



Fourth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Privileges and Elections

Chairperson
Mr. Peter Dyck
Constituency of Pembina



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

| Member | Constituency | Political Affiliation |
|----------------------------|---------------------|------------------------------|
| ASHTON, Steve | Thompson | N.D.P. |
| BARRETT, Becky | Wellington | N.D.P. |
| CERILLI, Marianne | Radisson | N.D.P. |
| CHOMIAK, Dave | Kildonan | N.D.P. |
| CUMMINGS, Glen, Hon. | Ste. Rose | P.C. |
| DACQUAY, Louise, Hon. | Seine River | P.C. |
| DERKACH, Leonard, Hon. | Roblin-Russell | P.C. |
| DEWAR, Gregory | Selkirk | N.D.P. |
| DOER, Gary | Concordia | N.D.P. |
| DOWNEY, James, Hon. | Arthur-Virden | P.C. |
| DRIEDGER, Albert | Steinbach | P.C. |
| DRIEDGER, Myrna | Charleswood | P.C. |
| DYCK, Peter | Pembina | P.C. |
| ENNS, Harry, Hon. | Lakeside | P.C. |
| EVANS, Clif | Interlake | N.D.P. |
| EVANS, Leonard S. | Brandon East | N.D.P. |
| FAURSCHOU, David | Portage la Prairie | P.C. |
| FILMON, Gary, Hon. | Tuxedo | P.C. |
| FINDLAY, Glen, Hon. | Springfield | P.C. |
| FRIESEN, Jean | Wolseley | N.D.P. |
| GAUDRY, Neil | St. Boniface | Lib. |
| GILLESHAMMER, Harold, Hon. | Minnedosa | P.C. |
| HELWER, Edward | Gimli | P.C. |
| HICKES, George | Point Douglas | N.D.P. |
| JENNISSEN, Gerard | Flin Flon | N.D.P. |
| KOWALSKI, Gary | The Maples | Lib. |
| LAMOUREUX, Kevin | Inkster | Lib. |
| LATHLIN, Oscar | The Pas | N.D.P. |
| LAURENDEAU, Marcel | St. Norbert | P.C. |
| MACKINTOSH, Gord | St. Johns | N.D.P. |
| MALOWAY, Jim | Elmwood | N.D.P. |
| MARTINDALE, Doug | Burrows | N.D.P. |
| McALPINE, Gerry | Sturgeon Creek | P.C. |
| McCRAE, James, Hon. | Brandon West | P.C. |
| McGIFFORD, Diane | Osborne | N.D.P. |
| McINTOSH, Linda, Hon. | Assiniboia | P.C. |
| MIHYCHUK, MaryAnn | St. James | N.D.P. |
| MITCHELSON, Bonnie, Hon. | River East | P.C. |
| NEWMAN, David, Hon. | Riel | P.C. |
| PENNER, Jack | Emerson | P.C. |
| PITURA, Frank, Hon. | Morris | P.C. |
| PRAZNIK, Darren, Hon. | Lac du Bonnet | P.C. |
| RADCLIFFE, Mike, Hon. | River Heights | P.C. |
| REID, Daryl | Transcona | N.D.P. |
| REIMER, Jack, Hon. | Niakwa | P.C. |
| RENDER, Shirley | St. Vital | P.C. |
| ROBINSON, Eric | Rupert's Island | N.D.P. |
| ROCAN, Denis | Gladstone | P.C. |
| SALE, Tim | Crescentwood | N.D.P. |
| SANTOS, Conrad | Broadway | N.D.P. |
| STEFANSON, Eric, Hon. | Kirkfield Park | P.C. |
| STRUTHERS, Stan | Dauphin | N.D.P. |
| SVEINSON, Ben | La Verendrye | P.C. |
| TOEWS, Vic, Hon. | Rossmere | P.C. |
| TWEED, Mervin | Turtle Mountain | P.C. |
| VODREY, Rosemary, Hon. | Fort Garry | P.C. |
| WOWCHUK, Rosann | Swan River | N.D.P. |

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Monday, October 5, 1998

TIME – 1 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Peter Dyck (Pembina)

VICE-CHAIRPERSON – Mr. Edward Helwer (Gimli)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Messrs. Dyck, Faurschou, Gaudry, Kowalski,
Laurendeau, Mackintosh

**Substitutions:*

Mr. Helwer for Hon. Mr. McCrae
Hon. Mrs. Mitchelson for Hon. Mr. Stefanson
Mrs. Driedger for Mr. Sveinson
Ms. McGifford for Ms. Wowchuk
Mr. Martindale for Mr. Ashton
Ms. Barrett for Mr. Mackintosh
Mr. Rocan for Hon. Mrs. Mitchelson

APPEARING:

Mr. Tim Sale, MLA for Crescentwood
Ms. Kathryn Friesen, Director of Personnel,
Legislative Assembly

MATTERS UNDER DISCUSSION:

Recruitment and Selection of the Children's
Advocate

* * *

Mr. Chairperson: Will the Standing Committee on Privileges and Elections please come to order.

Committee Substitutions

Mr. Chairperson: Prior to proceeding with the business this afternoon, I have received the resignation from this committee of the following members. First,

I have the resignation of the Honourable Mr. McCrae as a member of the Standing Committee on Privileges and Elections effective October 5. Are there any nominations to replace Honourable Mr. McCrae?

Mr. Marcel Laurendeau (St. Norbert): Mr. Chair, I would like to nominate Mr. Ed Helwer.

Mr. Chairperson: It has been moved that Mr. Ed Helwer has been nominated. Is there agreement of the committee for that? [agreed]

I also have the resignation of the Honourable Mr. Stefanson as a member of the Standing Committee on Privileges and Elections effective October 2. Are there any nominations to replace Honourable Mr. Stefanson?

Mr. Edward Helwer (Gimli): I would like to nominate Mrs. Mitchelson.

Mr. Chairperson: Thank you. The Honourable Mrs. Mitchelson has been nominated. Is there agreement of the committee? [agreed]

I also have the resignation of Mr. Sveinson as a member of the Standing Committee on Privileges and Elections effective October 5. Are there any nominations to replace Mr. Sveinson?

Mr. Helwer: I would like to nominate Mrs. Driedger.

Mr. Chairperson: Thank you. Mrs. Driedger has been nominated. Is it agreed? [agreed]

I also have the resignation of Ms. Wowchuk as a member of the Standing Committee on Privileges and Elections effective immediately. Are there any nominations to replace?

Mr. Gord Mackintosh (St. Johns): I nominate Ms. McGifford.

Mr. Chairperson: Ms. McGifford has been nominated. Agreed? [agreed]

I also have the resignation of Mr. Ashton as a member of the Standing Committee on Privileges and Elections effective immediately. Are there any nominations to replace Mr. Ashton?

Mr. Mackintosh: I nominate Mr. Martindale.

Mr. Chairperson: Mr. Martindale has been nominated. Is that agreed? [agreed]

Mr. Mackintosh: I have to leave at 2:20. I wonder if the committee would entertain a motion to nominate Ms. Barrett after 2:20.

Mr. Chairperson: Is there agreement from the committee to nominate Ms. Barrett after 2:20? [agreed]

* * *

Mr. Chairperson: There is one other item that we need to look at. At this point, we must elect a Vice-Chairperson as Mr. Sveinson has resigned as a member of the committee. Are there any nominations?

Mr. Laurendeau: I would like to nominate Mr. Ed Helwer.

