

STANDING COMMITTEE ON PUBLIC ACCOUNTS

May 17, 1983

Public Hearing: Saskatchewan Community Legal Services Commission

Mr. Chairman: — I want to open the public portion of our public accounts committee meeting this morning. I want to welcome to public accounts Ian Wilson, who's chairman of the Saskatchewan Community Legal Services Commission; Laura Lacoursiere — that's a rough approximation, is it? — who's director of administration. And I should open it with the usual comments. I'm not sure that you appeared here when I've been here. Everything that's said in the public accounts is privileged in the sense that it cannot be used outside the committee in any libel or slander action. On the other hand, everything that's said is taken down verbatim and to that extent it's readily available for use outside. It also means — it shouldn't be a problem today if there's just two of you — that when you speak you should try to speak into the mike. It's never a problem with witnesses, but a constant problem with the members that we should not have two people speaking at once. It takes a fairly skilled transcriber to make sense out of that.

Okay, with that, let me ask you . . . I was unable to find your 1982 annual report. Is that because I've lost it, or because it hasn't been filed?

Mr. Wilson: — Well, it has been tabled.

Mr. Chairman: — It has been. Okay, I guess I'd have to look again for it then, because I couldn't find it. It has been tabled?

Mr. Wilson: — Yes.

Mr. Chairman: — Okay. There's a note on top of here as well, I notice, from the Clerk's office — 'Nothing for '82.' Oh, we've got the wrong one.

Ladies and gentlemen, in the Provincial Auditor's report on page 13, there were some comments with respect to the determination of the eligibility of applicants. The gravamen of the charge against the commission — I don't think that's putting it too strongly — is that sufficient procedures were not in place to ensure that all recipients of legal aid were eligible. My question is: do you agree with the comment, and if not, why not? If so, what steps, if any, have been taken to remedy the problem? I'll give you a minute to familiarize yourself with that page, if that's . . .

Mr. Wilson: — All right. I believe that I can answer the question in part by referring, Mr. Chairman, to the letter from the Provincial Auditor to the Hon. J.G. Lane, on August 13th, 1982, which carried with it a memorandum regarding a matter reported by the Provincial Auditor. And in the second to last paragraph, the Provincial Auditor says:

The memorandum does not include comments on the internal control weaknesses described in my letter of September 22, 1980 with respect to intake forms and the related areas of eligibility on audited information. Mr. Wilson has indicated that the commission will implement a system this year to strengthen this area. Mr. Wilson also indicated that the new system will also permit a determination of the amount of solicitors' time devoted to civil and criminal matters.

The commission thus acknowledges the legitimacy of the Provincial Auditor's report not only in this reporting year but in the previous years, as indicated on page 14, 1979, '80 and '81, but in 1980 steps were initiated to deal with this central issue of having the capacity to spot check the real and actual eligibility of clients.

What has been the subject of repeated reports by the auditor has been the slowness with which the commission has implemented adequate controls. And the issue has been a matter of implementing a system agreed to by all of the boards of the clinics . . .

Mr. Chairman: — May I interrupt you just for a minute, Ian? Do you have copies of those management letters there? Did I see that? I thought I did.

Mr. Wilson: — Oh, yes.

Mr. Chairman: — Perhaps you could distribute them and it would be of assistance to the members. But go ahead.

Mr. Wilson: — The long-term problem of the commission then, slowly being dissolved — and far too slowly I must admit — has been to develop a system where the commission, in delegating the responsibility for assigning eligibility to clients to the clinics, has indeed the capacity to know exactly what is going on and what has been going on. To that end an eligibility report, a new eligibility form was developed which I'm sure can be made available and tabled here — a report which, a copy of which, a section of which is returned to the commission.

Mr. Chairman: — If you've got an extra copy perhaps you could table it now and copies could be distributed . . . (inaudible) . . .

Mr. Wilson: — In fact we have three copies here.

This is the eligibility form in its most recent revised form.

Mr. Chairman: — How recent is that?

Mr. Wilson: — The original form has been in place since March 1980. This revised version was distributed for the first time within the past month. Oh, March '82 was the first time. I beg your pardon.

Mr. Young: — Do you take advantage of any credit agency, like, someone comes in and looks a little suspect, do your boards or the lawyers involved use a credit house to double-check in any circumstances?

Mr. Wilson: — No, neither they nor we do credit checks. The delegation to the clinics of the power to determine eligibility is a statutory right of the commission, but the commission now, and has since the past 18 months anyway, the commission now retains the responsibility to determine whether or not these indeed have been eligible clients. So any responsibility for using a credit agency would be that of the commission.

The issue of spot checking involves the need for the commission to know who these clients are, what their circumstances are, as indicated on the eligibility form. There has been a debate over the past two years at least with the boards of the clinics as to the appropriateness of this form. It is in our judgement a legitimate debate because it does

involve the relationship between a client and his or her solicitor, and the confidentiality of that relationship.

The issue has indeed, rather recently, gone to the Supreme Court of Canada in a case arising out of the province of Quebec, and Mr. Justice Lamer's judgement is an interesting one, which declares, contrary to the commission's earlier position, that a client is not a client until he or she is declared to be eligible and is still an applicant, and therefore the issue of confidentiality does not apply until the application process is dealt with. This view was overturned by — or set aside by Mr. Justice Lamer, and said that anyone participating in any process leading up to the employer-client relationship was in effect part of that relationship, and the issue of confidentiality did apply. The issue there, in the Quebec case, is a little different from what we're dealing with here in a layperson's judgement anyway — in that that issue dealt with the rights of enforcement agencies to move in, seize files and application forms and so on, in dealing with alleged fraudulent receipt of service.

Anyway, this debate has gone on with the clinics over the past period of time. There was some concern also about the attestation at the end of the form, which appears now in a revised form on the form that has been tabled. I regret that I do not have a copy of the earlier form to show the difference, but can table that. It was found by the solicitors in the system, in particular, to be a particularly unattractive affront to the rights of the client to reveal, to have revealed all kinds of personal and confidential financial information. This current form, we are advised by counsel and by solicitors around the system, is much more acceptable.

