, more effective ways, then we can change the way we do it. But it . . . The attempt will be made to do it in the way that will most effectively provide protection to each community concerned, and not necessarily to jump on every bandwagon that may come along.

Ms. Julé: — Thank you, Mr. Chairman. Mr. Minister, what you're describing is certainly a good thing, what is now taking place. But it occurs to me that public disclosure for every high-risk sex offender is not mandatory. It is the position of the committee that you have referred to as to whether or not that offender is going to be subject to public disclosure. And so that certainly does not cover every sex offender.

The fact of the matter remains, Mr. Minister, and I reiterate that this kind of a crime and this behaviour is always dangerous; it's repetitive. In the cases of high-risk offenders — that's why they've been labelled high-risk offenders — is that they have a propensity to continue this thing over and over again. And in the meantime, the damage to those lives of children that are offended and sexually assaulted is a lifetime of anguish, trauma, and damage that not only has social costs, as you well know and we well know, but certainly has high financial costs.

And, Mr. Minister, I guess you know we could probably go on debating this for some time. I know that it's an important issue for the entire Assembly, but I would draw to your attention, Mr. Minister, that one of the organizations in this province that have done a study of the financial costs of sexual assault, sexual trauma was Tamara's House in Saskatoon.

And the cost is phenomenal. It's like three to four times the cost to the health system of people that are dealing with sexual trauma than people that do not, to say nothing of the productivity of the lives that have been damaged.

So, Mr. Minister, I'll just leave you with that and I just wanted to ask you one more question in reference to the sex offender registry and then I'm going to turn the questioning over to my colleague, the member from Rosthern.

Mr. Minister, could you tell me what the status is right now as far as you have been advised as to the retroactivity of the sex offender registry? Are they going to have a retroactive provision in place so that offenders that are in prison right now, upon their release, will be entered into that registry as well as offenders from the past that are out there right now in the public?

Hon. Mr. Cline: — I want to say to the member in answer to the first part of her question — and she's right; we could debate it for a long time — but I think it's important to know that every single month, as people are released from the federal institutions, we monitor what offence they've been convicted of. And if it is a sex offender and if there's no parole officer meeting with that person regularly, we apply for a recognizance, you know, a peace bond, to the court requiring that they report to the police regularly and also make their

address known to the police. We apply to the courts to do that and we do that dozens of times each and every year.

And I think that's important to know that we don't ignore people that we consider to be at high risk. If they are at high risk to reoffend, we take steps to have them meet certain requirements. And if they're at very high risk, we take steps to have them declared a dangerous sexual offender, as I've already said.

Now we're also supporting the establishment of the national sex offender registry. And the member asks a very good question, which is: well what about applying it retroactively? And we have . . . I understand that my predecessor already at a meeting of the federal, provincial, and territorial Justice ministers has, along with other provinces, said that that registry needs to be enhanced to apply it retroactively in some cases; and that we support that.

We will continue, as I indicated to the member in the House last week, I believe, to take the position that the present federal law should be enhanced and that it should include some retroactivity provisions.

And so we're supporting getting going with the national sex registry, first of all. And we're working to make it stronger than it is now. But as I've said repeatedly, we are doing a variety of other things. We are taking action on a variety of fronts, through the courts, with the prosecutors, with the police, to do everything we can to combat sex offenders who prey on children. And we will continue to do so.

Ms. Julé: — Thank you, Mr. Chair. Mr. Minister, if this province took the position with the previous minister of Justice that it should be retroactive and you mentioned that other provinces took that stand, why wouldn't the federal government do that then and have that as a provision of the national sex offender registry now?

Hon. Mr. Cline: — I'm advised by the officials that a separate process would have to be devised which does not currently exist. Let me explain. With respect to people who are convicted — as of today or when the legislation is finally passed and proclaimed — of certain sexual offences, we know that those offences, those offenders can be placed in the national sex offender registry. Because it will say if you're convicted of this crime, you go into the registry and certain things happen.

Retroactivity is a little trickier because who do you say, who may have been convicted of something 20 years ago, should go and register themselves? How do you do that? How do you locate them? How do you find them?

In some cases the offences will have been different. Some offences of a sexual nature in the Criminal Code today have different names, different circumstances than before. Some sexual offences used to exist . . . some sexual acts that were offences before that are not offences today. Today there may be some Criminal Code provisions that didn't exist before.

And so from a practical perspective, you can see that you would have to be able to tell the police or someone would have to notify somebody that here's a body of people that have been

convicted last year and going back 50 years — 30 years from a practical point of view, I suppose — go out and get those people, find out where they are, get them to register. And how to do that is not necessarily that simple from an administrative standpoint.

Also, from a legal position, what offences over the years are you talking about that if somebody was convicted of, they should have to register? And so from a practical point of view, it's easy to say somebody that's convicted tomorrow or in the next year can register. We know who they are; we know where they are; we have them before the court.

Not so easy to say, everybody convicted in the last 30 years, come and register. I mean, we don't have them before the court, we don't know where they are, whether they have the same names, whatever, and so it's slightly more complicated.

Having said that, we're willing to work with the federal government to bring forward provisions that would have some retroactive impact. But what we want to do now is take those steps which are practical and which can be taken now on a national basis and proceed with that and work to figure out how you would apply that retroactively and bring the other people in, some of whom may have been out in the community for 30 years and they've never reoffended at all. And you can, you know, you can judge that on the basis of whether they've been charged with any offence and whether they have any further record.

So that is the thinking primarily of the federal government is, well fine, tell us we're supposed to do this and now explain to us exactly how we implement that. And I think it's that kind of problem that they have.

(20:30)

Mr. Heppner: — Thank you. And welcome to the minister and his officials. This may not be of consuming interest to them all but it might be to one or two of them. New Jersey is leading by 2 to 0, and the election's almost a tie. So now that we've got that out of the way, we can deal with some other issues.

What is the province's relationship to the chief firearms officer? What involvement do they have with him?

Hon. Mr. Cline: — We have no relationship with the chief firearms officer; that is a federal official.

Mr. Heppner: — Okay. Do all provinces then have a chief firearms officer? And if they don't, how come do we and they don't?

Hon. Mr. Cline: — Well I want to make it clear, we have no chief firearms officer. We have not had since 1998. In 1998 we said we would not enforce the national firearms legislation. We have no chief firearms officer, period, full stop. Some provinces, I think still do; we don't. We're not enforcing the national Firearms Act.

Mr. Heppner: — Thank you. I believe Ontario has come onside with also not enforcing it along with a number of Western provinces. And I'm wondering if that particular topic

comes up when the Justice ministers from across Canada get together, to sort of see if they can work through a way to keep a rather ridiculous law, which seems to be falling apart on a regular basis, from just becoming a millstone around everyone's neck.

Hon. Mr. Cline: — Well I'm sure it does. But I have to say that, you know, what has happened is that the provinces that are opposed to the national Firearms Act — which are British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and I believe Nova Scotia — have been very clear from the outset telling the federal government that we don't think this is a practical, workable Act. And I'm advised Newfoundland also today came out in opposition to it.

