

Third Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Thursday, December 2, 2004

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Ms. Kerri Irvin-Ross (Fort Garry)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Bjornson, Mackintosh

Messrs. Dewar, Eichler, Goertzen, Ms. Irvin-Ross, Mr. Martindale, Mrs. Mitchelson, Messrs. Nevakshonoff, Penner, Reid.

APPEARING:

Mr. Len Derkach, MLA for Russell
Mr. Kevin Lamoureux, MLA for Inkster
Mr. Glen Cummings, MLA for Ste. Rose

MATTERS UNDER CONSIDERATION:

Recruitment and Selection of the Children's Advocate and Ombudsman

* * *

Mr. Chairperson: Good morning, everyone. Will the Standing Committee on Legislative Affairs please come to order.

This morning the committee will be considering the recruitment and selection of the Children's Advocate and the Ombudsman.

As a background to the appointment of the Children's Advocate, it is for a three-year term. The Children's Advocate shall not hold office for more than two terms of three years each. The second term of the present Children's Advocate, Ms. Janet Mirwaldt, expires on March 29, 2005.

With regard to the Ombudsman, the appointment of the Ombudsman is for a six-year term. The Ombudsman shall not hold office for more than two

terms of six years each. The second term of the present Ombudsman, Mr. Barry Tuckett, expires on February 11, 2005.

Both of these positions are Order-in-Council appointments. Copies of the applicable legislation for both of these positions were circulated at the commencement of this meeting.

Before commencing with the business before the committee, did the committee wish to indicate how late it is willing to sit this morning?

Mr. Doug Martindale (Burrows): I suggest we sit till twelve noon and reassess at that time.

Mr. Chairperson: It has been proposed that the committee sit till twelve noon, and then reassess at that time.

Mr. Jack Penner (Emerson): I believe what is required of the committee today is basically select a committee that will put out the applications for both these positions and then later on meet and do the proper analysis of who the right candidate would be and make that recommendation to government. I think that, basically, would be all we need to do today, so I would suggest that we proceed. I doubt whether we will be here by noon. At least, I hope we will not be.

Mr. Chairperson: It has been suggested that the committee will conclude its work and review at twelve noon. At that point, we will review, if necessary. Perhaps we will conclude our business prior to that time.

The floor is now open.

Hon. Gord Mackintosh (Minister of Justice and Attorney General): I think we can learn from some of the work that has been done in this area over the last number of years or based on that approach that has worked. I think one year there was a whole committee that was doing this, and I heard it was a bit of a disaster. I do not even know if it is fair to people who come before an outfit like this to answer

questions when they are applying for employment. That was once, but I understand that the precedent that has developed is a subcommittee doing the work. I think that we can maybe tune it up just a bit more.

*(10:10)

What I would suggest is that we delegate to a subcommittee of three. I think three was the number that the former government had used. I think that would be a good number, supported by staff, and that the committee be empowered to go out and get the ad, get the criteria—I am not in the right order here—get the criteria, get the ad together, decide on placement of the ad, short list, interview, and come back with a recommendation to the committee which, I presume, would be held in camera. I do not presume, it would have to be in camera. Then the committee would make the final decision based on the recommendations of the group of three.

The group of three, I would recommend, reflect the distribution of seats in the House. That was what was done last time. I would think that because the February 11 date is looming, we actually ask that the committee come back before February 11 so that there can be continuity in the Office of the Ombudsman.

That was the proposal I wanted to bring to the table. We have a couple of members that have expressed an interest in being on the committee, the Member for Fort Garry (Ms. Irvin-Ross) and the Member for Selkirk (Mr. Dewar), whom we would be prepared to nominate. That is what I was going to put on the table.

Mr. Leonard Derkach (Russell): Mr. Chair, I want to begin today by indicating that, besides the hiring of a new Ombudsman and a new Child Advocate, there has been a Child Advocate's report released. In the report, there are some significant issues that I think have to be dealt with even before we move ahead with the hiring of a new Child Advocate. I guess my concern is how do we deal with those issues prior to us moving ahead with the hiring of a new Child Advocate who will be assuming, it appears from the report, a significant number of issues that have not been acted upon by government at this point in time.

In the midst of a huge number of issues that have been raised by the Child Advocate, we are moving

ahead on a hiring issue. I do not know how a process can be effective in hiring a Child Advocate. Who would ever want to look at engaging him or herself in an activity where there are so many outstanding issues that have not been answered or have not been dealt with? I am not sure the process that this has to undergo, but there were some significant recommendations that were made that have not been dealt with, or there has not been a process put in place to deal with them that we know of.

I raise the issue because I know how important it is to get on with the hiring of the Child Advocate. I only raise this to get your advice on how we could deal with these issues so that they can be concluded before we go ahead and advertise for a Child Advocate. My concern, Mr. Chair, is that we are going to be putting out an ad for a Child Advocate with significant outstanding issues that have not been acted upon. Recommendations made by the Child Advocate, recommendations that were forwarded to us as legislators to deal with through a report, and yet, we have not had any kind of summary as to what direction we are taking with regard to the Child Advocate issues.

So I ask for your advice, Mr. Chair. I know this may be somewhat out of order, but I do need that advice. I think our side of the table, at least, needs that advice before we move ahead with selecting a subcommittee that would then proceed with the hiring of a new Child Advocate. I ask that question.

Mr. Mackintosh: The purpose of the committee today, of course, is to put in place the hiring process. The issues raised by the member are, of course, fair questioning in terms of the Advocate's report. I think that the most important way to ensure that recommendations or outstanding issues are acted on is to get the position filled as soon as possible. I think if there was any single initiative that could undermine the continuing surveillance of matters, it would be to delay the hiring of the Child Advocate. I would suggest we get going on it. Get the Child Advocate in there and make sure that there is not a period of time that goes by without a Child Advocate.

In terms of outstanding issues, whether it is Family Services or LAMC, I am confident that those issues will be considered or are being considered. As I say, the questioning of the Minister of Family Services (Ms. Melnick) on that is something that, of

course, the opposition can pursue in other venues. I would say let us just get on with the job, make sure there is an independent officer that is in place, and that we not have a gap.

Mr. Derkach: I certainly respect the comments of the Government House Leader on this issue. However, I think it is important to note that there needs to be a process put in place that is understood by all members of the House and especially members of this committee.

I am not a member of this committee, but I am echoing a concern as the Opposition House Leader here that we need some process in place whereby the outstanding issues can at least be aired and answers can be provided. I do not know whether that is through this particular committee on Legislative Affairs, or what it is. I think members on this side of the House would be only too happy to see a process whereby the issues that have been identified can be dealt with so that a Child Advocate coming in to a position is not saddled with something that should have been acted upon is not acted upon, and there is no plan on how to act on it.

Mr. Kevin Lamoureux (Inkster): Mr. Chair, I just want to express one thought in regard to the process. That is you have four offices: the Ombudsman, the Auditor, the Child Advocate, Elections Manitoba, which all in essence answer to the Legislative Assembly. I think it is important to note that these offices are there for all MLAs. I would suggest to you that all MLAs should have some role to play in terms of the hiring process of these offices.

Now, obviously, there are at least two that I am most concerned about: myself and the Leader of the Manitoba Liberal Party. I would suggest if the government was wanting to go with the numbers that the Government House Leader is talking about, even establishing some sort of an observer status so that given the independent nature of these offices, we ensure that all MLAs have some role to play in terms of the process. It is not to say that we have to have a voting position, but to be there even as an observer so that we are following what is happening. Thank you.

Mr. Kelvin Goertzen (Steinbach): Mr. Chairperson, I think the dilemma that was expressed by our House Leader, the Member for Russell (Mr. Derkach), is an important one to discuss. The

Minister of Justice responded to it to some degree, but I do not think he quite understood the nub of the issue, and that is for a hiring committee to go about trying to find the appropriate person to fill the position. You, of course, need to know the kinds of skills that individual is required to have, and those skills are related to the challenges that are faced in any particular department.

I know those that have been involved in business before, whether it is hiring for a law firm or whatever it was, the first order of business is not necessarily to bring in resumes and to go through the various applicants who apply for the job. It is to do an assessment of the business or the law firm or whatever organization it is, to do that assessment first because it is very difficult, I think, to determine who the right person is to fill any kind of a job until you know what the requirements or the challenges that the organization faces that you are looking to fill a job.

* (10:20)

It is quite pertinent in that regard, Mr. Chairperson. I would say that when we have seen, in the last couple of days, a Child Advocate's report put forward where there are a number of concerns raised, I think, both about what is happening within the office and some of the challenges that there might be in terms of a shortfall of funding and those kinds of skills or those kinds of challenges, so to now look at who would fill that position, it could be argued that the best person at this time of the history of the Child's Advocate office would be somebody with very strong management skills because of the difficulty that is happening within the department.

Another argument could be made that, in fact, it would be somebody with more of the human resources types of skills because of the difficulties that are happening—well, the Member for Interlake (Mr. Nevakshonoff) shakes his head. I guess he does not see the importance of this. Perhaps he just wants to throw up a bunch of résumés from the top of the stairs and see which one lands nearest the top, and that is the one we will go with.