To sum up very quickly this account, 11 of the 13 clinics — 10 of the 13 clinics with the 11th now committed — are supplying the information to us. Two clinics are still refusing on the grounds that the debate about confidentiality of this relationship has not yet settled, and they are withholding the information. The three clinics involved: Prince Albert, Northern, and Meadow Lake. Prince Albert has most recently verbally agreed that it would conform. We are then carrying on and have been carrying on for some time a system of spot checking which, while not yet universally applied, is in large measure conforming with meeting the concern, in our judgement, of the Provincial Auditor.

Mr. Young: — Mr. Wilson. maybe I'm over-simplifying things, or missing something, but you delegate the qualifications routine to the local clinics. They delegate it to the lawyers, who delegate it to God knows who, but in any event it's your initial responsibility. And why couldn't you in those cases say, 'Fine, we will do the qualifications as the commission'? The lawyer works for the clinic. Qualification is the responsibility of the commission. Therefore I do not see how this could be a matter, in the first instance, for the courts in that you have to go to the lawyer and say: 'Okay, lawyer, you work for the clinic. We, as a commission, have qualified this individual. Take him away.' If the lawyer is doing the qualifying, then certainly you get into the professional confidentiality business. But if you qualify them, as the act suggests you have the responsibility to do, he doesn't get to a lawyer unless he jumps through your hoop. And if you were to do what was given to you by statute, you wouldn't be in all these problems, because he'd never get to a lawyer to have a confidentiality problem unless he qualified.

Mr. Wilson: — Well this indeed is the position which the commission and which the staff of the commission took from the outset. But it would appear now, and we're

advised by our own general counsel, that indeed there is merit in the argument that even if one is going through a process that is long ahead of the actual lawyer-client relationship, it is all part of that relationship, and any of the documentation leading up to that occasion is part of the issue of confidentiality.

Mr. Young: — If that logic followed through, if the Salvation Army decided for some reason that it was going to pay for certain indigents' legal expenses, then they would on the same basis have no right to ask where he lived and how much money he made before they could say: 'Well, okay, we as the Salvation Army will pay for your legal services,' following your logic to its logical conclusion.

Mr. Wilson: — With respect, this is not my logic. In fact I support the view that you have expounded, and have from the beginning, that they're different issues . . . (inaudible interjection) . . . I beg your pardon.

Mr. Chairman: — You suffer from an excess of democracy in the system.

Mr. Wilson: — An excess of lawyers, with respect.

Mr. Chairman: — I'm sorry. I interrupted your comment, that I should have not have.

Mr. Wilson: — The commission does have always that final weapon in its statute of withholding funds, but to now the commission has not taken that step of placing any of the clinics in suspension because of their earlier refusals, and as I indicate now, over this long process of negotiation discussion we are virtually at the end of the road. The commission has not taken its only power, which is to suspend and withhold funds, on this issue.

Mr. Chairman: — That was one issue raised in the Provincial Auditor's report and no doubt the members may want to come back to it. I want to raise a couple of others. One was of a fairly minor nature. It had to do with a couple of money orders totalling \$500, which were misplaced somewhere, and as I said before you came in. 'Let the law office which has not misfiled or misplaced something cast the first stone.' It's not a new problem, and it happens from time to time. I gather the money was also recovered from the federal post office, so it's not I think a major concern.

One other item was raised in the compendium of management letters — and that's all we had, as you will understand, before you came in — and that is a comment which I'll repeat for you verbatim:

Reported that there was still not a system to accurately determine the time spent by solicitors on civil or criminal matters for the cost-sharing agreement.

I gather the problem is that criminal matters are cost-shared, civil matters are not, and that you need to determine how much time a lawyer spends on a criminal matter in order to bill the feds. And I'm wondering if I accurately understand the problem, and if so, is there some solution to the problem that you have at hand?

Mr. Wilson: — In the fiscal year just concluded, but not the fiscal year under discussion, the weekly activity report, which I can now table, has solved that problem to the satisfaction of the federal representatives.

Mr. Chairman: — All right, so that's the answer. Okay, I may have taken the discussion off the eligibility question before members were finished.

Mr. Young: — In the Saskatoon clinic, who took the \$500 of commission money, and replaced the trust money with that government money?

Mrs. Lacoursiere: — Okay. It would have been a decision of the legal directors . . .

Mr. Young: — Of the Saskatoon clinic?

Mrs. Lacoursiere: — . . . with the recommendation of the solicitor involved, and it would be he that authorized the funds to come out of the general account at that time. But almost immediately, they had contacted the Canada Post to arrange for recovery procedures, and within about three months that money was indeed recovered from Canada Post.

Mr. Young: — Did the director contact Mr. Wilson or yourself or anyone in the commission to red-flag the fact that they were doing an obvious no-no?

Mrs. Lacoursiere: — No, the way it was brought to our attention is that in the normal monthly accounting procedure . . . The month that this happened was during the month of February. During the month of March, the February invoices, etc. would have been forwarded to our office, and it's at that time that we noticed it in the invoices that were with their normal monthly accounting data.

Mr. Young: — If the post office would not have in fact, you know, contrary to . . . (inaudible) . . . the \$500 for some problem they might have had there, these people would have been in a real pickle. Did you people comment to them that henceforth they should make you aware of any such transgressions of trust funds?

Mrs. Lacoursiere: — Yes, we had contacted our general counsel, and our general counsel had written to the legal director and commented on these issues, yes.

Mr. Young: — Now, who, in an office such as the one in Saskatoon, had the right to write out the cheque for the \$500 out of commission money and replace it into trust money? Who in that office can write up cheques in circumstances such as this? Is it just the director, or is it every lawyer, or who all can write out cheques?

Mrs. Lacoursiere: — I'm sorry, I don't know who all has signing authority for that society.

Mr. Young: — But in this case the director wrote out the cheque for \$500?

Mrs. Lacoursiere: — I'm sorry, I can't say that with certain accuracy. I believe he would have authorized it. But no, I do not have a copy of the cheque that indicates that he was one of the ones that did sign it.

Mr. Young: — My understanding of your problem in a situation like this: you, as the commission, cannot fire a lawyer in the Saskatoon clinic, or any clinic. You have no ability, statutory or otherwise, to can a lawyer whose performance you don't like. Is that correct?

Mr. Wilson: — The employees of the clinic are not employees of the commission.

Mr. Young: — But you're charged with the responsibility of the whole province to run the legal aid program.