Mr. Chairperson: Mr. Ed Helwer has been nominated. Is there an agreement in committee for Mr. Ed Helwer as the Vice-Chair? [agreed]

The next item of business I suggest be dealt with is the process to be followed today by the committee in considering the recruitment and selection of the Children's Advocate. I think it might be an appropriate time now to have opening statements by the minister and the critic. I would note that draft material has been prepared by the minister's office, and a copy of these drafts are at each committee member's place, the draft agenda, the draft screening criteria and the draft position description. So, first of all, comments by the honourable minister.

Hon. Bonnie Mitchelson (Minister of Family Services): Mr. Chairperson, I want to say welcome to all committee members. Amendments relating to the Children's Advocate received Royal Assent in June of this year which provide for the Children's Advocate to

report to the Legislative Assembly and for the office to be a fixed three-year term, renewable for a second three-year term. Today we are asking for consideration of the recruitment and selection process, as the Chair has just indicated, for the Children's Advocate. This process will ensure that the very best person will be selected to protect the rights and interests of children in the Child and Family Services system. The current Children's Advocate, Mr. Wayne Govereau, will, of course, continue to serve as the Children's Advocate, and I want to thank him for his work to date. He will continue during this process and certainly is welcome to apply for the new position.

As the committee may be aware, the process for recruitment and selection prior to proclamation follows the same process that was undertaken for the hiring of Mr. Govereau as the Children's Advocate, as well as recruitment and hiring of the Vulnerable Persons Commissioner under The Vulnerable Persons Act.

Just with those few comments, Mr. Chairperson, I am glad to see everyone back from a healthy summer break and look forward to getting back to work as we start the process today.

Mr. Chairperson: Thank you, Madam Minister.

Mr. Doug Martindale (Burrows): Mr. Chairperson, as the critic for the New Democratic Party caucus, I have numerous concerns that I would like to put on the record beginning with the fact that it seems to be the government's intention to hire a new person. Now I know that the minister is going to rebut this argument and say: no, we have no intention of doing that; we are going to advertise nationally, this committee is going to interview people, and then we are going to hire the best person, and since Mr. Govereau has indicated in writing that he is applying for this position, that there is nothing to preclude him from being hired.

However, I think it is incumbent on the government, the onus is on the government to state why Mr. Govereau should not be appointed for a term of three years, once renewable, pursuant to the new amendments which will be proclaimed shortly, we hope. I think this is the wrong time to be even considering a new person in that position. We know

that there are many very important and outstanding issues in the area of child welfare, many of which have been raised in the House; for example, children in hotels are now being moved to four-bed units, the workload issue of frontline staff which has been raised by a judicial inquiry, an inquiry that is ongoing and not over yet, which the existing Advocate may want to comment on and which certainly there are going to be numerous recommendations from.

We think that it would be disruptive and a lack of continuity to appoint a new person, a new person who may be less critical and less outspoken, a new person who would certainly be on a learning curve, when there are many, many important outstanding issues that are unresolved. Manitoba has the highest number of children in care per capita of any jurisdiction in Canada. Today, in the minister's package, we actually got a current figure for that, and it is over 5,000 children. I believe I saw it in one of these handouts; yes, 5,227 children in care, 8,330 families receiving assistance. These are shocking numbers, appallingly high numbers.

We have repeatedly said that there is a crisis in child welfare. We believe that the government needs the kind of pressure that a strong Advocate, a strong voice for children is going to put the government under to do something about these problems. We know that this Advocate has written annual reports with numerous recommendations. This Advocate has been very critical of the government and, in fact, therefore, is doing his job as it should be, independent of what the government thinks of what he is doing. In fact, I believe it was in the First Annual Report that the Advocate strongly suggested that the minister of the day was trying to interfere in his carrying out of his duties.

So this is the time to continue with someone who has done a good job, who has been outspoken, who has tried to hold this government accountable, who has made numerous recommendations for systemic changes and improvements in the system. This is not the time to get rid of this person and to hire someone else. We believe that this is an attempt to silence the criticism of the government by replacing the Advocate, and, in fact, some of the news stories have suggested that.

* (1310)

For example, going back to 1993, Child Advocate kept on a leash is a headline in the Free Press. Another one is Activists say Children's Advocate needs power, 1997. An article from the Free Press, also in June 1997, Tories hide from the public. Advocate says funding lack hurts system, 1998.

So this Advocate is doing his job. The government is not always happy with it, and we suspect that is why the government may want to hire a new person, in order to silence an outspoken critic of this government, which is quite reprehensible, not that this government would admit to it, although today I am challenging the government, saying that the onus is on them to show where the Advocate has fallen down or where the Advocate has not done a good job in his current position which, if that were true, might justify interviewing and hiring a new person, but as long as this person is doing his job in a professional and excellent way, we do not see any need to hire a new person at this time.

There are issues that were commented on by the public in their submissions to the all-party committee that heard presentations in Winnipeg and from other parts of the province, particularly when we met in Thompson and heard delegations in the council chamber in the city hall in Thompson, where there were strong presentations saying that the Advocate's office needed to be extended to northern Manitoba. People recommended putting a staffperson in Thompson. We think that is the kind of recommendation that this government should be working on, that instead of going through a lengthy process of advertising, interviewing and hiring a new person, that what this government should be working on is following up on some of the recommendations of the all-party committee and of the public who were very concerned that the Advocate is underrepresented and children are underrepresented in northern Manitoba.

Also, there are precedents for reappointing an existing person; for example the Ombudsman. In 1989, I believe it was the Minister of Justice at the time, Mr. McCrae, who moved in committee that Mr. Gordon

Earle be reappointed to the position of Ombudsman for the Province of Manitoba. He was the existing Ombudsman at the time. So there are precedents for hiring an existing person rather than going through the lengthy process of advertising and interviewing and hiring a new person.

Mr. Chairperson, it has been very interesting to be in the Legislature during the entire term of office of this Children's Advocate. I remember when he was first appointed and we as opposition members had private members' bills recommending that the Advocate legislation be changed so that he or she would report to the Legislative Assembly instead of to the minister. We argued that one of the reasons it was necessary was so that the Advocate would be independent of influence from the government, and we were concerned that the Advocate might make recommendations to the minister which might not be made public.

I would have to admit that my expectations were too low in that regard, that the Advocate pleasantly surprised me and others in that he did make very strong recommendations publicly in his annual reports, numerous recommendations, many of which have not been followed up on or carried out, and we think that the Advocate has done an excellent job in spite of some attempts to muzzle him. We think that by hiring a new person, that is the ultimate way of silencing a voice for children in Manitoba, and we think that politics has no place in this, that children are much more important than politics when it comes to the Children's Advocate.

Therefore, Mr. Chairman, I move

THAT this committee express full confidence in the current Children's Advocate, Mr. Wayne Govereau, and that this committee recommend the appointment of Mr. Wayne Govereau for the position of Children's Advocate, and after it has been read into the record I would like to speak to it.

Motion presented.

Mr. Chairperson: The motion is there. It is open for discussion and Mr. Martindale would like to make some comments, please.

Mr. Martindale: Mr. Chairperson, I would like to

speak to my motion briefly and say that the intent of this motion is to follow the amendments which have been passed and not proclaimed; that is, that Mr. Govereau would be hired for a term of three years, once renewable, and that the normal process of reviewing the position and the performance after three years would be followed, and we think that since the current Advocate is doing an excellent job that it is not necessary to interview and hire for a new person, notwithstanding what the minister is going to say in a few minutes in reply to this motion, but we think the onus is on the government to show why this person should not be rehired.