These are long-term decisions that not only impact—*[interjection]* Of course, the Minister of Education (Mr. Bjornson) might want to call it wrangling, but I think when we are talking about kids, when we are talking about the long-term future

of a department that deals with the most vulnerable, or some of our most vulnerable in society, that is not wrangling. Mr. Chairperson, fellow members of the committee, that is doing due diligence, if we are going to use a term that the Minister of Justice (Mr. Mackintosh) might be familiar with. To simply come to this committee and say that this is a wrangling process, or this is not important, it does not do service to any of us as members. Certainly, it is not going to do service to the Child's Advocate department and the children that are there to be served in the long term.

So, again, I say that once it is established, the hiring committee, and once it is put in place, the person who is going to be best for the Child's Advocate department is directly relevant to the state of the Child's Advocate office as it is today. To get the right person, to ensure that in the long term the needs of that office are met, one has to do a full examination of where the department or where the office is at this current state.

So I think, Mr. Chairperson, to not have a good review of the Child's Advocate report—there is a lot of work put into that report, I would say, and resources and time and money. This often seems to be the way of this government, that a report comes down—I am not going to sidetrack myself and start talking about Hydra House and start talking about the report that came down there. We saw, of course, that there was an internal review that was done within the Department of Family Services by the then-minister, the now current Minister of Health (Mr. Sale), and it kind of got shuffled aside and a cursory review and set aside, and look what happened there.

Now, this is how it is relevant, because look what happened when a report was brought forward internally and just kind of shuffled aside, "Oh, put it under this pile of papers; put it under that pile of papers and we are not going to deal with it." Two years later the fallout still comes from the shuffling aside of a report. Now, the government wants to go down the same road, that well-travelled road of "Well, we have got a report that has concerns raised; we have got a report that has got some red flags that have gone up. But, oh, circle the wagons, and we will just move these things through. We will not really give it the kind of consideration." It is not only that it does not do service, then, to the office of the

Child Advocate, which it clearly does not, but it also does not do service to the drafters of the report and to the good people in the civil service who took the time to put it together, the annual report, and to do a thorough analysis, I am sure.

From what I have read of the report, it seems like a good analysis, to see how things are, to do more than a snapshot, I would say. It is not just something that is rooted in time and taken from 30 000 feet. I think that they really did a good job of saying, "Here are the difficulties, and here is what has happened in the last year that is not going well and that did not work out so well and that is a shortcoming." I know the government does not want to talk about shortcomings within their departments. I do not think I am naive; I suppose there is a political reason for that. Where glitches occur, whether it is in education or in other areas, I know there is a reluctance to discuss those publicly, and to bring those forward to the light of day so that the public can look at those.

I suppose this is just their way. I suppose there is some sort of briefing note or something that goes around to all ministers when they get sworn into Cabinet about how to deflect, delay and deny things. I guess if that is how the government wants to run their show, it is their show to run. But, when we talk about reports that deal with a department as crucial as the Child's Advocate office and the need now to hire somebody, who is going to be key in setting the direction in trying to figure out how we strengthen the office? Clearly, there are some weaknesses within it. To simply ramrod through a process where we move quickly to throw up a bunch of résumés and see which one weights down first just does not do it justice.

Clearly, Mr. Chairperson, we know that there are probably a number of people who are qualified for the position. There are a number of people today and I am sure there will be a number of people three months from now, but qualifications is the key here. We could no doubt find people who have the right educational background, who have some experience, and some would have more strengths than others but, really, if we do not hire somebody who is a reflection of where the Child's Advocate office is today, where it stands and the challenges that it is going to face over the next couple of years, what have we done as legislators here?

At ten o'clock in the morning, some comments were made that maybe I did not sleep through the

night because I come in kind of excited and ready to go. I think it is important. I do not come into the Legislature thinking that what happens at 10 in the morning is less important than what happens at 1:30 and then what happens at 1:30 is less important than what happens at 3:30. I think it is all important. *[interjection]*

I thank the Member for Inkster (Mr. Lamoureux) for his encouragement on that and I know he is the same way, that he looks at all of these issues and knows that they are important and wants to make sure that when a decision is made it is the right decision and it is a decision that we will not regret in a month from now, or two months from now, or three months from now, or three years from now.

So to come in and fire the shotgun pistol and say, "Oh, it is ten o'clock. Let us try and get out of here at 10:30" so the members can go do whatever the members do on the other side. *[interjection]* Okay, twelve o'clock, so I will stand corrected. The Member for Burrows (Mr. Martindale) said that he is willing to sit for two hours. If it takes him two hours to make such an important decision, then he is willing to put in those 120 minutes.

Maybe that is just not sufficient on an issue like this when we have not had the chance to really go through on an in-depth basis the annual report. I guess we do not have the ability to do this exercise, Mr. Chairperson, but if we could go out to the public and say to them, "Are two hours sufficient to determine whether or not we are getting the right person for the Child's Advocate office who is going to deal with the most vulnerable in society?"—because one of the members for the Legislature suggested that would be enough—I think they might say, "Well, maybe take a little bit more time. Do your due diligence on a question that is that important."

I know that there have been other committees in the past. I look back to 1998, where there were discussions, I think, about recruitment and selection of the Child's Advocate. At that time, there were a number of members and, in fact, it is interesting, as I just flip through some of the Hansard. I had a chance to read some of it. I see that the current Minister of Justice (Mr. Mackintosh) was at the committee at that time. It is funny. He did not want to just go through things quickly there. He had a number of questions at that time. So I guess this maybe falls

under one of those things where "that was then, and this is now," right?

I keep on going through. Oh, yes, absolutely, there were a number of New Democrats at the time. Oh, look, this is interesting. The current Minister of Health (Mr. Sale) was here and, at that time, under that committee, and he raised questions about ensuring that the right person was put in place. So I guess that maybe that falls under more irony, Mr. Chairperson, than anything else that now we fast-forward to this year, that the government wants to quickly move through on these issues. But that was not their position then.

If not just for consistency, if I can appeal to a more basic morality of just simply doing the right thing as is sometimes said in the House. If I cannot appeal to that, I would ask them to at least be consistent among themselves and to say, "Look, at that time, you thought there were some legitimate concerns that were being raised, and you thought that some due diligence should be put forward." I heard one of the members say that there is lots of due diligence that has been put forward. I would say we have been in this committee a half hour, and if that is what she feels is due diligence, then she can justify that to her constituents, and I will leave that to her to do that.

* (10:30)

Certainly, when I go back to my area, to the great constituency of Steinbach and to communities like Niverville and Hanover, they expect that decisions that are made within government are going to be done not just on expediency. This is not a race where we all line up at the beginning, and the clerk fires a gun, and we see how fast we can get to the end of the finish line. I suppose the government might appreciate that, and they might think that that is the best way to do things, but it is not. You do not just line up and do the firing gun and say, "Oh, boy, we got this done in 15 minutes. That is great. See you all at 1:30."

We are responsible for these decisions because Hansard will live on long after we are all gone, either from the Legislature or from this great earth. Hansard will be there, and will record the fact that we made decisions. I do not know, it is maybe not likely, but possibly 50 years from now, maybe there

will be an intrepid student who will look back and want to do a review of how things were done in the Legislature. I wonder what they would say 50 years from now if they looked back at this committee and they would read about that the government did not think it was important to look at how the department was being run before they hired somebody.

I wonder how history would view us and how history would reflect on our actions. I would say, Mr. Chairperson, they would reflect negatively upon us, and that those who come after us, who might be legislators themselves would look and say that just was not done right, and can we do things better, and how do we improve this system.

Here is our opportunity. We do not have to wait 50 years for somebody to look back and say that this is the great thing about what we are talking about now. We can do the right thing today, so that 50 years from now, when somebody in the future is looking back at history, they can say they did the right thing. They took some time. The Child's Advocate will be in place for some time, and the duties are significant, Mr. Chairman. We know that the Child's Advocate advises the minister on a number of key issues.

This is, in fact, right in the act in terms of duties. I think it is No. 1. It says the Children's Advocate shall advise the minister, and then it lists different matters on issues relating to the welfare and interests of children. One would think that even the minister might want to stand up and say maybe we should look at the report and look at the shortcomings that were outlined in the annual report, and get that right person and see that the different skills will relate to where the department is at this particular time.

One would think that, when the Minister of Justice (Mr. Mackintosh) goes back into Cabinet, and the Minister of Education (Mr. Bjornson) goes back into Cabinet, the minister responsible would come and pat them on the back and say, "Thanks for doing a good job. Thanks for taking that little extra time." If it took an extra week, or an extra meeting, or an extra morning, or whatever it takes, Mr. Chairperson, that the minister might go to her colleagues in Cabinet and to her colleagues in caucus and say, "You are doing me a favour. You are doing me a service by ensuring that the person we hire has the skills that will meet the challenges of the department as it states today, as the challenges that are outlined

in the annual report. We are not going to just take a shovel out to the back of the Legislature and bury another annual report."

