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Official Report of Debates (Hansard)

Monday 18 August 2008

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Lundi 18 août 2008

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Julia Munro
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Monday 18 August 2008

Lundi 18 août 2008

The committee met at 0901 in room 151.

SUBCOMMITTEE REPORTS

The Chair (Mrs. Julia Munro): Good morning, and welcome to the standing committee on agencies. First of all, following the agenda, we're going to look at the report of the subcommittee on committee business dated Thursday, June 12. I need someone to move its adoption. Mr. Brown.

Mr. Michael A. Brown: I so move the subcommittee report on committee business dated Thursday, June 12, 2008.

The Chair (Mrs. Julia Munro): Is there any discussion? If not, all in favour? Opposed? The motion is carried.

We'll move to our second order of business, which is the report of the subcommittee on committee business dated Thursday, June 19.

Mr. Michael A. Brown: I move the subcommittee report on committee business dated Thursday, June 19, 2008.

The Chair (Mrs. Julia Munro): Any discussion? If not, all in favour? Opposed? The motion is carried.

Our third order of business is the revised report of the subcommittee on committee business dated Thursday, July 3.

Mr. Michael A. Brown: I move the revised report of the subcommittee on committee business dated Thursday, July 3, 2008.

The Chair (Mrs. Julia Munro): Any discussion? If not, all in favour? Opposed? The motion is carried.

Our fourth order of business is the report of the subcommittee on committee business dated Thursday, July 17.

Mr. Michael A. Brown: I move the report of the subcommittee on committee business dated Thursday, July 17, 2008.

The Chair (Mrs. Julia Munro): Any discussion? If not, all in favour? Opposed? The motion is carried.

Our fifth order of business is the report of the subcommittee on committee business dated Thursday, July 31.

Mr. Michael A. Brown: I move the report of the subcommittee on committee business dated Thursday, July 31, 2008.

The Chair (Mrs. Julia Munro): Is there any discussion? All those in favour? Opposed? The motion is carried.

Ms. Lisa MacLeod: I was wondering when the transcripts will be available for this committee hearing today. Is it possible to get them for tomorrow?

The Chair (Mrs. Julia Munro): I would have to check on that for you and perhaps get back to you later during our meeting this morning.

Ms. Lisa MacLeod: Thank you, Madam Chair.

INTENDED APPOINTMENTS

ANDREW DIAMOND

Review of intended appointment, selected by official opposition party: Andrew Diamond, intended appointee as member, Human Rights Tribunal of Ontario.

The Chair (Mrs. Julia Munro): We will now move to appointment reviews. Our first interview is with Andrew Diamond, the intended appointee as member, Human Rights Tribunal of Ontario.

Good morning, Mr. Diamond, and welcome to the committee. As you may be aware, you have an opportunity, should you wish, to make an initial statement. Subsequent to that, there are questions from members of the committee. This morning we will be commencing with questions from the government. Please go ahead.

Mr. Andrew Diamond: Thank you, Madam Chair and members of the committee. First, I'd like to thank the committee and, in particular, Mr. Kevin Dwyer of the clerks' office for arranging this early meeting and for me to go first so that it would have the least amount of impact on a previously scheduled vacation.

I was called to the bar in 1991. A good portion of my practice was in labour and employment law, which included providing advice to clients on human rights issues and the Ontario Human Rights Code. In the past, I have been a member of the board of directors of something that was called Independence Afloat, which was a sailing school for people with disabilities. I am also a past member of the Toronto committee of the international organization Human Rights Watch.

Since 2005, I have been acting primarily in the public sector but also with some private sector clients as a mediator and adjudicator, and applied for this job in response to an advertisement that I saw, I believe, in the Ontario Reports. I was interviewed by the Chair and the

alternate Chair and have been recommended for the appointment, obviously subject to your approval.

Thank you, Madam Chair.

The Chair (Mrs. Julia Munro): Thank you very much. As I've mentioned, we will begin with government members. Questions? Comments?

Mr. Michael A. Brown: Thank you, Mr. Diamond. I just want to note our appreciation of you coming forward today and hope that your successful appointment will prove very good for the people of Ontario.

Mr. Andrew Diamond: Thank you, sir.

The Chair (Mrs. Julia Munro): We'll go to Ms. MacLeod.

Ms. Lisa MacLeod: Good morning. Welcome to our committee. You are from a local riding here in Toronto?

Mr. Andrew Diamond: Yes.

Ms. Lisa MacLeod: Do you recall which one it would be?

Mr. Andrew Diamond: I think St. Paul's is its official name.

Ms. Lisa MacLeod: St. Paul's? So Michael Bryant, the former Attorney General, would be your MPP?

Mr. Andrew Diamond: That's correct.

Ms. Lisa MacLeod: Okay. Just a couple of brief questions from the official opposition. The commission, according to the information we received from our researchers here with the Legislature, has an ability to initiate complaints. Chief Commissioner Hall has said that there are known and unknown causes of discrimination. I'd like to know if you think it's your job to discover new types of discrimination.

Mr. Andrew Diamond: Sorry, initiation of complaints, as I understand it, is a right of the Human Rights Commission. With the redesign and restructuring, it's really the objective of the tribunal, and particularly its members and vice-chairs, to respond to complaints that have been made, including by the commission but not by the tribunal. So perhaps I've misunderstood your question.

