

LEGISLATIVE ASSEMBLY OF MANITOBA

Monday, 13 July, 1987.

Time — 8:00 p.m.

**ADJOURNED DEBATE  
ON SECOND READING**

**BILL NO. 58 - AN ACT RESPECTING  
THE ACCOUNTABILITY OF  
CROWN CORPORATIONS AND  
TO AMEND OTHER ACTS IN  
CONSEQUENCE THEREOF**

**MR. ACTING SPEAKER, C. Baker:** On the proposed motion of the Minister of Crown Investments, Bill No. 58, An Act respecting the Accountability of Crown Corporations and to Amend other Acts in consequence thereof - the Member for Ste. Rose.

**MR. G. CUMMINGS:** Thank you, Mr. Acting Speaker.

This bill gives me a considerable amount of concern when I look at the way the bill is worded, when I look at the intent of the bill. Of course, we can't object to the intent of making Crown corporations more accountable. We cannot object to the idea that all members of the public have a right to know what's going on within the Crown corporations. We have a right to know how far our corporations are going in the expenditures of the funds that are allocated to them. We have a right to know the policy direction that the Crown corporations are taking.

I guess what concerns me greatly is that, too often, Crown corporations become the handmaidens of the government. The direction is not totally the direction that is solely designed to provide better service and to provide direction in the area in which the corporation has been established.

We see here a government that is bravely flailing away, trying to show that they are doing their best to try and make Crown corps more accountable, that they are really trying to make the Crown corporations responsible for their actions and responsible to the Legislature, because that is the bottom line in our system, the responsibility of the Crown corporation to the Legislature, to the elected representatives of the public at large.

It seems to me that our system, up to this point, has been lacking. I frankly want to tell you, Mr. Acting Speaker, that this bill will do nothing to allay those fears, and I'm certain it would do nothing to allay the fears of the public when they hear that another Crown corporation is being established to respond to the problem that Crown corporations are not being easily followed in their actions and they are not being held accountable through a logical and easily followed system.

This bill, frankly, I would suggest to the Minister, while he may have had the best of intentions or he gives us the impression that he had the best of intentions - and as we've lovingly referred to him as the super Minister, that he is now responsible for all the Crown corporations that fall under the purview of the government obviously

- but what we see is an overlaying of bureaucracy, another layer of committees, another layer of directors who are, I'm afraid, not going to be able to make the actions of our Crown corporations any more accountable than they presently are.

The true accountability as far as I'm concerned - and I think the super Minister would have to agree - true accountability comes when there starts to be a little sweat on the brow and under the armpits of the Minister responsible for the corporation when he's in front of a committee being examined on the policy and the direction in that committee, or when he's being examined regarding some of the management that evolved in the corporation that he is responsible for.

That, of course, is the basis upon which our system is built, as I believe at this point and with my limited experience in this Legislature. In fact, the accountability of the Minister for the actions of his corporation or the corporation that he is responsible for is really where we are able to examine the actions of the corporation, examine where we're headed with the policy.

First of all, let me make it very clear that it is my position that this bill could very easily be withdrawn, and that we can do a great deal more to increase the accountability by tightening up the actions of the committees that examine the Crown corporations, by expanding those actions, expanding the responsibility there.

Because what we see under the system we have today - and I maintain will not be improved with this act - is where we have a government that has cynically carried out an operation to protect itself from the embarrassment of some of the corporations that have been under its responsibility. Their actions have not been totally forthcoming in explaining the problems that have developed under the management of this government. We have a situation where we now see the credibility and the accountability has been greatly reduced. How can we expect, with the addition of another Crown corporation, to turn that around?

We are seeing a Crown corporation that would replace the responsibility of ERIC from all appearances and it seems to me that, if ERIC could not be held accountable for what happened in the Cabinet, I have absolutely no faith in the possibility that another Crown corporation would have any better ability to prove that it was responsible for the actions and it was doing everything in an honest, forthright and accountable manner in the public domain.

This bill would give powers to this corporation to transfer funds to and from corporations and, if we think it's difficult to trace the actions of the corporations and trace the flow of funds through the various corporations today, it would be considerably more difficult given a Crown corporation to have the authority that this one would have for transfer of funds, and then to try to trace the accountability for how those funds were transferred would be a nightmare, I believe, for the Opposition, and certainly would do nothing to dispel the concerns that the public has as it looks at the

inevitable, it seems, losses that we have in Crown corporations today.

We looked at a perfect example of where, I believe, the accountability of our Crown corporations is already severely in question when we looked at MTX, which has become a total embarrassment to this government. When the ratepayers look at the telephone increases that are going to have to be absorbed throughout the Telephone System, I believe that they will have little doubt in their mind that they are subsidizing the loss of funds in Saudi Arabia.

Manitoba Hydro, a Crown corporation of which Manitobans have long been proud, now one which appears to be becoming the vehicle by which this government hopes to stimulate economic activity which is not, in itself, a good enough reason for the expansion of Hydro and Hydro infrastructure.

That is when the case of the Crown corporations becomes particularly delicate, because we cannot examine and control the future of the corporation solely based on its ability to produce, its ability to return on the investment. It becomes a vehicle which the Government of the Day can and, in this case, has used to try and stimulate activity within the province, and certainly has been successful. When you spend that much money in the province, obviously the spinoffs will be enormous. But what we may have done is, with a political decision, to have jeopardized the future of what was a very sound and a very proud corporation, one in which now even the employees are beginning to question the direction in which they're being taken.

Well, Mr. Acting Speaker, you must wonder, how does all this relate to this bill. It relates to this bill because we're talking about accountability here. As I said earlier, accountability truly occurs when there is sweat on the brow of the Minister when he is being asked what is going on in his corporation. But frankly, what we see too often is where the government and the Minister becomes a bit like a cat with diarrhea. If you know the old story about a cat with diarrhea, he sometimes has two going ahead digging and one coming behind covering up. It seems to me that, when we have a corporation put in place to be responsible for the Crown corporations below it, we now have established that committee to go ahead digging the holes and come behind covering them up, because it becomes very, very difficult.

It may even become impossible to trace the flow of funds, to trace the flow of authority, and to trace the control that keeps our Crown corporations truly within the bounds of the public purview, and being assured that they are consistently and constantly acting in the best interests of John Q. Public and in absolutely no one else's interest. It should not be acting in the interests of the employees, and it should not be acting in the interests of the management, the senior management, to build little kingdoms. It certainly should not be acting as an arm of the government simply to carry out political goals because, if we look at it in a manner where we simply see the Crown corporations as a vehicle to carry out political goals and not consider the service that can be provided to the public, then again we are doing a disservice to ourselves and we are, frankly, reducing the importance and reducing the future of our Crown corporations.

When the Crown corporations lose the confidence of the public then, through their elected representatives,

they start to say, it's time to privatize again because we can't control this corporation as a public Crown corporation. Put it back in the private hands, for at least there it will be at arm's length from the taxpayers' pocket. There, at least, it would be controlled by those who are responsible for paying the bills in a manner that would make it on a practical and profitable basis, where possible. Certainly, if it's in the private venue, it has to be profitable.

