



FOURTH SESSION — THIRTIETH LEGISLATURE

of the

**Legislative Assembly of Manitoba**

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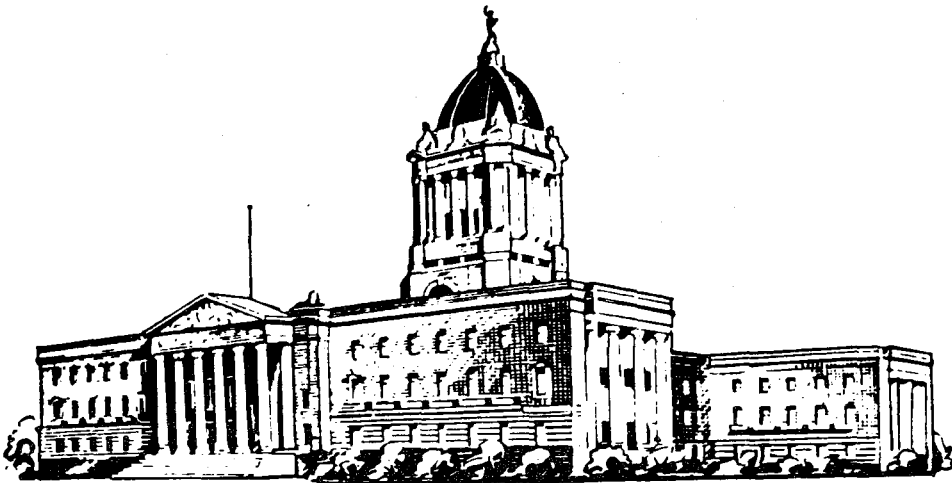
**DEBATES  
and  
PROCEEDINGS**

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TIME: 2:30 p.m.

COMMITTEE OF SUPPLY  
ESTIMATES - ATTORNEY-GENERAL

**MR. CHAIRMAN, Mr. William Jenkins (Logan):** I would refer honourable members to Page 11 of their Estimates Book. Resolution 23(a). The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, I want to just mention in connection with the questions posed by the Honourable Member for Assiniboia that there has been some additional staff since 1973. There has been some improvement insofar as the systems are concerned, with the Land Titles Office, considerable improvement in systems that have been developed at the ground level. And thirdly, of course, as the honourable member is aware, we have moved from the old facilities into the new facilities. Now to what extent that has helped, it is hard to measure, probably very little but the facilities are certainly an improvement over the facilities in the old Land Titles Office. So that I think all these factors have contributed, each in their own small way, to reducing the waiting period.

**MR. SPEAKER:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Well, Mr. Chairman, when we're dealing with the operations of the Land Titles Office I think it was several years ago that we were first advised in this Chamber of the change in plans in the operation of the Land Titles Office where they were going to take the whole system and eventually put it onto a computer basis. I know that was several years ago. I wonder if the Minister could advise us of the progress that has been made. At that time we were told that this would expedite the processing of changes in title of land and would, in effect, speed-up the process considerably. Perhaps the Minister could tell us the extent to which that process has occurred, or if it has not occurred, the problems that have arisen in the program that was supposedly supposed to help in the Province of Manitoba in the expedition of transfers and the recording of land titles.

**MR. PAWLEY:** Mr. Chairman, during the past five years there have been two studies launched in order to investigate the feasibility of the computerization of the Land Titles Office. On neither occasion were those studies completely finished. Each study reached an impasse and arrived at the point of implicating other government departments. Departments and agencies that interface with the Land Titles Office are many, as members know. There is the Land Acquisition Branch. There is the Assessment Office with the Department of Municipal Affairs and the Department of Highways, Manitoba Housing and Renewal Corporation, Manitoba Telephone System, the Manitoba Hydro all interlace and use the Land Titles Office system a great deal.

There are other non-government agencies that are also users. Private developers, Real Estate Board members, the general public on a daily basis search the record of ownership, mortgages, liens, etc.

There is no doubt, however, that many aspects of the Land Titles Office could be computerized and that computerization of these areas could, we think, be cost justified on the basis of better service to other departments as well as the general public at large. However, the problem is that the computerization of the Land Titles Office functions would not occur in isolation to the needs and requirements of other government departments and a task force has been established which consists of all government departments and agencies, known as the Resources Data Task Force. And it has been commissioned by the Interdepartmental Planning Board, which falls within the board established under the municipal planning. The task force is made up of seconded positions from several departments: Agriculture, Planning Secretariat, Northern Affairs, Hydro, Renewable Resources and Transportation Services, Mines, Resources and Environmental Management to research the needs, interfacing, the costs and benefits of all government departments sharing integrated files of land-related information.

The Manitoba Land Titles Office appear very prominently in this venture and two persons from our department serve on this committee. We understand the formalized report of the task force will be submitted to the Interdepartmental Planning Board in October of 1977 and at that time the alternatives and the costs, the benefits and the impact of computerization on not only the functions of the Land Titles Office, but for all the departments affected, will be known. And also, as well, resource related concerns will be noted at the same time when that report is made. As I say, it is expected to be in October of this year.

**MR. GRAHAM:** Well, Mr. Chairman, what the Minister has told me I think just serves to further my concern and my apprehension about the operation of this department.

He has related to the Chamber here how the operation of the Land Titles Office will affect the various departments of government, whether it be the MHRC, the Telephones or Hydro, or anything else. I want to once again inform the Minister that the Land Titles Office also affects people and I think that people have to come before government at any time. And the operation of the Land Titles Office has to be concerned with the affairs of people. And so when the Minister stands here and tells me that

they are setting up another study and they are going to bring in various departments of government and how it affects this department of government and that department of government, I have to tell the Minister quite frankly I couldn't care less. I'm concerned about people. And when you are dealing with personal property in the Province of Manitoba that affects people and the operation of the Land Titles Office is very important in the everyday lives of people in this province. Unless this government — and I have heard the philosophy espoused by the Member for St. Johns, and to some degree other members on the other side, where they have said that they don't believe that any individual should have the right to own property. The Member for St. Johns told us at one time that he didn't think that people should own houses that it was the state that should own the houses. Well, the Member for St. Johns is rushing to his seat. He is going to refute that but I have my right to my interpretation of his remarks, just as he has the right to interpretation of my remarks. And the people of the province have a right to interpret it the way they read it, too.

The Minister for Mines and Natural Resources says my remarks are a bunch of junk. Well, that is his interpretation; he has a right to his interpretation. The people in my area don't think so and so I say to the Attorney-General that when you start dealing with the operation of the Land Titles Office, and the way it affects the everyday lives of people, then I would hope that whatever changes occur, and if you consider that computerization is in the interests of people then I would want to see the substantiation for that argument.

But there is another aspect, Mr. Chairman, dealing with the registration of property and the change that is occurring in the operations of the Land Titles Office that I want to mention at this time. I believe that the Minister on other occasions has indicated, and we've seen this also come from the federal level, and that is that there is going to be a gradual switch-over from the measurement of land in acres to hectares. There's a metrification program that is slowly taking place throughout this Dominion of Canada.

**A MEMBER:** No, we're not involved in any programs like that.

**MR. GRAHAM:** The Minister says we're not involved in it right now, but I think that their programs are geared in that direction, and I would hope that the Minister would take a second look at it. When the whole philosophy of metrification came into the affairs of people in Canada, the basic argument that was put forward for metrification was to facilitate international trade. In the field of international trade yes, I can see probably the rationale for the movement of goods from one country to another using a standard measurement system, and it could be the field of millimeters instead of the SAE standard in the automotive trade. It could possibly involve the measurement of weight in kilograms, rather than pounds and ounces, and tons and so forth because we're dealing in international products.

But when it comes to the measurement of land in the Province of Manitoba or the Dominion of Canada, quite frankly, Mr. Speaker, I see no rationale whatsoever, for changing the measurement or the standard of measurement from the acre, the square mile, the quarter section. I see no validity of any argument from changing that measurement to the metric system.

**A MEMBER:** I didn't propose that.

**MR. GRAHAM:** Mr. Chairman, the Minister says he didn't propose it, but I have never yet seen the Minister stand up and say that he refuses to accept that system. He is following the process that so often occurs with those that are charged with the administration of government, that they will follow the recommendations that are put forward by various members of their department, or if it comes as a recommendation from some other government, they say because they're doing it in Ontario, or because they're doing it in Quebec, that is the reason we should be doing it here. But in the field of metrification of farmland, the measurement in acres, or in quarter sections, or square miles, I see no valid argument whatsoever for changing from acres to hectares. There is no farmer that I know of, that is going to dig up one acre of land or one hectare of land, and transport it to China or Japan or Germany, and say, "I here have one hectare of land for sale," because they're not going to do that. The measurement of land will relate to the land that is always going to be here. And while at the same time I appreciate there may be valid reasons for changing in some areas, I also suggest to you, Sir, that there is also a valid reason for preserving. It may very well be a hundred years from now the acre and the quarter section, and one square mile of land will be the only former standard of measurement that will be in use in this country, and I say let's preserve it for posterity if for no other reason. That is a standard that we have used in this country for 107 years in the history of this province. I see no valid argument anywhere for changing that system. Certainly it is not going to work in the best interests of the Land Titles Office because it's going to mean added work for them, but it may mean that there will be more staff needed. I don't think that is a very valid argument.