But the situation that we have been confronted with is the federal government not listening to any arguments of any of those provinces. I mean we've been all the way to the Supreme Court on this issue.

And we will continue to maintain the position that we take which is that it would be far more practical to use the money that is spent on the national firearms registry and enforcement of that system and target that to actual criminals and crime. We think that the public would be better served and would be safer if we did that than they will be under the national Firearms Act. But I have to say that the federal government has not listened to us or the other provinces.

The member's question is, do we raise this with the federal government? Yes, we do. In fact I recently, within the last several weeks, sent another letter to the federal minister in charge of that Act who's now the Solicitor General. But we don't seem to have their attention even though the evidence now seems quite clear that everything that has been said about the impracticality of that Act seems to be borne out by evidence. But it seems to be a case that the federal government is at this point unwilling to admit that this system is falling down like a house of cards.

But we'll continue to take the position we're taking. We'll continue not to enforce the Firearms Act through prosecutions in our province although the federal government can certainly hire their own prosecutors, and I suppose they will, to enforce it. And we'll see what happens.

The Chair: — Why is the member on his feet?

Hon. Mr. Thomson: — With leave to introduce a guest, Mr. Chair.

Leave granted.

INTRODUCTION OF GUESTS

Hon. Mr. Thomson: — Thank you very much, Mr. Chair, Deputy Chair. I notice in the gallery a friend who is certainly no stranger, well no stranger than usual in this House, the current member for North Battleford.

Judging by his attire tonight, I would say that he got confused and thought in fact it was a Saskatchewan election that had happened. But indeed it was New Brunswick. I would

encourage him to certainly return to the House in proper attire at least until after the election when he can get comfortable, dressed in his shorts again.

Hon. Members: Hear, hear!

COMMITTEE OF FINANCE

General Revenue Fund Department of Justice Vote 3

Subvote (JU01)

Mr. Heppner: — Thank you. And probably a fine introduction. I would imagine that the NDP will look about as threadbare as the Liberal member does after the next election.

To the minister: I think one of the major issues in Saskatchewan in the justice area at present is the situation in Saskatoon. And I would like for the minister to comment on his awareness and involvement in that situation because I think it's very crucial in that it involves basically an issue of public faith in our justice system, so it's an issue that's highly critical to our province.

Hon. Mr. Cline: — Well I assume that the member by referring to the situation in Saskatoon is referring to the deaths of Aboriginal men who have been found frozen to death in the vicinity of Saskatoon. There's some other issues in Saskatoon relating to the police chief and the police union which we're not involved with at all in the sense that it really is a matter for the mayor and the police commission and the city council in Saskatoon and the police union to deal with.

With respect to the other situation, as the member described it, we're very concerned with the situation because there are unanswered questions. And so we're doing a couple of things . . . well more than a couple, actually.

One thing that we're doing is in the year 2000 we referred the entire situation to the RCMP. We said we want all of the allegations, any suspicious circumstances surrounding events in Saskatoon to be investigated. That investigation is being carried out by the RCMP. That investigation continues today. That's one thing that's happening.

Secondly, we have had a series of inquests into the deaths of, I believe, two . . . four, four Aboriginal men. There have been four inquests.

Thirdly, charges have arisen in the case of Darrell Night who was taken out outside Saskatoon, did not die, but walked back to Saskatoon. And two police officers were convicted, sentenced, and jailed as a result of that incident.

As well, we have called for a public inquiry into the death of Neil Stonechild which will be conducted by Mr. Justice David Wright commencing I believe in September. Certain preliminary matters are occurring with respect to that inquiry already.

And as well we have created the commission on Aboriginal justice, a commission that is not looking into these cases

specifically but into the relationship between the Justice system and Aboriginal people in our province with a view to making recommendations as to how that might be improved.

And so we're taking a very active role with respect to these matters. We take them very, very seriously but we're not just talking about it, we're taking action. We're taking those steps I've described. And I've made it very clear that if there are other steps that should be taken in due course, those steps will be taken as well. Because as long as there are unanswered questions about these matters we will consider the matter to be open; we will consider the matter to be worthy of investigation.

If there's any way that we can uncover the truth about questions that aren't answered we will make every effort to do so. The difficulty of course is we can't promise that we will always find the answers because sometimes some things occur where nobody ever knows the answer. But I can only say that if there is some way that we can assist finding the answer we're determined that we're going to do so.

Mr. Heppner: — Thank you and I guess I asked a question that had two parts to it, and we'll probably get into the Saskatoon Police Association and the police commission in a little while if we don't run out of time.

There is a component to the part we're discussing right now which I think is very disconcerting and you mentioned that in your answer in that it has been in the public's mind coloured as a totally Aboriginal issue which it isn't. And I would hope that as the research takes place you will probably find out that there were other individuals who were not Aboriginals who were taken outside of the city and allowed to go for a walk as well.

And I think that's important for the minister to note and to put some effort into. Because as we're concerned in this issue with the race relationship component to this, and it's a very critical issue, I think it can be, to some extent, be diffused as just a racial issue by recognizing the fact that this happened to people who were non-Native.

Now I'm aware of one of those, but the person's not prepared to come forward because he was taken out on a cold winter's day because he was just being totally drunk, disorderly, and ignorant. He was fortunate enough that he got himself a ride back into town and basically told some of the people he met he'd learned his lesson. He would never do that again.

Now that's not a good way to teach anyone a lesson. But for those reasons he's not prepared to come forward and say anything about it because that's part of his history he's blocked off.

But I'm sure if the research is done they will find more of those issues. And I think that's important to put into the mix so that this doesn't become a situation where we say this is strictly a race item, which up to this point it has been unfortunately because the four people that you mentioned were Aboriginals. And so I think when the public looks at that at this particular point and draws that conclusion, they're probably correct in doing so.

But there is more information out there, and I'm wondering if at

this particular point the minister is aware of any of that?

Hon. Mr. Cline: — Well, I would say to the member that these matters are of concern to the RCMP and also the Saskatoon police force. And if there is someone who has information about, you know, inappropriate behaviour on the part of the police, that they should come forward with that information. And that's how we get to the bottom of these things.

People have to be prepared to report to the RCMP, in this instance, which is investigating this area, so that the RCMP can put things in proper perspective if indeed there is some perspective other than the one that's been put out there. But that will certainly depend upon people coming forward.

And I guess I would say that if there are people that have been wrongly treated in the way that the member has described, then if there's more than one — that one person apparently doesn't want to come forward, the member says — if that was a regular occurrence, then my feeling is that people would come forward and tell the RCMP. And if they haven't done so they should, because the RCMP needs to know that.

And so I would just say that. And if people don't come forward and something has happened then the RCMP will make their decisions based upon what people actually tell them. They can't make decisions based on things that may have happened that are not brought to their attention.

(20:45)

I also can indicate that people can come forward as confidential informants. You know matters can be brought to the attention of the RCMP on a confidential basis.

And if the member needs further elaboration with respect to that, I'm sure he could contact my office and we would be able to assist in that regard.