Mr. Acting Speaker, we see in this bill that the government can add or delete Crown corporations. I would draw the analogy where we have been, during this Session, trying to bring MACC before a committee of this Legislature, but MACC is not handled as these Crown corporations are listed here. It is handled simply through the Estimates process. We were unable to get to the senior management of MACC to give them the ideas and to give them the severe questioning that was necessary to try and bring new policy direction to the corporation.

That's the kind of action and responsibility that we need for our Crown corporations in order to make them responsive and responsible to the public. If we're going to maintain the ability to shift Crown corporations in and out of this accountability process, then certainly this process is not needed because we already have flexibility in the present system.

What we need to do, Mr. Acting Speaker, we need to firm up our committee system. We need to make that committee system cause the Crown corporations to be examined more deeply. We need to cause those Crown corporations to be examined in a great deal of depth without some of the limitations of time, without some of the limitations of being able to acquire top personnel and second-level management to answer questions which can be skillfully avoided by the Government of the Day.

Those Crown corporations should be before the committee, in a manner that means that they have to bare their direction to the public and to public scrutiny through the eyes of the Opposition. Certainly, Mr. Acting Speaker, I don't intend to spend the rest of my political life in Opposition. So I don't say this without knowing full well that this would cause some particular concern for the Government of the Day.

But I would a lot sooner see the government concerned enough to make sure that every operation that was carried out within the Crown corporation was one which had the public interest as the bottom line of every decision that was made. I would sooner see that than to see a system carried forward where it is, to my astonishment, particularly easy for a Crown corporation that may have strayed from the straight and narrow to be able to cover its tracks, and to be able to avoid some of the scrutiny that the public is entitled to give it.

Mr. Acting Speaker, I think if the Minister truly wants to improve the accountability of our corporations, why would it not be possible to allow our committees that would examine these Crown corporations to have the ability to hire staff, not a large number of staff but some staff, to give them direction to delve into particular aspects of the actions of the Crown corporation, direction that would be given by that committee, direction that would allow that staff to go through the accounts of the corporation.

Because very often we are confronted with the situation - well, if we reveal certain aspects of our operation, then we have jeopardized our business situation. We should be able to take statements from staff under oath so that they would be required, under the protection of the committee, to be very forthright and to answer explicitly the questions that are put before them, without fear of reprisal from the Minister who is responsible for that corporation.

Those are only a couple of rough ideas, Mr. Acting Speaker. But I think that this bill does little to improve the accountability, as I've stated several times tonight. I believe that there are other directions that would be far more effective.

We talk in this bill that we could see employees of 25 or more that could be attributed to this Crown corporation. We see the ability of the corporation to acquire property. I say to you and I say to this Legislature that, if we were going to make these Crown corps more accountable, there is a system whereby we could bare their bones to public scrutiny and be certain that their direction was that of the best interest of the public or, Mr. Acting Speaker, if we don't, the public will demand that we privatize darn near every public corporation, every Crown corporation that we have in this province because the record in the last five years has been deplorable. The amount of money that we have lost is ridiculous and the amount of mismanagement that has come forward in committee, albeit with what I have just criticized as a faulty system, has to be embarrassing not only to the government, but it has to be embarrassing to the system which we are part of.

Therefore, Mr. Acting Speaker, I would ask that the Minister seriously consider whether he really has the best interests of Crown corporations in mind when he puts forward this bill, or whether really he is proposing a committee to dig and cover for the future Ministers responsible for Crown corporations.

**MR. ACTING SPEAKER:** The Honourable Minister of Crown Corporations will close debate.

**HON. G. DOER:** This, Mr. Acting Speaker, is a very serious bill and, quite frankly, I was very disappointed with the comments from members opposite.

It's really hard to know what side of the Opposition criticisms one should take to heart. On the one hand, Mr. Acting Speaker, we heard last Friday that this bill is window dressing - no more, no less - and today we heard about the massive powers we were giving to ourselves in terms of this new Bill 58 in terms of Crown accountability.

So I don't know, quite frankly, in the limited time I have, Mr. Acting Speaker, which one of those two extremes to address in discussing Bill 58, except to say that it's neither of the two. It's a progressive, accountable way of dealing with our Crown corporations that we've identified as a problem for government in the Spivak Task Force, have been identified as problems for both governments in the audit that was just recently produced by the Auditor who said, and I quote: "The Crown corporations dealing with the reinsurance issue have been dealing with it on an informal basis from 1975 to 1984."

Mr. Acting Speaker, we believe that our Crowns are very, very positive and we're not defensive about them

at all. The members of the Opposition pulled a few of the examples out and produced them in terms of losses. Mr. Acting Speaker, as the Minister of Finance has pointed out in articles just recently, and we could point out with the commercial Crowns covered under this Crown accountability act, had a surplus situation of some \$66 million last year. The situation had over \$4 billion worth of assets, Mr. Acting Speaker. We had over \$1.6 billion worth of revenue last year and we had skilled jobs located in every location in Manitoba, jobs in head offices that are located in Manitoba, not located in other parts of Canada, not located in other parts of North America, or indeed not located in other international locations.

Mr. Acting Speaker, the Opposition has raised the issue of Saskatchewan and criticized the Saskatchewan situation and compared it to Manitoba in terms of Saskatchewan depoliticizing their Crown corporations since the election of the Devine Government.

Mr. Acting Speaker, there's only one thing that's happened since 1982 with the holding company in Saskatchewan compared to now. They've not only fired everybody who was a head or a CEO of those Crown corporations, the competent people, they went from a situation of having a surplus situation of some \$119 million under Blakeney to a situation the first year under Devine where they lost \$125 million under the system. So the accusations of members opposite in dealing with Saskatchewan are totally false, Mr. Acting Speaker, and should be put on the record as such.

Not only that, when the government establishes an independent Public Utilities Board and hires the people for the Public Utilities Board, or the Public Utilities Committee of Saskatchewan, and doesn't like the results after three or four years, they fire them. This is the neutral, non-political, depoliticization in Saskatchewan. Well, Mr. Acting Speaker, that's not the system we want in Manitoba. That's not the system we're proposing under this bill.

I'm rather disappointed that the Member for Lakeside has left. I know I'm not supposed to comment, but I would like to raise a couple of points, and I hope the Member for Lakeside notes these points. Mr. Acting Speaker, on Friday morning, the Member for Lakeside gave us a lecture, as one of the grey eminent people in this House, about the value of sticking to the basics in terms of our Crown corporation.

He gave us a couple of examples, "the little black telephone," and "just fix the car." Those are the two examples he raised with us. It's rather ironic because, when he was Minister responsible for a couple of those very same Crown corporations, who was the Minister responsible when the Telephone System went from the little black telephone into office equipment, and from office equipment into Project IDA, and from Project IDA, Mr. Acting Speaker, I believe it's been the slippery slope to adventurism. It's the same member across the way who talked about getting back to basics, the same individual who talked about getting back to fixing the car. "I just want to fix the car, Mr. Acting Speaker," were the wise words of the member opposite.