I think that there are many people in this province who have their property measured in acres or even in feet and inches as far as actual measurement of their property who would like to retain that unit of measurement. They will hand it on from themselves to their sons and daughters and say, "This is what I owned and I am passing it on to you and I want you to preserve it as such." And the measurement of that should be retained.

So I would urge the Minister to resist, in the strongest terms possible, any attempt at changing the unit of measurement for the sake of the preservation of land title. I would urge him to resist any change to the metric system in that respect. I think that that is something we can preserve and be proud of, because it has served our country well and it will continue to serve our country well. I as a farmer, if I own 320 acres of farm land and I want to pass it on to my son, I want him to know that I gave him 320 acres not 156 hectares or whatever it may be. That standard of measurement has been used well and should be retained. It will give us, if and when the metric conversion does take place, at least it will give us one example of the former standard of measurement that was used and used very well in this country. So I urge the Minister to resist any attempt at metrification in the measurement of property and in particular farm land and the change from acres to hectares.

**MR. CHAIRMAN:** The Honourable Member for St. Johns.

**MR. CHERNIACK:** When I came into the Chamber, a little late, I heard the Member for Birtle-Russell refer to my opinion, so I decided to listen to what he was saying. When I first came in and heard what he said, I decided, Mr. Chairman, that either the Member for Birtle-Russell is a fool or a knave . . .

**A MEMBER:** Or both.

**MR. CHERNIACK:** . . . and I then was going to say, but I don't think he really is a fool. Unfortunately, I became confused about that because I listened to the rest of what he had to say, and his great desire to pass on land to his children was not the land but the measurement of the land. It had to be so many acres, hectares was unacceptable to him. He even said that it justifies additional expenditure in the Land Titles Office to cater to his needs. Can you imagine, Mr. Chairman, the Member for Birtle-Russell is prepared to pay taxpayers' money in order that he should have some historical or traditional feeling about the measurement by which he is able to order the inheritance that he is passing on to his children. I must say, Mr. Chairman, if he passes land to his children, that might be all that he will pass to them, because I don't think he can pass to them any bit of intellectual integrity, nor can he pass to them any sense of conscience, nor can he pass to them any sense of justice or fairness, or fair play or British fair play. All he will be able to pass to them is the pride that he may have in being able to measure some land in terms of acres or feet or inches.

Mr. Chairman, I feel justified in using the language that I have just used to the Member for Birtle-Russell, for whom I have lost respect completely and I still call him the honourable member and that's the only way I can call him honourable is when I attribute it to his being a member — I guess really I mean he is a member, so he's an honourable member — to point out, Mr. Chairman, that on one occasion he quoted me wrongly in Hansard of this year at Page 2057. He quoted me by saying, "He says" — attributing it to me — "we are the ones that know best what is good for you." And he goes on to say, "The same man who said to people you shouldn't own houses; only governments should build houses for you." Mr. Chairman, I asked the member or challenged him to prove my statement and he thereupon immediately found a statement out of Hansard of 1973 and he quoted me — this on Page 2058 of this year's Hansard — "There is a great deal of lip-service paid in this province by our people on all sides of this House that home ownership is desirable and should be encouraged." So I would like to discuss that for a few minutes because I am not sure that that's right. Mr. Chairman, the stupidity of a person who reading that statement comes to the conclusion that a positive statement was made by me saying that I do not believe in land ownership, is something that would be overwhelming if I did not have an opportunity of listening to the Member for Birtle-Russell on other occasions. Having heard him speak on other occasions and again today I am firm in my belief that he does not have the capacity to understand, to read English, to understand English or to understand what is meant by various people. What he does have, Mr. Chairman, is an unconscionable desire to blacken someone else, especially in his absence.

So, Mr. Chairman, I went back to see what it was that took place in 1973 when the honourable member was a member of this House and at which time I spoke on a resolution and I will now quote some of the statements I made. The Honourable Member for Birtle-Russell may or may not be interested in knowing really what I said in the same debate. It may suit his pleasure to continue to misquote me, to continue to misinterpret me, for his own political or emotional pleasure but, nevertheless, I wish to put on the record once again what I said and ask for a more intelligent review of what I said — not from the Honourable Member for Birtle-Russell, because I don't think he has that capacity — but of others on his side who are prepared to look objectively and fairly at what was said.

Mr. Chairman, I think the Member for Wolseley wishes to make a contribution. If it's in the form of a question I'll be glad to hear it.

**MR. CHAIRMAN:** The Honourable Member for Wolseley.

**MR. ROBERT G. WILSON:** My question is, what has it got to do with the Land Titles section that we are dealing with?

**MR. CHERNIACK:** Mr. Chairman, the Member for Wolseley who just came in and hasn't the slightest idea of what went on before, would be well advised to listen or to go out of the room again and to read Hansard when it comes out and then he will decide whether he knows it or not.

I must say, Mr. Chairman, it really proves how foolish it can be to permit the Member for Wolseley to interrupt with that kind of a question. Well, I shouldn't let him interrupt again, should I, having proved how useless it was.

So, Mr. Chairman, I go to Page 425 of March 8, 1973, Hansard where I was speaking on a resolution and where I said, and I quote, "I wanted to raise one other point which I want to raise on a philosophic basis because I don't think I have the answers but I do think that it is worthy of consideration. Since the honourable member is still present, I must tell him that when somebody says, 'I don't think I have the answers,' it kind of means that he's not sure that he knows what the answer is but for the Honourable Member for Birtle-Russell, it appears that when a person says, 'I don't think I have the answers,' that it must 'mean,' I sincerely believe, because that is the interpretation he gave to it."

I went on to say that there is a great deal of lip service played in this province by our people on all sides of this House that home ownership is desirable or should be encouraged. So, I would like to discuss that for the few minutes that I have because I am not sure that that is right. I am not sure that that's right. I should tell the Member for Birtle-Russell — I'm sorry, the Honourable Member for Birtle-Russell — that when I say I am not sure that that's right, I don't mean I am sure that that's right. I went on to say, I'm certainly not sure that it is wrong. I have to tell the Honourable Member for Birtle-Russell that when I say I'm certainly not sure that it is wrong, it does not mean that I am sure that it is wrong. He should know that but that's a course in English which may be, as I say, beyond his comprehension.

I went on to say, on Page 426, "I just want to suggest that maybe it is not so important that a man should carry all his savings, all his motivations in life, into paying for a home, knowing full well, as experience has shown, that when he dies he may leave a home worth \$10,000, an equity of \$10,000, \$8,000, \$6,000, having denied himself to have it and when he dies his children, who are not in need of it, inherit something which he has denied himself to achieve." I posed a problem.

To continue, on Page 896, still continuing the same debate, I said — but this is some days later, this is March 21st whereas the other was March the 8th, so something happened in the interval — and I said then, on Page 896, "I was not surprised but maybe disappointed to note the reaction that I received from some honourable members to the mere fact that I had the audacity to put a question in the minds of people and suggest that it be discussed. If they didn't want to discuss it, they didn't have to. But to challenge me on merely raising it, I thought was a peculiar thing to do, especially in a forum where we are all involved in determining policies that affect people for years to come." And you note, Mr. Chairman, how right I was at that time as was evidenced by the words today of the Honourable Member for Birtle-Russell.

I go on to read from Hansard and I quote: "And several persons on the other side, who I should have known would either deliberately or ignorantly distort what I have said, did indeed distort what I have said, and came to the conclusions which were not based on what I said." And I went on to say, I pointed out . . . I'm sorry, I am referring to something said by another member and I said then, "He already knew what I was going to say and he was already drawing conclusions and as I pointed out to him, both in the House and privately, he misrepresented completely what I said because he wanted to. He really wanted to be able to say that I am attacking that grand and glorious principle of home ownership."

So, I went on on Page 898, I said that I want now to consider some of the other points. — (Interjection) — Mr. Chairman, when the Member for Birtle-Russell says, as he just did, that I am confused, I would rather be accused of being confused than of being a fool or a knave, and I don't back away from my accusation to him of that, but if he can show me I am confused I will be glad to be straightened out. I would not like to be called what I just called the Member for Birtle-Russell, I want him to know that.

So, I said that I think the most important factor in owning your own home is the security of tenure, that you are not being, that you are not liable to be pushed out by landlords or by a person who wants to buy your home from the landlord or from a speculator and wants to take over the home and kick you out. Long term leases help but then leases expire, so that a person in rented premises does not have security of tenure and I think that society being what it has been up to now, there is a great deal of need for a person to feel secure, that he is not going to be moved out of a home which he occupies and which he wishes to occupy.