Mr. Heppner: — Thank you. And as I said, I think it's important that that information becomes part of the whole story so that it does not become a race issue as it is at present.

Earlier on when I put that question there were two components to it, and the minister seemed to be rather hesitant in becoming involved in the other situation in Saskatoon which is where their police commission, I believe, had 95 per cent negative votes from the police association and the chief was down in about the 90s. Now that's major.

We don't ever expect that things are going to be 100 per cent in favour. They never are. But when you get basically the whole police force not having faith in their police chief and in their commission, who's supposed to sort of regulate that and deal with it? Where, you know, do the people of Saskatoon go and say what kind of confidence can be had in what's happening when there are these kinds of major divisions that have taken place in the policing of our community which is supposed to provide the safety for the community?

And I do think at some point the minister may have to get himself involved in that situation and I would for like him to comment on that.

Hon. Mr. Cline: — Well in answer I should explain to the member in the House that the responsibility for local policing lies with the municipality — in this case Saskatoon. In other words, it's not a provincial police force, it's the Saskatoon Police Department.

And so the member says where do citizens go if they have a concern? They go to their mayor; they go to their city councillors — they are the employers of all of the police in Saskatoon and the police chief. They go to their local police commission which is responsible for the police force. And that's where they go. There are structures in place.

But if the question is, do I as Attorney General run the Saskatoon police department? No, I don't. And I don't have the authority to hire a police chief or a police officer or to fire them. That's not my place.

Now certainly we're concerned about the administration of justice in the province and we will monitor a situation to see if things are being done the way they should be done.

But in terms of a local disagreement between an employer and an employee association, it's up to those parties to resolve that kind of disagreement; and it's up to the mayor and the city council and the police commission in Saskatoon to determine matters within their local jurisdiction. And that's the answer.

It's not a matter of shirking responsibility or anything like that. It's a matter of recognizing that there is a local authority. It's the city of Saskatoon and they have the authority under The Police Act to have a police department. They do. It isn't run by the province; it's run by the city of Saskatoon, which has a duly elected mayor and a duly elected city council which is responsible for policing in that community.

Mr. Heppner: — Thank you. And to the minister, I'm quite aware of what he's just all told us. However, in all other aspects of municipal government when things start falling apart seriously, the province, because it's given that jurisdiction, also has the responsibility to sort of deal with it. But I take it at this particular point the minister does not want to deal with that or make any particular comments and so we'll let that be as it is.

I have one more question and then I'll turn it over to the member from Last Mountain-Touchwood because he has one or two questions to the Justice minister as well.

Some months ago I came across a justice magazine — and I've mislaid it so I can't bring it here to sort of dictate which one it's from — which had a number of articles in there, three or four of them written by people outside of the province and within the province, about the concept of unifying federal and provincial courts within the province. Part of that would be to eliminate the confusion by the public, possibly to also provide better services.

And I'm wondering — knowing that some of the other provinces are interested in it — what the position of our minister is as far as becoming involved in this process because other provinces are looking at it.

Hon. Mr. Cline: — Well firstly I should say that there is no

province in Canada that has unified its provincial court with the federal court. And it's something that would require the co-operation of both the province and the federal government.

We do not see the unification of the courts as a high priority. We believe that the court system works well in Saskatchewan, both the provincial court and the Court of Queen's Bench, and the Court of Appeal but that's not a trial court. But in terms of the trial courts and combining the two of them, no province has done that. It's not a priority for us.

Having said that, Alberta has some interest in doing that. The federal government would have to agree. We would monitor the situation and see if there was some advantage to doing that. Whether or not there is or whether it would improve service to the public, we're not convinced.

It's not a high priority. We'll watch developments in other provinces and monitor the situation but it's not something that we're committed to at the present time.

Mr. Hart: — Thank you, Mr. Chair. Minister, I understand that the personnel within your department that's responsible for the transport of prisoners to and from the courts were recently issued with side arms for in performance of their duties.

My question is to you, Minister, is when were they issued side arms? What training did these personnel undergo before they were issued the side arms? Were there adequate policies in place to govern the use of side arms? And were the psychological assessments done on the individuals before they were issued with side arms?

Hon. Mr. Cline: — In answer to the question, Mr. Deputy . . . or Mr. Chair, they have not been issued the side arms as of yet. They are in training. Before they get side arms, the training is conducted by the RCMP and yes, it does include psychological testing. You have to pass the psychological testing and be trained before you are issued a side arm. And the psychological testing has been done. The training is underway but it's not completed and so the side arms have not yet been issued.

Mr. Hart: — Mr. Chair, to the Minister. Minister, does your government have a policy on the use of defensive weapons in the public service and, if so, when was that policy developed and how . . . does it cover all aspects of the use of defensive weapons in public service?

Hon. Mr. Cline: — Yes, the policy employed by government in terms of deciding whether to issue firearms to, for example, prisoner escort, deputy sheriffs, or conservation officers and so on, is basically a risk assessment. Is there a real potential that the person in the public service could be harmed in a significant way in the course of his or her duties? That's the first question.

The second question is if there is a risk of significant harm, then are there measures short of firearms that would effectively deal with that harm such as batons or other defensive weapons?

And so there's a two-step sort of analysis. One is, is there a significant risk? If so, can it be dealt with reasonably without a firearm? If not and a firearm is needed, then what conditions should attach to that such as training and psychological testing?

And that is the policy that's employed by the Department of Justice.

And if they get to the point where they conclude that there's a risk, that only firearms can really deal effectively with the risk, there's a way to train people. They will make a recommendation to the cabinet that firearms may be necessary and the cabinet then will deliberate on that recommendation and make a decision as to whether the firearms should be issued.

I could also add that there's an occupational health and safety component to this. In other words, The Occupational Health and Safety Act guarantees to workers in the public service and elsewhere that they should have reasonable safety. That's not what it says but something to that effect. And employees can complain if they feel that they're forced into a workplace without adequate safety measures. And sometimes part of the consideration will be whether the occupational health and safety people say, really there is a risk here and something should be done about it. And that would certainly help to inform the government in making a decision in that regard.

Mr. Hart: — Minister, on that area of policy is it your department, the Department of Justice, that administers the policy for all government services as far as the use of defensive weapons, whether it be side arms or batons?

And also in the area of, you mentioned risk assessment, is it the Department of Justice that does the risk assessment? You mentioned that under The Occupational Health and Safety Act employees can make application to their employer saying that they feel they are working in unsafe conditions and so on, and you mentioned that a risk assessment is done. Is it your department that does the risk assessment?

(21:00)

Hon. Mr. Cline: — Yes, it is the law enforcement services branch of the Department of Justice that would conduct that kind of assessment.

And with that, Mr. Chair, I'd like to thank the members of the opposition for their questions this evening. And I'd like to thank the members of the Department of Justice that are here tonight for the very good assistance they provided tonight; and also for the very good work that they do throughout the year.

Hon. Mr. Lautermilch: — Thank you very much, Mr. Deputy Chairman. I move that the committee report progress on the Department of Justice, and that we move to the Department of Highways and Transportation.

