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**Official Report
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Thursday 13 May 2004

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des débats
(Hansard)**

Jeudi 13 mai 2004

**Standing committee on
the Legislative Assembly**

Ombudsman Ontario

**Comité permanent de
l'Assemblée législative**

Ombudsman Ontario

Chair: Linda Jeffrey
Clerk: Douglas Arnott

Présidente : Linda Jeffrey
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Thursday 13 May 2004

Jeudi 13 mai 2004

The committee met at 1541 in committee room 1.

The Chair (Ms Linda Jeffrey): I'm going to call the meeting to order. We have quorum.

Committee, you have before you the agenda, you have the revised report of the subcommittee and you have, on my request, a report from Mr Philip Kaye with regard to the Ombudsman's reporting relationship. It became apparent when we were having our tour the other day that people weren't exactly clear about the reporting relationship, so I asked him to put this together to assist us in understanding it, and it might help if you have questions for the Ombudsman later on.

Our agenda today has four items on it, and I would ask, with your indulgence, that we deal with items 2, 3 and 4 prior to the Ombudsman's presentation to us. If we could deal with the other three items on our agenda—item 2 might have some time pressures associated with it, so if we were to deal with item 2 earlier that would assist us in getting some business done.

SUBCOMMITTEE REPORT

Mr Jeff Leal (Peterborough): I'll move the report of the subcommittee at its meeting held Monday, May 10, 2004.

The Chair: Can I explain to you why you have a revised document in front of you? We've had a couple of subcommittee meetings—just so I explain to everybody, because there are some subs here today. There are a couple of contentious issues in the subcommittee meeting minutes.

One of the issues is with regard to where the subcommittee meet. Originally, we started out with Milton and then Sarnia, and then the subcommittee subsequently decided to do Sarnia and then Milton. There was some discussion about another location.

The other issue is item 14 in the subcommittee minutes. That's the only other change, which is with regard to the Minister of the Environment being invited to make an opening statement. We were originally talking about it at the commencement of the clause-by-clause. The revised minutes indicate that she be invited to make a statement at the commencement of the public hearings. So that's the other change.

Mr Bruce Crozier (Essex): Just a comment. You said there's some disagreement. I would move that the subcommittee minutes be amended to read, in number 1, that

the committee meet in Windsor on Thursday, May 20. I understand that's been agreed to.

The Chair: Yes.

Mr Crozier: So I would make that motion. Then I have a comment about the minister's attendance. Well, I'll say it now. The minister will make herself available in Windsor at that meeting, not in the morning, but in the afternoon.

Mr Ernie Hardeman (Oxford): First of all, I just want to point out a correction. There was absolutely no mention of the location change in the revised minutes. So when you spoke of the revised minutes from the committee being different, I couldn't find that. The revised report that I have before me reads, "The committee will meet in Sarnia and in Milton." That's the revised report. So I'm not sure, when you spoke to the two revisions, that they were both actually in the minutes.

The Chair: You're right. They're not in the minutes, but what I'm trying to reflect is the discussion that took place. The subcommittee did not agree to the revision, so this is an accurate reflection of what was agreed to, but I wanted to make sure that all the committee was aware of the discussion.

Mr Hardeman: I recognize that. I also recognize that at the end of the day the majority of the committee will vote where we hold our meetings. I don't have any problem with that, but I do have a problem with the suggestion that previous meetings were held with House leaders over a number of issues that we were not made privy to or that the members of the subcommittee were not made privy to.

When we had our subcommittee meeting, discussions were held. In the original agreement, I should point out—I have since then seen it—it mentions both places. In one paragraph it mentions one, and in another paragraph it mentions the other. The subcommittee met and it came to the conclusion, as the minutes show, that we were going to hold them in Sarnia and in Milton. The subcommittee agreed; the report was printed. We asked staff to proceed with the advertising, as it was done that way.

My understanding was that the bill that's going to be heard has a different impact in one part of the province than it does in the other. The people in the north, right next door to where my sister lives, are very much in favour of the bill. She lives just outside of Kirkland Lake. She thinks the government is doing a wonderful job in making sure that the garbage will never be dumped there.

That's not necessarily the opinion of the people living in southwestern Ontario, who are putting up with the trucks that are taking all this garbage to Michigan, with no end in sight, if the 15-year approach in Kirkland Lake is no longer allowed to be on the books.

My understanding is that between the time the subcommittee met and agreed to where we were going to hold them—incidentally, as a member of the Legislature, when they appointed me as a member of this committee, and from there on as a subcommittee member, to make decisions on how we would organize the job entrusted to us as the body that was going to take for public consultation a government bill, I took that job seriously, that we'd get to make those decisions.

All the information that was available that day was put before us, or at least I thought it was. We were to decide, as a subcommittee, where we thought the best place was to hold public meetings. It was decided at that meeting that it was going to be Sarnia and then Milton. That's where, at least from the people I talked to, the information was that they were most anxious to be able to present their views to the committee.

I wasn't aware of one request coming from someone in northern Ontario who wanted to be heard. They just want the bill passed. I think they all realize that with a majority government, at the end of the day, it will pass.

The people in other parts of the province wanted to be heard because they had, I'm sure, some recommendations on what should be changed in the bill, or whether the bill should or should not be passed.

1550

I guess my concern arose when the government House leader came forward with wanting to go back to the other place the three House leaders had agreed upon, which was Windsor, because it seems that the member representing the Sarnia area doesn't want this bill to be brought to that community to be heard. Because it is my understanding that that community is not as supportive of the government's initiative as they might be, and the Liberal member of that area doesn't want it in that community.

