

# STANDING COMMITTEE ON PUBLIC ACCOUNTS

May 18, 1983

## Public Hearing: Saskatchewan Community Legal Services Commission (continued)

**Mr. Chairman:** — I thank the witnesses for returning. When we adjourned yesterday, Mr. Young was in the middle of a question. I understand that the member from P.A.-Duck Lake is going to pick up where he left off.

**Mr. Folk:** — Mr. Wilson, I was looking through the annual report for the commission. Just going through some of the figures on page 8 . . .

**Mr. Chairman:** — If I may just interrupt, I'm sorry. I should have announced for the record, purely for the benefit of whoever's transcribing this tape, that we're beginning this morning with the Saskatchewan legal aid commission and an inquiry into their accounts. Sorry. Go ahead, member from Saskatoon University.

**Mr. Folk:** — On page 8 there, Mr. Wilson, looking through, I figure one of the best ways of correlating things, or looking at Saskatoon and Regina, and they should be fairly close in a lot . . . If I go down to 'family matters' and the connotation of 'other': in Regina there was only 26 cases reported under 'other,' yet in Saskatoon there was 160. And under 'family matters,' if they're not divorce, custody, maintenance, separation, or matrimonial property — seems to be a large number of cases under 'family matters,' to the tune of 160. Would you happen to know what connotations they would be to go up to 160 there?

**Mr. Wilson:** — I regret, Mr. Chairman, that I cannot answer the questions.

**Mr. Folk:** — Would it be possible to get that information back to us at a later date?

**Mr. Wilson:** — Indeed, yes.

**Mr. Folk:** — Great. Another question: looking at page 11 of that report, on the graph of clinical intake statistics, there's no statistics available for the Northern Legal Services Office for two years. What would the reason be for that, because it really puts the graph in a . . . (inaudible) . . . position there?

**Mr. Wilson:** — On page 11?

**Mr. Folk:** — Page 11.

**Mr. Wilson:** — I could make an anecdotal comment. I came to the commission in 1979-80 to discover that during the previous period statistics had not been kept in the North. This was during a period when the management of the northern clinic was shifting from the commission to a local board, and under the aegis of the local board the northern clinic found themselves unable, and felt that they were unable, and did not wish to submit statistics in apparently the form that had been required. They argued that the way in which they operated, handling cases on the fly, around the territory, flying in and flying out, dealing with people on an ad hoc basis meant that they could not keep proper statistics, and I have to confess with some chagrin that it took me one year to convince these people that they were, indeed, to keep statistics. So there is that period there of a couple of years.

**Mr. Folk:** — So that would be the reason why for the four previous reporting years that there . . .

**Mr. Wilson:** — That there were results. It was under the . . .

**Mr. Folk:** — Because the commission itself was doing it?

**Mr. Wilson:** — It was under the control of the commission at that time, yes.

**Mr. Folk:** — Would that not be one of the criteria for the board to report this number if that was a common practice before, and then suddenly they don't? Realizing that you weren't there until the second year of non-reporting.

**Mr. Wilson:** — I think possibly the commission had not been fully cognizant of its responsibilities. Many of them often regard it as bureaucratic, to gather, in a consistent and universal way, information. And I think it would be improper for me to attempt to assess where the responsibility lay. Formally, of course, the responsibility is for the commission to provide whatever information is required by the minister. Interestingly, the legislation does not require that the boards or clinics provide any information that the commission requires. It's a modest weakness in the act there.

**Mr. Folk:** — The northern legal services up north there, I notice somewhere in here they do carry a very large case-load, right now in the year under review. Yet looking at the statistics on the private bar under the Northern Legal Services Office, they never really carried a whole lot at any time. I think starting in 1974 their figures were 2 and 2, and ending in 1981-82 they are still 2 and 2's. Is there any reason why the private bar was not used in that area at all?

**Mr. Wilson:** — In fact the private bar does not exist in the North to any degree. I asked that same question the other day just to get an update on what private bar services there were immediately available in a community like La Ronge, and found that there is one office with a name on it to which the solicitor only comes on call, as it were, and that to their knowledge — the knowledge of the clinic — no one had been around for several months. There are no permanent private offices. I understand there are no permanent full-time private offices in that area. People do come in, do fly in for cases, but I suppose the fact that the legal aid solicitors have established throughout the communities of the North, having flown the circuit so many times, have established relationships that people turn to them, and it's only on very special occasions that the private bar is used. The short answer is the private bar is not immediately available.

**Mr. Folk:** — In one final question on this, looking at northern services again, on pages 8 and 9 when you go down to the total, they take in more cases than any region except Regina, and I would think that for the population that's a little bit unusual. Is there any explanation off the top of your head for something like that?

**Mr. Wilson:** — Yes, there is. Right across this country, as you could imagine, there are debates and have been debates going on about what is a case, what constitutes a file, what constitutes a dossier. In our national meetings and organizations we're always debating this, trying to get a common base. It's not surprising that in our plan we have different interpretations of what constitutes a case or a file or a dossier.

In the North their method of recording, which we have found no reason at this stage — we do plan to — in the North, because most of the services are provided as they fly

around the circuit with the prosecution and the judiciary providing services on largely an ad hoc basis, they are met by people perhaps for five minutes, half an hour — it might be a major case; it might just be a couple of minutes consultation. They have the practice of recording all of those meetings. So they record a great many contacts that would not be recorded in a southern clinic. So in that respect one could argue that their statistics are inflated or that more accurately they're using a different interpretation of what is a case.

**Mr. Folk:** — In that northern office they would follow the same application form that was presented here yesterday?

**Mr. Wilson:** — The northern clinic and the northern board is one that has still refused to participate in the use of this form. We have been in negotiation with them, admitting perhaps the inappropriateness of filling out the form when so much of their work is done in an extra-office environment, standing in the back of a court room or a poll, or outside talking to clients. We have not succeeded in bringing them into the fold yet, along with Meadow Lake, is the other one I mentioned yesterday — two out of the 13.

**Mr. Folk:** — So what you're saying then is that there is no real control of their applicants from your point of view.

**Mr. Wilson:** — Yes, well frankly, of course, there's no control to be exerted on any of the clinics with respect to how they interpret who does come in their doors; but there is no real knowledge and no real check on the knowledge that we have through our copy of the form, that's right.

**Mr. Folk:** — Did you not mention yesterday that you perform the odd spot check?

**Mr. Wilson:** — Yes. That's what I say. We do spot checks using our copy of that form. We do not do that for northern or Meadow Lake, that's right.

**Mr. Vice-Chairman:** — Mr. Folk, I wonder if I might just add something to this. Mr. Wilson, wasn't it a fact that right across the system, regardless of what the location was, there was a separate file, or dossier as you want to call it, opened up for one individual where there was more than one particular case? Like, for instance, a different aspect of law.

**Mr. Wilson:** — Indeed.

**Mr. Vice-Chairman:** — And did this not add to the numbers, like didn't it inflate the case-load in that way?

**Mr. Wilson:** — In seven areas it did. There is now an understanding . . . And by the way that's the very issue that is being debated across the country: what constitutes a case — whether it's the individual section of the Criminal Code that have been affronted or under consideration, or whether it's the total package. We have now reached an understanding that a case constitutes the cluster of issues under the Criminal Code or whatever, the related issues — that constitutes a dossier or case. And that is pretty well now adopted throughout the system.

**Mr. Folk:** — And one final question. On the last page of the report, it shows the schedule of clinical expenses, and the clinical expenses went up from 1981 to 1982 something in the neighbourhood of \$112,000 for the — I'll call it the northern board

because it's listed as . . . (inaudible) . . . something legal services society. What would that increase be based on then if there's . . . It's really hard to discern what they're doing up there.

**Mr. Wilson:** — 85 per cent of all expenses of the clinics is in salaries. In that period I would estimate that the non-salary items went up by a relatively modest percentage. There was, in that year, as you can see from the bottom line, a fairly substantial increase, so that generally the northern reflects the quite significant salary increase that was achieved in that year.

Also in that year, because the Department of the Attorney-General, which had been picking up the air fares covering the cost of all of these circuit trips involving prosecution — of the judiciary and legal aid — passed the cost of the airfare, prorated, involving legal aid back to legal aid. And in that year we had to pick up an extra \$60,000? Oh, I beg your pardon, probably lower than that, something just over \$40,000. So it was a combination of those two things — the picking up of the airfare and the increase in salaries.

**Mr. Katzman:** — Did you share an aircraft, are you saying, when you said portion?

**Mr. Wilson:** — Yes. Most of the time, not all the time.

**Mr. Katzman:** — So the big aircraft, I think it's a — I forget what the thing is, a DC-3 or something, the RCMP aircraft that flies around — you would be paying for the amount of seats of your lawyers flying as they go from court to court to court over the North . . . (inaudible interjection) . . . Are they flying on another aircraft, not the RCMP one?

**Mr. Dutchak:** — You mean sharing the aircraft with the prosecutor and judge.

**Mr. Wilson:** — It's usually private charter with the prosecutor and the judge.

**Mr. Katzman:** — There was the two, and that's why I was trying to find out which one they fly.

**Mr. Dutchak:** — I wonder, sir, if you can tell me. Mr. Glauser asked you a question there. I'm not sure, and I'd just like to clarify something. Are you saying the determination of what the case-load is is changing in the commission, from the commission's point of view?

**Mr. Wilson:** — Right across the country and specifically in our commission, the consistency is changing. It has been most inconsistent — the interpretation by the boards and by the staff as to what constitutes a file or a case.

**Mr. Dutchak:** — I'll give you an example, and some questions will follow. Assuming an individual is charged with four different charges. Assuming one is impaired driving, the second is dangerous driving, the third is driving without a driver's licence, the third is theft of a vehicle, and these all relate to one incident. Now, were your clinics opening up four files?

**Mr. Wilson:** — Some may have done that, yes, in a particular year. What I'm saying is now most of the clinics, with the exception probably of northern, possibly in some degree in Regina, are following the cluster system. I'm hesitating a little because its

precise definition has not been settled at a national level. We're still really debating it, but we think we have a handle on this definition. If the cases you referred to, or if the charges you referred to, were to be dealt with at the same time by the solicitor, then indeed that would be a cluster. If, however, they were broken out and separate charges dealt with at separate times, they would be separate files.

**Mr. Dutchak:** — You are aware that some of your clinics were not using the cluster system, and were simply opening, in my example, four new files before plea, entering the plea of guilty on every one, and then closing four files. Is that correct?