**General Revenue Fund
Highways and Transportation
Vote 16**

Subvote (HI01)

The Deputy Chair: — I recognize the minister and ask the minister to introduce his officials.

Hon. Mr. Wartman: — Thank you, Mr. Chair. Mr. Chair, I would like to introduce, to my immediate left, Barry Martin,

who is the associate deputy minister of policy and programs. And right behind Barry is Fred Antunes, who is director of operations, planning and business support. To Fred's left is Mike Makowsky, manager of transportation, trade and logistics.

To my right is Stu Armstrong, who is assistant deputy minister, operations. Behind Stu is Terry Blomme, who is executive director for the southern region. Immediately behind me is Don Wincherauk, who is assistant deputy minister, corporate services. And behind Mr. Wincherauk is Andrea Fisher, operations assistant engineer. And I welcome them and look forward to the questions from members opposite.

Mr. Hart: — Thank you, Mr. Chair. Minister, it's been a while since we've had the opportunity to examine the estimates of expenditures in your department and there are a number of areas that we . . . I would like to explore this evening and there are a number of specific issues that I would like to receive some information and so on.

But one of the first things that I have to deal with this evening is the area of the Grasswood Road and No. 11 Highway interchange, south of Saskatoon. I understand that there may be some changes in access to some of the businesses located along that particular stretch of highway. I understand that there was some . . . a lengthy discussion with the owners of the businesses that are located in that particular area prior to some of the changes that were done to that intersection two or three years ago.

I wonder, is there . . . is your department planning on closing some of the off-ramps and accesses, particular to service roads and so on, particularly on the east side of the No. 11 Highway?

Hon. Mr. Wartman: — Mr. Chair, to the member opposite, I think it's important to note that on that intersection to improve safety, we spent about over \$3 million to make the intersection much safer and that funding came from the Centenary Fund.

The particular access that I believe the member is referring to was an access that was put in north of the intersection to catch traffic that may have bypassed the intersection. And certainly there was discussion at the time that that was put in was around whether that would be temporary or whether it would be made permanent.

And those discussion are ongoing. There's no decision at this point to close that access but certainly it is being reviewed and monitored to find out whether it is a necessary second access to the east side of the interchange there.

Mr. Hart: — Minister, Mr. Chair, to the minister. Does the department feel that that existing off-ramp causes . . . is a safety hazard? I understand that if it hadn't have been for the Grasswood Business Association that that access wouldn't have been in the plan. that they lobbied and discussed with the department over a period of several months. And I believe they had some input into the design and so on. And they felt it's very important that that access and off-ramp be maintained on a permanent basis. And my question is, does the department feel that it's a safety hazard?

Hon. Mr. Wartman: — To the member, Mr. Chair, any access

or off-access to the main highway creates some level of risk. But I think what's important to note here, and I think the member did note, it was the negotiations — the very successful negotiations — that went on between the businesses and the department at the time of the building of that roadway and certainly a desire to, within the parameters of risk, be able to accommodate the needs of those business folks.

And to this point, we've been able to accommodate that with the off-access road there. And as we say, we can . . . there's always some level of risk. But we continue to monitor and to discuss with the businesses to know whether or not that off-access is necessary, whether it is getting the use that was anticipated, or whether people are actually using the intersection as it was built and not needing that kind of catch access a little bit further north.

If they are not needing it, because there is always a little bit of risk involved in these access pieces, then if it's not necessary, if the use doesn't justify the road being there then we will close it. If it is justified by the use, we'll leave it there.

Mr. Hart: — Mr. Chair, to the minister. Minister, I've been in conversation with some of the owners of the businesses in that area and they feel that the maintenance of that off-access, maintaining it in its present location is essential to the viability of their businesses, and they are very concerned that that access . . . or that off-ramp or off-access is being reviewed by your department. What they are wanting is assurances from you, Minister, that that access will remain there to those businesses.

What they tell me — and it seems very logical to me — as motorists are going by their businesses and notice that they're there, if there isn't an off-access, they will continue to go straight through to Saskatoon. Or for the people who are frequenting and . . . say the motel or hotel that's located there and other businesses, it makes it very difficult for them if that . . . to get over onto the west side. And they are wanting assurances from you, Minister, that that off-access will be maintained permanently.

Hon. Mr. Wartman: — Basically I would say the last answer that I gave you answered that question. It stands that as long as it's serving the purpose and we're monitoring and we're seeing that the risk is not too high, it'll be there.

Mr. Hart: — Minister, under what . . . I guess to explore this issue a bit further, then, under what conditions would your department consider closing that access? Are you monitoring the traffic as far as the number of vehicles on a daily basis that are using that access? And if so, what would be the threshold before you would close that access?

Hon. Mr. Wartman: — The department assures me that the issues would be around safety. This is to be an off-access, not an on-access for the highway continuing into Saskatoon. It is there to catch traffic that is moving north that missed the intersection that might then want to have access to those businesses. So it's designed really to be just an off-access, not an on. So what would create concern, if we noticed if there was a high risk, if there were accidents there, it would certainly be clearly evaluated and a decision made as to whether to keep it open.

(21:15)

We don't have regular traffic count out there but there are intermittent audits and also discussions with the business people to see if it is in fact being used, how much is it being used, is it worth keeping there and maintaining?

Mr. Hermanson: — Thank you, Mr. Chair, and good evening to the minister and his officials. I want to thank my Transportation critic, the hon. member for Last Mountain-Touchwood for giving me an opportunity to ask some questions that relate mostly to the Rosetown-Biggar constituency. A couple of questions will be updates on questions that I've asked previously.

But first of all I would like to discuss the refit of the Riverhurst ferry. I have here a project information sheet dated January 7, 2003 about a project that was to start the day before, on January 6, 2003. It was to be completed, the expected estimated completion date to be May 1, 2003, and the project cost to be \$1,005,278.27. So I would ask the minister if the project was completed on budget and on time?

Hon. Mr. Wartman: — Mr. Chair, the ferry has been refurbished and has been operating effectively since May 17. That was a delay of some two weeks, which some of that was weather related, some of it just in terms of construction operation delays. But we had a date set; we had hoped that it would be ready by the first. It was delayed about just over two weeks.

The major project itself fell within the budget parameters that were set. There was an additional 80,000 that was spent on upgrading the ramps on the east side, and the ferry service there has to date met with all inspections and is operating.

Mr. Hermanson: — Thank you, Mr. Chair. Could the Minister . . . Mr. Minister, would you explain the improvements that were made to the ferry? I know that there was . . . there is great expectation by a number of people — trucking firms, farmers, and others that use the ferry — that after the refit, the capacity to haul two loaded trucks at one time would be in place.

Could the Minister assure me that the Riverhurst ferry with this refit is able to transport two loaded B-trains in one crossing?

Hon. Mr. Wartman: — The ferry was retrofitted to federal marine standards and we also had a number of issues around occupational health and safety from our provincial government. And it was upgraded to meet all of those standards.

