

## EVENING SITTING

## GOVERNMENT MOTIONS

## Appointment of Ombudsman

**Hon. Mr. Berntson:** — Mr. Speaker, in a few moments I want to move a motion dealing with the appointment of the Ombudsman, but before we do that, Mr. Speaker, I want to talk briefly about the individual who has been selected to fill that position, and indeed is in the acting position now.

I don't intend to spend any time debating the merits of the Ombudsman concept. That's been debated in this House many times before at length. I don't intend to spend any time debating the process of selection. That's been debated many times before, and I suppose that we could spend some time debating that process here tonight. I expect members opposite will, and that's fine.

But what I want to talk about, Mr. Speaker, is the person that has been selected to fill this position. Mr. Speaker, pursuant to section 3 of The Ombudsman Act, I recommend to this Assembly, that Gerald Peter McLellan Q.C. of the city of Regina be appointed to the position of Ombudsman.

Pursuant to section 5(2), of The Ombudsman Act which requires that:

Where the office of Ombudsman is vacant . . . the Lieutenant Governor in Council shall appoint an acting Ombudsman. . .

Since April 3, Mr. Speaker, April 3, 1987, Mr. McLellan has been acting as Ombudsman in the province of Saskatchewan until this resolution could be dealt with here in the Legislative Chamber and presumably that acting position will be concurred in and he will have the permanent position for a five-year term.

The former administration, I might point out, Mr. Speaker, took 14 months before they appointed Mr. Tickell to that position when Judge Boychuk vacated the position.

Mr. McLellan was born and raised and educated in the province of Saskatchewan. He brings many years of broad experience to the job. Mr. McLellan holds two degrees from the University of Saskatchewan, a Bachelor of Commerce and a Bachelor of Law.

He has worked previously for both the public and private sectors, Mr. Speaker. He also holds a Certificate in Public Administration from Regina College. During the '50s Mr. McLellan worked as a analyst in the Saskatchewan government's budget bureau. In the late '50s and early '60s he practised law with the firm of Noonan, Embury, Heald and Molisky here in the city of Regina. Following that Mr. McLellan was solicitor in charge of the claims department of the Co-operative Insurance Services.

For the past 22 years, Mr. McLellan has practised law with the Estevan law firm of McLellan, Cundall and Bridges. He is a family man, Mr. Speaker, and a community

minded individual. As an example he has been a member of the Estevan St. Joseph's Hospital advisory board for the past 10 years.

Since April of this year, Mr. Speaker, as has already been mentioned, Mr. McLellan has been the acting Ombudsman. The Ombudsman's report for 1986 was tabled in this Assembly a couple or three weeks ago and in the highlights of that report Mr. McLellan leaves no doubt that to maintain the integrity of the Office of the Ombudsman and to leave it high in the public's esteem is a reasonable goal, Mr. Speaker, for any Ombudsman.

Mr. McLellan's record of public service and his standing in the legal profession of this province, will, I feel, provide the province with a very able and diligent Ombudsman over the next five years. Mr. McLellan has a highly developed sense of justice, has demonstrated compassion and good judgement. These qualities will assist him greatly, Mr. Speaker, in his faithful and impartial performance and the discharge of his duties and functions as the Ombudsman.

I therefore, Mr. Speaker, move, seconded by the Minister of Justice:

That an humble Address be presented to His Honour the Lieutenant Governor recommending that Gerald Peter McLellan of the city of Regina, in the province of Saskatchewan, be appointed Ombudsman, pursuant to section 3 of The Ombudsman Act.

**Ms. Simard:** — Mr. Speaker, there are many comments that I will be making tonight about the manner in which this appointment was made that may leave the impression that I think the proposed Ombudsman is a bad person, but that's not the case. That's not what I'm saying.

His friends however, his friends in the government, have put him in a very awkward position. The proposal to appoint Mr. McLellan came as a real shock to me and it came as a shock to many members on the opposition side of this House. It came as a shock, Mr. Speaker, because there had been absolutely no prior consultation with the opposition — not one iota of consultation. There had been correspondence, there had been considerable correspondence with the government about consultation respecting the appointment of the Ombudsman. There had been correspondence about setting up an all-party committee, and this correspondence was completely and absolutely ignored by the government with the exception of one letter taken from the member from Souris-Cannington to the former Ombudsman, Mr. Tickell, saying his recommendation respecting an all-party committee was under review — an all-party committee to select and recommend the appointment of an Ombudsman.

This manner of appointing an Ombudsman without consulting the opposition flies in the face of the traditions of this government, Mr. Speaker. It's totally anti-democratic and flies in the face of the tradition of this House. It's unprecedented in Saskatchewan, it is arrogant, and some people would argue that it reduces

accountability to the people of Saskatchewan. It's unfair to the public. And when I say it's unfair to the public, I just want to quote from a letter that was sent to the Premier of this province from the SFL (Saskatchewan Federation of Labour), in which they expressed their regret over the manner in which this appointment was made. The letter is dated April 21 of this year, and the Premier will have that letter in his possession, Mr. Speaker. The last two paragraphs say:

Your action in selecting an Ombudsman without all parties' support through the Legislative Assembly, without consultation with your colleagues in the legislature, and without a public search for the best candidate, has done an obvious partisan injustice to the people of this province in an office which should enjoy their full confidence and support.

It is essential that we honour a time-proven tradition in this province, that of fairness and quality in services to the Saskatchewan people. The Office of the Ombudsman and the individual who fills that position is more than a symbol.

And, Mr. Speaker, that summarizes many of the thoughts and feelings that people in Saskatchewan have with respect to this office and with respect to the appointment of an Ombudsman without prior consultation with the opposition members of this House. Quite frankly, Mr. Speaker, I can't believe that the government is here today asking us to approve this appointment without having undergone the necessary informal preliminaries that have been done in the past with respect to the appointment of an Ombudsman.

In order to further illustrate why this consultation is so important, I want to describe and examine in some detail the role of the Ombudsman. The Ombudsman, Mr. Speaker, is an advocate for individuals. It provides ordinary people with access to a sort of appeal from arbitrary administrative decisions. In the last few decades, as we all know, there has been a tremendous expansion in the functions which government plays in the lives of ordinary men and women. Government increasingly plays a more and more important role in the lives of ordinary men and women, and many decisions that are made by government officials are of an arbitrary and administrative nature, a discretionary nature. These decisions often have a very profound effect on the life of an individual, and as a result of that, many of these decisions are subject to complaint.

But when a citizen feels aggrieved, where does he or she go? Where does a citizen go when they feel aggrieved by a government decision? Some may go their MLA; others may choose to go to the Ombudsman. And for that reason an Ombudsman can play a very effective role.

Now it was suggested by the member from Melville, I believe, during the course of the debate of whether or not there should or should not be an Ombudsman — which was a widespread debate that took place some time this spring when there was some suggestion by government members that they could do away with the Office of the Ombudsman — there was a suggestion by some of the

members opposite that an MLA could play the same function and do the same things that an Ombudsman could do, and therefore there was no need for the Office of the Ombudsman.

That's what we heard from the government members, Mr. Speaker. And that's just ludicrous. What that tells me, Mr. Speaker, is that those people who made that statement have absolutely no understanding whatsoever about the role of an Ombudsman.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — And that's why we're faced with the problem today, because they don't understand what an Ombudsman is supposed to do and what it's intended that the role of an Ombudsman be. That's why we're in this mess today, Mr. Speaker. That's why we're in this mess.

Just to give you some examples of what I'm referring to: an Ombudsman has very wide investigative powers. He can go into a department and he can ask for information, and he can demand and insist upon and get documents from government. MLAs can't do that, Mr. Speaker. MLAs can't do that — we can't insist on documentation being produced. If the government chooses to say, no I'm not going to answer a question; no I'm not going to produce documentation — which they've done repeatedly in these estimates — they can get away with it. But an Ombudsman can make sure that that documentation is forthcoming. That's what an Ombudsman does.

The other function, the other powers, I must say, that an Ombudsman has are the powers to hold quasi-judicial hearings, Mr. Speaker. Quasi-judicial hearings, bring up evidence, hear it under oath. Do MLAs have that power? Of course they don't, Mr. Speaker.

So those members opposite who say that an MLA can stand in the place of an Ombudsman are being dishonest. They're misleading the public, Mr. Speaker, or else they're totally ignorant of what the role of an Ombudsman is. Either way, it's very upsetting and frightening.

The independence of the Ombudsman, Mr. Speaker, is absolutely essential in order for this individual to carry out his responsibilities — absolutely essential that the Ombudsman be independent of the executive arm of government. It's crucial. It's crucial to the Ombudsman fulfilling his responsibilities.

(1915)

The Ombudsman is responsible to the entire Assembly, not just to the government. The Ombudsman is responsible to opposition members, to the member from Regina Elphinstone, to the member from Moose Jaw North, to the member from Saskatoon Fairview, to the member from Weyburn, to the member from Melville — responsible to each and every member in this House, not just to the government members, Mr. Speaker, and that has to be kept in mind.

And when the Ombudsman does not have the initial

support of all the members of the Legislative Assembly, I ask you: how can that Ombudsman properly and effectively perform his responsibilities and his duties? And I say "the initial support" deliberately — when the Ombudsman does not have the initial support, are the words that I used. And I used those quite deliberately because I recognize full well that as time goes on, and as days and years pass us by, the Ombudsman will be making decisions that will be unpopular with the government, because that's what an Ombudsman is there to do, is take on government and protect people from arbitrary administrative decisions.

That's what an Ombudsman is there for, and that's why an Ombudsman will inevitably make unpopular decisions with the government. And so it's understandable that after a few years or months go by, the bloom will wear off. But initially, initially, the Ombudsman should have the support of as many members of this House as possible, and ideally by every single member of this House. And when there is not support from the opposition, the public of Saskatchewan, the men and women of this province have to ask themselves some very serious questions, Mr. Speaker, some very serious questions.

And I want to review, because I think the appointment of an Ombudsman in this arrogant fashion — in this unfair manner, without any accountability to the opposition, without any prior consultation with the opposition — I think that's indicative of a general attitude that this government has displayed in the last several months of this year, an attitude towards the people of Saskatchewan and an attitude towards the watch-dog agencies in Saskatchewan that protect individual rights.

I believe that this is indicative. It's a symptom of an attitude that is rampant in the government and amongst the government members, that watch-dog agencies — agencies which protect the human rights and the rights of ordinary men and women — are unnecessary and unwanted and to be done away with funding cut, left, right and centre. And that's the attitude of this government, and that's what they've displayed, Mr. Speaker, in the appointment of the Ombudsman in this manner.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — This afternoon we were talking about cuts to native organizations. Native organizations, Mr. Speaker, have taken on the government. And what do we see after statements are made — hard statements criticizing the government, statements that it's every citizen's right to make in this country, in this free and democratic country, statements that are our right to make — what do we see? They get their funding cut off.

And then let's look at the Saskatchewan Human Rights Commission and the 15 per cent cut-back to the Saskatchewan Human Rights Commission. That's an agency that's designed to protect individual human rights. And, Mr. Speaker, it also has the right to go against government if government does something that's discriminatory against individuals. So what does this government do? It cuts back the Saskatchewan Human

Rights Commission by some 15 per cent and makes it very, very difficult for the commission to perform its duties effectively and properly.

And then this government comes along and the former Ombudsman, Mr. David Tickell, came out and make public certain information to the public of Saskatchewan that the government did not like. And then Mr. Tickell went over to the John Howard Society to be the director over there, and what do we hear a week or two later, after Mr. Tickell's appointment is announced? The John Howard Society is cut. Another example, Mr. Speaker, of this government trying to muzzle — muzzle the watch-dogs of Saskatchewan.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — And let's look at the Voice of the Handicapped. The Voice of the Handicapped has spoken out against the government, and it criticized the government for its inaction in certain areas. And the Voice of the Handicapped gets cut. And so it goes on and on.