The government can avoid going there, if that's what they so wish to do, because they have the majority vote on this committee, but I want to tell you that I don't deem it appropriate that because of what may or may not be said in that community and because it is opposed to it, I think it's a mistake to say, "We don't want to hear from that community because they aren't going to say what we want; we'd rather go back to Windsor, where no one objects to us being there."

So I object to changing the report from the place where it's going to be, recognizing that I don't have the majority vote here, but I do want it on the record that I oppose changing for the reasons put forward for this change.

The Chair: Thank you for that clarification, Mr Hardeman. Any other speakers?

Mr Michael Prue (Beaches-East York): I just have a question about the move to Windsor: Was that agreed to by the House leaders?

Mr Crozier: If I may, Chair, it's my understanding that, notwithstanding Mr Hardeman's comments, there is agreement on this change.

Mr Prue: By the House leaders?

Mr Crozier: You're getting really specific, and I can't say.

Interjection.

Mr Crozier: Yes, I can say "yes."

Mr Prue: OK, that's all I want to hear.

The Chair: Any further discussion on this issue? Mr Hardeman, I think you have clarified your position and your speculation.

Mr Hardeman: Well, Madam Chair, that's not your function.

The Chair: I understand that, but I'm just saying that, unless you're going to clarify, we have a motion on the floor.

Mr Hardeman: That's right, Madam Chair. I don't believe the rules of the committee suggest I have a certain length of time I can speak to that motion.

The Chair: No, I'm just asking you to speak to the motion. I think you clarified your position; I'm asking you to speak to the motion.

Mr Hardeman: It's speaking to the motion. I think the member opposite just mentioned the fact that we had agreement on the location from the three House leaders. I can assure you that there was no agreement when we had the second committee meeting. The House leader of the third party—at least the third party as of tonight; well, maybe I'm being a little presumptuous. The House leader of the New Democratic Party actually came to our meeting and said that he had not been consulted on the change, so we did not have—and I can assure you that since that time, our House leader has not been consulted to make this change now. In my opinion, we do not have House leaders' agreement.

Besides that, I don't believe that—and I'm speaking to this motion, Chair—this requires the House leaders' agreement. This requires this committee's agreement. Up until this point, the people of this committee didn't support the change.

The Chair: Any other discussion on the motion? No. So the motion is that the committee meet in Windsor on Thursday, May 20. That's the only change to these minutes. All those in favour? Against?

Mr Hardeman: Recorded vote.

The Chair: I think it's a little late. It's too late for a recorded vote. It's carried.

Our next item is—

Mr Hardeman: Madam Chair, I would suggest you have to recall the vote.

The Chair: Just a second. I'm getting advice.

What we've done is move the change, the motion. We now have to move the body of the report as a whole.

Mr Hardeman: I would ask for a recorded vote on the whole report.

Ayes

Cansfield, Craiton, Crozier, Leal, Prue, Wilkinson.

Nays

Hardeman, Miller.

The Chair: The report, as amended, carries.

COMMITTEE BUSINESS

The Chair: Item 2 is our report to the House on assignment of ministries and offices. We have a draft report. Would someone be interested in moving adoption, or is there any discussion?

Interjection.

The Chair: Mr Leal has moved adoption. Any discussion? All those in favour? That's carried.

Our last item before we get to our guest is the item on the invitation to the 2004 annual meeting of the National Conference of State Legislatures in Salt Lake City, Utah. This is here for consideration. Any discussion?

Mr Prue: I believe that this committee should send some people to it. Oftentimes we sit here as parliamentarians and politicians and we're afraid that someone is going to yell and say it's a junket. I don't believe it's a junket. Although I'm not a regular member of the committee, it seems to me that we should move that there be—I don't know. Is it untoward to say that three members, one from each party, go? That seems OK.

Mrs Donna H. Cansfield (Etobicoke Centre): I was just curious about the process and purpose, if maybe somebody could help enlighten me. Presumably this is before this committee for a reason. In the past, what has been the process, and have people participated? Is there an agenda? What do you anticipate learning from it? I was just curious whether or not there was more information than just that there's a conference.

The Chair: We did receive an invitation, we did receive details about the conference and it was distributed to the committee previously.

Mrs Cansfield: OK. I got the conference overall but I didn't get any great detail—not that I saw, anyway. Maybe you could tell me what the process has been in the past.

The Chair: I'd have to defer to the clerk's knowledge.

Clerk of the Committee (Mr Doug Arnott): In the past, predecessor committees to this committee had an ongoing relationship with the National Conference of State Legislatures for quite a few years and, either annually or frequently, delegations of the predecessor committees did attend, very often as a full committee. Over the years, there have also been smaller delegations that have attended; only one member per party and Chair, for example. In one year, the committee recommended to the board that only registration fees be paid.

So there has been variation of practice over the years. In more recent years, the frequency of attendance has

been much less. The last time this committee attended the National Conference of State Legislatures annual meeting was in Chicago in 2000. Previous to that, I believe it was 1993 or 1994 that a delegation attended an annual meeting.

Mrs Cansfield: So it's been kind of hit and miss.

Clerk of the Committee: Yes.

Mrs Cansfield: I don't have any difficulty. I think if people want to go and they have an opportunity to learn, I certainly think that people should have that opportunity to go. Just because it hasn't happened in the past, doesn't mean it shouldn't happen in the future.

Mr Prue: I'd just like to amend my own motion, if I could. I think it's important. When I heard about one from each party plus the Chair, that does make sense, and I should have included that.

Mr Leal: We had a short overview of what the conference was about. I guess, as a new member, it was difficult for me on the surface to make a relationship of what my experience might be here over four years and, if I went to the conference, what experiences I could bring back for me to implement some of the ideas that we may pick up. During my municipal career, we were asked to go on all kinds of conferences, but for many of them the information discussed and the ideas that were put forward had some direct impact that you could take back. I know, Madam Chair, you had the same experience during your time as a councillor in Brampton.