**Mr. Wilson:** — Yes, yes.

**Mr. Dutchak:** — And in that case when the statistics are given out to the press or whoever by a legal aid lawyer, it would sound fairly impressive as far as work-load is concerned.

**Mr. Wilson:** — In past years I would have to agree that it might, depending on the area in question, be an inflated figure. Currently, I would say that is a less crucial issue than it has been.

**Mr. Dutchak:** — I think the question was touched on yesterday. Do you have any way to gauge work-load on monthly clinics, from one clinic to the other?

**Mr. Wilson:** — We did table a copy of, and we now will be this morning tabling the 15 copies of the weekly activity report dealing with work-load of solicitors, broken out simply into time spent on the five categories: criminal, family, other legal, administrative, and other activity, and we do have a check, if you like. We are building up a dossier, if you like, on the activities of solicitors.

**Mr. Dutchak:** — And do you review the dossier then according to some guide-lines? Another example I use: if a lawyer in a private practice was getting paid for defending an impaired driving charge he would spend two hours or whatever on it, and do you have some way of gauging or dealing with the situation where a legal aid lawyer may spend 10 hours on charges like that consistently?

**Mr. Wilson:** — No. Indeed I can state quite categorically that we do not make that kind of precise analysis. All that we have is an analysis of the time spent in a week on a particular category. By no means do we have a breakdown by case-load. Frankly, that will require rather sophisticated computer services and we don't have that.

**Mr. Dutchak:** — Do you have anything in your system to govern the productivity of a particular lawyer in a clinic?

**Mr. Wilson:** — Nothing other than the most subjective supervision by the legal director in each clinic, whose responsibility it is to ensure the productivity is acceptable. It's clear that we review the monthly case reports that come in to us, as well as these copies of the forms of the clinics who are submitting them, and make general subjective assessments of how the work is being produced in a particular clinic. But it's not a precise analysis, no.

**Mr. Dutchak:** — And you've been involved with the commission since when, sir?

**Mr. Wilson:** — The fall of 1979.

**Mr. Dutchak:** — And since the fall of 1979 have you ever seen the termination of the services of any particular lawyer in the clinic for lack of productivity?

**Mr. Wilson:** — I hesitated to answer a similar question yesterday and I'm afraid I have to hesitate again and volunteer to provide an accurate answer of that.

**Mr. Dutchak:** — To your knowledge? There isn't any, to your knowledge?

**Mr. Wilson:** — Not on the basis of productivity, although indeed in the minds of general counsel or those who were discussing the performance that may have been an element.

**Mr. Dutchak:** — You see, in private practice it's not uncommon for a lawyer to be unproductive and therefore he loses his job, like any other profession in private business; and that was the intent of my question. Has that ever happened in a clinic system, to your knowledge?

**Mr. Wilson:** — Yes. I'm afraid I can't offer an adequate answer to the question.

**Mr. Folk:** — Mr. Wilson, on page 8 again, I'm looking under criminal cases, under the connotations of theft, break and entry, and drunk and impaired driving. Once again, in the northern legal services, those figures are exceptionally high in those three categories. Is there a reason for that? Is there a lot of — what would you say — repeat cases, perhaps? Or is it all just one time — for that year?

**Mr. Wilson:** — I have no knowledge about the repetitive nature of the charges in those categories in the northern area. I acknowledge, as you do, the obvious concern that we have had and that the northern staff have had about the substantial percentage of their work that is involved in this kind of thing. This is the kind of thing that they meet when they go on the circuit and meet with clients who are facing these charges.

**Mr. Folk:** — Say it happened in Saskatoon. If one guy, Mr. X, kept on coming back, you know, time after time, maybe two or three times a year, would there be any action taken there?

**Mr. Wilson:** — Saskatchewan has never attempted to deal with the repeater problem. In other words, I presume you are touching on the high degree of utilization of the services of legal aid.

**Mr. Katzman:** — By one individual.

**Mr. Wilson:** — Is this the question? By one individual? No. In one or two provinces of the country — Alberta, for example — there is an attempt to say, 'You can have so many B and E's, and beyond that you don't get any more service,' or . . . I'm not quite sure how it really works, and when one talks informally with administrators it works in a very clumsy and imprecise way. And very often, as solicitors tell me, the very person who might well be disqualified is the very person who needs representation in court on that next particular issue. And so, from the professional point of view, it's very difficult to contemplate a refusal on the grounds of a maximum number of repeats.

Saskatchewan has not, I must say, pursued this to any conclusion. It's been debated a great deal.

**Mr. Katzman:** — Well, Mr. Young isn't here today, and he left some questions behind, which I will go through with you, Mr. Wilson. And on this one point, though, repeating: my understanding is there is an awful lot of repeaters in this particular issue, and maybe it's — as you say, we haven't dealt with it, but maybe the costs at one point are going to be because of one person, for lack of a better word, abusing the system. Others aren't able to get the services that they sincerely require. And that is a value judgement, I realize, but we don't have a machine to print money, and neither does the legal aid.

**Mr. Wilson:** — We are very much aware of that.

**Mr. Katzman:** — So is that not one of the means, and how much of a problem is repeating, or are we all just thinking it is?

**Mr. Wilson:** — First of all, as you have indicated, it's very difficult to put a statistical figure on the level of repeaters. Again, if we had processed data we could crank that out but with a manual system we can't. The subjective view is that there are clients who are quite clearly eligible for legal service who have, indeed, come back to us with repeated charges. As I indicated, the real issue is that it may not be argued, it really is not to be argued that it is an abuse of the system — it might well be regarded as an over-use of the system — because we have no evidence that any alleged offender committed the alleged offence knowing, indeed, or because he believed, that he would get legal aid. In other words, the fact that legal aid was available didn't encourage him to commit the offence.

Secondly, as I mentioned before, the courts of our land are not going to view with a great deal of favour the appearance of accused without counsel simply on the grounds that they are repeaters. We have had the experience of being chastised for not providing counsel before the courts — and, indeed, on one or two cases the court simply assigning counsel, as is the right of the court to do so under certain circumstances.

I do acknowledge on behalf of the commission that the repeat offender is, indeed, a problem not only in our province but right across the country. We have not found an administrative solution to that problem.

**Mr. Katzman:** — Moving to another question, do you have a binding type of contract or a legal kind of contract with your lawyers? And could you produce a sample for the committee?

**Mr. Wilson:** — Yes. I don't have a copy here. There is a sample which we encourage the boards to use. The boards are not required to use these. We do use them ourselves on a couple of occasions when we employ lawyers, but we will provide you with a copy of that and indicate where such contracts are used.

**Mr. Katzman:** — We have understandings that in La Ronge and Regina, especially La Ronge, that lawyers have said, 'Hey, we don't work Saturdays and we're not available,' type of thing. I always thought a lawyer was almost as the old M.D. used to be, 24 hours a day when you need him, or you could get one. I'm just wondering if your contract sort of says you're working 9 to 5, or these kind of things are laid out in those type of contracts?

**Mr. Wilson:** — The provincial agreement between Local 1949 and the boards does indicate that solicitors and CLSWs, the community legal service workers . . . Oh, I beg

your pardon, community legal service workers, lawyers and articling students shall be deemed to be on unregulated hours. It then becomes a matter, as you're indicating, of professional judgement, of professional conscience, as to the hours for the work. Our review of the forms, those pink forms that I tabled, indicates that the hours worked, as reported, are well in excess of the union 35 hours a week for office employees. Most of the time it's in the mid-40s, I would think.

**Mr. Katzman:** — . . . (inaudible) . . . be paying overtime, then.

**Mr. Wilson:** — About 45 hours a week. The agreement indicates that employees shall not be entitled to overtime. So on the average the solicitors are working around 45 hours a week.

**Mr. Katzman:** — I noticed in your annual report that the majority of the funds come from the Attorney-General, with a small portion coming from 'others.' 'Others' are, I assume, people that you ask for donations and so forth: 5 million versus 32,000. Page 18.

**Mr. Wilson:** — Yes. In the main, this is indeed clearly a provincially funded plan. It involves no significant funds from any other source; there are no contributions from anyone else except in the most modest terms. The figure you point to indicates or refers to contributions from clients upon request for services received. It's a most modest amount.

**Mr. Folk:** — That would be the 'other' in revenues?

**Mr. Wilson:** — That's 'other.' Contributions from clients.

**Mr. Katzman:** — I'm changing my pattern here for a second. I am told that legal aid lawyers do not ask for costs when they win a case. And why would they not ask for costs, especially when, of course, it would allow the funds that they have to go forward? I can understand the reversal, because there is no costs to receive, but when they win one, and the costs can be received, other than, say, from . . . Even if it was from the Attorney-General's department, because it would increase the amount of capital you have the ability to work with. And why would you not go for costs?

**Mr. Dutchak:** — We should clarify that question. Costs from the Attorney-General's department . . .

**Mr. Katzman:** — Well, that's including . . . I said including it, if it happens to be a prosecution from the Attorney-General's. And you call for charges, and you're . . . (inaudible) . . .

**Mr. Dutchak:** — You don't get costs on that. In a civil matter you do.

**Mr. Katzman:** — Civil you do. Okay. I'm not a lawyer.

**Mr. Wilson:** — Most of the . . . Yes, I've asked the same question myself, as a matter of fact, and realized that part of the answer lies in the fact that most of our work now, the way in which things are getting . . . (inaudible) . . . down, involves criminal work. And the family law that is practised usually doesn't involve costs. I can only speculate that if there were greater pursuit of the issue of costs, and I agree that there should be, I'm not sure that it would result in a significant amount of money at our present level of



operation.

**Mr. Katzman:** — Melfort and La Ronge clinics, are they moving to government offices?

**Mr. Wilson:** — Yes. As I reported yesterday and I'll clarify for the record what perhaps I stumbled over yesterday. Of the 13 clinics, 11 are in government leased property, but not government buildings; two — Moose Jaw and Swift Current — are in government buildings. Very shortly, Melfort office will move from a government leased office to the government building. The Prince Albert office is in the process of moving from a government leased office into a . . . I'm not sure what the status of that building is. Is it a government building? The government owns that building. It's the McIntosh Mall.

**Mr. Katzman:** — What about La Ronge?

**Mr. Wilson:** — La Ronge has been in government leased space, and I understand that as of . . . (inaudible) . . . some information that is just a couple of days old. We had thought last week that northern clinic was moving into the government building in La Ronge; apparently, as of a couple of days ago, they may be moving into other government leased space. That's not clear yet.

**Mr. Dutchak:** — Do you know on that particular one, is it leased space already being leased by the government, or is this leased space that's just acquired for purposes of housing the legal aid clinic?

