



ISSN 1180-4335

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 24 August 2004

**Journal
des débats
(Hansard)**

Mardi 24 août 2004

**Standing committee on
government agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Elizabeth Witmer
Clerk: Susan Sourial

Présidente : Elizabeth Witmer
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Tuesday 24 August 2004

Mardi 24 août 2004

The committee met at 1003 in committee room 2.

because there will be another certificate coming forward. So if there are more selections, we'd have almost a day.

SUBCOMMITTEE REPORTS

The Chair (Mr Elizabeth Witmer): Our first order of business is the report of the subcommittee on committee business dated Thursday, June 24, 2004. Can we move its adoption?

Mr Ernie Parsons (Prince Edward-Hastings): I will move adoption.

The Chair: Is there any discussion? If not, all in favour? All opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Wednesday, June 30, 2004.

Mr Parsons: I would move adoption.

The Chair: Adoption moved by Mr Parsons. Is there any discussion? If not, all in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Thursday, July 29, 2004.

Mr Parsons: I would move adoption.

The Chair: Moved by Mr Parsons. Any discussion? If not, all in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business for Thursday, August 19, 2004.

Mr Parsons: I move adoption.

The Chair: All in favour? Opposed? The motion is carried.

As well, we need to extend the deadlines. Pursuant to standing order 106(e)(11), we require unanimous consent by this committee to extend the 30-day deadline for consideration for the following intended appointees:

Robin MacKnight, intended appointee to the Justice of the Peace Review Council: Do we have unanimous consent to extend this deadline to September 30, 2004? OK.

Gilles Morin, intended appointee to the Assessment Review Board; Christopher Michael Friel, intended appointee to the Ontario Rental Housing Tribunal; Patricia J. Reid, intended appointee to the Town of Fort Frances Police Services Board; Barry Fowler, intended appointee to the Ontario Trillium Foundation Board of Directors: Do we have unanimous consent to extend these deadlines to October 13, 2004? OK.

One of the dates we're looking at possibly to have another meeting might be Tuesday, September 14,

COMMITTEE BUSINESS

The Chair: Welcome back to everybody. We're now going to start with—

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): Madam Chair, there's one other area. There's "Other business," number 6, if I may.

The Chair: Oh, sorry. Other business, yes.

Mr Tascona: I'd just like to raise a couple of matters, if I could.

The MPPs received their packages yesterday, and when I refer to packages, this is the information with respect to the particular agencies and boards and how they operate, their mandate. We received them yesterday for today's meeting.

I'd just like to ask, is there any way we can receive these packages further in advance of the meeting taking place? There was a lot of material to go over, and one day is certainly not a lot of time to prepare and get further information. When the kit was sent out, it was not even complete; it was missing the information for the Ontario Lottery and Gaming Corp, and Mr Fotheringham was selected for review from a certificate dated July 23, 2004. I understand that the researchers need time to prepare the research packages, but in this case they had nearly a month. So I would just make that request. I think it would allow us to do our job much better if we could get the information ahead of time, certainly not one day ahead of time.

The second matter is that the subcommittee members had been receiving the certificates electronically, but that has recently stopped. I wanted to know why that is the case and whether the government has directed the clerk to no longer send the certificate electronically, if that can be checked into.

The third thing is, I read in a press release from the Ministry of Agriculture and Food that the government has appointed a new chair for the Ontario Farm Products Marketing Commission. I have that news release and I'll provide that to Madam Chair right now, if I may. If I remember correctly, that is one of the boards where members' appointments are reviewed by this committee. I had expected to see this appear on a certificate, but the most recent certificate does not contain David Hope's name.

This looks on the surface to be another example of the Liberal government appointing people to chair boards without having those appointments scrutinized by this committee. The government promised in their election platform that they would, and this is a quote, “lift the veil of secrecy on government agencies and appointments.” The practice of appointing board chairs for short-term appointments and not allowing those people to be reviewed upon their reappointment has to stop. We are appointing people to very important positions, and by abusing the rules you are making a mockery of this committee and the work that it does in reviewing prospective appointees to make sure that appointees are well qualified for their appointments.

I understand the rules as well as most others, being Second Chair of committee of the whole, with respect to our committee not being allowed to review interim appointments or reappointments, but I think this is a widespread problem. If the ministry had not put out a press release, we would have no way of knowing that the appointment took place. I would ask that the Public Appointments Secretariat provide to the members of this committee copies of the OICs for all interim board chair appointments made by this government.

I would just add that this committee is of no use if the government is going to appoint interim appointments when they know they can get around the rules. I put it on the record that the standing rules should be changed to make this committee relevant with respect to appointments so that we are not sidestepped by interim appointments and reappointments.

1010

The Chair: Thank you very much. Does someone wish to respond?

The Clerk of the Committee (Ms Susan Sourial): Just to the issue about the electronic certificates: We had undertaken in the clerk of the committee’s office to scan the certificates when we received them to try and send them out electronically. We found that in doing so, it creates too large a file to send out electronically. We’re working with the Public Appointments Secretariat to see if they can develop an electronic version of the certificate that can be sent out and cannot be changed, can’t be tampered with. So there are security concerns that they have.

Mr Tascona: I would add that this committee is a little bit different from others in terms of how the subcommittee meets. The procedure that had been put in place is that I was receiving a call from the clerk’s office with respect to getting a heads-up when these are sent to my office, which generally is Friday afternoon at about 4:30 pm, if not later. Then we have until the following Thursday to put in our indication that we want to review an appointee.

Certainly I’ve got a job to do, as well as the other MPPs. But in terms of being on the subcommittee, we want to make sure that the members of our caucus are aware of these appointments. I’m not even getting the fax now with respect to the intended appointees. So the

information is—now, all of a sudden I’m not getting a telephone call; I’m not getting a fax; I’m not getting an e-mail in a timely manner.

The subcommittee has to be able to work effectively. I think something has to be looked at, otherwise we’re not going to be able to get this to our members in a timely fashion. We only have till Thursday at 5 pm. The members are off right now, so it’s not that easy. I like to get them out Friday so that the members have an opportunity, but I’m not even getting that opportunity now.

The Chair: I think the point is well made. Obviously, it is important that we do receive the information. As you have said, it is important that all members of caucuses have the opportunity to review the intended appointees. So I would ask the clerk to review the process and see how we can make sure people do have ample opportunity to respond to intended appointees.

I guess the other issue is the information that got to us late yesterday afternoon. Is that right?

Mr Tascona: Yes.

The Chair: I know I didn’t get it until this morning, when I came in. So that is a problem. I don’t know if you can speak to it.

The Clerk of the Committee: That is an error on my part and my office, just a misjudgement and a miscommunication. I apologize for that. In future we’ll have the packages out at least the Friday. Normally the meetings are on Wednesday, and we send the packages out on a Friday, before the Wednesday.

Mr Parsons: Just on the last point: I’m pleased that Mr Tascona in fact said that this government was following the rules. I’m not sure when these rules were made, but I do know that the previous government had eight years to change them, if they had a discomfort level with them, and chose not to.

The Chair: OK.

Mr Tascona: The bottom line is that there is a procedure in place. This is not the first situation where I’ve read, either in the paper or in a press release, about an appointment that should have come through this committee.

The bottom line, the point I made, is that I know the House leaders are looking at changing the rules. What I’m doing for the record is, I would like to see the rules change with respect to this committee, that we review not only non-interim appointments but we have an opportunity to deal with interim appointments. It’s important, because somehow the interim appointments become reappointments and never come through this committee, which to me is wrong. That’s something I wanted for the record for the House leaders, so they can deal with it when we go for a review of the standing committee and we at least have some input from this. If you disagree with that, then you can say it for the record.

The Chair: So your intention then, Mr Tascona, was simply to put it on the record for further discussion about when committees are reviewed.

Mr Tascona: Yes. Thanks very much.

The Chair: OK. Mr Parsons, anything further?

Mr Parsons: I never stated that I disagreed with it. I just stated that the rule has been in place for quite some years and the issue has not been raised before by that party.

INTENDED APPOINTMENTS

GERALD STEPHENSON

Review of intended appointment, selected by third party: Gerald Stephenson, intended appointee as vice-chair, Ontario Pesticides Advisory Committee.

The Chair: We're now going to move to the appointments review. Our first interview is with Dr Gerald R. Stephenson, the intended appointee as member of the Ontario Pesticides Advisory Committee.

As you may be aware, Dr Stephenson, you do have an opportunity, if you choose, to make an initial statement. Subsequent to that there will be questions from the committee members. We welcome you here this morning. Do you want to make a statement?

Dr Gerald Stephenson: Yes, I do. Chair Witmer and members of the committee, thanks so much for inviting me here. I'm honoured that you chose to consider my nomination to be vice-chair of the Ontario Pesticides Advisory Committee, which I'll probably refer to as OPAC.

I'll give you a little bit of history. In the late 1960s there was a pesticides advisory board for Ontario, but the current Ontario Pesticides Advisory Committee was established when the current Pesticides Act came into effect in the early 1970s. I was appointed to the first committee and, except for about five years or so in the 1990s, I've been a member of that committee ever since. My current appointment as a member extends until February 2005.

Since the late 1960s I've also been a member of the Ontario Weed Committee and I served as chair of the Ontario Weed Committee during the mid-1980s. I also currently serve as Canada's representative on the Advisory Committee on Crop Protection Chemistry of the International Union of Pure and Applied Chemistry, which we call IUPAC. Crop protection chemistry is a euphemistic phrase to talk about pesticides, really.

I'm a university professor. I joined the faculty of the University of Guelph in 1968, after completing my PhD in plant physiology and biochemistry at Michigan State University. In the early 1970s I initiated a course, and I've co-authored a textbook on pesticides and the environment. I've supervised more than 40 MSc and PhD students, many of whom are now professionals with government agencies, educational institutions or in the private sector with responsibilities related to pesticides or pest management.

I've published more than 100 scientific papers on the environmental fate and biochemical action of pesticides in target and non-target organisms. As a scientist, I like to see that the best scientific knowledge is applied to the

decision-making process in regulating new technology, like chemical pesticides and their alternatives. My membership on the Ontario Pesticides Advisory Committee and the Ontario Weed Committee has provided an opportunity for me to participate in these processes directly.

Ontario was one of the first jurisdictions in North America to develop a pesticide scheduling system to regulate the transportation, sale and appropriate uses of pesticides registered for use in Canada and scheduled for use in Ontario. I helped develop that system in the early 1970s and have always been a part of its implementation, even during the five or so years that I wasn't a member of OPAC. I've always been regarded as one of the technical experts on pesticides, especially herbicides, for the committee.

Ontario is a world leader in improving the productivity and safety of food production while minimizing and even reducing the impact of agriculture on the environment. With its Food Systems 2002 program and environmental farm plans, Ontario agriculture has reduced the use of chemical pesticides by more than 50% since the 1980s, while at the same time it has actually increased agricultural productivity. This was made possible by research-granting programs administered by OPAC and by the Ministry of Agriculture to develop more knowledge of pest biology, pest monitoring methods and non-chemical alternatives to facilitate effective, integrated pest management programs for most crops. Voluntary and now mandatory grower education and grower certification programs have been essential for the implementation of these programs.

1020

It has been very rewarding for me to participate in these successes for Ontario as a researcher, a teacher, a public speaker and a member of the Ontario Pesticides Advisory Committee.

I'm 62 years old. I'm semi-retired as a professor from the University of Guelph for two years. However, each winter semester I continue to teach my course, Pesticides and the Environment, and I'm eager to continue my participation on pest and pesticide committees in Ontario and internationally. If you have a genuine love for science, as I do, and if you're eager to provide scientific input for public decisions, it is impossible to be a retired scientist. Becoming chair of the Ontario Pesticides Advisory Committee would be another welcome opportunity for me to contribute.

The Chair: Thank you very much, Dr Stephenson. We're going to start today with the government, since we ended with the New Democratic Party last time. Do you have anything further?

Mr Parsons: We have no questions regarding your qualifications or competence. We pass.

The Chair: All right. Then we're going to go to the Conservative Party. Mr Tascona or Ms Scott?

Ms Laurie Scott (Haliburton-Victoria-Brock): *Failure of sound system.*

Dr Stephenson: That's what happens after 30 or 40 years.

Ms Scott: *Failure of sound system.*

Dr Stephenson: I guess the impression I get is that Ontario farmers are proud of the systems they have. I think, in fact, when we can brag about things like Food Systems 2002 and minimizing pesticide use, that may give them a special entry in markets. I haven't heard a lot of negative. I think our Ontario growers are probably more concerned about competition with other countries than with other provinces.

Ms Scott: *Failure of sound system.*

Dr Stephenson: It hasn't come to us, and when I go out to meetings, I sense a lot of pride about Ontario agriculture.

Ms Scott: *Failure of sound system.*

Dr Stephenson: I don't have an opportunity to do that. There are two employees in the Ministry of the Environment who represent Ontario on the federal-provincial-territorial advisory committee on pesticides, and we, as members of OPAC, have input to their reports and their efforts to sort of harmonize pesticide regulation across the country. I've been on the Canada Weed Committee, which is a national committee, and we've had input through that too.

Ms Scott: *Failure of sound system.*

Dr Stephenson: Well, the current hot issue, and I presume it might come up, is how to regulate urban pesticide use. The federal government, Health Canada and PMRA, are developing a healthy lawn strategy and they might revise their regulation of urban pesticides. I think, as members of the Ontario Pesticides Advisory Committee, we would encourage that. I wish the Ontario government had taken more of a leadership role, in fact, on regulating urban pesticides than it has.