And in order to support the agricultural industry in the area, potato developments and other agricultural industry, it was also fitted so that it would have capacity to be able to haul two loaded B-trains, semis that are hauling weights on secondary highways. And it was designed so that if indeed we're able to follow through on long-range plans, that we're able to haul primary weights, that it was designed to be able to handle those weights as well.

Mr. Hermanson: — Thank you. Mr. Minister, there was also an expectation that the ferry perhaps would even have a larger deck, square footage, or whatever term you want to use, square

metres. I'm not sure what terminology you would use.

I happened to use the ferry this morning coming from my constituency back to Regina and my observation was that actually the deck surface with the refit is less area than it was prior to the refit. So I'm just wondering how that accommodates more, you know, more weight.

What was done in the refit to accommodate more weight so the two B-trains, loaded B-trains could be accommodated? And in fact has the deck capacity or the deck area been reduced as far as the ability to carry vehicles is concerned?

Hon. Mr. Wartman: — There was some contemplation of increasing the length of the ferry, but by design we were able to increase the capacity without making those major structural changes. And so we designed it so that it would carry an increased capacity without increasing the area.

Mr. Hermanson: — Just a supplementary to that question, Mr. Minister. Does the deck as it's now designed have the capacity to carry as many vehicles as it did prior to the refit?

Hon. Mr. Wartman: — Yes. I think you must be facing an optical illusion there, hon. member. If you check out the area you'll find that it will handle all the traffic that it would before but it has significantly more capacity for weight.

Mr. Hermanson: — Okay, well thank you, Minister. I do know that it is narrower, so I suppose it would depend then on width of the vehicles. If there were some wider vehicles it perhaps could carry fewer.

The other question I have with regards to Riverhurst ferry is that the washrooms were moved from the bridge side of the ferry to the opposite side of the ferry and put it in an enclosed, larger area that has also a waiting room for passengers on the ferry. My understanding that the purpose for moving and redesigning the washrooms were to make them wheelchair accessible or accessible to the disabled.

However from my evaluation of what I've seen on the ferry, they are less accessible to the public in general where they are located at the current time, and in fact certainly aren't accessible for wheelchairs and for disabled people given that vehicles that are loaded on the ferry are almost within a foot or a foot and a half of the washroom doors and it's almost impossible to negotiate between vehicles on the ferry and the doors of the washroom.

Could the minister comment on why the washrooms were moved and made so difficult to be reached by passengers on the ferry?

Hon. Mr. Wartman: — Mr. Chair, the design was to federal standards and the waiting room had to be put in. And according to the design, the reconfiguration to give us the capacity that was necessary and meet the federal standards was done as you see it today. And washrooms were put on the other side to balance out the waiting room, from my understanding.

Mr. Hermanson: — Can the minister then explain why these washrooms are so difficult to access? I mean, they're difficult

for an able-bodied person to reach once the ferry is loaded. They're impossible to be reached by someone with a disability. Has the minister looked into this, and if not, will he commit to look into this because, quite frankly, I don't see how those washroom facilities and the ability to access them could possibly meet any standards?

Hon. Mr. Wartman: — As I said earlier, it was designed to federal standards. But as provincial government, we will look into it and if there is possibility of making adjustments within the parameters of those standards, we will see what we can do.

Mr. Hermanson: — Well thank you, Mr. Minister. And I suggest sometime when you go to visit your relatives over at Elrose you take the ferry and you actually personally inspect that design, because it is one of the most ludicrous things that I have ever seen.

As concerning as it was that the washrooms as they existed before were not fully wheelchair accessible, the situation now is far worse. Even though the washrooms are larger, the ability to access them has diminished greatly and I see that as being a rather difficult problem, not only for people with disabilities but for the general public as well who would . . . Any time the ferry is loaded on the east side, which is half the time, and oftentimes the ferry is full, those washrooms are absolutely next to impossible to get to.

(21:30)

Mr. Minister, just a follow-up to some questions that I have asked previously. As you know, in my area there's a great concern about the overweight penalties charged for carriers on secondary highways which they have to pay until they leave the province of Saskatchewan even though a portion of the distance they travel may be on primary highways where in fact their load is within legal limits.

Last time I questioned you on this, Mr. Minister, you said you were undertaking to correct that problem. And I wonder if you could report that the problem is in fact corrected, and that people in my constituency, those that haul potatoes and are now going to haul salt out of the Beechy area, the fact that we now have an oil and gas exploration in the west side of my constituency, whether or not you've got this problem corrected so if they are hauling weights from the Rosetown-Biggar constituency — to Alberta, Manitoba, wherever — that they are no longer charged that overweight penalty on the entire trip out of the province but only on the portion of secondary highway that they travel on.

Hon. Mr. Wartman: — Mr. Chair, the only people . . . the only truckers who are paying those fees are truckers who are in a partnership relationship, and it does not apply to others because they are obliged to follow the weight restrictions. So we don't have any oil and gas companies that are in trucking partnerships and therefore that fee would not apply there.

We recognize that it's there with some of the agricultural producers who are trucking and we continue to look at ways that we can facilitate the industry. And at this point we do not have any changes that we are prepared to recommend in the trucking partnerships. Thank you.

Mr. Hermanson: — Well I'm pretty unhappy with that answer, Mr. Minister, because we raised this issue and you said you've recognized that there was a problem when I raised the issue before and that you would be dealing with that issue. It is certainly something that has been raised to me on behalf of particularly people who are trucking potatoes out of that area, and it does apply to some other industries as well.

You know, I assure the minister that it will be an election issue that I will be raising in my constituency because people in that riding know that I have already raised it with you previously, and I assured them that I would follow up. It's quite obvious that it's an unfair penalty that's placed on people particularly if they are trucking out of the middle of the province, such as people in my area, as opposed to someone who is closer to one of the . . . or closer to the perimeter of the province. So, Mr. Minister, that answer certainly is not acceptable and we will endeavour to capitalize on a lack of action on the part of the government in the upcoming election.

The next area that I want to touch on is with regards to Highway 4 through the South Saskatchewan River Valley between Kyle and Stewart Valley. There is increasing traffic on this portion of highway because of more truck traffic, more grain being hauled through the South Saskatchewan River Valley on Highway No. 4. As you may have noticed when I was giving a member statement in the House a couple of weeks back, a golf course has opened up in the valley. There's the park there already. So there is significant traffic.

And it has become I believe quite hazardous given the fact that traffic has increased and trucks find the grade very difficult to maintain adequate speed, particularly on the south side although it's a problem on the north side as well. Most highways that have that volume of traffic and that type of a grade for that length of distance are . . . have a passing lane. And I've been on many highways through the Qu'Appelle Valley for instance where there is high traffic and a passing lane has been installed. I know there has been demand for quite some time to put passing lanes on both the north and south sides of the South Saskatchewan River Valley where Highway 4 crosses it. Could the minister tell my constituents when they might expect to see this type of a project entered into on Highway No. 4?

Hon. Mr. Wartman: — We have responded several times with written answers to members opposite regarding these climbing lanes on both sides of the river, and it would simply be too high a capital cost to go in there separately and do this work.