Yet I recall in my former vocation that the Member for Lakeside was off to Europe and off to England on these reinsurance junkets. Was that to fix a car? Was it to fix a car?

Yet, Mr. Acting Speaker, the Auditor I think had a message to all of us in this House when he said that

reinsurance has been handled on an informal basis from 1975 to 1984. That is a message for all of us, not a message that we should take with shots across the partisan bow and forget the facts of what happened. Mr. Acting Speaker, the Member for Pembina prides himself on throwing grenades, I guess, at the government, but the Member for Pembina had a very hard time effectively catching grenades when he was a member of the government. "History repeats itself," Mr. Acting Speaker, were the words of the Member for Pembina - "History repeats itself."

Well, I wish, Mr. Acting Speaker, that the Member for Pembina gave us the advantage of history when he created a secret committee dealing with the Telephone System in terms of the incompetence dealing with Project IDA. I wish that the Member for Pembina produced a public report like the Member for Lakeside so that the public and all members of the Legislature could know the competence issues in the Telephone System. We didn't see that with the Member for Pembina, a secret committee giving him a secret report. And daily, he says, give us this, give us that. Yet when he was the member responsible for the Telephone System, a secret committee of advisers told him that the business plan for Project Ida, the information he was getting from Ida, the information that this Legislature was getting from Ida was not true, Mr. Acting Speaker, that the public was being hoodwinked.

And what did the Member for Pembina do? What did the Member for Pembina do? The great macho Member for Pembina, did he hold the executives accountable? Did he hold anybody accountable, Mr. Acting Speaker? No. Did he produce the public reports? No. He didn't do a damn thing, Mr. Acting Speaker, he did nothing. And worse than that, Mr. Acting Speaker, he, Mike Aysan, and Gordon Holland created Project FAST.

So not only does he know that the Telephone System is providing inaccurate information, not only does he not produce the results of his little independent studies, he starts Project FAST which, Mr. Acting Speaker, has lost millions and millions of dollars since the Member for Pembina, Gordon Holland, and Mike Aysan started it years ago. So I think there's a message in that for all of us, Mr. Acting Speaker, that we have to collectively do a better job with meeting the massive amounts of capital and spending with our Crown corporations.

Yes, Mr. Acting Speaker, we have the lowest rates in Canada in hydro, in telephone, in the Manitoba Public Insurance Corporation. Yes, we have \$4 billion worth of assets; yes, we have excellent and skilled employees working in all areas of Manitoba, but both sides of this House have got some messages that we must do a better job with our Crown corporations. We must do a better job in terms of the information that we have. Mr. Acting Speaker, that is why we have come forward with Bill 58.

There have been a few comments made on the bill that I would like to answer, Mr. Acting Speaker, before going into some of the aspects of this bill. I should point out that the Opposition knows full well in the bill that the member responsible to this Legislature, the member responsible for tabling the reports in the legislative committee, the member to whom the board of directors reports, Mr. Acting Speaker, is the Minister who the Lieutenant-Governor-in-Council, the Premier

appoints to be responsible for the Crown corporation. The holding company is not to supersede in any way, shape, or form the role and accountability of the Minister responsible for the particular Crown corporation.

Mr. Acting Speaker, if we could draw an analogy, we have now a Treasury Board made up of Cabinet Ministers that helps Cabinet, reviews the proposals of various departments and various Cabinet Ministers, reviews those proposals and provides advice to Cabinet on the advantages and disadvantages and the financial implications of proposals coming from departments to Cabinet. The holding company is, again, a group of Cabinet Ministers. It will have analytical staff, it will have staff - and we do not apologize for that - to analyze the financial implications of a great number of proposals that come forward from Crown corporations to Cabinet with just a superficial look at the implications for government. So, Mr. Acting Speaker, we will have a greater financial capacity, we will have greater accounting capacity.

The Member for Pembina has raised the issue of internal audits, and there's no question the manner in which external audits are produced must be improved. And that is not only a situation unique to Manitoba, Mr. Acting Speaker. We find that is a situation where the banks that have gone broke in Alberta have been reviewed by the Standards Committee of Auditors across the country, because it's been recognized that auditors now have been producing results that suit particularly the needs of management and do not necessarily suit the needs of the shareholders. Mr. Acting Speaker, we must improve the information produced in terms of external auditors, not only in these Crown corporations but in all our public enterprises and all aspects of Crown corporations and public enterprises that affect not only the public good but the public funds.

Mr. Acting Speaker, there were a number of concerns raised but I want to make it very clear to this Legislature that I believe it's the Minister responsible who produces the reports at the Legislature and answers for those reports. It's the Minister responsible who will decide whether he will answer the questions of the committee, whether the CEO will answer the questions of the committee, whether the Auditor will answer the questions at the committee, not some external body, Mr. Acting Speaker, because the Minister responsible, clearly in the act, is the Minister accountable to the legislative committee.

Mr. Acting Speaker, there is absolutely no substitute for forthright competent management. There is absolutely no question of that and this bill cannot change those facts. There is no substitute for forthright competent management at the head of our Crown corporations and we must continue to evaluate and ensure that all our Crowns are staffed with the most effective executives and the most forthright executives as possible - no question about that. Bill 58 will not mean that we have the most competent people. We will have to do that through the various decisions we make in government, Mr. Acting Speaker, but Bill 58 will provide some improvements to meet the challenges of the Nineties and we hope for the 21st Century.

All Crown corporations will now, under this bill, go before the legislative committee of the Legislature. That is, of course, an improvement on the legislative

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accountability where history has dictated what Crowns will go forward and what Crowns will not. Mr. Acting Speaker, all Crowns covered under this act will go before the Legislature and they will go before the Legislature to table their report and the Minister responsible will defend the findings in that report. Mr. Acting Speaker, we believe that is an improvement over the existing system and that will add four to five Crown corporations for public accountability through the legislative process.

Mr. Acting Speaker, we feel there is one weakness in that area though, and I should point that out to the members of this Legislature. The Spivak Task Force identified the fact that many of our Crown corporations come before the Legislature on the basis of timeliness that is way behind the facts. Witnessed just recently, Mr. Acting Speaker, there were a number of Crown corporations in the 1987 Session that were reviewing the findings of the 1985-86 annual reports. Mr. Acting Speaker, we believe that we should find some way and means - and I hope we can get some cooperation from the Opposition - of producing more up-to-date annual reports before the Legislature. We believe we should not be dealing with all the problems that have been rehashed in the past, we should be dealing with some of the existing challenges and be dealing with some of the challenges of the future.

So, Mr. Acting Speaker, we believe we should be dealing with much more current annual reports and we will be looking at the fiscal year-ends pursuant to the Spivak Task Force and other methods to look at more timely information before the Legislature. Too, Mr. Acting Speaker, we believe that the employee accountability, the joint council proposal that the Member for Roblin-Russell said was a good idea, the Member for Pembina criticized this afternoon as a bad idea. I will take the word from the Member for Roblin-Russell that it was a good idea and reject the advice from the Member for Pembina.