Mr. Wilson: — No, the act is not quite that direct. The act declares that we may enter into contracts with certain approved organizations who in turn will provide the legal services under the conditions specified in the contract. The contracts are not particularly extensive. They are general rather than specific in nature, and do not cover the hundreds or thousands of administrative requirements for any organization.

Mr. Young: — You must approve a lawyer being hired though, the commission?

Mr. Wilson: — We have the statutory responsibility and power to approve both hirings and terminations. We do not have the statutory power to initiate the termination and at the same time approve it. Someone else initiates it.

Mr. Young: — The clinic.

Mr. Wilson: — Yeah, the clinic, or members of the board. And finally it is the board, as the employer, which does the termination.

Now, as a practical matter, the commission is continually discussing with boards or clinics their staff and concerns about their staff. But, as I say, it is finally the responsibility of the clinic board.

Mr. Young: — Who then . . . In a clinic situation, is it the director or the board who makes a determination as to whether a lawyer is pulling his load in a firm or in a clinic? Obviously it isn't you guys.

Mr. Wilson: — Interestingly enough the statute requires that the commission assume responsibility for the evaluation of legal services throughout the system. So we do have that general responsibility which is exercised through the supervisory role of general counsel.

Mr. Young: — But you can't fire the guy if you come to a finding that would seem to warrant that?

Mr. Wilson: — No. We can recommend that that happen.

Mr. Young: — To the board or to the director?

Mr. Wilson: — Always to the board. The board is the employer. The legal director of the clinic will of course make his recommendations to his board. And the board, like any board, would, I assume, in the normal course, accept those recommendations of the legal director.

Mr. Young: — There is always the law society who can also do the dirty deeds, and I'm wondering if under the year under review did the law society suspend the lawyers working in the clinic set-up?

Mr. Wilson: — Not in this particular case at all. No.

Mr. Young: — In the year under review I mean. Not the Saskatoon situation. I'm not

talking about that . . . (inaudible) . . . the year that we're talking about here today that ended March 31, 1982.

Mr. Wilson: — Were there suspensions of . . .

Mr. Young: — Well, I'm going to ask you. First of all, did the law society suspend any connected to clinics — dismiss any lawyers — in the year under review which is a year backwards from March 31, 1982? It can go either way. The law society can put them out of business or the clinic can put them out of business.

Mr. Wilson: — Yes, yes, I appreciate it. I'm only hesitating because I'm trying to go back over some 56 lawyer positions and recall. I'm embarrassed to say that I can't recall immediately in that year. This is two years ago. Whether or not any of the clinics dismissed, or any of the boards dismissed, any lawyers . . .

Mr. Young: — Was there a fellow by the name of Rafoss or McCannell? Do those ring any bells with you?

Mr. Wilson: — Mr. McCannell is a solicitor employed by the Regina legal assistance board. Mr. Rafoss has been a member of that board and is now still chairperson of that board. Mr. McCannell and another solicitor, the legal director, their activities were searchingly questioned by the commission, and by me in particular, and indeed the issue was dealt with by the law society. No suspensions arose from, resulted from that action. Are we talking about 1980? It's reported in March 31, 1980. We ordered this report at that year. The matter may have continued after that to the end of that fiscal year.

Mr. Young: — With respect to hiring, is it a requirement that the lawyer be a member of the Law Society of Saskatchewan before you people hire him?

Mr. Wilson: — Yes.

Mr. Young: — From hearsay I understand that Mr. Rafoss or Ryan was not a member of the Law Society of Saskatchewan when he was hired, and I was wondering if you could confirm that or deny that. I don't have it on very good grounds.

Mr. Wilson: — I could neither confirm nor deny it. Mr. Ryan was hired quite some time before I showed up on the scene. I have no idea about his background.

Mr. Chairman: — He's been there at least 10 years. Are you talking about Mr. Rafoss or Mr. Ryan?

Mr. Wilson: — Mr. Ryan has had two, I believe — and I'm now speaking without assurance — two periods of employment. He was away and came back.

Mr. Young: — During the year under review, was there a lawyer by the name of Martin who was dismissed?

Mr. Wilson: — . . . (inaudible) . . . Martin was dismissed, I think, the year before, but the action came up in the year under review.

Mr. Young: — What was the cause of that dismissal, if it was dealt with in the year

under review?

Mr. Wilson: — If I may deal with that in an anecdotal way and without reference to files, the general issue was that the Regina legal assistance board had, through its legal director, disciplined the person in question. I can't recall the nature of that disciplining. It was dealt with anyway. Further incidents occurred, and the board in its wisdom decided to dismiss the person in question, and used as part of the cause matters that had been dealt with before. The case went to the courts on, I presume, the issue of wrongful dismissal, and the plaintiff, Miss Martin, received an award from the courts. You probably know the amount — I don't have the amount at hand. Something less than \$20,000, was it?

Mr. Young: — That's what I'm going to come to, Mr. Wilson. It's my understanding that the clinics or commission have never been able to dismiss an employee without ending up paying compensation. Maybe you don't have the material in front of you, but I'd like you to determine that, at least under the year under review, and confirm it to me to be the case or not to be the case.

Mr. Wilson: — Well, again, as you say . . . (inaudible) . . .

Mr. Young: — Regardless of their behaviour.

Mr. Wilson: — Again I'm hesitating, because I'm trying to go back over the question in this year under review, whether or not there were any other dismissals or understandings that were reached, or enforced resignations.

Mr. Young: — Maybe you could look into that.

Mr. Wilson: — I'd be pleased to. I'd be pleased to. I recall an unfortunate situation in the south-west, in the Swift Current area, where a solicitor was really brought to an accommodation and an understanding which very actively involved the commission, and a termination settlement was reached. As my mind goes out to the other 12 clinics, I can recall movements of people, but I can't recall whether indeed they took place in that year.

Mr. Young: — I would like this information so that I can at least compare it in my own mind as to the private industry. When you're not a partner and you're hired as an employee, they can just start waving goodbye to you any old time without, in most circumstances, paying you 50 cents. And if the commission is, the legal aid system is elsewhere, I certainly think that that's a problem. If someone can't be dismissed for not pulling his load without having to pay him money besides, it's regrettable.

Mr. Wilson: — We are, of course . . . The remarks have been confined to those of solicitors. There's been no reference to non-solicitors. And we are very much aware of and sensitive to the separation arrangements that have been recognized by the courts with respect to wrongful dismissals or dismissals of any kind.

