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**Official Report  
of Debates  
(Hansard)**

**Wednesday 7 April 2004**

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des débats  
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**Mercredi 7 avril 2004**

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Chair: Lorenzo Berardinetti  
Clerk: Anne Stokes

Président : Lorenzo Berardinetti  
Greffière : Anne Stokes

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## LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON  
GOVERNMENT AGENCIES**

Wednesday 7 April 2004

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX**

Mercredi 7 avril 2004

*The committee met at 1004 in room 151.***ELECTION OF CHAIR**

**Clerk of the Committee (Ms Anne Stokes):** Good morning. Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

**Mr Michael A. Brown (Algoma-Manitoulin):** I nominate Mr Berardinetti.

**Ms Stokes:** I've called upon the honourable members to elect a Chair. We have one nomination. Are there any further nominations?

**Mr Gilles Bisson (Timmins-James Bay):** To that point, I just want to put on the record again is that I recognize the government has a majority on this committee, and if we in opposition were to nominate an opposition member to chair this committee—

*Interjection.*

**Mr Bisson:** Thank you very much, Mr Qaadri. Your long-standing tradition and experience as a parliamentarian is really appreciated here. I just want to put on the record that this particular committee has always been chaired by an opposition member for good reason, because it's an oversight committee. I would dearly love to be able to nominate one of the Conservatives to chair this committee, but I understand that the government has the majority and, again, they're going to use their majority to appoint a government person to oversee what is an opposition committee. I want to say that I object to this process.

**Ms Stokes:** You may make a nomination, Mr Bisson.

**Mr Bisson:** I nominate my good friend over here.

**Ms Stokes:** Ms Scott? Are there any further nominations? There being no further nominations, I will hold the election on the nomination of Mr Berardinetti as Chair.

All those in favour? Opposed? That is carried.

Mr Berardinetti, would you like to come forward?

**Mr Bisson:** For the record, the opposition voted against.

**The Chair (Mr Lorenzo Berardinetti):** Thank you and good morning.

**Mr Bisson:** On a point of order, Mr Chair: I want to welcome you to the chair. I want to make it clear that I don't have a particular problem with you as an individual.

**The Chair:** We get along.

**Mr Bisson:** We get along. I recognize that all members here are honourable and are trying to do the right thing, but I really want to say for the record that this is normally, and has always been, a committee that is chaired by the opposition because it's an oversight committee on government appointments. I really object to the process of having a government member head up this committee. This is something I plan on raising yet again with the House leaders, and hopefully one day we'll resolve to get this committee back the way it should be, chaired by an opposition member so that we don't give the appearance that the government not only controls the committee by way of its majority, but by way of controlling the Chair. I don't think that's healthy for democracy, and it is not healthy for this government either.

**Ms Laurie Scott (Haliburton-Victoria-Brock):** I'd like to congratulate you also on being Chair. Again, I want to reiterate our caucus's concern about having a government member as Chair of this committee. I think it's 136 years in this country that there has been an opposition Chair. I want to make that point.

*Interjection.*

**Ms Scott:** OK. It's been a long time in history that there has been a non-government Chair for this committee. It's nothing against Mr Bernadetti.

**The Chair:** It's Berardinetti, but you can call me Mr Chair.

**Ms Scott:** It's more about the principle. "You can call me Mr Chair." I noted that. I just want to make that point.

**SUBCOMMITTEE REPORT**

**The Chair:** Our first order of business is the report of the subcommittee on committee business, dated Thursday, April 1, 2004. Do we have a motion to adopt? Mr Brownell.

All those in favour? Opposed? The motion is carried.

**INTENDED APPOINTMENTS****MOREEN MILLER**

Review of intended appointment, selected by official opposition party: Moreen Miller, intended appointee as public-at-large member, Niagara Escarpment Commission.

**The Chair:** Our first interview is with Moreen Miller, intended appointee as public-at-large member, Niagara Escarpment Commission. Ms Miller, good morning.

As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. At our last appointment review, we started the questioning with the third party. We will continue the questioning today with the government caucus first. At the next meeting we will begin with the official opposition going first. Each party will have 10 minutes allocated for questions and we will go in rotation. As is also the practice of this committee, any time that you take in your statement will be deducted from the time allocated to the government party. Once again, welcome. You are allowed to make an opening statement, if you wish to.

**Ms Moreen Miller:** I am pleased to be here today to discuss my proposed appointment to the Niagara Escarpment Commission.

I currently live in the village of Alton, just north of the escarpment in the town of Caledon. I was born in rural Ontario and I'm the third generation of my family to live in the Alton area. I live in a designated historic building and have worked closely with the heritage staff of the town of Caledon as we restore our building. When my family and I are not recreating and working on our house, we spend a lot of time on the escarpment.

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I have an academic background in geology and landscape architecture. I'm currently a practising landscape architect and full member of the Ontario Association of Landscape Architects. During my career, I have worked in the public sector with the Ministry of Natural Resources, in the private sector as a landscape architectural consultant and an expert in land and resource management, and for an industry association as an environment and resources manager. My career has generously provided me with the opportunity to see proposals, suggestions and ideas from several different seats at the table. I believe this has greatly enriched my understanding of the complexities of land management.

I've developed significant expertise over the years in land and resource management, and have served as both the Canadian president and the international representative of the Canadian Land Reclamation Association. Teaching others about the opportunities of landscape was part of my work over a four-year period at the University of Guelph, where I taught a course in land reclamation design to the undergraduate students of the school of landscape architecture.

My current role in land and resource management for Lafarge affords me the opportunity to develop and implement sound land management practices, both at the local level and throughout North America. I am part of a world-wide initiative on rehabilitation practices that has given me insights into land reclamation activities around the world. I believe that my knowledge, skills and experience in the aggregate industry, as well as my under-

standing of reclamation science, will greatly assist the commission in reviewing and considering aggregate resource extraction within the Niagara Escarpment.

I'm currently a director of the Alton Grange Association, one of two community associations in the province that have entered into a long-term management plan agreement with the Ontario Ministry of Natural Resources on a 350-acre tract of land adjacent to the village of Alton. The property contains provincially significant wetlands, two branches of the Credit River, a side trail of the Bruce Trail and a regenerating mixed upland forest.

The association consists entirely of members of the community. As we approach our third year of management, I feel strongly that we have contributed greatly to the future of the Grange property as a protected natural area for future generations to enjoy.

My work with the Alton Grange Association mirrors many of the challenges that I believe face the Niagara Escarpment Commission in the future: increasing pressure to consider new and more invasive land uses on the escarpment; managing a regulatory body with limited resources; continuing to support scientific research to fully understand what ecosystems the escarpment lands support now and what ecosystems they could support in the future; and how to incorporate socially responsible development within the philosophy and guidelines of the Niagara Escarpment Plan.

I view my proposed appointment to the commission as an opportunity to apply my knowledge and professional experience to the challenges facing the escarpment. I look forward to that positive contribution. Thank you for your time.