Mr. Acting Speaker, the Member for Pembina forgets that one of the people who introduced this concept, including the system of chairpersonship, was Duff Roblin, who I believe had a lot of good ideas for this province. We are looking at Crown accountability. We are able to look at ideas of the past that have worked in the present for meeting the challenges of the future.

The third area of accountability, Mr. Acting Speaker, is the whole area of the public service committees meeting with the public. We believe this is unique, we believe this is unique in Canada to allow the public to meet on an annual basis on their major Crown corporations, the right of the public to present their views, as the ultimate shareholders of these Crown corporations, in terms of the strengths and weaknesses of the Crown corporations.

Mr. Acting Speaker, we do not believe this is window dressing, I want to make that very clear. In fact, Mr. Acting Speaker, this presents, quite frankly, political challenges by having the Crown corporations going out. It's full of political risks. But, Mr. Acting Speaker, we have a situation where we have very good public monopolies, but one is not able to walk across the street and take one's business somewhere else.

We, therefore, believe that the public should have a right to comment about the level of services in the Crown corporations that they own, recognizing that will have political risks to it, but we believe it's a fundamental

right of the public to present their views on their Crown corporations, Mr. Acting Speaker.

And finally, Mr. Acting Speaker, the bill provides financial accountability. Just as the Treasury Board has a group of Cabinet Ministers providing a sober analysis of the pro-active proposals that come from departments, we will have a holding company that will take an analytical view of the various aspects, analytical aspects, of Crown corporation proposals. We hope - there's no such thing as a perfect model - that some of the proposals that, in past, members of the Opposition, when they were in government, approved like Project FAST, like Project IDA, and some of the proposals that we approved, like MTS and the refinancing of MTX, that we've admitted was a mistake, we hope getting sound financial analysis will provide us in Cabinet with the better tools to make more intelligent decisions on behalf of the public of Manitoba in the future and we can have better decisions in terms of those Crown corporations.

Mr. Acting Speaker, the Opposition wants it both way and I remember the Member for Niakwa pointing that out to me in the first Session of this Legislature that we are Opposition, we can have it both ways. On the one hand, Mr. Acting Speaker, they want us to be hands-off politically and, on the other hand, soon as the grenade goes off in a Crown corporation, they want to make sure the grenade is sitting in the Minister's hands.

Mr. Acting Speaker, we believe that we need greater analytical capacity to meet the challenges of the future. We believe that with \$4 billion worth of assets owned by the public of Manitoba, \$1.6 billion worth of revenue per year, 12,000 skilled jobs in this province working for every community of this province and with the very, very positive low rates - in fact the lowest rates in North American of our Crown corporations - we've got to do a better job.

Mr. Acting Speaker, we believe this bill will help us do a better job in the future. We look forward to the hopeful debate on this bill at committee and at the Third Reading stage. We believe strongly in the virtues of public ownership, but we believe we need better tools to meet the challenge in the future. I recommend this bill to all members in this Legislature.

**MR. ACTING SPEAKER:** The question before the House is the Second Reading of Bill No. 58, An Act respecting the Accountability of Crown Corporations and to Amend other Acts in consequence thereof.

All in favour, please say aye; all those opposed, say nay. I believe the ayes have it.

**MR. G. MERCIER:** Yeas and Nays.

**MR. ACTING SPEAKER:** Call in the members.

The question before the House is Second Reading of Bill No. 58, An Act respecting the Accountability of Crown Corporations and to Amend other Acts in consequence thereof.

**A STANDING VOTE** was taken, the result being as follows:

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### YEAS

Ashton, Bucklaschuk, Cowan, Desjardins, Doer, Dolin, Evans, Harapiak (Swan River), Harapiak (The Pas), Harper, Hemphill, Kostyra, Lecuyer, Mackling, Maloway, Parasiuk, Pawley, Penner, Plohman, Santos, Schroeder, Scott, Smith (Ellice), Smith (Osborne), Storie, Walding, Wasylycia-Leis.

### NAYS

Birt, Blake, Brown, Carstairs, Connery, Cummings, Derkach, Downey, Driedger, Enns, Filmon, Findlay, Hammond, Kovnats, McCrae, Mercier, Oleson, Orchard, Pankratz, Rocan, Roch.

**MR. CLERK, W. Remnant:** Yeas 27; Nays 21.

**MR. ACTING SPEAKER:** The motion is accordingly carried and received Second Reading.

### BILL NO. 56 - THE MINING CLAIM TAX ACT

**MR. ACTING SPEAKER:** Adjourned debate on Second Reading of the proposed motion by the Honourable Minister of Energy and Mines, Bill No. 56, The Mining Claim Tax Act - the Honourable Member for Lakeside.

**MR. H. ENNS:** I'll just make a few comments with respect to Bill 56. My understanding, speaking to the Minister and to staff, is that part of the reason for the bill being before us is that, in the translation requirements flowing from the Supreme Court decision of some time ago, it was thought opportune to revise the bill or modify the bill considerably and take advantage of that occasion, the bill having to be translated, in any event, not to translate an outdated or obsolete bill.

Mr. Acting Speaker, I'm prepared to move this bill on to committee and deal with it, any further concerns that I have at that time. I do want to put on the record that the concern that the Opposition has, the concern that I believe the mining industry has is that, while assured by staff and by government that no substantive changes are included in the bill, there is a substantive alteration in the style of the bill in the sense that it removes from the previous statute, the previous bill, specific matters that were structured right into the bill, now into the regulatory section. That, Mr. Acting Speaker, of course makes it considerably easier for this government, this Minister, governments in the future, to make changes that could be of significance to the mining industry, could affect them adversely if they were done in the manner or carried out in the manner that they did not take into concern the legitimate concerns that the mining industry has.

I would ask the Minister, I appreciate that it's a little difficult to know with preciseness when bills will be appearing before committee, but the executive director of the Manitoba Mining Association, which is established in the province to speak for the mining industry on all matters of things including legislation, is interested in appearing briefly before us at committee stage. I will undertake to indicate to the Mining Association of Manitoba when this bill appears before committee. If I have some additional assurance from the Minister that some effort, perhaps as a matter of courtesy, will

be made by his department to do likewise, that will facilitate my really only other concern.- (Interjection)- This day in the House.- (Interjection)- Mining, well, okay.

The point being that, having checked with the major mining companies, myself having talked to the executive director of the Mining Association, Mr. Newman, I believe that they acknowledge that there are not serious concerns that affect that industry contained in this bill. We are prepared to move the bill forward in its due course.

I would like to hear from the Minister, if for no other reason, Mr. Acting Speaker, than to put it on the record that this government, this Minister, will not take advantage of the fact that, having moved some of these matters that I referred into regulations, the mining association has the assurance from this Minister, from this government that, you know, fast Orders-in-Council will not be passed that could substantially alter the rates of taxation, the length of tenure, leasehold tenure and so forth. These are all matters that previously were structured right into the body of the bill. These are, I gather, the essential concerns that the mining industry has about the bill. They simply asked me to reflect those concerns to him, and I pass them on to the Minister.

Thank you.

