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**Official Report
of Debates
(Hansard)**

Wednesday 19 May 2004

**Journal
des débats
(Hansard)**

Mercredi 19 mai 2004

**Standing committee on
government agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Elizabeth Witmer
Clerk: Anne Stokes

Présidente : Elizabeth Witmer
Greffière : Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Wednesday 19 May 2004

Mercredi 19 mai 2004

The committee met at 1004 in room 151.

SUBCOMMITTEE REPORTS

The Vice-Chair (Mr David Oraziotti): I'd like to call the meeting to order. Welcome to the standing committee on government agencies. Our first order of business is the report of the subcommittee on committee business, dated Thursday, April 29, 2004.

Mr Lorenzo Berardinetti (Scarborough Southwest): Mr Chair, I'd like to move adoption.

The Vice-Chair: Any discussion? All in favour?

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): This was dealing with the certificate received on April 23 with respect to the Ontario Clean Water Agency, Mr Elston being chosen.

I just want to draw to your attention that we originally called Murray Elston to appear because he was listed on the certificate as being appointed to the Ontario Clean Water Agency board of directors, a board which is entirely composed of civil servant members. We also were confused because his short bio drew attention to the fact that he had been appointed to the board as a member, and the records on the PAS Web site did not indicate this appointment had taken place, so we were confused.

This raises a concern for us. If we had not noticed this discrepancy and called him to appear based on that, he could very well have passed through this committee without being selected for review and had his order signed for appointment to the Clean Water Legacy Trust board of directors without this committee knowing anything about it.

We are limited by the information that is provided to us on certificates by the Public Appointments Secretariat. We're concerned about situations where there are serious errors in the certificate, such as occurred in this case. We'd like the Chair to raise this matter with the secretariat on behalf of the committee and inquire what process is followed by the secretariat when it is discovered that the certificate was in error.

Will this committee get the opportunity to select those individuals for review when the error has been corrected through an amended certificate or will we be held to the current timelines even if we are operating with incorrect information? And what happens if the error is discovered after an order has been signed by the Lieutenant Governor?

Those are our comments on the subcommittee report of April 29. We've got some serious questions with respect to that, and we'd like those questions answered.

The Vice-Chair: That's a fair comment, Mr Tascona, and thank you for your comments. Certainly there was an error in terms of the agency that was on the certificate. It has been withdrawn. There was a letter, and it has been corrected to read "the Clean Water Legacy Trust board of directors." I'm just going to ask Ms Stokes to comment on that, and we'll certainly be happy to bring further information back to this committee in a process that will ensure that you have ample opportunity to call those people you feel need to be questioned before the committee.

Mr Tascona: Well, there are questions we have in terms of process with respect to that matter, because it relates to the subcommittee report of April 29, which involves Mr Elston. We'd like those answered.

Clerk of the Committee (Ms Anne Stokes): In this particular case, I was advised by the Public Appointments Secretariat after the certificate had been received and distributed to the subcommittee members that there was indeed an error in that certificate, that it was not the Ontario Clean Water Agency board of directors and it should, instead, have read a different agency, the Clean Water Legacy Trust board of directors.

The Public Appointments Secretariat, the same day, issued an amended certificate, and we subsequently also received a withdrawal of the first incorrect one, meaning that the intended appointment was no longer for the incorrect agency, but the amended certificate reflected the correct intended appointment. We reissued the certificate, and the deadlines and so on proceeded from that date of the amended certificate.

Mr Tascona: I thank you for that, but we'd like those questions posted to the secretariat. I think we need to know that, because in the future we need to know the process so we can act properly as a committee when in fact the certificate is in error. So I'd like that put forward.

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Clerk of the Committee: I can write to the Public Appointments Secretariat and ask them to clarify that.

Mr Tascona: Thank you.

The Vice-Chair: With those comments, any further comments on the subcommittee report of April 29?

Mr Berardinetti: I move adoption of the request from Mr Tascona that the clerk contact the secretariat regarding the concerns raised.

The Vice-Chair: All in favour? Carried.

The next order of business is the report of the sub-committee on committee business dated Thursday, May 6, 2004.

Mr Berardinetti: I move adoption.

The Vice-Chair: Any questions or comments? All in favour? Carried.

Our next order of business is the report of the sub-committee on committee business dated Thursday, May 13, 2004.

Mr Berardinetti: I move adoption.

The Vice-Chair: Any discussion? All in favour? Carried.

With that, I'd like to also advise the committee that we have received notice of the withdrawal of the name of Murray Elston as intended appointee to the position of chair of the Ontario Clean Water Agency board of directors. I think that's in reference to Mr Tascona's concern. It's also noted on our report here, and those concerns that you have raised will be brought back from the secretariat.

Mr Tascona: What notes did you receive for the—

The Vice-Chair: This was simply a comment here that was to be read into the record in relation to the comments you made and the notice of withdrawal. Murray Elston's name was corrected on the certificate to read "the Ontario Clean Water Legacy Trust."

Denis Perrault, a selection from the certificate dated April 30, 2004, intended appointee of the Agriculture, Food and Rural Affairs Appeal Tribunal board of negotiations, is scheduled to attend a committee meeting on June 2, 2004, pursuant to standing order 106(e). We need unanimous consent by the committee to extend a 30-day deadline for consideration. Do we have unanimous consent to do this?

Mr Berardinetti: I'll move that.

Mr Tascona: I'll second it.

The Vice-Chair: All in favour? Carried.

Mr Peter Kormos (Niagara Centre): On a point of order: Why don't you ask if there are any people opposed and give us naysayers a chance?

The Vice-Chair: You certainly have that opportunity, Mr Kormos. It's unanimous consent of the committee to extend the opportunity—

Mr Kormos: You say "All in favour?" and then you say "Opposed?" Just a little thing.

The Vice-Chair: OK. Thank you. It looks like we have unanimous consent for that. We'll move on to the appointments review.

Mr Tascona: There's another point that I want to raise, because it arose out of a letter that we had received in terms of the matter that I had raised, and it concerns Daniel Burns. We found out through the Queen's Park reporting agency that under appointments, Michael Fenn had been named interim chair of the Ontario Realty Corp, replacing Daniel Burns, who came before this committee, I believe just before—early April.

We had received a letter dated April 27, 2004, from Debra Roberts, who is a director of the Management

Board of Cabinet, to Anne Stokes, the clerk of this committee, with respect to appointments, in particular Mr Daniel Burns, because the biographical information that we had received was different from what was reported in the Toronto Star after we had dealt with this individual. We understood in the committee that he was a retired civil servant for the provincial government, and then we found from the Toronto Star report that he in fact was a consultant for a land development company, I think it was Geranium Corp. I raised that, with respect, and we got an answer back.

The information, as best I could find out from Anne Stokes, our clerk, is that Mr Burns resigned from the Ontario Realty Corp as chair sometime between April 7 and April 28. I don't know what the reasons are. I haven't been given those. But we only found out that he had been replaced by Michael Fenn. Two points. Michael Fenn has been named interim chair of Ontario Realty Corp, which means he bypasses this committee. This is another appointment that is bypassing the committee, because he's an interim chair. Also, the letter that Anne Stokes received concerning Daniel Burns was dated April 27, and the way it's presented, one would take it that Daniel Burns was still chair of the Ontario Realty Corp, when in fact he resigned between April 7 and April 28, according to Ms Stokes.

What I'd like to know is, why is this committee being bypassed again with respect to appointments, especially after we had reviewed Mr Daniel Burns for chair of the Ontario Realty Corp, and then we have an interim appointment? Secondly, when did this individual resign? Because from the letter we received, April 27, to this committee, he would appear to still be a member, actually still the chair of the Ontario Realty Corp, and I don't know the reasons why he would have resigned. I'd like to know.

Having gone through the process of reviewing this individual, he subsequently resigns and then we have an interim appointment which bypasses the committee. I find that very troubling that we would only find out about him being removed through a publication that goes to Queen's Park. That's the only way we would have found out, because as of April 27, we still believed that he was a member as the chair of the Ontario Realty Corp. We have some real concerns about this bypassing the committee and, secondly, not being aware that he had in fact resigned, and then we get an interim appointment.

We're only finding out about these things through the news media, and this committee is not operating in the way it should be operating as the review part of the appointments of the government. I'm getting tired of finding out about things in the paper, about what's going on with appointments. That started with the Ontario Energy Board, went through to this thing with Mr Burns, and it continued on with respect to other appointments. One of them we'll deal with today, Sylvia Sutherland. I want that on the record, and I want some answers.