And I continue reading from Page 898: "I think another very desirable factor in home ownership is pride of ownership, pride of maintaining your home at its best level; being able to keep it in good condition; thinking in terms of an investment and keeping it good. There are some tenants who have no regard at all for the condition. But, regardless of what is the answer and I still don't know the answer" — I must tell the Member for Birtle-Russell that when I said I don't know the answer, it doesn't mean I do know the answer. I go on to say, I don't think we'll arrive at one but I had hoped we would discuss it."

Mr. Chairman, we didn't discuss it then and I don't recall having discussed the pros and cons since, but I do know that on one occasion this session, the Honourable Member for Birtle-Russell misquoted me. I took the trouble at some length to correct him and point out the full scope of what I had said and the pros and cons I had mentioned, not hoping that he would apologize because that was too much to expect, not hoping that he would withdraw his statement because that appears to have been too much to expect, but hoping that he would not again repeat what was an absolutely false report of what I had said on that occasion. And not having done that and repeated it again today, I felt justified, Mr. Chairman, and continue to feel justified in calling the Member for Birtle-Russell a fool or a knave. Now if he would only take the trouble to read what I read, review what I said and be prepared at a future date or at any time withdraw the statement and to undertake not to repeat it falsely, I will certainly and gladly withdraw my accusation because I don't have any pleasure whatsoever in having said what I did about him. I would like an opportunity to withdraw what I said.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** I have a rather extensive attempt by the Member for St. Johns to justify his position in this Chamber. I also heard him refer to the question that I have posed here and, unlike the Member for St. Johns, I'm more concerned about the future than trying to protect the activities of the past. He is talking about the problem that would exist if we maintained the measurement of land in acres and what not as compared to the metric system. Apparently he is gung-ho on the full metrification system and he says . . . I sat and I listened very patiently to your remarks and . . .

**MR. CHAIRMAN:** Order please. Order please. Order please. The Honourable Member for St. Johns state his point of order.

**MR. CHERNIACK:** I said nothing whatsoever about the metric system, nothing whatsoever, and the member has just said that I'm gung-ho on it.

**MR. CHAIAN:** Order please. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, then I will exemplify and explain. The former Minister of Finance for the province of Manitoba, and I say the former, said that it would be an additional cost — you said that — you said there would be an additional cost to maintain the measurement of land in acres, quarter sections and whatnot. And I have to say, Mr. Chairman, that when he made that statement, I now realize why he is no longer the Minister of Finance, because I would suspect it would be a saving to the province to maintain the existing formula rather than go to the added cost of changing everything. But maybe that is why he is no longer the Minister of Finance. That is something that he alone has to live with. And he can quite frankly, Mr. Chairman, stand up here and call me every name he wants, but that is a responsibility that he has to live with. He has the right in this Chamber to use his time in the manner that he wants it, and if he wants to spend all his time in a derogatory manner, then he has to live with that image. We now know, we now know, in the manner that the Member for St. Johns has conducted himself in this Chamber in the last while. We now know why he is no longer the Minister of Finance. I have to say, Mr. Chairman, that I regret that that type of activity is necessary in this Chamber but if the Member for St. Johns feels that it is necessary, that is his right. I will not use language that is available to me to express my opinion of the activity of the Member for St. Johns in this Chamber. That, Sir, has no bearing on the item that is in front of us in the Estimates. So I would hope that the Minister, the Honourable Attorney-General — and I use that term with pride, the Honourable Attorney-General — will give us an indication as to the future that we can face in Manitoba with respect to the measurement of land within the scope of the Land Titles Office and the program that is envisaged by the department in that particular sphere. So I look forward to the comments from the Honourable Attorney-General.

**MR. CHAIRMAN:** Resolution 23 (a) \$1,819,500. The Honourable Member for Pembina.

**MR. GEORGE HENDERSON:** Mr. Chairman, possibly if the Minister had answered, I wouldn't possibly be asking my question. I'm concerned too about, shall we say the added and maybe unnecessary expense of changing over to the metric system in the Land Titles Office. I am also concerned with titles that are listed under what we call the Torrens title, the new system, and titles that are listed under the old system, and I was hoping that if we are going to switch over to the metric system in the registration of titles that possibly these things could be worked in at the same time so that the old titles could be brought up to the new system. I'm not one of these that believe that because we change to the metric system that everybody that's got a land transaction now or selling their house should pay the necessary expense of the changeover. I believe myself that it was the government's decision to change over and that this cost should be absorbed there some way or another, changing over to acres and yards and feet to the metric system. I believe what we should be paying for is the legal transaction and the work of the people that is necessary for this registration and, of course, this is taken care of in the registration fee. So I hope when the Minister is planning to change these registrations over to the metric system that this will be considered.

**MR. CHAIRMAN:** The Honourable Attorney-General.

**MR. PAWLEY:** Very briefly, Mr. Chairman, the decision is to speed or process by which there is any movement towards the metric system. As far as our Land Titles Office is concerned, it would rest

with decisions that would be arrived at federally. Certainly there is no intention or desire on our part to become involved in extensive overall changes in our Land Titles Office pertaining to the metric system. Let me assure members, for instance, that we have no intention nor no desire to go back to alter or change documents registered up to this time to convert from acreage over to hectares. We certainly have no intention on embarking upon a re-survey program in order to relate to the metric system. If there is any change it will be as a result of initiative federally and would then end in a gradual conversion as the Land Titles Office here just as in other segments of our economy and social life. But let me say that from our point of view we are not anxious, we are not pushing, we have no desire to enter into a massive system of converting to the metric system insofar as our Land Titles Offices are concerned.

**MR. CHAIRMAN:** The Honourable Member for Pembina.

**MR. HENDERSON:** I have a further question in connection with the titles that are under the old system and the new system. I hear many people talking now that all the go is to change and put things under the new system. But my question is, what is really wrong with the old system if you know the different transactions that have gone on on that particular farm or property, for we'll say maybe the last 50 years, and you know that the title was clear and it's maybe even handed down from a relative to another relative and it's under the old system — is there any need for them to go under the new system now? Of course I realize that you want the new system if it's being financed through the Farm Credit Corporation or some other form but if it's a straight transaction where it's being turned over, what is the advantage of switching to the new system?

**MR. PAWLEY:** First, Mr. Chairman, because of the very nature of the old system in regard to land, there is no guarantee of title. When one has an old system document in one's hands relating to their ownership of land, there is no guarantee that there is not a defect or a lien or some negative interest affecting that land in contrast to when one has a Torrens Title, one has clear title subject to the reservations that are listed on the side of the Torrens Title. So, first there is no guarantee of title with an old system document.

Secondly, of course, I must advise honourable members that when it comes to searching documents under the old system, it's a lengthy, very complex and can be a very costly process. Every time you sell means searching many documents, travelling back through a long chain of title in order for the lawyer to guarantee your title, complex and lengthy. So that is the reason that there are very few old system titles left. I would hazard a guess but I am sure that the number of old system titles left in the Province of Manitoba would probably be less than 2, 3 percent. Probably ten years ago, there might have been from 5 to 10 percent but the change is gradually under way because, as the honourable member mentioned, lending institutions like Farm Credit Corporation and the mortgage companies are insisting upon new system title solely because they want a guarantee of title. Once they receive that title, that land is their security.

**MR. HENDERSON:** Well, yes, I realize that when you're going through the Farm Credit or some other form of mortgage that they do make this change but why would it be necessary if this same property changed hands within the last twenty years and you knew the history of the farm and it was in the old system? I think the same lawyer handled this case — which is often the way in rural areas where you have a local lawyer for many years — why would it be necessary in that case? He wouldn't need to go through these searches repeatedly. If it had happened just five years previously, surely those documents would be up-to-date. Anything that had been registered against it should be registered within that last five years. So I still wonder if you aren't financing, why is it necessary to switch to the new system? Or is it necessary? I don't think it is, is it?

**MR. PAWLEY:** Mr. Chairman, when you are dealing with new system land, then you are dealing with a fund, the Land Titles Assurance Fund, which has been established to compensate those who have relied upon a title but find that there is a defect in the title under the new system. Under the old system, all that you would have is a letter from a lawyer guaranteeing title so your right of action would be against that lawyer rather than against the Fund of the province and in view of the impoverishment, of course, of the legal profession, that's not nearly as good a security as having as security the Fund of the province to back you. That is the difference. But, seriously speaking, one would not want to rely upon a lawyer's guarantee and only the assets of the lawyer backing up that document. To do so and to depend upon that as a mortgagee would be to have blind faith, really, but there's nothing wrong because a lawyer has guaranteed it but there's no Fund to back up that title as there is with the new system.

**MR. CHAIRMAN:** Resolution 23(a) \$1,819,500.00. The Honourable Member for Wolseley.

**MR. WILSON:** Thank you, Mr. Chairman. I had a question under the Land Titles. Unlike the Member for St. Johns I was only out to pick up something and I was listening to the debate. The Minister probably could have avoided a lot of the debate by speaking on his support — that it was a federal problem and that he too didn't want to go into any unnecessary expense.