**The Chair:** Thank you. We'll move to the government. Are there any questions?

**Mr Brown:** I have had some acquaintance with you over the years and know of your long-established credentials in the field of reclamation in particular. Could you perhaps elaborate a little bit more? I'm very interested in the Alton experience, which seems to be particularly suited to your qualifications.

**Ms Miller:** The Alton Grange Association was established through a unique opportunity where the Ministry of Natural Resources recognized there was an opportunity to have some local commitment and to have the community actually manage and rehabilitate a property. The property was given to the Ministry of Natural Resources in 1972. It sat largely unmanaged: fences falling down and a number of other things going on.

We took it over and we have worked very hard to do a lot of reclamation work along the creek. We've planted about 12,000 trees there over three years. It has really galvanized our little community to have a local environmental project to work on. I believe it has really been a positive thing for the community, and to establish my reclamation activities and my expertise in that area.

**The Chair:** Any other questions? We'll move on to the Conservative Party.

**Ms Scott:** Thank you for coming here today, Ms Miller. I see you're a graduate of Sir Sandford in Lindsay, or Peterborough?

**Ms Miller:** Yes, many years ago.

**Ms Scott:** And you worked with the MNR in Lindsay.

**Ms Miller:** Yes, I did.

**Ms Scott:** That's great. That's in my riding.

**Ms Miller:** Is that right?

**Ms Scott:** So welcome. It's nice to have you here today. I noticed that you work for Lafarge Canada, the aggregate resources company.

**Ms Miller:** Yes, I do.

**Ms Scott:** Do they have any interest in any of the lands around or near the Niagara Escarpment?

**Ms Miller:** We do own land on the escarpment, yes.

**Ms Scott:** Do you see any potential conflict, or would you be able to excuse yourself from any proposed interests that Lafarge has with the Niagara Escarpment?

**Ms Miller:** Yes, if there were proposals coming forward that were adjacent to our involved lands owned by the company, I would certainly have to excuse myself from that situation.

**Ms Scott:** Do you know of any at present?

**Ms Miller:** We do own a 570-acre tract of land in the escarpment. It is completely protected. We've owned it since 1969, I believe. It is in fact under lease to the Bruce Trail Association. Part of the Bruce Trail goes right through our property. We have no intention of mining it in the future. It's a land holding held by the company, with some sentimental value, I think.

**Ms Scott:** All right, thanks. How did you hear about the appointment?

**Ms Miller:** My name was forwarded to the minister's office for consideration, along with a number of other names, by the Aggregate Producers' Association. I was not aware of the list being sent at the time. I was made aware after that.

**Ms Scott:** There's a lot of controversy about where the Niagara Escarpment Commission's power ends and where the powers of local municipalities begin. Where do you think the line should be drawn? Should municipalities be able to request local responsibility for enforcement of the Niagara Escarpment plan, for example?

**Ms Miller:** My knowledge of the details of the Niagara Escarpment plan is limited at this time. My understanding is that municipalities could request that. I believe that the regulation is in place and the commission would be required to follow the regulations.

**Ms Scott:** Has there been a lot of involvement with municipalities around there seeking more—

**Ms Miller:** I am not aware of any.

**Ms Scott:** OK, nothing from Lafarge.

On March 31, Minister Ramsay announced the intent of increasing alternative energy sources such as wind farms. I understand that there's a \$150-million proposal for a commercial wind farm on the escarpment at Blue Mountains. Are you familiar with that?

**Ms Miller:** I'm only familiar with what I've read in the paper. I'm not familiar with the details.

**Ms Scott:** Do you believe that's consistent with the Niagara Escarpment plan as it exists now?

**Ms Miller:** Unfortunately, I'm not familiar enough with the specific policies of the plan at this time to comment on that. Again, I think the regulation is in place and I think that if power generation of that sort fits within the guidelines, then it should be considered.

**Ms Scott:** Do you think they could work? Do you think a lot of changes need to be made with the plan? Is the wind power going to be an asset, a benefit? In principle, without going into details, would you be supportive of that type of thing?

**Ms Miller:** In principle, I think the plan is the plan. Changes to the plan, I'm sure, are considered from time to time. I can't say for sure that that change should be or would be considered. I'm afraid I can't comment on it.

**Ms Scott:** That's fine. Thank you.

**The Chair:** Is that all the questions?

**Ms Scott:** Yes, Mr Chair.

**The Chair:** Then we'll move on to NDP.

**Ms Marilyn Churley (Toronto-Danforth):** Thank you very much, and welcome. I don't normally sit on this committee, but because I have such a big interest in the Niagara Escarpment and conservation and land use planning, I thought I'd come in and meet you because I suspect that at the end of the day you will be appointed. From what I've heard about you, I think it's a very good recommendation, and I'm pleased that you will be there.

I know when you're just coming on to a commission, you don't have all the answers and you have a learning curve. So I don't know if you'll have a particular answer to this question, but I'm going to talk about it anyway.

Windmills were mentioned. I've been really alarmed by something that happened that you may or may not have heard about; I've certainly been making noises about it. The previous commissioners, some of them under the previous government whose appointments were going to be up in three days or so, made what I consider a very unwise decision and, in many people's view, does contravene the act, and that is to make an agreement to allow a small town to be built. We refer to it as the Castle Glen development. That would include 1,600 new residential units, 300 commercial units, the first new, year-round town that could be built on the Niagara Escarpment since it started being protected in the 1970s. I'm just wondering if you have any views on how you might consider a new commission might deal with that, or do you have any views on how it should proceed from here?

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**Ms Miller:** I think one of the biggest challenges that the commission will have moving forward is to manage the increasing land use pressure in southern Ontario. I view the Niagara Escarpment Commission—and the lands are protected by a statute in the province. I believe that statute exists for a reason. I think it functions and plays its role. Should there be additional development within the Niagara Escarpment area, I think the plan and the regulations speak to that. Unfortunately, I can't com-

ment on the Castle Glen development because I'm not aware of the details. I think the role of the commission is to administer the plan and play by the rules there.

**Ms Churley:** I know this is difficult, being new, but from what you understand about how the commission works, would you consider supporting a review of that decision by the previous members, if requested, or—

*Interjection.*

**Ms Churley:** Excuse me?

I'm sorry for the interruption from my Liberal colleagues over there.

I say to the members who may not understand why I have this line of questioning, let me explain. I've asked the Liberal government to include the Niagara Escarpment as part of the zoning order coming under their new greenbelt. They are refusing to do that. I've been told that they were wanting to ask the new commissioners to reconsider the decision made by the previous commissioners—just so you know where I'm going with this—and it has been indicated to me that that's a very unusual thing. It would be a way out for the government, essentially, a very unusual thing for a new set of commissioners to do, but it's something that I believe you might be asked to look at. That's why I'm asking that question.