And now we have the Ombudsman, Mr. Speaker, the Ombudsman. We all know in this province that the Ombudsman was a thorn in the side of the PC government. We all know it was a thorn in the side of the government. And what happens? And what happens? An appointment is made to the position of Ombudsman. And appointment is made without any consultation with the opposition, and that Ombudsman is as much our employee as the employee of the government.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — So I ask you, Mr. Speaker, is the government attempting to minimize criticism of its workings and its decisions? Is that what the government's intending to do — to minimize criticism? And what other message is the government giving to the people of Saskatchewan when watch-dog agencies are being muzzled, when people who speak out are being cut back? What message does that give the people of Saskatchewan, Mr. Speaker? I'll tell you what message that gives them. That tells the people of Saskatchewan, you toe the line, you keep your mouth shut — don't say anything or you're next on the list.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — But I tell you, Mr. Speaker, the people of Saskatchewan aren't going to put up with that. The people of this province don't like being shoved around, and they're not going to put up with being shoved around any longer.

Now we ask ourselves, what is the normal process? What is the normal process? What usually happens when we appoint an Ombudsman? What do we usually do?

Well the normal process, Mr. Speaker, is to first of all advertise the position; advertise it provincially, and advertise it nationally. Very simple. You know, such a straightforward thing to do; such a logical thing to do; such a fair thing to do. But what did this government do?

Did it advertise?

As far as I know, Mr. Speaker, not one single advertisement in this province. Not one advertisement provincially or nationally in order to select a candidate who may be the best of tens or twenties, or even more. Not one single advertisement, Mr. Speaker. Now how can that be justified, I ask you? How can that be justified?

The next thing to do, Mr. Speaker, is to screen the candidates. You screen the candidates, and you come up with perhaps a short list that can be discussed by an all-party committee of this House, with members from government and opposition on it, and you bring these names before the all-party committee; you talk about the candidates. The opposition has an opportunity to ask about this person's political persuasion, or that individual, what have they done in the past, and what sort of qualifications do they have. Will they be good for the job? And the opposition gets an opportunity to review the curriculum vitae of these individuals, and to discuss it and have some input into the appointment.

Well did that happen in this province, Mr. Speaker? No, it didn't. There wasn't any consultation at all, not even a phone call. Not even a phone call! The appointment was made out of the blue. I was downtown somewhere and heard it on the radio. Nobody was consulted. And I say that's simply atrocious and unacceptable, and it's contrary to the parliamentary tradition of this House.

And these selection committees, Mr. Speaker, these selection committees exist in other provinces. In fact here tonight, I have an advertisement in my hands, and it's an advertisement from the Legislative Assembly of Alberta for an Ombudsman. The Legislative Assembly advertisement, the Alberta Legislative Assembly, for an Ombudsman. Let me just read to you, Mr. Speaker, what's on that advertisement:

Canadians who have earned respect and recognition in their chosen fields in the community at large are invited to apply for the position of Ombudsman for the province of Alberta.

This is advertised, incidentally, in the *Star-Phoenix*, so these advertisements were advertised across the country. They weren't advertised only in Alberta.

The Ombudsman is charged with the responsibility under The Ombudsman Act to investigate the complaint of any persons who believe they have suffered an injustice through the actions or decisions of departments, agencies, or officials of the Government of Alberta.

The Ombudsman carries out his/her duties through the management of a small group of professional and support staff and reports on the results of investigations to the legislature. The demands of this position require attributes that go beyond a specific discipline or academic achievement. It is desirable that the Ombudsman possess wide experience in dealing with people from all walks of life, knowledge of Alberta and its

people, common sense, maturity, tact, patience, perseverance, fairness, integrity, tolerance, and sound judgement.

An understanding of the distinction between natural and legal justice, a general knowledge and appreciation of the workings of the parliamentary system; strong communication skills, a practical knowledge of law and familiarity with investigative procedures.

That's because the Ombudsman has very wide investigative powers, Mr. Speaker.

A knowledge of sound administration and management practice, and a high energy level and strong dedication (strong dedication) to the Ombudsman role.

It goes on to say a few other things, but at the bottom, Mr. Speaker, it says that this is advertised by the Ombudsman selection committee.

The Ombudsman selection committee. And when I look at the names of the selection committee which are at the bottom of this advertisement, there's a name of an NDP MLA at the bottom of that advertisement and the name of a Liberal MLA. There was representation on this selection committee from the opposition parties in the Alberta legislature.

And did that happen in Saskatchewan? Did they advertise nationally, Mr. Speaker? No. Did they place a telephone call and say, we're thinking of perhaps appointing Mr. McLellan to the position of Ombudsman? No. Not a phone call. Not a phone call. No advertising, no phone call, no consultation; they just upped and appointed an individual without any consultation with this opposition. And even in Alberta, Mr. Speaker, they have a selection committee represented by all parties of the legislature.

I would just like to set out, for this House, the sequence of events respecting the appointment, in this dismal manner, of the Ombudsman. September 15, 1986 the former Ombudsman, Mr. David Tickell, wrote, and he recommended to the government that an all-party committee be established. On December 17, 1986 the Leader of the Opposition writes and confirms that there should be an all-party committee established. On January 19 the Leader of the Opposition writes and asks for a reply, Mr. Speaker. He asks for a reply.

Then on January 30 a reply is sent from the member from Souris-Cannington to Mr. Tickell saying that he's reviewing the situation. On March 3 the Leader of the Opposition writes once again, asking for a reply. No reply — absolutely no reply to our request for consultation and an all-party committee. Nothing. The opposition of this province that represent more voters in the election than that side of the House didn't even get the courtesy of a reply to our request for some input into the appointment of an Ombudsman. And I think that's despicable, Mr. Speaker.

(1930)

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — And while all this is going on, the controversy is raging out there in the province, and we have editorial after editorial in the *Star-Phoenix* and the *Leader-Post* extolling the virtues of the Office of the Ombudsman. The people of Saskatchewan were speaking out because the members on that side of the House were saying, we're going to do away with this office because an MLA can do the same thing. Not understanding at all what the role of an Ombudsman was, they were making silly statements like that out in the public and the public was getting very upset and through editorials was lobbying this government to change its wrong-headed course and to reconsider the possibility of doing away with the Office of the Ombudsman.

And I'll just quote from some of those editorials because I believe they're very succinct and to the point. The *Leader-Post*, February 7, 1987. The title of the article, Mr. Speaker, is: "The Ombudsman's post must be kept filled."

Should the government somehow decide that the Office of the Ombudsman is expendable, it would do so at its own peril.

Now that's very interesting, Mr. Speaker. The editorial is saying that if the government were to eliminate the Office of the Ombudsman, it would do so at its own peril. Now if I was a government member I would be saying, gee whiz, maybe we shouldn't do away with the Office of the Ombudsman. But what else can we do to this office in order to make it less effective?

The Ombudsman plays a vital role in helping those who feel they've been wronged by the bureaucracy to find their way around the red tape.

That's what this editorial says, Mr. Speaker. The abolition or downgrading of the Ombudsman's office would be to the detriment of those who turn there for help. The abolition or downgrading would be to the detriment of those who turn there for help.

Another editorial, Mr. Speaker, from the *Star-Phoenix*, February 7, 1987. "The Ombudsman should stay," is the title of the editorial:

This advocate for the people against bureaucratic and governmental abuses has become an entrenched part of the fabric of Saskatchewan society and it should remain so.

Devine, (and I'm quoting from the article, Mr. Speaker) need only look elsewhere to see the effect on people when governments try to drop or curtail such services. The government of B.C. on a ruthless binge of spending cuts a few years ago, not only brought thousands of citizens onto the streets in protest, but instilled fear and insecurity among ordinary residents who felt they were being stripped of rights. Just the threat of loss of such human services dealt a devastating blow to the morale of thousands of B.C. residents.

Ombudsmen from time to time embarrass

governments, but such services are none the less necessary if just and humane treatment of citizens is to be maintained. Embarrassment is a small cost. Indeed, in purely political terms the cost of being seen to be silencing this voice of the common person would be much higher. But this isn't purely a political issue. Governments of all stripes need the kind of checks and balances an Ombudsman provides. Saskatchewan is no different than any other jurisdiction in that regard.

And those are two editorials in the major cities in Saskatchewan, Mr. Speaker.

And so I think the government was reading those editorials, and I think they were saying to themselves, it's not going to be politically expedient for us to do away with the Office of the Ombudsman, so we will backtrack, we will backtrack on the plans to abolish the office. But maybe what we should do is appoint someone who isn't going to be as eager to take on the government, and that's the . . . so eager to take on the government.

And I think, Mr. Speaker, that was the thought process that this government was going through. So all of a sudden out of the blue we hear about the appointment of a former law partner of the past PC president in the province of Saskatchewan — a former law partner.

And tonight when the member from Souris-Cannington was referring to the credentials of the proposed Ombudsman, Mr. Speaker, I didn't hear him mention that this person had extensive experience in human rights. There was no mention this person had extensive experience in the area of human rights. And that, I would suggest, is a major requirement for the appointment of an Ombudsman — someone who understands and has extensive experience in the area of human rights.

I did not hear about the extent of the proposed Ombudsman's investigative skills. I did not hear about his ability in conducting inquiries and calling up evidence. I did not hear whether he had experience in those areas, Mr. Speaker, and those areas are crucial, absolutely crucial for an Ombudsman to have experience in. But there was no mention of that.

So what does this mean to the people of Saskatchewan, Mr. Speaker? What does this mean? It means that the government has little regard for the office of the Ombudsman and little regard for this legislature and its traditions.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — It means that they're prepared for their own politically expedient purposes to provide the public with less protection or to minimize the protection that is now available to the public.

It means that this government is prepared to reduce its accountability to the public. It's avoiding accountability, Mr. Speaker — once again, avoiding accountability. This is another incident, I might say, of avoiding accountability. I'd spoken on their attempt to avoid accountability when I spoke on the first appropriation

Bill, Mr. Speaker, and the auditor, appointment of private auditors. That was another incident where they attempted to avoid accountability.

But in any case, Mr. Speaker, they're doing it once again. Yet again, this government is attempting to avoid accountability to the public, and the result is, there's less fairness in government, Mr. Speaker, less fairness for the people of Saskatchewan, for individuals who are being trammelled on by the arbitrary administrative decisions in the public service, and who want some recourse — less fairness for the men and women of Saskatchewan.

And I asked why did they not consult with the opposition. Why not consult? Why not set up an all-party committee? Why not advertise? Why just barge in like a bull in a china shop and shove this on us? I ask you, Mr. Speaker, why did they just barge in and shove this on the people of Saskatchewan, because Saskatchewan people don't like being shoved around, Mr. Speaker.

The government, Mr. Speaker, the government does not belong to the PC party of Saskatchewan. The government belongs to the people.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — They're only a small whirlpool, Mr. Speaker. They're only a small whirlpool in a much bigger lake, and they're only a fleeting moment in history, so why should they not uphold tradition? I asked you what they're afraid of. Are they afraid that their incompetence will become more obvious? Is that what they're afraid of? I ask you, Mr. Speaker.

There is absolutely no question that the appointment of an Ombudsman in this fashion grossly violates the tradition of this House and the rights of Saskatchewan people — the rights of Saskatchewan people to have all members of this government meaningfully involved in the appointment of an advocate for them, a people's advocate, to take on government and keep government on the right track. This appointment in this manner shows extremely poor judgement, Mr. Speaker — very, very poor judgement, and it leaves a cloud of suspicion over the Office of the Ombudsman. It leaves a cloud of suspicion, and quite frankly, I don't think I'd want the job under those circumstances.

And worse, Mr. Speaker, it leaves the Ombudsman in a very, very awkward position. It leaves the Ombudsman without the support of the opposition members of this House. And I ask you once again: how can he properly and effectively perform his responsibilities and have credibility with the people of Saskatchewan when the opposition members of this House do not approve of his appointment, particularly because of the manner, the absolutely arrogant and inconsiderate manner in which this government announced his appointment and made his appointment?

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — And for that reason, Mr. Speaker, I'm going to move an amendment to the motion. And if I just

may read it:

That all the words after the word "that" in the first line be deleted and the following substituted therefor:

this Assembly refer the matter of the appointment of an Ombudsman pursuant to section 3 of The Ombudsman Act and the method of recruitment and selection to a select committee of the legislature.

I would like to move that amendment, and it's seconded by the member from Saskatoon Fairview, Mr. Speaker. Thank you.

**Some Hon. Members:** Hear, hear!

**Mr. Speaker:** — The debate on the amendment and the main motion will continue concurrently.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — Mr. Speaker, I want to take a bit of time of the House this evening to set some background for the motion which we have before us and the amendment. And members opposite have asked for a little background as to how this office operated in past years and how previous appointments were made, and how we came to have an Ombudsman in Saskatchewan.