1600

I guess my question to the clerk would be: When previous committees went to the conferences in the States, were there any reports filed that I may be able to look at to get some idea of what they brought back to this assembly? Were the people who were travelling required to put together a report, to report back on their experiences at that conference?

Clerk of the Committee: There has not been a requirement that the committee report back to the House. In general—I have to refresh my memory—I believe this committee or predecessors have not reported specifically on their findings or experience or discussions at the NCSL annual meeting. The last time this committee attended in Chicago, the committee requested and had drafted a report which was circulated to committee members at that time, and a copy of that was also sent out to members here as background.

Over time, I believe that members in the predecessor committees learned at annual meetings did feed into a number of developments at this assembly. A principal one I can think of is the renovation of this building, as a major project, and the concern for heritage of assembly buildings. As well, in discussing the role of members in Legislatures, I believe that also assisted in heightening their awareness of the rules for their House back here.

The Chair: Mr Leal, did you have any more questions?

Mr Leal: My experience has been—I know in the last number of years in the city of Peterborough, when councillors were travelling, we made reporting a mandatory

requirement. One of the reasons we did so was that during difficult budgetary discussions, to justify the value to the taxpayer, we wanted to know that something was coming back and indeed being used. That was the basis for future budget planning, whether we would allocate resources for—I'm not debating the value of people going out and travelling. I'm just saying I'm concerned about the value after we go through that experience and what contribution that travelling experience and going to the conference can have for all 103 members of the Ontario Legislature.

Mr Hardeman: I'm in my ninth year here now and I've yet to go to a conference on behalf of the province of Ontario. So it's not that I'm a regular person to join—I did a lot of conferences when I was a municipal politician, strictly for the purpose, because I know nothing about what I'm doing, and the only way I'm going to learn is to find out how others do it.

But I'm not a strong supporter of reports back because, to me, that judges very well the quality of the writer but not the quality of the conference. It's how the individual coming back can explain what they picked up in a report. It may be very helpful, but likely we could send it to the general secretary of the association and ask them for a report on what happened at the conference. That would likely be more helpful than a report coming back from individuals.

I think the only way these conferences are of any assistance is the personal contact. I personally have to see it. If you can read it, then you can get the book from anywhere and get it out of that, but you don't get the feel of it until you're actually there. So I would support the motion. I would divide it to just one member of each caucus. I think that could be a decision that is made individually, but I think, as a government, we should support people trying to get information and experiences that will help. Maybe I would not get into such a heated debate with the Chair if I had known that's not allowed in a committee. If only I had been to a conference to find that out. So we apologize for that, Madam Chair, and hopefully we'll get to a conference where I'll know that that's not how you're supposed to conduct business.

I really think it's important that we take advantage of opportunities that are presented, such as this. I think it's particularly true, as we look around this table at the number of people who have not been involved in this type of structure for a long period of time, that this is a great time to go and find out how others do it.

I would strongly support the recommendation that we partake of this opportunity.

Mr Norm Miller (Parry Sound-Muskoka): I'd like to report that I did speak to a long-time member of the Legislative Assembly who has on two or three occasions attended the National Conference of State Legislatures. He did report orally that it was very worthwhile and fascinating and he spoke highly of his experience and learning from the conference.

I doubt that I would personally be going, but I certainly would support the motion to allow participation by

any members of the committee who so desire to go to this conference.

The Chair: Any other speakers?

Mr John Wilkinson (Perth-Middlesex): I'm just subbing today, but perhaps referring this matter to the subcommittee so it could be resolved might move along this afternoon.

Mr Prue: It already is.

Mr Wilkinson: Well, the people who are deciding.

The Chair: I hate to send things to the subcommittee because—

Mr Wilkinson: They're meeting next week.

The Chair: I know, but it's been to the subcommittee, back and forth actually, a couple of times. If we could make a decision today from a time perspective—this conference is in July, so we don't want to pass this off again. We really should make a decision today. It has been the circuit.

Any more discussion on this issue? We have a motion before us that, I believe, one member from each party would be allowed to attend.

Mr Prue: Plus the Chair.

The Chair: Plus the Chair.

Mrs Cansfield: Could I make an amendment to "up to one member"? I agree, if you're on a committee and you want to have some professional development, go. I don't think it should be restricted. Everybody has something they can learn and bring back and participate. How do you decide? Age? Male? Female? That's ludicrous. If you're on the committee, you should be able to participate in the functions of the committee, as a member. I think anybody who is on the committee should be eligible to go, so I'd like to make that amendment.

Mr Kim Craitor (Niagara Falls): Just some clarification for me: I'm a sub. Can a sub attend a subcommittee for one of these?

The Chair: No.

Mr Craitor: It has to be a member of the committee? OK. Thank you.

The Chair: Any more discussion? All those in favour of the amendment—was it a friendly amendment?

Mr Prue: I don't think it could be, because it is changing too much. I don't think it's a friendly amendment but I accept it as an amendment. It's changing my motion too much, because it's everybody. I'm not going to say I'm not going to vote for it, but it is not a friendly amendment.

Mrs Cansfield: There's no such thing as a friendly amendment.

The Chair: I'm trying to understand the order. The amendment goes first and the amendment is "any member of the committee." All those in favour? That's carried.

The motion as a whole was one member from each party, including the Chair?

Mr Prue: It is now amended that any member can go.

The Chair: All right. So that was carried. It is carried and there will be a discussion, I guess, from each party as to who the members will be who will be attending this conference?

Mr Mario Sergio (York West): No, no. The amendment which was just approved was, “any member of the committee.” It’s not “the party.” It’s members of the committee who want to go. Let’s make this clear. Let’s not bring this to the attention of our parties or party leaders now, because it’s our decision here.