Second, this is already before the OMB, and I asked the question to the government about putting a special ministerial zoning order, including it under the greenbelt, or whatever, for now. The answer has been, "It's before the OMB. We can't deal with it." I'm extremely concerned, as we all should be, that somebody somewhere find a way to take some responsibility for this. That's why I'm asking the question. It's something that, should the government ask you as a new commissioner to reconsider—are you sufficiently aware of the issue and concerned enough about it that you might consider that?

**Ms Miller:** I'm not at this point sufficiently aware of the issue. I have not been involved in the commission up until this point. I think it would be inappropriate of me to suggest that I would have the skills or the understanding of the issue to make that kind of judgment, but I can't say for sure until I move forward and have reviewed some of the information. Again, I go back to, if it fits within the existing statute, then the decision has been made, I guess.

**Ms Churley:** OK. You may have heard about the controversy about this.

**Ms Miller:** I've read the paper, but nothing more.

**Ms Churley:** I just wanted to bring it to your attention. So thank you very much for your time.

**The Chair:** Thank you. That concludes the questioning. You may now step down.

#### ERIC JOHNSTON

Review of intended appointment, selected by official opposition party: Eric Johnston, intended appointee as public-at-large member, Niagara Escarpment Commission.

**The Chair:** Our second interview is with Eric Johnston, intended appointee as public-at-large member,

Niagara Escarpment Commission. Mr Johnston, you may now come forward.

As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. The rotation will be the same as previously, beginning with the government party, then the Conservatives and the NDP. Since the government party went first last time, I believe the Conservative member would go first, then the NDP and then the government with questions with any time that's left over. In your initial 10 minutes, any time you use in making your initial statement is taken away from the government time in terms of asking questions. So welcome once again. You may begin.

**Mr Eric Johnston:** Good morning. My name is Eric Johnston. I come from the Anishnabek reserve, Cape Croker, which is located on the Bruce Peninsula along with the sister reserve, Saugeen. I have three kids: two boys and a little girl.

**Ms Churley:** I hope they're not watching.

**Mr Johnston:** She makes as much noise as the two boys.

I've gained a lot of experience working with—some of what I'm saying is contained in the resumé. I've worked for five of the national chiefs with the Assembly of First Nations, either as a researcher or a technician, dealing with natural resource management issues.

During that involvement I was asked to participate in a number of conferences dealing with the convention on biodiversity, again providing technical support as well as aboriginal consultation on issues they were encountering at the convention. With the restoration of a subsistence commercial fishery around the Bruce Peninsula, we've had to deal with a lot of the ethical questions on development and how rights would be interpreted, or how values would be consolidated within the community in terms of how they were going to develop the fishery. So I've been a partner and extensively involved with a lot of jurisdictional resource issues.

The other thing I'd like to add is that during the stay with the Assembly of First Nations, I've had the opportunity to travel through the States and deal with agencies. For the last 10 years I've been trying to work in multi-jurisdictional settings and the conflicts that come up when agencies share mandates in how to bring about consensus so that decision-making can take place.

I'm very aware of traditional environmental knowledge and I feel it can play an important role to support the fundamentals of the escarpment planning.

I would just end there and leave myself open for any questions.

**The Chair:** Thank you, Mr Johnston. We will begin our questioning with the Conservative Party.

**Ms Scott:** Thank you for coming today, Mr Johnston. I will go back to the question, how did you hear about the opportunity to serve on the commission?

**Mr Johnston:** I've heard about the commission a number of times and that there are a lot of things par-

ticular to the Bruce Peninsula that were mentioned in the planning of it. I was excited and just had an overall interest in management issues and how the public has input to those kinds of decisions that basically they're left to live with. Overall, when David McLaren wanted to submit my name, I said yes because we'd worked on a number of situations where we were trying to work with an alliance of environmental groups to develop networking and information-sharing and those kinds of things.

**Ms Scott:** So, it's been through some different environmental groups you've been involved in. I'm sorry, you mentioned a gentleman's name and I didn't quite hear it.

**Mr Johnston:** David McLaren. He has been the information officer for my band for the last 10 years. He has always got his hand or feeler out there getting information and making sure we know what's going on as well.

**Ms Scott:** I thank you for all your work in the past with the environmental groups. Do you have a few things in mind, specific things about where you'd like to see the commission go? With your past work with the environmental groups and First Nations, is there anything you have in mind that you'd like to see developed further? I go back to public input with the municipalities. Has there been anything that has come to mind where you'd like to see the commission expand its planning, change some planning?

1030

**Mr Johnston:** I guess one that has always been a long-standing idea with me was, in the early 1900s, an extensive deforestation happened on the Bruce Peninsula and eroded a lot of the soils. A lot of the farms ended up not being viable, which kind of means you've got a lot of open farmland sitting there that originally started off as really healthy forests. Beavers remain active. I think that reforestation should be given another look, and not just a single-species type of forest that may be taking place in some parts of the country, but to begin to restore those lands to what their full potential was and retain a lot of the biodiversity that was there as well.

**Ms Scott:** I'll ask the question that I asked previously, also about the new plan for the commercial windmill farm on the Blue Mountains escarpment. How do you feel about that? Do you think that could work in with the escarpment's plan as it is now? Do you feel it's a positive step?

**Mr Johnston:** We've got a windmill near us in Ferndale. I understand that the economics surrounding that in making it a viable initiative is having its own share of problems. Windmills may not be the full answer. I think solar energy and those other things—I think a lot of it is to get the technology in the schools so that the kids and parents and other people can begin to do what they can and not be totally reliant on a single source of energy. I think it's just really getting the next generation in a better position to take on these responsibilities with the knowledge in their possession.

**Ms Scott:** So do you think that you'd be in favour of the windmill on the Niagara Escarpment? I know you're

not on the commission yet, but do you think that it fits in with the plan?

**Mr Johnston:** I would feel that I'd want to go in and take a lot more extensive look into it. On the surface, I'm probably like most people in saying that it sounds really good, but if you have a big windmill, like a 2.3—I think that was the one they established here—and if it's not going to really launch what people are thinking, it could be just further burdening people who are already in a difficult economic climate.

**Ms Scott:** You seem to be very well qualified and to have some good plans, especially with your background in mind. So thank you for coming.

**The Chair:** Thank you. We'll move on then to the NDP.

**Ms Churley:** Thank you very much for coming this morning. It's a pleasure to meet you, and congratulations on your name being put forward. I think your background, the way you described it, bodes well for—you've been giving a very positive role on the committees, so I have no quarrels over that.

I'm just wondering if you have some knowledge and history of the constant conflicts between the Niagara Escarpment board and the municipalities from time to time, in terms of the two views of the Niagara Escarpment Commission, I believe: one that it's got too much power, and municipalities want more. There's always a lot of controversy around that. Do you have any particular views on how you should deal with that as a new member?