Maybe I should sometimes go behind the Legislature and start digging around; I might see some of the annual reports that some of the ministers of the current government have buried.

The Member for Selkirk says, "Maybe there are other reports back there from other governments." If it is so, I say, then let us challenge the committee to set a new way. This is bipartisan. I am not going to get into a squabble with the Member for Selkirk and say that maybe in the past that there have not been annual reports that have been moved through more quickly. I am not going to say that—[interjection] So there is more cackling going on on the other side of the table. I am going to repeat, the Member for Selkirk wants us to just go and shovel this report under the back. He says, "Maybe there are other reports back there from other governments. Maybe there are reports from the nineties, the eighties, under Howard Pawley. Maybe Ed Schreyer has reports back there."

I say to the Member for Selkirk (Mr. Dewar) and the Member for Interlake (Mr. Nevakshonoff), who, all of a sudden, is awoken from his chair. It is good to see that he has decided to become active. If I have done a service by getting the members engaged in this issue, then I already think that is important. But if, in the past, reports have been moved through too quickly; if, in the past, reports have been kind of shuffled aside and not been given the due diligence that they deserve, well, then, I say, "Shame on all of us."

I do not mind saying that. I do not mind saying that maybe in the past, under the Pawley government, or the Schreyer government, that maybe this was done, too.

The Member for Inkster (Mr. Lamoureux) says the Liberals are clean, you know, because they have not been in government in the province since 1940 or—

An Honourable Member: A little while.

Mr. Goertzen: Yes, a little while. But I know that the optimistic Member for Inkster wants to ensure that if they are so fortunate as to win another 27 seats in the next election—and if he does, I will tip my hat to him.

I would say, then, to the Member for Inkster that he would not want to be part of a government that would just take a report and try to put it under the rug and not give it the kind of consideration that it deserves. I do not think that is the sort of thing that the Member for Inkster—and I have developed a bit of a friendship with the Member for Inkster. I know that it is strange that I might have that kind of relationship now with a Liberal. Those in my riding might be concerned to wonder what is happening, but I recognize good people when I see them. I would say to the Member for Inkster that if that is his concern that this report does not just get brushed aside, I concur with him.

Then, now we have two parties that are onside and in the spirit of bilateral co-operation and putting aside political differences, and I am always one to put aside political differences. This would be the time. We might look back to this committee on the morning of December 2 or December 1 and say that we started on a new ground, that we put a fresh foot forward, Mr. Chairperson, by ensuring that we get the right person.

I also look at—and I know that this will be important for the Chairperson in his deliberations—the Child and Family Services Act, and I see that under section 8.2(1)(b) that the Child's Advocate will also review and investigate complaints that he or she receives.

I would say that, at this particular stage, is a reflection of the annual report, that the kinds of complaints that are coming forward to the department are, I think, a reflection of where the department is at. If there is strong organization or if there is a strong sense of resources then, of course, the complaints that you will get forward will be different than when there is not that kind of organization and when there are not those resources. So, then, the nature of the complaints are important to who we hire as the Child Advocate because their job will be somewhat different, I think, because of the complaints that will come as a result of that.

Again, the Minister of Education (Mr. Bjornson), the Minister of Justice (Mr. Mackintosh) would be doing their colleague a service. They would be doing their colleague a service by ensuring that the right person for the right time—this is where, I think, the Minister of Justice kind of got off the rails in his comments, because, yesterday, the Member for Ste. Rose (Mr. Cummings) who has

been here much longer than I have been, and who, I hope, will be here for many more years to give his wisdom and expertise, but says, again, and I know that the Member for Ste. Rose will be on the other side of the House soon. I would say, and I do not want to put words in the mouth of the Member for Ste. Rose, that if he was on the other side of the House, and having gotten to know him a little bit over the last few months, I think the Member for Ste. Rose would say, "Well, let us make sure we do this decision right the first time, you know, because the most costly decision is the one that has to be revisited."

I think sometimes the members on the opposite side forget that. What a prime example we saw within Hydra House now as resources are spent and the time of the Auditor General has been spent having to go through the process of a full report on Hydra House, because the decision that the current Minister of Health, the former Minister of Family Services, and it is the same department we are speaking about today, made the wrong decision in 2000 when allegations came forward. He had a report that, I was going to say, some red flags went up. I would say, Mr. Chairperson, far more than red flags went up. I think there were flares going up all over the place, and explosions. I do not know how he missed it. Sometimes, when you go into a new community, and you say you are looking for directions for some place, and they say, "Oh just go down there, you can't miss it," and then you miss it.

* (10:40)

I think that is what happened kind of to the current Minister of Health (Mr. Sale) on this one. You could not miss it, but somehow he did. I do not know how. I have not had the opportunity to sit down an awful lot with the Minister of Health and see how he missed it. But let us not repeat that same mistake. Let us not let the horse get out of the barn and then it is too late to correct it, right? That first mistake, not only will it haunt us as legislators, but not only will it be there for time immemorial, but it will be a decision that will cost us resources.

It should always be primary when we talk about the Child Advocate's office, about how the decision will affect children. I think we do a disservice if we do not talk about that first, and so I did, about how this decision is primarily about what the vulnerable children who are using the Child Advocate's office,

how they will need that right person, how they are going to ensure a need to have the proper individual in place.

I referred to that at the outset of my comments, Mr. Chairperson, and now I talk more about resources. Not to be dismissive, of course, about the needs of children because that is primary, but let us get the right person in place. If we do not, if the person that we hire does not have the skills to meet the needs of the Child Advocate's office as it stands today, decisions are going to be made and advice is going to be given to the minister as is required for that person, for him or her to do under 8.2(1) of the act. If they are not giving that proper advice because we did not do our best here to ensure that the right person was hired, we will all suffer for that.

It is almost like, the members opposite, the members from the government probably will not believe it. They probably will not accept this, but it is as though we are doing them a favour. It is almost like we are protecting them. I suppose in our parliamentary democracy and in the system that we have, it is not maybe necessarily the opposition's role to shield the government from making mistakes. Our role is often to point out the mistakes of the government of the day—

An Honourable Member: But it is kind of scary watching a train wreck in slow motion.

Mr. Goertzen: —and the Member for Ste. Rose (Mr. Cummings) says, "If you have a chance to prevent a train wreck, you should do it, right?" It is almost like the Good Samaritan rule. Perhaps, we as opposition now are taking that role, the Biblical role, of the Good Samaritan, I would say. I know many of my constituents are very aware of the role of the Good Samaritan, and I think many of them who voted me here, and I thank them for that, would say that, indeed, we should as legislators be looking at that role. I think that is somewhat what we are doing here today as opposition members. Hopefully, the Member for Inkster (Mr. Lamoureux)—I have not heard from him specifically on this point, and perhaps he will want to put words on the record as we go forward.

I think that we are doing the government a service. We are almost saving them from themselves by bringing this issue forward and by wanting to point out the many, many things and the many

reasons we should ensure that the absolute best person is put into this position, not that we have second best or third best or fourth best. Maybe the members opposite want to raise the flag and say, "We hired the sixth best person available for this position to take care of our children in the Child Advocate's office. We hired the tenth best person." Maybe that is how government gets conducted on that side of the House. I am not privy, obviously, to discussion that happens in Cabinet, although I would be happy to sit in if I was ever invited.

An Honourable Member: We want the best.

Mr. Goertzen: I hope that is not how decisions are made. We want the best for Manitoba, the Member for Inkster (Mr. Lamoureux) says. We deserve the best. We do not want to be second best.

An Honourable Member: We do deserve the best.

Mr. Goertzen: The kids deserve the best. There are times we discuss kind of about—it is often in relation, I know, to the economy and that sort of thing and whether or not we are a have-not province or a have province. Actually, there is no debate. We clearly are a have-not province. I guess the debate, at this point, is whether or not we are going to stay a have-not province, whether we are going to remain second best to Saskatchewan, third best to Alberta, fourth best to B.C.

In that context, Mr. Chairperson, I say that we need to strive for better. We should not just say, "Okay, we are going to just see what happens, and we will just take somebody who has a few degrees here and some good experience there. We will not really look at how their skills match up with the challenges of the department." No negative comments on the skills of whoever that hypothetical person might be, because, no doubt, in another department—and here is another interesting thought that just came to my mind. Not only might we be doing a disservice to the Child Advocate's office, we are doing a disservice to that person if we do not ensure that the right person is put into the position. Perhaps that person could better use their skills either in another area of Government of Manitoba or maybe another government altogether, a different level of government, or another province. We are doing a disservice to that level of government and to that particular area, whether it is in a different province or another level of government.