The Vice-Chair: OK. Thank you for your comments, Mr Tascona. You're certainly correct in noting that he

did resign, and I don't have the information as to why at this particular point. I'm going to ask the clerk to contact the Public Appointments Secretariat. In the situation where the chair resigns, they need to appoint an interim chair, and we're going to start the process again to get that chair, and I expect the committee to be involved in that process and, as you said, not be bypassed. So I'm going to ask the clerk to review that information, your comments, and get back to this committee with information from the Public Appointments Secretariat.

Mr Tascona: I appreciate that.

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INTENDED APPOINTMENTS SYLVIA SUTHERLAND

Review of intended appointment, selected by official opposition party: Sylvia Sutherland, intended appointee as member, Council of the College of Physicians and Surgeons of Ontario.

The Vice-Chair: We'll move to the appointments review at this time. Our first interview is with Sylvia Sutherland. Please come forward.

You have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from committee members. At our last appointment review, we started the questioning with the Liberal Party, so we'll commence questioning today with the Progressive Conservative caucus. Each party will have 10 minutes allocated for questions, and we'll go in rotation, as is also the practice of this committee. Any time you take in your statement will be deducted from the time allotted to the government party. Welcome, and please proceed.

Ms Sylvia Sutherland: Good morning to you, Mr Chair, and members of the committee. I would like to thank you very much for this opportunity to appear before you with respect to my intended appointment to the council of the College of Physicians and Surgeons. I look forward very much to the challenge that appointment will present and to the opportunity to, hopefully, be a strong voice for communities across the province, which are struggling to deal with the reality of a shortage of primary care physicians.

I know that you have seen my CV, and I would like to take just a few brief minutes to amplify what is written there. I am in my 13th year as mayor of the city of Peterborough. We are a separated municipality of 72,000 people within the county of Peterborough. The total population of the city and county of Peterborough is in the order of 120,000 people, 20,000 of whom at the moment are without a primary care physician.

The situation in the city and county of Peterborough is replicated in towns and cities across the province. My interest is not parochial but a deep concern for primary health care in all communities. It is an issue my community is attempting to address with an integrated health care model that will, hopefully, receive the blessing of

the province, and which could act as a model for other communities.

The shortage of family physicians is, of course, not the only challenge facing health care or the College of Physicians and Surgeons, and it is one that, in its recent report, *Tackling the Doctor Shortage*, the college has shown itself eager to address. There are other challenges: of regulation, of validation, of communication. I realize that these will be new challenges for me, but I have always been eager to take on new challenges, and I am hopeful that I can contribute in a positive way to the deliberations of the college.

I am certainly no expert in health care, but I believe I do have a background and experience that can be helpful to the college. In an earlier life, I was a journalist, a newspaper reporter, and for a period I taught journalism. I believe this gives me some expertise in communication which could potentially be helpful to the college.

While I have not been directly involved in health care, I have been involved on the periphery, if you will, of health care. In 1981, I was appointed to the Badgely Commission on sexual abuse against youth and children and served on that body through the completion of its work and report, a period of about four years. I was a member of the public relations committee of the former Peterborough Civic Hospital, on the boards of the local branch of the Canadian Mental Health Association and Marycrest Home for the Aged. I did not serve on those bodies, by the way, in my capacity as mayor, but as a private citizen.

As a delegate to the 35th General Assembly of the United Nations in 1980, I served on the third committee, which is the Social and Humanitarian Committee, and which dealt, in part, with health care challenges in the developing world, which are probably unimaginable to many Canadians.

As mayor of Peterborough, I have worked with all three political parties as each formed the government of Ontario and was appointed to committees by each of those parties during their term of office. I am a Liberal, but I am, first and foremost, a municipal politician whose primary concern is the well-being of her municipality and the viability and overall health of all municipalities across the country. I believe I have the support of citizens of all political stripes in my own city, as witnessed by the fact that in the last municipal election campaign my campaign chairperson was an active member of the NDP, my bagman a high-profile Conservative, and the chairman of my poll organization a long-time Liberal, so I think it crossed the lines.

I am open to new ideas and challenges, I listen, I have broad experience working with different groups, and I receive daily input from the public. I believe all of these will be of benefit to the Council of the College of Physicians and Surgeons, and I look forward to working with that body if I am so fortunate as to be appointed to it.

That's my statement.

The Vice-Chair: We will begin with the Conservative caucus.

Mr Tascona: Thanks very much. I just want to raise for the record, from Hansard of April 19—here we are, today is May 19—and in response to a question by the member for Peterborough, the Minister of Health and Long-Term Care basically said, “I’m pleased to say that this government appointed Mayor Sylvia Sutherland to the board of the College of Physicians and Surgeons so that she could be a strong voice there for communities like Peterborough that are struggling without enough access to family practitioners.” Just for the record, we haven’t even interviewed Ms Sutherland. I’m not questioning your credentials, but it’s once again a little premature of the government to say that they have already appointed someone one month earlier than we in fact interview someone.

So here you are today, and we welcome you to the committee.

Ms Sutherland: I would agree. That came as a surprise to me as well, actually. It’s a bit of an embarrassment, but—

Mr Tascona: I’m just going to ask you one question to start off. What do you feel about foreign-trained professionals?

Ms Sutherland: I think there is a tremendous opportunity for us to access the skill and training of foreign-trained professionals. I was glad to see in the recent report by the college that it seems they’ve undergone a sea change in their attitude there, where they’re actually trying to facilitate the ability of foreign-trained professionals to practise in the province. Of course, we have to be vigilant that their qualifications are the right qualifications, but I think the public perception has been that there has been too much of a closed shop. We have hundreds of doctors in this province who have been trained elsewhere, indeed, some of them people from Ontario who have taken training in the United States or Europe or somewhere else and have found it difficult to practise in Ontario, others from very qualified medical schools in other places. Given the situation we’re facing in Ontario, I think we have a tremendous opportunity.

I had a call last year from a woman looking to locate in Peterborough, but her husband was a native of Cuba who was trained in the United States and couldn’t practise in Peterborough because he couldn’t get permission to do that. So I think there’s tremendous opportunity here, and I was really glad to read the report that came out just a few weeks ago from the college on this subject.

Mr Tascona: Thank you. I think Mr Yakabuski has some questions.

Mr John Yakabuski (Renfrew-Nipissing-Pembroke): You talked about the broad support you have within all political parties, and that’s commendable. I didn’t catch it: Are you a member of a political party?

Ms Sutherland: Yes, I am. I’m a member of the Liberal Party.

Mr Yakabuski: You’re a member of the Liberal Party. Have you made financial contributions to the Liberal Party?

Ms Sutherland: I’ve made financial contributions to the Liberal Party, I’ve made financial contributions to the

NDP and I’ve made financial contributions to the Progressive Conservative Party, which—

Mr Yakabuski: And we thank you.

Interjection.

Ms Sutherland: Yes, this probably comes as a great surprise to some of my Liberal friends as well.

Interjection.

Ms Sutherland: No, not necessarily.

Mr Yakabuski: How did you hear about this appointment?

Ms Sutherland: I received a call from my MLA, Jeff Leal. Apparently, the minister’s office asked whether I would consider applying for the position. I gave that some thought and I said yes. I let him know that I would do that and then I received an application form, which I filled out and submitted, with the understanding I’d be interviewed.

To address the comment at the beginning, I then received a letter of congratulations from the chairman of the hospital board, and I said, “For what?” Well, I got a call and then the letter came—

Mr Yakabuski: You see, sometimes government moves faster than we think.

Ms Sutherland: Faster, because I hadn’t seen Hansard and I wasn’t aware that that statement had been made. It came as a surprise.

Mr Yakabuski: How often is this board of the College of Physicians and Surgeons going to meet?

Ms Sutherland: It meets two days a month and it meets four months out of this year, I believe. The next meeting is coming up in a week’s time. I think there are two meetings, four days, in the fall. Then there are various committees, and I’m not sure of the frequency of the meetings of the committees.

Mr Yakabuski: There are meetings and then, of course, there’s preparation for those meetings.

Ms Sutherland: Yes, there is.

Mr Yakabuski: One of the questions I have is, as the mayor of a city of 72,000 people—and we all know how the demands of municipal governments have changed over the years with respect to the number of issues they’re dealing with themselves—is it a concern of yours at all that because of your responsibilities as the mayor of Peterborough, which I would assume at 72,000 people is pretty much a full-time job these days—

Ms Sutherland: It is a full-time job these days.