Ms. Diane McGifford (Osborne): Mr. Chair, I would like to speak to Mr. Martindale's motion as well. I wanted to begin by mentioning that I may be one of the few people at the table, although there may be others, who has had the advantage of working with Mr. Govereau's office in jobs before I was elected. I do want to say on the record that the work that was done by that office was always excellent. So, from a practical point of view, I have every confidence in Mr. Govereau's work.

Mr. Govereau has, I think, been an important voice for children in Manitoba. I think one way of describing Mr. Govereau would be to say that he has always been the voice of truth speaking to power. He has not stepped back from being critical of the government of the day, and I think that takes a certain amount of courage. He has not been afraid to speak the truth whether it was a political and public embarrassment to government or not. I think it is especially true right now that this government, given its performance in Family Services and in Child and Family Services in particular—it seems extremely important for this government or in the interests of this government to keep the lid on the truth. I think Mr. Govereau is the kind of person who does not put the lid on the truth but takes the lid off and speaks openly and honestly and clearly.

Mr. Martindale has already pointed out the disarray of the current Child and Family Services. I think he made the point that we have the highest rates of children in care in the whole country, staggering, an embarrassment to all Manitobans. I think he made the

point that the rates of children in care have risen from 1985 to 1996 by a whopping 62 percent. I think he named the numbers, or brought out the statistic of the numbers, of children who spend their lives living in hotels, because we do not have proper care for these children. I think he made the point that currently there are 5,227 children in care. I do not know if he made the point that we are the childhood poverty capital of Manitoba—

An Honourable Member: Of Canada.

Ms. McGifford: Of Canada, pardon me, but certainly it is a point worth making. So, clearly, there are serious problems in Child and Family Services. Given these extremely serious problems, as Mr. Martindale has already pointed out, the answer should be to consider very carefully this Advocate. I think considering the work that he has done, as Mr. Martindale has already pointed out, our answer would be not to seek another appointment, not to go through the costly and time-consuming search and interview procedure but of course to renew the appointment of a candidate who has already done an extremely good job.

Now, as we all know, he has perhaps embarrassed the government from time to time. He has not pulled his punches. But it seems to me that revealing the truth, speaking the truth, speaking with the voice of the oppressed children in this province is to his credit, and we should salute him for that. It should not be something that suggests that he should not be rehired. So I certainly want to support Mr. Martindale's suggestion that we do reappoint Mr. Govereau.

* (1320)

The answer, as I have been saying, to these very serious problems is not to hire somebody who is going to find him or herself faced with an incredible learning curve just at the time that Child and Family Services appear to be in disarray, nor do we want a lackey who does not speak out. What we want is a proven, capable individual. We do not want a department watchdog, somebody who is going to do damage control. We do not want a lap dog. Again, what we want is a proven, capable individual.

If Mr. Govereau were to be reappointed, he would

not encounter a learning curve. He has proven he knows the work. He certainly has shown himself, in his courage and his outspokenness, not to be a government lackey, not to be a lap dog. He has been a capable individual who has spoken out courageously. I think, as Mr. Martindale has said, the onus is on government to explain why Mr. Govereau will not be reappointed. What are the reasons? What are the benchmarks? What objectives has Mr. Govereau not fulfilled? We have not seen these. We do not know why he is not being reappointed.

I think again it is important for the government to explain why Mr. Govereau will not be hired. My colleague Mr. Martindale has talked about the work Mr. Govereau has done to improve and refine the systems. We know, as I have said, that he has had the courage to speak out. He has had the courage to advocate for children, and children are not able to advocate for themselves. Why are we not rehiring him? What are the reasons? They have not been given to us.

Mr. Martindale made the point that the all-party committee—particularly I believe when the committee was hearing presentations in Thompson—heard that the community there think it is extremely important to extend the Ombudsman's office to their community. Mr. Martindale suggested that he thought it was extremely important to follow these recommendations. This is where he felt energy, time and resources should go at this time to extending the services and not in the costly and time-consuming search for a Children's Advocate when we already have a proven, capable and extremely competent person.

Mr. Martindale also pointed out that there were precedents for reappointment. He pointed to the Ombudsman's appointment in 1989—pardon me, reappointment—the reappointment of Mr. Gordon Earle. We all know that there are precedents in other jurisdictions outside of Manitoba. It is not odd to reappoint a highly capable, competent and proven individual; in fact, it makes good sense. Again, why are we not doing this? We do not have the reason. The onus is on the government to explain why this candidate is not being reappointed, and we have heard the minister suggest that Mr. Govereau can apply. Of

course he can, and I am sure will apply, but our question is: why is he not being reappointed? We have every confidence in him as the motion has made clear.

Mr. Martindale has also pointed out that the appointment of a new person may well be one way of silencing a very strong Child Advocate. He has pointed out, and I agree with him and I am sure everybody around this table agrees, that the important thing about this person and the important thing about the role of the Child Advocate is not to protect a political party. It is not the protection of government image. The important role of the Children's Advocate is the protection of Manitoba's children. Mr. Govereau has done that work, and we salute him for doing that work. I therefore support Mr. Martindale's motion and urge whomever I need to urge the committee to reappoint Mr. Govereau. If not, let us have some very, very clear indications why he is not being reappointed. Thank you, Mr. Chair.

Mr. Gary Kowalski (The Maples): Mr. Martindale in his humility admitted he was wrong when this Child Advocate was appointed, that he would not be able to criticize the government, and he is wrong again today. Before, the government hired a Child Advocate; now this Legislative Assembly will be hiring a Child Advocate. He will be our employee, same as I along with many other members of this committee just went through the process of hiring an Ombudsman that has the confidence of this Legislative Assembly.

Now, Mr. Martindale, by bringing this issue forward this way, has done a disservice to Mr. Govereau by making it a partisan issue. I have complete confidence in Mr. Govereau, and it would have been easier for him to do his job if he could have applied for this job, shown that he has the complete backing of the Legislative Assembly as does our Chief Electoral Officer, as does our Auditor, as does our Ombudsman, and he is going to be in the same league. So of course we are going to advertise, because he is going to be our employee.

The spectre they try to raise that somehow we are going to silence the advocacy by hiring some patsy—well, if I am on that committee we will be hiring no patsy, the same way as the Chief Electoral Officer

is no patsy, the same as the Ombudsman is no patsy. This should be the highest moment for us because these should be nonpartisan hiring practices. We have now, by bringing this motion forward, made this a partisan political issue which has done a disservice to Mr. Govereau, and I am sorry it has happened because otherwise we could have advertised.

If I look at the screening criteria that has been drafted, Mr. Govereau gets maximum points in every single one, so there would be no doubt he would be interviewed. I sat on those committees in Thompson, and there were some concerns raised that I would like to interview Mr. Govereau about before he becomes my employee as a member of this Legislative Assembly.

So I have confidence in Mr. Govereau, but I see no harm. As we hire our Child Advocate, he is no longer going to be an employee of the government. He is going to be our employee, and I am sure Mr. Govereau has the confidence and the abilities and capabilities to compete with anyone else in Canada. Having his background of the experience, having the lay of the land, knowing the contacts he has in Manitoba—same as when Barry Tuckett, after acting as Ombudsman for a long period of time, he applied and at the committee we said in private that it is his to lose. Well, in this case, I would say this is Mr. Govereau's job to lose in the interview because right now, on the criteria that has been suggested here, he is way ahead of everyone else. When we sit down as an interview committee, it will be a consensus decision and it should not be so partisan and try to make this issue into a partisan issue. Today I think he has done a disservice to Mr. Govereau.