It is almost like when you drop a pebble into the water and you see all these ripples go out. That is kind of what a bad decision here, a hasty decision that is not taken with the kind of care, the care that needs to. That is what happens here. The ripples just go out and the ramifications go on for a long time. Members opposite should be careful because these ramifications might outlast all of our terms, or any of our terms, or each of our terms. These poor decisions we make here today, there might be another Committee of Legislative Affairs constituted in two, five or ten years, who will be sitting and talking about the Child Advocate's office, and they might be saying about the decision. They might look back and say, "Boy, they made the wrong decision at that time where they dropped the ball. We really needed a person like this, or like A or like B or like C, but we did not get that person." They might look back and say, "Why? How did we end up in this scenario? How did we end up in this situation?" They will look back on the record, and they will find out that it is because—

An Honourable Member: He is in disbelief.

Mr. Goertzen: Well, the Member for Fort Garry (Ms. Irvin-Ross), I believe, says that the Member for Russell (Mr. Derkach) is in disbelief. I am sure he is in disbelief that the government is trying to take such an important decision, because I know the Member for Russell cares about children, and I know that he cares about the vulnerable in society. We are compassionate Conservatives.

An Honourable Member: There you go.

Mr. Goertzen: The Member for Selkirk (Mr. Dewar) wants to laugh. That is where you get into this kind of a difficult, difficult situation, Mr. Chairperson. That is where the frustration comes in. We, as Conservatives, and I will include the Member for Inkster (Mr. Lamoureux), not that he is necessarily Conservative, although we can always talk to him about that, but I would say that all of us are trying to make a decision that is best for the kids, best for the children who are going to be using this office. This is a compassionate decision. And it is compassionate Conservatives—

Point of Order

Mr. Chairperson: Mr. Lamoureux, on a point of order.

Mr. Lamoureux: I do not want the record to show that I am a compassionate Conservative. I am a compassionate Liberal, I must say.

Mr. Chairperson: Mr. Lamoureux, that is not a point of order. It is a dispute over the facts.

* * *

Mr. Goertzen: I am sorry if I have coloured the Member for Inkster blue. I did not mean to. Maybe Inkster itself will be coloured blue at some point, but the member, I am sure, will remain a devout Liberal. We think about him. He is in our thoughts all the time. We are trying to hope that he is going to come and see the light some day.

Back to the Member for Selkirk kind of laughing at our comments about doing something that was compassionate as Conservatives. I look here and I see the former Minister of Family Services, the Member for River East (Mrs. Mitchelson) here. I want to say, and sincerely, that I do not know if there is another person in our caucus who cares as much about issues like this as the Member for River East. I say that seriously. My respect for her as a person and for the work that she did as minister for a number of years in the 1990s, taking care of situations like this, I know the decisions are not always easy. I am not living in a vacuum or in some kind of a bubble, Mr. Chairperson. I know that these are sometimes difficult decisions. I know that they impact people. I know that the minister probably got many heart-wrenching calls when she was minister about situations, and I would suspect that she would say that we need to be very, very careful in how we proceed on this, and that to not take the time to look at a report that others took the time to put together, that resources have been put into, that taxpayers' dollars have been put into, that thought has been put into, that expertise has been put into, to not take the time to go through that report and say, "Look, this is where we are at. This is where this Child Advocate office is sitting at today."

*(10:50)

An Honourable Member: Where are we going to go from here?

Mr. Goertzen: Where are we going to go? What direction are we at? Are we at a fork in the road, or

are we half way down this road, or are we part way down that road?

To not take that time does not do service to the current Minister of Family Services (Ms. Melnick). I will even say it does not do service to the Minister of Health (Mr. Sale), the former Minister of Family Services. I will try to stand up for him today, if you can believe that.

An Honourable Member: He can defend himself.

Mr. Goertzen: I am sure he would like to defend himself. He has a few things to defend. It certainly does not do justice and service to the Member for River East (Mrs. Mitchelson) who, I know, left a strong legacy within the department and wants to see that protected and wants to see that defended.

I look at some of the other roles, in terms of what the individual that we are looking to hire at some point, will have to do. I see that "The Child Advocate shall, in response to a request, represent, other than as a legal counsel, the rights, interests and viewpoints of children who receive or may be entitled to receive services under this act." That is under section 8.2(1)(c). I know the members opposite will be quickly going to the act to follow along, in terms of my points, because I suspect they will want to be engaged in this issue, as well.

To advise and to represent, not as legal counsel, and that is, I think, clear that that is not the role of the Child Advocate, that it is not their role to take a judicial intervention into these. I suppose they can make that recommendation, right? That perhaps that is the course it should go, but not for them to, themselves, to put their hand on the rudder and go in that direction.

But more to the point, Mr. Chairperson, in response to a request to represent the rights and the interests and the viewpoints of children who receive, or may be entitled to receive, services under this act. Here, again, I think we have to recognize that the kinds of complaints and the kinds of requests that come forward to the department or to the office at any given time is a reflection of where the office is. It is a reflection of the current state of the office, and maybe there is, and I am not saying there are, but one could imagine that at certain times there would be human resource issues, and one could imagine that at other times there would be funding issues, and at

other times there would be issues regarding organization and the skill set of the individual whom this committee, or a committee, will, at some point, hire to take on those challenges, has to match that. To put a round peg into a square hole, I do not think anybody would say that it makes sense.

I also see that the role of the Child Advocate is to prepare and submit an annual report to the Speaker of the Assembly, respecting the performance of the duties and the exercise of the powers of the Children's Advocate. The powers are significant, Mr. Chairperson. The right person, in terms of exercising those powers, needs to be put into place, because not only, of course, will they affect children, and they will, but they are going to actually affect how the department, or the office itself, is run. So those are very, very important aspects.

So here we are now, and I know that the members opposite probably deep within their bellies the knots are developing and they are realizing what they have done. I am sure that as I have spoken about this issue that some of them are starting to say, "We did not really think about this. We did not give it the kind of the real thought and maybe our caucus chair, or Whip, or whatever, said 'Ah, just go in there and just set up the committee and that will be that and we will just ramrod somebody through and that will be that. The Tories will not raise any issues.'"

Well, Mr. Chairperson, if that is what they were advised, they were very poorly advised because we will not take lightly. We are not just going to say, "Ah, okay, we will just go pick a number out of a hat and see what we come up with, and that is who we will throw into the Child Advocate office and hope for the best."

That is not what we would do if we were in government today. It is not what we will do when we are in government in a few years from now. If the members want to know one of the reasons, perhaps, we want to make sure the right person is in place because we will inherit this office. We will inherit this office in two or three years.

I hear now comments. The Member for Burrows (Mr. Martindale) wants to flippantly say, "Oh, 10 years, 12 years." I guess that is a sign of a government that is slowly becoming more and more arrogant over time. Not only is that comment a reflection, then, of the arrogance of government as it goes and grows, I do not think that it does any service to this committee for those kinds of

comments to come forward. In fact, if anything, Mr. Chairperson, it is a great disservice. I have a personal friendship with the Member for Burrows; it is certainly not a personal thing. I enjoy my conversations with him; we have had the opportunity to spend time at conferences together. So it is not a reflection on him as an individual, certainly, but I think perhaps within the context of the government that perhaps this arrogance has grown and, unfortunately, the Member for Burrows has kind of been subsumed into it and brought into it. I guess it is difficult not to be when all of your colleagues are kind of responding in that way and you tend to think that this is no longer democracy.

It is ironic, on a day like this, I look around and I know a number of us are wearing orange pins, Mr. Chairperson, not as a reflection of political support but as a reflection of support of those in the Ukraine, those in the Ukraine who today are concerned about their democratic rights, those who are not necessarily happy how things have transpired in their democratic system over the last month or so.

Here, we live in a great democracy. I do not have any problems saying that, Mr. Chairperson, that we live in a tremendous democratic system. There are difficulties, but we have an obligation then to defend the principles of that democratic system and to ensure that democracy is well-served and that we do it justice. Do we do the democratic system justice when we make decisions that are done in a way that reflects what a democracy is supposed to be about? Part of that I would say is ensuring that decisions are made properly and that the system is working.

When we forget that, when we as legislators, specifically but representing Manitobans generally, when we forget that that is what our role is, it is part of the role. Clearly, we all have our own roles, representing our constituents in their views and we bring forward those concerns, whether it is in casework or whether it is in the Legislature.

I hear the Member for Inkster often brings forward concerns about immigration in the House because it is an important issue to his constituents, and I applaud him to do it. I know the Member for Lakeside (Mr. Eichler) brought forward issues of the recognition of veterans on the licence plates, and I have applauded him for bringing forward the initiative. The government kind of co-opted it and tried to call it their own, but the gentleman that the

Member for Lakeside is, he told me one time, he said, "You know what? I just want to get it done, and I do not care who takes credit for it."

That is the sign of a true, true gentleman. Maybe I am not as much as much of a gentleman, because I am going to say the Member for Lakeside deserves credit for it. He deserves to have people know that he brought forward that initiative. So that is part of the role that he does and certainly I know that all members of the Legislature bring forward their issues, but it is not the only thing we do, Mr. Chairperson.