Mr Yakabuski: —whether or not you’re going to be able to put the kind of time into this College of Physicians and Surgeons appointment, enabling you to alleviate some of these concerns? You said that one of the reasons you have for applying for this job is you’re very concerned about the 20,000 or so residents in Peterborough who don’t have a family physician. Are you going to be in a position to put in the kind of time in this appointment to really focus toward that, with what’s got to be an unbelievable amount of responsibilities as mayor of Peterborough?

Ms Sutherland: That was one of the considerations I had, frankly, when I was asked this. I wouldn’t have put

my application in if I didn't think I could. I served as mayor of Peterborough when I sat on the provincial round table on the environment and the economy a number of years ago, and that certainly was time consuming as well.

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I, at the moment, am widowed. I have responsibility for my Jack Russell terrier and nothing else.

Interjection.

Ms Sutherland: No. That was a consideration, and I'm absolutely convinced I certainly can afford the time. There is some preparation work. I'm hopefully a reasonably quick study. I can do the preparation work, and I certainly can afford the time, but that was a consideration.

Mr Yakabuski: Well it's my understanding that your Jack Russell is very well cared for, by the way. Thank you very much.

Ms Sutherland: Yes, he is. I don't know how you know that.

Mr Kormos: Ms Sutherland, thanks for dropping by.

Ms Sutherland: Well, thank you for the chance, Mr Kormos.

Mr Kormos: I applaud your candour. You know, I'm not a regular member of the committee, but I drop in from time to time, because we're always looking for the smoking gun. We're always looking for the person who's some sort of partisan hack. Mind you, there have been partisan hacks who have been floated through this committee who do not want to identify that relationship. Quite frankly, there's nothing wrong with patronage, as long as patronage is accompanied by competence. I mean, it's patronage that is intermixed with gross incompetence that's repugnant. I don't care where it comes from.

I have no hesitation in noting your competence and ability to do this job, fulfill this role and, quite frankly, do it well. Honestly, had you put your short comments into a written form attached to your CV, I suspect you would have scared off anybody from even calling you before the committee, because we're looking for the people who try to conceal this stuff. I commend Mr Leal. I mean that's his job as an MPP, to scout out in his community people who would do these sorts of things. So I commend him for doing that and for exercising. I presume, some good judgment in whom he called upon. I have no concerns about your appointment.

I do want to raise the issue of MRC audits with you. Dr Tony Hsu, a Welland pediatrician whose birthday was May 12—unfortunately, he didn't celebrate it, because he's dead. He died after an incredibly abusive assault on his integrity and upon his family's savings, as a result of an MRC audit—over \$100,000 clawed back. I'm sure you know that physicians and surgeons and doctors across Ontario have been rallying around this issue, one calling for a suspension, a freeze, a moratorium on audits until such time as an inquiry is completed with recommendations for a fairer audit process. The Minister of Health indicated that Judge Cory was going to be

appointed—has not been as forthcoming around the issue of the freeze, the moratorium. Have you got views on this?

Ms Sutherland: First of all, I was very pleased, Mr Kormos, to see Justice Cory's appointment. My initial reaction was that hopefully the audits—I can understand the concerns of the doctors regarding the audits. I would hope, given the fact that Mr Justice Cory is looking into this, that the audits being done now would be more judiciously done, if you will.

I guess I have some concern about a freeze on the audits. I would hope Mr Justice Cory's review would be done expeditiously and that that would improve the situation. I do have a concern about the freeze on the audits, because I think there have obviously been situations where, in fact, there have been abuses. So I would hope for a more judicious use of the audits and for a quick report, as quickly as possible, by Mr Justice Cory.

Mr Kormos: I appreciate your comments. I was hoping that you were going to come up with a more liberal, broader—

Ms Sutherland: If I were 20 years younger, I might have been liberal or broader. I don't know.

Mr Kormos: I hear what you're saying, and I think you've tried to answer the question. All I ask of you is this—and I expect your appointment is going to be approved today—that you make yourself available. I'm going to talk to the doctors who have been spearheading this campaign. All I ask of you is this: that you make yourself available to them for them to brief you and discuss with you their concerns, because they don't agree with you.

Ms Sutherland: I'd be anxious to hear their concerns.

Mr Kormos: Do you promise me that you'll talk to them?

Ms Sutherland: Yes, I do.

Mr Kormos: OK. Thank you. I appreciate it.

Ms Sutherland: I want to learn.

Mr Kormos: I know you'll keep that promise.

Ms Sutherland: I will keep that promise, Mr Kormos.

The Vice-Chair: Liberal caucus?

Mr Berardinetti: We waive our questions.

The Vice-Chair: Just for the record, the committee should be aware that Minister Smitherman has responded to a letter that was written by Ms Witmer, dated April 29, where he makes reference to his mistaken reference in the House.

Interjection.

The Vice-Chair: I'd like it in the record, though.

Mr Kormos: You've got it in the record.

The Vice-Chair: Thank you, Mr Kormos. I'm going to finish now.

When Minister Smitherman makes reference to the appointment of Peterborough mayor, Sylvia Sutherland, the comment should have read "intended appointee to the board."

That concludes your interview. You may step down.

Ms Sutherland: Thank you very much.

ROBERT SCHMIDT

Review of intended appointment, selected by official opposition party: Robert Schmidt, intended appointee as member, Essex, Kent and Lambton District Health Council.

The Vice-Chair: Our second interview is with Robert Schmidt. As you are 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. We'll go in rotation. Any time you take in your statement will be deducted from the time allotted to the government party. Welcome, and please proceed.

Mr Robert Schmidt: Good morning, everyone. My name is Rob Schmidt. I am the nominee for the county of Essex to the Essex, Kent and Lambton District Health Council. Quite frankly, I'm a little surprised to be called before this committee, because I would have thought that with my qualifications and commitment to the good health care of Essex county—my ability to represent the people of Essex county satisfied Essex county council—my quick appointment would have followed.

Nevertheless, I do welcome this opportunity to be here today, not so much to give you some personal background, but more importantly to discuss very briefly some of Essex county's health care issues and to try to answer your questions.

I believe you have seen my CV, so I will only point out some of the health-related items. I am a past board member of the Windsor-Essex health unit. I worked with Together in Caring, which was a fundraising group for our local hospital restructuring, resulting in capital upgrades. Our portion was approximately \$40 million. I am a past chair and present member of our county committee in charge of the Sun Parlour Home, which is a 200-bed, long-term-care facility that the county operates.

I'm presently chair of the board of the Leamington Mennonite Home. We offer a full continuum of elder care: townhouses, condominiums, apartments—some geared to income—as well as rest home and long-term-care facilities, and we are presently building a \$9.5-million, 84-bed, long-term-care facility; it's about half done.

For the last three years, I have been president of the local Essex-Windsor Cancer Society. I am on the Essex county committee in charge of operating the Windsor-Essex land ambulance system. I have taken part in a couple of doctor recruitment tours to universities.

As far as health care issues in Ontario and especially in Essex county are concerned, health care is in a critical condition. We have some very significant challenges in Essex county. We are one of the fastest growing, population-wise, municipalities in Ontario. We have some of the highest cancer and heart disease rates in Canada. We have higher than average mortality rates, significantly shorter average life expectancy and disability-free life expectancy.

We also have, unfortunately, a much higher prevalence of unmet health care needs. We have a severe

doctor shortage. The last numbers, according to the province, are 212. We know that number is low: It's based on the 1996 census, and our population has grown from 321,000 to around 380,000 in that period. Many of the doctors listed there are no longer practising. One doctor, for instance, has been in a rest home for the last five years.

There are emergency room delays for walk-in patients. Our ambulance system also has delays, code 7s, where we can't unload patients for hours on end. There are funding inequities. Our county is now paying 62% of the ambulance service when there is supposed to be a 50-50 split with the province. Children's mental services in Windsor-Essex county are in a very serious state, according to the executive director of Children's Mental Health Ontario. It's probably the worst in the province. We have 700 kids waiting for mental health services, some 18 to 24 months. We have the highest male suicide rate in Ontario. We have long-term-care funding inequities, where non-profit and charitable facilities get 10% less funding than the for-profits do. We have supportive housing cutbacks and programs cancelled without new programs being put in place. We have inadequate CCAC funding, inadequate staff and programs. We have a health unit that is underfunded by the province.

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Our health care system is in critical condition. Although we do have some excellent facilities and great, dedicated staff, we are short of equipment, extremely short of staff and significantly underfunded. Without some changes and more resources, and without all levels of government, all political parties and all service providers and consumers working together, our health system will self-destruct under the stress of our aging population, with expensive new facilities, treatments and medicines competing for the limited resources we have.

I am here to try to help fix the system. I hope you are as well.

The Vice-Chair: Thank you very much for your comments. We'll begin with Mr Kormos.