The Chair: I’m educated as we go through this process that in order to take that next step, we have to get approval for budgetary requirements from the Board of Internal Economy, and then the next step is authorization by the House. So we have to go through those next steps before we get to who would be the individual who’s going. So we’ll get those next steps moving and then we’ll be reporting back to this committee as to the next stage.

1610

Mr Hardeman: To the clerk, I was just wondering whether it’s required to go to the Board of Internal Economy to have some indication of how much it would be. Obviously how many people are going would have an impact on the budgetary approvals. The motion as it is now passed would be the upper limit, that every member of the committee was going, which I don’t believe would be the case, but that would be the possibility of the motion so that’s what you would have to get financial approval for. If only half the committee is going, it’s a totally different financial approval. They may not have enough money to send everyone but they may have enough money to send those who want to go. I want to make sure that in our approach, we put that in.

Clerk of the Committee: That is correct. It would be up to the board to make its decision. It will be necessary to bring a budget before this committee for specific approval of dollar amounts.

Mr Sergio: Is there a timeline by which we have to notify the committee or the department as to who wants to go?

The Chair: I’m not sure if there’s a timeline for registration for this committee, but I would think if we can’t achieve the first deadline by—

Mr Sergio: I’m asking the clerk, what is the process now? Whom do we notify, how and by when? So before it goes to the next year—

Clerk of the Committee: As soon as there is budgetary authorization by the Board of Internal Economy, if that is their wish, then as clerk of the committee I would be contacting each member of the committee to ascertain—

Mr Sergio: So there’s no need at this stage to say who wants to go and stuff like that?

Clerk of the Committee: No.

Mr Sergio: OK, thank you.

Mrs Cansfield: I’m sorry, I think we’re making this far more complicated than it needs to be. The idea is that, in principle, any member of the committee can attend. Next, I would assume, is who wants to attend. If nobody wants to go, there would be no point in going to the Board of Internal Economy. Why go there, get a huge budget and get everybody in a kaffuffle to find out no-

body wants to go? I think it should be the other way around. It may be two people, it may be one, it may be none. Doesn’t that make more sense?

So I suggest you find out who wants to go and then base your budget on that and, say within the next week, e-mail the committee members, “This is an option. Do you wish to attend? We need to know by May 31.” Then, if nobody wants to go, there is no need for a budget. You report back that nobody is attending and move on.

The Chair: We’ll endeavour to do that. Any more discussion?

OMBUDSMAN ONTARIO

The Chair: Our next item is the one we’ve all been waiting for. It’s the presentation by our Ombudsman. I apologize for keeping you waiting, Mr Lewis. On behalf of the committee and the members who were able to attend the orientation in your office, I want to thank you very much. Last week we really did enjoy our time there and we appreciated your hospitality. It was very educational and I’m sure the members who were able to attend would agree with me that it was a very worthwhile trip.

Mr Clare Lewis: I must tell you we were honoured to have members of a committee of the assembly come to our office. I’m not aware of it having happened before, and it was really terrific. I know my staff were excited at the fact, as was I.

If I may, I’d just like to introduce, as I have to some of you already, Ms Lenna Bradburn, who is our director of investigations. We call it complaint resolution, but I call it investigations because that’s what the Ombudsman supposedly does. She has been a great asset to our office since I stole her from Guelph, where she was the first female chief of police in Canada. I know I said this to some of you last week, but she actually had the temerity, when younger, as a member of the Toronto Police Association, to picket my office when I was the police complaints commissioner.

I appreciate the opportunity to come here and I wonder if I could just speak largely about three things. I see what the agenda is. Don’t be horrified by the paper I’m pulling out. With your permission, Madam Chair, I’d like to distribute to the members a speech which I will give tomorrow in Toronto to the Ontario Association of Social Workers—quite an important group, with many thousands of members and 15 chapters in the province. I will be the keynote speaker at their annual general meeting, as a means of my outreach. It’s through these people that I want to try to reach their clients, who of course represent very vulnerable populations in the province, obviously.

The reason I’m asking you to look at the speech, if you have time, is because I think you are going to play a role in the selection of my successor. I hope you do, because I was the first Ombudsman to go through this committee in a competitive process and I thought it was a very interesting and exciting one. Of course, I liked it better because I succeeded. Thank God I don’t have to go through it again; I have a non-renewable term.

The speech, although it's not designed for you, really speaks to how I see the office of the Ombudsman and what I think its value is to the people of the province—or of any jurisdiction—to the government and to the House as a whole.

I speak also because as some of you know I'm also now the president of the International Ombudsman Institute. I've had the real privilege of knowing Ombudsmen from all across the world and it's really quite astounding. Even though the cultures and certainly the political constructs are often quite different, and many of them aren't as independent as we're allowed to be, nonetheless there is an attempt throughout those institutions to see their obligations through the perspective of the public, and they see the value of the office in supporting democracy. It varies according to the amount of it that they have. In a country like this, it's not nearly such an important role because we have so many supportive institutions.

If I may distribute those to your members, I think you might find them of interest.

The Chair: Please do.

Mr Lewis: I'm here for a number of reasons. One is just that: I'd like to be available to you. You're going to make your own choices, should you be selecting, but I would like to speak to you a little bit about my view of what you might be wanting to look for in an Ombudsman should you be given that role.

I'm going to have the temerity to warn you to be careful of those who are looking to retire in office, because there are always people who have had often illustrious careers who see this role as a wonderful opportunity to cap their careers. I have to tell you that my experience is that this position requires energy, diligence and, in my own respectful view, a considerable degree of passion for the nature of the work. You will see that I feel that in the paper I gave you, and that's why I've given it to you. I just want to encourage you. There are a lot of good people out there but there will be some looking for a ride, and they're not entitled to it, with respect. It pays well, it's an honourable position and it should be filled by the best you can get. I think it's wonderful that this kind of committee process exists because you have a real chance to see that. I know in the last competition there were people who were seen who were really very qualified, so there you are.