Ms. Lisa MacLeod: Essentially what I've asked is, Chief Commissioner Barbara Hall has said that there are known and unknown causes of discrimination. Do you think it's your job to discover new types of discrimination—not initiation, discrimination and discovery of that?

Mr. Andrew Diamond: Well, the complaints structure is set up as if someone believes that their rights have been infringed under the code. They will make a complaint to the tribunal or the commission will make its own complaint. As someone who has then been charged with hearing that complaint, the member or vice-chair will determine whether or not the grounds, new or otherwise, fit within both the specific and the general terms of the Human Rights Code. For me to discover—it's for me, as someone hearing and making an adjudication, to decide whether or not a complaint does or doesn't fit within the parameters of the code.

Ms. Lisa MacLeod: Okay. Keeping with that, "The commission has always had a broad mandate"—I'm just

reading right from page 3 of the committee report from the clerks' office—"to develop policy; provide information and education; and promote public awareness and understanding of, and compliance with, the code."

Having said that, Chief Commissioner Hall has said that she'd like to see the number of complaints filed in Ontario "spike"—that's her quote, "spike"—in number. Do you agree?

Mr. Andrew Diamond: I want to take a step back. I assume we're both talking about the same thing, but you keep referring to the commission, and these are appointments to the tribunal, which is very different and distinct in its function. But I think that all Ontarians would love to have complaints drop, meaning that there will be fewer instances of perceived discrimination amongst citizens of the province. So lower numbers are better because it means that as a society, we are treating people fairly and equally, and that members of society don't feel the need to complain about their treatment.

0910

Ms. Lisa MacLeod: Thank you. I appreciate that. Do you have any questions, my colleague?

The Chair (Mrs. Julia Munro): Mr. Hillier?

Mr. Randy Hillier: Yes, just a couple of brief questions, and thank you very much for being here today. There are a couple of things about the tribunal that I'd like to have your comments on and your views and opinions.

The first one is, the tribunal doesn't provide any information at the moment on its website regarding the disposition of those complaints. Do you think that that is appropriate, or ought they be making that information known to the public?

Mr. Andrew Diamond: I read the comment at some point for there to be transparency; I think that reasons for decisions have to be available somewhere. While influential, there won't be any precedent value as between adjudicators on the tribunal because they are co-jurisdictional, but as to the stance that there is consensus as to the right view on things, then yes, I think there should be some reporting mechanism. I sit on the Licence Appeal Tribunal as well, as you may know, and its decisions—and in fact, something called a bench brief, which are sort of the leading cases on various subject areas—are available online.

Mr. Randy Hillier: Following up on a question from my colleague, the tribunal, however, does state that it expects the caseload to grow—

Mr. Andrew Diamond: Yes.

Mr. Randy Hillier:—for discrimination. It also puzzles me—the commission, of course, has been in operation for a significant period of time, and part of their mandate is to educate and lessen the amount of discrimination in the province. I'm just wondering, what is your view, after, I think, 40 years now of the Ontario Human Rights Commission? We're seeing increasing cases of discrimination or expecting to see them. Those two comments, those facts, don't sit well with me, that we're seeing more and more discrimination after decades of trying to reduce it.

Mr. Andrew Diamond: I can't comment on whether or not we're seeing more or less discrimination. What we have seen is an increase in the number of complaints, so that's clearly perceived discrimination. I don't have the results of the outcomes of those complaints, as to whether or not the percentage of complainants, or absolute numbers of complainants, have been successful or not. So that would be with respect to whether or not there's an increase in findings of discrimination.

You, as legislators, all having looked at this and having decided to change the structure, would be in a better position than me, but it seems to me that now that the commission no longer has this bifurcated role of being educator, researcher, investigator and adjudicator, and can now focus, under Chair Hall, on its new core duties of education and research, perhaps it can fulfil that mandate better because the investigative and adjudicative sides of it have been removed to the tribunal.

Mr. Randy Hillier: I certainly agree. I think that some division of labours is important in the whole—one last thing, just your own comment. We often hear many terms bandied about in the media, and I'd like to just hear your own comments and your own views on human rights and civil rights and freedoms. What is the difference, in your view, between civil rights and human rights?

Mr. Andrew Diamond: I can't immediately think of any.

Mr. Randy Hillier: Looking at what has transpired over the years, and especially lately, with the human rights business, if I might call it that, or industry—clearly, the commission was initiated to prevent discrimination or find redress when there was discrimination present.

Mr. Andrew Diamond: Yes.

Mr. Randy Hillier: We've seen it increasingly creep into other areas, such as freedom of speech. Of course, there have been a number of high-profile cases lately: Ezra Levant and Mark Steyn were a couple. What's your view, as an adjudicator of this tribunal, if you're successful, of reining in or following the original mandate or increasingly creeping into some of these other areas, such as freedom of speech?

Mr. Andrew Diamond: Freedom of speech is particularly highlighted because of the current case, I think, out of western Canada. It is, obviously, the most difficult part: the classic maxim about a free and democratic society being somebody's right to say whatever they feel and my right to disagree vehemently, but to defend their right to say it. As far back as a philosophy paper I wrote as an undergraduate for Professor Taylor, who's sort of the leader in this field, and I had the great privilege of actually being able to discuss it with then-retired Prime Minister Trudeau, who happened to be a friend of Mr. Taylor's—we were talking about hate law and where it crosses over. It is the most difficult area, about inciting hatred versus someone's right to say what they feel and think. You've hit the nail on the head; it is absolutely the most difficult area and I think has to be done on a case-

by-case basis: "What have you said? In what form have you said it? Who have you said it to? What have you asked those people to do? Have you incited them to do anything?"