I wanted to ask on this processing of liens — could I suggest that an ordinary citizen seeking a

remedy for a particular problem goes to a solicitor and pays him a substantial retainer and the person then files a lien against people that are difficult to enforce judgment on, retired people and self-employed people, and that lien is only good for two years. I wonder if the Minister would explain why the two year system because what happens is he must then hire a lawyer again in two years to re-register that lien. If the Statute of Limitations is six or seven years, why would the lien against that person's property only be good for two years? Am I right in that or is it good for longer than that? The re-registering of the lien every two years, is that a fact or not?

**MR. PAWLEY:** If the honourable member is referring to a mechanic's lien, of course, that remains on the title until such time as it is withdrawn with no time limit but I think the honourable member is referring to welfare liens and judgments and it's true, it must be renewed every two years and I think there's good reason for that. One has judgment against title and one has the opportunity within that two year period to attempt to execute or to realize upon the land against which that judgment is registered. If one doesn't, then again they can renew. But I think there is some attempt to induce a person with a registered judgment to take action on the judgment rather than just to allow it to linger endlessly against someone's title. Some initiative should be shown by the judgment creditor and that's why I think for many many years, as long as I've been involved with the practice of law, there's been a two year period in which it is expected if you wish to renew it and you haven't undertaken any actions that you're entitled to undertake under the law, then you are expected to renew it to show a continued interest in that judgment. Otherwise, if there was no period of lapse, I suppose judgments could just remain on the title and one would have to go through a lengthy process, a costly process of removing the judgment which would again add costs and delay in many endeavours.

**MR. WILSON:** This is one of the problems why I think that at some point in time we have got to review the laws and make them all consistent. Because if you have a judgment against somebody, I believe it's good for ten years, and yet if it is against his property, it's only good for two years and other liens expire at different periods in time. One needs a score card to keep track of all these different elapsing time periods. I always thought that if a particular individual took the trouble to go through the system — and this is one of the criticisms of the Minister's Small Debt system — where they obtain judgment against somebody and transfer it to County Court, that to only allow the aggrieved person, the person who has the judgment, only two years that he can sit and watch that person . . . let's say the figure is only \$200.00. Why should the ordinary citizen have to spend \$300, \$400, \$500 in legal fees just to be able to enforce his judgment while the person who has the judgment against him is sitting with a large farm or a large holding in Winnipeg and only has to wait for the two years in order to see the efforts of this little mosquito that was bothering him be put out of the way. It would seem to me that that particular lien against that wealthy man's property should be consistent with the Statute of Limitations and those are my views.

**MR. PAWLEY:** Mr. Chairman, all that that individual need do, that the Honourable Member for Wolseley has referred to, is reregister — I believe it's a fee of \$2.00. He reregisters, he renews the judgment. There isn't any costly process that is involved.

**MR. CHAIRMAN:** Resolution 23(a) Salaries \$1,819,500. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, I would like to ask the Attorney-General following on the questioning by the Member for Wolseley, does the Crown have additional exemptions that do not apply to the ordinary citizen with respect to liens? For instance, I understand the Department of Health and Social Development can register a lien that is almost in perpetuity. Does the Crown have certain rights that do not apply to individuals in society in that respect?

**MR. CHAIRMAN:** The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, I think there are some liens, some hospital liens, possibly some welfare liens, that would carry on beyond the two-year period, that would carry on over an indefinite period of time.

**MR. GRAHAM:** I'll ask the Attorney-General then, does that not cause him some concern, that the state should have powers that ordinary citizens in this province do not have in that respect? Should not the state be treated in the same light as the individual with respect to their power to register a lien, so that the people of Manitoba could be assured that the individual in society gets the same protection that the state itself wants, and indeed insists on?

**MR. CHAIRMAN:** Resolution 23(a), the Honourable Member for Wolseley.

**MR. WILSON:** I agree with my colleague from Birtle-Russell. He's right on. Because what you have here, if you have the system which the ordinary citizen does not understand and does not have the wherewithal to be able to; without a scorecard or without some kind of government printed document to tell him that XYZ lien expires in so many years — that's your limitations — and then what happens, the state can put a welfare lien, and the person may live for 15 or 20 years, and upon his death, the government will collect against his holdings. Whereas this particular person, if I can use the expression, "did someone out of, say, \$200, or \$400," the individual does not have the same right against that particular holding that the state has. And I see no difference in the state giving somebody



a sum of money through hard times, to take them over an illness or what have you, and slapping a lien on their property, than I do on somebody loaning somebody money to get them through hard times, and then go to collect, and find out that his lien is only good for two years. And usually he turns over the file to the lawyer, and the lawyer puts collection files down at the bottom of his case somewhere, and unless the fellow takes a bit of a legal training course himself, he doesn't know the right that he has to demand the file be released to him — in many cases, the lawyers claim privilege. So the result is, it's very easy for this person to forget. I would welcome it if the public knew that any time they have a judgment against a wealthy person, that they could get the file back from the lawyer, and from then on, they would just have to every two years, have themselves or their relatives go down and pay the \$2.00 to reregister that lien. I would have no quarrel with that. But it would seem to me to be consistent, it would seem that the laws for the citizens of the province should be clear — there's too many of them to start with — they should be consistent, and they should have the same rights as the state, pertaining to the collection of liens.

**MR. CHAIRMAN:** The Honourable Minister of Mines and Natural Resources.

**MR. GREEN:** Mr. Chairman, I've been involved in both of these matters, and I assure the honourable member that the laws as passed, were not passed by this government. They are previously existing laws, and one does not relate to judgments. I would imagine that the Crown's judgment would be treated exactly the way as a citizen's judgment. They are not equal liens. A judgment obtained by the Crown, the rights *vis-a-vis* a Crown judgment would be the same as a citizen's judgment. It would have to be registered, and the Honourable Member for St. Johns indicates that it's registered against the name of the person. I believe that it can also be registered directly against the title through a notice exercising power of sale, or through other registration; or for instance, if one wants to take title subject to a judgment, then it appears against the title. But there is no difference in the two laws. One relates to judgments, the other relates to liens of one kind or another that previous governments said that they would register against property, to re-obtain moneys which they have paid on behalf of an individual.

There were hospital-aid liens. Mr. Chairman, I can well recall this, because when my father's house on Selkirk Avenue was transferred, this was in the Fifties — because there was no money to pay for my sister when she had scarlet fever, and because the previous governments didn't recognize that that was a social responsibility and not an individual responsibility, — some twenty years later, they had to pay this hospital-aid lien. But it wasn't a judgment, it was something concocted by Liberal and Conservative Governments to register against properties for moneys that were expended by the state. So far as judgments are concerned, they are treated in exactly the same way — the Crown obtain judgment against somebody, and they didn't reregister it — the judgment doesn't disappear, what happens is that they lose the security of the real property. And if my honourable friend says that the lawyer should tell them this, well maybe the lawyer should. Perhaps my honourable friend thinks that, you know — and I'm not really going to argue this — judgments registered against the names of a person should stay there indefinitely. As a bailiff, I can understand why he would want that. As a person engaged in the collection business, it would relieve a lot of trouble that you do not have to keep track of the judgments that you have obtained, and the registrations of them. And perhaps that would be a convenience to judgment creditors, but it would work exactly the same way for the Crown as it works for anybody else. The liens that my honourable friend is talking about are not judgments. They are, by statute law, when the Crown expended money on behalf of a person, and had a right to recover that, that they were permitted to register a judgment against the land, or a lien against the land, or a lien against the name.

I remember there were welfare liens, there were hospital-aid liens — much of these liens by the way are now eliminated. There are no more hospital-aid liens, and I do not think that the province registers liens for social assistance, except where that social assistance, Mr. Chairman — this is a recollection, I'm not certain — except where that social assistance increases the value of real property. For example, under social assistance, it is possible to get a new furnace installed. They won't register a lien for the sustenance allowances, but let us say that under social assistance a person owns a house and he needs a new furnace. Under Special Needs they are entitled to put a furnace in there. Now a year later this person might want to sell the house. For the amount that that house has increased in value by the installation of the furnace the State is entitled to their money back. Don't you agree with that? Don't you agree that it would be wrong for a person on social assistance to increase the value of the house, sell the house a year later and not repay the value of which that house was increased. Well, I don't know. The honourable members are . . .

**MR. CHAIRMAN:** The Honourable Member for Assiniboia.

**MR. PATRICK:** Mr. Chairman, can the Minister clarify — and this is, listening to the Debate, is of some concern to me — is he certain that there is no more liens registered today against property by the Department of Health and Social Development in respect to say social assistance or supplements to senior citizens? I want to make sure.

**MR. GREEN:** Mr. Chairman, I can't be certain. But I can tell the honourable member that when I

was the Minister of Health, which was for a short period, that the policy was that we would not register a lien when it was for the sustenance allowance, let's say a person receives money from social assistance because they are not earning an income, but we would register a lien when we increased the value of the property.