Mr. Young: — As a commission, I would take it, sir, that . . .

Mr. Chairman: — If I may just for a second interrupt you. When you reply, you should reply to the Clerk, provide 15 copies to the Clerk, and she will distribute it to the members. Sorry, go ahead.

Mr. Young: — Mr. Wilson, as a commission, I would take it that you would from time to time rate the performances of the various clinics as a whole, throughout the province — go to Moose Jaw or Yorkton and whatever and look at the staff they have, the number of cases that are being put through and, in that sense, rate them on their performance. It's my understanding that the Yorkton clinic and the Moose Jaw clinic are top flight, very, very good clinics and seem to do a lot with what they have. Would you be in a position to confirm that those two clinics are possibly your two best clinics vis-a-vis performance?

Mr. Wilson: — They certainly are two very good clinics. I hesitate to declare that they are the two best, because environments are so much different from other areas and the challenges are so much different from other areas. I would hasten to suggest that the northern clinic, with its remarkable challenges, has in the last couple of years been performing remarkably well. The solicitors do a tremendous job up in that country with no private bar anywhere to support them.

Mr. Young: — On the other end of it, you have had occasions during the year under review to shut down a clinic.

Mr. Wilson: — Yes.

Mr. Young: — What clinic was that?

Mr. Wilson: — The south-west legal assistance clinic with headquarters in Swift Current.

Mr. Young: — What, in a nutshell, were the problems down there that resulted in you people shutting that clinic down?

Mr. Wilson: — The commission's repeated attempts to educate the board in its responsibilities as an employer having failed, and, more specifically, the board's inability to bring along a legal director and to work with that legal director in a manner which we felt would have avoided internal tensions and difficulties. This, together with a long period of discussions with the members of that board, which brought about really, in the eyes and opinion of the commission, no improvement in the conditions for the delivery of legal service in that area resulted in the commission suspending, and after a hearing, confirming the suspension of that board.

Mr. Young: — That is the only hammer you had. You weren't able to replace the board; the only thing you could do, I take it, was just suspend the whole kit and kaboodle. Was there no other remedial action that you could have taken under the legislation to deal with that? I presume your problem wasn't with the lawyers; it was with the board.

Mr. Wilson: — The suspension of . . . The withholding of funds is another weapon, but it in effect is the same as suspending the board. It simply disrupts the operation to such an extent that firing that huge cannon is an action which the commission has been loath to perform, not because of its lack of decisiveness but because of the consequences of that action to the client groups.

Mr. Young: — Can you recall off the top of your head, Mr. Wilson, if any of the members of that board in Swift Current had any legal background?

Mr. Wilson: — I believe not.

Mr. Young: — Now, I'm wondering on how many occasions — you may have to look this up, Mr. Wilson — under the year under review, did lawyers take airplane flights to court cases and find an adjournment on the other end of the flight as opposed to something to do that morning? Or do you possibly know that?

Mr. Wilson: — No. I have no idea, but I think we could discover that. I shouldn't impose on you that we would find it impossible to do. The northern, of course, you would appreciate . . .

Mr. Young: — Right. That's the only place it would be relevant. Certainly if there's a court house there, I'd imagine there would be a telephone there.

Mr. Wilson: — We would have to look back through the accounts submitted back to the commission in that particular period for all of the clinics. But we certainly undertake to.

Mr. Young: — Mr. Wilson, as well, on how many of the divorce cases handled under the year under review, what percentage of those did your legal aid lawyers ask for costs against the respondent? I'd like to know that — 10 per cent, 50 per cent, whatever the answer may be.

Mr. Wilson: — Yes, again I have no idea, but . . .

Mr. Young: — Just roughly, how much approximately does a lawyer with five years experience earn when hired on by a clinic? I presume it's the same amount in every clinic as opposed to one clinic paying a lawyer with the same experience a different amount. Maybe you can answer that.

Mr. Chairman: — Do you use the salary rate of the Attorney-General's department?

Mr. Wilson: — I beg your pardon?

Mr. Chairman: — Do you use the salary rate of the Attorney-General's department?

Mr. Wilson: — No. We do not. You see, there's a rate negotiated by the boards with CUPE local 1949. There are four categories of solicitors. The solicitor with five years would be in range 2, at approximately \$3,000 a month. It would be \$36,000. That's not for the year under discussion; that's the current figure.

Mr. Young: — I've also heard, Mr. Wilson, and it may be from unreliable sources, that the clinics paid articling students much more than the private bar pays. And I would like to know from you whether, first of all, you have done any comparisons between what you pay articling students and what is paid on the street; and then under the year under review, what were you paying for an articling student with a clinic, the first day on the job?

Mr. Wilson: — Again, we don't have the figures for the year under review. We can comment on '82-83 if you wish.

Mr. Chairman: — I'm sure that would be of some interest to the member.

Mr. Wilson: — The rate for articling students for that year was a flat rate of \$1,330.

A Member: — Per month?

Mr. Wilson: — Per month. That is substantially above, we are told, what is being paid in the private sector and moderately above what is being paid in the Attorney-General's or Department of Justice . . .

Mr. Young: — Why, sir, are you paying more than any other place, be it Attorney-General or presumably Department of Justice or on the street? Is there some reasoning for this?

Mr. Chairman: — Just to clarify, the difference between them and the Attorney-General's department is not very large. It's very substantial over what the private bar pays . . . (inaudible) . . .

Mr. Young: — I'll rephrase my question in light of what the chairman says. Why is it substantially more than the private bar? Do the people work harder or what is the reason?

Mr. Wilson: — Well, again I have to try to speak in a most indirect way. In the context of negotiations which are conducted between the employing boards, their association — the association of employing boards — and CUPE (Canadian Union of Public Employees) local 1949, the commission is not legally a party to these negotiations. It is the general contractor who contracts out to the boards certain sums of money and they return the legal services. Now, as to why the specific category of articling students is substantially higher, I frankly do not know. If I had been a party to the negotiations over a number of years I could probably see this in some context, where this was achieved in relation to what was not achieved somewhere else. And that's, I'm sorry, speculation on my part.