Mr. Mackintosh: I just want to deal with a couple of points raised. I, for one, came here today to discuss the issue of the Children's Advocate and the continued filling of that position. When I got here I see in front of me pieces of paper that talk about the selection, a position description, how to give points for different applicants. This process was predetermined apparently at the minister's office. I do not know where these documents come from. I would be surprised if they came from the Clerk's Office. While they are stamped "draft," there is no doubt in my mind that the minister had clearly in her mind a competition for the position,

a predetermined course of action. It is my view that by this predetermination to have a competition, the government is saying that they lack confidence in Wayne Govereau.

* (1330)

The process was made partisan long before we ever got to the table today. It was made partisan by the fact that the government has decided to put its big thumb again on a legislative committee process. I see the minister has made herself a member of the committee. She should not be a member of this committee. She can be an adviser perhaps or a witness, and I see the senior members of the department are here. For goodness' sake, senior departmental officials and the minister taking part in firing, essentially, and hiring its own watchdog. Why is the minister hiring her own watchdog?

So, in terms of partisanship, I wanted to say that, and second of all, in terms of the issue of who is the new employer, if Mr. Govereau were reappointed today by this committee, we will be the employer, so I do not see the issue of question and answer in a selection process determinative of the issue of who is going to be the employee or the employer. It is important for Manitobans, particularly Manitoba children, to have confidence in the independence of the office of Child Advocate. By the government coming in here today with a predetermined plan of having a competition and saying in effect that they lack confidence in Mr. Govereau, it is saying that we should not be assured of public confidence in the independence of that office.

The government's big thumb on this process speaks volumes about how it wants to control this process and therefore control the outcome. If the government is saying that Mr. Govereau should face competition and a challenge for his position, then I want the minister today, if she would, to tell Manitobans what objectives and benchmarks were agreed on for Mr. Govereau's performance and which ones did he fall short on. Otherwise, I have no conclusion other than that this government is trying to muzzle an independent voice for children. It is trying to shoot the messenger. It is playing shoot the messenger rather than deal with the problem. If there are not enough problems in child

services today without muzzling, stonewalling and sandbagging a voice for children, then I urge the committee to use the time that we have today to reappoint Mr. Govereau and let us do it for the children.

Ms. Becky Barrett (Wellington): Mr. Chair, I am not an official member of the committee, but my understanding is that while I will not be allowed to vote when we come to the motion, I am entitled to speak, so I would—

An Honourable Member: You sure are.

Ms. Barrett: Thanks. I echo everything that my colleagues have stated. I think Mr. Martindale's comments that this process that the government is trying to ram down our throats would be disruptive, provide a lack of continuity and require a new Children's Advocate, should the current one not be hired, to undergo an enormous learning curve, is absolutely essential and a critical element in this discussion. We are not in a situation where we have the luxury of saying we can put the current Children's Advocate under the added pressure of having to go through a hiring process which under no—nothing I have heard today, nothing that I read in the job description shows why there should be one. As a matter of fact there are a lot of good reasons which have been outlined by my colleagues why we should say: let us do what the legislation that will be proclaimed allows us to do, which is to show our full confidence in the current Children's Advocate and recommend the appointment of the current Children's Advocate.

I just want to speak very briefly about some of the elements that are on page 2 of the position description. First it says—the first thing I would like to talk about—the position does not have the authority to issue directives or to redress or to order compliance with any recommendations. Parenthetically, we had always said that we think that should happen, but in the current situation, that does not happen. As such, the Children's Advocate must work closely and co-operatively with the director of Child and Family Services, Child and Family Services agencies, regional offices, treatment centres, group homes, foster homes or other places

where children are placed—and, parenthetically, that could be hotels in the city—the provincial Ombudsman, Department of Justice, including community and youth corrections, to protect the rights and interests of children and to contribute to the development of provincial child welfare policies.

It is a huge job description, a very critical position. As we have had outlined, we are in a crisis when it comes to protecting and serving the children of our province.

The current Children's Advocate has, I believe, done a wonderful job of doing that. He has been here for five-plus years now, I believe. He has developed over that period of time a relationship with those organizations and those agencies. A new Children's Advocate—and, by definition, if you open it up you have the potential of a new Children's Advocate being hired—would have to start all over again. We are in a crisis here, and it is not in the children's best interests that that happen at this point in time.

The approach taken by the Advocate—back to the job description—must be one of innovation, perseverance and flexibility. I think that Mr. Govereau's actions and reports to the minister and through the minister to the government as a whole, the Legislature and the public, have shown that he has shown innovation, perseverance and flexibility. Again, these are characteristics which do not often come in public servants, people who are working in the public venue. They do not come as often as we would like them. I think, when you have found an individual who is able to do this job to the extent that Mr. Govereau has been able to do it under very difficult circumstances, one, by the nature of the position and, two, by the difficulties he has had in relating to the minister and the government on his recommendations, you need to keep that individual.

The position is to retain and foster the public credibility of the office and the Children's Advocate in the eyes of children, their parents or guardians, the Child and Family Services delivery system and the general public. I think that if you did a survey of the community at large, the public at large and the child welfare system, you would find overwhelming support

for the job that the current Children's Advocate has done.

He or she has to ensure positive change within the system based on findings and recommendations resulting from reviews, reports, inquiries and investigations conducted by the Advocate. Ensure positive change—I think this is, perhaps, one area where the current Children's Advocate has been less than successful, due not at all to his lack of abilities but to the lack of willingness of the government to listen to what he has to say and to implement his recommendations. But he has done everything he could do to try and ensure those positive changes.

The Advocate must be knowledgeable of the systems in Manitoba, the child and family system, familiar with governing statutes and regulations, have knowledge of the aboriginal community and the diversity of aboriginal culture and language in Manitoba. Well, I would argue that the current Children's Advocate has all of those qualifications, had them before he was appointed as Children's Advocate, and now, after his years of service, has them and even deeper understanding of those issues.

In the crisis that is facing us today in dealing with the children in the province of Manitoba, why would we do anything to jeopardize that knowledge and experience and advocacy? I do not understand it. I think the one reason—and we have heard no comments from the government; hopefully, the minister will answer some of these. If we do not vote for the recommendation, the motion that Mr. Martindale has put forward, then we can only assume in the light of the accomplishments and the solid work that the current Children's Advocate has done, in the light of the crisis that is facing the children of the province of Manitoba, that the government feels that its own political comfort level is more important than protecting the lives and the welfare of the children of the province of Manitoba, and if that happens, that is a shameful day for the province of Manitoba and its children.

* (1340)

Mrs. Mitchelson: Mr. Chairperson, I have listened very intently to all the comments that were made by all

members this far, and I do want to indicate that I am hearing two things from the New Democratic opposition. First of all, I am hearing Mr. Mackintosh say that I should not even be on this committee, and then I am hearing other members of the committee saying I have to answer questions. I mean, they cannot have it both ways. [interjection] Oh, yes, they are in opposition, so they can have it both ways because they do not have to govern, and they do not have to be held accountable for the comments that they make to the public because they are opposition.