* (11:00)

It is not the only thing that we do here as legislators. We also have a responsibility as elected officials to defend the democratic system, to ensure that we are doing all that we can to ensure that our democracy remains strong, and that our democracy remains accountable and transparent. Those are the words, I know, that the members opposite do not like to hear: accountability and transparency. That is not what they want to hear about. We sit, you know, 37 days in a year. That is not accountability, and it is not transparency. It is neither of those things.

But that is what democracy, I think, is. We have sent representatives from Canada to the Ukraine, but if the roles were reversed, people from the Ukraine could come here and get a sense of our democracy, I have no doubt that they would be envious. I have no doubt that they would say, "Yeah, we wish we could participate in something like that and we could be a part of that." But I think that they would give us a very real caution not to take it for granted and not to just let it go.

Mr. Chairperson, I was reading an edition of *Maclean's* in an article that was written by—is it Alexandre Trudeau, Mr. Trudeau's son?

An Honourable Member: Justin.

Mr. Goertzen: Well, Justin is the other one. I believe it is one of Mr. Trudeau's sons. I could stand to be corrected, but it was Alexandre Trudeau, I think, writing an article about how things are going in the Soviet Union. I think the Member for Interlake (Mr. Nevakshonoff) visited the Soviet Union one time, so he might be interested in this. I think at one time I remember him saying in the House that he

visited the Soviet Union. I do not think it was political training. I think he was there for other reasons, and I think that he had an interest in what is happening in the Soviet Union, Mr. Chairperson. In fact, I do not—

Point of Order

Mr. Chairperson: Mr. Nevakshonoff, on a point of order.

Mr. Tom Nevakshonoff (Interlake): I am not sure I heard correctly. Did the Member for Steinbach say that I was in the Soviet Union for political training. Could he clarify that? That is a pretty bold statement. If that is, indeed, what he said, then I certainly take offence to that. I may be of Russian ancestry and I have been in the Russian Federation. I want to correct the member on that. I was never a visitor to the Soviet Union. The Soviet Union dissolved many, many years ago prior to my visit there. If he is making a suggestion to that effect, then I take offence to that, and I would like him to clarify that and maybe apologize for that.

Mr. Chairperson: Mr. Goertzen, on the same point of order.

Mr. Goertzen: On the same point of order, Mr. Chairperson, certainly I think if the Member for Interlake reviews Hansard what he will find is that what I said was that I am sure that the Member for Interlake was not there for political training, so, in fact, I was defending him.

An Honourable Member: It was probably for the bear hunt.

Mr. Goertzen: I do not know if he was there for the bear hunt, as the Member for Interlake suggested. It does not really matter to me why the Member for Interlake was there. I clearly said, I am sure, that he was not there for political training, but I appreciate the member's comments, and if he was offended by them, I will withdraw them, Mr. Chairperson.

Mr. Chairperson: I thank honourable members of the committee. There was no point of order. That resolves the matter.

* * *

Mr. Chairperson: I wish to remind the members of the committee at this point that we are here today to

talk about the appointment of the Children's Advocate and the Ombudsman for the province, since those two positions will be vacant in the near future. There is no legislative requirement to debate or to discuss the annual report of the Children's Advocate's office, since that report is tabled by the Speaker of the Legislative Assembly. I wish to remind members of that condition where the report is tabled in the Assembly itself. We are here to talk about the appointments of the Ombudsman and the Children's Advocate. There is also no legislative requirement for the Children's Advocate report to be referred to the Standing Committee on Legislative Affairs.

Mr. Goertzen: Thank you very much, Mr. Chairperson. I appreciate your comments, and certainly I think if you would review Hansard, you would see that all of my comments are germane in terms of the appointment of the committee.

This is a good point. I am glad you brought this forward, Mr. Chairperson. I am glad that you have raised this issue about the right person to have on the committee because I was framing my comments in terms of the right individual that would be hired, the right person who would be hired as a Child Advocate. I think that absolutely is relevant. If that is not relevant about having the right person hired, then I do not know what the point of this committee would be. I certainly think if we do not, as a committee, ensure that right person is hired, then we have done a disservice. But, more particularly to the point amongst the group that is here today, or others, who gets appointed to that committee has to have a right set of skills as well. I am sure the government members opposite have, I hope, spent some time thinking about who they might have.

I would say to them that if the review took place yet of the report, then we would then have a better idea of who should sit on that committee, right? Because if we decide that the report is such that it leads to the fact that there is a lack of organization or a lack of funding, or whatever, lack of human resources, then who we as legislators appoint to that committee, who we appoint as representatives of our individual parties would reflect those challenges as well, I would say. If the biggest issue facing the Child Advocate's office happened to be human resources, and I use it as an example, if that was the biggest issue as outlined in the annual report, then we as a Conservative caucus, the compassionate

Conservative caucus, would want to ensure that we would put somebody on that committee who had a strong background in human resources, for example.

It is an example I am using, Mr. Chairperson, right? It is directly germane, directly relevant then to the appointment of that committee. Again, I do not want to feel like I am having to do the government's job, but somebody has to, and if it has to be me, then I am willing to take on that burden. But I say to the members opposite that surely they would want to look at a report and see where the challenges are. Then that would form a basis to somewhat of who they would want on the committee. Maybe the Minister of Education (Mr. Bjornson) would look at a report and say, "Well, I think there are a lot of challenges in the office as it relates to financial accountability." I just use that as an example.

The Minister of Education, I am sure, would go to his colleagues and say, "Well, who amongst us would best be able to find somebody or recommend somebody who could deal with those kinds of financial implications?" Would the Minister of Education not want to do that in terms of due diligence? Would any of the members of this House not want to ensure that we who were put on that committee, the hiring committee, Mr. Chairperson, that we put on that committee the right person? Because that is part of democracy. I was relating to the Member for Interlake (Mr. Nevakshonoff) about the article I had read in *Maclean's*. I challenge him to read it; I think he would enjoy it. How democracy is sort of failing, because people are not interested anymore. If he reads the issue of *Maclean's* that deals with it, the most recent one, it will say that the people within the former Soviet Union are not engaged anymore. They do not feel that they have a stake in the issue anymore.

That is my point, and I want to bring it home to the Member for Interlake in terms of where this is relevant, because I know he will know. He will see it clearly now that, when we are trying to defend democracy, that is what we are trying to do, to do the right thing and to ensure that when we have the chance to form a committee that is going to have such a significant impact, today and tomorrow and one year from now, two years from now, three years from now, one chance in a number of years, Mr. Chairperson, this is not like going to watch a hockey game, where if you did not like that hockey game one day, you go watch another hockey game the next

day. That is not the luxury that we have here. Of course, we do not have the luxury to watch much hockey these days.

The fact is, of course, that we are going to get one shot at forming this committee and that committee is going to be making very, very significant decisions.

You cannot look at the two in isolation. The formation of the committee has to be a reflection of where that office is. I am sure that if you would take the time, members of this committee, all members of this committee, talk to business people. I am sure the members from the government might know a few business people, maybe. If they would go and talk to business people about hiring committees—so this is germane, Mr. Chairperson—and how do you form the right hiring committee?

* (11:10)

I have a degree in commerce and spent some time working in business and, unless things have changed significantly since my education and since my time in the private sector, I would suggest that the proprietors of the business or the shareholders or the operating minds of the business would say how you form a hiring committee is in direct relation to the needs that you are trying to fill within the organization. The people who are on a committee, who are going to try to seek out an individual with the right skills to meet the challenges of that organization, the people on that committee are going to have to be able to identify those skills.

So I do not know how members on the opposite side, the members of the government go about determining who is going to be on a hiring committee, if they throw the names in a hat or they draw straws, and whoever has the short straw sits on the committee. I mean, I hope that is not the case. I hope that that is not the way they are approaching this particular process; that they do not think it is of import enough that they would not go through with a review.

You know, I am happy, Mr. Chairperson. I see the Member for Selkirk (Mr. Dewar) reading the Child's Advocate report, and I think he almost makes my case as he goes through the report because I think maybe now he is seeing that what I am saying is right. I think that he has come to the understanding

that you have got to go through this report to determine who would best be on this committee, who is going to be making this significant decision, that it is not something where you just throw up a bunch of names in the wind and whichever one we catch that is who is going to go on the committee. It has got to have a more important and a more thought-out process.

Is there a better way to think it out, to make the right decision, the rational decision? "Rational" is a word I like. The Member for Interlake (Mr. Nevakshonoff), I do not know if he likes that word or not, but I think all the decisions that we make in the Legislature—

An Honourable Member: You are bordering on another point of order.

Mr. Goertzen: I need the break. Go ahead.

When you look at something, you need to determine whether or not it is a rational way to go. If we do not ensure that we are pointing this committee in a rational way, and rationality based on the state of the department as outlined in the annual report then determines, and you follow my sequence, Mr. Chairperson. I know you are interested and engaged in this issue. The rational way to look at this, I think, would be to review the annual report, see where the challenges are and then, after you see the challenges, then you look around your own caucus and you decide who are the individuals within my caucus who can find the person who has the skills to meet those challenges, right? Then you go ahead, and then you appoint those people, and then you go into that process. To me, Mr. Chairperson, and maybe it is just my way of thinking, but I certainly think that is rational.