Mr. Chairman: — If I could just comment on this. Articling students are paid a rate which is justifiable only by relation to what other law firms pay. Articling students in most offices start out at a lower rate than a secretary starts out at, both with no experience. It is a custom in the private bar that articling students are paid a very low wage. But I think that should be said in defence of the legal aid clinics: I don't think you can justify the salary paid to an articling student by reference to anything except the traditions of the bar. As I say, most law firms start articling students with five years university out at less than they do secretaries with no experience and no training, except a few months in secretarial school.

Mr. Young: — Who are these secondaries you're talking about?

Mr. Chairman: — How's that?

Mr. Young: — What is a secondary?

Mr. Chairman: — Secretaries start at \$1,000 . . .

Mr. Young: — Secretary; I thought you said secondary.

Mr. Chairman: — No, no, a secretary. Secretaries start out at a minimum of \$1,000. Articling students start out at less than that. It's an odd system. I remember it irritating me when I graduated from law school. Now that I'm on the other end of the scale I find it

less irritating, but it's probably every bit as unjust as it was five years ago. No one needs to apologize for the commission but I say that in defence of the commission. I think you'd be hard put to defend what you pay articling students at a bargaining table.

Mr. Wilson: — Well, I hasten to add that I don't feel under any pressure to defend any situation here. The issue involves the whole issue of the relationship between the profession and its students at law. And indeed there are many professions where the students who are articling, or are probationaries, or whatever they call it, are supernumerary, and engage in further educational experience and aren't paid at all. So I think it depends on the philosophy of the system.

Mr. Young: — An articling student then is required to apply for a union card within so many days of joining the clinic?

Mr. Wilson: — Under the collective bargaining agreement, an articling student is regarded as an employee, is defined as an employee, is required to become a member of the union, yes.

Mr. Young: — Would the union agreement then set out how many hours a day or week this student can work, and if more overtime? In preparing until midnight for a court case the next day, how do you handle this, having regard to the fact that he's a card-carrying union . . . (inaudible) . . . ?

Mr. Wilson: — Section 16.03, hours of work and overtime in the agreement, declares:

Hours for work for lawyers and articling students shall be deemed to be unregulated, and such employees shall be considered as being on a five-day week for the calculation of pay and other benefits. Such employees shall not be entitled to overtime rates of pay.

Solicitors and students-at-law are on unregulated hours under the agreement.

Mr. Young: — By that I would take it it could work both ways. If a lawyer was called in on a Saturday to do bail — someone's in lock-up — they could come in if they wanted to, but if they didn't want to come in to handle situations such as that, there'd be no recourse on them, having regard to the fact that they are five-day-a-week men.

Mr. Wilson: — No, they could be expected to come in and serve on the legitimate and reasonable instruction of the legal director, but a great deal of stress has to be, and must be, placed, I would argue, on the professional integrity of the solicitors, and the way in which they function as professionals.

Mr. Young: — What are the typical hours of the legal aid clinic in a day?

Mr. Wilson: — The legal service clinic office is to remain open to the public five days a week. The suspension of special . . . (inaudible) . . . hours for receptionists and secretaries upon the implementation of this arrangement, provided a working day for these classifications — these are the people on classified hours — shall not exceed seven hours and forty-seven minutes. It's a typical 35-hour week office. The offices are open 35 hours a week.

Mr. Young: — Do they have a telephone answering service on weekends?

Mr. Wilson: — No, this is something that the commission has explored for quite some time. Unhappily, the funds never seem to be available to pursue this matter. We have looked at, and are still looking at, a province-wide crisis intervention line for non-office hours. The technology has in the last couple of years been developed where this can now happen.

Mr. Glauser: — Am I not correct when I say that Community Aid in Saskatoon provides a telephone answering service for the legal aid clinic in Saskatoon?

Mr. Wilson: — Oh, you mean just a call-back service — not a call-back service, just a recording service?

Mr. Glauser: — No, they actually have someone on duty answering the phone. Yes, referrals.

Mr. Wilson: — I'm not aware of this.

Mr. Glauser: — Well, we just went through the Community Aid and what functions they were performing in Saskatoon, and . . .

Mr. Wilson: — Oh, Community Aid. Oh, I'm sorry. I thought you meant our clinic.

Mr. Glauser: — Oh, no, no.

Mr. Chairman: — Community Aid has nothing to do with the legal . . .

Mr. Glauser: — But it does to the extent that they're answering the phone for them, and who's paying who for this service?

Mr. Wilson: — I see what you mean. I'm sorry.

Mr. Young: — And how much? I'd like to obtain that information from you, Mr. Wilson, if I can. What are the legal aid clinic in Saskatoon paying monthly or annually to Community Aid for their telephone answering service?

Mr. Wilson: — To our knowledge, nothing.

Mr. Glauser: — I think that if you . . . (inaudible) . . .

Mr. Wilson: — That legal aid is paying that organization?

Mr. Glauser: — Pardon?

Mr. Wilson: — That legal aid, the Saskatoon legal aid clinic, is paying Community Aid?

Mr. Glauser: — If my understanding is correct, it's . . .

Mr. Young: — If my understanding is correct, it's 11,000 a year. Again, my sources aren't maybe very reliable.

Mr. Chairman: — Well, let's deal with the year under review. That should have appeared in the *Public Accounts* if that's true . . . (inaudible interjections) . . . Well, I'm told I'm wrong. It would not be in there.

Well, it sounds as if it's something that . . .

Mr. Wilson: — There is no way in which an expenditure of \$11,000 out of appropriated funds could be spent on this without our knowledge, and all that we can say is: to our knowledge, no. Now if they are spending a few hundred dollars or something out of their own funds — and they do have their own funds, modest funds, the funds of the society, a few dollars here and there — fine.

Mr. Chairman: — They wouldn't have \$11,000 in their own funds.

Mr. Wilson: — No. And certainly not a year. And I don't see how Mrs. Lacoursiere would not be aware of this when we see all of the accounts of an organization. They're checked every month.

Mr. Chairman: — Well, do you want them to confirm this in writing?

Mr. Glauser: — Well, either they confirm it, or we will confirm it to you. It's a big deal.

Mr. Chairman: — I don't know that that . . . The reversible doesn't work very well. Why don't you ask . . . (inaudible) . . . to confirm it in writing?

Mr. Young: — Wait for this weekend, and give them a call and you'll find out.