I'm not certain as to what the situation is. I believe that municipalities that advance money, or my honourable friend says, "a second property". In other words, if they are getting social assistance needs and have a separate property that they could have sold in order to sustain themselves and have the house that they would be in no better position than anybody else who made a loan against property. But for the sustenance needs, now I believe that municipalities which pay social assistance still register liens. —(Interjection)— I think they do. I think that municipalities still register liens against properties for the amount of their social assistance allowance but I do not think that the province does.

In any event, with regard to a judgment, government judgments are treated like any other judgments; there is no difference.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, it was only yesterday I told the story in the House where a man had his property destroyed and the government, in 1974, registered a lien through the Department of Health and Social Development against that property because the man lost his income when his property was destroyed and he had to accept social assistance. Through no fault of his own but through the actions of government.

**MR. CHAIRMAN:** The Honourable Minister of Mines.

**MR. GREEN:** Mr. Chairman, if it were the actions of government that destroyed his property he would have been able to sue the government for it. And I disclaim what the honourable member said. You know, just because the honourable member said it doesn't make it right. As a matter of fact, the fact that the honourable member said it makes it likely wrong. And with regard to the registration of the lien against that property, I would have to know why a lien was registered. It is possible . . . —(Interjection)— Well, but you don't know either. You don't know and I don't accept what you said. And the matter is being looked into. It is possible that the man had other property. And if he had other property and was getting money from the government when he had property, which you know, what I hear from the other members opposite, particularly the Member for Pembina he regards that as a crime that anybody should get . . . He says, "Let him starve." I mean that's his position. Now you say, "Not let him starve but give him the money and don't regard it as a loan."

So as to the circumstances of that particular lien, I cannot be certain. I answered the Member for Assiniboia that when I was the Minister of Health I clearly recall that the policy was that we would not register a lien for the social assistance advanced if it was a man living in his own house, but we would register a lien when there was an enhancement in the value of the property. And there may have been other reasons. I can't say why in the case that was referred to by the Member for Birtle-Russell, why in this case there was a lien registered? Perhaps the policy was changed. Perhaps there is something about that particular case which caused them to register a lien.

**MR. CHAIRMAN:** The Honourable Member for La Verendrye.

**MR. BOB BANMAN:** Mr. Chairman, I think I should tell a little story at this time which has to deal with liens. This past year the Land Acquisition was purchasing right-of-way for the widening and building up of Highway No. 12. About ten years ago my mother happened to buy a piece of marginal land out there, about 40 acres. Now, when the Land Acquisition people came they, of course, made her an offer and it was fine. It was agreed upon and she signed the certificate which gave them the authority to move ahead and start road construction. And then of course the rest of the paper work would be coming out as time progressed. Now one morning one of the officials from the Land Acquisition Branch came and said, "Mrs. Banman, we've been searching the title and we find out that there is a welfare lien against your property." Apparently that was filed. Now I can't tell the Minister of Mines whether it was the City of Winnipeg or if it was the government. But it turned out that apparently two years ago she was supposed to have received x-number of dollars from the welfare agency and now that lien was filed against her property.

Well, I can assure the Minister that it was quite a shock to, not my mother but maybe more so to my father because he was wondering what was going on.

Now the question that of course arises out of here. When a lien is placed on some person's property are those people not notified properly? In other words, there was no previous registered mail or anything sent to my mother stating that there was a lien being applied on her property. She had no way of knowing it and if it hadn't been for the Land Acquisition Branch coming along and doing the search on the title because they wanted to buy a small piece of right-of-way through there, we would have never known. It might have been on the books there for years. So I'm just wondering if there is anything that can be done about that?

**MR. CHAIRMAN:** The Honourable Minister of Mines.

**MR. GREEN:** Mr. Chairman, the honourable member has experienced one event and to him it

comes as rather traumatic. — (Interjection)— No, I'm sorry; I thought you said it was a shock. Well, a shock is a trauma. I'm sorry; I used the same word in a different form and I really wasn't intending to make a big thing out of it. When I was a lawyer this happened on a weekly basis.

What the situation with the registration of a lien, the kind to which you refer, is as follows: If there is a person named Sidney Green who is receiving social assistance, or something which permits the registration of a lien, the registration is against the name of Sidney Green and it goes into what they call the general register. If Sidney Green then wants to sell his property, the general registrar holds up the sale because they said there is a lien against the property. Now I could say I never received any welfare and it's quite true, because there may be another person, strange as it may seem, named Sidney Green, or anything similar. It could be Greenee and they will hold up the title and I suspect that that is what has occurred with the Member for La Verendrye, that it wasn't his mother, that the registration was against a person by the name of Banman and it was standard procedure that Mrs. Banman would have to come in, that they'd have to sign an affidavit and the affidavit would say, "I am not the person. I am the person who is the owner of the title. I am not the person named in the lien. I have never received money from the welfare." And the title goes through.

But I can't tell the honourable member how this can be avoided. That is not something that this government brought in. That is something that I can remember as having been the case since 1955, and if you do away with that then some of these titles are going to go through and then you are going to have trouble with the Member for Wolseley, who said I had a judgment against that title and you let the title go through without stopping it, and I could have collected the money.

Now that has been the system for years and I can't tell my honourable friends how it can be changed. If he is able to instruct our solicitors that he knows how to do it better than they, then we can change it. But for the moment the General Registry is a registry of names, that when a title bearing that name is attempted to be transferred, it is held up in the Land Titles Office and the people affected have to sign an affidavit that they are not the person in the Registry or if they are they have to pay the judgment before the title goes through.

**MR. CHAIRMAN:** The Honourable Member for La Verendrye.

**MR. BANMAN:** Thank you, Mr. Chairman. Being a lay person if I understand the Minister correctly then, what he is saying is that there is not a lien put on the title *per se*. There is a list of names for instance and any names that are on that list, let's say the namesake of that particular individual comes through there the title is held up and the transfer is held up until the check is done, as the Minister said an affidavit is signed that they are not that particular person. So there is not a lien *per se* put on a particular individual title. In other words, if that name would have come up because she would have sold her house the same thing would have happened. Is that right?

**MR. CHAIRMAN:** The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, there is what is called the General Registry and within that General Registry is filed all the liens. The liens are against individual names whereas with the certificates, Certificate of Judgment, that may be registered against a particular piece of property. In the case referred to by the Honourable Member from La Verendrye it would be a filing of a notice of a lien against a particular name. So that in fact when this happens all the time with Land Titles Office documents, for instance, if it's a common name "Jane Smith" there might be ten liens against ten different Jane Smiths requiring a large number of affidavits to show that it is not the same Jane Smith as the one that is referred to in the lien that is in process of transferring the property.

**MR. CHAIRMAN:** The Honourable Member for Wolseley.

**MR. WILSON:** Hearing all the information, I again, as I did on City Council, am pleading for some sort of uniformity and sort of consistency because it would seem to me . . . I hate to be lecturing the members opposite on social reform, but in the area — and we talk about the Seventies where we've hinted at Mincome and some of these other things — it would seem that if you have a social worker who decides that somebody is in need and gives them social assistance, then I think it is time that that government opposite stood up, because the Minister of Mines stood up and talked about a hospital lien that was the fault of the Liberals and Conservatives, I think it is time that that particular government opposite also — and I urge them — to remove welfare liens once and for all.

**MR. PAWLEY:** The Honourable Minister of Mines isn't here. He didn't say that the hospital liens were the fault of the Conservatives and the Liberals. He said that the process that is used presently was in effect prior to 1969, which is a factual statement.

**MR. WILSON:** All right. Prior to 1969 there were a number of liens on the books. There is still a lien on the books and a number of municipalities are enforcing that lien and that's that anybody, through sickness or through accident, has a need and receives social assistance that, at some point in time, the state is going to come along and recover all that money that was given to them during hard times. And I don't agree with that position and I want, and have been fighting for, the removal of welfare liens. I would like to see the members opposite remove them as well as the hospital liens that the Minister of Mines talked about in his own particular situation. I think they should be removed.

**MR. CHAIRMAN:** The Honourable Minister of Mines.

**MR. GREEN:** Mr. Chairman, I indicated that when I was Minister of Health I believed that the amount of money that was advanced for social assistance, that we would not file a lien against a property for that, but we would file a lien against a property for the increase in value. Now, I could be wrong in remembering this, the Member for St. Johns is now checking it with the department and we will have it in a moment. But the fact is that under the laws as they existed at that time — and I don't think they were changed — the advance of social assistance is a loan and could be recovered by the province. That's not the worst case of it, that the honourable member is referring to. I remember having a client who lost his eye and when he received judgment for \$10,000, or whatever the figure was, for the loss of his eye, the City of Winnipeg claimed that judgment because they had been advancing him social assistance. It wasn't even against his house, it was against the moneys that he was to receive for the loss. . . . The honourable member is shaking his head. —(Interjection)— Well, I tell you I was involved and we did get them to release some of it but we didn't get them to release all of it. But he received a judgment for the loss of his eye and the City of Winnipeg claimed the money that he got on the judgment. They didn't give him back his eye but they claimed the money that he had got on the judgment. Those are the laws of social assistance. Those were the laws, those are still the laws. I don't know, I would like to think that the policy of registering liens for normal needs was discontinued, that was my recollection but if I am wrong, I will be wrong. The Member for St. Johns is trying to determine it.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Well, Mr. Chairman, I think we are straying a little far afield here. Basically we are dealing with the operation of the Land Titles Office, the registration of liens and the. . . I don't know if it falls under our category to deal with the removal of liens, I think that is a court decision. But while we are dealing with the Land Titles Office, I would like to ask the Minister. . . he made a statement before that the metrification properly fell under the federal authority. I would like to ask the Attorney-General if he is prepared to make representation to the Federal Government to maintain the registration of land in acres and quarter-sections, as I feel it serves no useful purpose in the international field in which metrification is supposed to serve. And I was wondering if the Attorney-General is prepared to make that commitment to the House, that he will endeavour to maintain the acreage system of registration of farmland in the Province of Manitoba.