Mr Kormos: Which council?

Mr Schmidt: Essex county council.

Mr Kormos: I understand that in January of this year, the city of Windsor, which is entitled to a nominee on the health council, withdrew its participation. What's going on there?

Mr Schmidt: City council will have to speak for themselves. It's my understanding that they've withdrawn from all committees they don't directly fund because of their immense workload. I personally think it's a mistake, because we do directly fund a lot of health care: the health unit, long-term care, ambulance service. We're doing doctor recruitment. We're doing all kinds of things we never used to have to do because of the downloading. I think it's a mistake that they're doing that, but that's their choice.

Mr Kormos: So you're a member of the Essex council.

Mr Schmidt: Yes.

Mr Kormos: So does the Essex council assume that their nominee has to be a member of their council, or can it be another resident or person who is not necessarily a member of their council?

Mr Schmidt: They don't assume that it has to be a member of council; traditionally it has been because it's easier to report back to council. I think the feeling is that local politicians, for whatever reason—maybe they're more accessible, more well known—get a lot of phone calls on a lot of issues, many of them health-related, and perhaps have a better feel of what the local needs are.

Mr Kormos: I respect Essex having the responsibility to nominate a person. I respect their choice. I'm just wondering why you were surprised to be called before the committee. I found that a surprising comment.

Mr Schmidt: Because my understanding is that it doesn't normally happen for a job like this that is non-paying, that represents the local municipality. I'm not representing the government of Ontario; I'm representing the county of Essex. That's my appointment. It's not that I don't realize that you have a responsibility to OK those nominations, but I would have thought that you would have been more concerned with other nominations. I do relish the idea of talking about health care issues. I hope that's what we would talk about.

Mr Kormos: Let me take a look, because, as I say, I'm not a regular member of the committee. Fair enough. As it was, you were the choice of the official opposition. Who led you to believe that people who are nominated in the way you were aren't normally called before the committee?

Mr Schmidt: County council is unaware of any previous nominee being called before the committee. My predecessor, who was a PC and actually ran in the last provincial election for our area, wasn't called before the committee, yet he also did a good job of representing—

Mr Kormos: Fair enough. I'm not suggesting—you heard Ms Sutherland, the mayor of Peterborough, make her comments, right? You saw how she came clean right off the bat? Because you've got opposition members here who are going to try to nail you, saying, "Have you ever belonged to"—what is the line?—"Are you now or have you ever been a member of the Liberal Party of Ontario?" or, "Have you made contributions to the Liberal Party? Are you an intimate with Dalton McGuinty?"

The illustrative thing about Ms Sutherland's participation in the committee—just come clean upfront and you disarm all the pit bull questions. Is there anything you want to tell us?

Mr Schmidt: I am a member of the Liberal Party. I don't get too involved in what happens, partly because of some friendships I've developed with some of the people before they became members. But I am a local politician. I like the fact that local politics is not party-oriented, that I can work with members of all parties.

I quite frankly think that health care should be above politics. It's too important an issue to become political. In my 15 years on municipal council, I have worked with governments of all three parties. I've tried to work with

all three governments. All three have done some good things; all three have done some terrible things.

I think, on the whole, I'm representing my local municipality. I'm not representing any political party. Those choices are mine based on what I think is best overall. I have criticized all three political parties in the last 15 years.

Mr Kormos: So have I.

Mr Schmidt: As I said before, health care should not be a political issue. It's too important an issue. That's why I like local politics, because we don't have party politics in our area at the local level.

Mr Kormos: I'm going to support you because you're the nominee of the council and because your background is consistent with what I understand to be the demands of the health council. Unless somebody gets trotted in here who is a real dog—and trust me, I've heard the barking all the way down the hall from time to time; they've got the leash and the muzzle on him as they drag him in. But I respect the right of the council—we shouldn't be asking councils to nominate if we don't respect their nominations.

I find Windsor's position disturbing, because it doesn't have to be a council member, obviously. That's why I asked you. Nobody is under the illusion that it has to be a council member. For them to withdraw from that is a real abdication, especially now, when health councils over a period of time have become defanged, if you will, because of some of the intervention that came from Queen's Park. It's disappointing. Is there anything you can do to encourage Windsor to exercise its responsibility?

Mr Schmidt: I know a number of the Windsor councillors. I would hope that they would change their mind. Some of it might be due to the fact that district health councils are not well known locally. Most people don't know who their district health council members are. They know other people. For those issues that they should be talking to those members on, they're talking to local politicians or provincial politicians or professionals in the medical field. Somehow that should be changed, because it's unfortunate that those district health council members don't have a more prominent role.

Mr Kormos: Thank you, Mr Schmidt.

The Vice-Chair: The Liberal caucus?

Mr Berardinetti: We waive our questions.

The Vice-Chair: Thank you. Conservative caucus?

Mr Tascona: Thank you for coming to our meeting here.

I just want to ask the clerk: There's a footnote number 10 on page 12 of the research and information report. It has to do with, "Dave Hall, 'Council Bows out of Liaison Role,' Windsor Star, 26 January 2004." Can we get a copy of that for the committee, and in future, when we have these footnotes, can we have copies of those? I don't know why we have footnotes if we haven't got a copy of the information.

I didn't really pick up on why Windsor doesn't want to be part of the DHC.

Mr Schmidt: As I understand, it's not specifically aimed at the DHC. They've made a purposeful decision to withdraw from any committees that they don't directly feel they're involved with because of the workload of municipal councils now.

Mr Tascona: OK. How did you find out about the position?

Mr Schmidt: It's a normal county council position that we have to appoint.

Mr Tascona: Did anyone contact you from the local party?

Mr Schmidt: No. I was asked by our warden, because of my past history on these issues at the county level, at the local level, at the charitable level.

1050

Mr Tascona: As to your background, in your bio you say you're a farmer. Do you presently farm?

Mr Schmidt: Very little any more, I don't have time, but yes.

Mr Tascona: What do you do then?

Mr Schmidt: What do I do? I still farm, but I don't spend as much time at it as I used to or as I should.

Mr Tascona: What do you spend most of your time at?

Mr Schmidt: Meetings like this.

Mr Tascona: What do you spend most of your time at? What are you gainfully employed at?

Mr Schmidt: I still have to pay taxes on my farm income. Obviously I'm not farming, right? Most farmers don't have to pay taxes. I've reduced my amount of farm income. My farm's paid for. I have spent the majority of the last number of years working on issues representing my municipality, both politically and charitably, and otherwise keeping busier than I've ever been before.

Mr Tascona: You listed a number of boards and committees you currently serve on. As I take it, that's what you spend most of your time at.

Mr Schmidt: Significantly more time than I ever spent working anywhere.

Mr Tascona: You're also chair of the Leamington Police Services Board?

Mr Schmidt: Yes.

Mr Tascona: When did you become chair of that board?

Mr Schmidt: Just recently. I was chair of the board a number of years ago. I was chair of the old Mersea township, which merged with Leamington a number of years ago. After the last election, I became chair of the police services board.

Mr Tascona: Let me ask you this: What do you think about OHIP premiums?

Mr Schmidt: As far as?

Mr Tascona: Do you agree with that or disagree with it? Have you got any opinion on it?

Mr Schmidt: It's a system that's been around a long time. I think it's meant to have some—

Mr Tascona: It hasn't been around a long time. It just got reintroduced. In 1989 it got discontinued and it got reintroduced yesterday. Considering you're dealing with

a health council, what is your opinion on health premiums?

Mr Schmidt: I think the system of premiums is meant so that everyone has some input, some real part of the system, and whether it's a minuscule part—I don't like the fact that it's not all publicly funded, but I think it brings some responsibility to people to know that they are paying a part of the cost and they know that somehow they are responsible. It's fairly normal as far as I understand, but it's not something I think I would have to deal with in this position.

Mr Tascona: Mr Yakubuski's got some questions.

Mr Yakubuski: You talked about where you felt some of the real problems were—I've got to confess I didn't keep track of them all—in your district, the Essex, Kent, Lambton district with regard to health care. What do you consider to be the most critical ones? With this appointment, what's your line of action? Do you feel the members of the past or current district health council have failed in articulating those concerns to the ministry, if those problems are, it seems to me, getting worse?

Mr Schmidt: Quite frankly, my personal opinion is that there hasn't been enough local input into what has been happening as far as this ministry is concerned. I think it's been too much of a cookie-cutter approach.

Mr Yakubuski: A what?