**Mr. Wilson:** — In which case?

**Mr. Dutchak:** — The La Ronge one.

**Mr. Wilson:** — In the La Ronge one, they were or are, I guess I want to say, they are in space that was leased by the government in a private building for legal aid.

**Mr. Dutchak:** — But the new one they're moving into, that they may be moving into, is an existing government lease that's been existing for some time?

**Mr. Wilson:** — I don't know. Do you know?

**Mr. Lacoursiere:** — I can't say for sure. We just know that the present place where we're in right now, the lease does expire on, I believe, July 31st, so the Department of Supply and Services is searching out alternatives for us. It appears as though we will not be able to go into the government building. There's not room for us, and so now they're looking at other alternatives — new leases or perhaps staying where we are presently.

**Mr. Katzman:** — . . . (inaudible) . . . improvements are your responsibility, or are they the responsibility of whoever provides them for you?

**Mr. Wilson:** — Formally they are the responsibility, first of all, of the clinic. We have exercised considerable . . . Or the board, I should say. We have exercised considerable control, simply by a funding mechanism, saying we will or will not pick up the tab. To look at the other side of the coin, we have been under the general policy of what was then the Department of Government Services. Although we always had the right of a refusal, if in any way we felt that the accommodation was inappropriate.

**Mr. Katzman:** — The management of the clinics — is it by the local board, or do they hire somebody with experience and training, or how do they do that?

**Mr. Wilson:** — The local board is the employer of all of the staff. The contract between the commission and the board is the only contract that exists. It is on the basis of that contract that money is awarded to the board. The board, in turn, hires the staff with the prior approval for solicitors being granted by the commission.

**Mr. Katzman:** — Does somebody manage that office?

**Mr. Wilson:** — Typically, a member of the . . . a lawyer is assigned as the legal director.

**Mr. Katzman:** — Therefore, you say the legal director is manager.

**Mr. Wilson:** — The legal director, typically, is the manager of the clinic.

**Mr. Katzman:** — A person might be a good lawyer but a lousy manager. How do you make sure that he understands . . .

**Mr. Wilson:** — I would never say a thing like that, Mr. Chairman.

**Mr. Katzman:** — I would. He may be, you know, a good lawyer but not a good manager of staff. So do you have special training to make sure that certain steps are taken?

**Mr. Wilson:** — The commission has no control over the selection of the legal director as such. It has control over the appointment of the solicitors. We advise the board, ‘Don’t do that.’ or ‘Why don’t you do this.’ A great deal of that goes on.

**Mr. Katzman:** — Reading between the lines, you’re telling me, also, the local boards are supposedly accountable to you, but are not accountable if they so choose not to be, except for where the Attorney-General may step in and finally say, ‘That’s it.’

**Mr. Wilson:** — Well, they’re accountable under the contract, and I’ll undertake to table one of those contracts. I don’t think we have one with us, do we? Is there a copy? Do you want me to take time to go over the contract, Mr. Chairman?

**Mr. Katzman:** — You can provide it later.

**Mr. Chairman:** — Perhaps you can provide it later to the members. Yeah, that seems to be sufficient.

**Mr. Katzman:** — Paralegals — do you use any of those?

**Mr. Wilson:** — In the whole system there are 25 paralegals, I think.

**Mr. Katzman:** — Total complement of staff?

**Mr. Wilson:** — 146, including commission staff.

**Mr. Katzman:** — 20 per cent, roughly.

**Mr. Chairman:** — What’s your ratio of paralegals to lawyers?

**Mr. Wilson:** — We have about 25 — about 50 per cent. We have 56 solicitors in the system.

**Mr. Katzman:** — 50 per cent? Okay. If a person's going to court, and a lawyer appeared, and the date's set, and the client doesn't show up.

**Mr. Wilson:** — That obviously causes some problems.

**Mr. Katzman:** — Normally, in private law, I'd be paying the bill if I was the . . . I'd probably get a judgement against me or something else. In the legal system I am told that the person may not have showed up and will cry to the board — that may not be the right choice of words but, you know, complain to the board — that he still needs service and he's in trouble. Once again, the board will instruct the lawyer, even though he didn't show up the first time, and you got to take the case and continue through. Is that a normal occurrence?

**Mr. Wilson:** — It's an interesting point that you raise, and one that has very much concerned me because I've been involved on several occasions where a board has refused additional service to a client who has been a no-show, and that client has appealed to the commission and I, under our policy, sit as a court of last appeal, if you like, on appeals for service. And I would say, typically they are rejected if quite clearly there has been an irresponsible attitude on the part of the client.

**Mr. Katzman:** — Well, your information indicates that the reverse also happens.

**Mr. Wilson:** — I'm sure that locally, warm-hearted solicitors and eligibility officers wanting to encourage the provision of service do this, yes. There's no general policy.

**Mr. Katzman:** — Productivity was touched on earlier by Mr. Dutchak and you, I gathered, indicated there was no measure of productivity.

**Mr. Wilson:** — There is no precise, computerized measure of productivity. There are the subjective reviews of the weekly activity report, this pink slip.

**Mr. Katzman:** — Well, that's something like the Star-Phoenix's reporting of the legislative members being here or absent.

**Mr. Wilson:** — The province of Quebec, with its interest in detail, have a very precise computerized system, where every solicitor who has anything to do with legal aid, either private or staff, has every minute of his time doing whatever on the machine. It's quite frighteningly impressive.

**Mr. Chairman:** — It's commonly used in private law firms to keep track of available time and keep track of . . . For two reasons, one to bill the clients and two to see if the lawyer is producing enough available time to make it worth while . . . (inaudible) . . . The problem with the commission would be that to keep track of available time would serve no purpose except to measure productivity, unlike in a private law office where you need it anyway to bill the client.

**Mr. Wilson:** — And what we're finding, Mr. Chairman, is a difficulty in relating the inordinate amount of time spent on a child apprehension case, and all of its details and

all of its extra court activities, compared to a simpler break and entry — how one relates one to another in terms of case load.

**Mr. Dutchak:** — I think, perhaps the more difficult problem that I can see is not so much a problem of tabulating the work-load — you can have all sorts of computer equipment telling us what each lawyer does and how much he spends on the various piles — but where you find who ultimately decides that a particular lawyer is not acting properly within the firm. Like he can be putting in as much time as he wants, but if he's not being productive and using his time properly, where is that decision made?

**Mr. Wilson:** — The expectation of the commission is that general counsel, in his consultations with legal directors about staff, is providing a subjective evaluation of the subject that you're discussing.

**Mr. Dutchak:** — In the past few years, it hasn't really worked, has it?

**Mr. Wilson:** — Well, I would say it has worked in helping young solicitors move along. I would agree that it's far from satisfactory — good Lord, no. There's no way. As an educator, I hasten to agree with the point that you're making. But simply, the statistics with respect to dismissals is no indication of a good system of supervision. Indeed, no dismissals may mean we have an excellent system of supervision.

**Mr. Dutchak:** — In the present system or the system that we've had up to now, the local boards are really not accountable to anyone. Is that correct?

**Mr. Wilson:** — No. I can't agree with . . .

**Mr. Dutchak:** — I'm sorry. That question may have been unfair.

**Mr. Wilson:** — It's so broad a question that I . . .

**Mr. Dutchak:** — Yes. What I was getting at — the discipline of the solicitors, the things that we're talking about — the local boards have had input and control. Is that correct?

**Mr. Wilson:** — Oh, indeed. They are the employers. If, however, there has been any breach of the professional behaviour and the professional performance — arrant incompetence, misbehaviour by the solicitor in anyway — quite clearly the profession, which is a self-disciplining profession, should surely be dealing with that kind of case. And I have felt a little lonely on occasions that the law society hasn't taken a much more active interest in just how solicitors who are staff solicitors perform. I would welcome the law society's greater interest in what we're doing.

**Mr. Dutchak:** — The fact is the law society rarely gets involved unless there's a complaint. Correct? And what I'm getting at is more basic, I think. I'm talking more of productivity and competence, where if you have a solicitor that is not productive or, I don't like using the word incompetent, but is non-productive to such an extent that he may be incompetent — the boards have a say really as to whether he stays or goes. Is that correct?

**Mr. Wilson:** — General counsel has a great deal of influence as to whether or not that person stays or is reprimanded or is in some way rehabilitated. I think the business of sending people out the door is the last step. I'm much more concerned about an

upgrading rehabilitation and professional development program than I am about ensuring that we're firing people.

**Mr. Dutchak:** — Don't you think it would be an improvement in the system if the control on productivity and competence was centralized totally, where the board simply did not have any say as to the decision of whether a lawyer is productive enough to remain in the clinic? Don't you think it's a more efficient, not efficient . . . a standardized type of a system if it was centralized, and you would have the same degree of competence and productivity throughout the province if you control it from the commission level?

**Mr. Wilson:** — Because I've already gone on record as saying that reluctantly, and in many ways regrettably, I have leant towards a centralized system, I simply have to reiterate that statement here. I've already made that statement publicly. I have put a great many other provisos to that statement, but I won't take the time now.

**Mr. Dutchak:** — I suppose the point is that in private firms the local people have virtually no input as to how the private firm operates. They just go to who they think is more competent. Unfortunately, in the legal assistance situation the people that are utilizing the firm really have no choice. They have to go to that firm for that type of legal service, and that's where it becomes important that the productivity is there for proper service.

**Mr. Wilson:** — Curiously enough I have to, as a lay person and a lay administrator, come to the defence of the solicitors throughout our system. I appreciate that I shouldn't make reference to the MacPherson report but I will by saying that MacPherson did make some very broad statements with respect to incompetence. I think, if I can presume to interpret him, he was concerned mostly about inexperience and the need for inexperienced solicitors to have professional support. And I would say that applies to the profession generally. It applies to most professions — the need for strong support for the inexperienced members of that profession. I reject, as a lay person, the blanket condemnation of the solicitors of the plan for being incompetent. And again, I would say if that is indeed true, then the professional body had better have a closer look at all of these incompetent solicitors in the plan.

**Mr. Dutchak:** — I didn't notice that statement in the MacPherson report. I know that there were problems mentioned. I don't think there was a blanket statement like that in the report, to my knowledge.

**Mr. Wilson:** — You are correct. It's not as blanket as I seemed to imply. The statement was:

I observed not a few lawyers . . .

'Not a few' means, to an old English teacher, 'many.'

. . . whom I considered incompetent to do the type of practice that they were doing.

I regard that, as chairman of the commission, as a most serious charge against the plan.