Mr. Wilson: — I beg your pardon.

Mr. Young: — I said, wait for the weekend and give them a phone call and you'll find out in a real hurry. If you phone the legal aid on a Saturday, you'll have your answer real quick, because . . .

Mr. Chairman: — I don't think . . . To be fair, the witnesses are not denying that the Community Aid . . . (inaudible interjection) . . .

Mr. Wilson: — They may well be doing that. I'm talking about \$11,000.

Mr. Chairman: — What they're denying is there's an \$11,000 payment going from the legal aid clinic in Saskatoon to . . . (inaudible) . . .

Mr. Wilson: — And indeed we have to go further and say: to our knowledge we are simply not aware of any expenditure of funds on that.

Mr. Young: — So it's for them to do. The law firm I work with, we went to Radio Shack and for 225 I believe it was, we bought a little gizmo which you can hook onto your phone for \$6.50 a month, and that was our way of handling stuff over the week-end. It's not for the commission to decide whether they go \$225 at Radio Shack or possibly pagette 11,000 with some service or anything. It's for the clinics to make these decisions as to how they are going to have their phones dealt with over the week-ends. Is that correct? You're not involved with that?

Mr. Wilson: — The contract that we have is for the provision of legal services, and it

would have to be in our determination that this was indeed meeting the contractual obligation. You know I'm debating something that I can only regard as hypothetical and we're talking about two different things. Just an answering service where you leave a message and a service which we're particularly interested in exploring with CBA or SBA — the setting up of an information line that is manned, and this is done by the bar at very great expense in Alberta and in other parts of the country. Saskatchewan does not happen to have that system. Manitoba has a system which is jointly operated by the public service and the private bar, and it's apparently very effective. But it costs money. They are spending a lot of money on that system.

Mr. Young: — Mr. Wilson, we were talking earlier about rating various clinics. I mentioned a couple of the names and you indicated that you did attempt to rate the quality or quantity, or both, of the work in clinics, and I'd like for you to explain to me what are the factors that you take into account when you're rating a clinic. Some of the factors.

Mr. Wilson: — It splits right down the middle into the administrative responsibility and the capacity for sound fiscal management, the responsibility for the supervision of which is provided by our director of administration, Mrs. Lacoursiere. And perhaps she might wish to comment on the factors that she looks for, under the guidance of the commission, with respect to how well the clinics are administered and run; and we certainly do have some factors there.

On the other side of the coin, general counsel has the overwhelming responsibility of ensuring that the quality of legal service is being provided by the solicitors, and the para-professionals is, in his judgement, adequate. I would not want to consume a lot of time of the committee by talking about the desirable professional attributes that one would look for in solicitors in the plan as being any different from those who are functioning in the private bar. The care and concern about the client, the client's interest — uppermost. The care and concern about operating efficiently as a solicitor. General counsel's strategy is to engage in a program of visitation, not necessarily as an inspector, and indeed general counsel, at his best, is a motivator, a supportive person whose phone is burning with questions from junior counsels around the clinics asking for advice about how to pursue a particular case. The mentor system which is talked about so admiringly in Ontario has been in effect in Saskatchewan for quite sometime, with general counsel acting as mentor. It's his responsibility, however, to determine the quality of legal service. Laura, do you want to comment?

Mrs. Lacoursiere: — I guess one of the other things that we look at on the administrative side is the audited financial statements that come out once a year and, of course, any management reports that do come with those financial statements. And then, on a monthly basis, we do get a chance to look at their monthly accounting data and are able to keep a pretty close hand on the administrative matters of the clinic that way.

Mr. Young: — Do you have any rapport with the boards wherein you contact them on a regular basis, or they come in and sit down with the members of the commission to overview their management over the period of time from when they last came in, or any mechanism where you can speak to the . . . ? Obviously, with Swift Current, you came to a conclusion. And I'm just trying to get a grip on what sort of factors you take into account that bring you to a conclusion such as the one you made at Swift Current.

Mr. Wilson: — I suppose, as I indicated before, the conclusion was reached through

an acknowledgement that the incapacity of the board to act as an employer — and there are all kinds of requirements when one is an employer — made it, in the eyes of the commission, impossible for that board to meet its contractual obligations to provide . . . (inaudible) . . . legal services.

In answer to the earlier part of the question, yes, informally I, every year at least once or likely twice, visit the boards and the clinics and discuss the expected subjects ranging from funding to staffing and explore in a most informal way all kinds of things that I suppose under the act the commission should not be or is not required to do. Each year clinics and boards, board representatives, come in to discuss budget and that, of course, means discussion of program and our expectations and their expectations.

Mr. Young: — Do you discuss with them, Mr. Wilson, the appointment of the offices, the poshness? I practised law for six, seven years before I got elected here, and every legal aid clinic that I have been to — I haven't been to them all — was more well appointed than the senioreset lawyer in my law firm. The rugs were thicker, and there was hardwood on the walls, and the whole works. This, to me, appears to go against the grain of the image that I would think that clinics are attempting to provide. When the whole thing got off the ground years ago, when Roger Carter was more or less putting it together, it seemed to me at that time to be something wherein they would work out of an abandoned store or a warehouse or something like that, but certainly it is far from that sort of humble setting now. As I say, I haven't visited all the clinics, but certainly I'm wondering, first of all, if you discuss this with the boards, or how you square this away. Or, are you concerned with the image that is projected by the physical set-up of the clinics?

Mr. Wilson: — Very much so, very much concerned about the image; in fact that's an important aspect of the commission. It is true that the delivery of legal aid has moved from the store-front image of the 1960s, as you describe it, as so many other things have moved from the image of the 1960s.

In the past two or three years the commission has accepted the guidance and advice of the space co-ordination committee that did exist, which attempted to bring all agencies, commissions, etc., of government, where appropriate, into government owned or government leased space. And so over the past couple of years the commission has, because of the desirability of the money saved from the commission point of view, responded to that guidance and virtually all of the clinics are now in government owned or government leased space.

Mr. Young: — That goes against the grain of your arm's-length business. You're supposed to be arm's length from the government and to do that, I would think, runs totally counter to that particular goal. More like a crown corporation than an arm's length because at times your opponent may be the government itself and accordingly, as I understand it, some of the stuff that I read earlier, with respect to the whole philosophies behind legal aid, was to attempt at every avenue to make it look arm's length from the government, although it was funded through the government. But to stick it in a government building really does damage.