**MR. ACTING SPEAKER:** The Honourable Minister.

**HON. W. PARASIUK:** Mr. Acting Speaker, if there are no further speakers on this, so that we could facilitate it, I'll just sum up and comment briefly on the Member for Lakeside's comments.

The act is being modified in terms of administrative convenience. At the same time, I think it is valid to put on the record that, in terms of the dealing that we have had with the mining industry over the last six years - I think through some difficult years because of a rationalization and consolidation within the mining industry that's taking place worldwide - I've basically indicated to them that I didn't expect surprises from them, nor should they expect surprises from me. It was very important that both sides try and give each other as much advance notice as possible.

In keeping with that, I certainly wouldn't see any precipitous changes of a fast Order-in-Council nature as the Member for Lakeside suggests would not be in the best interests of developing a long-term working relationship between government and the mining industry. I can indicate to the Member for Lakeside that certainly isn't our intention.

**MR. ACTING SPEAKER:** The question before the House is Second Reading of Bill No. 56, The Mining Claim Tax Act.

**QUESTION put, MOTION carried.**

### BILL NO. 72 - THE CHILD AND FAMILY SERVICES ACT (2)

**MR. ACTING SPEAKER:** Adjourned Debate on Second Reading of the proposed motion by the Honourable Minister of Community Services, Bill No. 72, An Act to

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amend The Child and Family Services Act (2) - the Honourable Member for Rhineland.

**MR. A. BROWN:** Thank you, Mr. Acting Speaker.

I rise to speak on this bill and, while I would like to say that the bill has addressed itself to some of the concerns which we have had, yet in other areas this bill gives us possibly some other concerns which we would have liked to have seen eliminated.

I have had this bill circulated to various law offices and they've come back pretty well with unanimous decision on the way they see that they would like to have this bill go. What they're saying is that, compared to the old legislation, the new legislation does fill a void and that it does provide a formal hearing to a person whose name is potentially to be placed on the registry. It does, however, also broaden the scope of access to the registry, which heightens the risk of damage to one's reputation.

Among the potential problems I see with this legislation, aside from any reservations that one might have with a government board labelling one as a criminal without judicial determination, are the following: a provision has been made for a notice to, *inter alia*, a person whose name will be entered on the registry; a notice is to be sent by registered mail to the person's last known address and, by virtue of this section, the person has 30 days to notify the director in writing that he or she objects to the placement of their name on the registry.

The problem I see with this provision is that potentially a person will not receive actual notice from the director, and his or her name may be placed on the registry without their having an opportunity to object.

Mr. Acting Speaker, this registry is at least 10 years old. Many of these people whose names appears on the registry as abusers probably have moved three or four - or we don't know how many times - from that place of abode that they had when they were accused of child abuse. There are going to be many cases, Mr. Acting Speaker, where it is going to take longer than the 30 days in order to contact these people, and 30 days is not a sufficient time in order to contact these people.

I would like to say that in other jurisdictions, such as in Ontario, persons can appeal any time and this would give time for a notice to arrive to this person. Every effort should be made to find these people wherever they are located, and the 30-day limit certainly to those people who cannot be contacted where the registered mail is returned, the 30-day limit certainly should be extended in that particular case.

There's also a provision that the ones following it to provide for a hearing, should someone object to their name being placed on the registry. I believe that these hearings should be private and that the public and the media should not be permitted to attend. There should be a ban on the publishing of or making public of information that would have the effect of identifying a person or a participant in the hearing. Further, the record of a hearing or of the appeal should not be admitted into evidence in any other proceeding.

Mr. Acting Speaker, there are many of these people who will receive notices, have no idea that their names are on the registry as accused of child abuse. This is

going to be coming as a complete shock to them, and I know that there are many of these persons who will not want to come forward if they know that their name is going to be published in the paper and that these hearings are going to be made public. Therefore, Mr. Acting Speaker, we are not going to get the kind of response which is absolutely necessary if we want to make certain that those people who have been falsely accused, that their names will be eliminated from the registry. So again, Mr. Acting Speaker, this is an absolute must that these hearings must be private and not open to the public.

Then we have a section that creates the new Registry Review Committee which has seven people named by Cabinet. In our telephone conversation earlier this week, you had mentioned - and I had mentioned to this person - concerns that such a committee not be composed of persons working with Child and Family Services agencies or for employees of these agencies. The consensus is that there is very strong agreement on this particular topic, because we have to have an absolutely unbiased committee.

We know that this Minister has politicized that department to a degree that no department ever in this province has been politicized before, and we are absolutely adamant, Mr. Acting Speaker, that this one committee has to be unbiased because, if we find that bias is going to exist amongst these seven people, then if we're trying to do justice, then justice certainly will not be done. I would just like to caution the Minister that, when these people are appointed, they must be persons who would not be biased.

There is a provision that provides for an appeal to the Court of Queen's Bench and, while this is certainly a welcome provision in that it guarantees a person the right of an independent judicial determination of the matter, the concern I have is that a person could be saddled with substantial legal fees if he hires a lawyer at the initial hearing and then, subsequently, on appeal should that be necessary.

I think there should be provision in the act which provides that a person's legal costs should be covered should the Registry Review Committee and/or the Court of Queen's Bench find that evidence of abuse against the person is lacking. We must consider, Mr. Acting Speaker, that what we are asking over here is people to come forward to prove their innocence, and they will be asked to incur substantial sums of money in order to be able to assure their innocence.

I would like to suggest to the Minister that it is necessary for her to pick up these legal costs, because there are going to be many situations where people will not have the monies which will be required to come forward and substantial costs are going to be incurred. I would just like to say that those costs, if there is not enough evidence for a conviction, then those persons certainly should not have to pay for the costs which would be incurred.

There's another concern that the agency has the burden of proof on the balance of probabilities. In my opinion, such a burden should be higher as we are dealing with a matter which has quasi-criminal overtones. The burden of proof, in my opinion, should be higher than the balance of probabilities. The new provisions can be construed as an improvement over the former legislation, in that at least the person whose

name will be placed on the registry has some procedure to protection and the right to be heard. However, there are many people - and I include myself among them - who question the benefit and the wisdom of a Child Abuse Registry, which contains names of people other than those convicted of child abuse.

Mr. Acting Speaker, if I may, with your permission, I would just like to read into the record what some of the other provinces are doing in this regard. British Columbia, for instance, they used to have a registry with an appeal process, but the Provincial Ombudsman didn't like it and convinced the department to rethink the registry because he was getting so many complaints. They never allowed outside use of the registry even to the police. It was strictly for the use of their own community service.

Mr. Acting Speaker, in that province, it has never been able to be used as a source of information for employment within whatever sector. There are other ways in which you can find whether a person has been convicted of child abuse or not. Certainly, a person who has been convicted of child abuse has a criminal record and it is easily checked, and you do not have to do this through the Child and Family Abuse Registry.