And I want to give a little background of a personal nature because I've had a lively interest in the idea of an Ombudsman in Saskatchewan for many years. I was a minister in the government of premier Tommy Douglas and premier Woodrow Lloyd during a period from 1960 to 1964 when we first began to consider this idea in earnest. We were aware of the Swedish model which was adopted in Denmark. We thought that the Danish model perhaps offered a little more assistance to us because of the fact that their parliamentary system is more like ours than is the Swedish.

(1945)

We took special interest in the New Zealand experiment and followed the early experience of their Ombudsman. They call him a parliamentary commissioner. His name is, or was — I'm not sure whether he's still in office — Sir Guy Powles. He has visited here, visited in this Chamber. And we discussed with him the way in which the office operated in New Zealand and we felt that that would be a particularly appropriate model for Saskatchewan. It's a relatively small government, as we have here.

A report was prepared for our government by Mr. Tom Shoyama, then secretary of the planning board, in September of 1963. The idea was accepted in principle and the Speech from the Throne in the spring of 1964 proposed that a special committee of the legislature be appointed to inquire into the best means of proceeding with the establishing of the Office of Ombudsman, and acquiring a person to fill that office.

The government of which I was then a member was voted out of office in 1964 — not, I may say, because of that

proposal, but because of other events surrounding perhaps a medicare dispute, perhaps maybe other issues which were of greater public importance. The incoming government, headed by the hon. Mr. Thatcher, continued with the examination of the matter of an Ombudsman, and a detailed report was presented to the new attorney general, the hon. Mr. Heald, now Mr. Justice Heald, in August of 1964.

And doubtless because of the pressures of a new government assuming office, it was not proceeded with. In 1965 I introduced into this legislature a resolution calling for the establishment of a select committee of the legislature to study the matter. The issue was debated at length. The resolution was not accepted but it was not dealt with in a hostile way, but I think, feeling that perhaps it was premature.

I introduced a similar resolution in 1966, and colleagues of mine introduced similar resolutions in 1967 and 1968. The government of the day had reservations about the idea. I, on the other hand, became more and more convinced that the Office of the Ombudsman would fill an important role in the governmental structure of Saskatchewan, and I felt that we should proceed with that idea.

In our election program of 1971 we included the idea of establishing the Office of Ombudsman. We committed ourselves specifically to establish the Office of Ombudsman, responsible only to the legislature, to investigate grievances against any activity of the provincial government. We were elected in 1971 and set about the job of drafting appropriate legislation and finding a suitable person. Because of the experience elsewhere in the world between 1964 and 1971, I felt, my colleagues felt, and I believe the legislature felt that we no longer needed a legislative committee to pass upon the idea of having an Ombudsman, but we could proceed with a Bill to establish the office and debate it on that basis. And that in fact was done. The legislation was introduced on March 8, 1972, and after an extensive debate it was passed. My recollection, Mr. Speaker, and I'm speaking now only from memory, is that it was passed without a dissenting vote.

We were happy then to set about to organize the office. It took a little longer to find the right person for the job than we had anticipated. In March of 1973, we were happy to be able to announce the appointment of Judge Boychuk, a judge of the provincial court, to be Saskatchewan's first Ombudsman. A little later on in my remarks, I'm going to come to the manner in which Judge Boychuk's name came before the legislature.

During the years between 1964 and 1971, I had maintained a lively academic interest in the idea of an Ombudsman. I had carried on a correspondence with Professor Don Rowatt, who was gathering a good deal of information with respect to this idea in Canada, as well as Professor Don Smilie, and also with a Professor Stanley D. Anderson of the University of California in Santa Barbara. I don't know whether I could find that file, but if anyone is interested in a fat file on how the Office of Ombudsman has worked in various jurisdictions in the world, I would be happy to attempt to share it.

I built up a file of publications from the University of California at Santa Barbara, including such diverse items as reports from that university at Santa Barbara, reports from the University of California at Berkeley, a report of the first year of the Norwegian Ombudsman — and they had already embarked upon that in the 1960s; copies of Bills introduced into the state legislatures of Connecticut, Illinois and New York and California, and similar material laid before the council of the city of New York, all with the idea of establishing an office akin to the Office of Ombudsman.

Now, Mr. Speaker, arguments are frequently mounted, pro and con, for the idea of having an Ombudsman. And we heard them in the 1960s before the evidence was in. The arguments fell into a fairly standard pattern, at least for those countries which had a parliamentary tradition like ours. They ran from the fear that there would be yet another civil service bureaucracy, to a belief that the elected representatives could do the job, to the assertion that there was nothing wrong with the system without an Ombudsman. And sometimes they ranged all the way over to the other side of the spectrum, saying the Ombudsman will be relatively powerless, and what we need is someone to investigate complaints, but also someone who has the legal power to remedy them — along the line of the French Counsel of State.

Well, Mr. Speaker, we heard all those arguments in the '60s and the '70s, and we don't hear them any more — we didn't, because where the Office of the Ombudsman was established in New Zealand and in the Scandinavian countries and here in Canada, the way that the Ombudsmen have discharged their responsibilities, have silenced their critics.

And I have not heard any of these tired arguments to the effect that we don't need an Ombudsman because the MLAs can do the job. I hadn't heard them until a few months ago when they were put forward, I believe, by the member for Melville, whose arguments always have the freshness of the 1960s.

Now, Mr. Speaker, no one argues that the Office of the Ombudsman has solved all the problems, all the problems of giving the citizen access to the government. Far from it. Nor was this ever their claim. But it has been a major step forward, and we can all take a good deal of satisfaction that the office has been introduced into this province, and I would say has served the citizens of Saskatchewan well.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — I want to say, Mr. Speaker, because it's germane to the body of my remarks which I will come to later, that much of the success of the Ombudsman depends not on any legal powers which he may have, but rather in the manner in which power is exercised, the manner in which the person is appointed to the office, the manner in which he discharges his responsibility, and the manner in which he is supported or not supported by the government of the day. Because this man or woman, this officer, is not wielding any legal club. His only weapon is the weapon of being able to

publish the facts. And under those circumstances the integrity which he brings to the office and the degree of support which he receives when he publishes facts, determines whether or not his role, or her role, will be effectively discharged.

And so it's no small thing, Mr. Speaker, under those circumstances, for a person, an officer, who has no legal powers, to have established in the minds of the public that a good job is being done to protect the public. And I say that Ombudsmen, from one coast of Canada to another, have established that in the public mind and it ought not to be eroded or undermined by a government which is attempting to do that by denying to the recent appointment of Ombudsman the aura of impartiality which is necessary in order to discharge those responsibilities.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — Now the Ombudsman is not to expect perfection from government; he's not to lunge at every peccadillo of maladministration nor is he to be or she to be a lap-dog of the government — not to be a lap-dog of the government. But he or she . . . And perhaps, Mr. Speaker, I can digress by saying that when I speak of Ombudsman I am including things like a legislative commissioner and nothing stems from the name Ombudsman. It could equally be a female. The name comes from Sweden and from two centuries ago, so it is perhaps not surprising that it should carry a male tag, as was perhaps thought to be the appropriate stream of things two centuries ago. But we are now using that term to mean someone who discharges these responsibilities, male or female.

I say that the Ombudsman is not to be a lap-dog of the government. They should not expect perfection from public servants, but they should call governments to account. And they have seen their role as forcing the sometimes unruly machine of government to steer a careful path, insisting that it take the path decreed by the legislature, and even then ensuring that as few individuals as possible are injured — as few individual flowers are crushed in the forward motion of progress.

There are special problems which have not been resolved with respect to the Office of Ombudsman, certainly. The Ombudsman ordinarily finds himself checking up on the public service when they are not following the course of action which the legislature wanted them to follow. And under those circumstances, Mr. Speaker, they don't find themselves in a very narrow corner because by and large politicians agree with what they're doing.

An Ombudsman may well be an adversary of the public servant but he may be a friend of a politician, because politicians in office need someone, as many people as they can, to watch the public service — to see that egregious errors infringing on the rights of citizens are not made, because it will not be the public servant who will answer for it, it will be the politician. And certainly, any politician knows that the more trip wires he has out there, the better, calling to his attention possible infringements of the rights of citizens so that they can be remedied before they become a public issue. And all of us, I think,

who are practitioners of the political arts know that. So in that sense the Ombudsman does not find himself in a difficult corner.

But other types of problems are possible, as in a case where a government is pursuing, and consciously pursuing, a particular policy which affects the citizen in a way which might be thought to be unfair.

Now, Mr. Speaker, it is not possible for every public policy to be fair to everyone. Sometimes a policy fails that test, and yet it might be a good policy. Lawyers face this problem all the time. Lawyers know that sometimes a good law produces an unfair effect for one citizen. And judges struggle with these. They sometimes bend the law and do justice to the citizen, and in the course of so doing, cloud the law so that the next person doesn't know what it means. Sometimes they do the reverse. Sometimes they apply the law and do an injustice to the citizen. But the citizen who comes following him will know what the law is.

(2000)

Now those are not easy decisions. The lawyers have a shibboleth for it: "hard cases make hard law". And the same problems confront an Ombudsman. And I am sure that they face those problems sometimes, but they have a particular ability to confirm the operation of a law or a policy and still find ways to relieve the injustice that an individual may suffer.

And I think all of us have come onto those. I recall a lively — to put it mildly — dispute when we were in government, having to do with the question of whether a handicapped person should have a chauffeur's licence to drive a large transport truck. And there was no doubt that the Ombudsman was saying, yes indeed, this person has shown that he can drive a truck, and he's passed the test, and he should not be discriminated against because he's handicapped. And the Highway Traffic Board said, our obligation is to see that there's safety on the highways, and we do not believe that that person is as safe a driver and when you're driving umpteen tons of vehicle, etc. And that was a lively dispute. The member for Kindersley . . .

Mr. Speaker, I don't know what particular circumstance is being addressed by the members opposite. I well know what circumstances I was addressing when I was meeting the Highway Traffic Board a fair number of years ago, with a copy of the Ombudsman's report in my hands. And they were having none of it. They were having none of it. They felt that they were fully justified. Both groups felt that they were fully justified.

That's one of the problems of government. Nobody says all governmental decisions are easy. But I felt that the Ombudsman performed a valuable service. Eventually some sort of an arrangement was arrived at, but the problems were highlighted so the policy makers knew exactly what the issues were, exactly what the pros and cons were, and somebody had to make a decision. But nobody got caught because their problem had not been addressed.



Now there's a simplistic view abroad, and it's frequently encouraged by the press, that all laws can be drafted and administered so that no one will be injured by them, and if you can show that a law hurts an individual you've shown it's a bad law. Now that is simplistic nonsense but I see it purveyed in the press from time to time. Now we know that isn't true. We know that there is not enough intelligence in all the world to draft a law which will do the job which we need to do and which will under no circumstances work an injustice on any single individual. And that's why we have things like the Office of Ombudsman, to see whether we can isolate those cases and see whether we can mitigate injustice which is brought about sometimes by the application of a law which by and large produces a just result for the vast majority of the citizens. And clearly this requires special skills on the part of the Ombudsman, and in the past the two Ombudsmen we have had, I believe, sir, have displayed those skills.

Now, Mr. Speaker I could talk at some length about some of the issues which surround the Office of Ombudsman — whether the ambit of their jurisdiction, whether or not they should be bringing the same rules to bear with respect to commercial enterprises like public corporations as they should with respect to the public service proper. But I feel that that would be straying beyond the boundaries of this particular debate. There is, I think, a . . . And I will make this small point, I think there's a pressing need for an Ombudsman at the federal level in Canada because every provincial Ombudsman . . . And I invite all hon. members to read the reports from some other provinces. They will show that perhaps a third of the cases which come before provincial Ombudsmen are, in fact, cases that are under federal jurisdiction.

The Minister of Justice will know that the courts here have established that actions of the RCMP are not subject to the review by the provincial Ombudsman because while they're under contract to the provincial Crown, they're employees of the federal Crown. And it has been decided that the Ombudsman, the provincial Ombudsman, does not have that jurisdiction.

We all have cases of corrections and unemployment insurance and guaranteed income supplement — allegations of injustice along those lines, and it's much more difficult to find the point where the citizen can ask for redress — much more difficult. And I think that we would be adding to the rights of the citizen and the ability of a citizen to get redress if we had a federal Ombudsman.