Ms Scott: *Failure of sound system.*

Dr Stephenson: The agricultural use of pesticides—you have growers who have a vested interest in the reputation they have as Ontario farmers. Back in the 1980s, they sensed that this was a big issue. They took control of it almost themselves with the Ontario environmental farm plan. They wanted certification programs so that farmers knew how to use pesticides properly and to implement integrated pest management programs. That's been far more difficult in urban pest management, because I think there's been a need—there are some lawn care companies that might subscribe to integrated pest management, but they can't do it alone. They wish the province had legislated this for all lawn care companies. In fact, the Association of Municipalities of Ontario put in a brief in 2003, again hoping the province would take the leadership in this respect and not drop it down to the patchwork management that happens, with one municipality doing this and another municipality doing that, and people in this municipality saying, "Well, if I lived over there, I could do this, but if I live here, maybe my kids are going to get sick." I don't think it's an issue that is well managed municipally.

Ms Scott: *Failure of sound system.*

Mr Tascona: I want to thank you for coming here today. Based on your qualifications, I'm not sure why the

NDP called you, but we'll find out, I guess. Certainly, you have the qualifications and the expertise.

I just want to ask you this, though: When you say the province should have a greater role, what are the standards that you think should be set? Is it studying standards, or should there be more than that in terms of the province taking a greater role?

Dr Stephenson: I think it's a logical goal to not use pesticides anywhere where they don't have a chance to achieve some benefit. We're doing that well in agriculture, but the challenge is to do that in urban pest management as well. I think we all subscribe to the idea of trying to minimize unnecessary pesticide use in landscapes. The province could have mandated that all lawn care companies subscribe to a very strictly monitored, integrated pest management scheme so that you're using all the possible methods of pest control and not just chemicals, and this would have to be monitored and adhered to. But if you do it for the whole industry, then everyone is on an equal footing. To hire these companies might become more expensive, because there would be more monitoring and other alternatives and that sort of thing. You would achieve a major reduction in pesticide use.

Hudson, Quebec, 10 years ago banned the use of urban pesticides. An assessment of where they are now is that there is better pest management going on there. Pesticide use has not been cut to zero. It's more like an 80% reduction, so 20% of these pesticides are going on illegally.

Mr Tascona: Let me ask you this, though: How does it stand in the province right now in terms of municipalities? I know we had a major fight here in Toronto, which was well publicized. What about other municipalities in terms of—

Dr Stephenson: There is a checkerboard of what various municipalities are doing. The province hasn't really dealt with this issue. That's what I would say.

Mr Tascona: Do you know the percentage of municipalities that have actually done something?

Dr Stephenson: I'd say the majority of them have done something. A few are trying to enact bans on landscape pesticides; probably many more are trying to adopt some kind of an integrated pest management scheme. But again, I think they need some help from the province.

1030

Ms Andrea Horwath (Hamilton East): Welcome. I was interested in some of the comments that have been brought to light through the previous questioning, and I'm curious about your position as a scientist in the whole realm of pesticide use in food production. I heard with interest your comment about the fact that, nationally, we are maybe leagues ahead of other nations in regard to the use of pesticides in food production. Could you expand on that a little bit?

Dr Stephenson: I don't know if I can speak nationally, but I can speak about Ontario. We're proud of the fact that we've adopted good, integrated pest

management programs and have reduced the quantities of pesticide use in agriculture by more than 50%. There have also been good environmental assessments of pesticide use today compared to 20 years ago, and the environmental impact of the chemicals being used is down—they haven't finished the analysis for 2003, but very close to 50%. We're leaders around the world in that respect.

A number of the Scandinavian countries are on similar kinds of programs, but they didn't have that other caveat that they wanted to maintain and perhaps even increase agricultural production by achieving maybe a 60% reduction in pesticides in one of the Scandinavian countries. That means they're buying more fruits and vegetables from other countries now because their production has dropped. Ontario has tried to achieve both sides of that.

I don't know if I can speak about how that's going in western Canada. I don't have the data to even deal with that question for western Canada.

Ms Horwath: All right, let's stick with Ontario, then. I think particularly about some of the food crops in the area that I represent, which is kind of bordering the Niagara Peninsula. I'm curious about your perspective on the use of pesticides in tender fruit and particularly in regard to how the use of pesticides in that type of food may affect people who consume that food. Do you think there's any effect on human health or well-being in regard to the use of pesticides, particularly in tender fruit, by consumers?

Dr Stephenson: There are some major reviews of that by the National Research Council, in collaboration with efforts in the United States. I think what you have to realize is that when pesticides are properly regulated, there's almost a thousandfold safety margin for any residue you might consume compared to the highest dose that had no effect in test animals. We have monitoring programs for residues in our foods and we establish maximum residue limits with wide margins of safety. Rarely more than 1% of our fruits or vegetables ever violate that. Most of the fruits and vegetables will have no detectable residue at all.

I know one major review concluded that, in fact, the use of agricultural chemicals increases production and reduces food prices, so people can eat more fruits and vegetables, almost regardless of how they're grown in Ontario. You can choose organic if you want, but it's healthy if you go with conventional products; just get your five fruits and vegetables every day. That's one of the best things you can do with respect to food and health.

Ms Horwath: It would be your opinion, then, that there are very little to no negative human health effects from fruits and vegetables grown in Ontario under the current regime?

Dr Stephenson: Right.

Ms Horwath: So you don't believe there are any modifications that need to be made to the regulatory use

of pesticides in terms of the fruits and vegetables at this point?

Dr Stephenson: I think we just need to make sure that ministries of the Environment and Health Canada maintain appropriate levels of staff to make sure we implement the rules that we have.

Ms Horwath: So you would perhaps be advocating for more monitoring and more of that kind of a process, as opposed to any changes in the application or the types of chemicals that are currently being utilized?

Dr Stephenson: Another way to state the goal of Food Systems 2002 is a 100% reduction in the use of pesticides when we can figure out that they aren't needed. We have achieved about a 50% reduction.

Ms Horwath: As a scientist you would advocate continuing to go down that road, as opposed to just being accepting of the current situation?

Dr Stephenson: Absolutely. We're proud of that effort. Whenever I have a chance to talk about it in other countries, I do.

Ms Horwath: My next question is actually more related to the herbicide issue. Can you speak a little bit to your position on the extent of the effect of human exposure to pesticides that are used in lawn care and other types of urban uses?

Dr Stephenson: I can speak as a researcher, because I think our research on commercial applicator, homeowner applicator and bystander exposure for landscape pesticides is cited all over the world. In fact, it's part of EPA's regulations now.

Basically, even with commercial applicators who are applying these products to many lawns in a day, five days a week, their daily exposures are still at least a hundredfold below. They have at least a hundredfold safety margin factor, compared to the doses that had no effect in test animals. Homeowner applicators might make one or two applications a year, not every day. And we monitored numerous bystanders for either commercial applications or homeowner applications—people who lived in the homes where the pesticides were applied. It was very rare to detect a measurable exposure. Our limit of the detection was four parts per billion in the urine. So it's almost impossible to calculate how big the margin of safety for bystanders is.

Ms Horwath: What would your opinion be of the effect of the exposure to the pesticides that are used in landscape applications on different types of individuals? We often look at the average person and the average situation. But would you say there is an effect that is different on, for example, young children, if they have immediate exposure, or people who have respiratory problems or other types of health concerns?

Dr Stephenson: In fact, the current federal and provincial regulatory system takes that into consideration. From research studies with the most sensitive test animals, they find the highest dose that would have no effect during the lifetime of the test animal, and say, "We should have at least a tenfold margin of safety for humans. But then maybe there are some adults who are

extra sensitive or children. We'll put another tenfold margin of safety in there."

More recently, with more focus on safety for children, the PMRA in Ottawa says that before we would allow something to be used on a landscape, where children might be playing on the lawn or that sort of thing, we might request at least an additional tenfold margin of safety, compared to the dose that had no effect on test animals.

I think what people forget—

The Chair: Thank you very much, Dr Stephenson.

Dr Stephenson: Time up?

The Chair: We have really appreciated your sharing your knowledge with us, but—

Dr Stephenson: The last word I would have mentioned would have been "natural" pesticides. Some 99% of the pesticides that we're exposed to are natural.

The Chair: We do appreciate your appearing before us today. We wish you continued success. I'm certainly well aware of your reputation myself, personally.

Dr Stephenson: You live in Waterloo.

The Chair: I do.

1040

BRUCE BINNING

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

The Chair: Continuing on now with our second interview, Bruce Binning, the intended appointee, member, Ontario Labour Relations Board. As you have probably heard, Mr Binning, you do have an opportunity, if you wish, to make an initial statement and, following that, members of the committee will be asking questions. Good morning.

Mr Bruce Binning: Good morning. Just very briefly, I have for several years appeared before the labour board as counsel on behalf of management, primarily in the construction industry on behalf of unionized general contractors and unionized subcontractors. I have also represented several non-construction employers before the labour board and also before arbitration boards. I have been involved extensively in collective bargaining in the construction industry province-wide, and that has been for several years as well. Those are all my comments.

The Chair: Thank you very much, Mr Binning. We will begin with the Progressive Conservative Party.

Mr Tascona: I want to thank you, Bruce, for attending here today. I've got some questions. There's no doubt that you're very qualified to be sitting on the labour relations board. It's a part-time vice-chair position?

Mr Binning: That's correct.

Mr Tascona: Was that all that was available or is that all you were interested in?

Mr Binning: I was invited to apply for it.

Mr Tascona: OK. What would you do with the rest of your time? Are you going to continue to practise law?

Mr Binning: No, I will not practise law. I will retire from the firm and I will not practise law.

Mr Tascona: Just a couple questions on the operations of the board. You've been in front of the board for quite a few years—since 1962, I believe—and have seen a lot of changes. What is your opinion, if you have one, with respect to the way the construction industry is working in terms of achieving the objective of labour relations peace as opposed to some of the problems they've had in the past, prior to 1980? Do you think the system that has been put in place is working effectively or are there other changes that should maybe be implemented or looked at by the government?

Mr Binning: No, I think it's working effectively. One of the problems that has arisen is that, initially when provincial bargaining was introduced, the purpose of it was to have one settlement throughout the province, but what has happened is many areas of the province have a lot of unemployment. Therefore, we have to now negotiate area settlements, not just one general settlement across the province. That tends to make it far more difficult to reach an agreement.

Mr Tascona: Is that in the industrial, commercial and institutional sector of the province, the ICI?

Mr Binning: Yes.

Mr Tascona: How do you see it working? As you know, when you get an ICI certificate at the labour board, there's also a geographical certificate for the other sectors; for example, residential. Do you think that's the best system? If there's an application just for the ICI sector, what results under the legislation is that you can get certified for the other sectors. Do you think that's a fair system with respect to the employees' wishes as opposed to what the union is trying to achieve when they're really after ICI certification for the work that's being done?

Mr Binning: I'd prefer if the ICI sector was left separately and the certificates would not be issued for the other sectors.

Mr Tascona: Why was that done? What was the purpose behind that?

Mr Binning: Because I think before provincial bargaining, it was that way. It was not restricted to any sector. So once they introduced the idea of sectors, then they introduced this provision because, prior to provincial bargaining, it was all employees in all sectors.

Mr Tascona: As you're aware, the board area set up the bargaining rights for the residential area and other sectors, as opposed to the ICI. It's sort of a distinct type of certification.

Mr Binning: Yes, but in any other sectors, in most cases—not all cases—it is restricted to a geographic area for the employer. He doesn't normally operate province-wide.

Mr Tascona: With respect to the certification process, there's been a lot reported recently with respect to Wal-Mart and what's going on in different parts of the country. Here we have a certification process where you do require a vote. In the past, prior to 1995, it wasn't that

way. Do you have an opinion on how that process is working, with respect to certification with a vote, as opposed to what it was before?

Mr Binning: I don't really have an opinion on that. As you know, I've been primarily in construction. I haven't been involved in the certification. It normally goes to the younger guys in the firm. So I haven't really been involved in certification for some years.

Mr Tascona: What changes would you like to see in terms of the board, in terms of how it operates from an advocate's point of view? You've appeared up there for many years, and now you're going to be on the other side making decisions.

Mr Binning: I think I would like faster hearings, fewer days. I'd like the chairman to be more aggressive, because now we're getting into days and days of hearings, which is a waste of time. I'd like the whole process to be sharpened up so that we don't get involved in these long hearings.

Mr Tascona: What would need to be done to give the chairperson or vice-chairperson more power to make that happen? As you know, they generally have a settlement officer up there trying to make settlements. That's the main focus at times. How could the chairman take—

Mr Binning: To me it's just a question of attitude. I think they have the power now. They have the same power as a judge, really. Yet, in many cases they just allow witnesses to go on and on, when most of it is irrelevant. So I think it's just a question of exercising the power they already have to shorten the process.

Mr Tascona: Is there any specific area that they say you're going to be involved in at the labour board? They now do other areas like employment standards.

Mr Binning: Kevin Whitaker hasn't indicated what type of case he's going to put me on. I don't know. Certainly, the board is involved in all of those areas like human rights, employment standards.

Mr Tascona: What about human rights? The board hasn't been involved in human rights, in making the decisions, have they?

Mr Binning: They can interpret and apply the human rights legislation.

Mr Tascona: Yes. The Attorney General is now responsible for human rights. It's not under the Ministry of Labour. The board of inquiry is generally not at the labour board. Is that something you think would be useful, in terms of having all the labour relations tribunals under one board?

Mr Binning: I would think so. In many cases, if the facts deal with the board, then just the Ontario Labour Relations Act; therefore I would think it would be good to have one tribunal dealing with any complaint which might be multi in purpose.

Mr Tascona: Yes. I understand in some countries—I think maybe in New Zealand—they have what they call a supertribunal process, where anything related to labour relations or employment law is under one tribunal, whether it's public sector—we have the Grievance Settle-

ment Board, which is another entity that's set up with their own arbitrators.

Mr Binning: We are moving that way in terms of the legislation. I think it's a good idea.

Mr Tascona: Those are all the questions I have. Thank you.