**Mr Johnston:** We're beginning to dialogue more and more with municipalities over concerns we hold in common. It's probably difficult to take a principle to some kind of conclusion unless you're dealing with a real specific site and instance. So I'm not really sure. This isn't the best answer I could come up with this morning, but I think that municipalities should be seen as partners, because it's kind of like your next step into the actual home, instead of people who make up these communities. People are really stressed to have information come to them. Again, one instance on how I see people working together is that our people place a great value on the eagle. Eagles are starting to reappear in the immediate area. Eagles aren't considered part of the endangered species. We feel that because of the value we place on this, we would like to take action before they even become a candidate. So I'm thinking that if we can talk to municipalities along those lines about how plans get implemented, about what are the supporting values for the planet, I think you—

**Ms Churley:** So essentially you support the plan's basic principles. I think what I hear you saying is you want to work with the municipalities, but you support the principles. We have had, under the previous government—I've sat here, and there have been people who were appointed who have come right out and said, "No," who don't even support the principles of the plan. It's important to me that you do support those principles.

**Mr Johnston:** Yes, I would say if there's an opportunity to live to the principles, you make the distinction between—I'm really looking at how bands and municipalities deal with stuff. You have to agree on the principles.

**Ms Churley:** Right. Can I ask you, before I close my questioning—again, I don't want to put you on the spot to have to answer a question that's so new to the commission, but just as I mentioned earlier, there's going to be and there is a big controversy over the so-called Castle Glen Development Corp. I believe that it's going to come back. It's going to come before the new commission. More than anything, I wanted you to be aware that this is something that I think was wrong of the previous commission to do. I don't know if you know much about this proposal and if you have any views on it at this point.

**Mr Johnston:** Just listening to the previous discussion, if it were up to me, I probably would ask for an opportunity to see if a review was even going to be wanted. If you're going to look over the same information, and you don't see any other contributions you could make to questions that could've been asked or should've been asked, or information that should've been brought into the discussion, if you can't provide any more to what's already been talked about, then you're really just wasting people's money and time, because there isn't any new discussion possible without any new information starting to show up that would influence what was being said one way or the other.

**Ms Churley:** But if there were, if you were to find out that some of the other commissions, in fact, did not abide by the principles of the plan and decisions were made, if you were to review it and find out that some very serious mistakes were made in terms of interpreting the plan, would you then consider reviewing it?

**Mr Johnston:** I would take the time. I would at least, for my own two cents, take the time. What's wanted is an enduring, embraced decision, and whether it's going to be a no or a yes, I think you've got to—

**Ms Churley:** So you'd be willing to at least take a look at it, review it and see, in fact, if there were, under the previous commission—not the new one, but the previous one—perhaps some mistakes made in there, according to the principles of the plan?

**Mr Johnston:** Oh, yes. Given all the discussion that we're having here on it this morning, I probably will go and take a look at it and see.

**Ms Churley:** Good. Thank you very much.

**The Chair:** Are there any questions of the government party?

**Mr Shafiq Qaadri (Etobicoke North):** Just very briefly. Mr Johnston, it's a privilege to have you here. I was intrigued not only by your background, having worked in extensive community service, the national projects and environmental protection, but also the extra insights that you bring as a member of the Chippewas of Nawash Unceded First Nation.

I wanted to ask you, your traditional knowledge of native culture—I've also noticed, for example, you've

had extensive consultation with the First Nations leadership in the United States, Canada and beyond. Can you share with us any perspectives, added insights or life philosophy that you might be bringing to the table?

**1040**

**Mr Johnston:** It's really hard to go into the deep end of the pool, except that the relationship that I try to honour is a reciprocal one. It's a sacred relationship with the land, and that's what would make our identity different and that's what would really add the contribution.

Again, it's hard to talk about when the spirits of the land come to visit you. They come to sing to you and they come to give you things that you're supposed to take into your life. Every plant has a song, every plant has a colour, and you learn those songs and you accumulate those things.

I can only tell the people here that if you go out there and you offer yourself to that land, I think the only thing that is really required is that you love it. It's a relationship that's not necessarily unique to aboriginal people, but I think it's a relationship that we may have to revisit—all people. What's really needed is to take the spirituality of the land back into our lives.

Over the last 100 years, every time we've tried to talk about our spirituality we were always viewed with the Pepsi-Cola generation view on things. Then you go out there, and when those spirits do come, that will change your life utterly and completely and you won't be able to separate your identity from the land any more because it would have come and claimed you as part of them and given you that place.

We were talking about this with a neighbour of mine last night. We were saying that in all the creation stories you hear, man was always the last one to arrive. We've always interpreted that as man being the last one to be given rights and a place here. It's always man who has to struggle to try and find that place and purpose. I think that's a good outlook.

**Mr Qaadri:** I want to thank you for sharing that. I hope that perhaps all of us here at Queen's Park may take that idea of a sacred trust and sacred assets. Thank you.

**Mr Brown:** Eric, good to see you. I just want to commend you on making the commitment to an important commission of the government of Ontario that touches the lives of many people, not just in this province but probably across the world, it would be fair to say. I just wanted to thank you for coming and volunteering your time to work on this commission. Meegwetch.

**Mr Johnston:** Thank you.

**Mr Jean-Marc Lalonde (Glengarry-Prescott-Russell):** I'd like to congratulate you too for taking the time to come over. I really appreciate the interest that you've shown in this commission, especially in answering the question that was addressed to you by Ms Churley. You said you would like to bring new ideas to the commission. I was just wondering: In the past, were you ever approached by other group or commission members to be part of a commission similar to this one?

**Mr Johnston:** No. The only other instance I've worked with government was, as an aboriginal-Canadian delegate I travelled to a convention on biodiversity. Other than that, I've had no affiliation.

**Mr Lalonde:** Never in past years were you ever approached to be part of a commission and to contribute the experience that you have in working on the reserve and also in the natural resources areas?

**Mr Johnston:** Maybe if I were on shore more. I'm a fisherman. When you disappear on one of the boats, you're pretty much gone a lot of times. There isn't much room, other than for raising kids and trying to get home as soon as you can. But I've been like that for the last seven or eight years, so a lot of the experience that I've accumulated prior to moving home has pretty much just been sitting with me on that boat in the middle of the bay.

**Mr Lalonde:** I have to say that I really appreciate the interest you are showing in this commission.

**The Chair:** Thank you, Mr Johnston, for your presentation. You may step down.

#### DANIEL BURNS

Review of intended appointment, selected by official opposition party: Daniel Burns, intended appointee as chair, Ontario Realty Corp board of directors.

**The Chair:** Our third interview is with Daniel Burns, intended appointee as chair, Ontario Realty Corp board of directors.

Mr Burns, you may now come forward. As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. Each party will have 10 minutes allocated for questions, and we will go in the rotation. The first that will have questions will be the NDP, then it will go to the government party, the Liberals, and then to the Conservative Party. Any time that you take for your statement will be deducted from the time allocated to the government party.

Good morning and welcome. It's nice to see you here.