Mr. Randy Hillier: Do you—

The Chair (Mrs. Julia Munro): Thank you very much. I'm sorry; we've run out of time.

Mr. Randy Hillier: Can I have one last question?

The Chair (Mrs. Julia Munro): I'm sorry; we must move on. Ms. Gélinas.

M^{me} France Gélinas: Welcome to Queen's Park, Mr. Diamond. I was curious to see what motivated you to seek this appointment.

Mr. Andrew Diamond: To be perfectly candid, I currently hold two part-time per diem appointments: one for the Licence Appeal Tribunal and one as the deputy registrar in bankruptcy for the Superior Court. Unfortunately, government is one of the few places where two halves don't make a whole. I had originally applied for a full-time vice-chair's position, this being an area in which I have always, as I said, back to my undergraduate days, been academically and professionally interested. I thought the opportunity was a very good one, and that's what made me want to apply for the position.

M^{me} France Gélinas: Are you concerned at all about running out of time at some point or being available?

Mr. Andrew Diamond: We've had detailed discussions about that, in part because the tribunal is in this transition period until the end of the year. It currently doesn't know exactly what the caseload is going to be. There are close to some 3,000 cases sitting at the commission, which, if they're not resolved by year's end, will have the right to come over. Because they are all part-time per diem appointments, I book my quarters out halfway through the previous quarter, leaving, so far, adequate time for writing and sitting. So I will approach each of the coordinators for each of my appointments to see how many days they want and what hearings they have sitting, and then I will block those into my calendar to hopefully make full-time.

M^{me} France Gélinas: So you figure it's doable?

Mr. Andrew Diamond: Yes, I figure it's doable.

M^{me} France Gélinas: Okay. What do you see or anticipate some of the challenges to be? I realize there will be a period of transition. Have you thought about that?

Mr. Andrew Diamond: I have, and that's why I think that the chair has gone with this current model of having a number of part-time per diem appointees available, because they're uncertain, so there's no commitment to people like me as to how many days you are going to sit. As I say, there are—I have the number in front of me—3,800 cases currently sitting at the commission, only 80 of which have elected to transition so far. If the numbers drop off because over time people have lost interest and those cases don't come across and there won't be the huge need, that's one of the challenges for the tribunal. If they all come, obviously it's a huge challenge to clear 3,800 cases. That's why, as I understand, the chair has

appointed so many part-time people: to be able to clear that backlog if that backlog does come to fruition.

0920

M^{me} France Gélinas: Do you speak French at all?

Mr. Andrew Diamond: Not well enough to conduct a hearing, candidly.

The Chair (Mrs. Julia Munro): Thank you very much for being here this morning. We appreciate the fact that you've juggled your time to be with us this morning. That concludes the time.

I'd just like to respond to an earlier question with regard to a transcript. I've been informed that the draft will be completed by either 9 a.m. or noon tomorrow.

MARK SAKAMOTO

Review of intended appointment, selected by official opposition party: Mark Sakamoto, intended appointee as member, Ontario Media Development Corp.

The Chair (Mrs. Julia Munro): Our second interview this morning is with Mr. Mark Sakamoto. He's the intended appointee as member, Ontario Media Development Corp.

Welcome to the committee.

Mr. Mark Sakamoto: Thank you all very much for the opportunity to appear before you today. I'd like to just make a very brief opening statement.

I feel as though I've been a part of the entertainment industry all my life. My family promotes concerts. Growing up, I worked closely with them doing everything from selling T-shirts to assisting in the production of coliseum shows. After law school, I worked at Heenan Blaikie here in Toronto, mainly with the firm's entertainment practice. I moved to the CBC and currently am a manager of business rights and content. To that end, I negotiate the arts and entertainment deals that the network wants to put into development. I was called to the bar in 2004.

On a personal note, my wife is a modern dancer, so arts and culture have me surrounded, professionally and personally.

The prospect of serving on the OMDC board would allow me to also continue my small contribution to public service. Public service is something I highly value. I've volunteered with seekers of public office, from the Liberal Party to Mr. John Tory here in Toronto, and I've served on boards appointed by the Premier of Alberta while I was living there. So any small contribution I might make, I do so happily.

The OMDC operates in a truly globalized world. Film studios, recording companies and artists of all genres have the ability to be very mobile with their capital and their respective talents. Within the entertainment and creative industry, Ontario needs to be every bit aware of what is happening in the Czech Republic or South Africa as what's happening in North America. The OMDC serves the province of Ontario by ensuring that we maintain that competitive environment in a jurisdictionally promiscuous industry. Quite frankly, if a film executive

can cut a better deal in Johannesburg, she'll do it. If a guitarist hears about a city called Seattle that's exploding, he'll move.

I'm honoured to be given the opportunity to serve on the OMDC board, should you deem it so, because of the high value I place on art and culture in society.

However, art is also an economic issue. In fact, I think that the creative industry may be the economic issue for Ontario to manage. The more that we can attract that creative class, the more secure our economy will be in the coming decades.

I thank you very much for your time. I'm happy to answer any questions you may have.