Now, Mr. Speaker, I want to conclude this area of my remarks with a more general comment, because I think all of us know that governments are becoming more complex. Problems grappled with by the government are becoming more complex every day, and governments are intervening in the lives of citizens more and more. And that's not going to change. That is not going to change. There are those who believe that somehow we could turn back the clock and have that day when governments would not be intervening in the lives of citizens. But that day is not going to come.

I noted this morning when I was out going around the

grounds where a new upgrader is being built, that part of the commentary was that, we are having to deal with the sulphur in this way. It didn't used to be dealt with in this way; we used to just pile up the sulphur in blocks. But governments are now frowning upon piles of sulphur in blocks. Meaning, someone has said you can no longer do that. That's a minor example. But there are a great number of them.

The members opposite have suggested PCBs (polychlorinated biphenyl), that's true. I am sure there are many more regulations with respect to the use of PCBs now than there were 10 years ago. Agricultural chemicals, many more. One can hardly think of an area of human activity where there are not more regulations. And those who say we should have fewer regulations, say it *in vacuo*, but not specifically.

If there's too much fat in our hamburger, we now have a regulation. Once you simply went to another store, but not now. Somebody has a regulation. And I have noted that this is a reaction of the public. When I was in office, I could not count the number of times where people said to me in effect, there ought to be a law; there ought to be a law to stop that. Many of them were resisted. Many of them were resisted.

I recall, Mr. Speaker, a debate on this down at the Commonwealth Parliamentary Association in Halifax when I recounted some of the proposals which had been put forward by our government and rejected, but which . . . Some of them, by the way, have been adopted by the government opposite — proposals that we have a horse racing commission. And I took the view that the horse racers could regulate their own industry. But this government opposite decided no, we better have government regulations.

And with respect to rides, amusement park rides. I'm not saying they're wrong, I'm just saying proposals came forward to have a law; and I took the view, well there is no real need for another set of regulations there. Government opposite has decided that there is. I'm not saying that it's a wrong decision. I'm just saying that time moves on and we then decide something else needs to be regulated.

There is a third one I think of with respect to . . . (inaudible interjection) . . . The member from Regina South is saying that the previous government, of which he was not a member, resisted the idea of regulation when he was asking for it and now he's finally achieved the more regulation he wants.

Well, Mr. Speaker, I don't want to digress into this. I'm just saying that there are, as has been effectively illustrated here tonight, a constant call for more regulations, and I suspect that we're going to hear one in five years' time, or perhaps less, with respect to the regulation of travel agencies in this province, because they're regulated in some other provinces — and nice question as to whether the time has come here.

My point is clear. My point is that all governments, of whatever political stripe or hue, are intervening in the lives of people more than was true 10 or 15 years ago.

And as we intervene, we have to give the citizen some additional recourse against the unfair application of governmental interventions. And that's what an Ombudsman is all about.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — Mr. Speaker, we can't assume that all governments are honest and fair and competent and democratic. All we can do is attempt to buttress the institutions which we have to protect citizens against instances of dishonesty or unfairness or incompetence or undemocratic behaviour. And that's what we are attempting to do when we appoint an Ombudsman, and that's what we're attempting to do when we reappoint an Ombudsman, and that is the subject of the motion before us.

Now, Mr. Speaker, I said that I would come to the question of how we have had Ombudsmen appointed in the past. And the question of whether or not there should be an independent legislative committee was given some thought, and there are pros to that and there are cons to that. I'm now persuaded that it's probably a good idea.

There is no question, Mr. Speaker, that both sides of the House should be fully involved in the appointment of the Ombudsman. There is no question about that. And there is no question, Mr. Speaker, that in the past that was true.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — There is no question that that was true. I hope nobody opposite suggests that when Judge Boychuk was appointed, the opposition of the day was not fully consulted before the appointment or before the name was announced publicly so that they had a real opportunity to say yes or no. I hope they're not suggesting that, because it isn't true. There was that level of consultation before Mr. Boychuk or Judge Boychuk's name was floated about. There was consultation, and when it came into this House it was passed, and it is my belief it was passed without anybody in any way speaking against the appointment of Judge Boychuk.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — And I might say, Mr. Speaker, that a good deal of care was used in the selection of Judge Boychuk. Whatever his political affiliations may have been, no one ever accused Judge Boychuk of being a supporter of our party — and he was known not to be. I'm not going to discuss his politics, but he was known not to be a supporter of our party, and it was on that basis that we suggested his name because we thought he was a fair-minded man. We wanted the first Ombudsman to be absolutely free of any possible taint, either real or perceived.

There was that level of consultation, and I invite any member of this House to consult with any previous member, any member of any previous House, and see whether that wasn't the case.

**Some Hon. Members:** Hear, hear!

(2015)

**Hon. Mr. Blakeney:** — Now it could have been done by committee. One of the problems with committees is that the names come forward and people know who is selected, and then they know who isn't selected. And sometimes, as with the appointment of judges in the United States, people are unwilling to allow their name to be considered if they think that it'll be known publicly that they have applied and been rejected. So that's a little down side on a committee.

And this is the same argument which the lawyers in Canada put forward — when I say the lawyers I mean The Canadian Bar Association — puts forwards to oppose the selection of judges by any public panel, because they feel that some people would not put their name forward if they felt that the name would be known before it was approved, and maybe rejected. So that's a little down side on a committee.

And we thought that we could get a level of consultation, a level of agreement of both sides of the House, without publishing the name in advance so that when it came into the House, it bore the imprimatur of both the government and the opposition, and that was achieved with Boychuk.

And when Tickell came along the same was true; the same was true. There was consultation between the attorney general of the day and the opposition. And when that appointment was made, before that name became public and became bandied about, there was agreement between the government and the opposition that this was a suitable candidate and that they were prepared to support it in the legislature.

Now what we have now is a very, very different approach, an approach by a government opposite which says, we do not have to consult with anybody. And they certainly did not. And I certainly did not know anything about the intended appointment of Mr. McLellan before I read it in the press, notwithstanding some relatively diligent efforts on my part to get some answers from the Premier. Mr. Tickell had put forward a proposal for a legislative committee. That made sense to me. It's not the only method but it would be a good method. I asked the Premier what he felt about it. I got no reply. I kept asking him and I finally received a comment from him saying that the Hon. Mr. Berntson was reviewing the proposal. That was the end of the consultation. The next I knew about it was an announcement in the press, announcement in the press that Mr. McLellan's name was going to be put forward.

Now, Mr. Speaker, . . . Mr. Speaker, it's not a question of whether or not Mr. . .

**Mr. Speaker:** — Order, please. Order.

**Hon. Mr. Blakeney:** — It is not a question of whether or not Mr. McLellan is a suitable candidate; it is a question of whether or not he is seen to be a suitable candidate. Because it is imperative that the Ombudsman carry with him that air of impartiality and public support which is necessary in order to make this office work. He doesn't have any legal tools. All he has is

influence, all he has is influence, and the way he can have the most influence is if it is clear that he speaks with the authority of all members of this House.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — And I want to say that I think that there is no way that Mr. McLellan can speak with the authority of all members of this House.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — We all know his particular background. Well it's . . . One would wonder, frankly, one would wonder. One would wonder whether that's the place to look for an Ombudsman, in the Premier's constituency, in the law office of the past president of the PC Party. I'm not saying that this necessarily means the person isn't a proper person; I am saying that it is not possible to perceive him as a proper person with that background.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — And it's not I who was only saying this. I read here in *The Globe and Mail*, "Ombudsman's choice puts Devine deeper in patronage mire." Those are not my words, but *The Globe and Mail* words. Now I am just saying this ought not to be. I invite anybody to look back in the press when Boychuk was appointed, when Tickell was appointed, and to see whether there was any suggestion in the public press that there was any patronage involved. There was no such suggestion because there was no such patronage.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — And now we have the Ombudsman, the appointment of the Ombudsman being labelled in the press, in the responsible press, as putting "Devine deeper in the patronage mire."

Well, Mr. Speaker, it is improper, but it's more than that; it is a very serious undermining of the Office of Ombudsman, to appoint someone where there is that possible cloud over his head.

There are dozens and dozens of people in Saskatchewan who could have done this job — who could have got the support of all sides of the House, and who would not have entered the office with this disability, with this ball and chain, because this is what it is. The office, as I say, has nothing but influence to use. It must, if it's to do its job, have the support of all members of this House.

I regret that because of the manner of the appointment, I do not find it possible to support this particular appointment. I believe we have to go back and try again, and that's why I believe the motion of the member for Lakeview, proposing a legislative committee, is the right way to find a person who will have the support of both sides of this House.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Blakeney:** — If members opposite have some

other way to arrive at a suggested appointment which will have the support of both sides of this House, that would be satisfactory with me. I'm not hung up on a legislative committee, as such. But I am very much hung up on the idea that the person who is appointed Ombudsman should have the confidence of all members of this House; that there should be adequate consultation as there was in the past, and as there is throughout Canada; and that this is not happening in this case.

And, Mr. Speaker, I regret that. I regret it very much, and accordingly, I will be supporting the amendment and opposing the motion.

**Some Hon. Members:** Hear, hear!

**Hon Mr. Andrew:** — Mr. Speaker, I rise to say a few words with regards to the appointment of the Ombudsman.

I view this process in the legislature, by reading the motion, that what we are having here is very much like a confirmation hearing on the appointment of an individual put forward — put forward to serve an office in this province. And do we hear, as we would see in most confirmation hearings, Mr. Speaker, questions about the competency of this man?

**An Hon. Member:** — Yes.

**Hon. Mr. Andrew:** — And they say, yes. They talk about the politics of this man. They say yes to that.

Mr. Speaker, let's look first of all at the competence in the question of this man. Let's look at what he has for a background, Mr. Speaker. Number one, he has a degree in Commerce; number two, he has a degree in the law; and number three, he has a degree in public administration — three very capable degrees, Mr. Speaker.

**Mr. Speaker:** — Order, please. Order, please. I'm sure hon. members have many viewpoints on this motion, and perhaps they'll want to enter the debate later. But this is a serious motion and I think we should give the opportunity to the Minister of Justice to speak with a minimum of interruption.

**Hon. Mr. Andrew:** — Mr. Speaker, a degree in Commerce, a degree in the law, and a degree in public administration.

**Mr. Speaker:** — Order, please. Order, please. Order, please. The member from Regina Rosemont has just heard me ask for the co-operation of the House, and I'm sure he'll want to abide by that. So I ask him once more to allow the Minister of Justice to please speak with a minimum of interruption.

**Hon. Mr. Andrew:** — Thank you, Mr. Speaker. The member from Regina Rosemont says from his seat, "and a Tory membership card". That is (a) not true, that is (a) not true; and (b) something that would, if it was true, which it is not, clearly be beyond his knowledge, Mr. Speaker, and I think a comment unbecoming a member of this legislature to this individual.

Mr. Speaker, besides his education of three degrees, this individual's background was as follows. He went to work in the government of Tommy Douglas, Department of Finance, in budget bureau. And what does a person in the budget bureau do? They investigate, more than any other civil servant, how government works — each department, one after the other, after the other, after the other. But the member from Regina Lakeview would have us say, or understand, or believe somehow that this individual has no experience or no knowledge of how to investigate something. Having served in that capacity and having worked with people in the budget bureau, I can say to you that probably there is no other person in government, from a civil servant in government, that has a greater capacity to investigate how government works and where it doesn't work.

But he didn't stop there, Mr. Speaker. He was a solicitor for the co-op insurance, involved in claims. Now what would a lawyer do for an insurance company? What a lawyer does for an insurance company is investigate claims, investigate challenges.

And then besides that, he has practised law. And if you go through the list of people he practised law with, the first firm was Noonan, Embury, Heald and Molisky. Now I ask the Leader of the Opposition, was Darrel Heald a Tory? And if he was a Tory . . . (inaudible interjection) . . . No, but if you were to follow the logic of the members opposite, if he worked in a law firm, everybody in that law firm must be a Tory. Now that's ludicrous. I ask the Leader of the Opposition. He practised law with Griffin, Beke, Blakeney. Were each of the people in his firm NDP? Were each of the members of his law firm active members of the NDP? I don't believe they would be, and I don't believe the Leader of the Opposition would be so inclined to say.