**Mr Daniel Burns:** Thank you very much, Mr Chairman, and good morning to all. I have only a couple of very brief remarks that I'd like to make at the beginning. You have a brief outline of my own professional background with you. I think the important things to raise here are that, first, I have a background in the principal responsibilities of the corporation. I'm a town planner by profession and I practised my profession for a long time at the city of Toronto. I'm still a member of the institute.

The second responsibility of the organization of course is to be the real estate expert and arm of the government and to support the work of ministries. In that regard, as the long-time deputy, I was a client of ORC for a very long time.

Third, I have served on this board previously as an ordinary director, so I think I have some understanding of the history of the organization, its development and its current strengths and weaknesses.

I think I bring to the possibility of undertaking this role quite a considerable history and background in the issues and responsibilities of the ORC itself.

**The Chair:** We'll begin our questioning with the NDP.

**Ms Churley:** I almost have to declare a conflict of interest here. This is a constituent of mine. Mr Burns and I know each other from city hall as well. I don't know if you mentioned your work at city hall, specifically.

You mentioned that you have a long history with the realty corporation. You mentioned that you know its strengths and its weaknesses, probably more than the rest of us, although we know some of the very public weaknesses that came out over the past several years. I'm wondering if you can outline what some of those are and the kinds of changes you would like to see happen.

**Mr Burns:** This doesn't apply just to ORC but also to my observations of Public Works Canada, which is responsible for federal real estate assets, and to the property department at the city of Toronto, another organization I got to know intimately.

Real estate management operations in the public sector have a long tradition of being bureaucratic, inflexible and not tremendously imaginative and creative in the way that they've managed assets or used them. For a long period of time, all three levels of government have tried to figure out if they could reorganize the way their responsibilities are managed to get better results: better results in terms of cost-effectiveness of the work done, better results in terms of support of public policy decision-making and better results in terms of the quality of service. ORC is no different. The efforts to figure out a better way of doing this go back a long time, at least 15 years.

At the time that you were in government, Ms Churley, the government actually decided that the better way to do this was to end the approach of managing real estate assets as a government department and, rather, create an agency that was dedicated to this purpose, and created the legislative foundation for doing that. Then in the time of the Harris and Eves governments, that process of transforming the civil service into a corporate body with specialized expertise was completed and a new set of business practices put in place to try to improve the performance of the organization. They included a much more sophisticated way of assessing the options you have for existing real estate, which assets might be sold and how to do it, a conversion of the property management function from direct public service to contract in large parts of the province and a big emphasis on trying to improve what we called the fundamental public administration responsibilities of the organization: client service.

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When I first became the deputy minister in 1991, the average turnaround time for a request by a ministry to reorganize space was 18 months. Even though ministries are not presently as happy as they might be with the ORC, the present turnaround is one heck of a lot better

than that. It has been a long-term effort, and the ultimate goal was better public administration, more cost-effectiveness, better management of assets. Those are still the key goals.

**Ms Churley:** That was very insightful, thank you. I'm just wondering how you see the fact that it is a separate agency now and how that should interact with the government and public policy; for instance, its role in providing land for affordable housing.

**Mr Burns:** I guess the first thing I would say is that crown corporations, while they have the ability to use methods widely used in the private sector, are not actually private companies. They still operate in a public policy framework. They still operate within business practice requirements laid down by Management Board and they still often need to use public-sector-style business practices that relate to transparency and the type of audit practice we have in the public sector. So while you have a corporation, you don't have one that's completely private; you have one that's transformed in that way.

Now, a crown corporation will always have the responsibility of ensuring that its activities operate at a high standard. Whether or not it plays a role in broader public policy is really a choice that's in the hands of the cabinet and the government of the day. If the present government is looking for support in assessing options related to ideas such as the one you've raised, then the corporation is obviously one place where you might go for expertise, but it's not really the role of a crown corporation to put up its hands and say, "Government, we think you should be looking at public policy our way." Rather, it should be operating effectively to support public policy development and execution created by the government itself.

**Ms Churley:** Thank you very much, Mr Burns.

**The Chair:** Any further questions from the NDP? We'll move on then to the Liberal Party.

**Mr Jim Brownell (Stormont-Dundas-Charlottenburgh):** Thank you for your presentation. With the information that's provided in your resumé and in what you've provided here, you certainly have the knowledge and the understanding, and you imparted that very well. You have learned lessons in your work with ORC in the past, and I'm just wondering what would be the biggest lesson learned that you would bring to the position as chair. I wonder if you could just—

**Mr Burns:** You must never abandon a strong focus on improving the quality of the basic functions of an organization. It's never done in a big public service organization. The big commitment to outstanding public administration has to be there top to bottom all the time, and with that, the realization that it takes time to transform the fundamental approach to public administration in a big organization. It's a second reason never to lose your focus.

Sometimes people think if you've got some new ideas worked out for public administration and you've decided to pursue them, then that's really it. But it's only the beginning of a significant road; getting your ideas

straight then takes a big, consistent effort and a constant commitment to excellence to get to the end.

**Ms Smith:** I've noted, upon reviewing some briefing notes about the ORC, that the salary baselines have increased dramatically over the last three years of the last regime, and I just wondered, given our present fiscal situation, what you feel your mandate is with respect to that. I also wanted to comment—just in your opening comments, you spoke about the use of consultants. I believe you were speaking of the proliferation of consultants assisting the ORC. I just wondered what your position was with respect to those two issues moving forward.

**Mr Burns:** First, I should say that when I was on the board before, we had a preliminary discussion of what sort of compensation program would make sense when we became a crown corporation. I was not there for the complete conversion of the organization. Second, we had several policy debates on the question of what's the right split between permanent staff in the corporation and the retention of expertise, whether that's lawyers or real estate brokers or any other type of specialized service that exists in this marketplace. So I'm not acquainted particularly with the current arrangements, but I'm sure that the board at some point got professional advice on a compensation scheme for its functions. Assuming that all the confirmation steps are taken, it's on my early list to look at the policy structure for both the compensation and the split between in-house work and contracted work.

But in principle, one of the reasons you consider taking functions out of the conventional public service and putting it in a specialized agency is to make it possible to address the question of recruiting and retaining the right executive professional staff, both permanently and temporarily, on a basis that's related to the function of the organization and not related to the policies of the whole public service. Many, many crowns have taken professional advice. These are not secret processes. You do these deliberately.

Having said that, this is another one of those subjects where you don't just do it once and then just let it sit in a cupboard. You should revisit it on a regular basis to ensure that both your compensation plan and your policy on the split between internal resources and contracting is still cost-effective and in the best interest of the corporation. As I said in the middle of my remarks, learning my way through this piece is on my agenda early on.