But what we would do is when the next scheduled resurfacing happens along the No. 4 on either side of the river, then you've got the crews in there and we would be . . . that would be the time that we would undertake to do the studies to make sure that it would warrant the high capital cost of building these climbing or passing lanes.

So in the immediate future there is no plan to go in and build those, but when the scheduled resurfacing — which could be two, three years, I'm not sure. The department looks at and evaluates all of our capital projects and resurfacing needs. When that scheduled resurfacing comes, it certainly will be considered seriously.

Mr. Hermanson: — I'd like to thank the minister for that answer. So then I'm quite clear that it would be at least two or three years before even a study would be undertaken and some time after that before construction might be commenced.

Just one more question, which I forgot, which also regards the Riverhurst crossing but not the ferry. I had requests from constituents that the department have another look at how they prepare and authorize the ice crossing. Seems like there had been some delays, at least in the opinion of some of my constituents, that because this ice crossing is serviced out of the Central Butte depot rather than the Lucky Lake depot, that it's seen as the last mile on the highway rather than the first mile and doesn't get the due attention it deserves. And in fact the ice crossing has minimal impact, it's late getting started and doesn't have the priority of the department. Has your department given any thought to transferring the responsibility to test and prepare the ice crossing to the Lucky Lake side, rather than the Central Butte side?

Hon. Mr. Wartman: — To the member, really the key issues around building any of our ice roads are safety for our crews. It's not a matter of where the shop is located, it's not an end-of-the-road or first-of-the-road issue. It really has to do with safety. We want to make sure that the ice is thick enough to be able to handle the road. Different conditions, different years, water flow, etc. can make a difference.

But we always, always try and make sure that we meet the needs of a particular road based on traffic flows, past history, but primary is the safety. And when it's safe enough to build those roads, recognizing the use, our crews go in and do it. And it really doesn't matter whether they are housed at one end or the other of the project.

Mr. Hermanson: — Thank you, Mr. Minister. The concern of my constituents is that after the ice crossing has been determined to be safe enough to cross, the preparation time — and there is preparation required in clearing snow and marking the crossing — is far too slow. There's sometimes a week or two weeks passes after the crossing has been determined to be safe. And of course if you have, you know, a six-week period to cross that ice, and that is important to many people in that area, and that's reduced to four weeks because of slowness on the part of the department to actually prepare the crossings, that is considered to be a substantial concern to those constituents.

Mr. Minister, in the interests of time — and I have just a number of questions but I want to let my colleague, the critic, get back to his questions — there is real concern in the . . . in many, many rural ridings, and of course I see the entire province and I have seen a real deterioration of secondary highways. That thin membrane surface is really, really breaking down this spring.

I can tell you, and you may know, that Highway 42 is in bad shape. That's the highway that goes from up to . . . from near Outlook all the way down to the ferry and across through to Tuxford just north of Moose Jaw. The highway is full of potholes. In places it's become really hazardous to drive on and of course we're worried about the safety of our friends and neighbours, the kids that ride on school buses.

I know that Highway 44 is of major concern to people who are dependent upon that highway.

Highway 31, which begins just north of Rosetown and extends all the way to the Alberta border, I believe, to Macklin, a number of those kilometres are within the Rosetown-Biggar constituency and I have been hearing a lot of concerns about the quality of that highway.

There is still concern about the fact that some highways have been returned to gravel. That was supposed to be a temporary situation, but in the case of Highway 42 it's not been a year; it's been I think about three years now since that stretch of highway was returned to gravel between Brownlee and Eyebrow, which is not in my constituency but many people from my riding use that highway.

Also Highway No. 373 was destroyed by the Department of Highways in actually trying to upgrade Highway 45 to service the potato industry going north of Lucky Lake, and it used to be a thin membrane surface and now has been returned to gravel.

Can the minister tell me what he is going to do to restore the confidence of people who depend on these highways, that they will be safe travelling on these thin membrane highways, and when those that were turned into gravel might be resurfaced with dust-free surfaces, going to stand up the test of time a little better than we've seen in the past?

(21:45)

Hon. Mr. Wartman: — Mr. Chair, first of all I'd like to respond to some of the assumptions that were left hanging by the member opposite at the end of his comments on the ice road and about the opinions of folks in the area who are evaluating the work that's going on.

And I think it's important to note that our crews do get out there. When it's safe they do the work and regardless of what assumptions the people in the area may have about this, those folks are out there trying to make sure that they get that road done in a timely manner. Issues that come up are different ridging in the ice; sometimes it's not consistent all the way across and so when it's ready they do the work. And it's our hope, our belief, and our intention that work is done in a timely manner on all fronts.

Now with regard to the TMS, the thin membrane surface highways, I have on numerous occasions in letter and also in this House responded to questions about the thin membrane surface highways and the issues that we have around those highways. The member should well know the change in traffic patterns and the amount of heavy haul that has been going on these roads, which are some 30 to 40 years old, beats them up in short order. And that can be a matter of hours, days, very short order, depending on the heavy haul that's there.

And so we have been, as a department, looking at the priorities. We work with our area transportation planning committees who know those roads, know the economy in the area very well, and we've been setting the priorities on when and how we can get at those roads to make them work most effectively for the people in the area.

We will be spending over \$4 million in the member's constituency this year, and we will be working on evaluating all of those roads, which we do continually, work on evaluating the roads to make sure that we are keeping them as safe as we can keep them given again the traffic patterns, given the beating that some of those roads take because of the change in haul.

The member asked about a number of roads, in particular No. 42, for example, which has a section that was reverted a couple of years ago to gravel — a very mushy section that was breaking up. It was hazardous with the hard surface on it, and is indeed — because of the nature of that road, the low spot through there — difficult to maintain, definitely needs a rebuild. We know that. It's coming under the Prairie Grain Roads Program for improving that road. And it is on our long-term schedule to be completed. And it will be upgraded and completed and we will see a much better, much safer roadway for people both travelling to the lake and people who are coming for, travelling either way, for either commercial or private reasons.

With regard to most of these roadways, one of the things that I think has been a tremendous success of the work of the department has been the alternative heavy-haul route agreements that we have managed to get with a number of the RMs (rural municipalities) and that has taken the heavy-haul traffic off of the TMS roads. And when that traffic is off, the heavy-haul traffic is off, when the roads are fixed and maintained they do stay as a good, mud-free, dust-free surface for those who are needing to commute on them.

So it's an ongoing battle with . . . I mean even with record budgets that we have had over these last few years — \$900 million over the three years going into our roadways — even though we're spending almost 100 per cent of what we get back in fuel tax every year, it's still an ongoing battle to catch up on these some now 7,000 kilometres of thin membrane surface highways.

We have already upgraded almost 1,000 kilometres of those highways to a pavement standard. And we continue to do a certain number of kilometres each year. We've reduced the cost of doing that by agreements that we have made with Pavement Scientific International to build better roads for less, to build a roadbed that is more solid without having to get into some of the expense that past scientific methods for road building used. This road building method enables us to build better roads for cheaper.

So we're making progress on the thin membrane surface roads. But we must follow the guidelines that we've got, working with our area transportation planning committees in terms of priorities.