The Chair (Mrs. Julia Munro): Thank you very much. We'll begin with the official opposition. Mr. Hillier.

Mr. Randy Hillier: Thank you very much for being here today. A few questions, as I was going through the intended appointment here—and a couple of questions from the information that's been provided.

First off, I have to say that in all these intended appointments there are really only a few areas of concern that we're looking for, and that's to demonstrate competence, demonstrate that there are no conflicts, and demonstrate that there isn't undue bias that would override an individual's good judgment.

I see, as a full-time employee of the CBC, the potential for conflict with this role for this intended appointment. Your role, as I understand it, with the CBC may have some overlap with decisions made from this intended appointment.

Mr. Mark Sakamoto: Thank you very much for the question. I think my role at the CBC in fact assists my ability to provide insight into the board's discussion. I am, so to say, in the trenches, so I think that would assist my contribution.

The CBC is a federal entity governed by the Broadcasting Act, so it's not within the jurisdiction of the province.

I would say that despite being a \$10-billion industry for the province of Ontario, it is a pretty small circle of professionals who operate within it. So when I review the current board list, I think that the appointment committee appreciates that members should have a background in the respective creative industry. That being said, any potential discussion which I, the chair, or any members of the board feel I should recuse myself of, due to apparent conflict of interest, I would happily do so.

Mr. Randy Hillier: I might ask you to just make a comment, as well, on page 4 of the information that we were provided. I know that you're not on that board right at the moment, but there's an interesting table on page 4. It shows that in the year 2006-07, there were 414 applications for tax credits, but 421 certificates were issued. More projects were undertaken than applications received. I'm just wondering if you can shed some light on—

Mr. Mark Sakamoto: Sorry, shed some light on the discrepancy between the numbers 414 and 421?

Mr. Randy Hillier: —that there's more certificates than applications.

Mr. Mark Sakamoto: Unfortunately, sir, I cannot shed any light on why that discrepancy exists at this point in time.

Mr. Randy Hillier: Or more projects undertaken than requests by applications.

Mr. Mark Sakamoto: Sorry, at this point, I'm unable to provide any insight on that.

Mr. Randy Hillier: I look forward to following up on that with you later on.

I understand that you're quite active in the Liberal Party, leadership campaigns and donations etc. It's significantly important that public servants, people sitting on boards—we all have biases; even on the official opposition, there's some bias from time to time. But those biases can't be seen as overriding our decision-making. In this role of approving projects, applications and reviewing them, and your present employment with the CBC, there appears to be some bias toward public, as compared to private investment in the arts, or undertakings by the arts.

Mr. Mark Sakamoto: I think that there is a significant amount of public financing in the arts, particularly within the Canadian English television and film market. But there is also a significant amount of private money, both within the television industry—but the OMDC's mandate is also book publishing and music, which are almost entirely private.

Mr. Randy Hillier: Okay. I think that's all my questions for now. Thanks.

The Chair (Mrs. Julia Munro): Thank you. Ms. Gélinas?

M^{me} France Gélinas: Good morning.

Mr. Mark Sakamoto: Good morning.

M^{me} France Gélinas: I'd like to have your view as to how you would describe the health of the domestic film and television industry right now.

Mr. Mark Sakamoto: I think the professionals within the TV industry in Ontario, Canada, and Toronto, specifically—Vancouver, as well—are truly some of the best in the world. Toronto's film and TV crews are literally top-notch. The content that our producers create, I think, is varied, interesting and provocative.

But we do have a basic economic reality in that we live next door to the most prolific cultural exporter the world has ever seen, and that's Hollywood. I think that we have done well despite that, and in many cases we've done well because of it. I think we will continue to do so. That being said, I suppose there's always room for improvement.

M^{me} France Gélinas: Do you have any knowledge of some of the television and film industries that are growing in northern Ontario?

Mr. Mark Sakamoto: Film and television in northern Ontario? Let me think. There are a couple of interesting television producers in the city of Sudbury that have had a long run on the animated show Chilly Beach, which has done quite well. I think that in terms of recognizing areas

of improvement within the television market, expanding jobs from Toronto out to rural areas certainly might be one of them. Again, though, on the OMDC side, the board's mandate is much larger than just television and film. There are some great music festivals that service rural Ontario, and I think those sorts of initiatives are positive.

0930

M^{me} France Gélinas: Do you speak French at all?

Mr. Mark Sakamoto: I do not speak French very well.

M^{me} France Gélinas: Do you have any knowledge of activities going on within French television, media or books?

Mr. Mark Sakamoto: Oh, sure. I mean, the French television market is just a brilliant gem for Canadians, but particularly for French Canadians. They have their own star system and they are very well funded—privately, but they're also supported publicly as well.

M^{me} France Gélinas: Thank you.

The Chair (Mrs. Julia Munro): We'll move to the government.

Mr. Michael A. Brown: We're delighted to have you here today speaking with us. This is an important corporation. We know that it's one of the drivers of the Ontario economy and it's good to have someone with your kind of qualifications come before us today. So thank you very much.

Mr. Mark Sakamoto: Thank you very much.

The Chair (Mrs. Julia Munro): That concludes the time. We appreciate your coming.

Mr. Mark Sakamoto: Thank you very much.

RONALD BROOKS

Review of intended appointment, selected by official opposition party: Ronald Brooks, intended appointee as member, Committee on the Status of Species at Risk in Ontario.