What I do not think is rational is to come into a committee at ten in the morning and have the government just say, "Okay, two over there and one over here and one over there." That is where we are at. I just do not think that is right, and I do not think it is disciplined. I do not think that we are doing justice for any Manitobans.

I know I have only put a few comments on the record. I would like to put more grist in the mill as it were, and I would like to put more oil in the engine so that the members could further see where it is that this rational movement is coming from, but I leave

that as a challenge then. I leave that as a challenge for the members opposite to clearly, to make sure that we do not make a decision that is not well thought out and that is not properly done, because, in the end—the member from Interlake laughs, but in the end it is not me that is going to get hurt, it will not likely be me that is going to get hurt. It might not even be the government that gets hurt by this. It is going to be children.

If you do not have an extra hour or an extra day or whatever for children, to do the right thing, well then I think you need to review whether or not this is the right place for you. I do not say that lightly. I think that that is an important thing to say. So, with those two comments, Mr. Chairperson, I look forward to hear other comments.

Mr. Martindale: Mr. Chairperson, I would like to begin by correcting the record. It was not the Minister of Education (Mr. Bjornson) who accused the Member for Steinbach of wrangling. It was me, and I used a different word, but we will not get into that because I would not want to encourage the Member for Steinbach to—

An Honourable Member: Say you are sorry.

Mr. Martindale: The word that I used was not on the record.

But I just wanted to defend my colleague, the Minister of Education, because it was me that set off the member, not the Minister of Education.

I think the best advice he has received today was, "Let us not get carried away." But we do not want to put on the record who said that.

Mr. Chairperson, I think that it is important that we begin the process today, that we appoint a subcommittee to hire a new Children's Advocate and a new Ombudsman. I have some experience in this area. I was on the committee, I believe it was 1998, that hired the current Children's Advocate. I was also on a committee that hired the Clerk of the Legislature. So I know a little bit about how the process works. In my opinion, and I think in the opinion, if we were to canvass the people on the committees at the time, the process worked very well.

An Honourable Member: Except for you. You wrote a minority report.

Mr. Martindale: The Member for Russell (Mr. Derkach) reminds me that I wrote a minority report, so sometimes even after the person's name is announced, people disagree with the decisions that were made.

I am not talking about the outcome. I am talking about the process. I only want to talk about the process, for good reasons. In fact, in one of the ironies of politics, I was congratulating the current Children's Advocate for an award that she won, and I pointed out that I was on the committee that hired her. To my chagrin, I issued a minority report. But I said, "That was then, this is now." And I was there to congratulate her on behalf of the government.

So let us get back to the process, which I believe is a good process. I believe that time is of the essence. We need time to advertise nationally, which is the practice. I believe an advertisement goes in *The Globe and Mail*, as well as the *Free Press*. We need to advertise in the francophone media in Manitoba, and that takes time. When people apply, and the subcommittee meets and decides to interview people, those people may come from out of province, in which case, we would be flying them to Winnipeg at our expense. So the more lead time we have, the cheaper those fares would be and then we would be saving taxpayers' money. So I think we need to get the process started soon.

Also, I believe that if we leave the positions vacant, the public would be appalled. If there was no Children's Advocate, the public would be very concerned. If there was no Ombudsman, the public would be very concerned. They would have a backlog of complaints. Then, in their next annual report, we would hear that they could not do their work. The Member for Steinbach, I do not think, really understands or appreciates the fact that the public appreciates it when we co-operate and when we work together, especially when there is an all-party committee. For example, there is an all-party task force on healthy living. The public likes to see that. The public does not want to see opposition and government disagreeing—

Point of Order

Mr. Chairperson: Mr. Cummings, on a point of order.

Mr. Glen Cummings (Ste. Rose): Did I hear an offer from the member to make this an all-party committee to hire the new—

Mr. Chairperson: Mr. Martindale, on the same point of order.

Mr. Martindale: There are two parties in the Legislature, the New Democratic Party and the Conservative Party, and I believe the proposal today is to have representatives from each of those parties.

Mr. Cummings: Mr. Chairman, the member knows full well that whether or not they will achieve party status, or whether they will ever achieve party status, there are two other members in the Legislature that his Premier (Mr. Doer) consistently wants to lean across the desk with his arms extended and talk about dealing with these issues in an all-party way. I would recommend that we accept the member's recommendation, in an all-party way.

Mr. Chairperson: It is not a point of order. It appears to be turning into a debate. So, I have to rule that there is no point of order in this matter. That is subject to the will of the committee.

* (11:20)

Point of Order

Mr. Chairperson: Mrs. Mitchelson, on a new point of order.

Mrs. Bonnie Mitchelson (River East): Yes, on a new point of order, or maybe just a question for clarification, because the Member for Burrows was just indicating that he was comparing the process of hiring the Child Advocate to the same process as the all-party committee on healthy living. My understanding is that all three parties are represented, so is he indicating that, because he did, if we check Hansard, I think we will see that he indicated that all three parties in the Legislature are a part of, and have been invited by his government and his Premier to sit on the Healthy Living Task Force. Just for clarification, is that what he is saying should be mirrored in this process?

Mr. Chairperson: Mr. Martindale, on the same point of order.

Mr. Martindale: I really do not want to get into this on a point of order, but I will address it in my remarks.

Mr. Chairperson: Comments? I have to rule, then, that there is no point of order. We will let the debate continue.

Mr. Martindale: Mr. Chairperson, there are only two parties in the Manitoba Legislature. What I was talking about was co-operation. If there is a vacancy in these positions because of our delay, the public is going to say it is irresponsible, and the opposition is going to blame the government for not hearing from the Advocate or considering the report. We are going to say "We tried to set up a process." The public does not care about our wrangling at this committee. What they want is a new Ombudsman and a new Children's Advocate and the sooner we do that, the better. That is what we are here for today is to set up a subcommittee so they can begin their job with assistance from staff. In my experience, the staff has always been extremely helpful. In fact, the subcommittee would be charged with looking at the job description and deciding what kind of person was qualified. We need to let them go with that job. We need to let them run with it, and report back to this committee.

The Advocate's report is important. The opposition can raise it in Question Period, they can raise it in Estimates. Mrs. Mitchelson will remember that when I was her critic, I raised the Advocate's report every year in Estimates. The reports of the Advocate do not go to committee. As everyone here knows, they go to the Legislative Assembly because the Advocate reports to the Assembly. In fact, it was Mrs. Mitchelson that brought in an amendment to say that the Children's Advocate would be an independent officer of the Legislature and report to the Assembly. So there is no requirement that this report come to this committee.

I think we need to get on with it. We need to strike a subcommittee so that committee can begin to work so that they can do the necessary interviewing and hiring and have a new person in that position as soon as the old term of office expires and no later.

Mrs. Mitchelson: Mr. Chairperson, in the spirit of co-operation and if we check Hansard and the Member for Burrows' comments just a few moments ago, he indicated that he felt that this committee could work just like the committee that has been put in place by his government to deal with the Healthy Living Task Force that is travelling around the province and, in fact, all three parties that are represented in the Legislature are part of that process, so I would move

THAT the selection committee be an all-party committee of the Legislature, including members of

the government, the official opposition and a representative from the Liberal Party.

Mr. Chairperson: It has been moved by Mrs. Mitchelson

THAT the selection committee be an all-party committee of the Legislature, including members of the government, the official opposition and a representative from the Liberal Party.

The motion is in order, a debatable motion.

Mr. Mackintosh: Mr. Chair, first of all, the Liberal representative here today did not even ask for a vote. I think he said clearly that he just wanted some input, to be part of the process, did not even ask for a vote.

Mr. Chair, I think that we could have some discussions about accommodating a representative from the Liberal Party when the committee meets to consider the recommendations. It is in camera, but I think we could probably have some discussions about accommodating that so that they have input at that time which is what would be afforded to the other members. There would not be a vote, but there would be input.

Mr. Chairperson: Mr. Cummings. You defer?

Next is Mr. Lamoureux.

Mr. Lamoureux: Mr. Chairperson, I would acknowledge at the beginning of the committee meeting I talked about the importance of those four independent offices, and how important it is that all MLAs are afforded the opportunity to be able to participate. I thought the member from Steinbach articulated quite well in terms of the importance of the child advocacy's office, and it supports what I believe is how critically important all four of those offices are, but I will focus my attention on the child advocacy's office.

I do believe, very firmly, that having our presence there is, in fact, in the best interests of the children, and I appreciate the gesture that is being made by the official opposition. I do think it is an appropriate motion and if I could vote on the motion, I would vote in favour of it. I think our role is to be very supportive of the process and to advocate in the best interests of the children, and I guess I would look to the Government House Leader in recognizing

what his Premier (Mr. Doer) has talked about in the past in terms of having participation, all-party type of participation.