Ms Horwath: Could you describe to me which pieces of legislation the board is responsible to address?

Mr Binning: I don't have the act in front of me, but it has been expanded so they can apply and interpret the Employment Standards Act, for example. There are specified pieces of legislation that they can now interpret and apply, as can arbitration boards.

Ms Horwath: OK, but you don't have any recollection of specifically which ones they are?

Mr Binning: I don't have *[inaudible]*.

Ms Horwath: You're likely aware, considering your activity in this field, of the changes that have occurred over the past decade in the labour relations regime in the province of Ontario. Do you have any perspective on that at all, as an employer advocate over the years at the board, on the balance that currently exists in the field of labour relations in Ontario?

Mr Binning: If you're talking about balance between the unions and management, it is clear that we don't have many serious strikes, which means that people are being objective on both sides. I would think that, of the disputes that are raised, over 50% are settled without going to either the labour board or an arbitration board. So I think there is objectivity on both parts and there is a balance.

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Ms Horwath: So you're in a position, then, that you wouldn't think that there are any changes that need to be made to the current regime?

Mr Binning: You can always make changes for the better, but I think you have to be open as you go and as things change. As I mentioned, things have changed in construction. Before, we used to make provincial settlements; now we're making local settlements, which makes it more difficult. You can settle Toronto but you can't settle, let's say, London. Therefore it extends the negotiations. That has happened for the first time this round, where there has been an extension because of the differences between areas.

Ms Horwath: Your forte is in the construction industry, but of course you'll be required to adjudicate on other matters. I'd like to hear your comments on your ability to grasp all the various pieces of legislation and—

Mr Binning: I've been involved with a lot of non-construction employers, large ones; Babcock and Wilcox, for example, Canadian Timkin, Oshawa Group and several others. So I have acted for many non-construction employers.

Ms Horwath: So you're quite comfortable, then, with your ability to—

Mr Binning: I'm comfortable.

Ms Horwath: OK. Considering your breadth of knowledge of the labour field, do you have any opinions

or any concerns around current discussions that are occurring regarding things like hours of work, and I think particularly around industrial and construction employers and places of employment? Currently the hours of work are 60. I believe there are possible recommendations by the government to reduce that to 48. Any opinions on that?

Mr Binning: Part of the problem in the construction industry certainly is weather. So if you have adverse weather, it's good to make up that time you've lost during the week on, say, a Saturday at straight-time rates. I think perhaps that's why defining hours more closely—if you're not making exceptions, you make us more productive.

Ms Horwath: So you don't see any inherent problem in terms of people's rights in regard to requiring them to work because the weather is good?

Mr Binning: In most cases it's voluntary, in any event, to work on a Saturday at straight-time rates, if that was feasible. No, I don't think we're infringing. I think we have to be productive and we have to compete. I think that's why it's important that there be flexibility.

Ms Horwath: Do you think the motives of competition, productivity and profit can be used in any way as an incentive or to coerce workers into signing on to longer workweeks?

Mr Binning: No, I don't think so.

Ms Horwath: You think that doesn't happen at all in industry or in workplaces?

Mr Binning: It could, but I think you're talking about the non-unionized sector, not the unionized sector. I'm primarily involved in the unionized sector.

Ms Horwath: I don't disagree with you on that point, in fact. It's interesting, though, that in the province of Ontario there has been a reduction in the number of unionized workplaces over the last decade or so. Do you think that's at all a concern? If workers' rights are being protected by unions and the regime that we currently have in Ontario is reducing the number of unionized workers, do you not see that as a bit of a conflict?

Mr Binning: I don't see a problem. If you're talking about new employers coming in—it's a bit more difficult for unions to organize—that might be so. But I think in most cases you're talking about American employers who have non-union experience in the US. They want to maintain that here and they treat their employees well to avoid unionization. But that's their decision.

Ms Horwath: That would be your opinion.

Thank you. I have no further questions.

The Chair: The government?

Mr Parsons: We waive.

The Chair: Thank you very much, Mr Binning. Good to see you.

CHISANGA PUTA-CHEKWE

Review of intended appointment, selected by third party: Chisanga Puta-Chekwe, intended appointee as chair, Social Benefits Tribunal.

The Chair: Our third interview this morning is with—and I do apologize before I begin the pronunciation of the name—Chisanga Puta-Chekwe, intended appointee as member of the Social Benefits Tribunal. I would invite you forward. Welcome.

As you may be aware, you do have an opportunity, if you wish, to make an initial statement. That time would be deducted from the time allotted to the government party. After that, we are going to have questions from all members of the committee. So if you have an opening statement, please proceed.

Mr Chisanga Puta-Chekwe: Yes, I do have a very brief opening statement, and thank you very much, Madam Chair.

With the expansion of the jurisdiction of quasi-judicial agencies over the past few years, the art of adjudication has become quite complex and even specialized. The management of the adjudicative process has similarly become quite sophisticated. In addition to a solid academic background, the chair and CEO of any modern adjudicative agency must have senior management experience and the ability to both adjudicate and lead adjudicators who are independent decision-makers.

The tribunal for which I am being considered hears appeals of decisions regarding social assistance and benefits under the Ontario Works Act and the Ontario Disability Support Program Act. In my view, the importance of the Social Benefits Tribunal is self-evident. I would welcome the opportunity to lead this tribunal for two reasons: (1) I have an interest in the subject matter, and (2) I am well-qualified to be the head of the tribunal.

As you will note from my resumé, I have been vice-president of an international bank in London. I have also managed my own consulting firm in Ottawa. One of the highlights of my career as a consultant was observing the historic South African election of 1994, which brought Mr Nelson Mandela to power. In addition to being a United Nations observer, I was also, at that time, adjudication officer for the then politically volatile KwaZulu-Natal province.

On the domestic front, I have been an adjudicator with the Ontario Criminal Injuries Compensation Board before becoming the head of that agency. When I left the Criminal Injuries Compensation Board, I went to Oxfam Canada as chief executive officer. Although my work was now mostly on the international stage, the issues I dealt with remained issues of social justice.

In 1998, I became the first chair and CEO of the Ontario Rental Housing Tribunal. The tribunal resolves disputes between residential landlords and tenants. It is now considered a best practice across the country. Although the tribunal receives a very large number of applications, the agency has no backlog, with the vast majority of decisions being issued within one week of the hearing. I consider it a matter of courtesy and respect to the public to hear applications and issue written decisions as quickly as possible.

I hope I can persuade you that my academic background, which includes two law degrees, and my experi-

ence in senior management and adjudication make me suitable for appointment as chair and CEO of the Social Benefits Tribunal. Thank you very much.

The Chair: We're going to begin with the New Democratic Party.

Ms Horwath: Good morning. My own history is with the legal clinic system in Ontario, prior to being elected, first to city council and then to the Legislature. I actually have a lot of personal friends and professional relationships with many of the people who I'm sure have come before you, as advocates for people living in poverty in this province, in your work at the housing tribunal.

As you may know, the Social Benefits Tribunal has been considered for many years to be a troubled tribunal. I've heard many stories from various people I'm aware of who consider the process to be quite undignified for the people who attend. In fact, there have been accusations of it being disrespectful and quite difficult for the people who are coming before the tribunal. These, unfortunately, are some of the same kinds of complaints that advocates have of their experiences before the Ontario Rental Housing Tribunal, which you are currently chairing.

As the chair of the Social Benefits Tribunal, what steps would you be prepared to take to ensure that the members of the tribunal provide hearings that are fair, respectful and, for instance, meet the basic standards for fairness in adjudication developed by the Ontario Ombudsman?

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Mr Puta-Chekwe: First of all, complaints about lack of respect at hearings is not something that's evident from the number of complaints I have received. We do have, on the Web site, procedures for complaining to the chair when that sort of thing happens. So I cannot say that is something that occurs on a daily basis.

Nevertheless, I think the question is a good one and a legitimate one. What I would do is similar to what I did at the Criminal Injuries Compensation Board. I think you will be aware that the people who appear before that board are particularly vulnerable, perhaps even more vulnerable than people who appear before the tribunal I'm seeking an appointment to and the tribunal I currently head.

I think one of the first things that must be done is to train people in sensitivity in conducting hearings. Of course, with that comes a knowledge of the subject matter the tribunal deals with. I think if people know what they are doing, what they are looking for and also know the needs, including the emotional needs, of the people who appear before them, we will have fewer of those complaints.

Ms Horwath: So you would be quite willing to take a proactive role and ensure, in your role as chair, that you would be engaging members of the tribunal in sensitivity training and making them aware of the vulnerability of the people appearing before them?

Mr Puta-Chekwe: Absolutely.

Ms Horwath: That would be something you would be able to do proactively and would commit to?

Mr Puta-Chekwe: Absolutely.

Ms Horwath: That's good news.

Similarly, there's been some concern in regard to the environment that currently exists in regard to ensuring—I think you mentioned it yourself in your opening comments—that these cases are dealt with as quickly as possible and we get people through the system. However, there are times when people get concerned that the need for expediency often leads to a lack of appropriate attention to the details of the cases that are coming before the tribunal. What steps are you prepared to take as the head of the tribunal to ensure members will be providing high-quality basic adjudication in these matters?

Mr Puta-Chekwe: Again, the answer goes back to training. Members have to be trained in the subject matter of the tribunal; in the case of the rental housing tribunal that's the Tenant Protection Act. I think that if you train members and they understand what the legislation is, they understand the extent of their authority, they understand the extent of their jurisdiction. If you also, with that, train them in sensitivity matters so they are sensitive in the way they carry out their duties, I think you will see expediency being less an issue and efficiency becoming more an issue. I think you can process cases quickly without undermining basic justice.

Having said that, I would have to agree with you: Only last week I had a situation where a decision was made that was doubtful in the context of the legislation and certainly appeared to contradict our own guidelines. Fortunately, someone from an advocacy group faxed me the information. On the face of it, it did seem to make sense. In those circumstances, what I did was ask the vice-chair responsible for the region to consider a tribunal-initiated review at no cost to the party. So when these things are brought to the attention of the chair on time, there are remedies.

Ms Horwath: I appreciate that, but I guess I'm wondering, do you see any opportunity as the chair to institute some kind of ongoing checks and balances so there's a more proactive monitoring of the quality of decisions that are being made, so that it's not just a matter of an advocate or someone in an activist role bringing something to your attention, but rather that there is ongoing monitoring of the quality of the decisions that are being made so that as chair you can proactively institute some kind of quality control measures in the process? Have you any opinion as to that possibility?

Mr Puta-Chekwe: Yes, I do. Because of the volume of the work at my current tribunal, it's not possible, unfortunately, to read every single decision. What does happen, however, is that on a regular basis I get a sample of decisions from the regions. Based on those samples, I determine what should be included in ongoing trends, so if a problem keeps recurring, that issue is going to be addressed at a specific training or as part of the ongoing training that takes place when members meet. Unfortunately, when you have a very large volume, that really is the only way you can do it.

Again, I would say, relative to the volume of the cases that we do here, the number of situations when that has

arisen is not very high. But of course, one situation is one too many.

Ms Horwath: You don't see any kind of systemic approach to monitoring quality as being appropriate?

Mr Puta-Chekwe: That is systemic, when regional vice-chairs are required to send samples to the chair from time to time, and those samples are analyzed not just by the chair but by the legal department, and then they are used for training purposes to make sure that problems don't recur.

Ms Horwath: All right. That actually brings me to the next question, which is that there has been some concern about the way in which members are selected for the tribunal. As the chair, do you have any concerns in that regard, and how would you then address those? Do you believe there are changes that need to be made or that can possibly be made in terms of the way the Social Benefits Tribunal is appointed in terms of the tribunal members?

Mr Puta-Chekwe: At the Ontario Rental Housing Tribunal, we've only had one instance in the past six years when a member hasn't gone through an interview and hasn't had to do a written exercise. Apart from that one case, members are required to do an interview and to do a written exercise.

Ms Horwath: Would you support a public advertising kind of process where people from all areas, including advocates or those types of people, are provided an opportunity to then become appointees; and, where interviews take place, would you advocate for that same type of system when you become the chair of the Social Benefits Tribunal?

Mr Puta-Chekwe: Yes. If it is viable, I'd certainly advocate for that kind of system. I think it is more likely to work, on balance, than any other system, as evidenced by what has happened at the rental housing tribunal. The first crop of adjudicators, including the chair, responded to an advertisement. I think the quality of the first group of members was higher than the quality of the members we have recruited, say, in the past two years. But I think it's beginning to change with the system opening up again.

Ms Horwath: One further question in regard to some of the administrative issues with the Social Benefits Tribunal. My understanding—this, again, is from the connections I have in this particular area—is that both the Social Benefits Tribunal and the Ontario Rental Housing Tribunal have been difficult in terms of some the ability to schedule hearings that are convenient and flexible in terms of the advocates. You may know that advocates in the poverty law system are often representing far-spread areas and oftentimes have a huge caseload in terms of clients. My understanding is there has been a resistance to the opportunities to be more flexible with the scheduling of hearings to meet the needs of the clients' advocates. Are you in any way concerned about that, and do you believe there are ways to work with the parties to be in a situation where the hearings can be scheduled to meet everyone's needs, at the same time maintaining

ministerial procedures that are functioning in an appropriate way?

The Chair: Unfortunately, the time is up. We're going to have to move to the government. Did you have any questions?

Mr Parsons: No questions.

The Chair: Then we'd move to the Conservative Party.

Ms Scott: Thank you for taking the time to appear before the committee today. You have an impressive resumé.

As a bit of following up to my colleague's questions, do you know any members, right now, of the Social Benefits Tribunal—I mean that in their background, ongoing training and if they are qualified, if you know about their background at present.

Mr Puta-Chekwe: No, I don't, actually. I have looked up the names of the current members but I can't seem to find their biographies. I don't know if the Web site has a biography section and I'm just missing it, but I haven't been able to do that, I'm afraid.