**Mr Brown:** I was delighted to hear you talk about the difficulty of organizing large organizations, whether they be public or private or, in this case, kind of the hybrid of that. I represent a constituency that is primarily made up of very small municipalities spread over a very large area, and one of the difficulties we've all experienced—the constituency in Killarney is an excellent example of that. It's a community of 300, maybe 400 people. By the way, it has the best fish and chips in the province—probably the world. It has always had some difficulty with government housing that is available in the community that has been, for example, used by the OPP detachment

for their officers in the community. The problem has been when there are vacancies—and right now, there are quite a considerable number of units available—we never seem to be able to use them for the visiting nurse or the teacher who has come to live in the community, because housing is a very difficult commodity to come by in these small villages sometimes.

It has always been a source of frustration with big organizations. I'm not even sure you're managing these particular units at the moment, but to free those up—in my view, it's one of those big organizations that don't see much cost-benefit in dealing with this, whereas the small municipality and the community sometimes see that. We also see that in other sort of office situations in other communities. Tell me what your view on efficiency is. Efficiency from my point of view is often that they can deal with these relatively, from the big corporations' viewpoint, not terribly important areas.

**Mr Burns:** I think, traditionally, public sector property operations conceived of themselves as in charge of your property and regulating it and telling you what to do and you had to kind of beg them for help. A private sector real estate company in the last 15 years has transformed itself by and large into an organization that puts its client or customer first. Another way of looking at the reason for the changes that have gone on in all public sector real estate operations is to try and get the organization off its we're-in-charge-and-we-regulate-you philosophy and on to one that had a much larger component of client-based service and practice.

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Because it's public sector, there will still be a mix. The ORC still has to enforce general rules on space utilization by ministries, for example. But it has been one of the long-term objectives at ORC to move to a client focus. That means getting better and better at dealing with small problems at the doorway and less an attitude of, "Well, you have a problem; I don't," which 15 years ago was all too common.

So there's still a balancing act but it is embedded in the new idea of ORC that arose out of the work of the last two governments to make it more client-centred. That's pretty important.

**The Chair:** We're going to move on to the Progressive Conservative Party for questions.

**Mr Joseph N. Tascona (Barrie-Simcoe-Brampton):** Thank you for coming here today, Mr Burns. You're retired from the public service?

**Mr Burns:** I am. Two years.

**Mr Tascona:** Who approached you for this position?

**Mr Burns:** In the first instance, I got a call from a senior official in Management Board Secretariat with a very general question. They were canvassing a number of former public servants on the general question of whether they might be interested in serving on crown corporation boards where the perspective of a former public servant would be important. I said I was interested in that. As you can see from my CV, I've been on many crown corporation boards as a public servant before.

Then, about two weeks later, I got a call from the Chair of Management Board himself, asking me about this particular role. That led to a couple of conversations, and here I am.

**Mr Tascona:** I take it you knew the Chair of Management Board prior?

**Mr Burns:** I had an opportunity in my years here to meet virtually every member of the Legislature one way or another. I think I met Mr Phillips in this room. It was a little less civil, because I was defending a set of activities that had been looked at rather skeptically by the auditor. Yes, I had met him in that format before.

**Mr Tascona:** So you know him on a professional level.

**Mr Burns:** I've not met him outside of the way that work is handled here in this building.

**Mr Tascona:** What's the compensation for that position?

**Mr Burns:** Of a chair? As I understand it, the compensation arrangements are identical to the ones that you would have been familiar with in your time in government. The per diem is \$300 a day for the chair.

**Mr Tascona:** Three hundred dollars a day. I'm looking at the salary information—

**Mr Burns:** So I've been told.

**Mr Tascona:** —for employees. So you're not necessarily an employee—

**Mr Burns:** No.

**Mr Tascona:** You're just chair.

**Mr Burns:** As far as I know, you don't get an employment status. In all my previous roles as director of a crown corporation, because I was a public servant, I had nothing to do with whatever the compensation arrangements were for citizen members of boards.

**Mr Tascona:** Statistics show that in 2000, there were about eight employees who were making greater than \$100,000. As of 2003, it's now up to 45.

**Mr Burns:** Yes.

**Mr Tascona:** As you know, we're in a period of restraint. The MPPs are showing restraint by example. Do you have any opinion on where the salaries are going with respect to the ORC?

**Mr Burns:** As I indicated in my response to Ms Smith earlier, I was on the board when we started the process of trying to talk about a compensation plan for an agency that was more independent. But I wasn't there when it was finished, and I haven't seen the adopted compensation program for the senior staff.

But I do believe, as I indicated earlier, that that's not the kind of policy you put in place and leave there for five or 10 years. That's the kind of policy you have to look at every couple of years to ensure that it's still making sense, in terms of your ability to recruit the people you need, with careful attention to the roles and responsibilities of the organization itself. So it's high on my list of things to take a look at in this organization.

**Mr Tascona:** What's the term of your appointment? Is it three years?

**Mr Burns:** As I understand it, it's three years, which is the standard for this type of arrangement.

**Mr Tascona:** I'm going to ask you something about your vision for the Ontario Realty Corp. In my riding—I'll just give you an example of land use by the ORC. We have a jail in the city of Barrie which has been closed for a couple of years now; it's just sitting there. I don't believe there are any plans at this point in time, because I did communicate with the Chair of Management of Board in terms of that and he was kind enough to respond to me with respect to it being under review by the ORC.

You're a town planner by profession. What is your view in terms of the responsibility of the ORC to the community where the property is located to properly use the property as opposed to just leaving it vacant and it becomes not a positive to the community—it's one of your holdings, but to the community per se in terms of proper planning, whether you sell it or whether you use it or whatever?

**Mr Burns:** I think in the first instance, when it comes to those sorts of assets, all public bodies are going to be put to a higher standard of behaviour than private individuals or corporations, and they should be. These are public assets. Therefore, the work that's done by the organization in looking at options should be done in an open way and effectively with the local municipality and community.

The question of how active ORC should be in looking at options for an asset as opposed to just looking at the question of whether it should be sold or not, that piece of public policy framework, has gone back and forth over the years. Sometimes governments have wanted the ORC to be very active in those discussions and to perhaps even look at changing planning rules for a property before they sell it or lease it, and in other environments they've fundamentally said that if it's not a core government asset in the long term, the main job is to sell it in a reasonable way. But whether you have an active management of your surplus assets or you have a relatively quiet one, whichever method you're using, you still need to ensure that you go about your work meeting those tests that I've just described—transparency and a good dialogue with the local community—because you are a public body.

**Mr Tascona:** Do you have an opinion on how active the ORC should be under you as chair?

**Mr Burns:** I think the question of how to approach the question I've just described is a matter of public policy rather than the operational responsibility of the organization. I think the organization should tackle the assessment of surplus assets and what options are available within a larger frame of how the government of the day would like to proceed with those types of assets. So I don't have a specific view other than to say that if we're going to have a discussion about that, let's have a good discussion which is well informed and helps the government make a well-informed decision.

**Mr Tascona:** I believe the government has a responsibility. When you're dealing with larger tracts of land or

larger buildings that are standing vacant, you do have a responsibility to have a time frame in terms of how they deal with that particular asset.