I think that the official opposition has done a service to the child advocacy's office and the motion that they have put forward, and I commend the member from River East in the motion, and I would ask for the government to support the motion. I can clearly indicate that our preference is to be a full participant of these meetings and there is no hidden agenda. Like all members of this Chamber, it is all about the children; it is all about who the agency reports to, that being the Legislative Assembly. Both myself and the Leader of the Manitoba Liberal Party are obviously members of the Chamber and do have a right to be able to participate. I would ask for the government to acknowledge that by supporting the motion.

Mr. Chairperson: Mr. Martindale, did you wish to speak to the motion? Mrs. Mitchelson?

Mr. Goertzen, to the motion?

Mr. Goertzen: Well, I just want to make a couple of brief comments, Mr. Chairperson. I know that the Minister of Justice has suggested that this could be handled in an in-camera fashion by the sub-committee. I think the difficulty I have with it, and I am reluctant to raise it, but the reality that we have seen over the last number of years is that if the government is not brought to task on an issue, at the moment it just does not happen. We have seen other instances where gestures of co-operation have come forward and some notions that something would be done at a later time, and then it does not happen.

While I would like to suggest that, as the Member for Burrows says that some of these things could be done in a bipartisan way, the record of this government is not a bipartisan spirit. It is not one of following through on notions of co-operation that it makes.

So I think that the Member for River East has brought forward a motion that simply needs to be voted upon at this time and it should be supported by the government because it is difficult to know that the government will follow through. I think that the Member for River East has done a service to this committee by bringing forward this motion, and I support the Member for Inkster and his willingness to participate on the committee. I think it is noble

that he wants to come forward and do that as a full participant.

Mr. Chairperson: Any other comments regarding the motion?

Is the committee ready for the question?

Does the committee wish to have the motion read back?

An Honourable Member: Yes.

Mr. Chairperson: It has been moved by Mrs. Mitchelson

THAT the selection committee be an all-party committee of the Legislature, including members of the government, the official opposition and a representative from the Liberal Party.

What is the will of the committee? Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Agreed.

*(11:30)

Voice Vote

Mr. Chairperson: All those in favour of the motion passing, please signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, signify by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In the opinion of the Chair, the Nays have it.

Formal Vote

Mrs. Mitchelson: Yeas and Nays, please, Mr. Chairperson.

Mr. Chairperson: A count-out vote has been requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.

Mr. Chairperson: The motion has been defeated.

Mr. Mackintosh: I move

THAT a subcommittee of the Standing Committee on Legislative Affairs consisting of Kerri Irvin-Ross, Greg Dewar and a PC MLA designated by the PC caucus, be struck to establish the selection criteria, the advertisement, conduct the screening and interviews and provide to this committee their recommendation of the appointment of the individual to fill the positions of the Ombudsman and of the Children's Advocate.

Mr. Chairperson: I have a motion before me. It has been moved by Mr. Mackintosh

THAT a subcommittee of the Standing Committee on Legislative Affairs consist of Ms. Kerri Irvin-Ross, Mr. Greg Dewar and a representative of the official opposition to be designated by the Progressive Conservative caucus, be struck to establish the selection criteria, the advertisement, conduct the screening and interviews and provide this committee their recommendation of the appointment of the individual to fill the positions of the Ombudsman and the Children's Advocate.

The motion is in order.

Mrs. Mitchelson: I guess, we see here, again, the heavy hand of the union-style tactics of this government, Mr. Chair. It is unfortunate, I think, that we have a government, and I mean, you might call it a lazy socialist government, that could have called this committee between sessions if it was that urgent a matter, rather than waiting until the very last minute and then talking about how urgent it is and how Manitoba children would not be well served if we did not move ahead, absolutely today, on this issue.

My suggestion is that we could have moved ahead on this months ago. We adjourned the Legislature in the middle of June, and we have not been called back by this government until the middle of November. I do not think there has been a year in history, maybe we might go back to the Howard Pawley days when the Legislature sat less time than it did in this last year, and I do not even know if we would find that, if we went back that far, but I seem to recall that there was a time after the French-language debate that the Pawley government hid out and did not call the Legislature back.

It is kind of shameful, Mr. Chair, that we are into a situation now, where we know that work, and you

know, the government hangs its hat on saying, well, work of the committees could be done intersessionally. Well, then, why was not this committee called intersessionally? Because they did not want to deal with it, they wanted to ram it through and call this committee with very little notice, and we see those kinds of tactics from this lazy government that does not want to sit in the Legislature, does not want to be held accountable, does not want to be transparent and open and honest with the taxpayers of Manitoba, the people of Manitoba, and the children of Manitoba.

I find it unconscionable that the government would have voted down a process. I am not sure what their agenda is. What are they afraid of by including a member of the Liberal Party on this selection committee? These are independent offices, and we have a heavy-handed government not wanting to see a full independent process.

So now we see a motion from the government who is dictating. This is dictatorship, Mr. Chair. This is not democracy. This is a dictatorship by a socialist government who has not taken the time to look at what the priorities of this Legislature should be, and if they considered the hiring of an Ombudsman and a Child Advocate as important, they should have called this committee months ago, but no. They sat on their hands. They did nothing, and now we are seeing them trying to ram their will, dictatorship style, through this Legislature and through this committee. I think, Mr. Chair, that it is unconscionable, and I cannot support the heavy-handed tactics that we are seeing from a government like this. So I cannot support this motion going forward as it presently exists.

I think that maybe, Mr. Chair, we have to go directly to the Premier (Mr. Doer), the Premier who has talked about being open. He has talked about all-party processes that are so important to the Legislature and the Premier, who has appointed and asked for all-party participation when it suits him. For what reason would he not want an all-party process in this instance, when we are hiring independent servants of the Legislature to do the work on behalf of Manitobans in an impartial way? I am not sure that if the Premier really thought this through, he would endorse the kind of action that has been taken by his ministers and members of this committee by the government.

So, Mr. Chair, I cannot support this motion until we get some clarification from the Premier on what

his intentions are. I am sure there will be other members that will have comments to make on this motion so I will turn it over to them, but I just think this is a sad day for democracy. We have become a dictatorship in this province under this government, and maybe the Premier will see his way clear to try to ensure that he brings his members of this committee to task for the kind of activity that we have just seen.

Mr. Penner: Mr. Chairman, I just want to reflect a little bit about some of the things that have been said previously, when a previous committee sat back in 1988, by members that are currently sitting around this table and how they viewed the establishment of a committee or the hiring of an Advocate at that time. I am not going to name the people that made the comments, but it was very clear that they were intent on seeing a continuation of a servant that, I think, had done a relatively good job as an Advocate.

I think that was the first appointment of an Advocate in the province of Manitoba, done under a Conservative government, and I think we took a lot of pride in being able to establish what we would call somebody that had the authority to deal with matters relating to children and protecting them in a meaningful way. I think the Advocate's office has demonstrated that they can, in fact, do it. However, it is also noteworthy that there are some significant issues that are currently outstanding that I think should have been addressed by this committee, or should have been brought to the attention of the general public by government. It is their responsibility to do that and deal with those matters that are still outstanding.

* (11:40)

I find it absolutely incredible that this current government would want to sit here and have sat all summer on their hands and not done a thing about those outstanding issues. Why would they not have let the current Advocate deal with those matters and resolve them before handing over the reins to a new Advocate?

This government knew that the term that is currently expiring would expire, and, therefore, the new Advocate would be relatively unknown to these issues. Maybe, just maybe, it was the intent of this government that maybe those issues could be washed under the rug by a new Advocate, because, simply,

that new Advocate might not have the knowledge of those matters that are still outstanding that need to be addressed.

I think that has been typical throughout the term of this government, whether it is in justice, where there are matters where the Minister of Justice (Mr. Mackintosh) has constantly, constantly blamed others. Then, when everything failed, they appoint new police officers, and, yet, where do they put most of them?

They have felt to put in place laws that should have been put in place and brought forward by government to put some teeth into many of the laws that we currently have, because, constantly, we have seen arrests made, we have seen them brought to court, and we have seen them turned loose. I believe this is typical of what is happening here today. It is the same kind of a process. Do not deal with the matters if they are controversial. That is obviously what is happening, and it is a consideration this government has made, that these matters that are still outstanding could be controversial. So then the decision has been made by this government, do not deal with them. We will hire a new person and maybe it will go away.

Well, Mr. Chairperson, these issues have not gone away, and they will not go away until the government meaningfully deals with them. This committee that is being asked to be established, I am amazed that this current government would not allow our third party in this government to be a participant in deciding who and what kind of criteria should be established in the selection of a new person that should be the Child Advocate. Why would we not want to let the Liberal members sit in on that committee? Why would we not give him committee stature? What are we afraid of?

Are we afraid that he is going to bring to light issues and matters during the hiring process that have not been dealt with by this government? Is that what we are afraid of? Are we afraid that the independence of this committee is being eroded by a Liberal member, by appointing him to this committee? Is this government afraid that this Member for Inkster (Mr. Lamoureux) might, in fact, bring to light some issues in a legitimate manner, as a member of this committee, that might not be brought forward otherwise? What are you afraid of? Or is this simply a matter of exercising the dictatorial approach that

we have seen time and time again by this government?