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Ms Scott: I've listened to your previous answers, and I'm sure that you will make sure they get the appropriate training to hear specific cases that might be difficult to assess.

This is also a full-time appointment for you, and you've been full-time previously. How does the remuneration compare to the previous board that you were chair of?

Mr Puta-Chekwe: With the Ontario Rental Housing Tribunal?

Ms Scott: Yes.

Mr Puta-Chekwe: I haven't actually been told what I will be paid, but the Web site says the previous chair was paid \$148,000, and I am paid \$110,000.

Ms Scott: So you're paid \$110,000 now, and on the Web site it's \$148,000.

What do you see as the major challenges that would be facing the board over the next several years? I know we've had a bit of discussion, but is there anything specifically that's standing out that you see as a challenge?

Mr Puta-Chekwe: This is relatively new legislation, and in some instances it does make a departure from the usual practice of tribunals. For example, I was quite struck by the fact that the Social Benefits Tribunal cannot entertain issues arising from the Charter of Rights. That has been a big issue recently at seminars, conferences and training for adjudicators: How do you handle charter questions? But the Social Benefits Tribunal's own statutes specifically prevent entertainment of charter issues, so that is an issue in the sense that you have to make members mindful of that.

I also think there are certain—perhaps I can answer this by going back to what I see in my own mind as priorities for the tribunal. I think it is encouraging that some effort has been made to publish practice directions, but there are only three practice directions that have been published. I'd like to see more practice directions pub-

lished. I would like to see more guidelines. In fact, there are no guidelines at all at the moment, so I'd like to see guidelines published as well.

In addition to that, I would actually like to see a committee responsible for rules and guidelines. The reason this is important is that the public served by the tribunal should have some idea of what's going to happen when they do appear before the tribunal, and if you publish as many rules and as many guidelines as possible, first, you better inform the public you serve and, secondly, you increase immensely the chances of consistency by the tribunal. So those are things I would look at as a priority.

The other thing would be to perhaps put together a small group to examine the backlog. There is a backlog there, as I understand, at the moment. That group basically would look at ways and means of reducing significantly, if not eliminating, that backlog in the quickest and fairest way possible.

Ms Scott: Who publishes those guidelines? Who published them previously, or who do you look at—

Mr Puta-Chekwe: At the moment, there are no guidelines, but the rules of practice have been published by the Social Benefits Tribunal itself.

Ms Scott: By the tribunal itself. OK. Thank you very much.

Mr Tascona: I want to thank you for coming before the committee today. I've got a couple of questions.

You're currently the chair of the Ontario Rental Housing Tribunal, until September 16 of this year. Do you know who your replacement is?

Mr Puta-Chekwe: I don't know yet who my replacement is. I have proposed a name for interim chair until the permanent chair is appointed, and again, going back to your question, I have actually recommended that this be done by public advertisement.

Mr Tascona: Who is the interim chair?

Mr Puta-Chekwe: I've recommended Beverly Moore, an existing vice-chair.

Mr Tascona: As interim chair; has that been acted on?

Mr Puta-Chekwe: As far as I know, yes.

Mr Tascona: And who would have acted on that interim chair appointment recommendation?

Mr Puta-Chekwe: Who would have acted on it?

Mr Tascona: Yes. Which minister?

Mr Puta-Chekwe: Minister Gerretsen, the Minister of Municipal Affairs and Housing.

Mr Tascona: OK. And when did you become aware that he acted on that in terms of accepting your recommendation?

Mr Puta-Chekwe: About two or three weeks ago.

Mr Tascona: Is there any indication that there's going to be—you say an advertisement. An advertisement for what? For a full-time chair?

Mr Puta-Chekwe: Yes.

Mr Tascona: So how long would this interim chair be in place? Do you know?

Mr Puta-Chekwe: As I said earlier, until the full-time chair is appointed. I don't know when the full-time chair will be appointed.

Mr Tascona: You've been chair of a number of different tribunals. What do you know about this Social Benefits Tribunal in terms of how it would relate to your previous experience?

Mr Puta-Chekwe: That's a very broad question. I do know that the Social Benefits Tribunal hears appeals of persons whose benefits may have been reduced or even cancelled. That is a basic function of the Social Benefits Tribunal. So it's different from the Ontario Rental Housing Tribunal in the sense that the Social Benefits Tribunal is more of an appellate body, whereas the Rental Housing Tribunal is the tribunal of first instance. But they do have one thing in common in that persons who are dissatisfied with decisions of both tribunals can appeal on a point of law to Divisional Court.

Mr Tascona: So how do you feel your qualifications fit with this tribunal, as opposed to the others?

Mr Puta-Chekwe: Firstly, it's a matter of adjudication primarily. I hope we can agree that I am an adjudicator and, in my opinion, I am a reasonably good adjudicator. An essential ingredient in terms of qualifications would be the ability to adjudicate and to understand adjudication and to manage adjudicators. I have done all three.

On the philosophical level, I think the Social Benefits Tribunal, like the Criminal Injuries Compensation Board, deals essentially with human rights issues. I do have some training in human rights. Indeed, two years ago I published a chapter that linked human rights to the creation of a social economic framework published by the University of Pennsylvania. That chapter was done by me. So there is an interest there, and I'll just admit that tends to add to my claim that I am qualified to run this tribunal.

Mr Tascona: Thanks very much for your time.

The Chair: Thank you very much, Mr Puta-Chekwe. We really appreciate your coming before the committee and we wish you well.

DAVID KNIGHT

Review of intended appointment, selected by official opposition party: David Knight, intended appointee as member, Ontario Securities Commission.

The Chair: Our final interview this morning is with David L. Knight, the intended appointee as a member of the Ontario Securities Commission.

I would invite you forward, Mr Knight. As you have heard, you do have the opportunity to make an initial statement and, following that, there will be questions from all members of the committee.

Mr David Knight: I believe you all have my resumé, and perhaps the greatest assistance I can give to you at this point is to simply highlight some of what seem to me to be the most relevant features of my resumé. If I may, I'll start at the beginning, more than 46 years ago, when I

started in the accounting business with a small firm in Owen Sound. I started there in 1957 upon graduation from high school. I became a chartered accountant in 1962. In 1985, I was elected a fellow of the Institute of Chartered Accountants of Ontario in recognition of my service to the profession. In 1971, I was admitted to partnership in the firm which was then called Peat, Marwick, Mitchell and Co, a predecessor firm of KPMG LLP, as that firm is now known.

As my resumé shows, during my time with the firm I had ever-increasing responsibilities, rising to the level of vice-chairman, a position which I held when I took early retirement from the firm in 2000 in order to take on a role with KPMG International. Then, for the three years ending September 30, 2003, I was executive director, international standards, with KPMG International. On September 30, 2003, I retired from KPMG.

My entire career in the accounting profession was spent with KPMG in Canada, except for those two years in the late 1950s in Owen Sound. I had two years in the executive office of Peat Marwick in the US from 1969 to 1971, and then the three years with the international firm, which I just mentioned.

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Most of my career in the accounting profession has been devoted to highly technical professional matters and to management of professional risk, although I did have direct client responsibilities, including some quite senior ones, for approximately 20 years.

I am no stranger to securities regulation. For some 25 years, I was a member of a small cadre of specialists in my firm. We had a requirement that one or more of those people be involved with every securities offering with which the firm was associated. I was the leader of that group for most of that 25 years.

For about 10 years in the 1970s and early 1980s, I was a member and then chair of the Institute of Chartered Accountants of Ontario's committee on corporations and securities law.

I was a member of the OSC's financial disclosure advisory board from 1984 to 1990, and chair of that board for the last few years in that period. I have had dealings on a professional basis with every chairman of the commission from Jim Bailey through to David Brown, and with every chief accountant at the commission from Ted Brown, who I think was the first chief accountant, through to John Carchrae, who is the incumbent.

I appeared before the commission once at a hearing. I was there in an expert witness capacity in connection with the accounting of a franchisor with whom the commission had some concerns. I was a member, and the only chartered accountant, of the so-called Allen committee, the committee on corporate disclosure sponsored by the Toronto Stock Exchange. That committee made quite a number of recommendations for change, a number of which I believe influenced Bill 198, I think it is, which I think was introduced in the Legislature the fourth quarter of last year.

I have some experience with government services. I was a member of an advisory committee to the Provincial Auditor of Ontario for several years. The previous government twice appointed me to the Ontario Financial Review Commission.

In summary, I will say that I think chartered accountants have a contribution to make to the OSC's work. I would not be the first chartered accountant, by any means. At present, there is one CA who is a member of the commission. I believe his term is up next year. I think my credentials are such that I can continue with that tradition of contribution that my predecessor chartered accountants have made.

Madam Chair, that's all I have to say at this point. Thank you.

The Chair: Thank you very much, Mr Knight, for those comments. Does the government—

Mr Parsons: No questions.

The Chair: I would move, then, to the Progressive Conservative Party. Mr Tascona?

Mr Tascona: Thanks very much for attending the committee here today. Certainly, you've got a lot of experience in the accounting field and in business.

I just want to ask you, has your firm or have you personally ever been involved in acting on behalf of Royal Group Technologies?

Mr Knight: Yes.

Mr Tascona: You have.

Mr Knight: I have not personally, but my firm was, and I believe is still, the auditor of that firm.

Mr Tascona: When you say "auditor," in what capacity?

Mr Knight: Statutory auditor of their financial statements.

Mr Tascona: And do they do any other type of work for Royal Group Technologies?

Mr Knight: I have no idea.

Mr Tascona: No idea. Your firm is involved in consulting, isn't it?

Mr Knight: My firm was involved in traditional management consulting until 1998 or 1999—I've forgotten exactly when—when KPMG Canada sold that practice to KPMG US and it was spun off in a public offering.

Mr Tascona: OK. So what period of time has your firm acted on behalf of Royal Group Technologies in the auditing area?

Mr Knight: I believe we had been their auditors, or my firm was their auditors—forgive me for the slip, but it's 46 years I was there, and nine months since I've been gone, so I still tend to say "we" sometimes. I believe the firm has been the auditors of Royal for more than 20 years, but I don't know for sure.

Mr Tascona: So how would you handle a situation if Royal Group Technologies appeared before you at the securities commission?

Mr Knight: I don't know what the commission's rules are on conflicts, but I would expect not to be involved with matters involving clients of my former firm for some sensible period of time. I have been separated

from the firm for getting on to a year. I would think probably another year or so would do it, but I don't know what the commission's rules are and obviously I would respect those. If I didn't, I'm sure there are those who would make sure I respected them.

Mr Tascona: Has your firm or have you personally acted in an accounting function with respect to the Minister of Finance, Greg Sorbara, or any of his family's companies?

Mr Knight: Certainly I have not, and to the best of my knowledge my former firm has not.

Ms Scott: Thank you very much for appearing before us here today.

Mr Knight: My pleasure.

Ms Scott: This board has got a lot of responsibility. It's composed of a maximum of 14 members, including a chair. The remaining board members are part-time. I understand you were recommended to fill a vacancy on the board because you are a recently retired senior member of the accounting profession and your qualifications are quite impressive. As you've stated, you've been called on by all stripes of government in the past to use your expertise. What we found most interesting was the fact that the chair, David Brown, wrote to the minister in March and your appointment was only brought forward to cabinet at the end of May. One of the things we as committee members receive as part of our preparation for review is a copy of the application forms of the prospective appointees who appear before us. Frequently the applications are signed just days prior to the appointments being approved by cabinet. In fact, we have a few of those that were mentioned earlier today.

My question to you is, given the important work of the OSC and the review that has just been completed, do you know why the government delayed making your appointment?

Mr Knight: I have no idea. My understanding is that my nomination was first forwarded to the government in August 2003. I have no idea—well, I guess an election got in the way, to start with, but beyond that, I don't know.

Ms Scott: OK. We were just wondering and we were trying to clarify.

There are currently committee hearings underway reviewing the Ontario Securities Commission. Have you been following them at all?

Mr Knight: I have been looking at what the print media has to say.

Ms Scott: The report of the five-year committee contains 95 recommendations. One of the most important is to establish a single securities regulator across Canada. Do you agree with this recommendation, and, if you do, what kind of structure do you think would work best? It's a challenging question.

Mr Knight: Yes, I agree with the recommendation. My personal preference would be for a federal securities regulator, but that might not work best. Well, it may be very difficult to get there. It looks as though it would be. So I favour some form of national regulation, be it

accomplished by the passport system or some other co-operative provincial system, but I do think we need a national regulatory system.

Ms Scott: There are quite a few provinces that are not necessarily on board with that.

Mr Knight: I guess it depends on which point of view is expressed. I think BC has reservations about one approach, Alberta about another, and Quebec about another, or sides with one of those first two, I'm not sure. Beyond that, I don't know.

Ms Scott: It could be a long time, I'm sure, sorting it out.

The report also recommends studying the appropriate structure for the Ontario Securities Commission's adjudicative tribunal. How important do you believe it is to separate the adjudicative function from the regulator's other roles? The OSC has just released that report by the Integrity Commissioner that concludes that the dual role of the OSC should be ended.

Mr Knight: Obviously I believe it's important to get some resolution to the controversy. I have long believed that, in the auditor's terms, the appearance of independence and objectivity is as important as the fact itself of independence and objectivity. I have not seen the report by the Integrity Commissioner, I have not seen the legal opinions that Mr Brown released a few days ago, I have not read the Crawford report, so I don't have a well-informed opinion.

I will say this: One of the things I find attractive about being a commissioner is the opportunity to participate in all aspects of what the commission currently does. I have some experience as a tryer of fact. I was a special referee on appointment by what was then the Supreme Court of Ontario some years ago and I have to admit it was a very enjoyable experience, sitting up there in the front and having everyone hang on my every word.