Now he goes on to say:

It's unfair. These young people have seldom worked under competent and experienced seniors . . .

. . . and so on. His interpretation is one that has to do with experience.

**Mr. Dutchak:** — An example of that would be an individual that has just completed his articles and perhaps does a jury trial. It may not fall into that example, where it's not the individual's fault — it's just his lack of experience makes him incompetent in that particular field, or level. Would that be . . .

**Mr. Wilson:** — Well, I would hope that that is his intent, yes.

**Mr. Katzman:** — Mr. Wilson, just on this one point of, shall we say incompetency, for lack of a better word. There is people in the private sector who you may take a document to — a paper document to be processed — but you would never take them into court on a murder trial, because they just are very capable in one, and basically incompetent in the other because of past experience. They haven't gained it.

With that in mind, though, basically, from what I understand of the legal lawyers in the system, a lot of them are lack of experience. They're not seasoned lawyers, and they don't have a seasoned lawyer to turn to for guidance within each of the clinics. Am I correct?

**Mr. Wilson:** — It's an interesting problem that you raise, and there are contradictory views, and like you, I've asked myself that question.

You see, admittedly, many of the young solicitors who come into our system are faced with a challenge of either diving in or being pushed in, to pretty deep water, right away, and learn in a hurry. We do hear, however, and I think Mr. MacPherson hints at this, if not declares it, that the private bar is concerned that the real expertise in the practice of criminal law lies in the hands of the legal aid system. That's where the talent really is in the practice of criminal law. And there are expressions from — not officially from the law society, but from individual members of the bar — that private solicitors are not getting sufficient experience in the practice of criminal law, that indeed the real expertise is developed in the legal aid system.

And indeed, according to general counsel, there are half a dozen people in the legal aid system who are outstanding as trial lawyers in major cases — murder one and two, for example — quite outstanding. And they in turn, we are encouraging with the co-operation of the boards, being used on rotation around the system — something that I think is devoutly to be desired, to have people move around rather than locked into an area, carrying cases. We had a Moose Jaw person up at the Shell Lake business. We had a person from Qu'Appelle up there. The people from Yorkton have been out at Swift Current.

And so there are contradictory views about this. On the one hand, the plan is being accused of developing all of the expertise in trial work, and, on the other hand, they're being accused of inexperience and incompetence.

**Mr. Katzman:** — Well, that may be. As you say, you have a half a dozen, and of course, one half a dozen of experienced lawyers can't guide 26 plus another 50. How many lawyers would you have in the system?

**Mr. Wilson:** — I would say three-fifths of the . . . Thirty or more would be practising criminal law, and at least one-third of those are clearly identified as experienced and capable solicitors in trial work. In any profession that's a very high level, I would argue.

**Mr. Katzman:** — Well, obviously the type of client that you deal with will cause you to have a lot of criminal work as the . . . (inaudible) . . . sheet here seems to indicate.

**Mr. Wilson:** — Indeed, indeed. Yes.

**Mr. Dutchak:** — What I was going to say, I think what you talked about in the last few minutes really illustrates the point I was trying to make where, if you have six of the best trial lawyers in the province possibly working for legal aid — I know you didn't say that but . . .

**Mr. Wilson:** — I would like to think that.

**Mr. Dutchak:** — I agree with you, ours are very competent ones because of the mass of work that they do in that particular area. But that really makes our point where you almost need some centralized control because you simply don't have enough of these people to go around and, if it was controlled centrally, I think it would be administratively more convenient, because you'd know where the competence is and you'd know how to equalize the competence from clinic to clinic.

**Mr. Wilson:** — Yes, I acknowledge that.

**Mr. Katzman:** — I'll move to another question. Your book shows you spent over \$5 million last year, and you indicated you now are paying travel and so forth for the lawyers. What about the boards?

**Mr. Wilson:** — Out of the \$5,877,000 we were assigned in '82-83, the total expenses for board members was \$39,520. This includes travel, and in one or two clinics . . . no, in about half a dozen clinics modest honoraria of \$15 to \$25 a meeting paid. The total expenditure on the activities of the board is \$39,000.

**Mr. Katzman:** — I guess on the next two questions the chairman may decide to rule me out of order, so I'll warn him before I suggest the questions. I'm warning the chairman he may decide to rule me out of order, my two next questions. So, if I'm in an area that is not being allowed to touch I accept that.

You touched on the MacPherson report a moment ago on a question from Mr. Dutchak. But through the report there is basically two questions. One is Mr. MacPherson's suggestion service will improve by doing certain things: and the other one is we will save taxpayers' money by doing certain things. You have touched on both of those, I think, in your comments, but, of course, the MacPherson report is not under the year under review and, therefore, . . .

**Mr. Chairman:** — I certainly have no objections. I'm interested in hearing the answers to the questions.

**Mr. Katzman:** — And, therefore you have the right to say that's not in the year under review and I will accept it. You don't have to answer these two questions, is what I'm saying, and I want you to understand that before I pose them. And the question is:

the basis of . . . His implications are twofold — better service for the dollar spent to the people who need the services by the central board and so forth, and an improvement in service will probably come about. These seem to be the two key lines in the MacPherson report. You touched on them both, and I read between the lines that you indicate service will be better and will be more efficient, but I'm sort of putting the question directly now. And, as I say, you have the right to say that's not in the year under review, and I'll accept that.

**Mr. Wilson:** — I'm under instructions of the Chair. I would like to claim the right but I realize that I'm a witness before this committee.

**Mr. Katzman:** — No, I think you have the right, even without instructions from the Chair.

**Mr. Chairman:** — I'm not sure, on that latter fine point, I agree with the member from Rosthern. My understanding is witnesses are under an obligation to answer questions which the committee agree to put to them if they have the information. We expect you to have the information in the year under review. For a year not under review you may not have the information, but if you do it's normally provided. I'm as interested as the member from Rosthern is on these questions.

**Mr. Katzman:** — Except I'm also interested in making sure that we don't go farther than what we legally in this committee do. I'm sort of torn myself, and I think if Mr. Wilson feels that it is prior to the thing and he's not commenting on the MacPherson, I accept that.

**Mr. Chairman:** — To put it another way, Mr. Wilson, if you feel you have something to hide don't bother answering it.

**Mr. Katzman:** — When did you stop beating your wife?

**Mr. Wilson:** — As you will know, Mr. Chairman, one of my greatest sins has been that I've never had the capacity to hide anything. I'm most indiscreet most of the time.

The only reservation I have is that this report was made to the Minister of Justice, the Attorney-General, and it should always be he who makes the comments about this in any formal environment. I have made one or two pompous remarks to the press, as a good old bureaucrat, but I'm quite prepared to comment on it. In any case, with respect to the year under review, it's so long since we discussed anything in the year under review that I think we're . . .

**A Member:** — Good shot.

**Mr. Wilson:** — . . . far removed from that.

**Mr. Dutchak:** — Excuse me, Mr. Chairman. Perhaps, I think, in defence of the witness slightly here, I think possibly a little more latitude should be given to the witness as far as the question's concerned, because there are many aspects of the system that have been covered by the MacPherson report. There are some recommendations and other observations and, in all due respect to my friend here, I'm not sure the question . . . If I was a witness I wouldn't know where to start.



**Mr. Chairman:** — As I said before, let's just leave it at the discretion of the witness what not to answer.

**Mr. Wilson:** — One of the questions . . .

**Mr. Katzman:** — The two questions I'm asking . . .

**Mr. Wilson:** — I've already commented on one, the one about competence.

**Mr. Katzman:** — Well, no. The two questions are basically: improved service by basically the MacPherson report, and a saving to taxpayers. Because basically those are the two simplicity in the questions. And I read from your answers earlier the answer to both is yes, but I'm trying to pin you down a little further, because in referring to the year under review, in your answering earlier, I read between the lines that . . . Well, example — this last one, a half a dozen very qualified lawyers, with one board was moving them around. It would be easier, more efficient. You should have the expertise . . .

**Mr. Wilson:** — It doesn't cost any less, by the way. Don't . . .

**Mr. Katzman:** — You know, but I'm saying that you would have more efficiencies . . .

**Mr. Wilson:** — Yes.

**Mr. Katzman:** — . . . and efficiencies are saving money and giving better service. And I read between the lines you're saying that, and I read between the lines that's what MacPherson says by implications that he's bringing to them. And I'll accept your answer as just, 'Yes, yes,' and that's good enough for me, because that's what I've been reading . . .

**Mr. Wilson:** — Yes, I think there would be an improved service to the public with a somewhat more centralized approach, and no, there will be no savings in cost. I say that very quickly because MacPherson makes it very clear that it's going to cost more if his recommendations are accepted. You know, that's never been in debate. The issue is about what moneys are invested in the plan are dealt with outside of the MacPherson report.

**Mr. Glauser:** — I just have one more question, and it has to do specifically with the Saskatoon, because that's the one I'm most familiar with, having sat down with that group and discussed the various aspects of the MacPherson report. And in sitting in and meeting with those people, they were seeming to make quite a case for the ancillary services that were provided by the expertise of various people on this board — for instance, one member being a social worker, another one being a counsellor, etc., etc. They seemed to make a case for a board's existence on the basis of those kinds of things. What I would ask you is: do you see this as a function of those boards when those particular services are available, at no cost, to anyone who is going to a legal aid clinic in the first place because those services are available through the department of social welfare in every respect?

**Mr. Wilson:** — You're referring to the people who are on the board rather than employed by the clinic?

**Mr. Glauser:** — That's correct.

**Mr. Wilson:** — Yes. I think I have to, in essence, repeat what I said earlier that the management and employment of members of the clinic or clinics is one issue, and I think that can be best handled under a more centralized system. On the other hand, the local community volunteer, who has whatever talents and expertise that he has, can always make an important input in advising and counselling all of the services offered under bureaucracies of government. I think that local input is extremely important and has always been sought and I hope always will be sought in this province. I think it's very important. But as far as the management and employment on a day-to-day basis of the clinic, I lean towards the centralized system.

**Mr. Chairman:** — I'm sorry about that. We were carrying on a private conversation here. Is the member from Saskatoon Mayfair finished?

**A Member:** — I think the Deputy Clerk excused the witnesses; we're done with them while we were chatting.

**Mr. Chairman:** — I have a few questions — not a whole lot. One of them had to do with . . . If you just arm yourself with your annual report . . .

