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(Hansard)**

**Monday 8 March 2004**

**Journal  
des débats  
(Hansard)**

**Lundi 8 mars 2004**

**Standing committee on  
government agencies**

Intended appointments

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues

Chair: Dominic Agostino  
Clerk: Anne Stokes

Président : Dominic Agostino  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIES

Monday 8 March 2004

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Lundi 8 mars 2004

*The committee met at 0940 in room 151.*

**Clerk of the Committee (Ms Anne Stokes):** Good morning. I'd like to advise you of the absence of the Chair and the Vice-Chair. I would like to preside over the election of an Acting Chair. Are there any nominations?

**Mr Ernie Parsons (Prince Edward-Hastings):** I would like to nominate Mr Berardinetti as Acting Chair.

**Clerk of the Committee:** Are there any other nominations?

**Mr Gilles Bisson (Timmins-James Bay):** I nominate John O'Toole. It should be an opposition committee.

**Clerk of the Committee:** Are there any other nominations?

*Interjections.*

**Clerk of the Committee:** There being no further nominations, I declare Mr Berardinetti the Acting Chair of the committee.

## SUBCOMMITTEE REPORT

**The Acting Chair (Mr Lorenzo Berardinetti):** Good morning, committee members, and welcome.

**Mr Bisson:** On a point of order, Mr Chair: I just want to be consistent for the record. Normally this particular committee, as an oversight committee of the government in regard to its appointments, has always been chaired by an opposition member. I didn't oppose you on the basis of you as a member but on the basis that I really, strongly believe that this committee, as an oversight committee, should be chaired by an opposition member. The quicker we address that, I think the better we're going to be.

**The Acting Chair:** Thank you for that point of order.

**Mr Bisson:** And vote of confidence.

**The Acting Chair:** We are continuing the meeting from last week, and we have an agenda in front of us. The first item is the report of the subcommittee on committee business dated Thursday, March 4.

**Mr Parsons:** I move that the report be received.

**The Acting Chair:** Mr Parsons has moved adoption—or receipt?

**Mr Parsons:** Adoption.

**The Acting Chair:** Adoption of the report. All in favour? Opposed? Carried.

Members of the committee, before we get to item number two, there is a list of names that was put in front of us today of intended appointees to be included in the certificate of February 20. The new deadline is April 19,

and I just wanted to get unanimous consent so we could extend their deadline for these intended appointees.

**Mr Bisson:** The ten? I've got a list of five here.

**The Acting Chair:** One, two, three, four, five—the intended appointees.

**Mr Bisson:** Oh, I heard “10.” But I still have a question. These were ones that there were no objections on already, right? These particular five that are before us—the Ontario Labour Relations Board and others—there was no selection by the other parties for those people to appear before the committee?

**The Acting Chair:** My understanding from the clerk is that they were selected by the Conservative Party.

**Mr Bisson:** I don't have my glasses, which is really a problem here. Oh, this is for the review. OK, I'm fine.

**The Acting Chair:** It's only to extend the deadline, that's all.

**Mr Bisson:** I don't have my glasses and I'm having a bit of a hard time trying to read the fine print here.

**Ms Kathleen O. Wynne (Don Valley West):** Can you read it here?

**Mr Bisson:** I want to thank the member of the government for letting me see the light. That was funny.

**The Acting Chair:** Do I have a motion? Can we just extend that then?

**Mr Bisson:** Agreed.

**The Acting Chair:** Thank you.

## INTENDED APPOINTMENTS

## JAN CARR

Review of intended appointment, selected by third party: Jan Carr, intended appointee as vice-chair, Ontario Energy Board.

**The Acting Chair:** The remaining item is item number two here: appointments review, consideration of the appointment of Jan Carr to the Ontario Energy Board. Mr Bisson, at the last meeting you requested a deferral to today. Perhaps we could allow 10 minutes per party for further questions or comments, and we will begin with yourself.

**Mr Bisson:** I take it that Mr Carr is not here?

**The Acting Chair:** I don't see him here.

**Mr Bisson:** OK. My concern last week, and I guess I still have the same concern—but the government's going to have to decide what it wants to do and I take it you have a pretty good sense of where you're going. When

we questioned Mr Carr last week in regard to his appointment I thought there were a number of answers to questions that were posed by all parties, not just by my leader but also some of the questions that were posed by both the Conservatives and Liberals—and I thought his response was interesting. Now, I don't have an argument particularly with some of his experiences, because quite frankly he does have some experiences that are quite in keeping with the type of appointment, but my problem was that when we asked him the questions about what his views were and how those views had changed since the election of October 2, one of the issues was—the member across the way thinks this is a little bit funny, but this will probably come to pass.