Mr Schmidt: A cookie-cutter approach. It hasn't solved the problems we specifically face in our area in a number of areas. We have some extremely high incidences of certain types of diseases. We have extremely low service levels in some areas. Obviously the cookie-cutter approach hasn't worked. I would hope we could get more away from that and have some way to address our needs a little more directly.

Mr Yakubuski: One of your focuses then is being more aggressive in dealing with getting those concerns to the ministry as part of the district health council's mandate?

Mr Schmidt: I know the needs are immense in our area. I'm not saying the ministry isn't aware of the needs. Unfortunately, for the last 15 or 20 years, all three parties have not been able to address those needs. Somehow we have to come together and make it less political, more goal-oriented and more directly looking at our particular needs, which are very high in our area.

Mr Yakubuski: Thank you for coming today. I appreciate that.

The Vice-Chair: Thank you very much.

ROBERT MURRAY

Review of intended appointment, selected by third party: Robert Murray, intended appointee as member, Social Benefits Tribunal.

The Vice-Chair: Our third interview is with Robert Murray, intended appointee as member of the Social Benefits Tribunal.

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. Welcome this morning. Each party will have 10 minutes allocated for questions. We'll go in rotation. Any time you take in your statement will be deducted from the time allotted to the government party. Please proceed.

Mr Robert Murray: Good morning to you all. Thank you for inviting me to appear before you today as a candidate for a position on the Social Benefits Tribunal. I thought it might be useful at this time to provide you with some additional background that I believe qualifies me for the position, and perhaps give you some thoughts I have on the tribunal itself, which may be useful in your deliberations.

It might be helpful if I give you an inexperienced but thumbnail description of the position, as I see it, and see if the position doesn't dovetail with my qualifications.

From my reading of the pertinent legislation and other materials related to the work of the tribunal, and from the thrust of the questions that were presented during my interview for the position, it struck me that the position demands a fair degree of written and oral skill, some analytical ability and the capacity to extract from written and oral testimony that which is relevant to the appeal process. This enables the tribunal to apply the appropriate remedy under the legislation in a fair, firm and equitable manner.

It also seemed to me that two old legal maxims apply to the work of the tribunal in the broadest context, as well as in the practical, administrative context.

The maxim that "Justice must not only be done, but must also be seen to be done," in my submission bears on the nature of the appeal process generally and on the manner in which it's conducted; that is, the process must be full and thorough and should be conducted in a manner that affords the appellant a sense of fairness and dignity.

It's fair to say also that the old saw, "Justice delayed is justice denied," generally applies to all levels of our legal system and to most administrative tribunals, including the Social Benefits Tribunal.

I'm certain that the appellants to the body are looking to it for a fair decision based on the merits of their appeal and are entitled to receive a decision from the tribunal with some dispatch. I view this as a very important function in the administration of the work of the tribunal.

What qualifications can I bring to the position? I suppose that, if nothing else, three years at law school taught me in a theoretical sense the skill and importance of extracting relevant information from a myriad of sources and how to apply that information to the laws of this country.

Practising law in this province for over a decade enabled me to take these same skills beyond the theoretical into the everyday hurly-burly of the judicial system, and allowed me to experience first-hand the workings of the administrative legal procedures in this province.

Although I've never appeared before the tribunal as counsel or appellant, I have had experience appearing

before similar administrative bodies, including the OMB, the Criminal Injuries Compensation Board and so on.

My written skills that were developed at university have been greatly augmented both through the preparation and presentation of written legal briefs while in practice and in my present position as a writer.

My work presently focuses on texts and continuing education courses related to the financial services industry. Two courses I've recently written may bear on today's proceedings: Money Laundering in the Financial Services and The Protection of Personal Information Through Privacy Legislation are two examples of continuing education courses that were written following a careful reading of the relevant legislation and a distillation of the information contained therein into written form and content that is easily understood by non-legally trained personnel.

Finally, I would describe myself as disciplined in my work, and as a matter of course, work to meet deadlines on an ongoing basis in the publishing business.

Thank you for this opportunity and I invite your questions.

The Vice-Chair: Thank you very much for your comments. We'll begin with the Liberal caucus.

Mr Berardinetti: We'll waive our questions. Thank you.

The Vice-Chair: OK, the Conservative caucus. Your reference to the footnotes and the information: It's being distributed now. The clerk has indicated they'll ensure that information is before us in future.

Mr Tascona: I appreciate that. I guess what I'm referring to is if there are footnotes referred to in the reports, we should get those too. It would save us time researching it.

Thanks very much for coming before us today. I'm just looking at your background here. You were practising law until 1987; is that correct?

1100

Mr Murray: Actually, I think it was closer to 1989.

Mr Tascona: Your CV says 1975 to 1987. Your background seems to be in writing and you seem to be involved in a number of corporate-ended matters. Is that fair to say?

Mr Murray: Yes, and there's also something missing from that. I'm also on the board of Hope Place and have been for almost two and a half years now, which is a facility in Milton dedicated to the treatment of women who are seeking freedom from addiction. At Hope Place we've just assumed, at the request of the Ministry of Health, control of Halton Recovery House, which is a men's facility. So that's a commitment that I've had for almost two and a half years now, and it's a continuing one, which is well outside of the corporate sphere, if you like.

Mr Tascona: Why do you feel you're qualified for this tribunal, which is, for many people, a last resort with respect to disability payments? Why do you feel you're qualified?

Mr Murray: You're right, it is a last resort. They're not there to pick up their Wintario winnings. I think I'm

qualified, Mr Tascona, because of the background that I have in the practice of law and the experience I've had with tribunals. I've seen first-hand how they're conducted. I'm fairly familiar with the legislation, having reviewed it recently, and I'm also familiar with the attempts of counsels and appellants to hijack it from time to time. Obviously, the first concern of the people who appear there is to win their appeal; that's why they're there. But beyond that, it seems to me that they wish to be treated in a manner in which they feel that the merits of their appeal have been fully canvassed, and secondly, to deliver a decision quickly. There's nothing worse, both as counsel and as an appellant, regardless of the tribunal, of sitting and waiting, because often no decision is a decision itself.

Mr Tascona: Have you ever appeared in front of the tribunal?

Mr Murray: Not this one, no.

Mr Tascona: So how did you find out about the position?

Mr Murray: I found out about it through a relative, my brother, who indicated that the ministry had a renewed commitment to invigorate the tribunal and that there was a backlog and they were looking for people with the type of background that I had, and would I be interested. That's exactly how I found out about it.

Mr Tascona: Are you a member of any political party.

Mr Murray: I am not.

Mr Tascona: Have you made any financial contributions to a political party?

Mr Murray: No, I haven't. I do attend the symphony from time to time and I keep getting letters from the former Premier of the province, Mr Rae, asking for money for the symphony, but those are about the only contributions I've been asked for recently.

Mr Tascona: Is your brother a member of the Liberal Party?

Mr Murray: He is not.

Mr Yakabuski: Do you know how much this position pays?

Mr Murray: I think it's around \$60,000 to \$65,000, something in that range.

Mr Kormos: Are you still a member of the law society?

Mr Murray: No, I'm not. I haven't been since 1989.

Mr Kormos: What happened?

Mr Murray: I stopped practising law in 1989 and I haven't been an active member since. In fact, I'm suspended for not filing my annual reports as a non-practising member. So in effect, I'm a suspended member, if you like. I'm in purgatory.

Mr Kormos: You're suspended? You didn't resign?

Mr Murray: No, I haven't.

Mr Kormos: Why not?

Mr Murray: It just never occurred to me to do so, quite honestly.

Mr Kormos: You've gone through, since 1987, a succession of jobs, most of them—one, two, three jobs—

lasting two years each. Far be it from me—two years, two years, two years, two years, very peripatetic. What's going on?

Mr Murray: In what sense?

Mr Kormos: As I say, you've been very peripatetic in terms of travelling about from job to job.

Mr Murray: Yes, that's probably true. They've all been very interesting, and I think I've done a good job while I've been there.

Mr Kormos: And you're self-employed now.

Mr Murray: No. I'm employed by Oliver Inc, or Oliver Publishing, which is a wing of it.

Mr Kormos: From 1998 to present. You're employed by them as a weekly-paid, monthly-paid—

Mr Murray: Yes, as a salaried employee. I write for them.

Mr Kormos: So you're on salary with that company.

Mr Murray: Yes.

Mr Kormos: What happens to that job when you assume the role on the tribunal?

Mr Murray: I will be leaving that job.

Mr Kormos: Have you ever applied for appointments before?

Mr Murray: No.

Mr Kormos: Why now? I appreciate your brother told you that the province was looking for folks.