**Mr. Wilson:** — For the record, we'd like to table 15 copies of the report.

**Mr. Chairman:** — Ah, thank you. Last year's report.

**Mr. Wilson:** — The annual report for '81-82.

**Mr. Chairman:** — For '81-82, okay.

**Mr. Wilson:** — That is not the year

**Mr. Chairman:** — That is the year under review.

**Mr. Wilson:** — Is that the year under review?

**Mr. Chairman:** — Yeah. That's the year under review — '82-83 is the year. You are confusing, with some justification, the year you've been discussing, which is '82-83. The year under review was '81-82. I want to say that you're not particularly singled out for anything unusual. The committee operates quite informally, and unless we get into an angry shoving match, members aren't normally restricted in their questioning to the year under review. That has been the system that's developed.

I was interested in some of the statistics with respect to what the clinic does, and I'm referring to page 8 of your report. I was frankly surprised that family matters were not higher than they were. I understand . . . Let me just run, let me just run past you my understanding of who's eligible. You're eligible for legal aid if you are on welfare. The criteria is somewhat broader than that, but not a whole lot. If you're working, you're not eligible; if you're on welfare, you are. Can you just run past me the eligibility for legal aid?

**Mr. Wilson:** — Yes. There are regulations which say that an applicant is eligible when he receives all or part of his income pursuant to social assistance; when he does not receive any of his income pursuant to a program of social assistance, has an income

equal to or less than he would be entitled to receive under social assistance; when the obtaining of legal services outside the plan would reduce the income of the applicant to the point where he would become eligible (and the client who is eligible under those circumstances may be required to make a contribution), and so on. More specifically, in terms of policy, we go into the area of family income plan people. They are also eligible. Those who are . . .

**Mr. Chairman:** — I think I can save you the time, Mr. Wilson. I don't think that part is particularly relevant. Let me get on into the question . . .

**Mr. Wilson:** — It's a fairly limited group.

**Mr. Chairman:** — Yeah, basically if you're on welfare or eligible for it. Your criteria is lifted from the Department of Social Services, with some fine-tuning.

**Mr. Wilson:** — Yes.

**Mr. Chairman:** — Okay. Are there any restrictions on a person's eligibility for assistance with respect to family matters that don't apply with respect to criminal matters? Is everybody who is eligible for assistance on a B&E charge also eligible for assistance on family matters? Both for the year under review, and . . .

**Mr. Wilson:** — For family matters that are listed here, subject to the local determination with respect to priorities. For instance, Saskatoon or Regina might say that they are not providing service for uncontested divorces, whereas the other clinic might say we are. But apart from that . . .

**Mr. Chairman:** — Okay. So do you know whether or not that was the case for any of the legal aid clinics for the year under review? Were any of the clinics not providing assistance in uncontested divorces, for instance?

**Mr. Wilson:** — I think in the year under review — and I would have to go back and look at the correspondence — in certain limited and specific examples of family matters, the Saskatoon clinic had a restricted list. They were not providing service.

**Mr. Chairman:** — Does your legislation not set out a responsibility to provide legal services to people who are eligible under the criteria you just raised?

**Mr. Wilson:** — Well, the interesting thing, and the reason why we have not, over the past several years, had an overdraft, is that this act is not an open-ended act. It's quite distinctive in that it declares 'to the extent that funds are appropriated by the legislature,' and then goes on to say the objects are this, that and the other. And very clearly there is no paramount obligation above the statute to provide service.

**Mr. Chairman:** — Were there any reasons why one would not provide assistance in uncontested divorces, apart from limitation of funds?

**Mr. Wilson:** — It has not been raised, to my knowledge, no.

**Mr. Chairman:** — Okay. So it's just the limitation of funds. Were there any other areas you were providing services to the public, besides uncontested divorces? Any other areas that I've . . .

**Mr. Wilson:** — I would prefer to send to the committee a copy of the officially declared list of restrictions publicized by the Saskatoon clinic.

**Mr. Chairman:** — Okay. Did any other clinic have a list of restricted areas?

**Mr. Wilson:** — Several did. Yes.

**Mr. Chairman:** — I'd appreciate receiving it all, if you could, for all the clinics.

**Mr. Wilson:** — Some were indicating delays, rather than permanent restriction, and I think by and large that is how the organization, not only here but in other provinces, deals with this kind of problem. They simply extend the period of waiting for service.

**Mr. Chairman:** — This is not a question that you really have to respond to, but it strikes me that is an unfortunate thing to be doing in the case of divorces. Divorce is often a key which allows people to straighten up their lives and start again. When they can't get . . . (inaudible) . . . some serious problems with people, but that's not a matter which peculiarly pertains to your public accounts.

So that then does . . . I was querying the limited number of cases on which divorce, maintenance and separation had been provided, and part of the answer may lay in the restricted list for those which were uncontested. It obviously does.

**Mr. Wilson:** — One other important category which comes under 'miscellaneous,' which is really a family issue, is apprehension, and you'll notice there are almost 300 of these cases. That really should be included in . . .

**Mr. Chairman:** — What are you referring to when you refer to apprehension?

**Mr. Wilson:** — These are cases that are brought finally to the court under The Family Services Act, with the action usually and typically initiated by the Department of Social Services, and most likely it deals with a situation where, in the judgement of the Social Services department, they may be pursuing term custody or permanent apprehension and custody.

**Mr. Chairman:** — Right, right, right. Okay. The number of drunk and impaired driving cases was 1,870. Given the prevalence of that problem in our society, I rather expected that to be greater than it was. Was that also a restricted category, or do you know that off . . .

**Mr. Wilson:** — I would prefer to have that kind of question answered fully by a counsellor, but you will appreciate that typically we do not provide . . . These are regarded as provincial statute offences, are they not?

**Mr. Chairman:** — No, no. It's Criminal Code.

**Mr. Wilson:** — Drunk and . . . (inaudible) . . .

**Mr. Chairman:** — It's Criminal Code.

**Mr. Wilson:** — I believe the practice has been, if I'm not mistaken, in this category to deal with second or third offences. Or is that just specifically .08s? If we're dealing with .08s, I do know that we don't handle first, possibly even second, offences under that.

**Mr. Chairman:** — Okay.

**Mr. Wilson:** — It may be there are many other activities that we don't cover under that that are going on and being dealt with without our counsel.

**Mr. Chairman:** — If you could supply that information as soon as possible I would appreciate it.

**Mr. Wilson:** — Yes.

**Mr. Chairman:** — Some of these matters appear to me to be income-generating matters. Estates was the one that caught my eye — 195 estates. For every five divorces you do one estate. I would have thought estates would have been income-generating, in the sense that they could have gone to any member of the private bar who would have simply taken his fee out of the estate, and I wonder if there's something there I'm overlooking.

**Mr. Wilson:** — I appreciate the significance of the question, because the commission is most sensitive to the issue of breach of statute if we engage in fee-generating activities. And we watch this most closely. I can speculate on a few of these, where in dealing with other issues, a solicitor will by the way handle and note that he has handled some estate that it may involve an absolute minimum amount of real capital. The most modest of estates, perhaps in the estate for an old age pension, or something like that, some very minor thing from which one would not derive any significant . . .

**Mr. Chairman:** — Is a secondary issue then why you'd need a lawyer at all? Why do you need a lawyer at all if the estate's that small?

**Mr. Wilson:** — Yes. I'm only saying they've been dealt with and logged as an incidental to some other activity for which service is provided.

**Mr. Chairman:** — I'm wondering how . . . If Mr. Dutchak was here, I'd suspect he would agree that every solicitor has people come with estates that you in fact don't handle because you . . . (inaudible) . . . You don't really need a lawyer. Just go down to the bank; they'll get you to sign a form; they'll transfer the account. And it's been great talking to you. And I would appreciate an explanation, because the numbers are relatively high.

**Mr. Wilson:** — It is.

**Mr. Chairman:** — As I say, it's one for every five divorces which I'm surprised to see.

There were some other cases: personal injury was 102. That struck me as being in the same category. You're acting for people who've been injured, surely that's also fee-generating. I don't care a lot that you're doing income-generating work, but it is a concern if you're not doing uncontested divorces, which I think are a crying need for people who need them, and you're doing instead estates and personal injury claims. And if you cut out the estates and cut out the personal injury claims and one or two others that I want to get to, you could do 50 per cent more divorces.

Now it's possible that an estate that doesn't take as much time — I'm over-simplifying the problem — but there does seem to be some income-generating work being done

here; I'm not protecting the legal profession's fiefdom, but I think it is a concern if there's work you're not doing that needs to be done, and you're doing work that doesn't need to be done.

**Mr. Glauser:** — I had thought . . . (inaudible) . . . that that might pertain to, you know, where you're getting into custody of children and that sort of thing.

**Mr. Chairman:** — Injury normally refers to . . .

**Mr. Glauser:** — No, under estates.

**Mr. Chairman:** — Oh. Well, that would be an unusual way to describe a custody problem — to describe it as an estate.

**Mr. Wilson:** — I regret I simply can't answer the question. I'll certainly note it.

**Mr. Chairman:** — And I'm not sure what auto accidents is. Do you know what that refers to? Because it's not under criminal, so I assume it's not charges arising out of auto accidents, it's civil in some sense. Hopefully . . . (inaudible) . . .

**Mr. Wilson:** — No, again, I can't say.

**Mr. Chairman:** — You can't say. There's also a fair number of small claim cases that's civil in nature. That court is set up, or ought to be, such that a person could handle it themselves.

**Mr. Wilson:** — From personal experience I do know that advice has been given by the clinics. And by the way it may not . . . These do not necessarily record exclusively solicitor activity; it may be CLSW activity under the supervision of a solicitor.

**Mr. Chairman:** — You say it's COSW?

**Mr. Wilson:** — No, I'm sorry, the community legal service worker, the paraprofessional. A great many of the minor activities are done completely by them under the supervision . . . so that small claims work advice is provided to someone who has come into some minor difficulty in a small claim. They're not sure about what steps to take next, where to go, how . . . So a great deal of work, I do know, is done in helping people get going or continue on with an appeal or something like that.

**Mr. Chairman:** — Maybe the way you record your statistics . . . That column reads, 'Total intake statistics, total completed cases,' and the total number of people who walk through the door with a small claims inquiry does not vary greatly from the total number of cases completed. Now, I assumed that when it said, 'total completed cases' that meant that you had seen it through to some conclusion. So, I assumed this was something other than a person walking in through the front door and saying, 'Hey I want . . . somebody owes me 500 bucks, and the worker saying, 'Listen, go down to the court-house, go right inside the west door. Inside the west door you'll find something called small claims. The lady in there will help you. That's all the assistance you need.' I assumed that when you referred to total cases, somebody had seen it through to completion.