His position was that he was basically accusing the Liberal government of being devoid on policy; that is what his comments were prior to the election. He was a Conservative appointment, and I'm not arguing for a second that we should oppose an appointment on the basis of him being a Conservative appointee from the previous government. There are Conservatives, New Democrats and Liberals who will be appointed to all committees; that's not my point. But what you essentially have here is somebody who initially did some work for the Conservative government in the energy field, who accused the Liberal Party and now the Liberal government of being devoid of energy policy, and now all of a sudden he's had an epiphany and he's prepared to basically put in place a policy that he said you didn't have any of. I just thought, as a government, I would be somewhat concerned about that, because at the end of the day, if this person is going to be enacting your policy, you would want to have at least a sense that the person is going somewhere in the same direction—not that I agree with your policy. So that was my first point.

The second point, however, I thought was a little bit more remarkable, because I thought he was rather harsh on the Tories. This guy was a Conservative appointee and previously had done some work for the Conservatives in regard, I believe, to the situation in Pickering. In answer to questions of both the Conservatives and the New Democrats, and possibly the government members as well, I thought he was rather tough on the Conservatives, somebody he was not tough on prior to October 2. I think you know where I'm going. Is he what we call a fair-weather friend?

*Interjection.*

**Mr Bisson:** Well, I have the right to put my point of view. I think this is a very important appointment. Energy is going to be another issue that we're going to be going into over the next four years of this government that's going to be quite controversial. You already know where the lines have been divided in regard to where energy policy is going in this province. The Tories tried to privatize it. It didn't work. We New Democrats believe that energy should stay within the public realm, for all of the reasons that we have put forward, and now you, as a government, are trying to fall somewhere in between.

You're trying to say privatization but not quite privatization, public but not quite public.

When you listen to the answers the gentleman gave at the hearings here last Monday, he was saying he didn't believe in a hybrid system, that you either had to have a totally private system or you had to have a totally public system. It was, in his view, not very wise to have a hybrid system, where you have a mix of public and private. Those are his own words. I would just think the Liberals would be somewhat concerned about that, because that's what your policy is. Your policy is you're trying to say that it's going to be public, but not quite; it's going to be private, but not quite. You're going to have a mix of both, and the guy you're appointing as vice-chair doesn't believe in that particular policy.

So I would think, from the point of view of the government's policy, that you would want to have as vice-chair somebody who at least ideologically believes in whatever the government is doing. I think that at the end of the day this one just might come back to bite you.

**Mr Michael A. Brown (Algoma-Manitoulin):** Something like Floyd Laughren?

**Mr Bisson:** Well, listen, we have appointed—I want to put my argument quite bluntly. I don't argue for one second that we shouldn't appoint somebody on the basis of party credentials. There are really good people from all three parties who are out there who want to be appointed to public committees. I believe that governments have the right to appoint their own people to committees, as long as they don't stack every appointment with just Liberals. My point is I think we need to be somewhat concerned that the people whom we do appoint at least believe in the policies they're going to enact. I just think the energy board is a very, very important appointment. The vice-chair is extremely important.

I want to say again for the record that I think the gentleman brings all kinds of credentials. I don't argue that for a second. He's been in the industry for a long time, knows very well of what he speaks, but in his answers to the questions he did not believe in a hybrid approach when it comes to a mix of public-private. His position was you either have to go to a totally private system or you have to go to a totally public system. He didn't believe in the hybrid approach, and the government is going to be following a hybrid approach to its policies on energy. I would just think, from the government's point of view, that it would have gone back and rethought the thing.

At the end of the day, we're going to have a vote. I understand how this works. I've been around this Legislature long enough to know that the government is going to have its way at the end of the day, but I just wanted you to have an opportunity to think on this for a week, because I think in the long run you're probably doing yourself a bit of a disservice in this particular appointment. That is not to say that this person couldn't serve in some other capacity, because he has plenty of credentials. But I would just think, in the position of

vice-chair, you would be somewhat cautious in regard to this thing.

Thank you very much, Speaker.

*Interruption.*

**Mr Bisson:** That's my phone. I better hang up.

**The Acting Chair:** All right. We're going to rotate around. Any comments from the Conservative party?

**Mr John O'Toole (Durham):** Just with respect to the fact that I did sit in on the review of Mr Carr's appointment, I certainly would like to say pretty much what I said then. I respect his experience, going back as far as the Macdonald commission report, where he recognized after many years—really starting in 1993, they started to look at the underlying cultural problems in Ontario Hydro, and the recommendation by Donald Macdonald and his commission was the breaking up of Ontario Hydro. It's my understanding that Mr Carr participated in the analysis that was done at that time. In fact, it's my understanding that he agreed with many of the decisions at that time.