I do want to indicate that, quite frankly, Mr. Chairperson, I have listened, again, to everything that has been said, and I want to indicate that we are the government that put in place legislation that created the Children's Advocate's office. So the role of an advocate for children, regardless of what political party is in power, is to advocate and ensure that children's best interests are being served. We all know that that position is a position that does from time to time create embarrassment for any government that might be in power regardless of political stripe, because we all recognize and realize that nothing is perfect in the system, and we always strive to do a better job than what we are doing today. It is not something that happens overnight, and it is not a system that can be easily turned around. I have said many times that ministers who are responsible for Child and Family Services in this province, going back to the days of the New Democratic government and Muriel Smith, who I believe was a very good minister of Child and Family Services, have lost sleep at night as a result of some of the issues that take place and some of the abuse and neglect that takes place for children.

So, Mr. Chairperson, not an easy job and it is very easy to be extremely critical. It is sometimes not quite as easy to recommend the right solutions, and I am not sure any of us have all of the solutions, and I admit that openly and up front. I as the Minister of Family Services am attempting to do my best in conjunction with all of those who work in the system, knowing that none of us can do it alone. So I do want to say that up front.

But, you know, Mr. Chairperson, I have been a minister, and I think if you ask the present Child

Advocate, have been a minister who has not interfered in any way or not tried to get him to not be critical. I mean, he has had every opportunity. His annual reports have indicated where the shortfalls are in the system, and I know that his annual report this year, he has indicated to me, will be looking at what his recommendations have been over the years and reporting on how well or how poorly government has responded to those recommendations. That is his role and that is his right, and I respect that. I want to ensure for all Manitobans that as a result of the constructive criticism that comes forward, hopefully there will be positive changes in our system.

But we will never in this province, I know in my lifetime and I do not think in any years to come, have no need for a Child and Family Services system because we do know that parents who have the primary responsibility for raising their children from time to time abuse and neglect their children and we need legislation. We need people in place to work with those families, and we need advocates to advocate on behalf of those children who cannot speak on behalf of themselves.

I have no question in my mind that Mr. Govereau has met many of the expectations. He has criticized the system when it has needed criticism and hopefully we will have responded in a positive way to many of his recommendations. He may still be critical that we have not done enough or have not gone far enough and that rightfully is criticism. We know that the office of an Advocate will criticize governments regardless of political stripes, and it will be up to governments of the day to attempt to make the changes to make the system better.

So, Mr. Chairperson, I have no arguments or quarrels at all with the job that Mr. Govereau has done, but I do want to indicate and echo some of Mr. Kowalski's comments. The New Democratic opposition, all to a person, who has obviously caucused and politically strategized this meeting for their own political benefit, and that is their right and that is what opposition is all about and I guess that is what politics is all about, the reality is that they have every right through this process to endorse Mr. Govereau and support him as we go through the selection process, and I would hope that they do that.

The reality is that we have a process to follow. We have a different reporting structure and we also have an all-party committee that is to endorse the Advocate, and comments by Mr. Kowalski do not have to be repeated. I do want to indicate that I am extremely supportive of the process that has been laid down, and the draft selection criteria and job description are here for guidelines for all members of the committee. I hope they would read those guidelines and that selection criteria with a fine-tooth comb and make recommendations to this committee on how to change it or how to make it better. Reality is that we are here to discuss this process. I would love to see the wholehearted endorsement of absolutely every party in this Legislature around serving the best interests of children.

This is not about Mr. Govereau and this is not about the present Advocate or the future Advocate. This is about children and serving children to the best of our ability through the Child Advocate's office, through something that the NDP has always advocated for, and that is reporting to the Legislative Assembly. We have moved in that direction and I would suggest that we get on with the process.

I do know that Mr. Martindale is anxiously awaiting getting back at the microphone again. He wants to further his political agenda rather than looking at the office of the Advocate and the common-sense comments that I think I heard from Mr. Kowalski, who quite frankly is not nearly as partisan as the official opposition might be in the Legislature from time to time. I think he balances his comments and his approach, sometimes supporting government and other times supporting members of the official opposition when he feels it best meets his point of view. So this is all the comments I have to make, and I would like to move on with the process knowing that the New Democratic Party will continue to further their political agenda in the next several moments.

Mr. Tim Sale (Crescentwood): Mr. Chairperson, I urge you first of all as the Chair of the committee to call the minister to order. She has at least four times in the last two minutes been out of order in regard to imputing motives to the members of the committee, so I urge you to exercise your office to admonish the minister in regard to our rules.

Mr. Chairperson, this motion is a very important motion for a number of reasons, but perhaps the key one is that this government has a track record of silencing its critics. In 1991, it fired the entire board structure of Winnipeg Child and Family Services, all volunteers, all unpaid, replaced it with a hand-picked board of Conservative supporters who would be silenced. They replaced the publicly accountable executive directors of six agencies with a hand-picked person who would be accountable to their hand-picked board and thereby silenced the voices of those who deliver services to families requiring Child and Family Services or to children. This government has a record in health care of firing boards and then replacing those boards with paid, hand-picked people that will do their bidding. This government has a record of silencing those who blow whistles on the inappropriate regulation, as in the case of Dan Soprovich with Natural Resources.

* (1350)

So this government has a long and deep record of wanting to silence critics. If this truly were, as the minister is trying to portray it, a process that was an open and democratic process, the question would have been laid on the table: what do you want to do in regard to the appointment of a new Children's Advocate? What is the committee's best will, best thought on how to go about this process? But no, that is not what happened. The minister directed her civil servants to draft job descriptions, to draft criteria, which if it were anybody's job, Mr. Chairperson, it would be the Civil Service Commission's job, not the minister's, not her departmental staff's, to draft criteria for the selection, and the question of whether we should even go through that process would have been on this table for open discussion.

Mr. Kowalski could have made his views known, we could have made our views known and members of the government could have made their views known on the process to be followed. The government foreclosed that by bringing in the process that they wanted to be followed. So, if anyone has politicized the decisions of this committee, it is the minister who did her homework and caucused with her colleagues and her staff and decided on a process that would be followed.

Let me say, secondly, that if there is dissatisfaction with Mr. Govereau's performance, as apparently there is in some quarters, then let us know what that dissatisfaction is, let us know how he has been evaluated, let us know where he has fallen short, let us know who authored the criteria and tell us what the problems are that would prevent him from becoming the first officer of the Legislative Assembly to be truly able, without any fear, to speak his truth on behalf of vulnerable children in Manitoba.

Mr. Chairperson, the minister has politicized this process by bringing in her terms of reference for the process of hiring, by bringing in her job description and her ranking criteria, developed no doubt by her staff. She had no right to do that if this were to be a truly independent legislative process of appointment. That is this committee's job, not her job. So it seems to me that this is a very good motion that removes at a point in an electoral cycle where the government would very much like Mr. Govereau to be quiet, very much like the Child Advocate to be on a learning curve—this is a motion that would make sure that this office remain nonpartisan and remain powerful through a process of electoral renewal. So his reappointment under the new law would come up not at the end of an electoral cycle but partway through, approximately two years into it if all things are on average. Then we would be in a position of assessing, according to some criteria, his function. Right now we are not in that position because, so far as I know, we do not have those criteria approved by anybody, certainly not by this committee.