In Alberta, they cancelled their Child Abuse Registry in the fall of 1984, and information was not released to anyone outside the Child and Family Services again - never ever did they release any of the information outside of the Child and Family Services areas. After the Cavanagh Report on the whole department in 1983, the decision was made to drop the registry. The legislation was drafted to revise the whole department and the public was given one year to comment. In Saskatchewan, they cancelled their Child Abuse Registry over three years ago, and employers again have never been given access to the records.

So all of these three provinces have done away with their registry. What they have done, they have computerized their Child and Family Services and they're way ahead of us in that respect, that they have all this information at their fingertips now, and they find that this is working admirably for them. They're very happy with the success that they have achieved.

Ontario has a Child Abuse Registry that is combined and registered with both victims and abusers on the same lists, and this list also contains the names of suspected abusers and there is an appeal process. A registered letter is sent to the abuser and that abuser may apply to have his case reviewed and, usually after review, the case is still usually not dropped. In other words, even after the panel has reviewed the particular case, in most of the cases, it is not dropped. At this point, the alleged abuser can appear with his lawyer before a neutral officer. This is an appeal process that they have, and this person is absolutely neutral and he is going to be the one really, after the decision is made by these seven people, who is going to be voicing his opinion on whether this person is guilty or not.

In that province, people must pay for their own legal fees, even if they are found innocent, and there is no time limit to apply to have your name removed. In other words, they do not have the 30-day limit which we are about to impose over here.

But, Mr. Acting Speaker, the whole registry is under complete review by Dr. Bell of Queen's University because of possible conflicts under the Charter of

Rights. They know that they are convening the Charter of Rights and they are going to be making changes within that province. From the indications that I received, they expected that the changes that they were making would probably be the same changes as had been made in Saskatchewan, Alberta and British Columbia. So they are working in that direction and they expect, very shortly, to have legislation which is going to be similar to the legislation that these other provinces have.

I think the one concern that the Minister certainly must have - that the Canadian Charter of Rights and Freedoms section guarantees equality before and under law and equal protection and benefit of the law - therefore, why should some individuals who are really innocent, but still held under suspicion by someone, have to prove their innocence to have their names stricken from the registry?

I would just like to say that, if some of these names are going to be remaining on the registry who have not been convicted of abuse, there are going to be many court challenges. One, the Minister has just faced, and she'll be facing many, many more challenges in court. It certainly does not do credit to any jurisdiction, to any government, to consistently lose cases. That is why Ontario is actively looking at changing their laws as soon as possible, and that is why Manitoba has the opportunity at this particular time to also make amendments which are going to make provision for or do away with names where you cannot prove guilt.

These are some of the comments that I would like to make on this bill. I guess we could go on for quite a long time. I've done quite a bit of study on this bill. I would just like to say that I was in contact with MARL, and I noticed that they have just come out with a new copy of the presentation that they expect to make. I phoned them the other day, and I haven't had an opportunity to look through this new presentation, but I phoned them the other day and they said that their position had not changed.

In their previous response to the Child Abuse Registry, they stated on page 2, paragraph 2, that we do have serious concerns regarding child abuser registry as recommended by the committee, especially the section referring to suspected abusers. Then they give examples of why they have concerns of leaving the names of suspected abusers on the list, and they too do feel that this contravenes the Canadian Charter of Rights and Freedoms.

Mr. Acting Speaker, I believe that if these changes which I've outlined, if they can be encompassed within this piece of legislation, then I will have no problem supporting this piece of legislation. But we must have the assurance from the Minister that these changes will be incorporated within this bill before I, myself, will be able to give my support.

**MR. ACTING SPEAKER:** The Member for St. Norbert.

**MR. G. MERCIER:** Thank you, Mr. Acting Speaker.

I, too, would like to add a few remarks to this bill, as well perhaps as one or two other members on this side of the House.

I rise I guess because, Mr. Acting Speaker, maybe that the Member for Rhineland and I have a different view of one particular aspect of the bill. I certainly concur



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with him in his comments that he has made with respect to the notice at the last known address, and the composition and the type of independent impartial people who should be appointed to the Registry Review Committee, to the payment of costs, etc. But it's with respect to suspected abusers and the burden of proof that is on the agency where we, I suppose, would differ, Mr. Acting Speaker.

Firstly, let me say that there is no doubt as to the support for the child registry system where there has been a conviction and where there has been a finding by a court that a child is in need of protection on the basis of abuse, and that would generally be in an application for guardianship by a child and family agency. In those types of cases, the test that is used is the balance of probabilities. There are those who would argue, therefore, that with suspected cases that the burden of proof should be one that is used in criminal cases beyond a reasonable doubt, and I would disagree whole-heartedly with people who would take that position.

Section 19.2(5) refers to the fact that the agency has the burden of proof on the balance of probabilities, and I think that is a sufficient test. I think we should be cognizant of the fact, at the same time, that person would only be placed on the registry after a unanimous opinion by the agency child abuse committee that that person has abused a child. So you have that requirement that must take place first before the child would be reported to the director as an abuser.

The one aspect that I'm not sure of that I would like to see is that section 19.2 refers to regulations, and I don't know what those regulations are. None of us on this side know what they are. It would be helpful if we knew that. But given that there are satisfactory regulations and that a child abuse committee from an agency is unanimously of the opinion that the person has abused a child, in fact, in my opinion, that might go too far, to make it unanimously. In fact, I would argue that is too stringent a requirement that the decision be a unanimous one. But given that then, if the person wishes to appeal the placing of his or her name on the registry, the burden of proof is on the agency and it's on the balance of probabilities. I'm satisfied completely with that test, provided there are qualified people on the review committee making the judgments, of course, Mr. Acting Speaker.

I would point out, Mr. Acting Speaker, when The Child and Family Services Act was introduced into this Legislature, I believe it was 1983 or 1984 - 1983 the Minister reminds me - I, at that time, and I suppose I could have looked it up in Hansard -(Interjection)- 1984, okay. At that time, I distinctly recall, in my comments on the bill, as saying that there had to be provision for an appeal. There was no doubt in my mind then that someone who was placed on the child registry should have a right to appeal the placement of their name on that registry. Of course, this has been confirmed by the courts now and is the reason for the legislation before us. So it's on that particular aspect that perhaps the Member for Rhineland and I may have a different opinion.

Why do I take the position that I do, Mr. Acting Speaker? Because I think in a significant number of these cases to suggest that a person whose name, or that the agency, would have to prove their case beyond

a reasonable doubt would be an almost impossible burden. In the vast majority of cases, particularly the ones I think that I would be most concerned about, would be where young infants are involved, where they are the victim, but they are unable to give testimony, Mr. Acting Speaker. Without any testimony, the suspected child abuser would have to be found innocent.

Anybody who works in the system and is knowledgeable about the system and anyone with common sense will recognize that there are situations that have occurred and are occurring and will occur which point, certainly on a balance of probabilities, to perhaps the parent being the child abuser. So if you make the test beyond a reasonable doubt in those circumstances, the suspected and actual child abuser is going to be relieved of any finding of guilt. I think if we do that in this legislation, Mr. Acting Speaker, we are not protecting children and particularly infants, because it would be an impossible burden.