The Chair (Mrs. Julia Munro): Our third interview today is via teleconference with Mr. Ronald Brooks, the intended appointee as member of the Committee on the Status of Species at Risk in Ontario. Are we connected?

Dr. Ronald Brooks: Yes. I can hear you well.

The Chair (Mrs. Julia Munro): Good. Welcome to the committee, Mr. Brooks. We appreciate your being able to do this for us today. I would just remind you that you have the opportunity to make a statement, should you wish to do so, and then we'll have questions in rotation from the members of the committee. So if you're ready, please begin.

Dr. Ronald Brooks: Firstly, I'd like to thank you for letting me do this. It was going to be pretty traumatic for me to get down there today.

I don't really have anything to say. I was going to give a little short speech, but I realize it's all in the background, so unless you need me to do it, I'd just rather go ahead with the questions.

The Chair (Mrs. Julia Munro): All right. We're going to begin, then, with the third party. Questions?

M^{me} France Gélinas: Good morning—

Dr. Ronald Brooks: Good morning.

M^{me} France Gélinas: —wherever you are.

Dr. Ronald Brooks: I'm in Guelph.

M^{me} France Gélinas: My first question has to do with the temporary exemption. We know that there's a temporary exemption for the forestry, aggregate extraction, hydro and development industries. How do you see balancing that with protecting species at risk in Ontario?

Dr. Ronald Brooks: I think that, as I understand these temporary exemptions, they're kind of grandfather clauses, I guess you would call them. I think that it's fair to do that as long as there's interaction between, say, the forest industry and the MNR in terms of establishing the least impact on any threatened species that are involved. But otherwise, it seems to me to be a reasonable thing and it's not going to have a big effect.

M^{me} France Gélinas: Okay. I would expect that, during your work, you will be presented with some scientific knowledge as well as bodies of knowledge that come from what I would call non-traditional scientific bodies, as in aboriginal traditional culture, people who have lived and occupied those lands for a long time. Have you had to deal with, as I would call it, competing bodies of knowledge before?

Dr. Ronald Brooks: Yes. I've been on COSEWIC for 10 years, so I have a lot of experience with this. On COSEWIC, there's an aboriginal traditional subcommittee which presents aboriginal knowledge and their particular points of view. I'm fairly familiar with them because the co-chair of that committee is Akwesasne, and he is a member of the Turtle Clan—turtles are my specialty—so we have a sort of bond. As well, I spent a lot of time with aboriginal communities in northern Manitoba. I was working there for several years, as a grad student, and when I started off as a faculty member. I adopted two aboriginal girls, who are no longer girls. So I have quite a bit of experience with them, and with those views.

M^{me} France Gélinas: And you feel at ease with this?

Dr. Ronald Brooks: Yes.

M^{me} France Gélinas: What would you say would be the biggest strength that you bring to the committee's work?

Dr. Ronald Brooks: I think it would be my experience, again, on COSEWIC, and teaching conservation, biology and that sort of thing—but particularly on COSEWIC. As well as being the co-chair of the reptiles and amphibians committee, I was on the criteria working group, so I've been helping to develop the criteria that we use to assess species risk and to make those criteria as objective and as meaningful as possible. I've also been and still am on the operations and procedures committee, which sets up the terms of reference and the rules and regulations for COSEWIC.

Currently, I'm the chair of the threats committee, where I'm hoping we can develop a way of quantifying

and defining threats so that we can decide whether things are threats. Quite often, people say that something is vaguely a threat, like predation, for example, which is maybe not at all the kind of thing that you're looking for when you're looking at species endangerment. So it's whether threats arise from human activity versus things that species normally encounter.

So I think I have a lot of background and experience. Since COSSARO is going to be trying to set up its own regulations, I think that my experience that way will be my greatest strength.

M^{me} France Gélinas: My last question is, how much knowledge do you have about northern Ontario?

Dr. Ronald Brooks: A fair amount. I worked in Algonquin, which isn't quite northern Ontario, but I've also worked up in areas like Wawa and that sort of thing. One of my more recent grad students did his Ph.D. on looking at caribou across the northern part of their range and the impacts of logging and that sort of thing. I've worked on beaver and wolves and other mammals, which gives me quite a bit of experience up there. Plus, I worked in northern Manitoba, which is to some extent a similar kind of boreal forest habitat.

M^{me} France Gélinas: Very impressive.

The Chair (Mrs. Julia Munro): We'll move to the government members, beginning with Mrs. Sandals.

Mrs. Liz Sandals: We really appreciate the time that you're taking out of your schedule to meet with us this morning. You're obviously wonderfully qualified for this, with a lifetime of research, with amphibians and reptiles, and a host of experience with all sorts of bodies that are dealing with this. So thank you very much for agreeing to do this work. We look forward to supporting you.

The Chair (Mrs. Julia Munro): We'll move to Mr. Hillier.

Mr. Randy Hillier: Thank you very much for joining us.

I have a couple of quick questions, but beforehand, as I reiterated with the previous intended appointment, what we in the official opposition are looking for, of course, is to determine whether people are competent, that there are no conflicts of interest, and that there is not an undue level of bias that may affect your judgments.

Clearly, you have lots of competency; you've spent a lifetime in biology. But I was noticing that your lab, the Brooks Lab, is funded by the MNR as well as other government agencies. Of course, on this committee you'll be working hand in hand with the MNR, and I'm wondering how that is going to bear on your lab—being funded by the same people that you are providing unbiased scientific information to.