**MR. PAWLEY:** Mr. Chairman, I think all that I can do is inquire. I don't think we want one system in Manitoba and a different system in nine other provinces. Certainly if we are going to proceed it will be on a national basis, with it being hectares in each and every province, rather than hectares in some provinces, acres in other provinces. I can say to the honourable member that I would inquire. Personally I would be very, very happy to remain with the acreage system, and I would be very happy if all of Canada agreed to remain on the acreage system rather than the hectare system. On the other hand, again, if Canada proceeds and as a result provinces convert to the hectare system, then I don't see how Manitoba could remain isolated from the main flow.

**MR. CHAIRMAN:** Resolution 23(a) \$1,819,500—pass; Resolution 23(b) Other Expenditures \$161,500—pass; Resolution 23, Resolved that there be granted to Her Majesty a sum not exceeding \$1,981,000 for Attorney-General—pass.

Resolution 24, Law Courts (a) Courts Administration (1) Salaries \$243,200. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, I have a problem I would like to raise at this time under this particular section, because there is no other place dealing with the operation of the Small Debts Court. And I would like to. . . .

**MR. PAWLEY:** Mr. Chairman, if I could be of assistance to the honourable member, under County Court would be the best point for comments pertaining to Small Claims Court.

**MR. CHAIRMAN:** Resolution 24(a)(1) Salaries. The Honourable Member for Wolseley.

**MR. WILSON:** It says under this section, "provides for the total administration." I wonder where we could talk or deal with keeping track of those people entitled to practice law in Manitoba. I notice in the paper today there is one more gone down. I wondered where we could find out where we might be able to find a list of the number of solicitors disbarred in the last recent. Where does a citizen get an up-to-date list of who is entitled to practice in the province?

**MR. PAWLEY:** Mr. Chairman, that is a responsibility of the Law Society of Manitoba. They have been entrusted by the provincial community, through its Legislature, with the responsibility of licensing and of expelling lawyers in the Province of Manitoba. They have a list of all lawyers practising in Manitoba, and also of course they are involved insofar as suspension of lawyers for just cause from practising as lawyers in the Province of Manitoba.

**MR. WILSON:** Because the government gives the Law Society a substantial grant — I believe it is over \$300,000 — where would we be able to deal with them under this particular section or under the Minister's department?

**MR. PAWLEY:** Mr. Chairman, we don't have any involvement with the Law Society. If the

honourable member is referring to the moneys that are provided to the Law Society as per The Legal Aid Services Act, then I think the best place for discussion of that would be under Legal Aid, as that payment is made as a result of authority within The Legal Aid Act and The Law Society Act.

**MR. WILSON:** Well, in other words, under the Legal Aid section of your Estimates, we might deal with government grants receivable — I am referring to the Law Society balance sheet in which they say they got a grant of \$338,387.00. You suggest I deal with it under Legal Aid?

**MR. PAWLEY:** Mr. Chairman, we were trying to contemplate the reference to the figure that he is using. I don't know what document he is referring to.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell. .

**MR. GRAHAM:** Well, Mr. Chairman, perhaps while we're dealing with the general heading, I should indicate to the Attorney-General that there is some information that we would like to have dealing with the various courts and it would apply to all of the courts. I would like to know the percentage of the cases that come under the various courts, starting with the Court of Appeal and so on down, where counsel is provided by Legal Aid for those that are taking their cases to the various courts. What percentage of the total case load would be represented by Legal Aid in each of the courts? I realize is that that information, it will not be readily available. It could be that perhaps on Monday or so, we could get just a rough breakdown. It doesn't have to be exact in the number of cases but a rough percentage.

**MR. PAWLEY:** Mr. Chairman, if it is possible to obtain that information, we will obtain it and I would suggest that we provide it, if it is available, under Legal Aid.

**MR. CHAIRMAN:** The Honourable Minister of Mines.

**MR. GREEN:** Mr. Chairman, I did indicate that we would try and get some information. I am afraid I can't be very helpful. I will get the information now for my own satisfaction, to find out what the situation is, but the honourable member should be aware that if a person comes and applies for welfare and is not entitled to it by virtue of their assets, and there is a means test on social assistance, then it is possible that the department would say, "We will advance you money." In which case we will put a lien on, when your assets are liquidated, we get that money. And that might be the situation in this case. However, I can't be certain. What I am certain of is that I said in 1969, that we would only charge a lien with regard to a house when the property has been enhanced by the virtue of the insulation of special need. Now that might not have precluded the others but that was the position that I took at the time. I am going to get it for my own information and I would be happy to furnish it to my honourable friend as well.

**MR. CHAIRMAN:** Resolution 24(a)(1) Salaries— \$243,200—pass; (2) Other Expenditures - \$57,600—pass; (b) Court of Appeal, (1) Salaries — \$59,200—pass; (2) Other Expenditures - \$10,700—pass; (c) Court of Queen's Bench — \$505,400. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, just for a matter of clarification on the Court of Queen's Bench. The salary of the judges is paid by the Federal Government in this and it is not included in this figure, is it?

**MR. PAWLEY:** The salary of all judges paid by the Federal Government with the exception of the Family and Provincial Judges' Courts. So County Court, Court of Queen's Bench judges are all paid for by the Federal Government.

**MR. GRAHAM:** Well, then, the amount of \$141,000 recoverable, is that the figure that covers the salary of the judges or is that a separate figure?

**MR. PAWLEY:** Mr. Chairman, under this item, shown as \$141,000 recoverable would be the moneys that we will recover from the Federal Government as a result of our Unified Family Court Project and the agreement that I mentioned earlier with Ottawa, a 50-50 agreement with Ottawa pertaining to additional costs that will be caused as a result of the Unified Family Court Project in St. Boniface.

**MR. GRAHAM:** So then, the salary item here refers to court reporters and people of that nature.

**MR. CHAIRMAN:** Resolution 24(c)(1) Salaries — \$505,400 —pass; Other Expenditures, the Honourable Member for Pembina.

**MR. HENDERSON:** Before you pass on, I have something that I want to bring up but I just don't know where to bring it up. It is where they go into bankruptcy and people put in their claims and some are paid and some are not. I wonder what part he would like me to bring that up under.

**MR. PAWLEY:** I don't know, the bankruptcy legislation is federal legislation. They simply operate an office in the Law Courts Building so I am wondering if the honourable member would be best to reserve comments to the general comments at the end because the bankruptcy legislation is federal, entirely federal.

**MR. HENDERSON:** Mr. Chairman, I'd be happy to wait till the end, only it just might come at a time when I am not here and I am not going to be here Monday. I could maybe tell you what I have in mind and probably you could say when you could deal with it.

It's where this hotel went into bankruptcy in Winnipeg here, the City Centre Hotel, and where they were considering their pay-out to different people. The Liquor Commission received all that the hotel owed them and yet other creditors who had provided them with things like food, were not allowed

their claims, they had to wait till it went into bankruptcy and then they only got a small percentage or they'll only get a very small percentage when they collect. My question is really, why is the Liquor Commission a privileged organization and get paid out in full?

**MR. PAWLEY:** Mr. Chairman, it is not privileged, it was looked into by Legal Counsel. The Liquor Control Commission operated within their legal rights. It was not a bankruptcy as such, but was an assignment, there was an assignment of debts. The moneys owing pertained to an existing permit and we did, let measure the honourable member, it was very thoroughly researched and looked into by legal counsel as a result of legal advice as to their rights rather than any attempt to exercise an improper relationship. And in fact, I noticed the receiver in the newspapers, acknowledged that the Liquor Control Commission was correct in the position that they had adopted. In fact, for them to have done anything else would have been to have just thrown away moneys that belonged to the people of the province.

**MR. HENDERSON:** Well, possibly they have this right but I just wonder if it is fair because the people who were supplying this hotel with food services had an outstanding bill in the neighbourhood of \$7,000 and yet when they went into bankruptcy they weren't allowed to be paid and yet the Liquor Commission was. It just seems to be a little unfair that somebody who would be providing them with their groceries and that on assignment basis would be cut out completely, and yet the Liquor Commission was paid.