I want to give an example as to why I am saying this. I saw the Premier (Mr. Doer) of the province speak to the AMM convention. What the Premier, I think, should have been dealing with is the vulnerability of our children and how there are issues outstanding on our children through the advocacy office, and he should have reflected on that. Then he should have said, "And here is how we are going to deal with it."

But did he do that? No, he did not. You know what he did? He came before the AMM board and 1400 guests sitting there for dinner, and he said to his minister, "Sorry, you only gave these guys \$12,000 for a dinner," or \$12,500. "I am going to up the ante and spend an extra \$2,000 and give them \$14,000." Without going to his Treasury Board, without going to his Cabinet, he just took the initiative and made that announcement. Is that a premier's prerogative? Is that democratic, or is that what dictators normally do? They take matters into their own hands and overrule their ministers even on little matters like that. But what is important to note is that it was public money that he was spending and using in a very unorthodox manner in making decisions that will reflect the spending of public taxpayers' money.

I say to this committee, Mr. Chairman, that what we need to do is broaden the scope of this committee in the selection, and establish criteria that would give the authority of the Advocate to, in fact, deal with matters that are now currently outstanding. I think the reason they do not want to broaden the scope of this committee, and add additional members to this committee, and add another party's views to this committee might, in fact, be because they are afraid. I think they are totally afraid of what the reaction and effect might be. So I would suggest that this government should truly reconsider their position and deal with the manner in an ethical manner, deal with it in a democratic manner, use the democracy that we have come to know and appreciate.

I reflect on that democracy simply because my forefathers came from a country that, at that time, was in turmoil, and was being brought under a socialistic rule; as a matter of fact, a communistic rule. Our forefathers left that country because they feared for the safety of their children, because the democracy that had brought them to that country out

of Poland, Prussia, into the Ukraine, was disappearing.

Today, we sit here and in this committee see a small measure of that democracy disappearing because we are stopping a legitimately elected party to this Legislature from being able to sit in committee and participate. We are stopping the participation. That should be of grave concern to all of us, regardless of which party we are at. I would suspect that if we truly reflect on that, we will change our minds and let the member of the Liberal Party sit and be part, legitimately be part of this committee.

Therefore, I would move an amendment to the motion at hand

THAT the motion be amended by adding the following after the words "PC MLA designated by the PC caucus,": "a Liberal MLA designated by the honourable Leader of the Liberal Party" be nominated as a member of this committee.

Mr. Chairperson: An amendment to the motion on the floor has been received by the Chair, and the amendment reads as follows:

THAT the motion be amended by adding the following after the words "PC MLA designated by the PC caucus,": "a Liberal MLA designated by the honourable Leader of the Liberal Party."

The amendment to the motion is in order.

Mr. Lamoureux: Mr. Chairperson, I guess this would be the third opportunity that I have had to talk about what we believe is a very important office. The Child Advocate's office is something that was instituted through the former administration, and it is encouraging to see the position that they have taken in regard to truly keeping it independent.

*(11:50)

I want to emphasize, again, that we have four independent offices: Elections Manitoba, the provincial auditor's office, the Ombudsman's office and the Child Advocate's office. These offices report to the Manitoba Legislature, and all MLAs should have the opportunity to provide direct input into issues of this nature.

I am surprised to the degree in which the government of the day is choosing, at least around

this table, to close their minds. The Premier, in previous throne speeches, in previous announcements to the press, talks about the importance of all-party participation. We have seen that first-hand. We participated, whether it was the smoking, anti-smoking legislation that ultimately was brought forward, the smoking task force, we have the Healthy Living Task Force. The Liberal Party has been involved in making all-party representation in Ottawa.

I do not quite understand why the Government House Leader (Mr. Mackintosh) and the member from Burrows have taken the position that they have taken in regard to the child advocacy office. Ultimately, I truly believe that it is justified, and I tell you, it is important and one could cite examples. I listened very carefully as the member from Steinbach expressed why this is an important proceeding. I am inclined to suggest that the member from Steinbach was right in that we are making a mistake here if we do not revisit, and the government will hopefully see the merit in terms of this resolution or this amendment that is being proposed.

Mr. Chairperson, no political party owns the issue of protecting our children in Manitoba. All three political parties care about the children of our province. All three political parties want to do what is in the best interest of the children. No party owns the issue of child poverty in this province.

As an individual, I have had opportunity, as no doubt all MLAs have, and I would just like to share a couple of stories that I have had first-hand. You know I sit on one committee in particular where I have had to deal with youth, and I can recall a case from a number of years ago in which I sat down and this individual youth, a young girl, she probably would have been somewhere in the neighbourhood of 13, 14 years old, came before me and two other individuals, and she was supposed to bring a guardian or a parent. At this particular meeting, she shows up, but the mom in this case did not show up. We had asked and we had told her, "Well, look we cannot deal with your situation unless you have a parent or a guardian show up."

Well, needless to say, we then had to try to get another meeting date set. We were successful at getting that other meeting date set. Then I had the opportunity to meet with this individual's guardian, and if my memory serves me correct I believe it was

the youth's mom that was there. One of the things that became very apparent was that we could not even communicate with the youth's mom. Yes, she was there physically, Mr. Chairperson, but I would be exaggerating to say that she was there in any other capacity. My heart, as I am sure the hearts of every MLA, would have gone out to this child.

I really, genuinely, felt frustrated because I was not too sure what, in fact, could be done for this child. Ultimately, we raised it to a higher level, and I trust and hope that there was some help provided for this child. I know that I had the opportunity to meet with the local principal at the school to talk about this child. He says, "This particular parent has more than one child, and the one sister to the child was, in fact, a prostitute." Unfortunately, he was of the opinion that, unless something dramatic was to happen, that this child will likely, the youth that I was having deal to with, would likely follow what her older sister was doing.

Mr. Chairperson, I think it is just such a sad story. Unfortunately, what is worse is that it is not a unique story. There are many dysfunctional types of families that are out there. I have recognized it. I believe all political parties recognize it and want to be able to play a role in resolving issues like this.

I do not understand why it is that the government would be fearful of—whether it is myself or the Leader of the Liberal Party—being able to participate on a committee of this nature. I see a child's advocacy office playing a role in these types of cases. I would be very much interested in knowing, in terms of what is going to be criteria, to be able to participate in those discussions. I truly believe that we bring something different to the table.

I can recall, back in 1989, we did a northern tour as a caucus where we toured the entire northern region of the province. In the discussions of people that I had at that time—again, there was an interesting case, and this one happened to be affiliated with an Aboriginal reserve. I think that as politicians, sometimes, we have to be "politically correct." A part of being "politically correct" means that you have to be very careful as to what it is that you are going to say in regard to maybe certain sectors of our community.

I guess it would be a month ago in the news, I had seen—I believe it was in Newfoundland—the story

of some Aboriginal children that were caught up with sniffing, and you just kind of see them. They showed the pictures. You saw these children—I suspect the oldest one might have been 14—just kind of lumped over, kind of walking as if they had been way past the intoxication of alcohol. It was just mind-boggling to see such young people virtually crippled, mentally crippled because of sniffing. Who knows what it is that they were sniffing?

I will tell you something, Mr. Chairperson. I was touched by that. I think as politicians, as elected officials, that we are not ignorant to believe that those types of situations do not exist in the province of Manitoba. They do exist. That is why I will give credit to the Member for River East (Mrs. Mitchelson) who recognizes the importance of trying to depoliticize this process by making it more all-encompassing, by allowing all perspectives to be heard.

I make reference to the TV show, a documentary that I saw on CBC. I make reference to that because I had the opportunity to hear about it first-hand in rural Manitoba, and I have had opportunity to hear about things of that nature occurring in North End Winnipeg. I have seen, Mr. Chairperson, in my drive—I live out in Tyndall Park. Every other day I am driving down Burrows, Selkirk, Salter and Pritchard, and these streets in which, in a very real way, I am seeing the type of children who need to be protected. Yet the government does not want to see

me or the Leader of the Liberal Party (Mr. Gerrard) sit at the table that is going to help address these issues. I do not understand what it is and why it is—

Mr. Chairperson: I am sorry to interrupt you, Mr. Lamoureux. The hour being twelve noon, it was the will of the committee to review this matter when we reached this point. What is the will of the committee?

Mr. Mackintosh: We will have some discussions about rescheduling over the next couple of days. I think that is the best way. It seems like there are extensive discussions taking place.

Mr. Chairperson: It has been suggested that this matter will be reviewed, and then the committee will await further instructions from the House. I wish to inform members that, when this matter appears back before this committee, then the amendment and the main motion will be on the table for discussion. Mr. Lamoureux at that point, should he attend the committee, will be the speaker to start us off at that point.

What is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: The hour being past twelve noon, committee rise.

COMMITTEE ROSE AT: 12:02 p.m.