The balance of probability, as I suggest, is fair enough. If that person's child can be removed from them permanently in order for permanent guardianship on the basis of that test by a Child and Family Services agency, then I suggest it's adequate enough a test to use with respect to the child registry. If you don't have a reasonable test in place, Mr. Deputy Speaker, child abuse can be repeated when it shouldn't have been repeated. It can be repeated by people who may adopt again, who may perhaps become foster parents again when they shouldn't be, adopt when they shouldn't be, have children remain with them when they shouldn't be. Therefore, Mr. Acting Speaker, I think we have to act in the best interests of the children. As I say, if the test is sufficient to take away a child permanently, then it's sufficient for the child registry test.

One of the difficulties of course, Mr. Acting Speaker, I think I find somewhat difficult to accept and I think members of the public find it difficult to accept is that, when in our society a person is accused of some sort of fault or crime, the attention of all the government resources go to dealing with the rights of the accused, with the rights of the child abuser, just as in our criminal system, when a crime is committed, it may very well be a very serious crime of assault or manslaughter or murder, or as - I shouldn't refer to that one - but serious crimes.

Within literally hours of the incident passing, the resources of our system turn to the defence of the accused. We have legal aid in place for the accused. We have all the rights of the Charter of Rights and Freedoms going into place and the rights under the bail system and the rights after conviction of the parole system, and the victim gets forgotten. In the same way, in a matter of moments or a matter of days since a court decision, we've got a bill in the Legislature to protect child abusers.-(Interjection)- And also to protect the children.

The child registry was there to protect the children but, within days of the court decision, we're here debating a bill to protect child abusers. I know that's not fully correct because we don't want to see innocent people placed on the Child Abuse Registry but, Mr. Acting Speaker, we have debated for years in this Legislature now the death of innocent children from child abuse in which children are being placed knowingly

in high-risk situations. Those have taken years to deal with.

We had six infant children die last year. The report on that, the Sigurdson-Reid Report, had to take months and months. The recommendations have been made; the recommendations may take years and years to be dealt with, if they are dealt with. We've had a policy in place for years and it is being criticized that too many infant children were being placed in high-risk situations. That criticism went on year after year after year and, even in the last year, we had six deaths of infant children.

I find it somewhat difficult, Mr. Acting Speaker, that the resources of the department can act within days. Hopefully, this Minister is at the mercy to protect children but, at the same time, there is an equal concern about child abusers. Now, hopefully that is just to protect people who have been wrongfully charged and hopefully this bill will allow those who have been wrongfully charged with child abuse, will give them a right and remedy which they should have had in the original legislation to clear their names. But I would be concerned that we avoid going too far, that innocent children will suffer in the future, and that people who have been properly charged and accused of child abuse will have their names removed from the registry when they should remain on the registry, Mr. Acting Speaker.

So with those comments, we'll look forward, Mr. Acting Speaker, to dealing with this bill in committee.

**MR. ACTING SPEAKER:** The Honourable Member for Pembina.

**MR. D. ORCHARD:** Thank you, Mr. Acting Speaker.

There are a couple of areas I want to address in terms of this bill. They stem from Estimates discussion with the Minister on this Child Abuse Registry. If my recollection is correct, in last year's Estimates, the Minister explained the current Child Abuse Registry has basically three levels of files maintained. The Level 3 file is of those individuals who have been found, beyond reasonable doubt, to be guilty of child abuse and their names are maintained on the registry and a file is maintained documenting their abuse of a child.

The second layer of files that are maintained and the names being maintained on the registry are of those individuals who are accused of child abuse, but investigation by authorities within the department and even, I understand, police did not conclude that there was sufficient evidence to proceed with charges, if you will, but yet there were very, very serious concerns and very serious indications that indeed that person may well have abused the child and simply was unable to be brought to justice because the evidence wasn't sufficiently strong.

Then there was the first level of files that were maintained on Manitobans who were accused of child abuse and there was no evidence whatsoever to substantiate the accusation. Those files were maintained for a number of years on the pretext that you have to have that name in case that name resurfaced 5 years from now or 10 years from now. It was that level of maintenance of name on the Child Abuse Registry that I objected to and many people objected to.

Now I don't think that system has changed. I believe that is still basically the system maintained by the

Minister, and it's a system, quite frankly, that she fought very diligently to attempt to preserve in Estimates of last year. Now this bill is coming up, which I presume with section 19.1(4), wherein now with passage of this legislation, all those people who are maintained on the Child Abuse Registry of whom Level 1, Level 2 or Level 3 files are maintained in the Department of Community Services will now be notified that in fact their name is on the registry. Presumably, those individuals will have an opportunity now, Mr. Acting Speaker, to appeal their case, something as the Member for St. Norbert has indicated, for approximately four years he's been requesting of this Minister and she has not reacted to it.

Now, Mr. Acting Speaker, I find the process that is involved in this bill to be a step forward, but it's by no means a giant leap for mankind, if you will, because here we have the circumstance where a Level 1 file - and, Mr. Acting Speaker, I'll use you as the example. If perchance I decided I wanted to, for some perverse reason, get you into a little bit of trouble, I could report to a high school principal in your home town that I believed you were abusing one of your neighbour's children. Under the legislation, that high school principal must proceed to the authorities with your name and complain that you may be a potential child abuser. That could be a completely unfounded accusation, a vexatious accusation that I make of you, for whatever reason, and you would be investigated.

You would naturally be found completely innocent with absolutely no evidence to support the allegation I made, but law requires it to be investigated. Under the Minister's system, you and your name would be maintained in that Level 1 file system. Now with passage of this legislation, you, Sir, would then have been notified and you would have 30 short days to make an appeal. I maintain, Mr. Deputy Speaker, that if you are a person with a Level 1 file, you should be notified that you were and that your name is being expunged, that the file is being destroyed and you'd have no need to appeal because you have done nothing. There is no need to maintain your name on that file.

Now, we have taken one small step in that you will now be notified, but you still have to go through the process of a hearing before the review committee. You may or may not know the seriousness of the charge and what you're facing when you get to that appeal committee. So you may well have to retain for your own self-interest a legal counsel to take there, which I submit is a rather undue expense to put you to when there was absolutely no evidence your name should have been on the Child Abuse Registry to start with.

So, Mr. Acting Speaker, I would suggest to the Minister that she consider very seriously, on her Level 1 files, of notifying those people and simply saying that their name is being taken from the Child Abuse Registry and no further file will be maintained, and not put them through the process.

The process of appeal is flawed. No. 1, it's flawed because you have 30 days' notice. If they change address from the time the file was maintained, you do not contact that person. Presumably that file will exist forever then because, if no one appeals, the files stay and the files are only removed if the appeal is successful, which is the second area of problem that I have with this legislation. Section 19.2 establishes the Registry

Review Committee. How is this review committee established? Mr. Acting Speaker, it's established as a committee consisting of seven persons appointed by the Lieutenant-Governor-in-Council for a term not exceeding five years.

Whatever happened to the principle we used to have of appointing individuals at the pleasure of the Lieutenant-Governor-in-Council? Why all of a sudden are we bringing in these fixed terms? Is it that you are afraid that you will lose the next election and these people will lose their appointments, as happened to so many at the change of governments? Why is it that we are changing the normal process of removing someone at the pleasure of the Lieutenant-Governor-in-Council?