This particular individual — and we're talking here in this motion about this individual — served 10 years on the board of St. Joseph's hospital in the city of Estevan. The member from Lakeview somehow says, what has this person done in society that qualified him for anything?

The member over there would have us believe that to fill the job — the member from Moose Jaw — to fill this job that you must have been a member of the human rights association of Saskatchewan. Is that what you're saying? Is that exactly what the member from Moose Jaw is saying? And I don't see where that to be the case. I don't see why just because you are not a member of some association disqualifies you somehow from serving in this particular job and this particular function.

So I would say, Mr. Speaker, that looking at the qualifications of this man . . .

**An Hon. Member:** — They're non-existent.

**Hon. Mr. Andrew:** — The member says they're non-existent, non-existent. He has been educated, he has worked in government, he has worked in the co-op movement, he has practised law, he has served on the board of St. Joseph's hospital for 10 years, and he has done nothing according to the member from Regina Centre. Nothing. He has done nothing.

(2030)

And the member from Regina Rosemont would have us believe he must be . . . he must have a Tory membership. Mr. Speaker . . . (inaudible interjection) . . . The member says that we would not hire anyone — Prince Albert — that we would not hire anyone unless he was a Tory. That is unbelievable, Mr. Speaker, and that is false. And that is not true.

Mr. Speaker, the member from Regina Lakeview would have us believe that we should advertise outside the province for this job. Why would we have to advertise outside the province? Why should we go to Ontario to find an Ombudsman for the province of Saskatchewan? Why should we have to go to Ontario or Manitoba to find an Ombudsman for the province of Saskatchewan?

**Mr. Speaker:** — Order, please. Order. Order. Order, please. I once more ask the co-operation of all hon. members to please allow the Minister of Justice to carry on, and constant interruptions do not add to the debate. They, in fact, take away from it and I'm sure we're all aware of it. So let's allow him to continue.

**Hon. Mr. Andrew:** — Second, Mr. Speaker, second, Mr. Speaker, the member from Regina Lakeview would have us believe that we should go to an all-party committee to deal with this, Mr. Speaker. And then we heard the Leader of the Opposition talk about how this was his invention; how he brought this to the province. And if he was so concerned about an all-party committee — this is not ancient legislation, this is really quite modern legislation — why did he not seek to write that into the legislation? Ask that question, Mr. Speaker. And ask the second question.

When they were in government they appointed two Ombudsmen. They appointed two Ombudsmen when they were in government. Did they have an all-party committee on either one of those? Not a chance, Mr. Speaker, not a chance . . .

**Mr. Speaker:** — Order. Order, please. I'm afraid I must once more rise. Hon. members want to get into the debate. That's what this debate is all about. They'll all have a chance to get up, but I'm not going to allow continual interruptions. I'm just bringing that to your attention. And I have asked several times, and I know that hon. members will want to co-operate and I ask them once more.

**Hon. Mr. Andrew:** — Mr. Speaker, the members opposite don't seem to want to listen to the arguments. They can only listen to their own arguments, not to somebody else's.

Mr. Speaker, the member from Regina Lakeview talks about and reads from some editorials from both the Leader-Post and the Saskatoon *Star-Phoenix*, and what did those editorials talk about? That somehow this government was going to get rid of the Office of the Ombudsman. Has this government, I ask, eliminated the Office of the Ombudsman? No it has not. Mr. Speaker, no it has not, and not only that, but the funding levels we provide to the Office of the Ombudsman is higher than

those provided in the only NDP province in this country, and that is Manitoba. We pay more; we support more the Office of the Ombudsman under this government than does the NDP government of the province of Manitoba.

She reads . . . Because I really believe, I really believe that she wanted this government — somehow in her view of what a Tory is — to get rid of this, so that she could stand on her soap-box day after day after day talking about injustices, talking about someone who had taken away some fundamentals of human rights. Because they on that side believe only they, only they know what human rights are — the Tory Party doesn't, the Liberal Party doesn't — only an NDP in their sanctimonious way understand and know something about human rights and about fairness to individuals and fairness to people. Mr. Speaker, they do not.

But let's go to this idea . . . and thought that somehow this guy is not qualified because he happened to practise law with somebody that is a member of our party. Is that the basis by which we will select this particular individual? Mr. Speaker, Mr. Speaker, let me go further. Let me go further and talk about the Office of the Ombudsman and compare it to the office of a provincial court judge, or the office of a superior court judge, or Queen's Bench judge, or even the office of a judge of the Court of Appeal.

Now I ask you and I ask all members, is it a higher standard and should we have a higher standard in selecting the Office of the Ombudsman than what we have for the selection of judges of this land? Is it not valid, Mr. Speaker; is it not a proper comparison to say that if a guy sits in a court of law and determines perhaps whether a person goes to jail for his life or for 10 years, that somehow that is not a standard where unbiased and principled people can sit? Mr. Speaker, I believe it is. I believe it is a higher standard even in the Office of the Ombudsman.

And what do we see here in the appointment across this country, of judges? We see the accusation — yes this person is an NDP, or yes this person is a Liberal, or yes this person is a Tory. But the people that go to the bench, Mr. Speaker . . . and I suggest all the people that go to the bench, when they leave practice and are appointed to the bench, they leave politics behind them. The member opposite says, give me a break. That's like saying the judges of this country practise politics on the bench. And I think that is a dastardly thing to say about our court system.

Mr. Speaker, I know people that have gone to the bench from various political parties. And when those people go to the bench they put that part of their life behind them. They put that part of their life behind them, Mr. Speaker.

The member from Saskatoon Nutana would have us believe that is not in fact true. Mr. Speaker, I would hope that she will stand up in this House and state her position on that particular fact. I would hope that she would have the courage to stand in her place and speak that way and not just from her seat, Mr. Speaker.

The Ombudsman is no different than the appointment of a superior court judge or a provincial court judge. The

person is appointed; the person is appointed; he then fills that office for a term certain. And when that term certain is done, he goes. The government has no power to say, we don't like what you are doing and therefore you are gone. The only way you replace an Ombudsman when it's not the end of his term, is by impeachment process in this House.

That person has the independence, Mr. Speaker, he has the independence the same as a judge in any court in this land. I suggest, Mr. Speaker, that this Assembly and the members opposite who crow so loudly about their concerns for human rights have convicted this particular appointee because they did not like the law firm he practised in.

Now let's talk about human rights, Mr. Speaker, and let's talk about fairness, and let's talk about principles. And the members opposite, Mr. Speaker, know nothing of it, but they believe only they and nobody else has a right to talk and speak about principles. And, Mr. Speaker, they do not.

What we have here, Mr. Speaker, is a competent, fair-minded individual, a man who has served his community, a man who has served well in his community, a man capable of doing this job. Mr. Speaker, I believe this Assembly, for the preservation of this office, must vote against that amendment, Mr. Speaker, and must unanimously support the motion of the member from Souris-Cannington, and I encourage all people to do so.

**Mr. Goulet:** — Mr. Speaker, I stand in opposition to the motion and in support of the amendment.

Mr. Speaker, the two basic points, the two basic aspects of the argumentation that has been used was one in regards to the process; the process argument has been placed, but also there has been the individualistic argument. What we are raising, Mr. Speaker, is the issue of process.

The member from across can mention at great lengths about the principles of justice and the principles of fairness in regards to how this process of appointing the Ombudsman came to be. I would state at the outset that the process in and of itself was not far removed from the perception that *The Globe and Mail* had on the whole thing.

Mr. Speaker, an implication was made by *The Globe and Mail* that it smacked of patronage because of the way the process was conducted, and because there was no way of having the system of going through the system that was part of the Saskatchewan tradition, part that has been established through the appointment of the two previous Ombudsmen. That process, Mr. Speaker, was completely disregarded.

The process, Mr. Speaker, is the same type of process that we argued about in December when Bill 5 was created. It's the same type of argument, Mr. Speaker, that we put forth since that time in regards to how this PC government carries on the operations of governing.

And, Mr. Speaker, in terms of justice and fairness in this

province, the position of Ombudsman is sometimes looked upon by people as a final position in which to deal with the issues that sometimes cannot be handled by the regular legal system. It is a final place where they can look at our legislative system. It's a final place where they can say, this is where I am going to finally be treated with justice and fairness.

(2045)

When I look at the process that was brought forth by the government, it made again a complete mockery of the word consultation. I hear the word consultation all the time from across. They say they consult Indian and Metis people. They say they consult workers. They say they consult small business. they say they consult this and that group. But the practice that we have seen in the past five years, and even more recently to a greater extent in their second term, Mr. Speaker, is that this process of consultation is becoming to be one where the people are losing a lot of confidence in this government. Unless a government or a group provides true consultation, confidence is lost.

There is no accountability; there is no feeling that there is a basis for the impartiality of a particular position. And like I mentioned, Mr. Speaker, this position requires the highest demand of accountability and impartiality. That is why, when we raise the issue from this side of the House on the aspect of consultation, it is extremely important for people, the public, to know that the government will be fair.

I read, Mr. Speaker, page 3 of the Ombudsman's report for January 1, '86 to December of '86, and this is what the Ombudsman had to say in regards to the position. He says:

The reaction of the government to the Ombudsman's findings sometimes suggests he and they are diametrically opposed in their functions. But in reality, both have the same end — fair treatment for the people of the province. The existence of an Ombudsman's office denotes governments' understanding that the bureaucratic machine can break down; that public servants are only human and their service to the people is their *raison d'être*.

I must add, Mr. Speaker, that the breakdown in regards to the specific role of our bureaucratic system, which is a central concern of the Ombudsman, is not the only thing that is at issue here. What is at issue here is the breakdown, the breakdown of proper fairness and proper consultation. That is the main issue.

It's very important to recognize that this process of selecting this individual to this position is not a fluke; it's not something that has come by chance. It is something that we have already seen in the past five years, and more particularly, in this second term where the even legislated process where only they can make the decisions without the involvement of people on this side of the House.

Mr. Speaker. this process, which involves people on all

sides of the House, which has been established by the previous government, has been broken. This government continues to break down the traditions of this province.

The argumentation that was presented by the Minister of Justice was one that looked upon the issue only from a very individualistic perspective, and of course that individualistic perspective is part and parcel of the policy and practice of this government.

As *The Globe and Mail* asserts, individual patronage has been a mark of this government and continues from what even *The Globe and Mail* perceives.

I say this, Mr. Speaker, if the person was as skilled as the previous speaker has said he is, then why did he not go through the channels of consultation and co-operation in the same way that has been done in the previous two appointments? The previous government allowed that consultation. They allowed that choice to take place, because it was understood that this was the final act of justice in certain cases in this province. And when you get to the final act of justice for many individuals in this province, it has to be perceived by the people that it has gone through a fair and just process.

Instead, the minister started also bringing out inaccurate statements about whether or not . . . which government operated on a more thorough basis in regards to supporting the Ombudsman's office.

I would just like to quote a couple of statistics to the previous speaker on that regard. It must be remembered that in 1981 there was 16 staff to this important office. But what was it in 1987-88? It's 13. It's been cut back. When you look at the work-load, in 1982, it was over 2,800; in 1986, it was over 3,200. In between that four-year period, there was an increase of 400.

In other words, people were having greater and greater problems because the system was not able, the regular system was not able to respond in a just fashion. Or somebody could interpret it this way, Mr. Speaker — that in fact there was greater pressure by the new government during this period of time to create greater turmoil on individuals, or otherwise it could have been attributed also that there was less legal justice during that period in time.

But there could be many interpretations in regards to the fact that there has been an increase in the number of cases the Ombudsman has to look at and deal with, and at the same time recognize that this government who talks a lot about justice, who talks a lot about fairness, has cut back the staff, has cut back the basis of the functioning of this office.

I would state back again about this very importance of fairness, and I would like to reiterate another statement that was made by the Ombudsman on page 1 of his report. He says:

While governments compromise human beings, mistakes will be made. And citizens will feel, sometimes with justification, that they have been treated unfairly or arbitrarily or rudely, or have

been ignored or are victims of discrimination. For these citizens, the Ombudsman represents not only a possible remedy, but sometimes just the assurance that they have not been treated unfairly.

And this is the message David Tickell has brought to the people of this province during his tenure — that the Ombudsman is an impartial reviewer, an impartial reviewer, Mr. Speaker, who tells it as he sees it, whether in favour of the complainant or of the government.