1620

I wanted to bring to your attention that I'm having a bit of a problem at the moment about my budget, and it's the first time I've had to complain of this. I bring it to you because in your terms of reference, as I understand them, among others, you have the ability to advise the Speaker and the Board of Internal Economy, and it is the Board of Internal Economy which of course vets my budget. They did so on April 27 and they did all the officers of the Legislature at that time. It's not all settled by any means.

I mentioned this last week. I'm not unaware that it is a very tough time in government in this province; there's a

huge deficit and we're all looking with anticipation to the 18th, I believe. Is that the day of the budget?

Interjection: It's 4 o'clock, here.

Mr Lewis: It's 4 o'clock? Oh, that's my birthday. Hooray.

Interjection: Happy birthday.

Mr Lewis: You know how to depress a guy, is what I hear.

Mr Leal: It won't be depressing. Magnificent.

Mr Lewis: I know there's going to be a lot of sharing of pain, and we all will hit it.

I have not had my budget cut, and I have to take that as an encouraging sign. But we came into the budget process on an understanding which appears not to have been correct.

I think we're the only one of the officers of the Legislature who had to go through a collective bargaining process. We entered into that late in the year. We think it was a very successful process, led by Lenna Bradburn, who has a lot of experience, both union and management. We arrived at a collective agreement. Of course, over 70% of our budget is salaries. We have a staff of 85 persons. The cost of the collective agreement is in the neighbourhood of \$450,000, \$460,000, for this year.

Our instructions on the budget—we were told to do what the Office of the Legislative Assembly was doing and follow that format—was that we would flatline, in a sense, on our operational stuff. But it also said that salary increases, merit or otherwise, were to be restricted to 3.5% across the board for the Office of the Legislative Assembly; not the offices of us, but we follow along. We look at those and we assume that's what we're supposed to be, with individual merit not to exceed 6%. So, fine.

Anyway, we did do just that and achieved an agreement, and we're in some trouble now because we got our budget of last year. It's a lot of money. On the other hand, it's not very much in the nature of the provincial budget.

I'm going to be blunt. When I came into this office, it was an office in some disarray. There was a lot of trouble in the office. There were a lot of pressures on it, and I knew that coming in. It was no surprise. I came in with a desire to turn it around and to make it a value to the public and to the assembly. I think we've gone a long way toward that, to a large extent with the efforts of Lenna Bradburn and my other senior staff. We have an equitable working office now. It has done very well and it's producing much better because it's a happy office, which it most assuredly was not when I entered it. I've never seen such dysfunction and enmity. But it's not that way any more.

So we've retooled absolutely every part of the office, including just lately we have our audit on our own financials and we're cleaning that up. It wasn't bad, but it needs to be modernized. What I hope to do is to walk out of this office with a refreshed and vigorous office which would be serving its mandate well.

If we do not get the money, or a good portion of it—and frankly, I think we need it all—it will affect our

service, and that's all there is to it. That's not a threat; it's just the reality. We will also be in a position that we'll have to very seriously consider notifying the union that we will be commencing a form of layoffs, perhaps initially a rolling layoff process. It wouldn't matter how we get through this year; my successor will have a really bad time in the following year. It's not your responsibility, but you do have the right to advise the Board of Internal Economy.

I'm going to be going before them. They didn't see me the last time. They've deferred some of the other officers, but I understand other officers of the Legislature asked for increases for their staff as well. A couple of them, I think, had increased jurisdiction, which is a whole other issue. That's not my issue. I'm not entitled to money because I have to do more, but I have to pay my staff.

So I'm hoping that you will feel that perhaps you could speak to your colleagues on the Board of Internal Economy to say that I think this is a serious matter. I'm proud of what we've done and what we continue to do, and I hope that the assembly has some pleasure with it. I think we've repaired relations with the civil service to a considerable degree from where they were at the end of the 1990s. The result of that isn't that we had to be buddies; the result is, we get a lot of agreements and we don't have to come here and fight things out. So with your permission, that's what I wanted to say about that.

In terms of coming before you in the normal course—I think, Madam Chair, you know that I've done it very little. We will be issuing our annual report on June 17, and the process by which we do that is we table it with the assembly through the Speaker. In the past, I have then, with the permission of the standing committee, come before it later in the day to answer any questions they may have, because it's delivered to all the members. I've done a press conference by then and so on. I didn't do it last year, but I was willing to do it last year and would be willing to do it again this year, to come before you and answer any questions you may have. It is my final report and I think it's a pretty good one. I think it's showing some results of value.

Having said that, I notice your review here by Mr Kaye, the research officer, of how our office works and reports and interacts with you. I am not going to be bringing a special report before you, but the timing is such that I will be issuing a supplementary report to the annual report. I just decided that yesterday.

There's a matter of an investigation which I did of some substance that I think is important. Essentially, I have no reason to bring it before you out of my desire to argue it out in front of you and seek your support before the Legislature. After several to-ings and fro-ings, the ministry has more or less agreed with what we had to say, and I don't see any value in having a battle about it. But I think the issue is of significance and importance. I can't get it into the annual report in any significant way because it's gone to press, so I intend to issue a special report which I will table at the same time as the annual

report on the 17th. I think you'll find it interesting; it has got to do with children.

May I bring up, Madam Chair, an issue of the use of the word "ombudsman"?

The Chair: Of course.