**MR. CHAIRMAN:** The Honourable Member for Wolseley.

**MR. WILSON:** Yes, Mr. Chairman, I wonder if under this section, the Minister might explain or tell me if I could ask it somewhere else. I believe he raised the amount that a person could take something into County Court to, I believe somewhere in the area of \$2,000.00. I wondered if the Minister could explain what remedy a citizen of the province has when members of the legal profession take these cases into Queen's Bench because of the vast difference in legal fees they can charge their client. I wonder if the Minister might care to comment on the difference that a citizen has to pay when he goes into Queen's Bench *vis-a-vis* County Court and what happens if, for instance, the judges note or the Law Society notes that a particular lawyer is consistently taking cases into Queen's Bench, what protection does the citizen have when the cases, for all intents and purposes, should be heard in County Court but are heard in Queen's Bench because there is such a vast difference in the legal fees that the person can charge his client.

**MR. PAWLEY:** Mr. Chairman, it certainly would be my understanding that if a case has been dealt with in the Court of Queen's Bench that could just as well jurisdictionally be dealt with in the County Court, that the judge will only award County Court costs even though the matter is dealt with in the Court of Queen's Bench, that is within the ambit or the area of responsibility entrusted to the court, that they can allow only County Court charges or costs. The amount of the increase was from 2,000 to 10,000, County Court responsibility. With proceeding beyond the \$10,000 figure it meant with the consent of both parties.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Before we leave the Salaries, Mr. Chairman, I understand that the Unified Family Court hopes to be in operation some time in September this coming year and I would like to ask the Attorney-General if a judge has been assigned to that court as yet?

**MR. PAWLEY:** Mr. Chairman, I think it's just a little early to indicate exactly because the committee that is dealing with this matter hasn't yet finalized its decision. There may be some rotating insofar as the judges that will preside in that court, County Court judges.

**MR. GRAHAM:** The reason I raise the issue I think there was a news release out about a month ago from the Federal Department in Ottawa indicating that there were, I believe, 12 to 15 judges who had been trained in the field of the Unified Family Court and these judges were available. Now I would hope that the province, having been apprised of that situation would put their application in as quickly as possible so that the people of Manitoba are assured that we do get a well qualified judge who has been specially trained by the Federal Government for that particular field.

**MR. PAWLEY:** Mr. Chairman, Mr. Goodman in our department is looking into that very matter now with the Federal Department of Justice to ascertain whether or not there would be any input from that direction.

**MR. HENDERSON:** Mr. Chairman, before we pass on from this I was wondering, in case of a bankruptcy and there are several creditors, are all the creditors notified of the total debt at the time when they go into bankruptcy?

The other thing that I want to bring up is the hotels when they order their liquor, isn't the liquor supposed to be accompanied by cash at that time? Well, when the Liquor Commission violated the laws, you might say, by not accompanying it with cash, how come they would be one of the ones that would be recognized and paid when a hotel went into bankruptcy.

**MR. PAWLEY:** Mr. Chairman, I don't think we should debate the legality of it because the legality has been researched and agreed to as being correct by all parties involved. The cheque that had been

presented turned out to be an NSF cheque and it wasn't that there was no tender of moneys, it was just that it was a worthless cheque that accompanied the request for the liquor.

Insofar as providing the names of all debtors to all creditors, yes that takes place in the bankruptcy situation.

**MR. CHAI. AN:** The Honourable Member for Assiniboia

**MR. PATRICK:** I don't know if we're on the right topic but the question that's raised by the Member for Pembina I believe is a very valid question and I would like to ask the Minister as well, the Attorney-General, under what law or under what circumstances — you say the Manitoba Liquor Commission had preference — was it just a general settlement between the legal counsels, between the Government and the trustee or what happened in that case that the Liquor Commission did not have to wait and receive a settlement on the basis of the way the Receiver settled the bankruptcy in the case that was mentioned by the Member. It seemed that in this case the Liquor Commission did have a preferred, sort of a secured preferred position and really I can't say under what law they did because they didn't have any secured position through any registered liens and still they were able to receive their money while the other creditors had to settle on a percentage, on a very small percentage basis. It does concern me and I think that the member has a good point. There may be some circumstances we don't know but I would hope the Attorney General can explain.

**MR. PAWLEY:** Mr. Chairman the matter involved, an assignment of debts, these cases refer to rather than a question of bankruptcy, an assignment which entered it into an entirely different field than if it had been pure bankruptcy. I assure members that it was thoroughly researched from a legal point of view and, in fact to have not insisted on that money would be to throw away moneys which the Commission would otherwise lawfully have been entitled to.

There was no injurious effects from the Commission insisting upon payment of its money. There were no employees that were laid off because of the Commission's activity in this regard. The Receiver has acknowledged the Commission was fully and lawfully entitled to its money and in fact for the Commission to operate in any other way I think would have aroused accusations from members opposite that it was acting in an unbusinesslike manner that was not looking after the public interest.

**MR. CHAIRMAN:** Resolution 24(c)(1) \$505,400—pass; Other Expenditures \$456,400—pass; (d) County Court (1) Salaries \$552,300.00. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, dealing with the operation of the Small Debts Court, it has been brought to my attention that the Small Debts Court operates in a fairly good manner in that it operates more or less as a scare tactic, that for \$3.00 you can go down and you can get a judgment from the Small Debts Court and you have a fairly good prospect of collecting the judgment that is awarded in that Court. However, if the judgment is not collected, I would like to know what effort is taken and what authority can be used under a judgment that has been registered in Small Debts Court. It is my understanding that at some time there have been businesses in this province that have operated and continue to operate a day-to-day business with as many as 30 and 40 Small Debt Court judgments against them and a relative inability apparently to collect the judgments under that court. I was always under the impression that a judgment registered by a court whether it be a Small Debts Court, a County Court or a Queen's Bench Court roughly had the same degree of importance and the same degree of enforcement. If there is a difference I would like the Attorney-General to tell me if there is a difference in the enforceability of a judgment that has been issued by Small Debts Court as compared to Queen's Bench or County Court or Provincial Judges Court.

**MR. PAWLEY:** Mr. Chairman, there is no difference. A judgment obtained under the Small Claims Court can be registered as though it was a judgment obtained under the County Court and then once that judgment is filed then one has the same rights as one has with any other judgment of any other court to proceed with action to realize thereupon whether it be under The Executions Act or the Judgments Act or any other legislation of the province.

Let me just say that the responsibility for initiating action to realize must rest with the judgment creditor. There is no way by which the department or the government undertakes or initiates effort to realize that. That responsibility must rest with the judgment creditor. Naturally often one is up against judgments that are worthless because you are dealing with debtors that have no realizable assets

**MR. GRAHAM:** A supplementary question then, to the Attorney-General. When a judgment is registered in Small Debts Court, I understand that it is kept on the records of the County Court Clerk. Now who is responsible for the removal of that record off the records of the County Court Clerk? Is it the person who has the judgment against him, or the person that is the successful recipient of the judgment?

**MR. PAWLEY:** Generally, if a person has a judgment against him in the County Court, that judgment will remain until such time as the debtor pays the judgment, and in return for payment of the judgment, he will request or insist upon a discharge of judgment from the judgment creditor.

**MR. GRAHAM:** Mr. Chairman, the reason I raised the issue, I think there have been several cases

where, because a judgment was issued and somebody called around, "Yes, the fellow paid the account and everybody was happy," but on further checking, when you check with the records of the County Court Clerk, the judgment officially still exists. I think there is an obligation on somebody's part to make sure that once that judgment has been fulfilled, that it is cleared off the books. And there seems to be some confusion in this particular area at the present time.

**MR. PAWLEY:** Mr. Chairman, if it was the responsibility of the staff in the County Court office to check and to double check, to ensure that every judgment paid has in fact been discharged in the County Court office, then we would need enormous staff to do that. So that the responsibility and the initiative must rest with the judgment debtor, when he/she pays off judgment to ensure that they obtain a discharge of judgment and to file it in the appropriate office, so there is clearly a record. If a judgment is paid off and the record still remains in the County Court office, then that has to be because of neglect on the part of the judgment debtor to ensure that they receive a receipt or a discharge of judgment that can be appropriately filed in the proper office.

**MR. GRAHAM:** Mr. Chairman, originally the Attorney-General told us there was no difference between a judgment issued in Small Debts Court or County Court or Queen's Bench Court, but I believe in most other judgments, the payment is made into court, is it not? But in the case of the Small Debts Court, the payment is made direct and the court has no record of the follow-through on it.

**MR. PAWLEY:** No, in fact in any court, the judgment is not usually paid in the court itself. Usually it is dealt with between the parties, hopefully resolved between the parties, payment made in return for a discharged judgment. If not, it is realized upon by garnishing or writ of execution, whatever it be, and there is no difference from one court to another insofar as the approach. A County Court judgment or a Queen's Bench judgment is realized by the same methods.