Mr Murray: Actually, it's not a bad question at all. I come from a family of people who are committed to activities both politically and in the community. This is part of it. This, I suppose, dovetails in a sense with my commitment to Hope Place, which is a renewal of my commitment to working provincially at a number of levels. This is one which I understand is reflective of the new government's commitment to deal with the issues that come before the tribunal in a timely way. They need some help and I think I can help.

Mr Kormos: Are you familiar with the Kimberly Rogers inquest in Sudbury?

Mr Murray: Yes, vaguely.

Mr Kormos: And your response to the recommendations?

Mr Murray: You mean specifically with respect to welfare fraud and—

Mr Kormos: The jury recommendations, yes.

Mr Murray: I'm not familiar with all of them.

Mr Kormos: Fair enough.

Mr Murray: But I have a certain sympathy with them, of course.

Mr Kormos: What do you take out of it? For you, what's the thrust of it?

Mr Murray: I think it was a terribly unfortunate situation in the facts that arose, which in large measure hamstringed everybody and perhaps might have been handled better by the tribunal, by the people who were dealing with it.

Mr Kormos: Your role at Hope Place is what?

Mr Murray: I'm on the board.

Mr Kormos: You say one of the traditions that your family has maintained and that you're responding to is

your family's political involvement. What does that consist of?

Mr Murray: The last political campaign that I worked on was my father's mayoralty campaign in 1973, unsuccessful.

Mr Kormos: Where was that?

Mr Murray: In Mississauga.

Mr Kormos: OK, here in the Toronto area.

ODSP benefits were increased by 3%, or will be increased by 3%, as a result of yesterday's budget speech. What's your response to that?

Mr Murray: My response to that is basically that that's the work of the members who are sitting here.

Mr Kormos: I understand.

Mr Murray: It doesn't reflect on the work of the tribunal. The tribunal deals with that which is, not with that which can be changed, because you folks here do that, not the tribunal. They are to administer the law of the province of Ontario as established by this House. If they've changed it, then the tribunal will deal with those changes. If they're equitable, terrific.

Mr Kormos: And if they're not?

Mr Murray: Again, the tribunal's position is simply there to administer that which is, not to make public policy, with due respect to folks like you.

Mr Kormos: Well, folks like them, who happen to be the government's backbenchers. I'm asking your opinion. I suspect you'll be appointed; I suspect you'll get the committee's stamp of approval. What's your opinion of the 3%?

Mr Murray: Mr Kormos, I read some of the information with respect to levels of funding, and I accept and I'm aware that the hue and cry of these sorts of reports is tempered with the axe that interest groups have to grind, and I accept that some of the findings will be true. But beyond that, again, I would submit to you that it doesn't impact and should not impact on the tribunal. That's not what we're there for, or they are there for. This House will react to those reports, those submissions, those cries for additional funding as it sees fit; the tribunal will not.

Mr Kormos: Obviously it's been a long time since you practised law. You have no passion to return to the practice?

Mr Murray: No, not at all.

Mr Kormos: Why not?

Mr Murray: I had a good run for a little over 12 years, and that was enough of the whole thing. It was terrific and I enjoyed it. I had some high moments, but I've done it.

Mr Kormos: OK. Thank you very much.

The Vice-Chair: Thank you. You may step down, sir.

I understand that Murray Elston is on his way and should be here momentarily. I think he is scheduled here at 11:30. I would just ask members to stay close by so that if he arrives here in the next few minutes, we can—

Interjection: Just hang around the door?

The Vice-Chair: Well, you get the idea. We'll take a break until he arrives.

The committee recessed from 1112 to 1130.

The Vice-Chair: If we could call the meeting back to order. Thank you for being close by. Our fourth interview is with Murray Elston, intended appointee as chair of the Clean Water Legacy Trust board—

Mr Kormos: Chair, if I may, dealing with the fourth attendee, in reference to Mr Murray, who is the third person for whom an interview had commenced, I want to seek unanimous consent for the balance of the interview of Mr Murray to be completed at the next meeting of this committee, which will be two weeks hence.

The Vice-Chair: The information that I'm getting from the clerk, according to the standing orders, is that you must conclude it within seven days. So I don't think we'll be able to have unanimous consent to conclude the interview, if the intention is to conclude it in two weeks, given that next week is constituency week.

Mr Kormos: You see, the problem is, Chair, then that denies the right to exercise the adjournment, because it restricts it to seven days. I put to you that a logical interpretation of that—and maybe Mr Tascona would address this—would be seven days that are consistent with the House calendar.

As you know, the House doesn't sit next week. A committee without a special order from the House cannot sit. So clearly the seven days doesn't necessarily mean seven calendar days. It can mean 14 days, when the next seven-day period is in fact a period that's interrupted by—the House isn't sitting. There is no House, there is no committee next week—none, zip.

The Vice-Chair: I think the standing orders are clear. Unfortunately, it indicates seven calendar days. I'll give the clerk an opportunity to address that. Perhaps what we'll do is come back to that issue with that appointee.

Mr Kormos: Good enough.

The Vice-Chair: The concerns are so noted. We'll move on with Mr Elston. We'll have a decision before we adjourn for the day on that issue.

MURRAY ELSTON

Review of intended appointment, selected by official opposition party: Murray Elston, intended appointee as chair, Clean Water Legacy Trust board of directors.

The Vice-Chair: Our fourth interview is with Murray Elston, intended appointee as chair of the Clean Water Legacy Trust board of directors. Thank you, Mr Elston. You have an opportunity, should you wish to do so, to make an initial statement. Subsequent to that, there'll be questions from members of the committee. Each party will have 10 minutes allocated and we'll go in rotation. Any time you take in your statement will be deducted from the time allotted to the government party. Welcome and please proceed.

Mr Murray Elston: I thought I might be able to go long enough that I'd take it from everybody, but I'm quite happy just to say that I'm pleased to be here answering the questions that you have for me.

I think, firstly, the critical nature of the clean water mandate for all Ontario is not lost on any of the members

of the board. We've had a chance to get to know each other. The dedication of the individual members there is well known by me. The work of our current chair has certainly been exemplary. So I'm quite happy to move forward, Mr Chair, and answer questions around the work so far and about the work that we would like to undertake.

The Vice-Chair: Thank you very much. We'll begin with the Conservative caucus.

Mr Tascona: Thanks very much for attending here today, Mr Elston. Am I correct that you've been a member of the trust board since its inception?

Mr Elston: That's correct.

Mr Tascona: How did you become appointed to that?

Mr Elston: I was called by someone out of the then Premier's office to consider whether I would be interested. As most know, I was a resident of Walkerton, my family was a resident of Walkerton during the time when the crisis occurred. We were drinking the water and became ill along with everyone else. So I think people knew of our connection with the area and, obviously, my work from prior times, when I actually had some legislation looking at water and other things in Ontario, I think probably moved people to suggest that my name stand.

Mr Tascona: Are you still the president of the Canadian Nuclear Association?

Mr Elston: Yes. I started in January with that organization.

Mr Tascona: Is that a full-time position?

Mr Elston: Yes, it is. We're hoping of course to see developments in Ontario around the electricity market. That will keep us very busy, obviously. But right now, it's an interesting time for electricity, and the prospects for nuclear are very good.

Mr Tascona: The trust has been in place for about 10 months?

Mr Elston: I think June of last year, so we're approaching a year.

Mr Tascona: What has the trust been doing and what have been its accomplishments during that period of time in your opinion?

Mr Elston: I think the accomplishments are all about trying to get a handle on where the trust could go, getting some clarity with respect to how the trust is constructed and the role it is to have. I think one of the biggest problems for us as individual members has been trying to build a platform which is not going to be in some way a duplication of the effort by others, to be understanding of the areas in which we can add value to the work that's to be done in Ontario around drinking water, and then understanding—because most of us are not professionals in the engineering or scientific field—how a citizen board can best leverage the understanding and knowledge that is in Ontario and Canada to become part of a work plan that gives us even better results for the ongoing safety of water in the province.

Mr Tascona: What are some of your long-term goals at the moment?

Mr Elston: One is just to finally get ourselves clear as to the manner in which we work co-operatively and constructively with the Ministry of the Environment, the universities and others who are doing research in water.

We haven't yet officially got ourselves a location. We are in a position where we have developed an MOU with the ministry. We have developed a business plan that will describe the reach we will have in the first year. I think in the understanding of all of us on the board, it has been constructed so that it is one that will compel some aggressive work on our part to deliver some first stages of understanding of our research mandate. We also, by the way, have a second obligation, not only on the research, but we are to deal with the development of the centre of excellence as well, which is focused on location in Walkerton.