Would I find the job as attractive without both the regulatory and the adjudicative aspects? At this point, it's difficult to say, because I haven't done the job, but certainly I find both aspects attractive. I understand from the print media that someone—I think it's either Mr Justice Osborne or another highly respected figure—said there would be no trouble finding people to staff the adjudicative function separately from the regulatory function. I don't know.

Ms Scott: Thank you very much for your time today.

The Chair: The NDP.

Ms Horwath: The questions have been very well covered off by the previous questioners. I guess the one that hasn't come up is in regard to—you mentioned that you were following what's happening in the print media in regard to possible reforms. One of the reforms that has been suggested or recommended is the governance of mutual funds. Do you have any opinion of that particular initiative, and how you see that unfolding in the next little while?

Mr Knight: I believe, based on my recollection of what I've read, that it certainly should be a priority for the commission, but I have to confess that I have no

detailed knowledge of the controversies involving mutual funds.

Ms Horwath: I have no further questions, Madam Chair.

The Chair: That brings us to the end of your interview, Mr Knight. We wish you well and we appreciate your taking the time to appear before us this morning. Thank you very much.

Mr Knight: Thank you very much. It's a pleasure to have been here and I do hope to have the job.

The Chair: That concludes the interviews this morning. After lunch we will be resuming at 1 o'clock in room 151. Our first interview will be using French language. That's why we're going down to room 151 at 1 o'clock. Thank you very much.

The committee recessed from 1133 to 1303 and resumed in room 151.

RENÉ FONTAINE

Review of intended appointment, selected by official opposition party: René Fontaine, intended appointee as member, Ontario Northland Transportation Commission.

The Chair: I'd like to call the meeting to order. We'll begin our fifth interview of the day with René Fontaine, the intended appointee as a member of the Ontario Northland Transportation Commission. I would invite Mr Fontaine to come forward, and let you know that you do have an opportunity, should you choose to do so, to make an initial statement. Following that, the members of the committee will ask questions. Each party will have 10 minutes. We'll go in rotation, and whatever time you might take for your statement, Mr Fontaine, will be deducted from the time allotted to the government party.

We welcome you here this afternoon, and I would invite you to make an opening statement if you have one.

Mr René Fontaine: Merci, madame la Présidente. Mon nom est René Fontaine. I'm from Hearst, Ontario. I was a businessman for many years as a lumberman; the sawmill used to employ 300 employees. After I left politics, I sold out to Malette, and then Malette was bought by Tembec.

I served the town. I was mayor for 13 years, conseiller pour quatre. Like everybody else, I took part in the Lions Club, KC, minor hockey; Action Group, which was a group of mayors that put pressure on the government in the 1970s and got the day train and the airline, norOntair, the air ambulance and so on.

Then one day I decided at 4 o'clock in the afternoon to run as a Liberal. I won in 1985 and I served my province till 1990. In 1990, I didn't run; I quit. I went back home, and that's where I sold my business.

Since then, when I was in Hearst, for many years I took care of the youth with problems with drugs. We started la Maison Renaissance for the French-speaking youth, and we started—la Renaissance was for the people involved with alcoholism and drugs, and for the youth it was l'Arc-En-Ciel, the Rainbow, in Opasatika.

After that, when I came back home, from 1997 up to now, I've been working with the First Nation people, a group of businessmen in Hearst. We started them in business in the bush as a contractor. They've got 28 working full-time, plus 15 in trucking.

I'm here today to serve the province again if you want. If you don't want, well, we'll see. Thank you.

The Chair: Thank you very much, Mr Fontaine. I'm trying to think of who we start with. We start with the Progressive Conservative Party. Ms Scott?

Ms Scott: Thank you, Mr Fontaine, for appearing before us today. You've given us lots of history. Have you made financial donations to the Ontario Liberal Party recently?

Mr Fontaine: Well, I'm a Liberal all my life, so—

Ms Scott: Yes, I heard you say that.

Mr Fontaine: —I guess I did.

Ms Scott: Do you still make donations to the Ontario Liberal Party?

Mr Fontaine: Well, last election, yes. I was always a Liberal, all my life. But I think everybody knows that in the north.

Ms Scott: OK. So you've made financial donations to the Liberal Party all your life.

Mr Fontaine: Yes.

Ms Scott: Several years ago you were involved in a matter where you resigned as an MPP because of the failure to comply with government conflict-of-interest guidelines. I'm just a new MPP, and I don't know if I have all the details straight.

Mr Fontaine: Well, the details—I came back and I was named as a minister. I went for the election. The people judged me and I won by a landslide. I went back in 1987. There was nothing wrong with that. Some people wanted my—how do you say it?—ma peau. Later on, I found out it was somebody from Hearst who was feeding all this to—

Ms Scott: So you had owned shares in Golden Tiger Mining Explorations Inc?

Mr Fontaine: Oh, don't start that. I mean, I went through that.

Ms Scott: I was just doing the history.

Mr Fontaine: It cost my life. It was \$150 of flow-through shares which was deposited in Montreal, the Montreal Trust. It was a Québec company. It had nothing to do with Ontario. We were exploring in Ontario, but that was it. First of all, I didn't even know it was mining—what it was all about.

Ms Scott: But it was at that point that it was found you had a conflict of interest? There was a parliamentary committee that—

Mr Fontaine: I don't know if—

Ms Scott: Just for the record, is that correct?

Mr Fontaine: Oui. Yes.

Ms Scott: A committee and the government investigated the matter and they found that you had violated the conflict-of-interest guidelines. That's why you then stepped down as an MPP?

Mr Fontaine: I decided to step down myself.

Ms Scott: Before the committee made the recommendation?

Mr Fontaine: Yes.

Ms Scott: Then you ran in a by-election and were re-elected. And then you eventually—did you get back into cabinet?

Mr Fontaine: Yes.

Ms Scott: By Mr Peterson?

Mr Fontaine: Yes.

Ms Scott: All right. Since your retirement, you've remained active. The Liberal candidate for the same riding in the last election, Michael Doody, said, "The McGuinty Liberals want to restore northern Ontario to the status it once held under René Fontaine from Hearst." Given the past history, would he be referring to the period from June 1985 to 1986, just prior to your resignation?

Mr Fontaine: What did he say?

Ms Scott: He said, "The ... Liberals want to restore northern Ontario to the status it once held," under René Lafontaine from Hearst."

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Mr Fontaine: Fontaine.

Ms Scott: Sorry.

Mr Fontaine: What he was talking about was the heritage fund. That happened during my term, and he wanted to restore where the heritage fund was before: used to develop the north, not just to be a cash cow for some friends.

Ms Scott: OK. I'll pass over to my colleague Mr Tascona at this time.

Mr Tascona: Thank you, Mr Fontaine, for coming here today. You're going to be taking over—so I understand exactly your role in this particular capacity, you're going to be a part-time member; correct? In that capacity, what are you going to be doing with the rest of your time? Are you going to be in any business?

Mr Fontaine: I'm still working with the First Nations people, and I've got lots of time.

Mr Tascona: Have you got any business interests that would involve—

Mr Fontaine: No.

Mr Tascona: I haven't finished the question. Have you got any business interests that would involve or conflict with your role on the Ontario Northland Transportation Commission?

Mr Fontaine: No more business.

Mr Tascona: No? Nothing would involve it? Are you not a consultant for Tembec?

Mr Fontaine: No. I'm working for Tembec for the native people. That's my duty. It's month to month. Maybe I'll be over that next month. That's all I'm doing right now.

Mr Tascona: OK. So you're consulting—

Mr Fontaine: It's not consulting; I'm working.

Mr Tascona: OK. You're working—

Mr Fontaine: I'm not going around for Tembec. I'm working every day for the First Nations.

Mr Tascona: Yes, I understand that. You got that point clear: You're working for Tembec and you're doing work for the First Nations.

Mr Fontaine: The group in Hearst, the sawmill, there was a blockade seven years ago, and they gave me that job, to work with the First Nations to put them in business—that's what I'm doing—and trying to find wood for them to cut. I went to Nakina last week. So that's what I'm doing right now.

Mr Tascona: What's your role going to be as part-time member? Do you know?

Mr Fontaine: I've got some expertise. When I was a minister, we bought the CNR from Cochrane to Hearst. That's one thing I did. We put back the ONR as a development tool, and we moved the station to save time for the passenger train.

Mr Tascona: But what do you envision doing as the part-time member?

Mr Fontaine: I will continue to be sure that the ONR will be a development railway like it was meant to be, to develop the north, and to be part of that.

Mr Tascona: So that's your vision for this commission?

Mr Fontaine: Yes, and then sometimes I try to be profitable, to continue what they are doing right now with the new cars to haul lumber from all the sawmills in northern Ontario, and then to be there for the new development of mining, phosphate and all this.

Mr Tascona: No one doubts your interest in the north and your qualifications as a former minister, but I just want to see, in terms of this Ontario Northland Transportation Commission, where you want to see it go, as opposed to where you think it hasn't been going. It hasn't been going in the right direction. That's what you're suggesting.

Mr Fontaine: I think first of all they should repair the track. I take the train quite a bit, and they'll have to look at the track. They'll have to clean—near the track there's all kinds of rails, and if I was doing that in the bush, I'd lose my licence. So this is one thing, and then to give better service to the passengers. I think there's a potential for passengers, especially since, as you know, the gas in northern Ontario is 94 or 95 cents. So I think there's a potential to be better, to have a better night train or day train. But we'll see.

Mr Tascona: So the service that you'd like to see—from what I've read when I was up north in a couple of hearings a few years ago, it would appear that the Northland transportation system was in jeopardy in terms of whether it was viable economically. Do you think it can be economically viable?

Mr Fontaine: I think so. I don't know. When I was a minister, we had 17 unions. Now, I was told, there are six left. So we'll have to rationalize, do like they did with the ACR, Wisconsin, before they sold back to CN. I think we'll have to look at it. I don't know yet. Are passengers at 100,000 or 80,000? I'll have to find out.

Mr Tascona: So there were 17 unions when you were there, and now it's down to six.

Mr Fontaine: That's what I was told, yes.

Mr Tascona: Do you think there should be less union involvement in the railway?

Mr Fontaine: No, no. The union is there, but I think we should rationalize that you don't deal with 17. It's now six. I think we should look at other short lines, like what happened to the Wisconsin when they bought Algoma Central. I wanted the ONR to buy that too, but I left.

Mr Tascona: Do you think there should be less than six unions?

Mr Fontaine: I don't know. I will have to look at that too, where they are.

Mr Tascona: That's one of the things you want to look at when you get on the commission?

Mr Fontaine: I'm not against the union. I'm just saying that.

Mr Tascona: No, I understand that.

What other things do you think should be done with respect to making the transportation line viable?

Mr Fontaine: I think the new chairman or the new president—I think they're advertising—should have experience in railway too, not only in communication.

Mr Tascona: What are they advertising for? I didn't know.

Mr Fontaine: Somebody told me it was a—

Mr Tascona: A new president for Ontario Northland?

Mr Fontaine: Oui. I think that he should have some expertise in business and in railway a little bit. That's what I wanted to do when I was there. I think we should have.

Mr Tascona: Who was the president before?

Mr Fontaine: I don't know who.

Mr Tascona: We haven't had a president. This is a new position, the president for the Northland commission?

Mr Fontaine: Yes.

Ms Monique M. Smith (Nipissing): We've had a vice-president for divestiture, because your government wanted to divest it and privatize it. Our government is committing to keeping it public, and so now we're looking for a president in order to run it.

Mr Tascona: Yes. So that's being advertised right now?

Ms Smith: Yes.

The Chair: Thank you very much. We'll now go to the NDP.

Ms Horwath: Good afternoon. Many of the questions have been covered off, but I guess I just wanted to get a little bit more of an understanding, considering your experience, of where you see the commission going in the next, let's say, five years. Perhaps you could explain what your vision would be.

Mr Fontaine: I think the freight, from what I see in Hearst—I'm talking, let's say, 10 years ago with our attempt to get cars—10 years? When we bought the CN; that was before that. With the ONR, finally they decided to buy or lease new cars to haul lumber. We cut the trucking in my hometown by 80%. People went back to

railway through the Wisconsin or the CP. Now CNR bought it. They wanted to buy that line too, and I guess they regret to have sold from Cochrane to Nakina. So I think the freight—there's always things to do, but I think it's on the right track.

I think we've got to concentrate more on the passenger, and then on the roadbed. There's quite a bit of—how do you call that? Les trains-là qui déraillent, des déraillements.

Ms Horwath: Derailment?

Mr Fontaine: Yes. OK? There's quite a bit of that. That should not happen. Some happened in a swamp, that I can agree, but on high ground, I don't agree.

I think there should be a smoother ride for the passengers too. I think we've got to spend money on the roadbed. For example, two Sundays ago I took the train 30 kilometres. I think we were doing good time. Then the last 30 kilometres, halfway between Temagami and North Bay, it took about an hour and a half, so something is wrong. We came late to North Bay. I thought we would be there at a quarter to 11, that we'd save half an hour, but something is wrong. I think we should concentrate on that too. I guess if we had a better passenger service, more people would use it.

Ms Horwath: And do you think the unions are stakeholders in the success of the—

Mr Fontaine: I think, yes. I didn't look, but from what I saw in the paper, when the Liberal government decided to keep it, I think there was some good understanding with the unions.

Ms Horwath: I'm just following up on some of the previous questions about the reduction in the number of unions from 17 to how many there are now. I'm just trying to get at—

Mr Fontaine: Maybe six is OK; maybe there's two for the communications and there's three left for the railway. I don't know.

Ms Horwath: But would you advocate for the participation of unions as stakeholders in the process of improving passenger service?

Mr Fontaine: Yes. Otherwise, I don't think a small railway like that will be viable, if the unions are not part of it. You've got the history of other short lines that made money, and I think we could turn it around if everybody works together.