If we jumped all over the place and did every piece that members opposite raise and every piece that other citizens raise, we would not be doing the kind of consistent work that we need to in terms of focus on traffic patterns, in terms of the economic need of a particular area. And therefore we do take the guidance of the people who live and work in that area, the people who are on the RM councils, and who are engaged in our area transportation planning committees in setting the priorities. We have agreements along 44, we have agreements along 31, and

we are indeed working within those agreements to help maintain our highways at a safer standard, and to make sure that we've got the mud-free, dust-free surface for commuters.

Mr. Hermanson: — Thank you. I would point out to the minister in fact they are bouncing around the province, and they aren't completing . . . they are just doing short portions of highways that need major reconstruction. And in fact it's very frustrating for residents all over Saskatchewan who never see a stretch of highway completed properly.

And as far as Highway 42 is concerned in that stretch that has been returned back to gravel between Eyebrow and Brownlee, it's just as unsafe as when it was dust free because it's still full of holes. You have to swerve and practically put one wheel over into the ditch to get around some of the holes. And you have the added danger of flying stones and severe dust with a gravel surface that wasn't there when it was just the potholes in the highway. So the highway is still unsafe and it's in now a gravel situation rather than a dust-free situation.

The final question that I have for the minister again is old business being revisited. The department has taken on a project with the rural municipalities to refurbish parts of Highway 342 between Kyle and Beechy. As the minister knows, there was some confusion. He thought that the RM had run out of money and didn't finish a portion of highway that was due to be refurbished last year when in fact it was his department that ran out of money and halted the construction project.

I wonder if the minister can assure me that there is money back in that budget to not only complete that portion of the construction which was intended to be completed last year but to also further that project so that the highway is in a safe and upgraded condition over a longer stretch of that portion between Beechy and Kyle.

Hon. Mr. Wartman: — To the member opposite. We spent, in 2000, about \$1 million on the 342. Last year we had budgeted for about 500,000; we spent about 644,000. And this year we budgeted for 500,000, and that should enable us to finish about 4 kilometres, I believe, of the roadway this year.

So we are making steps there and working in partnership with the RM, and it will be moved ahead by about \$500,000 worth of work this year.

Mr. Hermanson: — I would like to thank the minister for answering those questions. And I would just leave him with the thought that the economic potential of the Lake Diefenbaker area, the Rosetown-Biggar constituency, is huge and not only for agriculture but for tourism, for oil and gas. My constituents tell me that the biggest barrier to economic activity is, first of all, the taxation policies of the NDP, but secondly, the quality of transportation in that area.

So I would just encourage the minister to make that area as high a priority as he possibly can because the returns there are immense. And I would turn the question to my colleague, the member for Last Mountain-Touchwood.

Mr. Hart: — Thank you, Mr. Chair. Mr. Chair, to the Minister. Minister, there is an issue within your department that has been

ongoing since, I believe, early December and the issue I'm referring to is the issue with the highway traffic officers.

Back in December, a number of officers filed under section 23 of the occupational health and safety, unsafe working conditions. And this issue has been brought to my attention and it's ongoing. And I understand it's resulted in a significant reduction in transport compliance enforcement which I feel, Minister, is certainly one of the contributing factors to the significant breakdown of our TMS highways this year. It's certainly not the only one but I would think, Minister, that it certainly would have some impact on that particular situation.

Now I understand that the department issued an enhanced officer discretion directive to the highway traffic officers which basically told the officers that if they don't feel safe in stopping vehicles and enforcing transport compliance regulations and laws, that they were to disengage.

Minister, what is being done by yourself to resolve this issue?

Hon. Mr. Wartman: — Our department has hired a private consultant to look at the occupational health and safety issues and related issues in terms of our traffic officers.

The department is also very carefully trying to make sure that our officers are as safe as they can possibly be as they enforce the trucking regulations that we ask them to enforce. And we've seen some of the officers who had said they did not want to go out and work come back from that position and are out working.

And so it is our hope that with the report, and with the concerns that we have about enforcing our trucking regulations, and our concerns particularly for the safety of our employees the highway traffic officers, that we will find some resolutions in the short term and after we have received the report from the private consultant.

(22:00)

Mr. Hart: — Mr. Chair, to the minister. Minister, when will the . . . when do you expect that this assessment and this report will be completed and will be in your hands?

Hon. Mr. Wartman: — It's my understanding that the consultant is writing the report at this time and that the report will be presented to the steering committee, senior staff, on June 23.

Mr. Hart: — Mr. Chair, to the minister, if that consultant's report recommends that highway traffic officers be issued side arms, will your department take the appropriate steps and see that the officers will be issued side arms?

Hon. Mr. Wartman: — I don't intend to make any prejudgment on the consultant's report. We expect the consultant will be looking at providing us with a variety of options.

Mr. Hart: — Mr. Chair, to the minister, was there not another consultant that looked at this whole issue and issued a report back in 2000 that recommended that highway traffic officers be

issued side arms, that there . . . the risks inherent with their position justified that they should be carrying side arms?

Hon. Mr. Wartman: — There was no clear recommendation that traffic officers should have side arms. I think in some consultants' reflections, there is a view that if certain duties are assigned then side arms might be appropriate — but certainly no recommendation that we should be providing side arms to traffic officers.

Mr. Hart: — Mr. Chair, to the minister. Minister, did not that consultant back in 2000 with B.A. Evans & Associates recommend that if the duties that were currently being performed by the highway traffic officers at that time, if those duties were to continue in the future, that the officers should be issued side arms?

Hon. Mr. Wartman: — The report that we have from Evans does not give any clear, categorical recommendation that the traffic officers should have side arms.

Mr. Hart: — Minister, Mr. Chair, to the minister. If in fact, as I asked in an earlier question, that the current assessment that is being done recommends that the risk hazard is of such nature that the highway traffic officers, when their duties are compared to other people in public service — conservation officers, for example, and so on — if the conclusion of the study is that these people, that the highway traffic officers should be issued side arms . . . Or the other alternative would then be, I presume, would be to reduce the duties or withdraw those duties that would put the highway traffic officers in a position of danger where they would require side arms. Is that the situation you were looking at?

It seems to me that you've made up your mind that these officers won't be given side arms under any condition and therefore you will just simply reduce their duties. And so therefore we will have reduced enforcements of the trucking regulations in our province and we will see an increase in the damage to our highways. Is that your position, Minister?

Hon. Mr. Wartman: — As I said to the member earlier, I am not going to prejudge our consultant's report. The consultant will evaluate the work that is being asked of our highway traffic officers. We want our highway traffic officers to be safe. He will evaluate the work that they're doing, the risk involved, and make recommendations accordingly.

And when we have those recommendations, we will consider the recommendations and then we will make our determinations. Any assumption that everything is prejudged I think would be erroneous at this time.

And so all I can tell you at this point, I'm not prejudging the report. We will as a department look at this and we will make our determinations when we have the consultant's report.