We've come a long way to understanding all of the obligations and also to being grounded a little bit in the protocols of working inside the government infrastructure. Obviously, not all people have had experience in government. I have, so I'm not surprised by the number of guidelines and policies, but we've spent some time doing that.

Mr Tascona: Are you still active in the Liberal Party?

Mr Elston: Not as active as I was, obviously, but yes, I would be described as a card-carrying Liberal.

Mr Tascona: Any more than card-carrying?

Mr Elston: I don't have much time to devote, actually. I'm on the road a fair bit. I was before and am now, although I have found time to go to fundraising dinners where particular members of the Conservative Party sing national anthems. So I spread myself around a fair bit.

Mr Tascona: What makes you feel you're qualified to be the chair?

Mr Elston: I would have to say, by the way, that the members of our group are high performers, and any one could be. I happen to have a focus—that attention to detail that helps me a little bit. I have chaired organizations before. I'm currently chair of a couple of others. I can organize and develop the focus to make sure that we've got some goals that we're going to try and reach, and then hopefully to drive our strategies to attain those. I have some consensus-building abilities as well. Hopefully, I'll be able to use those skills to the best advantage of the trust.

1140

Mr Tascona: How much time would you be spending in this particular position?

Mr Elston: That's a good question because I haven't been chair, and the obligation of the chair to this point in trying to get ourselves organized and on the ground, I think, has been sort of up and down, as the need for getting business plans and other things put together required more time. Right now, meeting-wise, I think we're about four times a year, but I can see in the early going, where we really try and put ourselves into flight, probably taking two or three days a month meeting-wise. But I'm not sure whether it's going to be any more than that.

Mr Tascona: You can balance that with your current position as full-time chair?

Mr Elston: That's an issue which, for busy people, is always going to be important, but the obligation to move this operation forward is one I take seriously, and I'll put the time into it.

Mr Yakabuski: Thank you very much for coming. I hope we see you at more of those fundraising events.

Obviously, the previous government appointed you to the board of directors, so I don't question your credentials in that regard. I'm curious, as the chair or president of the Canadian Nuclear Association—some people view nuclear as bad. I'm not one of them. I'm a proponent of nuclear, and certainly nuclear power, but some people might view that as being a bad thing; and then we all view clean water as being a good thing. I'm just curious as to whether or not you see yourself in any kind of a potential conflict among your own members there, or is it by design? Maybe the Canadian nuclear industry thought it would be a good idea to have you as their president, seeing as you're on this Clean Water Legacy Trust, because it's a good public relations move. I don't know that. But do you see the two positions as any potential conflict?

Mr Elston: No, I don't see the conflict. The interesting element about my role at the Canadian Nuclear Association is that I don't think it has been developed to the extent that some might see this as a good public relations ploy. I was here before I went there. The two are not incompatible, in my view. The issues around debates about how environmentally friendly nuclear energy is continue to be developed, but we don't have the emissions that other forms do. We have a high level of trained individuals who deal with a very important public service and, in that sense, there's an interesting parallel to providing clean drinking water in Ontario. Highly trained people are required, good science is required, good safety, good security, all elements which, in fact, it would seem to me, are quite complementary to the role I would play at the Clean Water Legacy Trust.

Mr Yakabuski: So nuclear power is clean. That's what we're saying here.

Mr Elston: Yes.

Mr Yakabuski: I agree with you. The member from the third party might have other questions. Anyway, I'll pass it on to him now.

Mr Kormos: You indeed work for the nuclear alliance, so I wouldn't expect you to say anything other. You'd be doing a disservice to your employer. Look, I'm pretty sure I disagree with Mr Elston about nuclear power, but he and I have some major disagreements about some other significant public policy issues.

Having said that, I note that my colleague, the New Democratic member of the committee, joined with the opposition in calling Mr Elston here. I, for the life of me, don't know why. The committee should be addressing the unknown entities, making inquiries about people whose backgrounds and experience are worthy of some

questioning, not because they're necessarily inexperienced or have shady backgrounds.

Mr Elston is integrous, he's very competent, a good selection as chair. I'm not even sure it's that much a patronage appointment, but oh, so what if it is? But as I've indicated before, patronage joined with competence is such a delight. Well, it is. Come on, it's a scarce commodity. The incompetence has given patronage a bad name. I'm glad you dropped by but, for the life of me, I don't know what you're doing here.

Mr Elston: I was rather hoping, Mr Kormos, that since we served together last century in this House, perhaps this century you would have changed some of your views. I'll be back to talk to you about nuclear energy later.

Mr Kormos: Yes, I suspect you will.

Mr Yakabuski: Next century?

Mr Elston: No, this century.

Mr Kormos: The nice thing about me is I become more enlightened as time goes by, but I welcome our next conversation.

Mr Elston: Thanks, Peter.

The Vice-Chair: Questions, the Liberal caucus?

Mr Berardinetti: We waive our questions.

The Vice-Chair: That concludes our interviews for today. Thank you very much.

Mr Elston: Thank you very much, Mr Chair. I appreciate the time. It's always a pleasure to come back, although I find that every time I come back to this place, when I used to just walk in, now you've got to go through the clearances. I can't believe how well you're pampered here at the site, more so than we were in the last century, as I said.

But good luck to all of you. You're doing a very important public purpose, and I hope success follows all of you. Thanks.

The Vice-Chair: Thank you. Just to go back for a moment to the issue raised by Mr Kormos with respect to the interview with Robert Murray, the intended appointee as a member of the Social Benefits Tribunal, according to standing order 106(e)8, we need to make a decision on this today. We cannot extend this. It must be within seven calendar days. I'd ask if there's further consideration, you do have some time remaining in your question opportunities to Mr Murray. If you'd like to exercise that now or ask the committee to extend that time for further questions, they may be open to that.

Mr Kormos: No, thank you, Chair. The request would be for the committee to extend the time two weeks to the next moment of this committee sitting.

The Vice-Chair: I appreciate your request. Unfortunately, according to the standing orders, we won't be able to do that today.

We'll consider the first appointee, Ms Sutherland, as a member of the Council of the College of Physicians and Surgeons of Ontario. I need a member to move concurrence on that appointment.

Mr Berardinetti: I'll move concurrence.

The Vice-Chair: Mr Berardinetti moves concurrence.

Mr Tascona: I'll second it.

The Vice-Chair: Mr Tascona seconds the appointment. Any discussion, comments?

Mr Kormos: As I indicated when Ms Sutherland was sitting at the committee table, hers is a distinctly competent appointment and I have no hesitation in supporting it.

The Vice-Chair: Any further comments?

Mr Yakabuski: what was the outcome of the motion—I had to leave for a second—about revisiting in two weeks? I missed that.

The Vice-Chair: We've dealt with that already. Thank you.

Mr Yakabuski: Can you tell me what it was?

The Vice-Chair: We won't be revisiting it, based on the standing order.

Mr Yakabuski: It leaves you with one choice. In one of these meetings that's on a week prior to a non-sitting week, it leaves you with one choice. It leaves you with either yes or no, which really subverts the process, in my opinion, because the normal course of events would be to allow us to have that week to recall, and we lose that opportunity when you sit at the end of the week prior to a non-sitting week. I would say, standing orders notwithstanding, that goes against the spirit of the standing order. That's my own opinion.

The Vice-Chair: Thank you for your comments, Mr Yakabuski.

In the matter of the appointment of Ms Sutherland to the Council of the College of Physicians and Surgeons, we have a mover and a seconder. Any other discussion? All in favour? Carried.

We'll now consider the intended appointment of Mr Schmidt as a member of the Essex, Kent and Lambton District Health Council. A member to move concurrence?

Mr Mike Colle (Eglinton-Lawrence): So moved.

The Vice-Chair: Concurrence moved by Mr Colle. Secunder?

Mr Tascona: I'll second it.

The Vice-Chair: Any comments from the members?

Mr Kormos: As I've indicated, I am but a visitor to the committee, substituting for the regular member. In my view, the committee should be supporting the nominees, in this instance, of a council which has the obligation and the responsibility to nominate a representative to the district health council, barring there being anything outrageous that would fly in the face of it. For that reason, we're going to be supporting Mr Schmidt in this appointment.

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The Vice-Chair: Thank you. Further comments? Seeing none, all in favour? Carried.

We'll now consider the intended appointment of Mr Murray as a member of the Social Benefits Tribunal.