**Mr. Wilson:** — The point has to be made, in response to your accurate interpretation

of what is being said here, is that there is a vast distinction between, a considerable distinction between people and cases. We talked about that earlier. That 'total intake statistics' still really refers to the number of cases that are undertaken, not the number of people who are served, if that was the question. And it may involve not just cases opened, but cases that have been opened and never completed. They're just not . . . They were part of the intake process but nothing necessarily happened after half-way into it; it just died. So there need not necessarily be any relationship between those two columns. And furthermore, all completions are not completed in the fiscal year.

**Mr. Chairman:** — I had a personal experience with a woman on welfare, whose divorce I completed, whose husband was working in the Middle East. If you think that's a simple divorce to see through to the conclusion, all I can tell you is you ain't been there. That woman walked through the front door and was told; 'I'm sorry, we don't handle uncontested divorces.' That's how I come to get into that question, because I had a personal experience with it. If you're saying that the poor soul whose husband is in the Middle East, who's going to have an awful time finding a lawyer to do that for nothing . . . Why on earth aren't we saying that to the small claims people, and the personal injury people, and the auto accidents people, and some others. Why aren't we just saying at the front door, 'Listen, a lawyer in a private firm will handle that for you. That's a personal injury claim'? How does it ever get into the stats? I assume this woman's case never got into the stats because she never got past the receptionist. So if she can't get into your statistical data, I'm wondering how the others can. I know that — the question may not be something you're able to answer now, and if you want to respond in writing I would defer to accept that.

**Mr. Wilson:** — I can make the brief response that the act requires that if we've got the funds we provide legal services. When I sought, at first, the definition of legal services I was told it meant anything that was not fee-generating. And indeed that's what the act implies.

When one moves through to the extent rule, it filters down to the individual boards and the individual communities and their perception of priorities in their areas. And there is that differential when one moves away from the criminal area, which is inescapable and unavoidable, if you like, because one has to remember that the federal-provincial agreement exists which requires that we handle criminal cases with eligible clients in return for the federal contribution to the operation of legal services in the province. On the civil side it's much more discretionary, and the statistics — and I'm not sure that we have them — ranging over a number of years showing the proportion of criminal and civil . . .

**Mr. Chairman:** — I saw that some place.

**Mr. Wilson:** — . . . there's quite an interesting change. I think it may be in the annual report.

**Mr. Chairman:** — Oh yes, there it is . . . No, that's private bar. Never mind, it's in your annual report somewhere. I did see it.

So I take it you're going to respond in writing on this line of inquiry with respect to what . . . Or do you understand my question?

**Mr. Wilson:** — I understand it generally, yes. Why the priorities . . .

**Mr. Chairman:** — Well, that's the word I should have been using and wasn't: where's the priorities? In an ideal world I've got no quarrel with you people providing work in personal injury claims. I can think of some that a person shouldn't have to go to a member of the private bar. The claim is small; the need is great. And in an ideal world I would like to think that we did have some place for a person on welfare to go who only had a claim that isn't going to result in more than \$1,000 — settlement from an insurance company. Why take \$300 away from that person; why not do it for nothing, and we could give that poor soul the entire benefit? But we don't seem to live in an ideal world. We are establishing priorities and you're asking people with uncontested divorces to go somewhere else. And I tell you that some of them have really no place to go. Some uncontested divorces are not simple. They could be made so, but that isn't the legal system we have. So it's a question of priorities.

Small claims — if you get an ideal world, agreed, assist the people in collecting that \$300 or \$400. But we don't live in an ideal world. Why not just turn those people around right at the reception desk and send them back out again and over to . . . I forget her name — Mrs. Wilson at the small claims court? . . . (inaudible) . . . I was particularly curious about personal injury, auto accidents, small claims court and insurance. I did not know what insurance was, but if it is collecting sums owing by insurance companies, then again, I'd take the private bar off and handle that on a contingency basis.

**Mr. Wilson:** — Oh, yes.

**Mr. Chairman:** — So, that was . . . And again, I've obviously got some questions on estates. Land? I don't know what that is.

**Mr. Wilson:** — I'm puzzling about the estate thing, and wondering whether, indeed, they'll now provide the full answer, complete and accurate answer, speculating on this associated with contested divorce where possibly they may have tied the two together.

**Mr. Chairman:** — When a person goes to that big divorce court up in the sky, it normally ends the divorce proceedings here on earth. I don't know how you'd have two . . . (inaudible) . . . have an estate and a divorce . . . (inaudible) . . . simultaneously.

**Mr. Wilson:** — Yeah. I'm just fumbling around. I admit to being . . .

**Mr. Chairman:** — I also have the same question with respect to land transactions. If it's vendors who are . . . This is the very bottom of page 18. If it's vendors, sure they've got a little cash coming from the sale of the house. If it's purchasers, I don't know how they're buying real estate if they're on welfare. Now maybe they can. I may not understand our welfare system. But . . .

**Mr. Glauser:** — Yes, they do.

**Mr. Chairman:** — Oh, I'm told by other members that they do, in fact, purchase property. So that may explain it, that may explain it. Anyway, if you'll just deal with those inquiries.

**Mr. Wilson:** — Yes.

**Mr. Chairman:** — One of my colleagues dealt with another question which I had and that had to do with paralegals. You're running a ratio of 21. On what basis has it been



determined, as I gather it has, that the ratio of 2:1 is the appropriate ratio?

**Mr. Wilson:** — That is an average and does not reflect the individual interest or choice of the individual boards in hiring people. They're completely free to hire whom they wish, other than solicitors. And so they may or may not wish to have paralegals. Some boards — the Yorkton board, the Yorkton staff are not particularly interested in the use of paralegals. Nor is Pasqua; others are. Northern is, Regina is, Saskatoon, and so on.

**Mr. Chairman:** — . . . (inaudible) . . . does this . . . (inaudible) . . . get a job on most matrimonial things as many lawyers do.

The other question . . . So again, this is a matter of local . . .

**Mr. Wilson:** — Oh, yes.

**Mr. Chairman:** — Has the commission ever considered doing any studies on maximizing the efficient use of paralegals, and making that information available to the boards?

**Mr. Wilson:** — Indeed. In the year prior to this one, I took the initiative to spend some \$5,000 on a study, a factual analysis of the community legal service worker — a first for Canada . . . produced a remarkable study in great detail, as the forerunner to the development of an in-service training program. Having found out what they do and are supposed to do, we then saw the building of an on-the-job training program, rather than sending people off for whatever years.

It was at that point that we suddenly discovered that our priorities as a commission forced us to spend money on direct services, and to cut out our educational program. That has been cut out and again, we see no opportunity to do this in the current year, in the new fiscal year. So it's a matter of great regret that we are ready, willing, capable of producing a way of upgrading training and making better use of these people, but as the commission we find no funds available.

**Mr. Chairman:** — It's a pity, because I think it's being penny wise and pound-foolish, I'm embarrassed — I don't think I can put it in any other fashion — by the manner in which many law firms fail to use paralegals, The British have a system which is hundreds of years old; they have clerks. If you go into a British law office and want a will, you likely won't see a solicitor; you'll likely see a clerk. The Americans have paralegals we use the American term — but Canadian law offices basically have been very slow to adopt either system. And it's unfortunate that you haven't been in a position to provide some leadership in the area, and I recognize that here you probably compare favourably with the private bar because the private bar is doing very little, if anything.

A similar question relates to the use of computers and video display terminals. Has any work been done by the commission? Again, I appreciate this might be a matter for decision . . . The actual installation of video display terminals might be something a local board would decide, but one would hope that the commission is able to do some broadly based studies and make that information available to the legal aid clinics in order to assist them in determining when and where they could make efficient use of them. And has that been done?

**Mr. Lacoursiere:** — Informally, yes. I've undertaken to do some of that review

myself, both word processing, data processing, and even the use of some electronic typewriters. During the last year, the last fiscal year, we did engage the services of the northern systems centre, which is now part of the Department of Supply and Services, I believe, and they did undertake a study, both for word processing and data processing, at the commission level only first. It's been put on hold for a little while until we see what kind of funds we do have available, but certainly we're most interested in that area.

**Mr. Chairman:** — Okay. I also appreciate we're out of the year under review.

**Mr. Wilson:** — The Saskatoon clinic has taken the initiative to install a video display terminal, or whatever it's called.

**Mr. Lacoursiere:** — It's being purchased now, yes.

**Mr. Wilson:** — It is a point of some embarrassment to the chairman of the commission to have the director of administration using her own home computer in our office, and all of our budget work, which I hope is accurate, is on a private computer.

**Mr. Chairman:** — They're becoming as ubiquitous as the electric typewriters are, and it's just . . . they're getting to be everywhere really.

**Mr. Wilson:** — It's a good training experience.

**Mr. Chairman:** — And getting so they're not a whole lot more expensive.

Okay. I have no further questions. Perhaps we might invite the Minister of Finance, who's going to appear personally for the bill . . . (inaudible) . . . come. He's probably a natural, given the nature of it.

I want to thank the witnesses for coming and for your attendance, what I know was an inconvenience. I got the impression that you didn't exactly expect to stay two days, and I appreciate that. I appreciate also the inconvenience to which we placed Mr. Wilson, and that was unintentional and I apologize for that. So, thank you very much for coming. We look forward to receiving your answers at your earliest convenience. Again, 15 copies to the Clerk who will circulate them.

### **Public Hearing: Bill No. 48 — An Act respecting The Provincial Auditor**

#### **Clause 1**

**Mr. Vice-Chairman:** — Time is limited, so I think we'd better proceed. The purpose of this is to discuss an original bill, No. 48, An Act respecting The Provincial Auditor. We have with us the finance minister, Mr. Andrew, and would you please introduce your officials?

**Hon. Mr. Andrew:** — Ron Davis is with me. He is the assistant to the deputy minister.

**Mr. Shillington:** — I want to begin by thanking the minister for the courtesy of referring the bill to the committee and your own courtesy, sir, in appearing.

As I stated yesterday in the House, my criticisms would tend to be more what isn't in the bill and what hopefully will be added in the near future, rather than what is in it.

I do have some questions. The beginning questions are of a general nature and if it isn't objectionable I may simply ask them under subsection 1. Does the legislation in any way affect the question of whether or not the Provincial Auditor has to or does not have to, through his own staff, audit line departments or crown corporations? Or is that matter left the same as it was? Tradition has been to date that the Provincial Auditor audits line departments, agencies and commissions; does not audit all of the crown corporations. Does this legislation affect that situation?