Mr. Speaker, that's the essence of this perception of fairness that a lot of people talk about; that in fact people say, how could it be fair if the process of putting an Ombudsman in place appears to be a process of patronage. How could we have public confidence in a government who continually operates and disregards tradition? How can this happen at this day and age, a lot of people ask. People recognize that this government in the past five years have put a lot of pressure on them.

In this last budget, Mr. Speaker, a lot of the people who are pressured by the system, particularly Indian and Metis people, but also people from the North where sometimes the strains of justice are heavily felt, many times these people have to look to the Ombudsman as a final basis for looking for justice in this province.

But what they're seeing, Mr. Speaker, is the practice that in fact this government doesn't care, it doesn't care at all whether or not people perceive this as simple patronage. They will try and talk about principles, of consultation, of people involvement. But people have recognized, Mr. Speaker, that this government makes a mockery of consultation and a mockery of involvement.

(2100)

So, Mr. Speaker, in order for the people of this province to gain back the confidence that they have lost through this process, in order that we may perceive this as a basis of just protection and fairness, Mr. Speaker, I support, therefore, the amendment to the motion that was made.

**Some Hon. Members:** Hear, hear!

**Mr. Anguish:** — Thank you, Mr. Speaker. I'm pleased to participate in the debate here this evening on a motion that was brought in by the Hon. Deputy Premier where he's presenting a recommendation to this legislature that one Gerald Peter McLellan of the city of Regina in the province of Saskatchewan be appointed as Ombudsman pursuant to section 31 of The Ombudsman Act.

And I think it's important to note, Mr. Speaker, that the three previous speakers for the New Democratic Party ... the first speaker was the member from Regina Lakeview; the second speaker was the member from Regina Elphinstone, our leader; and the third speaker on this side of the House was the member from Cumberland. And I would want to point out, Mr. Speaker, that none of these three individuals drew into question the integrity or the qualifications of one Peter McLellan who's been put forward by the government side as the Ombudsman for the province of Saskatchewan.

And I found it very, very strange that the only speaker outside of the mover of the motion, the only speaker outside of that individual, was the Hon. Member of Justice, the member from Kindersley. And his total intervention in this debate was in defence of the individual they're putting forward as the Ombudsman in the province of Saskatchewan. Well, I wonder what would make the Minister of Justice so defensive about this individual when no one on this side of the House had drawn that person's integrity into question — no one at all.

They questioned the process by which the appointment has been brought before us here this evening. There has been no consultation whatsoever. It's a complete break in tradition. Now I'm not saying that other members might not say something about the individual, because I don't know what other members are going to say during this debate. I know very well that members on this side of the House have strong feelings for parliamentary tradition and for the traditions of this legislature. But I know that the government on the opposite side of the House have very little regard, Mr. Speaker, for the traditions and the unwritten rules — the conventions of this Assembly.

I can think back to many examples. I go back to the throne speech on June 17, Mr. Speaker, in which the government announced that they would be putting into place a rules committee to study the rules of this Assembly and the rules under which the Legislative Assembly operate. And no sooner had they stated that in the throne speech debate, Mr. Speaker, than the member from Yorkton, I believe it was, came in and put forward a rules change in the Assembly. I think it was the very next day, or at least within the next couple of days. And it just flies in the face of what the government says they're going to do and then again what they actually do.

I can think of Bill 5 that was brought in before Christmas. Prior to Christmas, there was a Bill 5, called the government reorganization Bill, which in hindsight maybe we should've fought a little harder because they're now abusing the powers — the government is abusing the powers that they acquired and granted to themselves under Bill 5, while saying in their speeches and their interventions during the debate on Bill 5 that it was a housekeeping Bill, that it didn't really mean anything.

We argued that. We said it had substantial changes to the way in which the government would operate in the province of Saskatchewan. It would confine many of the decisions that are made, to the little group of people who sit around the cabinet table with no regard whatsoever for the Legislative Assembly and all the individual members of this Assembly who sit here in representation of the people of the province of Saskatchewan.

I also can think of the question of integrity for the government whereby about a month ago, the leader of our party, the member from Regina Elphinstone, was going to put forward a motion in this House commemorating the 25th anniversary of medicare in the province of Saskatchewan, a program that has grown acceptance right across the country even though 25 years ago it was fought by very vicious attacks from many people, some of the same bend of the members sitting on

the government side of the House today.

Now as a courtesy to the government, Mr. Speaker, the Leader of the Opposition gave a copy of that motion to the government so that they would be prepared that afternoon and would know in fact that the Leader of the Opposition was going to put forward this motion and they could participate with some degree of intelligence in the debate. Well, Mr. Speaker, the thing that surprised me was the member from Redberry, immediately after question period, hopped to his feet, read the exact motion word for word in this Legislative Assembly, and took credit for it. No integrity, no ethics, blatant disregard for the legislative process that's been practised over the years in the province of Saskatchewan.

And the other thing I would say, Mr. Speaker, about the disregard for the process of the Legislative Assembly is the fact that there is very little, if sometimes any, notice on the business coming before this legislature.

**Mr. Deputy Speaker:** — Order. The question before the Assembly is the Ombudsman motion, and I would ask the member to keep his remarks to the motion or the amendment that is before the Assembly.

**Mr. Anguish:** — Well, Mr. Speaker, with all due respect for you — as hard as that may be — I think that the remarks are relevant. The fact is that we are arguing that the process in bringing before this Legislative Assembly for the appointment of the Ombudsman has been blatantly violated, just as they have blatantly violated many, many rules of tradition in this legislature.

**Some Hon. Members:** Hear, hear!

**Mr. Anguish:** — And that's a point; it is to the topic of the motion being debated here this evening, Mr. Speaker, I would submit to you.

The other thing that bothers me, before your intervention, Mr. Speaker, was the fact that . . .

**An Hon. Member:** — Deputy Speaker.

**Mr. Anguish:** — No . . . Well, Deputy Speaker, I believe when he is in the Chair he assumes the role of Speaker. So I would extend to you, sir, the courtesy of calling you Speaker, if that's all right with you.

But there's very little notice that comes out on anything. Departments come into estimates, they pull them off, they change them, they move them. You never know what's coming before the Legislative Assembly from day to day. I have a great deal of respect for members on this side of the House who adapt very quickly because we know the rules and the process and the topics that we are responsible for as critics on this side of the Assembly, Mr. Speaker.

Going to the, sort of the chronology of the events in Saskatchewan where the Ombudsman office has come about . . . It started back in about 1947, Mr. Speaker, under the government of the day, which was the Co-operative Commonwealth Federation, under the leadership and premiership of Tommy Douglas.

And in 1947, the Saskatchewan Bill of Rights was put into place — the first Bill of Rights in all of Canada — to protect the rights of individuals against having their rights abused and their privileges abused by government or other individuals or businesses or corporations. That government of the day felt that peoples' rights had to be observed and had to be protected, not only in the province of Saskatchewan, but other provinces later saw the wisdom of that. Many adopted Bills of rights. In fact the Right Hon. John Diefenbaker adopted a Canadian Bill of Rights back in the 1950s following on the lead of Tommy Douglas and the CCF (Co-operative Commonwealth Federation) government in the province of Saskatchewan.

In 1956 there was a further step, Mr. Speaker. There were two Acts that were brought into place. First off, there was The Fair Accommodation Practices Act, and secondly, The Fair Employment Practices Act, again to protect Saskatchewan people.

In 1964 the New Democrats in their throne speech proposed the creation of the Saskatchewan Ombudsman. Unfortunately, the Liberals of the day intervened. There was a Saskatchewan election called and under the leadership of the late Ross Thatcher, Liberals came to power, and in fact the commitment in the throne speech by the New Democrats was not carried out by the Liberals. They did not feel compelled to carry that out, and I can say rightly that they weren't compelled to carry out the commitment of another government.

During the period, though, Mr. Speaker, from 1964 until 1971, the Liberals were the government during those seven long, lean years, and they didn't do anything in terms of protecting people's rights in the province of Saskatchewan. And the NDP made repeated efforts to put into place the office of the Ombudsman, and the government did not see the wisdom at that time under the Liberal government to, in fact, do that.

During the period of 1971 . . . That's when New Democrats came into power in the province of Saskatchewan, formed the government under the leadership of the current member from Regina Elphinstone. And between the period of 1971 and 1975 — that's the first mandate, the first term of office that New Democrats held in the province of Saskatchewan — there were three important offices set up in the province of Saskatchewan. There was the Ombudsman's office; there was the Legal Aid Commission; and there was the Saskatchewan Human Rights Commission, all with the intent of protecting the rights of people in the province of Saskatchewan, whether those rights were violated by other individuals, by governments, by corporations, by businesses, whoever. We wanted to assure that Saskatchewan people had the best rights and the best protected rights of any place in Canada.

In 1973, Mr. Speaker, the first Ombudsman was appointed under the section 3 of The Ombudsman Act, in which they're asking approval tonight to appoint the choice of the government at least to the appointment of Ombudsman. But Judge Ernie Boychuk was then appointed as the Ombudsman in the province of



Saskatchewan.

And I'll say a bit later on — I don't want to take too much time of the House — about some quotes from *Hansard* during the time that the motion came up to appoint Judge Boychuk, and in fact, had support from all sides of the House; and as the Leader of the Opposition pointed out that there were no contrary votes to the appointment of the Ombudsman at that time.

Judge Boychuk unfortunately resigned before his term was up, and in 1977 David Tickell was appointed. And again I want to refer to that a little later because I have some quotes from 1977 *Hansard* that reflect the opinion of not only the Progressive Conservative Party but the attitudes of the Liberal Party at that time that were also represented in this provincial legislature.

Now it seems that the process has gotten bogged down in terms of the rights of individuals in the province of Saskatchewan. In 1985, in a report by Dave Tickell, he warns that his term is expiring and there's a need to start discussions for a replacement. Under the Act, Mr. Speaker, I'm sure you would be aware that the Ombudsman is appointed for a five-year term with the option at the end of that time to be reappointed for another five-year term. Now Tickell had come in '77 — this is '85, and he's saying, lookit, you have to start the process to replace me under the legislation that currently stands in the province of Saskatchewan; I cannot stand for appointment at the expiration of the term that I'm currently serving.

Again in September, Mr. Speaker, of 1986, Tickell writes to the government and the Leader of the Opposition warning that his term expires within a six-month period. Well, Mr. Speaker, the government did take some action, but not the action that has been traditionally held within this legislature, within the province of Saskatchewan for the appointment of the Ombudsman. And then all of a sudden, Mr. Speaker, in April of 1987, there is an appointment of McLellan as the Acting Ombudsman that's announced within the province of Saskatchewan.

(2115)

Now during that time that the Progressive Conservatives have been in government in the province of Saskatchewan, I think that they've made a deliberate attempt to muzzle the public watch-dogs in the province of Saskatchewan.

If you look at the area of the provincial Ombudsman, the topic of conversation here this evening, between the period of 1981-82 and 1987-88 the provincial Ombudsman was reduced from 16.1 person-years of employment to 13.4. And at the same time the case-load is going up, but employees and support services are going down, Mr. Speaker.

You look at the Provincial Auditor. The Provincial Auditor plays a very important role in terms of auditing the books in a non-partisan, impartial way for the province of Saskatchewan, for the people of Saskatchewan, regardless of who, in fact, is the government at that time. In 1981-82 the Provincial

Auditor had a staff complement of 72. In 1986-87 that had dropped by 9 person-years to 63.

Look at the Human Rights Commission. The Human Rights Commission in 1981-82 had in excess of 21 people working for that department. In 1987-88 they only have a little over 15 people working in that Saskatchewan Human Rights Commission, so I think that there is a very serious attempt to erode and muzzle the public watch-dogs that were set up to protect people's interests in the province of Saskatchewan.

If you look at the work-load that I already had mentioned, Mr. Speaker, of the Ombudsman and the staff of the Ombudsman between 1982 and 1986 the work-load of the Ombudsman's office increased by some 15 per cent, Mr. Speaker. At the same time, the staff went down by 8 per cent. That's not fulfilling the needs of the people in this province, Mr. Speaker.

I'd like to talk a little bit about the general approach, Mr. Speaker. We on this side of the House and, I maintain, people in the province of Saskatchewan, believe that the CCF and the NDP in the province of Saskatchewan have had an excellent record with respect to setting up and respecting watch-dog and public service agencies, so that peoples' rights again, Mr. Speaker, are in fact protected.