Dr. Ronald Brooks: I never actually thought about that. But one of the things I should also point out is that I'm retired and I'm basically shutting my lab down, with the exception of one graduate student. For example, I've been involved in a small mammal study in Algonquin Park that's in its 57th year. I didn't start it, but I continued it in 1989, and I'm turning that over to somebody

else this year. I'm also pretty much shutting down my turtle research, which is not MNR-funded. I want to try to do other things—write books and work on committees like COSSARO and COSEWIC. And this money I get from MNR, I guess, is not on endangered species, at least certainly not at the present time. So I think that if there were a conflict there, it's going to disappear because I'm getting out of those things.

0940

Mr. Randy Hillier: Could you speak up again? You trailed off at the end, and I couldn't hear.

Dr. Ronald Brooks: Yes, I tend to do that. I was just saying that if I did have a conflict there, it's going to disappear because I'm divesting myself of those research interests, so I wouldn't be getting funding from MNR any longer.

Mr. Randy Hillier: So time for hanging up the spikes, I guess, and leaving the fieldwork for others and shutting down your lab.

Dr. Ronald Brooks: Definitely leaving the fieldwork to others. When you get to my age, you sort of sum up your career and do things like write books, that type of thing, so that's what I'm doing.

Mr. Randy Hillier: I also understand this committee will be compiling a complete list of all species and whether they'll fall under the threatened or endangered or extirpated or extinct categories. I'm not sure how far back you're going. Hopefully, we're not going to be putting the woolly mammoth in with the stuff on that list as well.

I do have some questions regarding the list that is presently out and I'd like to have your comment on it. One is in schedule 2, where we have the greater prairie chicken. I don't believe Ontario has been a significant habitat for prairie chickens. Why would an animal that we intuitively would believe belongs on the prairies be on an Ontario list?

Dr. Ronald Brooks: Well, there was prairie in south-west Ontario; I guess there's still a remnant left. I actually don't know whether the greater prairie chicken was there or not. My understanding of how COSSARO worked before and, I guess, to some extent, will in the future, is that when COSEWIC lists a species, they will adopt it as a listed species if it's in Ontario—after some discussion, because sometimes they might not agree with the COSEWIC listing. So all I can say about that is that it was here at some time in the past. I'm sure we don't go back to mammoths or anything, but perhaps that species was present within the last 100 years or something of that sort.

Mr. Randy Hillier: The other thing that comes to mind when we're looking at this list—we see different animals. The Atlantic salmon, for example, is another one, which, of course, we can all buy at just about any supermarket. They're farmed or—they're not being fished in the wild too much anymore, but they're certainly cultivated, and I know there are exceptions included in the regulations for Atlantic salmon specifically. But there is a host of species that are not doing well in

the wild but that are being cultivated significantly for economic reasons. We don't want to see this Endangered Species Act, of course, limit economic opportunities and prosperity. Could you comment on this contradiction between placing an animal on the endangered list but also cultivating it at the same time?

Dr. Ronald Brooks: I think that that raises a real conundrum of questions. Take the Atlantic salmon as an example. It's virtually extinct now in the wild, both in Ontario and on the Atlantic coast, and certainly salmon farming has contributed to that to some extent—on the coast, not here. I think that when you look at endangered species, and taking that example again, if you call it extirpated or endangered or whatever, you're talking about the species in the wild. So the idea, for example, of reinstating the Atlantic salmon to Lake Ontario would be related to having it repopulate in the wild and having genotypes that were those of the wild animals, or as close as we can get to it in any case.

I don't see it as a problem with interfering with economic activity. I see it as—the difficulty can come when you have things like bison, where nobody's quite sure what the things are that now exist in the wild, and Wood Buffalo Park out west, because they have all sorts of mixtures of domesticated animals, including cattle and that kind of thing. Then what you have to start thinking about is whether what you're trying to protect is a wild animal. I think that's where the issue is, rather than interfering with economic activity.

Mr. Randy Hillier: I see we're going to have some difficulties with this piece of legislation down the road. Atlantic salmon is another good example of this, where of course the MNR is presently stocking Atlantic salmon and trying to reintroduce it into the Great Lakes. But at the same time, over the last 30 or 40 years, they've also been stocking Pacific salmon, rainbow trout and brown trout, all possible competitors to the Atlantic salmon for spawning and habitat. It's probably pretty unlikely that we're going to eliminate all of those other stocking programs for Atlantic salmon.

Dr. Ronald Brooks: I'd agree. Again, I don't see COSSARO as being involved in those kinds of decisions. The act has all sorts of other parts to it; it's highly flexible, I think. I see COSSARO's role as simply to decide if the species is at risk, and how we would judge that from the best scientific, aboriginal and local community knowledge and information that's available. The consequences of that in terms of whether you look at stocking programs would have nothing to do with COSSARO.

Mr. Randy Hillier: I have one last question, and that's to your comment. Of course, different animals have different habitats and different ranges, and those ranges expand and contract with a host of different factors. Climate would be one of them, but also a number of other things. Climate would be one of the significant ones. There are times when there are animals, because of climate, that are no longer visible or populate a certain area.