Mr Lewis: Thank you. Internationally this is a real concern, but it's becoming a concern for me. Ombudsmen have been honoured by copying. Everybody's an ombudsman these days. You've got the Shell Oil ombudsman and you've got the banking ombudsmen. Some of them do very good work. I must say that you have a lot of university ombudsmen. But there are real indicia for what an ombudsman is. Impartiality and independence are the primary two. The Ontario construct is one of the world leaders in terms of both of those. It gets no interference except with the budget, but even judges have to put up with that from time to time.

1630

There is a great temptation for people to use the word "ombudsman," and it damages the parliamentary or the legislative Ombudsman because it undermines us. There's already one in Ontario. It sneaked by me. I don't know how it happened, but you've got a financial services ombudsman. It's in the book. We get her calls and the trouble is that she gets a lot of ours. The fact is, she doesn't think she's an ombudsman and I don't. She serves a valid purpose in terms of receiving complaints and so on, although it's lessening now that it's becoming a federal issue.

I've heard there may be some consideration for having a children's ombudsman, and I know there's consideration of a linguistic ombudsman. I have no quarrel with the issue of supporting specialized individuals doing that kind of work. But the problem is that when the word "ombudsman" is used, I think it not only confuses, it depreciates. It's bootstrapping. I'm going to be blunt about it. I think the Ombudsman is a particular officer of the Parliament or the Legislative Assembly and it's not something that should be readily copied.

The secretary of the cabinet of Saskatchewan has advised all ministries that they are not to use the word "ombudsman" in creating a position unless the government has passed it in statute and it is with the consent of the provincial Ombudsman.

New Zealand goes further, and I'm not even going to bother with it. You can't even be a private ombudsman unless the chief ombudsman approves of it, so he doesn't approve anybody. I think that's pretty bad.

I've already talked to Madame Meilleur, the minister for francophone affairs. I think what she wants to do is extremely important, but I've pointed out to her I was the police complaints commissioner for this province for eight and a half years. The office was not created as an ombudsman, but that's what it was. It was a specialized executive ombudsman. The reason the government of the day did not call it an ombudsman was that it was the same government that created my office and they called it, quite properly, the police complaints commissioner. They took the jurisdiction of police away from the

Ombudsman, which was fine. That was great. I think that office was able to do it better. But the confusion did not occur through the use of the word “ombudsman.” I just lay that before you. I’d be happy to give you more detail. But internationally, there is great concern by national ombudsmen and so on at the proliferation.

I have to tell you the worst I ever heard—I hope I didn’t tell you this last week, but maybe I did. I was at a meeting and the Shell Oil ombudsman got up to talk to all these young people who were now “ombuds” and “ombuddies” of various assorted organizations and said what a pleasure it was to be there to discuss with them and share the experience of ombudshusbandry. All I can say to you is, the only husbandry with which I’m familiar takes place in my barn, with my wife’s herd of Red Angus cattle. We consider it a concern. That’s all I wanted to mention to you.

There’s a final issue—have I done it? That’s it. Oh no, there’s one here. It’s the special reports.

Only on one occasion did I bring a special report before this committee for argument, and I don’t expect to do it before the end of my term. That is not in any way denigrating this committee. When I thought I needed it, I was delighted to come before it. But in fact, if the matters are important, we’ve been pretty fortunate in getting sufficient agreement with the government or the ministry that we don’t need to come and fight with it. As you’ll see in that speech—and I truly mean this—I’m not interested in “gotcha.” I’m interested in the solutions. That’s what it’s about and that’s what I hope you’ll be looking for when you replace me. I’ll be out of here by January 29. I want to tell you—and this is for you and your colleagues in the assembly—it has been a great privilege to serve the assembly.

Thank you very much. Any questions you have, I’d be more than happy.

The Chair: All right. Maybe I’ll just say thank you very much for the copy of the speech. I know that the members appreciate having that heads-up, that pre-look at the speech that you’re going to give. I just want to confirm: You want to come back on June 17, the day that you—

Mr Lewis: If it’s available to you.

The Chair: It’s one of our regularly scheduled meetings.

Mr Lewis: Yes. I knew that before I said that.

The Chair: Yes. Good idea. I assume by the nodding around the table that this group would be very grateful to see you that day and perhaps discuss your report that you’ve tabled in the Legislature. So thank you very much for that offer, and I think we’d like to take you up on that.

Are there any questions of Mr Lewis? Mr Miller first.

Mr Miller: Certainly. Thank you for the report. I wish I was around last week for the tour of your office.

I’m looking at the reporting relationship graph here and I notice that after the annual report comes to the committee, the committee can either support it or not support it. What happens if the committee decides, for whatever reason, not to—

Mr Lewis: That’s a special report.

Mr Miller: OK. That’s a special report.

Mr Lewis: A special report’s an individual case that I want to argue—seek the committee’s support. I believe something needs to be corrected or redressed. The government or the ministry doesn’t think so, at which point I have to decide whether I want to go into a confrontation.

I’ve only done it once with the committee, and that was over Cancer Care Ontario and what I took to be unintended but real discriminatory treatment of northern Ontario and southern Ontario through the operation of two different programs. I had to give notice to the Premier. I think you’ll notice that first: that I wanted to do it. I came before the committee. It was a great experience. We were here for two days—two sessions. Normally, the ministry will put the deputy in to argue the matter with the Ombudsman before the committee. They didn’t do that in this case; it was the Ministry of Health and they put the parliamentary assistant in. I have to admit, I was sailing close to the wind on policy as opposed to administration, but it was a very real issue. I didn’t win—it split on party lines, and the majority carried—but I was pleased to see that a few weeks later the northern health travel grant was increased. So I got some of it.

I’ve had other cases in which I didn’t get as much as I wanted from the ministry but decided I wasn’t going to crank it up to the level of putting it before you. I had enough that I couldn’t really justify looking for that extra.