Ms Horwath: Do you see the unions as one of the stakeholders that would have to make serious concessions to be able to make things better?

Mr Fontaine: They already did. I don't know. We'll have to look at it. I think it's a movement. It's not only salary. You know what I mean? Why are there so many derailments? We'll have to find out too. There are a few things. Everybody has to be together if we want this railway to be viable and not to take every five years to sell it. Otherwise, it will be gone in another five or 10 years.

Ms Horwath: Thank you. No further questions.

The Chair: Any questions from the government?

Mr Parsons: No. We're pleased that Mr Fontaine has overcome his shyness, but we have no questions.

The Chair: Thank you, Mr Parsons, and thank you very much, Mr Fontaine, for coming and appearing before us today. We do appreciate your taking that time.

Mr Fontaine: A costly trip.

The Chair: Yes, for sure it is. But isn't it wonderful to see Toronto?

Mr Fontaine: Merci.

The Chair: Merci.

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NORMAN JESIN

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

The Chair: We'll move on now to Norman Jesin, our sixth interview, intended appointee as member of the Ontario Labour Relations Board. I would invite you to come forward. Again, you have the opportunity to make an initial statement, and after that there will be questions from the committee. Please be seated. Do you wish to make a statement, Mr Jesin?

Mr Norman Jesin: Yes, please. I wish to thank the committee for the opportunity to appear here and to explain my qualifications for my appointment to the Ontario Labour Relations Board as a part-time vice-chair.

I think you have a copy of my resumé. As is set out in my resumé, I have represented trade union clients before the labour board for over 21 years. My first exposure to the Ontario Labour Relations Board was, however, as an articling student. I had the privilege of working at the board when it was chaired by George Adams, or Mr Justice George Adams. Some of the other vice-chairs at the time included Kevin Burkett, Michel and Pam Picher, Mort Mitchnick and Rick MacDowell.

During my time at the board, I learned to appreciate the importance of the board not simply in adjudicating disputes but in facilitating collective bargaining so that industry can continue to operate in a way that is satisfactory to employers and employees alike.

My experience as a lawyer before the board has been extensive. For more than 10 years, my previous firm, Jesin Watson and McCreary, has appeared before the labour board as much as or more than any other trade union firm. I have particular experience in handling cases in the construction industry. It is my understanding that somewhere between one third and one half of all of the board's cases come from the construction industry, yet there are a very limited number of people who have the peculiar expertise necessary to practise in this area and to interpret and administer the difficult construction industry provisions of the Labour Relations Act. I believe my experience in this area is a special asset in support of my appointment to the board.

My overall experience as a practitioner has taught me the importance of finding solutions to labour and employment disputes that are practical, consistent with

sound legal principle, as well as sound labour relations and employment policy. It is my hope and my humble belief that my skills and experience will allow me to adjudicate in accordance with these goals.

I have provided a bit more detail about my experience in my resumé, and I invite you to ask any questions you may have regarding my application.

The Chair: Thank you very much, Mr Jesin, and we'll start with the NDP.

Ms Horwath: Welcome. My question actually is in regard to the current regime of labour relations in the province. There have been many changes over the past decade or so under the Conservative government. Could you comment a little bit on where you think the balance is between business and labour at this point in time in labour relations in Ontario?

Mr Jesin: I guess one way to answer is that I ran as a candidate, as an MLA, and nobody seemed to be interested in my opinion on where policy should be, because I was soundly rejected by the voters.

Having said that, I think that, in the broader scheme of things, there always is a balance. We tweak the legislation one way or another. I think that, when you look at the goals, some of the goals have been consistent for a long period of time, and one of the more important goals that I see and that I've mentioned is really to facilitate collective bargaining so that workplace disputes don't get in the way of the operation of business and industry and, at the same time, there's a satisfactory working life for employees. However we tweak the legislation, I think that our job is really to apply it with those goals in mind. I guess it's up to the people sitting here to decide exactly where to go. But the main thing, I think, is to stay consistent with that goal.

Ms Horwath: OK, that's fair. Particularly around the issue of hours of work and the workweek that's currently under discussion in the province of Ontario, I'm wondering whether you have any opinion on the reduction of the workweek from 60 hours to something less than that, and whether or not you think that was being recommended—which is really the opportunity for workers to sign up for more than a 40-hour workweek—and whether you think that's an appropriate direction to be going.

Mr Jesin: It's not something I've given a lot of thought to recently because, as I've indicated, most of my experience has been in labour relations and, in particular, in construction—not just in construction; I'd say that a very strong component of my practice was in industrial relations too. We've done some employment work over the years and some work under the Employment Standards Act. I'm familiar with it, although we haven't practised in that area extensively. I'd like a reduced workweek for myself. But in all fairness, I'm sure there are arguments to be made on all sides. Our job is really to interpret and apply the legislation, and that's what I hope to do.

Ms Horwath: In your particular experience representing the union side at the board, do you see that there are any procedural changes or anything that needs

to occur, or do you think that the system, as it sits, is effective and efficient?

Mr Jesin: I've looked at the system over the years—again, the rules have been tweaked and the procedures have been tweaked over the years. Don't take anything from this, but I think that the system is as good as the quality of the adjudicators that are dealing with it. I think, over the years, the quality at the labour board has generally been fairly high. As long as the goal, again, is to facilitate disputes, the ways are there, under the current rules, whether we tweak them or not, to find solutions to problems in such a way that allows the parties to move on.

Ms Horwath: I don't think I have any more questions.

The Chair: OK. The government?

Mr Parsons: No questions.

The Chair: The Conservatives?

Mr Tascona: I'm delighted to have Mr Jesin in front of us here today. It's good to see you.

Mr Jesin: Thank you. It's nice to see you again.

Mr Tascona: I didn't know you ran as an MLA. What year was that?

Mr Jesin: I ran against the current minister, Mr Kwinter. Talk about trying to bash my head against a brick wall.

Mr Tascona: What year did you do that?

Mr Jesin: That was not the last election, but the one before that.

Mr Tascona: So 1999?

Mr Jesin: Yes.

Mr Tascona: I just wanted to ask you a few questions, because you're very qualified to be at the board. I just wanted to ask you, how did you hear about the position?

Mr Jesin: I had been actually seeking a career change, or thinking about a career change, for some time. As part of that, I guess I'd let it be known that I was thinking of a career change. I don't know who approached who. I may have approached the current chair, Mr Whitaker, and just mentioned that to him, and at some point he called me and said that there was an opening. We had a chat, and then I filled out my application.

Mr Tascona: The only opening was for part-time as opposed to full-time?

Mr Jesin: I had let it be known that that's what I was seeking. I guess I was told there was a part-time opening.

Mr Tascona: What would you do with the rest of the time? Would there be some legal activity you'd be doing?

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Mr Jesin: I have hung my shingle out as a private arbitrator, and I am trying to build a practice.

Mr Tascona: In the labour relations field?

Mr Jesin: That's correct, and mediator.

Mr Tascona: How's Mr Watson taking this?

Mr Jesin: The practice continues to thrive. I have the greatest respect for Mr Watson. I think he's doing well. I hope and I think that the firm will continue to do well.

Mr Tascona: Good. You've appeared at the board for many years. Do you have an opinion on how the hearings process can be improved at the board?

Mr Jesin: I think that a lot of the quality—and I've mentioned this before—has to do with the quality of the adjudicators. I think there's a good group being assembled now; I think there's a good group there right now. When you have a group which conducts hearings in a somewhat efficient manner so that time isn't wasted, and which issues decisions in a reasonably timely fashion, and where the decisions themselves are reasonable, then you have really high-quality adjudication. I think the group that is being assembled now, of the people that I know, is certainly moving in that direction. I think there is a good group there.

Mr Tascona: I think you may be commenting on the quality of the adjudicators over time.

Mr Jesin: No. I'm not saying this to be critical. I think that labour board adjudication has generally, throughout my entire experience, been of a very high standard. That's not to say there haven't been any inconsistencies in there, but I think it has generally been of a high standard and continues to be of a high standard. I know that the workload at the board is very, very high. So it's tough in practice, and I'm sure it's tough at the labour board at times to conduct business efficiently, but I think there is a good group there right now, and that's consistent with the way things have been over time.

Mr Tascona: Let me ask you a question with respect to the venue. Toronto is the headquarters for the board. Does the board do any travelling outside of Toronto these days?

Mr Jesin: As far as I know, in the cases I've been in, if a party from out of town has asked for a hearing to be conducted out of town, then I think that after the first day of hearings those requests have generally been granted. I have conducted hearings in recent years in Windsor in particular. But out-of-town parties aren't always asking. I don't know what the policy is, but in cases that I've been involved in where parties have asked, the cases have been conducted out of town.

Mr Tascona: That's where there's sort of an extended hearing?

Mr Jesin: Yes.

Mr Tascona: Based on your experience, can you comment on how this experience will shape the perspectives you'll bring to your work on the board, bearing in mind that you come from a union background?

Mr Jesin: Let me try to answer it this way. I got a copy of my Canadian Lawyer magazine in the morning mail. There's a section in there about lawyers on the management side. I was particularly interested in the comments—John West from Ogilvy Renault talked about how practice has evolved and how successful lawyers on the management side are really trying to advise their clients not on how to fight with unions, but on how to get along with them. By doing that, that helps their business go better.

I think lawyers in practice on both sides have known about that for a long time and have always tried to find ways to get practical solutions that avoid continuing acrimonious battles. I've found that good counsel on the management side do that and good counsel on the union side do that. If we bring that practical approach to trying to resolve disputes and helping the parties resolve disputes, I think our experience and practice can help in that goal.

Mr Tascona: That's all the questions I have. Thanks very much.

The Chair: That completes the interview, Mr Jesin. Thank you for coming.

JEFFREY LEVY

Review of intended appointment, selected by official opposition party: Jeffrey Levy, intended appointee as member, Justices of the Peace Review Council.

The Chair: I am now pleased to call forward our seventh interview, Mr Jeffrey A. Levy, the intended appointee as a member, Justices of the Peace Review Council. Welcome, Mr Levy. As you probably heard, you may make an initial statement. Following that, if you choose to do so, there will be questions from the committee.

Mr Jeffrey Levy: Thank you, I do have some comments. Madam Chair, members of the committee, I'm pleased to be here this afternoon to discuss with you my qualifications for appointment as a member of the Justices of Peace Review Council.

I graduated from McMaster University in 1977 with a bachelor of commerce and from the University of Windsor in 1980 with a bachelor of laws. I have been in private practice in Hamilton as a trial lawyer since my call to the bar of Ontario in 1982.

For the last 22 years, my practice has consisted almost entirely of litigation; mostly criminal law but also civil litigation and family law. In 1983, I was appointed by then-Attorney General, now Chief Justice of Ontario, Roy McMurtry, as a part-time assistant crown attorney, allowing me to prosecute cases in provincial court on behalf of the local crown attorney's office. At the same time, I was developing my criminal defence practice both in provincial court, now called Ontario Court of Justice, and district court, which later became Ontario Court (General Division) and is now called the Superior Court of Justice. I have also appeared in the Ontario Court of Appeal on a number of occasions.

In 1992, I was appointed as a deputy judge of the Hamilton Small Claims Court, where I preside in civil trials regarding amounts up to \$10,000. Of approximately 15 deputy judges in Hamilton, I am the second in seniority.

In 1994, I was appointed as a standing agent of the Attorney General of Canada for federal prosecutions. As the senior federal prosecutor in Hamilton, I regularly prosecute individuals charged with offences under the Controlled Drugs and Substances Act. I also on occasion

prosecute people charged with income tax and other offences under federal statutes. At the same time, I have continued my criminal defence practice representing people charged with offences under the Criminal Code of Canada.

Following my appointment as a federal prosecutor, in 1995, I was appointed as an agent of the Solicitor General of Canada in regard to obtaining authorizations for wiretaps when these are necessary for police investigations of major drug offences.

During my 22 years in practice, I have appeared before justices of the peace thousands of times and conducted hundreds of bail hearings, both as federal prosecutor and as defence counsel. I have also frequently appeared before justices of the peace in provincial offences court, representing clients charged with Highway Traffic Act offences and other offences under various provincial statutes. I have also prosecuted before justices of the peace in provincial offences court on behalf of the Crown Attorney's office.

I have also been involved in volunteer work for many years, both professionally and in the broader community.

I have been an active member of the Hamilton Criminal Lawyers' Association where I was secretary-treasurer and then vice-president. I have served on the Unified Family Court bench and bar liaison committee and am currently a member of the Hamilton Ontario Court Of Justice user committee, which is chaired by the local administrative justice and includes all of the stakeholders involved on a daily basis in the Ontario Court of Justice, including the local administrative justice of the peace and the local crown attorney. I am also presently a member of the Hamilton Police Service youth drug diversion committee, which has set up a pre-charge diversion program for youths charged with possession of small amounts of marijuana and cannabis resin.

In the broader community, I was national vice-president of B'nai Brith Canada for three years until 2001 and have been a member of the public affairs committee of the Hamilton Jewish Federation for a number of years. I am presently a member of the Hamilton Police Service interfaith committee and the safety and security team of the Strengthening Hamilton's Community Initiative.

I am a member of both the Liberal Party of Canada and the Ontario Liberal Party and have donated to both. However, I also made a donation to Toni Skarica when he ran for election with the Ontario Conservative Party in 1995, and in 1984, I voted for Brian Mulroney.

I believe that my background and experience—

Mr Peter Kormos (Niagara Centre): You're obviously not playing to us, are you?

Mr Levy: No. Sorry, Mr Kormos.

I believe my background and experience makes me well qualified to serve on the Justices of the Peace Review Council. In making decisions regarding the liberty of individuals charged with criminal offences and presiding over trials on all manner of offences under provincial statutes, justices of the peace obviously have an extremely crucial role to play in the administration of

justice in Ontario. Having appeared before justices of the peace regularly from both sides of the courtroom for the last 22 years, I believe I can make a positive and balanced contribution to the work of this important council.