The animal that I'm thinking of here is of course is the little bird called the loggerhead shrike, where eastern Ontario is at the extreme of its range. It will always be threatened or endangered at the extremities of its range. Is that correct?

Dr. Ronald Brooks: Yes, it should be—I would say yes.

Mr. Randy Hillier: And there's really very little that we could possibly do, other than, if you believe some people, maybe increase our carbon dioxide emissions so that it would be warmer and have more available range—is that correct, that we're not going to be able to do much to change the range of species?

Dr. Ronald Brooks: No, but that's an interesting point because—I assume you're being facetious about increasing carbon dioxide, but it doesn't really matter because we're doing it anyway, and where I see the effect is on reptiles. It's the group that I work on most.

If the climate actually warms up in Ontario, the biggest thing—I don't want to get in a whole bunch of detail here, but the biggest thing that constrains reptiles in Canada is the fact that they're stuck in the southern part of the country. That's because they need time for their eggs to develop and so forth. If it warmed up, then one could conceive—I've actually made this argument—that Algonquin Park, for example, would warm up and become a much better habitat for snakes and turtles than it is right now, because it's pretty cold.

That kind of thing may happen, but again, those things like solutions to the loggerhead shrike problem are not a COSSARO problem as such. I see that as being about other parts of the ESA or with even things outside that, if people want to get involved with trying to create habitats. A lot of the environmental groups do that sort of thing.

Mr. Randy Hillier: One final question: I have seen it come into a problem. Up in my area, there's a significant renewable energy project that wants to get started. It has its approval. It's the largest solar park in Canada. They're running into difficulties, of course, right at the moment, because a loggerhead shrike nesting habitat is in the area.

I'd like to have your comment on reconciling our need to find renewable energies, alternative sources of energy, greener energies, but also having loggerhead shrike nesting areas in the same vicinities.

0950

Dr. Ronald Brooks: I can't comment specifically on that. I'll just say that these are things that have to be negotiated. Again, outside the COSSARO mandate, I would say that that's something different. In this specific case, my own personal view, if that's what you're asking, would be to make sure that loggerhead shrikes can still be maintained in Ontario. On the other hand, renewable energy, especially fuller energy like that, is an important way of reducing some of our other problems, so you have to figure out which comes first.

I give a lot of lectures on the broad implications of conservation and the protection of biodiversity, and one of the things I like to do is suggest to my audience things that I think will really irritate them. I've always taught

my courses that way. For example, I argue that biodiversity is completely unimportant in terms of human welfare, and this really bothers a lot of environmentalists. These are things that people have to consider, whether there even is such a thing as an ecosystem, and that if you're going to protect an ecosystem, is it really going to make much difference to how things work? So these are the kinds of issues that people have to discuss among themselves in a democratic society, I guess.

Mr. Randy Hillier: Thank you very much for your comments.

Dr. Ronald Brooks: You're welcome.

The Chair (Mrs. Julia Munro): Thank you very much, Dr. Brooks. That concludes our time available. We do appreciate your willingness to participate this morning.

STEPHEN MARSHALL

Review of intended appointment, selected by official opposition party: Stephen Marshall, intended appointee as member, Committee on the Status of Species at Risk in Ontario.

The Chair (Mrs. Julia Munro): We'll now move on to our fourth interview. It is with Mr. Stephen Marshall, who's the intended appointee as member of the Committee on the Status of Species at Risk in Ontario. Good morning, and welcome to the committee. As you have observed, you have an opportunity to make any comments you wish, and we'll then entertain questions from the committee members.

Dr. Stephen Marshall: Thank you very much for inviting me here this morning. As you can see from my CV, I'm an entomologist—an insect systematist, as a matter of fact. The relevance of that to this committee is that about 80% of all the species in Canada are insects and related arthropods, so it follows from that that about 80% of all the species at risk in Canada and in Ontario are insects and related arthropods.

I was first invited to become involved with COSSARO about 10 years ago, when it was realized that nobody on the committee had any significant expertise in invertebrates, so I was contacted and asked to come in and advise in that role. I've been involved with the committee for about 10 years, and it's been a lot of fun.

Why me? At that time, I was one of the few invertebrate systematists, with a kind of a dual research program: Instead of simply focusing on a narrow taxon and doing the phylogeny and zoogeography like most of my colleagues were doing, I was also looking broadly across taxa, locally. So I've developed quite a bit of expertise on the entire insect, indeed all arthropods—all the little creepy crawlies. I wrote a book that has really become the standard for identification of northeastern North American insects and related arthropods. It's widely used in the conservation biology community. I've written several other books, while at the same time writing a significant number of technical papers. I've described hundreds of species and I've actually discovered—I would

say thousands, but maybe about 150 or 180, a bunch, have been formally named.

I think I'm the only person on the committee who has actually been involved with that edge of biodiversity research. I think I'm the only person on the committee to have actually discovered and described species and done fundamental taxonomic work. I think that's been valuable to the committee, because I'm often able to explain items of nomenclature and taxonomy that others aren't involved with. I'm also often able to pinpoint what's going on in Ontario habitats, because I've spent my whole life looking for cool bugs. Basically, I've been an insect collector since I was about five, so I'm always looking for interesting distributional records. That's taken me into all of the special habitats, at least in southern Ontario. I'm not quite as familiar with northern Ontario, although I try to get up when I can.