**Hon. Mr. Andrew:** — Okay, I think your question, Mr. Chairman, would be as follows: does this indicate then that the auditor must in fact audit all crowns, or determine that fact? That has not changed from before. It's my understanding of the act, where it has changed is that any outside auditor that would be doing a crown . . . I think the crowns that are audited now by outside auditors are the resource crowns — potash, oil, SMDC, and I'm not sure about Sask Minerals; I think Sask Minerals as well. I think those are the four. What we have tried to do in this act is that when the outside auditor in fact does those audits, the Provincial Auditor would set the guide-lines by which his audit should be done and the check-list, if you like, that they would have to go through to, in fact, have it in satisfaction to the way the auditor wants an audit done. My understanding is that the present act, under the finance act, that was not in fact the case. That is my understanding. I've been advised that's the way it's done. So that would be the change in the sense that the Provincial Auditor would now have more control, but he still wouldn't be able to say . . . I suppose your question is if government said, 'We don't want the auditor to do any of this,' we can put it all out to the private sector. That power would still be there, although I don't think that power is, whatever you use.

**Mr. Shillington:** — All right. Let me ask a question of the Provincial Auditor, if I might, and I'm not in any sense doubting the Minister of Finance, but could you give me the departments, crown corporations, which you don't audit?

**Mr. Lutz:** — Mr. Chairman, Mr. Shillington, I believe the crowns that we do not audit are five in number. There's forest products, there's sodium sulphate, Saskoil, Sask Mining, and Potash Corporation of Saskatchewan. I believe there are five.

**Hon. Mr. Andrew:** — I wasn't aware of Sask Forest Products.

**Mr. Shillington:** — Okay. So . . . And at the moment you're right outside the picture altogether on those. You're not involved at all. Is that accurate?

**Mr. Lutz:** — No, we're not completely out of realm, Mr. Chairman, since we do the audit of the crown investments corporation and the consolidation by that corporation of some 16 other crowns. We do become involved to some degree at the year-end consolidation with the other crowns and with the other auditors.

**Mr. Shillington:** — Okay. And what you've told me, Mr. Minister, is that this legislation gives the Provincial Auditor the power and responsibility for setting out the criteria by which the audits are conducted.

**Hon. Mr. Andrew:** — Yeah, and I think the rationale, to put it in layman's terms, would be that if the . . . because the Provincial Auditor's function is basically to report to the legislature, and therefore certain, maybe, conditions are different than an outside auditor reporting to his board of directors and through them to the shareholders. There's maybe different criteria. What we're simply saying is that the Provincial Auditor

sets that criteria on the private auditor when he does a crown.

**Mr. Shillington:** — Why did you decide not to have the Provincial Auditor doing all the crowns? There's something, a matter I know you had raised when you were in my position as opposition member and chairman.

**Hon. Mr. Andrew:** — Well, I suppose at this point in time the argument advanced by the resource-side crowns is that they tend to be more business-like in nature, let's say as opposed to a utility which tends to be more government-like in nature. I assume that the previous government, when they put those audits out to the crowns, were putting them out to the private sector auditor doing those type of crowns that were really basically a commercial-type crown, if you like, or functioned very similar to the private sector.

**Mr. Shillington:** — I suppose for the record I would simply note that I'm not sure that I agree with that argument put forward, although you have gone some distance towards solving the problem if you've at least given the Provincial Auditor the responsibility, as I understand it, of setting out the criteria by which they are audited.

What is the . . . Just to satisfy myself, the current Provincial Auditor will not have to be appointed under this act. The incumbent remains in office as if he had been appointed under the act. There's no need to reappoint him or anything, is there?

**Mr. Lutz:** — Section 32(1), Mr. Shillington, I believe is the transition section.

**Mr. Shillington:** — Oh yes, yes, it's set out specifically. What process . . . I'm going to have to apologize for asking what is almost entirely an academic question. You will bear with me. I know the possibility of this administration still being in office when the current Provincial Auditor retires is so scant as to make it almost academic, but, nevertheless, let me raise the subject, if I might, for your learned views. What process would you see the consultation with the chairman of the standing committee of legislative accounts taking on the appointment of an auditor? What do you see that process to be?

**Hon. Mr. Andrew:** — It's not something that I've ever really put a lot of thought to, but I think that in other jurisdictions, and I think it would be a process that we'd try in this jurisdiction, would be that when a new auditor would come to be appointed that process would be to, I suppose, get recommendations from the existing auditor that would be retiring, number one. Then probably have it approved through the public accounts committee and working with the chairman, so that you have a unanimous agreement of the House on that appointment, as is the case now with the provincial Ombudsman. That would tend to go to the opposition. The opposition, if they raised significant questions and criticisms about it, I think, as a rule, to make the office function properly, that you would have to pull that proposed person and come with one that would tend to have a consensus of all sides that this would be the proper person to put in that place.

**Mr. Katzman:** — Something, if I may correct here, the Provincial Librarian was, Ned, an agreement of the board of internal economy, which is both sides of the House, as well.

**Hon. Mr. Andrew:** — I think the Ombudsman was . . . when the last Ombudsman

was, in fact his term was reinstated. It was, I think, moved by the premier, if I recall — I was in opposition at that time — seconded by Mr. Berntson, who was at that point in time the leader of the official opposition. So the motion with his appointment was a combination of both sides of the House.

**Mr. Lutz:** — I think also, Mr. Chairman, Mr. Andrew, since this person is a servant of the legislature, other jurisdictions have held the view that all parties in the legislature should have some input into the appointment to this position. I think that's the philosophy behind this.

**Hon. Mr. Andrew:** — Similar to the appointment of a Clerk.

**Mr. Shillington:** — Okay, I hope that's the process. I think that will be the appropriate process over here.

The salary with respect to the incumbent — I assume that it will be adjusted. Once this act is proclaimed, the current salary will be adjusted to be the greater of his current salary or what is set out in section 4(1). And that will take place in some automatic fashion, once this is . . .

**Hon. Mr. Andrew:** — Correct.

**Mr. Shillington:** — Okay. I think, then, we may go through this, Mr. Chairman. section by section, and if I have any general questions I'll . . . (inaudible) . . .

**Mr. Vice-Chairman:** — Very good.

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

#### **Clause 4**

**Mr. Shillington:** — Let me just raise a question here. It will undoubtedly come up later, but there's no reason to not raise it now. Am I correct in my assumption that the budget for the Provincial Auditor's office is now handled the same as any other office of the legislature, and that it is routed through the board of internal economy?

**Hon. Mr. Andrew:** — It's not my understanding.

**Mr. Shillington:** — What is your understanding?

**Hon. Mr. Andrew:** — My understanding is that it would still go to treasury board.

**Mr. Shillington:** — Okay. Why was that position taken?

**Hon. Mr. Andrew:** — My understanding of it was as follows. When the board of internal economy was initially structured, which would have been in the 1982-83 year, or leading into that '82-83 year, or in other words, the board of internal economy prepared the budget for the '82-83 fiscal year, and then the one they've just prepared for this budget was the second one they've done. When we originally structured that board of internal economy, I think at that point we saw four potential departments that would come under the board of internal economy jurisdiction; the Legislative

Assembly, the Legislative Library, the auditor and the Ombudsman. The decision at that time — and I might say I was on that board as an opposition member — was that we would proceed and see how it worked first with regard to the Legislative Assembly and with regard to the Legislative Library. Once we were comfortable with that, we would then move to the — in order of priorities probably the auditor would be the next one to come in, followed by the Ombudsman.

**Mr. Shillington:** — So why don't we put the Provincial Auditor into the system, since the system seems to work reasonably well?

**Hon. Mr. Andrew:** — I think it's something that we would look at next year.

**Mr. Katzman:** — The bugs aren't out yet.

**Mr. Shillington:** — It strikes me that this is — not that I would ever accuse the current administration of such a nefarious tactic — but it strikes me that control of staff can control the effectiveness of the office. And it goes to the independence of the Provincial Auditor, that his staff not being set by treasury board. And it may have been an issue which I think you raised again when you were in opposition. And I would appreciate your comment on how you think that affects his independence, when it is the government in fact which is controlling his staff.

**Hon. Mr. Andrew:** — I noticed in the present auditor's report before the 1982 report, the auditor raised that point. I think it's certainly worthy of pursuing. I indicate that perhaps next year it's an area that the board of internal economy would look at it and say: do we take it on or don't we take it on? I think you bear in mind that the board of internal economy have taken the position with regard to controlling the costs of the departments that they have worked in, have held the costs down below any guide-lines that we have. I believe the board of internal economy, this year's increase was something in the order of just slightly over 5 per cent. Perhaps Gwenn could refresh me on that.

**Mr. Ronyk:** — Under 8.

**Hon. Mr. Andrew:** — Under 8. Well you squeezed it up. Okay. But the concept would be to hold it fairly close. I think the people of the board took the view that we did not want to be seen as easy marks, that we could simply increase our jurisdictions that we had authority over far higher than was coming from the other areas.

**Mr. Shillington:** — Well, again I guess I would dissent from the proposition that it should not have been in the legislation. The thrust of the legislation was to assure the independence of the Provincial Auditor — a goal which I heartily endorse and which our caucus endorses. You've impaired that to some extent when you control the staff not to some extent but to a very material extent. For the record I want to record my dissent on that issue of not including the staff within the board of the provincial economy — I think . . . (inaudible) . . . key — in a way that the staff of the others might be as well. The Ombudsman, I think, might be another example — if you didn't give the Ombudsman the staff he needed to do the job, if you found . . .

Let's assume a hypothetical case, Mr. Minister . . . (inaudible interjection) . . . I wasn't quite thinking of that, but it's not a bad example now that you raise it. I'd forgotten that episode. But what he was saying was, 'If I don't get staff I need, I'm not going to be able to discharge my function.' It seems to me if the administration and the Provincial

Auditor got at odds, and that's capable of happening in the scheme of things, then the administration controls the staff; they can control his effectiveness. And I don't want to make a great issue out of this, but I do want my dissent recorded on this item. I think this should have been included.

**Hon. Mr. Andrew:** — We comment two ways, and I will end it with a question. With regard to the Ombudsman there was some concern right in his report this year that we were going to in fact freeze his staff component; he in fact got an 8.8 per cent increase. My concern with it was his comment prior to the budget, speculating what was in fact going to be in the budget. I can also indicate to you that the Ombudsman felt that his . . . because he was so much more important than anybody else, he should have a 35 per cent increase this year, which we found to be rather high.

I think the whole thing with regard to this act as well is the attitude. And while you might try to impugn that I have some ulterior motive against the auditor . . . (inaudible) . . .