**Mr Burns:** In my time on the board, as part of the annual planning process—and the plan was sent to Management Board, so it was well understood there—there was a canvassing of the main assets in the hands of the ORC that were not in active use and were candidates for sale. So there was, if you like, a game plan every year for that.

**Mr Tascona:** Thank you. I believe Ms Scott has some questions.

**Ms Scott:** Thank you for coming here today, Mr Burns. On April 1, the government did a press release about "aggressively conserving energy in the province's own buildings through retrofits, upgrades and new building standards." Part of the mandate of the ORC is to provide the operations, maintenance and repair services.

**Mr Burns:** Yes.

**Ms Scott:** Do you have any idea—I know you've been on the board before—how significant an expenditure that is going to be?

**Mr Burns:** I don't know the answer to that. In past lives I have been involved in trying to create similar outcomes in housing programs, but never in commercial and semi-industrial buildings of the sort that are the ORC's responsibility. But there is a well-established marketplace in this area and there's also a well-established set of methodologies that give you an understanding of whether a particular investment has a payoff or not, and has been for at least 20 or 25 years, since both the general marketplace and public policy got interested in energy conservation.

**Ms Scott:** Is it going to require a lot of hiring, a lot more people to accomplish this?

**Mr Burns:** I don't know what discussion has gone on inside ORC more recently, but in similar programs that have been run for public buildings or for housing stock that is the responsibility of governments, typically the method that is used is a core team that organizes the program. The actual work is all done by a program of contracting of some sort or another.

**Ms Scott:** It's going to be a big challenge to do.

**Mr Burns:** Given that we've already experienced 20 years of efforts to reduce the energy consumption in public buildings, setting another goal to reduce it yet again—the longer you go on, the harder it gets to find these savings, but it's important.

**Ms Scott:** Thank you. Good luck.

**The Chair:** Thank you very much, Mr Burns. That concludes your time; you may now step down.

**Mr Burns:** Thank you, Mr Chairman.

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#### KELLY WADDINGTON

Review of intended appointment, selected by official opposition party: Kelly Waddingham, intended appointee as vice-chair, Ontario Labour Relations Board.

**The Chair:** Our fourth interview is with Kelly Waddingham, intended appointee as vice-chair, Ontario Labour Relations Board. Ms Waddingham, you may come forward.

As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. Each party will have 10 minutes allocated for questions, and we will go in rotation. Any time you take in your statement will be deducted from the time allotted to the government party. After your statement, the rotation will be the government party first and then the Progressive Conservatives and then the NDP. Good morning and welcome.

**Ms Kelly Waddingham:** Good morning and thank you very much for having me here today. I'm honoured to appear before this committee, nominated as a vice-chair of the Ontario Labour Relations Board.

I intend to use this time to highlight briefly those aspects of my 10 years of practice in labour relations and employment law that qualify me for an appointment as a vice-chair of the Ontario Labour Relations Board.

In 1992 I graduated from Osgoode Hall Law School and articled at the Toronto office of Scott and Aylen, working with Raj Anand, former chief commissioner of the Ontario Human Rights Commission, and Beth Symes, former chair of the Ontario Pay Equity Commission.

In 1994, upon the completion of my articles, I was hired at Scott and Aylen. My practice was in litigation with a focus on labour law, human rights and professional discipline. The practice of labour relations interested me and continues to do so to this day, as it is one of the few areas in law and, in particular, litigation in which the parties' relationship continues after the hearing.

I left Scott and Aylen to join the firm of Ryder, Wright, Blair and Doyle.

At Ryder, I have represented employees in the public and broader public sector. I have acted as counsel in rights arbitrations pertaining to such issues as terminations, discipline, contracting out, layoffs, seniority, job postings and human rights.

I have also represented non-unionized employees through the legal assistance program of the Registered Nurses Association of Ontario. The RNAO is the professional association for nurses in Ontario. My work with the RNAO has included representing nurses in cases of wrongful dismissal, human rights, professional discipline before the College of Nurses of Ontario and coroners' inquests. I have been a regular guest speaker for the RNAO and I am a frequent contributor to the Registered Nurse Journal.

I have developed an expertise in complex, multi-party discrimination cases, in which there are numerous grievors and interrelated employers—for example, within the academic setting and health care setting. My years of experience have taught me that if these cases are litigated, they are expensive and lengthy, and a mutually agreeable remedy is rarely achieved. It is for this reason

that I have always worked toward mediated settlements, with some significant success.

I have appeared before the Ontario Labour Relations Board, OLRB, on a broad range of matters, including applications for certifications, unfair labour practice complaints, duty of fair representation complaints, and successor rights. I have represented members of the RNAO in matters pursuant to the Occupational Health and Safety Act and the Employment Standards Act, two statutes over which the OLRB has jurisdiction.

My work before the board representing broader public sector unions in successor rights increased significantly as a result of public restructuring and amalgamations, which intensified beginning in the mid-1990s. Much of my work at the board has been in the area of hospital restructuring.

The Public Sector Transition Stability Act, 1997, or Bill 136, established a separate regime of successor rights governing matters arising out of restructuring and amalgamations in the broader public sector. Under this statute, the board gained new procedural powers allowing it to significantly streamline hearings, thereby reducing the length of hearings and encouraging settlement of these issues.

Successor rights cases are complex and involve inter-related employers and multiple unions. The restructuring and amalgamation of workplaces had meant major changes for employers, unions and their members. It is therefore of utmost importance that there are good labour relations once the restructuring or amalgamations have been completed in order to allow the parties to return to the primary goal of delivering public services.

It is in part my work as counsel in these large multi-party, complex cases which has led to my interest in becoming a neutral adjudicator. My experience has taught me that a balance must be struck between the parties to ensure harmonious labour relations. I look forward to the challenge of resolving the issues between workplace parties, ensuring that the legislated labour policies of the government are adhered to and helping the parties to establish fruitful working relationships.

**The Chair:** Are there any questions?

**Ms Smith:** Ms Waddingham, thanks for being here today. I too practised in labour and employment law, so I share some of your views on the complexities and the increasing complexities over the last few years. I was called in 1993; I see that you were called in 1994. I shudder to think that we're old enough to sit on the OLRB. I never thought the day would come.

I wanted to ask you about your 10 years of practice and, over that time, the changes in the legislation. I too was there from 1993 to 1997, and went through the changes from Bill 40 to Bill 7 and on and on. I just wondered if you could give us a quick overview of your perspective of those changes and how they impacted labour relations in the province.

**Ms Waddingham:** I have had the experience of working with three pieces of legislation since I have been practising law. Initially, of course, it was the Liberals'

legislation. Subsequent to that was the NDP's Bill 40, and subsequent to that was Bill 7. Each of them made very significant changes in labour policy and the manner in which the law was enforced.