The annual report: I sure hope you’ll like it and support it, but I’m not asking for a vote on it.

Mr Miller: That’s the one on the annual report. You’re going to come around on June 17 and talk about that.

Mr Lewis: Yes, and you’ll have the supplementary to it as well. Let’s just consider it part of the annual report, although it’s actually my full report on that issue, which you don’t normally get in the annual report. It also will have with it the ministry’s replies. You’ll see everything. I have no doubt it’s the kind of issue that may find its way into the House. It has been there before.

Mr Miller: You were talking about your budget. What is your total budget?

Mr Lewis: I knew you were going to ask that. I told my staff that anything over \$9 million, it was going to be a tipping point. We’re nine million and—

Ms Lenna Bradburn: It’s \$9.4 million using the cash basis.

Mr Lewis: Yes, \$9.4 million on the cash basis, which we’ve had to go to. A staff of 85: In the budget submission, we did ask for an increase of one person on staff. That was rejected. What else was rejected? I was told by the Legislative Assembly Human Resources office—since they were booting me, they had to advertise for somebody else—that I had to put \$13,000 in my budget for that. So I did. It was denied. Well, good luck. Find it myself, I guess, but it’s going to be a small ad.

Would you mind hearing from Ms Bradburn about this? She knows more about it than I do.

1640

Ms Bradburn: Just on the budget, the amount is approximately \$460,000 that we're requesting this year over last year, of which \$29,500 is direct operating expenses. The remainder is all compensation.

We're one of the few offices of the Legislature, as I understand it, who have unionized staff. We're not part of the OPS. We're not civil servants. Our staff are unionized through the Office and Professional Employees International Union.

As Clare mentioned, we did negotiate a collective agreement this year. It was a three-year deal, which is something that this office hasn't had before. Included in the compensation costs are the increases for the salary as well as severance and termination obligations that we are required to provide this year, backfilling for maternity leaves, as well as temporary staff.

One of the things that we've done, as Clare mentioned, in the initiatives that we've undertaken in the last two years is that, in order to minimize the increases in full FTEs, we've been trying, to the best of our ability, to fund positions when people are away on vacation. Our work doesn't stop, obviously, and in fact, during the last year, through our efforts and our community outreach, we're anticipating approximately 2,000 more complaints and inquiries this year. The bulk of those get dealt with through our Ombudsman representative level, and that's what the one FTE position is that we have requested in this budget.

Mr Miller: The three-year contract that you have: What sort of increase is it over three years for your unionized employees?

Ms Bradburn: Over three years, it's approximately 11%. What we do in our comparison for our salaries is compare ourselves to the OPS rates for our positions. That's the group that we look at.

Mr Miller: Thank you for coming today.

Mr Crozier: Very quickly: Mr Lewis, I've been aware of your outstanding reputation for some time. It's a pleasure for me, ever so briefly, and I look forward to the June meeting to meet you, but your comments about the use of the word "ombudsman": I wonder if we might, Chair, ask research to give us a view of the word "ombudsman"—where it's used, how it's used in different jurisdictions. That may be something we can use in passing advice on to the government as to how they might either limit or not use the word "ombudsman." We might even get the fiscal ombudsman changed.

Mr Lewis: I'll give you an example of people who do get called ombudsmen and who are not and should never be called ombudsmen—the advocates. For instance, we have an Ontario children's advocate, Judy Finlay. She didn't want to be an ombudsman and she doesn't see herself—she understands the distinction. She understands that her role is there to advocate for the children all the time. It's not an ombudsman's role.

As you'll see if you read the address, I am not an advocate for the complainant; I am not an advocate for the government. I am an impartial investigator, and only if I find error do I then advocate for a correction. That's my role, and it's limited.

When I got to this office, they were having the staff conference. They'd delayed it until I arrived. I heard everybody talking about their clients. "Just a minute; who are these clients?" "Well, you know: the people we serve." "I thought the Ombudsman was supposed to be impartial." "Well, yes."

I said, "I was an advocate for many years and I had many, many clients, and the last thing I was was impartial. It wasn't my role." They're complainants—that's what the statute calls them—and I've abolished the use of the word "client" in my office, not because I'm insensitive to the needs of these people, but because I wanted to be very clear that I am a complaints investigator, and fairness is what I advocate. Period.

The Chair: A request has been made that research be done, and I gather there's some interest on the committee for that report to come back at a later date.

Mr Craitor: Maybe this will come out in your report. I'm just kind of curious. How many complaints do you receive in the course of a year?

Mr Lewis: About 23,000.

Mr Craitor: Out of that, what percentage falls under your jurisdiction: one out of every three, one out of every four?

Ms Bradburn: We average about 7,000 a year right now that are not within our jurisdiction. They'll be regarding the federal, municipal or private organizations. We have a referral database that we send people to.

One of the things that we've been doing with our outreach campaign is try to increase the proportion of our complaints that are actually within our jurisdiction, and we're starting to see that happen. So we're expecting that number will go down in proportion to the total.

Mr Craitor: The only other comment I want to make is that as a new member from Niagara Falls I want to tell you that my staff and I have used your services for some of our constituents who have come in. We've very pleased with it. I just want that as a matter of record.

Mr Lewis: You should know that I'm a bugbear on three of the ministries. One is corrections: I get beaten up by the public all the time about why I would ever look after them. You'll see why when you read the paper. The Family Responsibility Office—from every constituency office. I just so much regret that they have never repaired it, because as long as it's there, the Ombudsman has a job. And there are some problems with disability payments and stuff like that. It's really interesting stuff.

We're an adjunct to the members. Members are ombudsmen. You don't have the power to investigate, summons and so on. You do have the right to send matters to us, and we welcome it when you do.