And we believe that the people of Saskatchewan agree with us that that record is good. We also agree, Mr. Speaker, on the other hand, that people in the province of Saskatchewan, because of some of the things I've outlined here this evening, believe that the Tory record, the Progressive Conservative government's record, is very poor in that same area.

As I've pointed, the Conservatives have cut back consistently on the Ombudsman and those offices set up to carry out very important roles in the province of Saskatchewan.

It was previous practice, Mr. Speaker, to advertise for an Ombudsman. And the member from Kindersley said, why would you advertise outside the country or outside the province, I think his words were, to find an Ombudsman for the province. Well, I don't know why we should either, to come right down to it, Mr. Speaker. But we certainly should do some searching within the province of Saskatchewan because we have many capable and non-partisan people in the province of Saskatchewan that can adequately fill that role. And I think it's been portrayed by Judge Boychuk and by Dave Tickell in the very good roles that they've performed in the Office of the Ombudsman.

The second thing that's previous practice, has always been to consult with the opposition. When there's an appointment of someone who's supposed to be impartial, non-political, non-partisan, to establish that role — and so that person can work independently from the legislature, independently from the government and the opposition — it's very important that the individual has the agreement of the government and the members of the opposition in the provincial legislature. I think that's absolutely imperative.

In the motion that is put forward here today, Mr. Speaker, there has been no consultation whatsoever. It's been a great surprise, not only to opposition but people in the province of Saskatchewan, that this name all of a sudden comes forward for appointment in a very important position to serve people in the province of Saskatchewan. And I think that the Progressive Conservative's have grossly, grossly violated the tradition of Saskatchewan's legislature by the method of which they have gone about this appointment.

Now, Mr. Speaker, what it does say in the Act, and I would quote from the Act, it's section 3(1):

There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

Mr. Speaker, an officer of this legislature is non-partisan, just like the people who sit at the clerks' Table, just like the pages who serve us in this Assembly, like the Sergeant-at-Arms. These are non-partisan people. They're employees of the legislature, and I'm sure, Mr. Speaker, that as Speaker of this Assembly, and having jurisdiction over the Chamber, you're very, very well aware of that.

The other qualifications, really, Mr. Speaker, are not that the person has to have a law degree, and they have to have a Bachelor of Commerce degree, and they have to have a Public Administration degree. The person, and I quote from Section 3(2):

The person appointed as Ombudsman shall be a Canadian citizen and . . . shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

On the recommendation of the Legislative Assembly, not the recommendation of the government; even though they may beat us by majority vote in this legislature, it still puts that person in a very awkward position if they don't have the support of the Legislative Assembly as a whole, Mr. Speaker.

Now, Mr. Speaker, I'd like to take you back in time a little bit to . . . and I refer to *Hansard* from March 12, 1983, and I think it's important the members opposite listen, especially the member from Weyburn; he may learn something from this. Okay, so I'm quoting from *Hansard* from March 12, 1973, Mr. Speaker:

Hon. A.E. Blakeney, (Premier), moved, seconded by Hon. R. Romanow, (Attorney General):

That an humble Address be presented to His Honour the Lieutenant Governor recommending to His Honour Ernest Carl Boychuk, of the city of Saskatoon, in the Province of Saskatchewan, be appointed Ombudsman under section 3 of The Ombudsman Act, 1972, being Chapter 87 of the Statutes of Saskatchewan, 1972.

Well the premier at that time, the current Leader of the Opposition, went on to articulately put forward the qualifications of Judge Boychuk and to state the

importance of the office of Ombudsman. And I won't go into quoting anything from his remarks, but also on the same date in *Hansard*, following the premier's remarks, there was the leader of the opposition stood in his place in this legislature, Mr. D. G. Steuart — he was the leader of the Liberal party in the province of Saskatchewan at the time, leader of the opposition in the House. And there must have been consultation went on at that time because I quote, **Mr. Speaker:** —

Mr. Speaker, first I would like to make it very clear that as far as the individual is concerned, Judge Boychuk who has been chosen for this position, the Premier told me about this some time ago and asked if we had any objection to the individual and I said No, he is a fine man and enjoys an excellent reputation. I certainly wish him well in this undertaking that he has agreed to do on behalf of the people of Saskatchewan . . . I want to say very clearly that we will co-operate with Mr. Boychuk in every way that we can to allow him to make a success of this particular position.

That's the leader of the opposition, March 12, 1973, Mr. Speaker.

**An Hon. Member:** — A far cry from tonight, Doug, a far cry from tonight.

**Mr. Anguish:** — As the member from Regina Rosemont points out, it's a far cry from this evening, Mr. Speaker.

I would quote what the other party said during that debate of March 12, 1973, where the motion was put in to appoint the Ombudsman, but incidentally, Mr. Speaker, there were no Progressive Conservatives sitting in the legislature at this point in time, so I'm unable to quote anything that the Conservatives actually said during that particular debate.

Now, Mr. Speaker, I want to move on to the next appointment of an Ombudsman in the province of Saskatchewan. I'm looking at *Hansard* on March 11, 1977, and there was a motion put forward, it's on page 653 of *Hansard* regarding the Office of Ombudsman by the Hon. A.E. Blakeney, premier, moved, seconded by the hon. attorney general, Mr. Romanow. And I quote:

That an humble Address be presented to His Honour the Lieutenant Governor recommending to His Honour that David Arthur Tickell, of the city of Regina, in the Province of Saskatchewan, be appointed Ombudsman under section 3 of The Ombudsman Act, 1972, being Chapter 87 of the Statutes of Saskatchewan 1972.

The premier at that time goes on to say, and I quote:

Mr. Speaker, the last time I spoke on (this) Office of Ombudsman in this Legislature at any great length was on March 12 1973, when I moved that Judge Ernest Boychuk be appointed Ombudsman. Since that time the office of Ombudsman has developed considerably. Judge Boychuk began with a Regina office and a staff of five and in 1975 when he resigned as Ombudsman to become Chief Judge

of the Magistrates' Court . . .

Well, Mr. Speaker, it seems to me there also must have been some consultation prior to March 11, 1977 as well. At that time on page 656 of *Hansard*, Mr. S.J. Cameron the member from Regina South at that time representing the Liberal party in his intervention said this:

Mr. Speaker, if I may address . . . this matter. As members know this is an appointment which is made by Members of the Legislature as distinct from the Government, and we were, as the Premier indicated consulted in advance of this appointment. We indicated to the Premier that we would be supporting the move to have Mr. Tickell appointed as the Ombudsman.

I want to particularly to join with him on behalf of the Liberal Opposition in the House to pay tribute to the work that Ernie Boychuk did in the period in which he held the office.

Mr. Speaker, the difference between 1973 . . . That's right. The difference between March 12, 1973 and March 11, 1977 is that all of a sudden there were Progressive Conservatives represented in the Legislative Assembly in the province of Saskatchewan. Questionable as to whether that was a great day for people in the province of Saskatchewan, Mr. Speaker.

But I again want to quote from *Hansard*, page 656 of March 11, 1977. And I quote from Mr. J.G. Lane, member from Qu'Appelle. And I quote:

Mr. Speaker, I would like to address the House on behalf of the Progressive Conservative party in extending best wishes to the new Ombudsman.

A little further down, Mr. Speaker, I quote still from the Mr. J.G. Lane, the current Minister of Justice by the way, Mr. Speaker. And I quote:

Surely if we have an individual with the capability of Mr. Tickell it is time to increase the levels of government which would be subject to investigation by the Ombudsman.

**Some Hon. Members:** Hear, hear!

(2130)

**Mr. Anguish:** — Certainly different, Mr. Speaker, from what the member from Qu'Appelle-Lumsden is saying today through his government, the Progressive Conservative government in the province of Saskatchewan, from what he said on March 11, 1977.

He goes on, Mr. Speaker, on page 657 of the same *Hansard*, I quote:

On behalf of the Conservative Party, I would like to extend a thank you to Judge Boychuk for the admirable way in which he carried out his duties as Ombudsman and wish Mr. Tickell best wishes in his new position.

Well, Mr. Speaker, what are they saying? They say one thing in opposition; they say something completely different when they're in government.

But the point that I've tried to make here this evening, Mr. Speaker, is the total disregard for the process. Whether Mr. McLellan is the proper individual or whether someone else is the proper individual is not the real question, Mr. Speaker. The real question is the process and the blatant disregard that I have tried to point out many times in my intervention here this evening — the blatant disregard that is held for the process of an office that has to be impartial from any political affiliation, or at least appear to be impartial.

And I don't know, Mr. Speaker, of anyone who would want to take this appointment with the burden that the Progressive Conservative government would place on them by having such disregard.

**Some Hon. Members:** Hear, hear!

**Mr. Anguish:** — Mr. Speaker, I don't want to get into the personalities of the individual.

**An Hon. Member:** — I do.

**Mr. Anguish:** — I would just say . . . Other members said that they may want to; I don't want to do that, and I can't say whether other members will or will not.

But I think, Mr. Speaker, that we have a very good tradition in Saskatchewan. And I don't say that from a partisan point of view, but there are some basic conventions and principles and ethics and traditions by which this Legislative Assembly and by which the province must operate. And without that, we will not operate in the best interests of Saskatchewan people; people's rights will be abused in the province of Saskatchewan unless we can preserve those rights through this Legislative Assembly.

Therefore, Mr. Speaker, I am opposed to the motion and I support the motion that was moved by the . . . or the amendment to the motion as moved by the member from Regina Lakeview and second by the member from Saskatoon Fairview. And the motion reads as follows, Mr. Speaker:

That all the words after the word "that" in the first line be deleted and the following substituted therefore:

this Assembly refer the matter of the appointment of an Ombudsman pursuant to section 3 of The Ombudsman Act and the method of recruitment and selection to a selection committee of the legislature.

I think that that's very important. I think that this could have all been averted by some consultation to put forward some names to show the people of Saskatchewan that we, at least, are willing to work with the government, even though the government does not seem to be willing to work with anyone in the province of Saskatchewan, other than their very close friends for political

appointments. We're willing to work with them. Let's show some co-operation so that the people of Saskatchewan can see some faith in this institution again through the appointment of people through a due process to have the best person possible and take the burden of accusations off the individual that has to fulfil that role.

**Some Hon. Members:** Hear, hear!

**Mr. Anguish:** — I thank you very much, Mr. Speaker, for recognizing me and giving me time to participate in this debate here this evening.

**Mr. Calvert:** — Thank you, Mr. Speaker, for the opportunity to participate in this debate.

Mr. Speaker, it's my conviction that in any public situation where justice and fairness is demanded, it's always true, the truism holds that justice must not only be done, but must be seen to be done.

**Some Hon. Members:** Hear, hear!

**Mr. Calvert:** — Mr. Speaker, that's true in the courts, in the courts of the law; it's true in labour courts; it's true in the courts of the church; and it's particularly true when we go about the appointment of an Ombudsman. Justice must not only be done, it must be seen to be done. Of all the appointments made by a provincial government, and we know there are many of them, this appointment must be seen to be done fairly and justly. The procedure that this government has followed cannot be perceived to be just or fair.

Mr. Speaker, I believe that the Ombudsman — the Ombudsman who is appointed by this legislature — is a person who ought to be someone to whom the people of Saskatchewan, any person in this province could turn to with ease, a person you can turn to with confidence. If someone gets caught in the web of government bureaucracy in this province, they ought to be able to turn to the Ombudsman and be able to trust that individual. And to fulfil that responsibility, the Ombudsman must be clearly perceived to be entirely independent — entirely independent of the government of the day, and clearly supported by every member of this House. That kind of confidence was earned; that kind of trust was placed in the Ombudsman, when the appointment was made after advertisement of the position, and when choice was made with the consultation of all parties in this House. In that way justice was done, and it was seen to be done, and Saskatchewan people could then trust their Ombudsman.

In the manner in which this government has chosen to appoint an Ombudsman, that confidence is destroyed, and trust in the office will, understandably, be gone. We have an appointment of an Ombudsman made. Where was it made, Mr. Speaker? Where was it made? To quote a colleague of mine, it was made behind closed cabinet doors. It was made without advertisement. It was made without consultation. It was made behind closed cabinet doors.