I don't think it's appropriate for me to express my opinion at this point as to whether or not I think those changes were good or bad. I've certainly had the experience of working with all of them, but as a neutral and a nominee before you for vice-chair of the Ontario Labour Relations Board, it will be my job to interpret and enforce the legislation that is before me.

**The Chair:** Further questions?

**Mr Qaadri:** My question follows perhaps similarly from my colleague. You've been I think quite justifiably critical of previous governments and what seemed to be a slow and measured dismantling of some of the labour rights that have gone forth, in particular with regard to the previous government's Bill 7. I understand your stated position about neutrality. We do have certain press clippings, which I won't share with you now, but I just wanted to get your perspective on perhaps strengthening of the balance between labour relations and industry. For example, you've spoken previously about things like allowing replacement workers in strike situations and limiting access to bargaining units and so on, so perhaps just a question about the balance and how you see your expertise playing out there.

**Ms Waddingham:** I think you've asked me a couple of questions in one, so if I may begin. As far as my previous work as counsel, obviously it has been predominantly with public sector employees and with non-unionized employees. At that point in time in my career I was retained by clients and I put forth a position, which they had retained me to do.

With respect to your question of what I see now as being the balance and what the appropriate balance is, quite frankly, I see my work, if I should become vice-chair at the Ontario Labour Relations Board, as interpreting the legislation that's before me and enforcing that legislation. I don't think it's appropriate for me to determine what that policy is. The policy is one which will be set by government and enacted within the legislation.

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**The Chair:** That uses up the government's allocated time. We'll now move on to the Progressive Conservatives.

**Mr Tascona:** I want to thank you for coming here today.

Who approached you for this position? It's a part-time vice-chair?

**Ms Waddingham:** That's correct.

Actually, a member of the bar approached me about five years ago, to be perfectly honest, and suggested that he felt I had the skills to do this position. At that point in time, I, quite frankly, didn't feel that I had enough experience, because it's a very senior position, I believe, and I think that experience is the key to being able to carry out your duties.

As I said in my opening, it was really within the last couple of years, when I'd been working on these large, complex cases, that I could see that I was working in order to get often mediated settlements from the strength of both parties, or among many parties.

So I went back to the member of the private bar who had approached me and said, "You know, I think I might be interested in applying as a vice-chair." He said, "I will go to Mr Whittaker, the chair of the Ontario Labour Relations Board, on your behalf, and speak with him." He did so and advised me that Mr Whittaker was interested in speaking with me.

At that point in time, I called Mr Whittaker and expressed my interest. I met with him in a number of meetings, provided him with my CV, and made application through the public appointments. That's what brought me here today.

**Mr Tascona:** Your position is part-time. Is that your choice, or is that just what was available?

**Ms Waddingham:** That's what I was offered. In actual fact, I have a life in which I have a three- and a four-year-old, so part-time works out quite well.

**Mr Tascona:** Yes. I would imagine it would.

Are you restricted, though? You practised with the union firm. If you take the position, are you restricted from practising law with that firm or any other activities?

**Ms Waddingham:** I will be leaving my practice at Ryder, yes. I will not be practising employment law.

**Mr Tascona:** Would you be doing any other legal activities?

**Ms Waddingham:** I will probably continue in a practice of professional discipline, which I do with health care employees, predominantly nurses. In actual fact, the board's solicitor has provided an opinion to the chair of the OLRB, Mr Whittaker, as to the appropriateness of my continuing on in that practice, and it has been cleared.

**Mr Tascona:** Are there any restrictions in the board's policy with respect to your appearing in front of counsel for your former firm?

**Ms Waddingham:** I'm sorry, my former firm appearing before me?

**Mr Tascona:** Correct.

**Ms Waddingham:** I believe that there is. I'm not there at this point, but I understand that the board has a policy in dealing with people from your firm or former clients appearing before you. Quite frankly, I wouldn't be terribly comfortable having people whom I had worked with for 10 years appear before me.

**Mr Tascona:** I understand. Those are all the questions I have.

**The Chair:** We'll move on to the NDP.

**Mr Michael Prue (Beaches-East York):** Just one really short question. I appreciate the position you are in, not commenting on a previous government's legislation, but what appears to me to be happening more and more often before many administrative tribunals is that there is also an unequal balance between the might of lawyers who appear on behalf of the companies and occasionally on behalf of unions that have sufficient money, and then

you also have individuals or people who come who do not have the necessary monies or expertise to appear before you. As an adjudicator, how would you deal with that in trying to do a fair hearing with someone who may not be represented at all or who may be inadequately represented by someone who is less than capable?

**Ms Waddingham:** Thank you for your question. I have been practising labour and employment law for the last 10 years, and it is an extremely small bar; you may know that. My impression is that I come from a bar where the people are very competent. Be they union or management counsel, both parties seem to have very competent counsel.

With respect to employees who are unrepresented, as I understand it, the board does have cases in which those individuals come before it. I think the board, as I also understand, not having been there, has a process with which to deal with those individuals.

So I think that, in fact, the legislation can allow fairness, and the process itself that is in place can also allow fairness.

**Mr Prue:** So you're confident that it works well enough in the parameters without you as a vice-chair having to look at that or, I don't know, say, make arrangements, small changes, or try to bend over backwards for unrepresented or poorly represented people?

**Ms Waddingham:** I don't think it's my position to determine what the process will be at the board. The process is set down quite specifically at the board. They have very clear rules of practice. I will follow those rules

of practice. As I understand it, those people have a very fair and equitable hearing.

**The Chair:** Thank you, Ms Waddingham. That concludes the interview. You may now step down.

We will now consider the intended appointment of Ms Miller as public-at-large member, Niagara Escarpment Commission. Is there a member to move concurrence?

**Mr Brown:** Yes.

**The Chair:** Any discussion? If not, all in favour? Opposed? Carried.

We'll move on now to consider the intended appointment of Mr Johnston as public-at-large member, Niagara Escarpment Commission.

**Mr Lalonde:** I'll so move.

**The Chair:** Mr Lalonde has moved concurrence. Any discussion? If not, all in favour? Opposed? Carried.

We'll now consider the intended appointment of Mr Burns as chair, Ontario Realty Corp board of directors.

**Mr Tascona:** I'll move concurrence.

**The Chair:** Any discussion? None? All in favour? Opposed? Carried.

We'll now consider the intended appointment of Ms Waddingham as vice-chair, Ontario Labour Relations Board.

**Ms Scott:** I'll move concurrence.

**The Chair:** Are there any comments or discussion? If not, all in favour? Opposed? It's carried.

The meeting is then adjourned until Wednesday, April 21, 2004.

*The committee adjourned at 1128.*

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        Mr Michael Prue (Beaches-East York ND)

#### **Also taking part / Autres participants et participantes**

Mr David Oraietti (Sault Ste Marie L)

#### **Clerk / Greffière**

Ms Anne Stokes

#### **Staff / Personnel**

Mr Larry Johnston, research officer,  
Research and Information Services