Mr. Hart: — Mr. Chair, to the minister: since this issue has arisen and the action was taken by the highway traffic officers back in December, the department issued a directive — an enhanced officer discretion directive — which basically, as I said earlier, said to the officers, if you don't feel safe in the performance of some of your duties, disengage.

Now to me the situation is fairly simple and fairly clear cut. If the consultant says that some of their duties are of high risk and in order for the officers to safely perform those duties they should be equipped with side arms, what alternative do you have except to downsize and withdraw some of the duties that they are currently performing?

I can foresee a situation — a possible situation — as a result of this situation where the highway traffic officers could be confined to the weigh scales and not out on the highways conducting the type of surveillance and enforcement that's required for the safety of travel in our province and for the preservation of our highways. Certainly the highway traffic officers perform a very vital function, and I realize that there are a number of times where some of the people that they encounter aren't happy with the way they're being treated because they are in violation of some of our trucking regulations and some of the rules of the road and so on.

The other thing is, Minister, as I'm sure you're well aware of, highway traffic officers have the authority and often do issue summonses and so on which result in much higher fines than the RCMP have authority to issue under the rules of the road, Minister.

Also when highway traffic officers pull over a large truck, they have a long distance to walk from their . . . the safety of their vehicle to the cab of the truck. They don't know who's coming out of the cab, what they're carrying, they don't have the sightlines, and those sorts of things. So there are these very real issues that I'm sure you're very well aware of them.

And what I would like from you, Minister, is if in fact an answer . . . If in fact the consultant says yes, there is an aspect of high risk and high danger to these highway traffic officers and it boils down to simply either equip them and train them so that they can perform their duties or else withdraw their duties, which choice will you make, Minister?

Hon. Mr. Wartman: — Once again I will remind the member opposite that I am not going to prejudge the report. It is our expectation that the consultant will give recommendations around the duties that we ask our traffic officers to perform.

Indeed they do perform tremendous functions for the province in terms of regulating the trucking industry. It's an important function. We recognize that. We want our officers to be safe and to be able to fulfill the duties that we ask them to fulfill.

And when we receive the consultant's report we will look at it very carefully. We will look at what we are asking of our traffic officers and we will do what we need to do in order to mitigate the risks because we do care about them. We do care about their safety, and at the same time we also are diligently working to improve our highways. And we will take the steps that we need to take to make sure that regulations are enforced.

Mr. Hart: — Mr. Chair, to the minister. Minister, could you provide me with some, with the information as far as enforcement in the last four or five months since this action, since this issue has arisen as far as tickets that are written and summonses and those sorts of things for violation of the laws of the road and truck safety and so on, and compare that to the

previous period in 2001?

I believe that we have seen a significant reduction in enforcement in this period of time. And I believe that if you take some of the actions that you've outlined in as far as resolving this issue . . . Because what I'm hearing from you, Minister, is that you're very concerned about the safety of your highway traffic officers — as we all are — but I'm getting the sense that you're not prepared to equip them with the equipment that they need to do their jobs which I said will, as I said earlier, will result in reduced enforcement. And I believe that their statistics will probably show that that is happening at present as compared to the last year.

Do you have any information as far as the number of violations that were encountered and enforcement that was taken in the last few months as compared to a year ago?

Hon. Mr. Wartman: — Certainly recognizing the member's concern for this issue as well, first of all I would like to say you can assume anything you want about my opinion and you can talk about your assumptions about my opinion and about the determinations that we might make. And fair enough — you have the right to assume what you will.

I am not going to and the department is not prejudging our consultant's report. I don't know how I can make that more clear to you. We are going to get that report and we are going to respond accordingly, after we have looked at it, after we have had a chance to evaluate what the implications of any of the decisions necessary are.

Secondly, you have asked for some statistical information and we will undertake to get that information to you as quickly as we are able to do that.

(22:15)

Mr. Hart: — Minister, you recently appointed a new deputy minister in charge of operations, and the transport compliance branch falls under the operations division of your department. Do either of these two individuals, whether it be the assistant deputy minister, newly appointed assistant deputy minister, or the director of the transport compliance branch have any training, work experience in the field of enforcement and in the legal world or as far as degrees in law or anything like that?

When you have people in charge of legal and enforcement matters, I think it's important to have those people who are supervising and directing those individuals to have some experience and some training in those areas. So do either of those two persons . . . people have a background in enforcement?

Hon. Mr. Wartman: — Just with regards to the changes and appointments, the director continues to report to the same person who he was reporting to before, which is our associate deputy, Mr. Barry Martin. And the new assistant deputy, Stu Armstrong, who was in the Prince Albert area previously, is very knowledgeable about our highways, about transport issues, as is Mr. Martin, as is Mr. Stobbs.

They do not have, nor do we believe it is necessary that they

have, law enforcement backgrounds to be able to evaluate these issues. We have people with all kinds of background and experience who advise us. And we believe that with their knowledge of highways and highway maintenance and with the advisers that we are able to get, that we have the information available that will enable us to make the best possible decisions about transport compliance issues.

Mr. Hart: — Mr. Chair, to the minister. Minister, I believe the highway traffic officers through their union, the SGEU (Saskatchewan Government and General Employees' Union), made a presentation and met with you late last week.

And in their presentation, in their document, they have three recommendations. And I would like to read into the record their recommendations.

The first one is the highway transport patrol will retain all its present duties including monitoring high-risk driving behaviours in order to maintain the safety of Saskatchewan highways for the commercial trucking industry and the travelling public.

The second recommendation is that the workplace violence policy officer training and policies and procedures of the highway transport patrol be assessed by Saskatchewan Justice law enforcement services using the guidelines and risk assessment framework outlined in the use of defensive weapons in public service policy approved by cabinet.

And third, in the event that the Saskatchewan Justice risk assessment recommends deployment of side arms to the highway transport patrol, Saskatchewan Highways and Transportation adopt the recommendations of their assessment.

Minister, when you've received your consultant's report and if that consultant's report suggests that there is significant risk, will you follow the recommendations of the highway traffic officers?

Hon. Mr. Wartman: — Yes, the member is correct. I did meet with department staff and with highway traffic officers and with union folks and we talked over a number of the issues. I listened carefully to what the concerns were, asked some relevant questions, as did other department officials. I think we had a very good, cordial meeting, and we were indeed presented with papers from the highway traffic officers which you have read into the record.

And as I said to you, said to the member earlier, Mr. Chair, we will not prejudge our consultant's report recommendations or the actions that we will take as a result of that. When we get the consultant's report, we will look carefully at all of the issues that are involved with . . . We will evaluate what our needs are in order to enforce our regulations and protect our highways.

That said, Mr. Chair, I would like to thank my officials for the wonderful job that they do in working within our budget capabilities to build and improve our transportation system in this province, to make sure that our roads are as safe as they can possibly be, and just generally the commitment that they show to helping make transportation and highways better in this province.

So thanks to them for their time and effort, and I would like to ask that we report progress and . . . (inaudible interjection) . . . Do you want to read your . . . Do you want to send your lip message to me again?

I move that we rise and report progress and ask leave to sit again. Thank you.

The committee reported progress.

The Assembly adjourned at 22:26.

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