Thank you for giving me the opportunity to address you today. I am happy to answer any questions you may have.

The Chair: Thank you very much, Mr Levy. We're going to begin with the government.

Mr Parsons: Brian Mulroney?

Mr Levy: I believed him at the debate. What can I say?

Mr Parsons: No other questions.

The Chair: The Conservatives?

1340

Mr Tascona: Another thorough grilling by the government.

Thanks for coming here today. It's certainly a pleasure to see someone as qualified as yourself, but I do have to ask the question: Since you appear in front of JPs all the time and you're a criminal lawyer, how are you going to balance that in terms of a conflict?

Mr Levy: First of all, I should say my practice is almost solely confined to Hamilton—I go out of town very rarely these days—and there are five, six or seven justices of the peace in Hamilton. The only time there would ever be a conflict, that I see, is if there were a complaint made against any justice of the peace in Hamilton whom I appear in front of that had to be dealt with by the council. In that case, I think the appropriate thing would be to not take part but I would take direction from the chief justice, who is the chair of the council. But other than that, I don't see any conflict.

Mr Tascona: Yes, but do you not think that because of this role you would intimidate justices of the peace who know you're on the review council in terms of how they would deal with you? Let's be honest: You have a powerful position. You're the review committee for their job.

Mr Levy: I think some justices of the peace find me intimidating anyway in court, and I say that with respect to the justices of the peace, because I am very thorough when I appeal in front of them, particularly on bail hearings. I don't think that would change anything because, as I said, if there were a complaint against any particular justice of the peace whom I regularly appear in front of, I expect that I would be asked, and would be prepared certainly to offer, not to take part.

Mr Tascona: No, I'm not talking about a complaint; I'm talking about your own particular practice in terms of getting what you want to get. You're there trying to make your points and argue your points and represent your client properly, whether it's government or whether it's an individual or a corporation. But just that spectre of the fact that you're the overriding body that deals with the behaviour and performance of these individuals, do you not think that would put them in an uncomfortable position, having to face you?

Mr Levy: No, I don't. I read recently that Alan Gold, a very prominent criminal lawyer in Hamilton, was recently appointed to the Judicial Appointments Advisory Committee. I know he appears in front of judges in Toronto and elsewhere all the time, and I don't think they would consider that intimidating because he's on that committee. I don't think there would be any difference being on this committee.

Mr Tascona: OK. Let me ask you this: Looking at the qualification of JPs, whether it's non-presiding or presiding—and there was some discussion of this in Alberta with respect to the qualifications of JPs which you may or may not be aware of—do you think JPs should have a law degree, given their role and responsibilities in the legal system?

Mr Levy: I did hear during the last government, after the justices of the peace received what I heard was a fairly substantial raise, that the government was going to implement a policy that only lawyers would be qualified to be justices of the peace. I don't think that's happened. I think you need a person sitting as a justice of the peace who understands the law and the process. If a person can do that without being a lawyer, then it may not be necessary. However, I think the responsibility of the council in making reports to the Attorney General about prospective candidates for justices of the peace is subject to the legislation, and as long as the legislation doesn't require there be a lawyer, I don't think the council has any role in giving an opinion in that regard.

Mr Tascona: The reason I say that is because it's interrelated in terms of the fact they can sit until they're age 70 and, quite frankly, the review process is complaint-driven as opposed to monitoring performance in terms of how they do on a day-to-day basis. Do you think there should be another way to assess the performance of a justice of the peace, considering the fundamental role they play and that perhaps some lawyers or judges don't think they're exactly up to the job and yet they've got that tenure to 70?

Mr Levy: If lawyers or judges don't think that a particular justice of the peace is up to the job—

Mr Tascona: But it's not conduct-related. It's just basically whether they do their job.

Mr Levy: I understand that, but lawyers can evaluate that from appearing in front of them, aside from conduct-related. In other words, complaints can be made, I would think, not just about conduct but about the qualifications, the manner in which the person performs the job. As long as the legislation provides that the discipline process or the review process is complaint-driven, that's what the council has to deal with. It's really up to the elected representatives, if they so choose, to change that. Then the council will have to do that.

Mr Tascona: I realize that, but what do you think? What's your opinion? Do you think that dealing with JPs should just be a complaint-driven system, or should there be some other method of gauging and judging performance?

Mr Levy: As a prospective member of the council, I don't think it's up to me to tell the government or the

Legislature how to do its job. I don't think my opinion in that regard—that's a policy question. I know that the review council is not a policy body. It implements the policy that it's given. It implements the procedures that it's given. I don't think it's appropriate for me to provide a personal opinion in that regard as a prospective member of the council.

Mr Tascona: What do you think of the selection process at this point? Do you think it should be changed or upgraded?

Mr Levy: As I understand the selection process, individuals apply. The names are sent to the Attorney General, who then sends a short list to the council to interview those individuals and then they send a report back to the Attorney General. That's my understanding of the process currently. It appears that the process is an application-driven process.

Wouldn't we all like to see a process where people are approached to apply for a particular role or to be offered a role—not only justices of the peace but judges? Wouldn't we all like—and I'm sure Mr Kormos would agree—to be approached by somebody who says, "We'd like you to be a judge. Come on board"? That's not the way it works. It works as an application-driven process. I don't see any particular change in that process in that regard.

Having said that, if the process were to change, then it would be up to the council, if it were still the appropriate body, to implement whatever process is implemented by the Legislature.

Mr Tascona: OK. Thanks very much.

The Chair: Mr Kormos?

Mr Kormos: Thank you kindly. I listened carefully—by the way, to Mr Tascona's comments about the potential conflict, obviously you're going to seek counsel, should you be appointed, and I'm confident you will be, because they've got the majority and they've already signalled and it's been a wink and a nod.

I don't know what advice you're going to get, but this is not the appointments committee, this is the review committee, which I put in a different—you made reference to Gold and the appointments committee. To me, that's a far different kettle of fish, in terms of the impact or ramifications of the observations Mr Tascona made. I had never really reflected on that until now. But it would be easy enough for you to simply say, "I'm not going to appear in front of JPs." There are a whole lot of other venues you're going to be able to continue to work in.

You voted for Mulroney in, what, 1984?

Mr Levy: Yes, sir.

Mr Kormos: It didn't do you any good, because you didn't start to get federal appointments until the Liberals were elected.

Mr Levy: I was appointed in 1994, almost a year after the election. That's correct.

Mr Kormos: So those are patronage positions too.

Mr Levy: My position as a federal prosecutor is an appointment by the Liberal government. It's patronage, I have no doubt. However, I can tell you, Mr Kormos, that

I would not have applied for it if I didn't think I was qualified.

Mr Kormos: And I have little doubt that if you weren't qualified, you wouldn't have been appointed. The problem is that justices of the peace in this province, in contrast to provincial judicial appointments—that goes back to the Ian Scott days and the reforms of Ian Scott; I was fortunate to be here—remain very much patronage appointments.

Mr Levy: I can't comment on that, because until I decided to apply for appointment to this council, I really didn't know much, if anything, about the appointment process of justices of the peace. We saw new ones come through and new ones being trained coming into Hamilton. What their background was, I certainly never asked and wasn't aware of.

Mr Kormos: Where else do you think the incredible number of incompetent justices of the peace came from? Please.

1350

Mr Mario Sergio (York West): Peter, come on.

Mr Kormos: No, you come on.

Mr Levy: The council certainly isn't only a review council in dealing with discipline, though. It does deal with the appointments process. The council therefore has to make certain recommendations, a report to the Attorney General, in regard to the names of those whom they've interviewed.

Mr Kormos: Michael Bryant, the Attorney General, made a commitment in January, as was confirmed to us in the briefing notes competently provided by research, to review the appointments process. CBC television did a little piece a couple of months ago blowing the whistle on the dogs that had been appointed by virtue of the patronage.

Laughter.

Mr Kormos: Well, did you see the program?

Of course, the two most recent and most notorious disciplinary actions—I call one the honk-honk incident. Do you remember that? The JPs got all drunk up at the JP convention. One JP sexually assaulted his colleague, a woman, and then did it again. He was ordered to attend counselling of some sort.

Then, the other one, of course, which apparently gave rise to the Attorney General saying, "Whoa, we have to review this process," was the JP in Toronto—that hat. Do you remember the hat incident?

And then the articling student. The JP wasn't very smart, besides being incompetent, because the articling student was articling for a very prestigious criminal lawyer, right? The JP should have known that all hell was going to break loose when the kid got out of there. Do you remember that he wouldn't let the student leave the courtroom to go to the bathroom?

Mr Levy: I read about it, yes.

Mr Kormos: In my view, the Attorney General should be consulting members of this council when it comes time to review the appointments process. What advice have you got for him about cleaning up the pro-

cess and not appointing any more incompetent, pompous, self-serving, arrogant victims of judgeitis to the JP bench?

Mr Levy: First, let me say that as I understand it, there are approximately 300 justices of the peace in Ontario, both presiding and non-presiding. You've mentioned two incidents which were very highly publicized recently. I don't disagree with you that some justices of the peace are far more competent than others. I certainly have experienced that in my practice.

By the way, I will say that I don't believe I would have to cease appearing in front of justices of the peace if I'm appointed to this council.

Mr Kormos: I don't know. Ms Smith might have counsel for you.

Mr Levy: The issue of changing the process—and I read the comments of the Attorney General about that. If he chooses to do that and that changes either the way in which the process is conducted or even the composition of the review council, that is something the Legislature has to deal with. I don't know and I don't really agree that the review council itself would be consulted by the Attorney General in that regard. I don't think that's the review council's mandate. The review council's mandate is to implement the policy that it's given. It's not to give the politicians or the Attorney General feedback or to comment about prospective changes to the process; it's to implement the process as they are directed. So I don't see that my opinion or indeed that of the members of the council would be asked for in that regard.

Mr Kormos: Are you telling me that if you get this appointment and then Bryant contacts the council and says, "Can we have a sit-down and can you just give me your views on how we could improve the appointments process?" you're going to say, "Well, Attorney General, go pound salt, because that's not part of our mandate"?

Mr Levy: No, of course not. I would never say that. My point is that I don't think he would do that because I don't think it's part of the council's mandate.

Certainly, he has made comments about appointing only the best people. He has made comments about it being a transparent process. I don't disagree with his comments. I think that's appropriate.

How do you take it out of the patronage realm, as you've called it? The appointments by government are often, if not always, going to bring accusations by others of patronage. I don't know that you're ever going to fully get away from that.

Mr Kormos: They only bring the accusations of patronage when you have Liberal governments appointing Liberals. That's why Liberal governments appoint the occasional New Democrat—or so-called New Democrat—or Conservative.

Back to the actual patronage scenario and the issue of—clearly, the Attorney General has concerns about the incompetent people who have been functioning as justices of the peace.

Mr Levy: I don't wish to tar all justices of the peace with the same brush, saying they're all incompetent.

There are some who are competent and some who aren't competent, the same as there are some lawyers, criminal and otherwise, who are competent or incompetent.

Mr Kormos: Quite right. The chiefs of police, as you know, prepared a report, a year and a half old now, that expressed serious concerns about lazy justices of the peace. Are you aware of that observation by the Ontario chiefs of police association?

Mr Levy: I wasn't specifically aware of their observation, but I've observed it myself.

Mr Kormos: Justices of the peace who are on the duty roster who don't want to show up at inconvenient hours?

Mr Levy: I don't know specifically about that, although I do know there was a time when justices of the peace used to do things like issue search warrants after hours and go to the jail to do releases, which they don't do anymore. The telewarrant system was implemented to resolve the one issue; I don't know if the other issue was ever resolved.

Mr Kormos: Understanding the argument being used by justices of the peace and other members of the judiciary—that is, again, very loosely, the independence of the judiciary—how do you, in a supervisory—because it is supervisory—and a disciplinary role, deal with lazy and incompetent justices of the peace and at the same time respect their independence?

Mr Levy: The only way you can deal with them is if there is a complaint about them that comes before the council, which can then perform the duties that the council is given in the complaint process, which is to investigate and recommend an inquiry if necessary.

Mr Kormos: The briefing notes I have indicate that JPs have mandatory retirement at the age of 70, and the Liberals, as you know, have indicated that they're going to abolish mandatory retirement.

Ms Smith: Except for you.

Mr Kormos: Ms Smith wants me to retire. Not yet, Ms Smith. There may be snow on the roof, but there's still fire in the furnace. They've been trying for years.

Does this mean that we're not going to have mandatory retirement for justices of the peace either?

Mr Levy: I have no idea. I couldn't answer that. I wouldn't know. I don't know what the government is thinking in that regard.

Mr Kormos: Well, if they say you shouldn't have to retire at a fixed age, that's discriminatory.

Mr Levy: There's already mandatory retirement for federally appointed and provincially appointed judges. I can only go by what I've read in the paper. If they abolish mandatory retirement—I thought they meant mandatory retirement at 65. How that might impact on justices of the peace, I have no idea.

Mr Kormos: OK. What about numbers of justices of the peace and access to JPs? You've seen bail courts where—you know what's happening—people are spending horribly long lengths of time not in pre-trial custody but in pre-bail hearing custody. At the end of the day, you, as an experienced lawyer and a prosecutor from

time to time, know full well which of those people are going to get released and which aren't, don't you? You'd have pretty good odds of being able to pick out the ones that are going to get released sooner or later, wouldn't you?

Mr Levy: We make every effort in Hamilton, and we've developed some extra bail courts that are presided over by justices of the peace to deal with that issue. It's a constantly evolving process in order to improve the system. There is currently a committee, chaired by the local administrative justice of the peace, that involves different players in the system, including the president of the local Criminal Lawyers' Association, one of my colleagues, one of the other federal prosecutors, the crown attorney and several others, to continually improve the system. Should there be more justices of the peace? Probably.