So let us, indeed, get on with what is best for Manitoba's children. Let us leave the person in place who has done the job, who has responded to criticism, who has spoken truth to power, who does know his job and is in a position to provide sound advocacy and sound advice to assist him, which the minister admits, the paper tells us about, those in the system tell us, has failed and is failing thousands of children very badly, the children in hotels, the children who in numbers far out of proportion with any other province in Canada find themselves as wards of the state, a terrible, terrible record where children in care in Manitoba are roughly the same number of children in care in Ontario, a province with 10 times our population. That is a shame.

We should not be debating who is going to speak about that problem in the future. We should be letting that person speak and asking the minister what is she going to do about the problem, rather than focusing, as she seems to want to do, on the messenger, Mr. Chairperson. I call for the committee to support this motion.

Mr. Martindale: Mr. Chairperson, just briefly before we have a vote on this motion. The minister was asked numerous times: why not rehire the existing Advocate? The minister did not make any attempt to answer that question at all, did not give us one reason why she is unsatisfied with the job of the current Advocate.

I would also like to read into the record things that the minister said in this committee on Tuesday, June 4, 1996, as recorded by Hansard. I quote from page 5, "I believe all members would agree that regardless of the reporting relationship, Mr. Govereau has been very effective in raising important issues and concerns, both through his annual reports and his statements." Further down the page she said, "I know that all members want to ensure that the Children's Advocate is able to continue to be effective in representing children who are most in need in our province."

I think, if the minister still believes that, she will support the motion. If she has gone to cabinet with a recommendation to dump the Advocate and get a new one, then of course she will vote against the motion.

Mr. Laurendeau: Mr. Chairman, I was going to stay out of this debate. As usual, you know I am very quiet when I am at a committee, but Mr. Martindale sort of got me going a little bit here. I clearly remember when Mr. Martindale spoke in the House when Mr. Govereau was first appointed, and the things he said were not very complimentary if I remember right. He was not happy with the minister appointing at that time. He thought it should be a process, a process which we have now established, a process which we established at the request of the opposition after going out to the public hearing process. Now if what we are after, truly after, is what is best for the children, then let us do that search and let us find who is best.

You know what, Mr.—[interjection]. If I may, I did not interrupt you, and I do not want to be interrupted.

Mr. Govereau has done a fantastic job. Mr. Govereau has worked for the children of Manitoba. He has done the job that he was appointed by government to do, but that is exactly—he was appointed by government. He was given an Order-in-Council by this minister and our cabinet. The position that we have created or that we are going to be creating by this legislation is going to answer to this Legislature, and we as a body and we as a committee should have the opportunity to voice our concerns and our views towards who will have this position.

Even though Mr. Govereau has done a very good job, there might be—I do not think there is very much chance that if you look at what is being brought forward as a draft, this is very, very near—as a matter of fact, it is almost a duplicate of the criteria that was established when Mr. Govereau was first appointed. The only thing changed is that he does not report to the minister. There is your change. So where is the big concern. If we as a committee are going to make a choice for the children of Manitoba, then let us make a choice and see if there is someone.

Are we scared of looking to see if there is someone better? The possibility is there. Why not look for it? So let us take the opportunity and let us do what we came to do today. Let us set up the process. If we are not happy with what is being drafted, make changes. If you think there should be a stricter criteria, make a change. If you think something is being left out that is making Mr. Govereau not acceptable for this job, bring it forward and let us speak to it, but let us not take a process that you have been fighting for since this government brought forward the Children's Advocate—and I give credit to the ministers for that because this government did do it. Was it 100 percent right off the bat? No, and I have seen many changes from many legislative packages from past governments and from this government, and the only way to correct things is by making those changes.

So do I say Mr. Govereau has to be replaced? No. Do I think he has done a formidable job as Mr. Martindale has spoken to? Yes, I do, because he has critiqued the government when he had to critique them, and every government of every stripe has to be critiqued when it comes to our children. I do not care

who has the job, he had better do a darn good job because then I will be critiquing him.

* (1400)

There is no such thing as doing it too well. There is no such thing as doing a job too well, and this is not the watchdog of government; this is the watchdog for the people. There are other things than government that he looks at. There are other areas that he investigates, and he comes back with recommendations to government how to do their job better. Let the person who has this job, be it Mr. Govereau or be it anyone else, protect our children in the future because that is the main criteria for this job, protect our children, put our children first, and let us put the political aside, and let us do what is right for the children. Thank you.

Mr. David Faurshou (Portage la Prairie): Mr. Chairperson, today I was summoned to this room to serve on the Privileges and Elections committee to discuss the order of the day which is to consider the recruitment and selection of the Children's Advocate.

I am certainly not an eloquent speaker, but I have listened very intently to all discussions because being a new member of the Manitoba Legislative Assembly, I do not have the privilege of past experience as to this Mr. Govereau's performance nor to the actual designs of the office. However, I have had the privilege of looking through the proposed job description and the responsibilities and accountabilities, and without question, through my own past experience, to have a Children's Advocate as an officer of the Legislative Assembly makes the greatest deal of sense to me as the people's representative from Portage la Prairie. As an officer of the Legislative Assembly, he is accountable to the Legislative Assembly and above reproach as far as to the inference that there is perhaps the avenue to interfere from the Ministry of Child and Family Services.

Today we were summoned to discuss the recruitment and selection process. To have a motion dropped on the table, as we have seen here this afternoon, does, indeed, a great disservice and injustice to the current gentleman who is serving as the Children's Advocate. He should have the opportunity to become the officer

of the Legislative Assembly through a process which allows him the opportunity to be that selection, through a process that allows him to serve without any baggage from past partisan politics which obviously have been discussed at this table and which I will not comment on because I do not believe it is the proper place or fashion to do so.

So, speaking in support of the Children's Advocate, I would like this committee to move forward. I would like the opposition members who have put forward and spoken to this motion to withdraw it on the basis of the disservice that it does to the credibility of the currently serving Children's Advocate, because I believe that he is an individual who has performed admirably over his five-year term of service to the people and the children of Manitoba. I would very much like him to have the opportunity to come and be perhaps the new Children's Advocate but through a process that gives him the credibility which all of us who have spoken here today have alluded to. Thank you, Mr. Chairman.

Mr. Chairperson: Thank you. We have had good discussion. I will now call for the question. It has been moved by Mr. Martindale that this committee express full confidence in the current—

An Honourable Member: Dispense.

Mr. Chairperson: Motion dispensed.

Voice Vote

Mr. Chairperson: Shall the motion pass? All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Formal Vote

Mr. Martindale: A counted vote, Mr. Chairperson.

Mr. Chairperson: A counted vote.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 7.

Mr. Chairperson: The motion is defeated.

* * *

Mr. Chairperson: I would suggest that we move on. As I suggested at the outset here—that is, the recruitment and selection of the Children's Advocate—that we as a committee come to an agreement as to how we want to proceed with this. Are there any comments now regarding the recruitment and the selection?

Mr. Mackintosh: Going back to my earlier comments and observations about not just the presence of senior staff from the Department of Family Services but the minister's membership on this committee. The minister said that we wanted it both ways. We did not want her as a member, but at the same time we wanted her to account to the committee as to what she thought was wrong with Mr. Govereau's performance. She can have it both ways in the sense that—and the committee can, because she should be able to come here as members like Mr. Sale and Ms. Barrett do, Mr. Gaudry or Mr. Kowalski. They came here not as members of the committee, but expressed views and can certainly answer questions if they were asked questions.

I ask now, in the interest of the independence of this office and to ensure that the department is not going to have even so much as a hand in essentially firing and hiring its own watchdog, will the minister remove herself as a member of the committee?