0950

The part where I felt, if you will, most uncomfortable was with respect to his work on the market readiness committee. On the market readiness committee, clearly, we weren't ready. It could have been the worst time to have gone to opening the market, with generation supply being at an all-time low; that is, the Bruce station was pretty much down and the Pickering station and its refurbishment was not even started, really. During the work that we had done at that time on the nuclear select committee, which was the refurbishment of all the nuclear facilities, and allocated something in the order of about \$4 billion to the recovery plan in nuclear, I question whether or not he was just one of the cultural people within the industry who had clearly not come with a mandate to protect the consumer. Really, at the end of this day, that's the whole argument.

As new members, you will find that the idea here is to protect the consumer. That's really the role of the Ontario Energy Board. His partisan politics really shouldn't be any part of it. I think his professional credentials are certainly in order. His PhD and all his work as a consultant, as well as in the investment market, probably will stand him in good stead.

I did ask a question on the coal plant and the potential to eliminate all coal generation by 2007. Anyone who's even close to the issue knows that's simply not possible—not that it isn't the right thing to do. In fact, there is a plant scheduled to go down this year, which was a result of our government's work. I think the review of applications for new generation coming on stream has to be met with keeping supply high and taking all precautions to make sure that it's safe, reliable and affordable power. His position on coal was somewhat vague to me. That's currently the government's policy, and whether or not that's achievable, in my view—having sat on almost every committee of this Legislature since 1995 dealing with everything from the Macdonald commission right through to the generation conservation

committee, which I had the privilege of sitting on with all of the industry leaders.

But it really comes down to one thing. He is going to be vice-chair of the consumer watchdog, if you will, and he has been up to his eyebrows for the last decade, right from the investment side to almost an advisory capacity. According to the conflict rules which we had asked the clerk to provide us with, which I have not received—I'm not a full-time member of the committee. I'm probably not in a position to review them anyway, but certainly Mr Carr would have a chance to review them. Being vice-chair at a salary of \$300,000-plus—and it's my understanding that the general people were going in under the assumption that there would be the regular pay of a civil servant, which would be in the \$80,000 range. They were told, basically, by the current chair—it's my understanding and it's on the record—that they expect that pay to double for a general member on the committee. What that would do to the chair and vice-chair, in today's climate, is for anybody to speculate.

If he can't participate, with his conflict role, how can he possibly be vice-chair? I'm not questioning his credentials. I've just reviewed briefly some of his background, which would leave him in a rather neutral position for some time as vice-chair. I'm wondering if the compromise couldn't be that he could be a member of the committee until such time as the conflicts had exhausted. Perhaps my colleague Mr Hardeman has some insightful remarks that he would like to put on the record.

By and large, I understand how this works. This is the appointments committee, government agencies, and as such, as Mr Bisson has pointed out, is normally chaired by an opposition or third party member. I'm sure Gilles would be happy to be sitting in the chair. I know, looking at the other side, there are six members—who must be quite nervous about this appointment—and they will easily win this vote.

I would never discredit the gentleman for putting his name forward. His credit is there. I suspect he'll have to live with his own partisan comments before and after October 2. I would expect a chair or a vice-chair of the Ontario Energy Board to act on behalf of consumers first. We will hold your feet to the fire, because I know you'll win the vote; he looks like he's your person. With the limited time that I've been allowed to speak, I'll leave my remarks at that.

**The Acting Chair:** Mr Hardeman, did you wish to add anything further?

**Mr Ernie Hardeman (Oxford):** Thank you very much, Mr Chairman, and my apologies for coming late and coming in the middle of our meeting.

I do want to re-emphasize the comments made. In times of appointments, I think it's very important to appoint people who are knowledgeable about what they're being appointed for, but also who can do that job. I share some of the concerns that my colleague had about the issue of conflicts that have been created in the past that are going to take some time to exhaust before full decisions could be made.

I also share a small concern with my colleague, not against the appointment but his assumption that after this exhaustive discussion, in fact, the members opposite are all going to vote in favour of this appointment. I would have thought his comments were so convincing that that would not necessarily be the case. So I'm not prepared at this point to assume that this is an automatic vote. I would assume that this is going to be wide open. In fact, we may very well have to meet again to make the final appointment.

**The Acting Chair:** Any further comments? Do I have a motion, then, to concur in the appointment of Mr Jan Carr? Is there concurrence?

**Mr Bisson:** No.

**The Acting Chair:** No? OK, then we'll have a vote.

**Mr Bisson:** A recorded vote.

**The Acting Chair:** All those in favour of the appointment of Mr Jan Carr?

**Ayes**

Brown, Fonseca, Hardeman, O'Toole, Parsons, Qaadri, Smith, Wynne.

**Nays**

Bisson.

**The Acting Chair:** The motion carries.

*Interjection.*

**The Acting Chair:** A motion to adjourn. All those in favour? Opposed? Carried. Thank you for your time.

*The committee adjourned at 0958.*



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