And so I say, is it any wonder that the people of

Saskatchewan see this as a patronage appointment. Should it surprise us that the people of Saskatchewan see this as a patronage appointment? Should it surprise us that *The Globe and Mail* headlines the article describing the appointment of the Ombudsman in Saskatchewan with the headline referred to earlier, "Ombudsman choice puts Devine deeper in patronage mire."

Mr. Speaker, this *Globe and Mail* article describing the appointment of the Ombudsman in Saskatchewan compares this appointment to other appointments that this government has made. Let me just quote a little of the article.

This article talks about former provincial energy minister, Paul Schoenhals, named chairman of the Potash Corporation of Saskatchewan at a salary of \$78,000. This article talks about former environment minister, Tim Embury, receiving a portion of a \$500,000 contract. This article talks about former social services minister, Gordon Dirks, receiving a \$30,000 contract. This *Globe and Mail* article talks about former justice minister, Sidney Dutchak. He is acting president of Sask. Housing. This article talks about Mr. George Hill being appointed president of Saskatchewan Power Corporation. This article talks about Mr. Keith Parker, former Conservative MLA, Moose Jaw North, defeated in the October election, now an executive assistant to the head of the Saskatchewan Liquor Board — salary reported to be more than \$50,000. This articles describing the appointment of the Saskatchewan Ombudsman talks about Paul Rousseau, Conservative cabinet minister appointed . . .

**Mr. Speaker:** — Order, please. Order, please. Order, please. The article might, in fact, talk about all those things, but that doesn't necessarily mean that it applies to the motion being discussed. A steady string of patronage appointments is not, in my opinion, on this motion, and we could keep this up all night of course so that . . .

**Mr. Calvert:** — Mr. Speaker, I indeed agree that we could keep the discussion about patronage appointments very long. My point, Mr. Speaker, is this: *The Globe and Mail*, in their reporting of the appointment of an Ombudsman in Saskatchewan, describes it as a patronage appointment. And I say, is there any wonder when this crucial decision is made behind closed cabinet doors. And that, Mr. Speaker, in my mind is indeed a tragedy, for this kind of appointment destroys the integrity of the Ombudsman's office — it destroys the integrity of the office.

How can an Ombudsman who is appointed in this fashion then be seen by the people of Saskatchewan to be just? How can this Ombudsman be seen to be impartial and to be someone who is, indeed, at arm's length from government, no matter what his abilities, no matter what his qualifications, no matter how good he may be? How, when he is appointed in this fashion, can he be seen by the people of our province to be impartial, to be fair, and to be just? As we've heard tonight, never in the history of the office has an appointment been made in this fashion. It never happened this way before, not until this government.

Mr. Speaker, I am convinced that this government does

not like the Office of the Ombudsman. At every level this government fears independent scrutiny, it fears any voice of independent criticism. At every turn it tries to silence opposition. It's this government that initially suggested doing away with the Office of the Ombudsman altogether. When it realized that was not going to be politically palatable in Saskatchewan, they chose the second course, and that is to appoint a friend. And if that's not the case, Mr. Speaker, if that be not the case, then I believe members opposite will support the amendment that we have brought this night.

Mr. Speaker, I have a goodly number of constituents. A goodly number over the course of the past number of years have received help from the Ombudsman's office in a way that I, as their MLA, or any other MLA, could not give them. And, Mr. Speaker, this has been true not just for the past five years but true also when we were in government. Every government makes its mistakes, some governments more than others.

In every government people get caught and trapped in the bureaucracy. In every government people find themselves standing alone. And, Mr. Speaker, it's my conviction that every government needs a voice of conscience. Every government needs a voice of advocacy that is somehow removed from partisan politics. Every government needs a voice that only seeks to do that which is right and that which is just. And mature governments across this country and around the world have recognized that fact. But if the holder of that office, if that voice is to play that valuable role, then it's my position that his or her appointment must be simply above question.

**Some Hon. Members:** Hear, hear!

**Mr. Calvert:** — It must be simply, entirely non-partisan, non-political. And the manner in which this government has chosen to make this appointment does not, in my mind, meet that essential requirement. Indeed, in the way this appointment has been carried out, I submit that the very integrity of the office is lost, and I think that's a tragedy.

Mr. Speaker, the amendment that has been proposed by the member from Regina Lakeview, I believe, can change that. If it passes in this House, if it passes in this House, I believe it can restore some of the integrity to the Office of the Ombudsman. I believe it can restore some trust in the person who will eventually fill that role. If it is passed by this House, we then will not only do what is right, it will restore the perception that right is being done.

(2145)

Now, Mr. Speaker, I believe it's going to take some courage for some members opposite to vote for this amendment. But if I lift my eyes at least above the front row, I know there are members on that side of the House who understand this issue. They understand what's at stake here. And I believe some of them do wish to see a non-partisan appointment of an Ombudsman for this province. I do believe that some of them have that conviction, and so I'm hoping that they will act on the courage of their conviction and support this amendment.

With the passage of this amendment, Mr. Speaker, I believe justice can be done, and it will be seen to be done. And so indeed, I will be supporting the amendment.

**Some Hon. Members:** Hear, hear!

**Mr. Lautermilch:** — Thank you very much, Mr. Speaker. I wish at the outset of my remarks to indicate that I intend to support the motion put forth from the member from Regina Lakeview — or the amendment, I'm sorry. And the reason I intend to support that amendment is because of the way that this government has introduced their motion and introduced our new Ombudsman to this legislature.

**An Hon. Member:** — The potential Ombudsman.

**Mr. Lautermilch:** — Or the potential Ombudsman.

The history of the selection of the two Ombudsmen that we've had in Saskatchewan was clearly outlined by the member from The Battlefords. And he clearly indicated that the Ombudsmen, the men that we had, were chosen with care, not by just members of the government side, they were chosen by members of the opposition in both occasions.

It's a far cry and such a great difference from what this government has done, Mr. Speaker. But it's no surprise. I don't believe it's any surprise to any of the members on the opposition side; I don't think it's a surprise to the government back-benchers; and nor do I feel it's a surprise to the people of this province.

When Mr. Boychuk and Mr. Tickell were chosen — as has been indicated in this House this evening — there was consultation, there was care, and there was some feeling for what the role of the Ombudsman was. And it was understood by the premier of the day and his cabinet that in order for that position to function, and for that Ombudsman to be able to serve the people of this province in a fair and impartial manner, he had to have support from all members of this legislature. And that's what happened two out of three times.

But when don't we get it, Mr. Speaker? Under a Tory administration. I indicated before, Mr. Minister ... or Mr. Speaker, that we're not surprised on this side of the House. And in my remarks tonight, I'd like to indicate why we aren't surprised at the way he was chosen. We aren't surprised at the lack of consultation — not one bit. And I don't want to quote the litany of patronage appointments that the member from Moose Jaw has just done, because we all know full well that that list could go on and on and on and on. And we're hoping and we're praying to God that this isn't what we have, just another political appointment in this choice for the Ombudsman. Because the people of this province don't deserve it, they deserve better. And Mr. Speaker, why we're up speaking against the motion and for the amendment is because we fear that's not the case.

I indicated that I want to point out some examples of why we're a little concerned at the lack of consultation that the members from that side have done. I want to speak a little

bit about the amalgamation of the community colleges and the changes to the educational system without consultation.

I want to talk about Bill 5 and what happened in regards to Bill 5. Again, another indication that there was no consultation.

I want to talk about what happened to health care in this province without consultation with the people of this province, and in fact, Mr. Minister, or Mr. Speaker, a direct reversal of what they said they were going to do prior to the election.

I want to talk about privatization and what we perceive to be this government's direction in terms of what they're going to do with Crown corporations without consultation.

I want to talk about the closure of the hospital beds in this province that have happened under this administration — a record number of hospital beds closed for a record length of time, and again without consultation.

Mr. Speaker, this government has been demonstrating its inability to be fair with the people of this province, and I suggest to you that the choice of this gentleman as Ombudsman, Mr. McLellan, without consultation, is just another example of that. The Office of the Ombudsman is meant to deal with the people of this province in a fashion of fairness and impartiality, and it's not just the symbol.

The problem that I see here is that this government is afraid of scrutiny, and it's very clear. I want to say tonight, we haven't had Crown corporation estimates in this House in this session, and I ask the members across: why haven't we? Because they don't want the books of the Crown corporations scrutinized by the opposition so that the people of this province can have a clear look at why the majority of them are losing money. And I suggest to you that they want the same situation with the Ombudsman's office, and they're afraid of scrutiny of this government by the people of the province.

That office was there to protect people of this province, to protect them from the bureaucracies, to protect them from the regulations. And why, why wouldn't they consult with the Opposition members? I think we're a fair and we're an open group of people who were sent here by the majority of the people of this province to represent their views and their wishes. But you've got a minority representation over there, only represented by more numbers, not by more people; you've got a little group over there who isn't going to open this government up and let the people have a look at what's really going on inside.

It was mentioned, I think by the Finance minister tonight, that perhaps we're picking on their choice on Mr. McLellan . . . (inaudible interjection) . . . the Justice minister, I guess it was. We're not debating that. The debate from this side is the system that they used to select that gentleman, and the problem is the position they're putting him in.

The man should be able to go into that job . . . Mr.

McLellan should be able to go into that job knowing that he has the support of all members of this House — the same kind of support as Mr. Tickell and Mr. Boychuk did. And I say to you, Mr. Speaker, it's a little suspect that a man would take on that position — and this is a problem — that a man would take that position on knowing that the tradition of this House, the tradition of the Office of the Ombudsman has changed. and it's a precedent.

Not that this government or anything else they would do would surprise anybody, but the qualifications of a man like Mr. McLellan would indicate to me that he must have had some reservations before he took that position. And if he didn't, I suggest to you that he should have.

Mr. Speaker, I want to give you another few examples of why people question the method that this government chose to pick Mr. McLellan. We've stood here for 50-some days in this session, and I'm not sure how many in the first session before Christmas, but consistently in question period members on this side of the House, including the independent member from Assiniboia-Gravelbourg, have asked these people to be accountable for the things that their department has done, and the things that they have done. It's a scrap and it's a battle and it's a consistent and constant fight in order to get an answer from them. We get little speeches — here, there, and the other place — but the answers, for the most part, aren't forthcoming, or else you get one answer in here and one answer out there. And I say to you, Mr. Speaker, this government is rapidly losing credibility — what little bit they came in with. And it's not a very good situation.

I've watched in estimates, Mr. Speaker, when this government has had some \$680 million of government money at risk — not government money, but certainly commitments on behalf of the people of this province. Are they willing to table the conditions under which they put this money at risk? No. We sit with almost \$1 billion put forth by that government on behalf of the people of the province and they don't want to talk about it.

So I say again, wouldn't that suggest to members on this side of the House, and to the people of the province, that there might in fact be a reason that they didn't consult with us before they chose their Ombudsman?

I find it hard to believe that any thinking person in this province would want to believe the reasons that the members on the other side of this House have put forward tonight. It's clear they say one thing when they're in opposition and another thing when they're in government. It's clear they say one thing before an election and another thing after. All of those things are crystal clear to the people of this province. No wonder we ask why they didn't consult with us.

The kind of non-accountability in this province is unprecedented. But there's more, and there's more reason that there's mistrust on this side, Mr. Speaker. I want to talk about their decision to change The Electoral Boundaries Act in this province. And it relates very, very closely to the kind of a decision they've made in terms of their choice for the Ombudsman.

Why do you want to change a system where you've got equal representation throughout this province, an impartial board to choose the boundaries at a set time which would enable the system for one person, one vote? How do you improve on something that's working, Mr. Speaker? And why do you want to change those things? I tell you why. I tell you why. Because they're afraid to go to the people on one member, one vote.

And that's the same type of situation we've got with the Ombudsman. They're afraid to come to the opposition so that we can say: government, we believe you've chosen the right man — the same as they did when they were in opposition, the same as the Liberals did, and even the Liberal that sits over there did. He said: we think you've chosen the right man.

The New Democrats were consistent in the way they chose the Ombudsman. There was consultation; there was unanimous support. And we had, on two occasions, terms of Ombudsman that were fair and that worked.

Now I believe we've got good reason to feel this government has betrayed the people in not allowing the opposition some time and some input into the decision. We on this side of the House say they've been unfair, not only in this situation, but on many others.

Mr. Speaker, I have a few more comments that I would like to make, but it being two minutes to 10, I would beg leave to adjourn the debate.

Debate adjourned.

The Assembly adjourned at 9:59 p.m.