Mrs. Mitchelson: Mr. Chairperson, I think I have been appointed to the committee today. What I would like to recommend, if it might be agreeable to the committee, is that I know, as we go through the selection criteria and the process for hiring and screening and interviewing, that possibly I remove myself from that process completely and ensure that none of my staff or no one from the Department of Family Services is involved in any way through the screening and the recruitment process. I think there is a recommendation that we go through a similar process as we have for the hiring of the Ombudsman and the Auditor and whatever.

If it would be important for the committee for me to remove myself from any discussion around the hiring, the rehiring or the hiring of someone new, I would certainly be prepared to do that. I do not think in any way today, just going through approval of a process for selection should create any problems because we are actually not screening or interviewing, but I would remove myself as the Minister of Family Services from that process and ensure that someone else is on the committee for that selection.

Ms. Barrett: Mr. Chair, I have a question following up on comments that were made by several of my colleagues about the process and what we have before us, which is the screening criteria and the position description with draft attached to both of those. I am wondering if the minister can share with the committee who actually did draft the screening criteria and the position description and at whose request was that done.

Mrs. Mitchelson: Mr. Chairperson, it was human resources in the Department of Family Services. Basically, what they did was look at the original screening criteria and the job description from the hiring of the first Children's Advocate and put it forward for discussion at this table to see whether that was still the most appropriate course of action to take or whether this committee wanted to change that in any way before we move into the process.

Mr. Kowalski: It might be useful to myself if someone could help me out here; I have a good memory, but it is short. I wonder who else on this committee was involved in the process of hiring Barry Tuckett, the Ombudsman. I am trying to recall the process we used in that, how did we screen the candidates; who screened the candidates; did this committee as a whole receive all the resumes?

My recollection, and I hope someone can help me out here, is that all the resumes were received by I believe it was Kathryn Friesen, and that using the criteria that this committee decided, she used it to eliminate people, and then we as a committee reviewed all the resumes that met the criteria. From that we developed the short list for interviews—and the reason why is that that process worked well. It worked very well. I think

there was a consensus on that committee that hired it that everyone was in unanimous support of the person we picked.

* (1410)

Mrs. Mitchelson: Mr. Chairperson, I was not on the committee at the time of the hiring of the Auditor or the Ombudsman, but I was wondering, with the committee's permission, whether Kathryn Friesen, who is the human resources support person for this committee, could indicate to us what the process was, if that is agreeable.

Mr. Chairperson: Is it agreed that Ms. Friesen give response to that?

Mr. Martindale: Mr. Chairperson, there have been objections in the past to staff speaking, so maybe we could follow the Estimates procedure, if the staffperson could advise the minister and the minister can reply to the question.

Mrs. Mitchelson: Well, Mr. Chairperson, here we go again with the NDP. I mean, one member does not even want me around the table, and the other one is wanting staff from the Privileges and Elections committee that resource it to pass answers through me to answer the committee. I mean, what do they want?

Mr. Mackintosh: I have a suggestion for the minister. She has no business being here today as a member of this committee and taking part in this process of determining how the Child's Advocate's position is to be filled. She is in a conflict of interest if ever there was one, and for her departmental senior officials to be here, it speaks volumes about how she is determined to control this process. She should not be involved in directing this process. It should be directed by individual members of this committee and not by the minister who is going to be the subject of the Child Advocate's criticisms and comments.

She has already determined the course of conduct of this committee by bringing in, in a predetermined way, without any consultation in advance with the opposition, the screening criteria, indeed the agenda of the standing committee, the position description. It is

not enough that she withdraw later on after this meeting. She should withdraw as a member now, and it is up to this committee as individual legislators to decide how it proceeds.

Mr. Chairperson: I would just like to address the committee for a moment, please. The question was given as to whether there was agreement for Ms. Friesen to address the committee. That is the question, and I am asking for an answer to that response. Agreed? [agreed]

It is agreed that Ms. Friesen address the committee and give us the background that members of this committee have been looking for. So at this point I would like to ask Ms. Friesen to take the chair here and to address the committee and to give us the response to the questions that have been posed from both sides of the table.

Ms. Kathryn Friesen (Director of Personnel, Legislative Assembly): A subcommittee of the Privileges and Elections committee was involved in drafting the ad and the selection and screening criteria. It was then approved by the committee, the whole committee. There was a small number of people met to draft this. The ad was placed; the applications were received in my office. We responded to the applications. There were over 200 applications for the Ombudsman; the decision was made not all the members on the committee wanted to go through 200 applications. So the committee clerk and I did the paper screening, presenting a report to the committee, the Privileges and Elections committee. They asked to see some others that we had not screened in. We showed them, and from that a short list was made.

Mr. Chairperson: Thank you very much for that clarification.

Ms. Barrett: I was on the process too, and like Mr. Kowalski, my memory—certainly long term—is lacking in some regards. The minister responsible for the Ombudsman, or under whose—there is no minister, so it is not the same thing as the Children's Advocate was.

Ms. Friesen: There is no minister. The Ombudsman reports to the Assembly as a whole.

Mr. Martindale: Well, for information, once these amendments have been proclaimed, the Advocate will be reporting to the Legislature, so there would be a parallel?

Ms. Friesen: I believe there would be, though I have not read the legislation. I think the Minister of Family Services (Mrs. Mitchelson), there is still a responsibility from what I understand. I am not sure.

Mr. Kowalski: I guess a parallel would be the appointment of an Auditor, the Auditor for this Assembly. When he was hired, would a similar process have been followed there and would the Finance minister have been involved in that process in any way?

Ms. Friesen: I do not believe the Auditor was hired through the Privileges and Elections. It was not this committee that was struck to hire him, so that is a different process.

Mr. Helwer: Mr. Chairman, I believe in the case of the Ombudsman, the House leader was also involved in the committee. At that time it was Mr. Jim Ernst who was also minister, but he was also House leader and was involved at that time also.

Mr. Chairperson: Thank you. Further questions?

Mr. Sale: Mr. Chairperson, could the minister advise what the status of the amendments currently is and why they are not proclaimed yet?

Mrs. Mitchelson: If I might just clarify, I know that the Child Advocate will still fall under The Child and Family Services Act which I have responsibility for, but it will report directly to the Legislature and that is the change. But still he will be reporting on those children that are served through The Child and Family Services Act, and that was the amendment that was made and passed.

So ultimately he may from time to time have certain recommendations for the Minister of Family Services in his role as the Advocate, even reporting through the Legislative Assembly, but it will be up to the Legislative Assembly to hire. It will be up to the

Advocate to report on an annual basis to the Legislative Assembly, and it will be up to the Legislative Assembly to determine how large the office should be, what the budget should be and all those kinds of activities.

Mr. Sale: Mr. Chairperson, I am trying to clarify why we would not be appointing under the new act and the amendments because it strikes me that the appointment process would be somewhat different if that were the case, and right now, essentially under the old act, this process is really directed by the department. The intention of the Legislature, I think, in approving the amendments was that the process would be directed by the Legislature, by the Legislative Assembly, and this gets to the heart of the minister's role on this committee and the concerns that have been expressed by my honourable colleagues in regard to her role.

I am wondering why we do not have the act proclaimed and the amendments proclaimed and then to follow a process that would be in concert with that new intention, which I would assume would not have the minister acting in the role that she has acted in thus far. I think for her own good, not from a partisan perspective, but from her own sense of due process and her own wish to preserve her independence as a member of the Executive Council, she would not want to be here if this is an officer of the Legislature who is going to be commenting on the function of her department. So could she clarify why we have not moved to proclaim and then to appoint?