Mr Kormos: On a point of order, Chair: I'm going to be seeking unanimous consent one more time on the basis that by unanimous consent we can do anything. We can turn Monday into Tuesday; we can turn 6 o'clock

into 7 o'clock. If the standing orders say that you're entitled to speak to a motion for 20 minutes, we can, by unanimous consent, extend that to 30 minutes or 200 minutes. We can, by unanimous consent, permit people to speak twice, even though the parliamentary rules and procedures would not permit us to entertain that without unanimous consent.

I appreciate the careful attention of the clerk and her colleagues to this matter, but I am putting to you that by unanimous consent, yes, we can circumvent the standing orders. We do it every day in the chamber. We hear motions without notice by unanimous consent. I put to you that when there's a time frame established, we can circumvent the time frame by unanimous consent.

Therefore, I am seeking—and I refer to the comments by Mr Yakabuski just a few minutes ago, understand. I would ask you to consider them as well, Chair. So once again, I am seeking unanimous consent for the vote, should there be a motion, to be deferred until the next sitting of this committee, notwithstanding the standing orders.

Ms Kathleen O. Wynne (Don Valley West): Mr Chair, I am also not on this committee; I'm subbing in for a member. I would just like to have, before his desk falls apart—I'm just wondering if we could have an explanation. I'm just not following why Mr Kormos is asking for this. Maybe it's just that I don't understand the regular proceeding of the committee. Could I have an explanation?

Mr Kormos: Chair, with your indulgence, perhaps a five-minute recess would be very productive. We're ahead of time.

Ms Wynne: I would like to understand what is being asked; that's all.

The Vice-Chair: I think Mr Kormos is asking—well, he's asking for a five-minute recess, but he's asking for the opportunity to extend the interview process, and according to the standing orders, we're not able to do that. I appreciate your comments that in the House, with unanimous consent, we can do—

Mr Kormos: Anything.

The Vice-Chair: —pretty much anything. But that doesn't apply in committees. We would need that standing order prior from the House to be able to do that in committee. The standing orders take precedence here within the committee, so we're not able to do that within the committee.

Mr Kormos: Thank you very much, Chair. I beg your indulgence for a five-minute recess.

Mr Mario G. Racco (Thornhill): Mr Chairman, I have unfortunately scheduled a meeting this morning—a meeting now—a meeting tonight, a meeting late tonight and a meeting tomorrow morning, and I'm running late because of an engagement that we all have. I would suggest to you that we deal with item number 4 and, if there's any question, item number 3. If the Chair feels that we should do something, that's fine, but I think you've made it clear that the law says we cannot defer it.

So could we deal with item number 4 now and continue this discussion after?

Mr Tascona: This committee started at 10. Is there an ending point by the rules?

The Vice-Chair: Normally, we end by noon.

Mr Tascona: Ask the clerk. I want to know.

The Vice-Chair: We've heard comments from just about everyone here now and I think I'm going to rule that the—

Mr Colle: Let's call the question.

The Vice-Chair: Mr Colle has moved concurrence to appoint Mr Murray.

Mr Kormos: I presume you would have a seconder, if there is one?

The Vice-Chair: Apparently we don't need a seconder, but Mr Berardinetti—

Mr Berardinetti: I'll second it.

The Vice-Chair: Further comments?

Mr Kormos: Yes, I have.

The Vice-Chair: Go ahead. On the motion?

Mr Kormos: Yes. I sat through this morning's proceedings. I read the CV filed by Mr Murray. I heard his submission to the committee. I heard his responses to questions. This is a major appointment. This tribunal performs a quasi-judicial role that can have significant impact on people's lives, and I'll reference the Kimberly Rogers inquiry as an illustration of the impact.

There is, quite frankly, a paucity of information about Mr Murray and his background. This is not a position where you're functioning or performing as part of a group or collective, such that one person's perspective is tempered by other people, for instance, working on a committee, working on a board, working on a panel. The tribunal officer in these instances sits, making determinations that, as I say, have an incredible impact. They are rarely appealed, for a couple of reasons: one, because the nature of an appeal from the tribunal is restricted, as people who know administrative law will understand, and secondly, because most of the litigants couldn't afford an appeal even if they had reasonable grounds for one.

There is nothing about Mr Murray that speaks overtly negatively, but I'm concerned about a candidate to such a position who comes before this committee with so little real information. I appreciate we've got the CV: a litany of jobs, two and three years at a time; a decade plus two years in the practice of law; a suspension from the law society based on non-payment of fees, he tells us. We have before us a candidate for a position who was unfamiliar with the Kimberly Rogers inquest. That's not a sin, in and of itself, but it seems to me that a person who had a passion about the issues would have familiarized himself or herself with Kimberly Rogers. It's certainly been profiled in the news media.

Then I was disappointed by the stock response to the question about the ODSP benefits and the declaration yesterday that there is going to be a 3% increase in ODSP benefits. All of a sudden, Mr Murray does the old, "Oh,

well, I don't create the law. It's up to you to create the law. I just enforce it."

He's right in terms of his role as a tribunal officer, but when you're coming before the committee, one of the things the committee does is talk to people about their bent, their inclination, their background, their personal experience, their personal views. I don't think it's satisfactory that people who come here—I've seen it happen so many times—say, "Oh, no, I can't answer that because that's up to the Legislature." You see, you're not appointed yet. I appreciate that once you're appointed and in that quasi-judicial role, you shouldn't be venturing opinions like that. That's not always necessarily the case, but by and large, you shouldn't be, because you have to enforce the law. But surely, before appointment, one of the functions of this committee is to ascertain where people are coming from, what their views are.

Quite frankly, in the case of Mr Schmidt, it's of less concern to the committee because he has the endorsement of his council. It's also, at the same time, interesting to know what direction he's coming from—fair enough.

In the case of Ms Sutherland, you will recall my question to her about the MRC. Her response, as I suspect most of you will know, was not consistent with what I've been advocating, but that's fair enough. I don't expect her to have the same view I have, but I appreciate her candour in expressing the view, especially when she may well have anticipated that her response to my question was going to conflict with where I stand on the issue. I regard that. I respect that. That instils confidence in me about her ability to do her job.

Again, I've got nothing ill to say about Mr Murray, but I'm very concerned. You saw my feckless and unsuccessful efforts to have the matter adjourned or deferred until the next committee hearing. Because you're not meeting next week, it can't be deferred. But it seems to me that the government members should be interested in a little bit more than what's been made available to you in a pretty sparse CV.

I've got to tell you, what we're put into here at this point in terms of having to vote, I've got to vote against Mr Murray. I'm not going to support Mr Murray's appointment. That's not out of any ill will, but it's out of concern about the gaps, if you will, in an application for a job that has incredible repercussions for people and people's lives, repercussions it is difficult for them to respond to because of the difficulties in appealing a tribunal decision. It's obviously patently clear now why I sought the adjournment.

The Vice-Chair: Can you wrap up your comments?

Mr Kormos: No, I've got 20 minutes. The Chair can decline to see the clock, and I would ask that the Chair do that.

I respectfully put to you that my efforts to adjourn the matter for two weeks were to perhaps avoid articulating the observations I made, but I had no choice. So I will not be supporting Mr Murray's appointment. I will be asking for a recorded vote and I will be voting against it.

Mr Tascona: I'd like to comment. Based on the questioning, certainly the field of expertise of the person who has been interviewed seems to fall outside what you would be looking for in that particular tribunal. You would look for a person who has been actively involved in that particular field. That's the disconnect between the field of expertise and what the tribunal stands for, looking for someone who would be an advocate for the disabled as opposed to what would appear to be more of a corporate resumé. Be that as it may, it's a qualifications issue, and I think that's what Mr Kormos was talking about too. That's why we're concerned about that and will not be supporting it.

Mr Berardinetti: I ask that we vote.

The Vice-Chair: Thank you. A recorded vote.

Ayes

Berardinetti, Colle, Racco, Wynne.

Nays

Kormos, Tascona, Yakabuski.

Mr Racco: I move item number 4.

The Vice-Chair: Thank you, Mr Racco.

We will now consider the intended appointment of Mr Elston as chair of the Clean Water Legacy Trust board of directors. Mr Racco moves concurrence. Comments?

Mr Kormos: What is Mr Elston doing here? A transparent political career, as partisan as they come. If it's a patronage appointment, I say God bless, because it's a patronage appointment accompanied by competence. But far be it from me to tell the committee what to do. I'm not a member, but the committee should be looking for the dogs who are pushed through rather than bringing Mr Elston here. Did you come here from home or from Ottawa?

Mr Elston: From Ottawa.

Mr Kormos: There you go, unbelievable, rot your socks. I hope he applies for mileage.

The Vice-Chair: Further comments? All those in favour? Carried.

Further discussion? The committee is adjourned.

The committee adjourned at 1205.

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