Certainly the court-house in Saskatoon, the one that's in the police station, there's a lot of talk and anxiety expressed about the fact that the magistrates' court is in the police station. They want to try to make them look separate and apart from the blue-coated policemen. The route you're taking, in my mind, certainly does a lot of damage to that

goal, if it is a goal.

Mr. Wilson: — I'm not sure whether I can claim that this is on the initiative of the commission or rather responding to a space co-ordination policy right across government and in all government agencies funded with public funds. Not all of the clinics are in government buildings — in government leased buildings — and perhaps we could . . . Do you want to run down those?

Mr. Young: — Some of them certainly are though.

Mr. Wilson: — Some of them are indeed. The provincial building in Moose Jaw — one of our better clinics. Very comfortable — the solicitors are very comfortable with that arrangement.

Mr. Chairman: — The court-house is also . . . The municipal court is also held in the provincial building in Moose Jaw.

Mr. Wilson: — Yes. The building in Yorkton is a private building, but virtually all of the space is leased by government offices. To the public, they'd have to be pretty sophisticated I think to determine . . .

Mr. Young: — . . . (inaudible) . . . sir, as commission wouldn't control that? It's the local boards who deal on office space?

Mr. Wilson: — Oh no, no.

A Member: — You people do that.

Mr. Wilson: — And we in turn are subject to the policies of what used to be called Government Services.

Mr. Young: — Apparently you have no . . .

Mr. Chairman: — If I could just interrupt — I don't want to interrupt the member from Saskatoon Eastview.

Mr. Young: — Go ahead.

Mr. Chairman: — Could you give us the cost per square foot of renovating the various offices by way of comparison? I'm interested in the member's question. If there is a disparity in the cost, that would be interesting, I think, to the members. Can you give us the cost on a per square foot basis of renovating the offices? And if you can't, my next question is: why can't you? Because I would think you ought to be able to, because we're paying for it. It would be in writing; I don't expect that now. Can you undertake to supply that to us — the cost per square foot of the renovating of the various office spaces?

Mr. Wilson: — We would only get that information in cases where Government Services were handling it — where it was a government building, for instance, That's the first point that has to be made: in the recent past and up to the present, the space assigned or the space negotiated has been in conformity with the standards for all other commissions, agencies, who happened to be in government space. There's been no special attention to legal aid: I can assure you of that. With respect to space that has

been privately acquired, we can provide the cost per square foot, there.

Mr. Chairman: — Both would be interesting, Both what the Government Services spent on theirs, and what was spent privately. It would just be interesting statistics to compare. Sorry, I didn't mean to derail what the member . . . (inaudible) . . .

Mr. Wilson: — No, that's fine.

Mr. Glauser: — May I just . . . I think maybe I can shed some light on that Community Aid transaction there. I think that perhaps the reason you didn't see it is that this is a separate item in their funding. And they are funded to provide this service whereas . . . They are funded themselves to provide it, and you wouldn't see it as a result of that. I think that's the way it worked, but there was a cost involved. But I don't think you even knew that they were providing that service, eh?

Mr. Wilson: — No. Not aware of it at all.

Mr. Young: — What I'm getting at, Mr. Wilson, is that everybody knows that legal aid clinics are funded by the government. You put them into a government building, and it just starts to look as if they are the government in drag, so to speak, eh? Certainly, I haven't been to New York City, but as I understand it down there, they have legal aid clinics which are very, very much at arm's length — look arm's length and are arm's length — from the government, and operate fine. And I'm wondering if, first of all . . . Apparently that isn't high on your priority list, the attempt to look arm's length, in that you're not at all afraid to rent government space in court-houses with other government offices. I'm wondering if yourself, or anyone in your commission, has taken the time to review how other jurisdictions attempt to project an image of arm's lengthedness from governments. Again, if it isn't high on your priority list, you wouldn't be travelling to New York to see how those guys are doing it.

Mr. Wilson: — No, and . . . I'm sorry.

Mr. Chairman: — No, she was just . . . For the purpose of the transcriber, she wasn't correcting you or calling you to attention. For the purposes of the tape, she was simply announcing who was speaking.

Mr. Wilson: — Oh, I thought it was the microphone. I'm taking your instructions to speak into the microphone very . . . (inaudible) . . .

Mr. Chairman: — . . . (inaudible) . . . That wasn't what was being said.

Mr. Wilson: — Yes.

Mr. Young: — I obviously think it's a laudable goal, and that should . . . (inaudible) . . .

Mr. Wilson: — Well, I agree whole-heartedly, but a policy with respect to the accommodation of people which, first of all, is a general guide-line by the government of the province is just what it is. But more importantly, when you're fighting for economic survival in this plan, as we have been, are, and will be — continually fighting for every dollar to provide a service — if one can find a way, even if it's through a book entry, to shift the fiscal responsibility from a private arrangement between the commission or the clinics and an organization providing the accommodation, then

indeed the commission has taken that, has been, if you like, seduced to take that particular step. If one looks at what it would cost the commission if we had to fund a private accommodation arrangement for the Saskatoon clinic, we would be looking at, on the open market, probably about \$50,000 to \$75,000 a year. The Regina clinic, which is in private accommodation, costs out of the commission budget around upwards of \$35,000 a year. It all adds up. Now, if those funds are made available to us, we would be delighted to engage in all kinds of contracts for private accommodation.

Mr. Young: — We're certainly not talking store-front at those prices, or abandoned stores. That's down the . . . (inaudible) . . .

Mr. Wilson: — Well, one of the most modest of clinics, I think, is indeed the Regina clinic. It is a store-front . . . happens to be a store-front operation. It's a very large area; I must say that. It accommodates quite a number of people there.

Mr. Chairman: — I'm going to interrupt, I think, here. It's 12 o'clock, We're clearly not going to finish with these witnesses today. We'll adjourn until 8:30 tomorrow morning. You are excused for the look of horror on your face. We clearly are not going to finish. I haven't started, and I have some questions, and it's 12 o'clock.

Mr. Wilson: — But, Mr. Chairman, with respect and off the record and all the rest, this . . . (inaudible) . . .

Mr. Chairman: — You're on the record; I want to warn you of that.