You may find that, as in the case of some of the directors you've put in place in your new regional services for the Child Welfare System in Winnipeg, that you, indeed yourself, have to remove some of those people because they are not competently carrying out their duties. If you now find that to be the case with one of the seven people you've put in the new Registry Review Committee, you're locked into keeping those people on for five years or else presumably providing them with some kind of a compensation to remove them when they are not acting competently.

You should change and amend section 19.2(1) to, "appointed at the pleasure of the Lieutenant-Governor," no term fixed. You don't need to have them there for five years.

The reason, Mr. Acting Speaker, this causes me some additional concern is that this Minister has proved in the last two years that she is a social activist with blinders on. She has been warned and warned and warned of problems in her department and has only been dragged, kicking and screaming, to resolve some of them.

What is going to be the nature of the appointments that this Minister of Community Services, this present Minister of Community Services, that she's going to recommend be appointed for a five-year term? Are they going to be activists of a similar mind frame and mindset that she has? Because if that's the case, those people may not provide the most objective review of the files. I can tell you right now, if the Minister was one of the people on that review committee, the review would not be objective. She's demonstrated that in her actions in the House over the last two years.

So what confidence do the people who are notified under this legislation that their name is on the registry and that they can go to the Registry Review Committee appointed by this Minister, what assurances do they have, Mr. Acting Speaker, that they're going to get an objective review of the case, given this Minister's record? Well, I submit, as my colleagues submit for me, none and, if none, very little. So that appeal process indeed is flawed.

However, I have to give this Minister some semblance of credit because she's come an awful long way from Estimates time last year to presenting this legislation, where at least now there is some form of appeal. But she needs to go another couple of steps further to make this workable.

I ask her to take very seriously the suggestion I make of the Level 1 file who you have in your department. Why do you wish to put those people through the review

panel process? Why do you simply not notify them that they're on and that their file is being destroyed and their name is being removed from the file? That would be the most efficient way to do it because, if indeed this review committee that you're striking is objective, they will be removed anyway. So why put them through the hearing process?

Why put them through the potential expense of hiring legal counsel to defend yourself in the case I outlined for you, Mr. Acting Speaker, that someone could have done to you or, for that matter, done to myself? I don't know. Some people may well be surprised when they receive the notification in the mail that they're on that Child Abuse Registry, because they will not know why they got there.

So, Mr. Acting Speaker, I simply say to this Minister that there are a couple of amendments she must consider when this bill goes to committee: first of all, the process of just removing the Level 1 cases without necessity to go to the review committee; secondly, take another look at your structuring of the review committee and make those appointments at the pleasure of the Lieutenant-Governor-in-Council and not for a five-year term, as she has in here, because she may herself, within a year or a year and a half, wish to remove one of those persons. If the terms she struck in the Order-in-Council says three years or five years, she will have difficulty doing that herself.

She should not saddle the incoming administration after the next election with her appointments to this review committee. A new government, as the Premier has so often said in justifying the dismissal from boards that this government inherited some five years ago from the Conservative administration - justification was given - well, we certainly want people politically in tune with us on our boards. That was the reason they used for dismissing untold numbers of people on boards. No other reason was given. No other reason need be given, because that is the nature of the Lieutenant-Governor-in-Council at the pleasure of the appointment.

Yet this Minister wants to change the rules and put her people in place for a period extending beyond the life of her government. I don't think that's correct. I don't think that's proper. I don't think it serves the purpose she's trying to fulfill in bringing this legislation forward. So, I hope the Minister takes those comments seriously at committee stage and brings in amendments to correct them.

**MR. ACTING SPEAKER:** The Minister of Community Services and Corrections.

**HON. M. SMITH:** Mr. Acting Speaker, just a few quick words on the questions raised.

The appointment of the committee, again, we would like to see a mixture of specialists in the field and lay people. The specialists in the field can come from the variety of social work, medical, police or whatever. I would welcome suggestions from the Opposition because our intent is to get people who are concerned about the child abuse area, knowledgeable in it, but also have some sense that they're trying to balance the rights of an abuser with the need for protection of the children, because that is the purpose of the registry.

With regard to the notice, I'll certainly review whether any longer period should be required. Again, what we're

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trying to balance here is long enough for a reasonable follow-up without unduly delaying the situation. I'll review that particular recommendation. There is, of course, the appeal to the Queen's Bench should someone inadvertently miss the appeal time.

I don't know whether the Member for Pembina has seen the amendments that we will be proposing. We did have two on the deletion of names. There will be a 10 year - any name that's been on up to 10 years would be deleted of an abuser, or when the child victim reached 18, whichever comes first. That would take care of some of the backlog issue.

I agree with the Member for St. Norbert that the balance of probability test is the only reasonable one to deal with this particular type of situation, where we are dealing with children, where the evidence is quite difficult to come by.

With regard to the checking out with other provinces, we have actually had very many inquiries interested in the legislation that we're putting forward, because they too want to retain the validity of a registry under the Charter. So, far from approving the direction of B.C., Alberta and Saskatchewan, our information from Ontario is that they are looking at very much the same issues we are and are quite interested in the direction that we are going.

With regard to the comments that the Member for St. Norbert said he made in '84, I did read the Hansard and the committee reports, the debate in the House, and I didn't find that recommendation about the appeal. However, I do know there was a fair bit of discussion of it during Estimates, particularly with the Member for Pembina and the Member for Morris. At any rate, we not only believe there should be an appeal, we did ask the Provincial Abuse Committee to make recommendations to us on the registry. That report was submitted last December and in fact we thought we could do it by regulation. We had been consulting quite

widely and were about ready to bring in the regulations when the Charter case indicated that we had to use the legislative route.

I really reject the notion that the purpose of the registry is to protect abusers. The very existence of it is to protect children and, in order to comply with the Charter, we have to demonstrate that we're giving due respect for the rights of the abuser. We agree that fine tuning of rights has to be secured but the whole purpose of the registry is to give an extra tool in dealing with this very difficult, complex and yet very important area or initiative in the child protection field.

With regard to the issues raised by the Member for Pembina, to the best of my knowledge, I said that there were only two levels of reporting going on at the present time, people guilty or people whose cases might have gone to court and not had sufficient evidence to find a conviction, but there would have been a charge. The cases where there was no evidence, to the best of my knowledge, are not on the current registry, and then the vexatious, unsubstantiated cases never did get on. So the scenario drawn by the Member for Pembina about all the false allegations and so on is quite impossible.

Also with the proposed amendments on the procedures for removal, there will, in fact, be a much easier route of removal, particularly for those names that have been on for more than 10 years.

Again, with those general comments, I think anything else I have to say can be dealt with in committee and I would like the bill to proceed.

**QUESTION put, MOTION carried.**

**MR. ACTING SPEAKER:** The hour now being ten o'clock, this House is adjourned and will stand adjourned until 1:30 p.m. tomorrow. (Tuesday)