**MR. WILSON:** I wonder under County Courts, do we deal with OPD as well under this section? Under the County Courts system, it seems to me that until the media makes a particular issue of it, as they did in the case of Delphi TV and Sabre Industries, that many companies in the service industry, repairing televisions and that, can go along like forever taking the public for a ride until such time as the media gets involved. I think your particular department with the RCMP finally were after a good number of judgments able to get to the cause of this particular problem. But upon examination, it was found that this particular large group, and many of them on visitors' permits to this country, had engaged in taking the public for a ride for long periods of time. Is there anybody in the Minister's department who monitors when a particular corporation, or in this case a television company, gets 30 or 40 judgments against them? At what point in time does it become sort of alarming? Is this the responsibility of the Better Business Bureau? Is it the responsibility of a particular citizen to bring this to the Minister's attention, or is there somebody in his department monitoring?

Under OPD, it has been suggested that this vehicle has a lot of good merit, but it has also been suggested that this is a means that many particular individuals use to avoid paying their just obligations, because immediately when they file for OPD, the person gets a letter telling them they can no longer hound these people for money, and as a result many grocery stores, service stations, hairdressers and what-have-you that give credit to these individuals just forget about it, and they hope that in some point in time the government is going to mail them a cheque.

I wonder if the Minister would have any figures as to his success ratio? Are there any figures available that say "800 people went on OPD, we resolved 100 of them or we resolved 25 of them?" Are there any of those types of figures available?

There is also an indication that in the County Court, that moneys paid into court, if somebody doesn't give this particular item their priority, that those moneys at some point in time are put up on a bulletin board and that the Crown swallows the money; and that if at some point in time somebody notices it on the bulletin board and brings it to your attention, you then have to hire a lawyer to get money which was paid into court that belongs to you. And in many cases you have to go to the trouble of getting a judge's order, because there is a certain time period. I wonder if the Minister could tell us what that time period is. Is it three years or five years or what is that time period? Again we have another inconsistent time period, but there is some time period involved that if money that you have tried to collect from somebody who has paid into court, that at some point in time you have to apply to get that money out. Is there any responsibility on the Crown to search out these people and mail them a cheque? Has there been any thought given to the responsibility of the State? Is the reason they don't try to get in touch with these people who have all this money sitting in the court because it goes to the Consolidated Fund, or what is their reasoning why these people aren't notified? Is the emphasis on the judgment creditors to at all times follow their particular outstanding receivables right down to the end? It seems to me that maybe it would call for an Order for Return, but I would be very interested in the huge sums of money that the Consolidated Fund recovers from money that was paid into court. If you look up judgment files — and I believe judgment files are good for ten years — and you find that money has been paid on them, when you get in touch with the lawyer involved, if it is six or seven or eight years old, he very conveniently tells you he has lost the file, and you must then go to the Law Society. So it would seem to me there is something wrong with the system, that when the



money is paid in. . . . I agree with the Minister of Mines who is saying that there are two people, there are a judgment debtor and a judgment creditor. They go at battle in the County Court which the State provides to resolve their differences, but once judgment is signed — and it is good, apparently, for ten years — at some point in time that person, he may have been less fortunate or whatever, he talked about an award in a particular accident case, or he may win the Wintday, he may come across the money through an inheritance — he decides at that point in time to pay off all his just obligations. He pays the money into court. At one point in time, does the Minister think there is any emphasis or any responsibility of the State to tell the person that there is \$350 sitting in court for him, or does that money automatically go to the Consolidated Fund?

**MR. PAWLEY:** Mr. Chairman, in fact there are different occasions that if moneys are paid in on a judgment, paid into the court, the court do notify the judgment creditor that certain moneys have been paid in, and that they can claim that money from the court. The court doesn't just receive it. The court office doesn't just receive it and put it away. They advise the judgment creditor.

I must take very strong exception to any suggestion that court officials or staff should be involved in trying to track down judgment creditors that haven't claimed their moneys paid in. It seems to me that that ought to be, it certainly should be a responsibility of the judgment creditor. I don't see why public servants, paid for by public moneys, should be used to assist judgment creditors in doing the work you would naturally expect them to do, and that is to collect the amounts of their judgments when they're paid into the court beyond the providing of notification, attempt to provide notification that money has been paid in. Consolidated revenues don't receive the moneys *per se*. I understand they are paid into a suitor's trust account in the event of future claim sometime in the future. Those moneys are placed in a suitor's trust account.

**MR. CHAIRMAN:** Resolution 24(d)(1). The Honourable Member for Wolseley.

**MR. WILSON:** I wondered if the Minister has any indication or could tell the House how he feels the OPD program is working out and has he got any figures available on how many persons last year went on OPD. I realize maybe a year's time period isn't sufficient but is there any indication as to the success ratio. In other words how many people that go on orderly payment of debts actually fulfil their initial intent on going on OPD.

**MR. PLEY:** Mr. Chairman, the year 1975 to 1976 there were 509 applications under the program and 105 orders. In 1976-1977, 460 applications, 100 orders.

**MR. CHAIRMAN:** Resolution 24(d)(1)—pass;(d)(2) Other Expenditures—pass; (d)—pass. Resolution 24(e) Surrogate Court (1) Salaries—pass; (e)(2) Other Expenditures—pass; (e) pass. Resolution Judges' Courts, 24(f) Provincial Criminal Division (1) Salaries—pass; (f)(2) Other Expenditures—pass; (f) pass. Resolution 24(g) Provincial Judges' Court, Family Division (1) Salaries—pass. The Honourable Member for Assiniboia.

**MR. PATRICK:** Mr. Chairman, can the Attorney-General indicate to the House, how long does it take to get a case heard in this Court because we certainly had great problems before. My concern is is justice really done if somebody has to wait three or four months in a situation which a person may be in real difficulty, marital problems, family problems that sometimes it's very difficult to live under those conditions. A person may not be able to hear his case or her case and I believe there has been some progress made, but I'm sure the Minister agrees that our family law, as it is at the present time is somewhat outmoded and there has been progress made, but I would like to know if you'd give us some indication how long still one has to wait. What is the backlog at the present time?

**MR. PAWLEY:** Mr. Chairman, I think in most cases it is some months. It depends of course on the nature of the case, because in many, probably a majority of cases which are taken to the Family Court there is efforts to provide counselling, to reconcile. The lawyers also have to prepare their cases, so it's not a court that moves along in a speedy or a hasty fashion because of the very nature of the problems that it is confronted with. So I would say in answer to the honourable member and I will ask officials to check it out, but I believe it is in the neighborhood average of three, four months.

**MR. PATRICK:** Mr. Chairman, particularly in family breakdown where there seems to be no hope of any kind of conciliation and some of the cases lead to more serious conditions which is a concern to people in the City and to many people that have been affected. Would not the Attorney-General agree that when he says four, I understand there have been cases up to six months, wouldn't he feel that this is a pretty long time for justice to take place when some people may have to live together under very serious conditions that I don't think are proper and right. So I know there has perhaps been some progress but I am concerned because I know there has been great concern expressed, more so last year to me than in the recent while, but even four months I think under some conditions when there's hope of reconciliation, I can see that's not the problem. I'm not talking about that I'm talking about cases where there's no hope of reconciliation.

**MR. PLEY:** Mr. Chairman, I would not want to debate that there are not cases which should be dealt with more quickly than they are presently being dealt with and I think that certainly one of our efforts must be to try to reduce the time period, just as I mentioned in introducing my Estimates that I'm not satisfied, not happy with the delay and the backlog in the Provincial Judges Court. That has

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lengthened over the last few years and I think we must attempt to reduce that delay. So I'm not going to defend in every instance that there have not been delays that we should be able to reduce but I want to simply underline my comments by again pointing out that so much does rest, in most of the cases, with the parties themselves in their efforts to settle, to reconcile or to work out a voluntary agreement between them.

**MR. CHAIRMAN:** Resolution 24 (g)(1)—pass; (g)(2) Other Expenditures—pass; (g) pass. Resolution 24 (h) Court Reporters (1) Salaries—pass; (h)(2) Other Expenditures —pass; (h)—pass. Resolution 24(j) Sherriffs and Bailiffs (1) Salaries—pass. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Perhaps it is a good time to call it 4:30.

**MR. CHAIRMAN:** The time of Private Members having arrived, Committee rise and report. Call in the Speaker.

The Chairman reported upon the Committee's deliberations to Mr. Speaker and requested leave to sit again.

### **IN SESSION**

**MR. DEPUTY SPEAKER (Mr. Jenkins):** The Honourable Member for St. Vital.

**MR. WALDING:** Mr. Speaker, I beg to move, seconded by the Honourable Member for Point Douglas that the report of the Committee be received.

**MOTION presented and carried.**

**MR. DEPUTY SPEAKER:** The Honourable House Leader.

**MR. GREEN:** Mr. Speaker, I move, seconded by the Honourable Member for Radisson that the House do now adjourn.

**MOTION presented and carried** and the House adjourned until 10:00 a.m. Monday morning.