Mrs. Mitchelson: Mr. Chairperson, I really want to say to Mr. Sale that I appreciate those comments. I suppose one of the original intents of calling this committee together was to get comments and dialogue going among all three parties in the Legislature. I do want to indicate that this was the process that was followed before the original act was proclaimed. The recruitment and the hiring process took place before the legislation was proclaimed initially, back five years ago. So this kind of a process was gone through, although it was not an all-party process. It was a government process, a civil service process.

* (1420)

I guess what I am here today to say is let us go

through the process, through the interview process, determine whoever the right candidate might be. It might be the same person who is in that job today or it might be someone new. I cannot predetermine that, and I would not want to judge that. But what I would like to do is have the person in place when the legislation is proclaimed to continue on. I guess we are following precedent that was set the first time around.

But I hear what you are saying about my involvement in this committee. The information that you have in front of you is information that was pulled together by the department based on previous process, and I guess what we are asking this committee for is feedback. If this committee determines that there should be a subcommittee that reviews this or starts all over from square one and looks at selection criteria, I guess in the past—I mean, I have heard many, many people around the table say that the person who was initially recruited has done a good job, so there must have been something good about the process that hired that person.

This is here for information for the committee. The committee will determine whether these guidelines that were pulled together by the department that has had the experience in the past are the right ones to go into the all-party legislative committee process or whether it should be different, and that will be determined by the committee.

I have heard what you have said, Mr. Sale, about—and Mr. Mackintosh, although he does not always present himself in the same sort of clear manner as you might present yourself. You know, if there is a sense by this committee that by me sitting on this committee, it somehow would create the wrong optics, I am quite prepared to have someone replace me on this committee and have you do your work from here. I am not hung up on having to be here. I guess I wanted to get the process started, and it is here now.

So, you know, if it is the will of this committee, I want to tell you quite frankly I have no problem being replaced on this committee and letting the committee do its work and make the recommendations. I think we have already determined that we want to get on and get an Advocate in place who reports to the whole

Legislature, becomes more independent from the Department of Family Services.

So I just want to say to you that whatever the will is, I am prepared—and, actually, I might say, Mr. Sale, I do not often agree, but if it were this committee's will, I would certainly be replaced and let you get on with your work.

Mr. Sale: Mr. Chairperson, I appreciate the minister's willingness to withdraw, and I think that that is something she should do, and I think it would serve her and her government well if she were to do that, but that is obviously her choice to make.

I do not, though, think that she answered the question that I asked, and that was: why not proclaim and then appoint? Because it strikes me that if we really want to have that position appointed through the new legislation and with the spirit that all parties now agree is appropriate—that is, someone who reports to the Legislative Assembly—then we ought not to be using an appointment process that follows the history of the person being an employee of the department and an employee of the government, albeit with some independence but nevertheless still an employee of the department.

So I am puzzled, and the minister has not given me an answer as to why we would not proclaim and then appoint if the intention is to have this person fully as an officer of the Legislative Assembly and not as a staffperson of the department. So I apologize to the minister if she did answer the question, but I did not detect an answer.

Mrs. Mitchelson: Mr. Chairperson, I think that there will be another member that will replace me on this committee, but I wanted to attempt to answer the question that Mr. Sale had put. That was the process the way I understand it, and you will be able to tell me whether I have answered the question right or not. We can do this prior to proclamation or after proclamation. I think our experience was that we had the first Children's Advocate in place, and the whole selection process took place before the act was proclaimed. We were following that same process in recommending to this committee that that indeed happen before

proclamation. Now this committee can make the determination on whether that needs to happen or not. Does that answer?

Mr. Kowalski: To advance the purpose that we are here for, I would make a suggestion, a necessary motion that we form a subcommittee of this committee to draft the criteria and to draft an advertisement and report back to this committee as soon as possible. If we want to, we could set a time line. I believe when we did it for an Ombudsman, it was Mr. Penner, Ms. Barrett and myself who did that. I would suggest that possibly Mr. Gaudry, Ms. Barrett and someone from the government side would be interested in serving. A three-member committee worked well last time. It took a short period of time, and I would suggest that however we do it we strike off that subcommittee immediately and get on with the task.

* (1430)

Mr. Chairperson: There has been a motion that has been put in place here. Do you have that in writing? Could I have it in writing, please? While you are doing that, I will ask Ms. Barrett for a comment.

Ms. Barrett: Mr. Chair, I would support the idea from Mr. Kowalski, but I would suggest that the representative from the official opposition would best be the critic for Family Services who would be Mr. Martindale.

Mr. Neil Gaudry (St. Boniface): I would suggest, since Mr. Kowalski sat on the previous committee, that he sits on this one also.

Mr. Chairperson: Thank you for that suggestion. We are having suggestions ongoing here.

Mr. Fourschou: I would suggest that Marcel Laurendeau be the representative from the government side of the House.

Mr. Chairperson: Another good suggestion. Thank you very much. We are moving right along. It has been moved by Mr. Kowalski

THAT a subcommittee of the Privileges and Elections

committee consisting of Mr. Martindale, Mr. Laurendeau and Mr. Kowalski be struck to set the criteria and draft an advertisement for approval of this committee.

Motion presented.

Mr. Martindale: I think there is all-party agreement to proceed on this. However, before we vote on it, I would just like to say on behalf of my caucus that we are doing this under protest. We believe it is not necessary. It would not be necessary except the government wants to hire a replacement for Mr. Govereau, and we have objected to that quite strenuously today.

So even though we are going to go to a lot of work, it is work that did not have to be done, but the government would not listen to us. They defeated our motion. We will take part but under protest.

Mr. Chairperson: I will wait until we have the duplicate copy made of the resolution. In the interim, the honourable minister.

Mrs. Mitchelson: Mr. Chairperson, in the interim, I would just like to indicate that I have heard comments from members of the opposition, and, certainly, I would not want it to appear like there was a conflict of interest or that I was having some influence on this committee in any way by sitting on the committee. So I would like to resign from the committee and let the committee get on with doing its work and await with anticipation the recommendations that come forward from the subcommittee and ultimately the full committee. Thank you.

Mr. Chairperson: Thank you. I have a resignation here from the honourable minister. Is it agreed that we

accept this resignation? [interjection] I will rephrase this. I have a resignation from the Minister of Family Services (Mrs. Mitchelson) as a member of the Standing Committee on Privileges and Elections effective immediately. Are there any nominations to replace?

Mr. Helwer: Mr. Chairman, I would like to nominate Mr. Rocan.

Mr. Chairperson: Mr. Rocan has been nominated. Is it agreed? [agreed]

Ms. McGifford: Mr. Chair, I wanted to add that I regret that we have not dealt with the question of the proclamation of the legislation before the appointment with any degree of clarity. So it is still, as far as I am concerned, a very murky matter. So I want to put that on the record.

Voice Vote

Mr. Chairperson: The question before the committee is—and I will read it—that a subcommittee of the Privileges and Elections committee consisting of Mr. Martindale, Mr. Laurendeau and Mr. Kowalski be struck to set the criteria and draft an advertisement for approval of this committee. Is it agreed? Those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: Opposed? There is agreement. Agreed and so ordered.

Is there any other business? Committee rise.

COMMITTEE ROSE AT: 2:35 p.m.