Mr Leal: In the short time I've been here, your passion and commitment to the job certainly shine through, and I appreciate that.

I was very interested in your introductory remarks about what role this committee might have in choosing your successor. I don't want to get your quote out of context, but you said, "Be cautious about someone perhaps finishing out their career."

Mr Lewis: I am, but they got the right one.

Mr Leal: If you were providing some advice to this committee, what kind of guiding principles would you provide us in terms of looking for a successor?

Mr Lewis: Can I answer that by beginning negatively?

Mr Leal: Sure.

Mr Lewis: You know I was a judge.

Mr Leal: Yes, that's right.

Mr Lewis: For reasons, I like to say, which have often since escaped me, I resigned from the bench in order to become police complaints commissioner. I know what the reason was; it was the right thing to do. I was not asked to resign. I knew I was being considered, first by Roy McMurtry when he was Attorney General and then followed by Ian Scott when he was.

I talked to my wife about it and said, "The job of judges is judging and the job of commissioner has the potential to be controversial, and judges can't be controversial. If I take this job, if it's offered, I think I have to offer up my job." Nothing was happening. Ian Scott's assistant would call me from time to time and I said, "Look, if he wants to appoint me, I'm prepared to resign." Well, I had the job within the day.

He required, when Rosalie Abella's turn came up as chair of the labour board a while later, if she wanted the job repeated, she had to resign as a judge. If she wanted to be a judge, go back to the bench. She was a judge at the time. Both she and I have had great careers, despite our resigning from the bench.

Governments have a habit of loving to appoint judges to things, and I think their reasoning is often flawed. I'll never forget when the government—I think it was the Liberals, but it might have been the NDP—created the special investigation unit. It arose out of my Task Force on Race Relations and Policing, around that period and that stuff. I got called up by the government and they passed a couple of names by me to head this organization and I got quite angry. They were wonderful people: retired Court of Appeal judges. I said, "I know what you're doing. You think you can appoint a judge and the whole world is going to say 'Wow,' and it's going to be really happy days and the heat is off government." I've had jobs where the job is to draw the heat off government. That's what the Ombudsman does, that's what the police complaints commissioner did, and that's a proper thing. The SIU used to do that because otherwise everybody is all over the police, all over the government. Let the SIU draw the fire. "Don't do it," said I. Well, they did appoint a judge: a lovely man, Justice Osler, a wonderful guy. He was mauled. The day that he resigned I called him up and said, "John, let's have lunch. I know how you feel."

There are some jobs that require a lot of street smarts and they require a lot of the ability to just say it the way you believe it. It's very hard for judges who have been quite cloistered. It was very hard for me when I left the bench, and I was young. I was only 48 when I quit, but, boy, I was really reluctant to be drawn into the fire.

When I got there I found that it was OK, but I'll give you an example. I was president of a group called the International Association for Civilian Oversight of Law Enforcement. We had American, British, Australian and Canadian representatives who did the kind of work I did in police complaints. One of them, from Britain, was the United Kingdom's Police Complaints Authority. He was Justice Francis Peter, who was an Old Bailey judge seconded to be the Police Complaints Authority. So I was over in England and I'm in his office, meeting with him and his staff. I was ranting on about some policing issue, which I can do. He said—did I tell you this last week?—"Oh, Clare. You are so mischievous." I said, "Francis, it's not that I'm mischievous. It's that I'm no longer a judge and I can damn well say what I believe." I do and I did.

I did it in this room when I took the position before the justice committee that the police of Toronto were shooting too damn many young blacks in questionable circumstances, and it had to stop. It has stopped, by the way. It really has, over the years. I've got to tell you that the chief of police went crazy, and we duked it out. So, that's fine.

What am I saying? I'm saying, don't be enamoured of the fact that you'll probably get judges coming to apply. They're going to look good. I'm not saying you won't find the right one there. I'm not saying that, but I am saying, don't be overwhelmed by the fact that he's a judge or she's a judge. They get tired too. The job of the Ombudsman just isn't wisdom and so on; it's understanding the communities and what's at stake in here.

I think I told you this last week: I made a decision early. The reality was that I was being legalistic, and that wasn't really what was in play. It was a fairness issue. That's what the Ombudsman's about. I'm not saying judges are unfair, but that's one thing I need to ask you to be careful about. Don't be overwhelmed by them. They can look great but, I've got to tell you, I've been there and I appeared in front of them for many years. There are great judges, but they're just like anybody else, so look for the passion.

Mr Sergio: Would you say they are biased? Is this why you say, "watch out for judges"?

Mr Lewis: Oh, no, I don't think they're biased. I think they're often removed. Like any other human beings, I've known bad judges, but that's not what I'm speaking about. Mostly, you're not going to get a young judge asking to come and take it, although it can happen. They wanted to become a judge; they succeeded in getting to be a judge. Do it, right? You want another job, quit and get it.

Cast your net wide. There are good people. Be careful, that's all. I know you're going to get applicants who

worked in my office at one point. Be very, very careful. I don't mean they necessarily worked for me, but who have a history in my office. With the exception of that lady right there, you be awful damn careful—I'm not saying you're going to apply. Be very careful.

Mr Leal: Mr Lewis, your candour and frankness was wonderful.

Mr Lewis: I'm probably out of turn, but you'll do well.

The Chair: Any more questions today?

Thank you, Mr Lewis. Thank you, Ms Bradburn. We appreciate your coming again, and your frankness and candour. We'll see you on 17 June. Thank you for the offer, and we look forward to reading your report.

We've finished the business of our committee. Would someone move adjournment?

Mrs Cansfield: I move adjournment.

The Chair: Thank you, Ms Cansfield.

Committee, you've done great work. Thank you for your service. We'll see you again on May 20.

The committee adjourned at 1654.

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