**Mr. Shillington:** — No, I thought I was very careful in suggesting that . . . I was not impugning that.

**Hon. Mr. Andrew:** — . . . I don't think we do. I hope that we can proceed with this further. It would be my hope that down the road that those adjustments would be made, and I'm clearly on the record saying that.

I understand that the Auditor General of Canada goes to treasury board for his dollars in Ottawa, under the same system that we would, and from that point of view, I'm not sure anyone would say that the Auditor General of Canada is somehow not independent. I think that argument can . . . Theoretically that argument has some validity. I think in practice, there's always the pressure of the auditor, I think, raising the question as he did this time. If he finds that, to be even more . . . That the treasury board is being blatant in their controlling of the funds for him, then I think the point could be made.

I don't know whether the . . . I would assume that through your public accounts that question has been advanced to the auditor: did he in fact receive enough money this year? Has he been hamstrung with regard to the budget he has been granted?

**Mr. Shillington:** — The question hasn't been raised since the budget. I guess the point in issue between us, which will remain such, is I don't quite agree with your reasons for not doing it this year. I accept your statement in good faith that you had something you want to do. I'm not sure I agree with you that this is not . . . (inaudible) . . . to do it.

**Mr. Katzman:** — If I may chirp in here.

**Mr. Shillington:** — Yes, indeed.

**Mr. Katzman:** — I sit on the board of internal economy the same as the minister does. We've got our hands full with what we've got the first year — let us get our sea-legs. As the minister said, you've got to walk slowly and carefully, rather than trying to jump in the water.

**Hon. Mr. Andrew:** — I might also say that that decision of the board of internal economy was a unanimous decision of the board, consisting of two members of cabinet, two members of government back bench, and two members of opposition.

**Mr. Shillington:** — Well, it doesn't . . . I'm not sure how the decision was taken or the context in which it was taken, or the degree of discussion. Suffice it to say the decision doesn't represent the views of the member for Regina Centre, and I don't know that it may go any further.

I think we can proceed with the item by . . . (inaudible) . . .

Clause 4 agreed to.

Clause 5 agreed to.

#### **Clause 6**

**Mr. Katzman:** — Can I ask one question here for my own? Chartered accountant of Saskatchewan: is that how you're listed or the criteria says? Say we go to replace you and we pick somebody from Ottawa: he just will automatically get his chartered accountant of Saskatchewan? He just applies . . .

**Mr. Lutz:** — There is a reciprocal agreement right across Canada, from province to province.

**Mr. Katzman:** — That's the word I was looking for. In other words, when you bring in somebody, as you have two staff here, you can bring them from England, and as long as we approve them we're okay, as long as the accountants association approves them.

**Mr. Lutz:** — Not England. They have certain requirements they must fulfil to become registered members of our professional body here. But Ontario or B.C, it wouldn't matter. In Canada they're members.

**Mr. Katzman:** — I know you've recruited in England. That's why I used that example.

**Hon. Mr. Andrew:** — The important point here is also that it's an Institute of Chartered Accountants of Saskatchewan. There's other associations of accountants. It must be a C.A.

Clause 6 agreed to.

Clauses 7 to 10 inclusive agreed to.

#### **Clause 11**

**Mr. Shillington:** — Just a second. Am I correct in my assumption that this is an attempt to reduce to legislation a description of the duties and functions which the Provincial Auditor has, by tradition, carried out? In other words, it neither adds nor subtracts anything to what he has done.

**Hon. Mr. Andrew:** — I would say that was a correct interpretation.

**Mr. Katzman:** — It adds.

**Mr. Shillington:** — I might perhaps ask the same question of the Provincial Auditor.



**Hon. Mr. Andrew:** — Yeah, Other than the crown.

**Mr. Shillington:** — Other than the crown.

**Mr. Lutz:** — Mr. Chairman, Mr. Shillington, I think it's the same terms and conditions as were contained in the finance act, prior, with the addition that we've tried to add in the accountability . . . (inaudible) . . . for the crowns that are audited by outside auditors. That's really the only change.

Clause 11 agreed to.

## **Clause 12**

**Mr. Shillington:** — If I can just ask, there is no change there either, from what the existing practice is? Good, thank you.

Clause 12 agreed to.

Clauses 13 to 15 inclusive agreed to.

## **Clause 16**

**Mr. Shillington:** — Maybe we can just stop at 16. Am I correct in my assumption that that parallels the resolution which we passed in this committee and which was reported to the House? It may be a question to the Clerk, because I can't find it in the minutes here.

**Mr. Lutz:** — Mr. Chairman, Mr. Shillington, I think we have a copy of that report.

**Mr. Shillington:** — And this accurately reflects that resolution, does it?

**Mr. Wendel:** — Essentially, yes.

Clause 16 agreed to.

Clauses 17 to 19 inclusive agreed to.

## **Clause 20**

**Mr. Shillington:** — This is a new bird, is it?

**An Hon. Member:** — Yes.

**Mr. Shillington:** — What is this bird? . . . (inaudible) . . . the Minister of Finance.

**Hon. Mr. Andrew:** — All right. I think this is a lift out of the Alberta legislation that basically provides a mechanism, as I understand it, of an audit committee to deal with some of the, let's say, some of the concerns that would come that the auditor would normally take up with a given department. There is an audit committee that would consist of people from within government, people like Gerry Kraus, I assume, and some outside auditors that would discuss . . . Let's take as an example a concern or dispute that might happen with regard to the auditing mechanism by which you would audit

CIC, or something like that, which tends to be a complex baby. This whole question could be referred to this audit committee who would then look at: is this consistent with proper accounting mechanisms, etc.? That's, as I understand, how it is used in Alberta.

**Mr. Lutz:** — Well, Mr. Chairman, Mr. Shillington, Mr. Andrew, in the view of the people in my office it also provides me with a sounding board at which I can maybe thrash out some items that may be hazy, some items where maybe clarification can be forthcoming from third parties who aren't personally interested. The Alberta committee has on it a Queen's Counsel, I believe, for the legal thing. It's got a couple of chartered accountants. It's got a data processing expert. There's all these fields where, indeed, we can get in trouble ourselves when we're trying to draft a report, and it gives us a sounding board to discuss some of these matters.

**Mr. Shillington:** — Okay. Thank you for that. Why are members of the Legislative Assembly excluded from the audit committee?

**Hon. Mr. Andrew:** — Well, my view is that all politicians should be excluded from that. I would see it as basically a technical-type function. I think that it's not designed in any way to try to cover up any information, but that's the nature of the questioning. My view is that all politicians, including ministers, should not sit on that type of a committee. It should be dealing with maybe more technical-type issues, that if you were concerned you could always get the management letters from the auditor on any concern that he raises. I know when I was in this committee I used to always ask for the management letters that would go to any given department, raising a concern in that department, that might not necessarily find its way into Mr. Lutz's report. So it's not designed in that way, any way, shape, or form. If it's a technical thing like that, there's a sounding board, as Willard says, and I can't really see where the elected member would really add a great deal to that committee, because I would see it primarily as a professional-type group, dealing with professional-type questions.

**Mr. Lutz:** — Mr. Chairman, Mr. Shillington, also in our negotiations throughout this legislation we fought to keep them off of here in an effort to avoid any perceived pressures from elected members. And Mr. Andrew did agree, and we're appropriately satisfied with this section.

**Mr. Shillington:** — Having heard the discussion, I can see that that's something that the . . . I can see the thinking behind that. It may indeed go to assure the independence of the office . . . (inaudible) . . .

There's no provision in this section specifically allowing for the members to be recompensed for their time. Is that unnecessary, or is it not intended to pay them a per diem, or is that a question that . . . ?

**Mr. Wendel:** — If I could answer . . . (inaudible) . . . As I understand it, the interpretation of The Statutes Act, if this legislation gives the Lieutenant-Governor in Council the power to appoint someone, it also gives him power to set their per diems or so on.

**Mr. Shillington:** — Okay. That's all the questions I have.

Clause 20 agreed to.

Clauses 21 to 23 inclusive agreed to.

**Clause 24**

**Hon. Mr. Andrew:** — I think you also should remember that in section 23 and one of the previous sections — and I think it's an important change — and that is that the auditor's act would now be tabled with the Speaker as opposed to being tabled with the Minister of Finance.

**Mr. Lutz:** — Auditor's report, Mr. Andrew.

**Mr. Shillington:** — Okay. Section 24, does this describe the . . . Two questions to the Minister of Finance. And I question the Minister of Finance: does this describe the access to information which the Provincial Auditor has traditionally enjoyed? Does it add or subtract or anything to this traditional practice?

**Hon. Mr. Andrew:** — I'm advised that it doesn't necessarily add or subtract, but it does make it clear so that it can . . .

**A Member:** — Guarantees it.

**Hon. Mr. Andrew:** — It allows him as well to circumvent a lot of the similar procedural fights that have been there in the past. And perhaps you can ask Mr. Lutz that question rather than me, and perhaps he can explain it a little further.

**Mr. Lutz:** — Mr. Chairman and Mr. Shillington and Mr. Andrew, this is just about a repeat on the old act with the addition, really, of access to electronic data processing and programs, because most of our clients are now computerizing. We felt we needed this in here to be able to do our thing in the usual fashion. It's nothing more than a clarification of what we're doing now.

Clause 24 agreed to.

Clauses 25 to 28 inclusive agreed to.

**Clause 29**

**Mr. Shillington:** — What was the perceived need for this section?

**A Member:** — Which one?

**Mr. Shillington:** — 29. Perhaps the staff may have some comment on it.

**Mr. Wendel:** — This was put in at our request, Mr. Shillington. After talking to our legal adviser there was some question as to whether or not we were protected by The Proceedings against the Crown Act, because we would no longer be part of the public service. So this was our request, to protect us.

**Mr. Shillington:** — What protection does The Proceedings against the Crown Act supply?

**Mr. Lutz:** — I do believe that under that particular legislation there is a rather blanket coverage for government employees.

**Mr. Shillington:** — I don't think it's a big item. I don't think it's a fruitful source of litigation . . . (inaudible) . . . the Provincial Auditor.

**Mr. Lutz:** — Well, we were hoping it would never happen, but we felt we would have this in here in case it does.

**Mr. Shillington:** — It's not worthy of spending a lot of time on, Mr. Chairman.

Clause 29 agreed to.

Clauses 30 to 33 inclusive agreed to.

The committee agreed to report the bill.

**Mr. Chairman:** — Okay. I thank the minister for attending. Tomorrow, Health at 8:30, with housing on stand-by. Okay? Then we can adjourn.

The committee adjourned at 11:20 a.m.