The Chair: Thank you very much, Mr Levy. Our time is up. We do appreciate your coming here today, and we wish you all the best.

We have one individual left, one appointee for an interview, Mr Ron Fotheringham. We understand he will be here shortly.

Ms Smith: He's definitely in the building. We're just looking for him right now.

1400

The Chair: OK. One of the things we could do in the interim, if you like, is move to concurrence and deal with the other appointees. Shall we do that?

Ms Scott: Joe's missing. Do you want me to get him?

The Chair: We will begin with our first appointment—Ms Scott went to seek out Mr Tascona.

We will now consider the intended appointment of Dr Gerald R. Stephenson, intended appointee as vice-chair of the Pesticides Advisory Committee.

Mr Parsons: I would move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

If not, all in favour? Opposed? The motion is carried.

We will now consider the intended appointment of Bruce Binning, intended appointee as a member of the Ontario Labour Relations Board.

Mr Parsons: I move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

If not, all in favour? Opposed? The motion is carried.

We will now consider the intended appointment of Chisanga Puta-Chekwe, intended appointee as a member of the Social Benefits Tribunal.

Mr Parsons: I move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

If not, all in favour? Opposed? The motion is carried.

We will now consider the intended appointment of David L. Knight, intended appointee as a member of the Ontario Securities Commission.

Mr Parsons: I move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

If not, all in favour? Opposed? The motion is carried.

We will now consider the intended appointment of René Fontaine, intended appointee as a member of the Ontario Northland Transportation Commission.

Mr Parsons: I move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

Ms Scott: I'd like to make a comment. I'd beg indulgence of the members of the government to consider what type of appointment they would like to see for this gentleman. You know his history, and I think it's an example you don't want to set by appointing this gentleman, given his past history of having to step down. He was certainly in conflict of interest, judged by a committee. I just wanted to mention that I didn't agree with the appointment, and I would call for a recorded vote on that, please.

Ayes

Berardinetti, Mitchell, Parsons, Smith.

Nays

Horwath, Scott.

The Chair: The motion is carried.

We will now consider the intended appointment of Norman Jesin, intended appointee as a member of the Ontario Labour Relations Board.

Mr Parsons: I move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

If not, all in favour? Opposed? The motion is carried.

We will now consider the intended appointment of Jeffrey A. Levy, intended appointee as a member, Justices of the Peace Review Council.

Mr Parsons: I again move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion?

Mr Tascona: I certainly believe Mr Levy is qualified in terms of profession and everything, but I do see—and I think it's going to have to be raised with the Justices of the Peace Review Council—a conflict of interest if Mr Levy continues to appear in front of justices of the peace and hold that particular position. There is no doubt in my mind there is an intimidation factor. I'm not commenting on his character or whatever; I want to make that clear. But the fact that he's a criminal lawyer and that he's also on the Justices of the Peace Review Council and he's appearing in front of the justices of the peace is definitely a conflict of interest, if there ever was one. So in that regard I have great difficulties with that. The Justices of the Peace Review Council may be the final arbiter in terms of saying, "This is what you're going to be able to do. You're not going to appear in front of any justices of the peace in Hamilton." That's something that would be proper and should be forthcoming.

Those are the comments I want to make on the record, and, based on the information we have at this point, I can't support the nomination.

The Chair: All in favour? Opposed?

Mr Tascona: I want a recorded vote.

Ayes

Berardinetti, Horwath, Mitchell, Parsons, Smith.

Nays

Scott, Tascona.

The Chair: The motion is carried.
That brings us to our last appointee.

RON FOTHERINGHAM

Review of intended appointment, selected by official opposition party: Ron Fotheringham, intended appointee as member, Ontario Lottery and Gaming Corp.

The Chair: Our eighth interview today is with Ron Fotheringham, the intended appointee as a member of the Ontario Lottery and Gaming Corp.

I would invite you to come forward, Mr Fotheringham. As you know, you do have an opportunity to make an initial statement. If you choose to do so, that will be followed by 10 minutes of questions being allocated to each party. Welcome. Did you wish to make a statement?

Mr Ron Fotheringham: Yes, I'll take just a couple of minutes, if you don't mind. I'm pleased to submit my name, and thank you for the opportunity to be considered for this position.

Just a bit of personal background: I was born, raised and educated, and worked all my life, in Ontario. I have paid a lot of Ontario taxes. I have a career in business and business management, management consulting. I am now retired, but I still keep my hand in in consulting to client friends and community organizations. I have been married for 41 years. I've lived in various places, such as Hamilton, Burlington and Bolton, and I now live on Stoney Lake in North Kawartha township. I wouldn't normally say this in an interview, but I don't gamble. I'm a non-gambler, OK?

I'm interested in this position with the OLG because it's a large, highly complex and important industry in Ontario, and, I'm sure, with some very highly interesting strategic challenges. My primary motivation is to contribute to my community in a tangible way, and I believe I might make an important contribution to the OLG in three specific ways that I can see:

(1) Marketing experience and marketing expertise to provide marketing oversight at the board level on a budget that I understand is in the order of \$250 million.

(2) A breadth of experience in making judgments in complex businesses as a consultant, as a mentor and as a strategic planner, in an exceptionally broad range of businesses all over the world.

(3) Facilitation skills. I believe I have some expertise in processes that arrive at decisions and planned development.

In other words, I believe this job that I'm applying for fits with my experience, and vice versa.

The last point I'd like to make is what I hope to get out of it. First, I expect a steep learning curve with a unique business, a business with unique needs, drivers and clients. Second, I hope to get a feeling of contribution to the community on something that's very important. Obviously, when we're talking about something that's \$2 billion to the Ontario government, that seems to be important to me. Finally, I feel I want to get out of this some grappling with challenging and important questions and problems so that I can maintain the health of my little grey cells.

That's my statement.

1410

The Chair: Thank you very much, Mr Fotheringham. The Conservative Party—questions?

Ms Scott: Welcome today to Mr Fotheringham, who is a constituent of mine. I have to say you've come highly recommended from the communities of Peterborough, Peterborough county and the Kawartha Lakes for the contribution to public service that you've made since you retired up there in beautiful Stoney Lake.

We just have to confirm, how did you hear about this appointment?

Mr Fotheringham: I got a call out of the blue from Tim Reid, who is chairman of the OLG. He told me that my name had been recommended to him by a common friend. He's a member of the board of VIA Rail, and one of the other members has been a client and friend of mine for 15 or 20 years. He's on the board of the British Columbia Lottery Corp. I think, during long conversations he's had with this fellow, he probably asked the question, "Got anybody in Ontario that you know that you could recommend?" and my friend recommended me highly, I understand.

Ms Scott: I'm sorry, what does your friend do?

Mr Fotheringham: When he was my client and friend, he was vice-president of marketing at Scott Paper out in Vancouver, but he is now a VIA Rail member and also a member of the board of the British Columbia Lottery Corp.

Ms Scott: So he recommended your name?

Mr Fotheringham: Yes, he did.

Ms Scott: I see you've known Gerry Phillips before.

Mr Fotheringham: Oh, yes.

Ms Scott: You've been a financial supporter of the Liberal Party and Mr Phillips in the past?

Mr Fotheringham: Oh, I've shown up for 15 or 16 years at his annual fundraising dinner. Yes, I never miss that.

Ms Scott: OK. That's great.

What do you see about the marketing for the OLG? Do you have any ways that you'd like it to go, like a more socially responsible way that you could see for marketing? Do you have any ideas? I know it's going to be a big learning curve, and I appreciate the fact that you've said that.

Mr Fotheringham: Tim Reid has been very careful in not telling me anything about the OLGC. In fact, all I know is what I read in the annual report.

When I look at a budget of \$250 million, if I've got the number right, I think there's a matter of effectiveness and efficiency of that spending, but when it comes to social spending, it is an interesting question. I'm a fellow who grew up in a time when I thought gambling was illegal. Now that it's legal, I'm sure there are a number of problems associated with that. One of those problems, of course, is prevention and treatment of addictive gambling or gambling problems of that order. There's also a possibility of overstating our case and attracting people who really can't afford to do the sort of things that gambling entails. So I think there is a question of, we must do what's right. There's probably a balance here in terms of trying to build the business and at the same time being socially responsible.

Ms Scott: Have you been to Kawartha Downs? It's very close by.

Mr Fotheringham: No, I haven't. I've passed by it, but that's it.

Ms Scott: Those are all the questions I have, Mr Fotheringham.

Mr Tascona: Is there a name for this common friend?

Mr Fotheringham: Yes, his name is Don Pettit, but I don't think you'd know him.

Mr Tascona: I don't think I do. I know his name now, though.

Mr Fotheringham: I don't know if he wants to appear in Ontario Hansard.

Mr Tascona: Well, those things happen.

Mr Fotheringham: Yes, I guess.

Mr Tascona: There's a comment in your resumé. You're certainly well-trained: Procter and Gamble. Looking at this, you've done strategic planning consulting work. Do you still have that practice?

Mr Fotheringham: Yes, I personally do two, three or maybe four days a month on it.

Mr Tascona: You work for long-term friends, clients and non-profit organizations?

Mr Fotheringham: Yes.

Mr Tascona: You realize that non-profit organizations are organizations that could benefit from money from the Ontario Lottery and Gaming Corp under the training fund?

Mr Fotheringham: I suppose so. What I'm thinking of there, most recently, are things like Fleming College or Five Counties Children's Centre, which are, I think, under other departments or funding sources than Trillium.

Mr Tascona: Yes. I want to point that out to you because the fact is the training fund does support organizations such as non-profit organizations.

Mr Fotheringham: Yes, I understand.

Mr Tascona: I take it that you haven't had much discussion with Mr Reid in terms of what specific role you would have with the OLGC.

Mr Fotheringham: No. If this is a successful meeting, I plan to meet him for the first time this afternoon.

Mr Tascona: I just want to raise that because, obviously, you're doing consulting work with organizations that potentially could benefit from funding from the Trillium corporation. That's something you may not be aware of, but I think you should be aware of it.

Mr Fotheringham: I should point out that any of my non-profit work is all pro bono. I do it to keep my hand in it and to be—

Mr Tascona: I appreciate that. You don't know very much about OLGC. What do you think you can contribute? You have some comments here about how you can contribute, but what do you think you would want to really focus on? You mentioned problems in gambling. Is there a specific area that you want to focus on?

Mr Fotheringham: There are a number of things, but this is just as a reader as opposed to anything with any inside knowledge. Prevention and treatment, I think, would be one subject. Whether this should be a business that indeed grows, expands or consolidates or diminishes is something of a strategic nature that I think will be an important question. It does seem like a business that, although incredibly large, has reached a state of maturity. I'm most interested in contributing to that future direction, whatever it might be, but I don't have enough data, information and knowledge to be able to address that question.

I think that cross-border competition might be something else that I could be useful and contributory on. Finally, as I think I mentioned, marketing effectiveness and efficiency on a budget that large.

Mr Tascona: OK. Thanks very much.

Ms Horwath: Welcome. I guess I'm just kind of following up on the previous question. The whole ball of wax is quite controversial in Ontario with regard to the whole gaming system, the whole industry, if you want to call it that. Do you have any personal opinions on the expansion of the gaming system and the increase in the number of casinos and opportunities for video lottery terminals to be located across the province?

Mr Fotheringham: I don't have sufficient knowledge to say that, but when I look at what I can read, 37 million patrons appeared before these gambling establishments. It would seem that such establishments do seem convenient enough and accessible enough that this should be quite sufficient, but I really shouldn't even be allowed an opinion on that.

Ms Horwath: There has been a move in terms of the location of the headquarters of the commission. It used to be in Sault Ste Marie. It moved, I believe, in the year 2000 to Toronto. The city of Sault Ste Marie is asking that the headquarters be relocated and, with it, several hundred jobs to assist with the economy there. Do you have any opinion on that issue?

Mr Fotheringham: No, I don't. I'm afraid I've not given it any thought whatsoever. I'm sorry.

Ms Horwath: All right. You talk a little bit about some of your skills and your other capacities that you see contributing to this position. Is there anything that you wanted to share in terms of specific projects or

undertakings that you would like to see occur in regard to your position?

Mr Fotheringham: Not until I've talked to Mr Reid and understood where the strategic plan seems to be going at this particular point. I have a questionnaire that goes on for two pages with Mr Reid later on, in terms of things like—I'll refer to it—what he sees as the key issues. I'd like to understand a lot more about the autonomy of the board or relative interaction. I'd like to understand who my client would be, and I'd like to talk about marketing a lot.

I don't believe that OLGC has anything to do with allocation of funds. I don't know enough about it in terms of what happens to the money after it's turned over to the government. I'd like to know where his strategic plan is going. I'd like to understand these objectives in terms of expansion versus contraction and what I can do about helping out on that. I'd like to understand what my orientation would be and that sort of thing.

Ms Horwath: Again, in terms of your opportunity to apply, it was all through a friend of a friend type of situation?

Mr Fotheringham: Yes. It appears that way, anyway. This call, as I say, was out of the blue.

The Chair: The government?

Mr Lorenzo Berardinetti (Scarborough Southwest): No questions.

The Chair: Thank you very much for appearing here today, Mr Fotheringham. We do appreciate your coming forward and wish you all the best.

That will allow us, then, to move into concurrence and to consider the intended appointment of Ron Fotheringham, intended appointee as a member of the Ontario Lottery and Gaming Corporation.

Mr Parsons: I would move concurrence.

The Chair: Concurrence in the appointment has been moved by Mr Parsons. Any discussion? If not, all in favour? Opposed? The motion is carried.

Is there any other business before we adjourn? If not, the meeting is adjourned.

The committee adjourned at 1421.

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