Mr. Wilson: — I will go on the record. This is an insidious plot by Regina to prevent Saskatoon from winning the Great Canadian Participation Challenge, of which I am president. I am supposed to be there tomorrow, and this is a nefarious plot by the Chair, represented . . . (inaudible) . . .

Mr. Chairman: — I don't know if the member from Saskatoon University, the member from Saskatoon Mayfair, the member from Saskatoon Eastview would agree that it is a plot. There's only one member from Regina present . . . (inaudible) . . . I have to apologize for the fact that they are from Saskatoon.

Mr. Wilson: — Mr. Chairman, I convey my apologies.

Mr. Chairman: — At any rate, I appreciate your humour and appreciate your willingness to attend. So it's 8:30 tomorrow morning, and we'll conclude. Anyway, you're excused now, if you want to go. There's a couple of other items I was going to raise with the committee.

We want to have Government Services and Revenue, Supply and Services — I think we agreed we were going to deal with them together, since it tends to be the same officials for the year under review. Do you want to call them at say 9:30? Oh, we have Health on. I see; the Clerk reminds me indeed that it is Health. Do you want to call them for, say 9:30? Or do you want to just have them on a 15-minute stand-by?

Mr. Young: — I'm handing this over to Dutchak, where I left off on these typewritten questions. I'm half done my written questions.

Mr. Chairman: — Oh, then there's no point in having them come here before 9:30.

Let's just call it 9:30 then.

A Member: — Pardon?

Mr. Chairman: — No, we're calling Health at 9:30.

A Member: — Oh, I beg your pardon. 8:00?

Mr. Chairman: — 8:30.

I want to compliment you, Kim, on your thoroughness in your preparations. Very good . . . (inaudible interjection) . . . Yes, it sure is, especially . . . (inaudible) . . .

Okay, 8:30 tomorrow morning. Health coming at 9:30.

I'm going to ask, if no one has any objection, the Clerk to prepare a report for us. We had talked some time ago about, before the comprehensive auditing conference in October, taking some time to view the operations of some other public accounts committees. The member from Regina Lakeview, in particular, raised it, and I concur. It's worth reviewing to see what's available. I was going to ask our Clerk just to look into the matter, and perhaps we can have a discussion at some later meeting when she's had a chance to inform herself.

There are two, three in particular, that interest me. One is Alberta, because of the near disappearance of the opposition. The public accounts committee there is large. It's some 30 members. It's very active. It might be interesting to see how they operate. In Alberta, in many ways, the government private members are the opposition; in many ways, that's the way that legislature operates. Toronto, of course, is the premiere sort of public accounts. In many ways they're looked to as being among the most thorough, professional, and well established. The Government of Canada one is perhaps the most vigorous and energetic.

It was those three I was going to ask you to take a look at and report back to us at some future date — the next few days. Does anyone have any objection to my requesting the Clerk to do that? I think we have to deal with whether or not there's going to be any such review or visiting before we depart.

Mr. Glauser: — What form would this take?

Mr. Chairman: — Well, just visiting by the members. Just sort of a tour de force by the members was what was suggested.

Mr. Glauser: — You mean going there and . . .

Mr. Chairman: — Yeah.

Mr. Lutz: — As the Northwest Territories people did with this committee?

Mr. Chairman: — As the Northwest Territories people did. Yeah, as the Northwest Territories people did.

What I was thinking was on the way to the comprehensive auditing conference in October stopping and spending a few extra days. And I don't have any emotional capital

tied up in the project, and I don't have any emotional capital tied up in how many we do. But it strikes me that it might be interesting for us to do it on the way to Ottawa, on the way to the comprehensive auditing conference.

Mr. Glauser: — Are expenses paid for this?

Mr. Chairman: — Yes.

Mr. Young: — How does all that work then? Is there sufficient moneys for stopping off for three days at Toronto before we go on?

Mr. Chairman: — Always sufficient moneys for that.

Ms. Ronyk: — Mr. Chairman and members of the committee, we haven't a very sophisticated budgeting system for committees yet. The committees are terribly unpredictable. We don't even know how many we'll have in a year. Currently, and what we've done in the past, is budget each year a token amount for committees, and it is never sufficient even for the committees that we have. However, it's a statutory provision and if the committee decides that it's something that they need and want to do, the moneys are made available.

In the future it is going to be a little more difficult because the committee will have to present a budget to the board of internal economy and get approval for expenditures such as this.

Mr. Young: — Did Mr. Lutz, the Provincial Auditor . . . (inaudible) . . .

Mr. Chairman: — Did the Provincial Auditor . . . (inaudible) . . . you?

Ms. Ronyk: — Yes.

A Member: — . . . (inaudible) . . . down east . . . (inaudible) . . .

Mr. Chairman: — What's that? Oh indeed, indeed to Toronto, oh indeed yes.

Mr. Lutz: — In July, to Toronto, do you mean?

Mr. Chairman: — No, we're talking about two different conferences here.

Mr. Glauser: — Yeah, we wouldn't want any of these funds being reported by the comptroller a year from now.

Ms. Ronyk: — Oh. they're all absolutely legal. But I don't think they've ever paid for the auditor's travelling.

Mr. Chairman: — There's various options, you understand. Two people could go to Edmonton; two people to Toronto and two people to Ottawa, and not have six people go to all three. There are various options for us to consider. I really just wanted the Clerk to do some preparatory work to see who might be in progress, who might be sitting then, what the options are. We'll discuss it at another time. I'm not in any sense making any decisions now. I just want the Clerk . . . I just want this committee to ask the Clerk to get the background information that we're going to need.

Mr. Lutz: — Mr. Chairman, if it's proposed here that the auditor should attend with the committee members, some of these things, I would like a little advance notice so I can decide which one of my staff is going to go.

Mr. Chairman: — We need to make these decisions within the next couple of weeks . . . (inaudible) . . . in advance.

The committee adjourned at 12:05 p.m.

CORRIGENDUM

The Public Accounts verbatim, No. 11, May 4, 1983, at the top of page 340, should read:

Mr. Krip: — Yes, we did.

Mr. Dutchak: — We erect a plaque on that one. I'm not about to attack anyone personally but I understand . . . Okay. I want to get into an area . . . Do you know what ROMM means, what it stands for?

[NOTE: The online version has been corrected.]