It's also led me into the development and editorship of a journal called the *Canadian Journal of Arthropod Identification*, which is a new electronic tool designed to bring these relatively poorly known organisms to the forefront of the conservation biology community and naturalists—the whole community. That's led my lab into doing things like surveying groups of insects such as wasps. Time after time, we're finding that by looking closely at what's going on in Ontario, we're actually doubling the numbers of species known from the province; the average is a doubling.

That, of course, creates problems when you look at the general mandate of listing all species and assessing their conservation status. We're still at the point of figuring out what's here, getting the baseline and finding out where these things live. The result of that is that relatively few groups of insects are really appropriate at this time for species-at-risk assessment, but as those groups come to the table, I'm there to help out with them.

Is that enough background?

The Chair (Mrs. Julia Munro): I think that's a great start. I just think, though, that I'd like to have you come and visit my garden.

Mr. David Ramsay: He's not an exterminator.

The Chair (Mrs. Julia Munro): No, no. I just want to recognize the good guys from the bad guys. That's all.

I want to begin our questioning, then, from the government side. Mrs. Sandals?

Mrs. Liz Sandals: Thank you again for coming, Dr. Marshall. We appreciate you taking your time out. I think that's really neat, that you're doing what you started doing when you were five, and you've turned it into a whole career. That's just the ideal world, when you take your avocation and are able to turn that into your life work.

Obviously, you're highly qualified. I think it's great that we've got amphibians, reptiles, insects and arthropods all getting covered by expertise from the University of Guelph. Again, thank you very, very much for taking time out of your busy career to help us with this project. We do appreciate the work that you've been doing in identifying insects and biodiversity.

The Chair (Mrs. Julia Munro): Mr. Hillier.

Mr. Randy Hillier: Good morning, and thank you very much for being here today. You were here, I believe, when I was asking these questions of Dr. Brooks. I'll follow up on that question about the loggerhead shrike and about ranges of animals. That's just the way it is: Different animals prefer different climates and different habitats. Do you think that we as a society of people can interfere or manage that component of nature?

Dr. Stephen Marshall: I think we need to track it. One of my responsibilities is as a director and developer of the University of Guelph insect collection, which is a resource of some two million specimens that acts as a dynamic database, allowing us to track changes in ranges. Indeed, global warming is reflected in shifts north. In many cases, we can't definitively say that these are real shifts and that they're a result of global warming, because we didn't have the baseline data from 30, 40 or 50 years ago, but the patterns are very clear and very interesting. Once these things are tracked, then we can assess individual cases on the merit of those particular cases. So if we're seeing an isolated patch of oak savannah, tall grass prairie or dune grasslands that is diminishing as a result of whatever changes—we'll call them global changes—and we're seeing the ranges of the organisms that live in those habitats showing confirmed shifts and an alarming shrinkage in a range, then we should look at ways to address it. Quite often, it's fairly simple: It's just a matter of ensuring that some of the anthropogenic pressures on those ranges are released and that the habitat is preserved. It's really all about habitat. That's pretty general.

Mr. Randy Hillier: Of course, in your role, this is identifying and tracking—and tracking is an important element of it. But there's far more to the legislation and far more that happens once an animal or species is designated on that list. It is no longer just a tracking process; there are also significant other components where the regulations fall into play: prevention or restrictions or restraint or complete prohibition of the use or enjoyment of property.

1000

Again, the loggerhead shrike is an example. It is not the only one. But there is a significant population of them in the warmer climates. They prefer the United States, I guess, and their climate, just like many Canadians who go to Florida in the winter. That is just a natural function. The climate doesn't allow that animal, that species, to reside here frequently. So should we be restricting the use and enjoyment, the economic opportunities, for species such as the loggerhead shrike?

Dr. Stephen Marshall: I can't speak to the loggerhead shrike; I don't know that much about that particular case. But I can give you a list of about 350 insect species that have very similar fringe distributions. Most of them I don't get too excited about because they're widespread things. Metapopulations pop in and pop out from season to season, year to year, decade to decade. But there are some which are relatively rare throughout their ranges—they have a high GRANK—some which are firmly

established in very special habitats in Ontario. Some of the habitats I'm particularly interested in are tall grass prairie—I've done a lot of work on an Ojibwa reserve in Windsor—similar oak savannah habitats, some special wetlands, some of the peatlands, special fens. Where I see things restricted to such special habitats, I do get very excited about them.

The legislation, like any legislation, is kind of one-size-fits-all. It doesn't allow too much latitude in what you get excited about and what you don't get excited about because the rules are pretty clear. As Ron said, we have very objective criteria for assessing species. My role in COSSARO, so far, has been to fill in those blanks and measure those objective criteria, but also to express my opinion, as an arthropod biologist and a very active field naturalist, about what's going on out there. Unlike Ron, who mentioned he's getting out of field biology, I want to spend more and more time in the field. I'm a field biologist, and I want to get out and see these things, assess the questions myself, and come to some sort of logical, sensible, reasonable conclusion on that basis.

Mr. Randy Hillier: I find the term that you use very appropriate, where the legislation not only tries but insists on a one-size-fits-all. Of course, nature is not just one size, and there's not one thing that fits completely throughout nature, other than possibly leaving it alone and letting it take care of its own. So the crux of this legislation is, how do we try to manage—because it's not just tracking; it's also attempting to manage, on the advice by COSSARO, a one-size-fits-all approach. We cannot even fathom the range of interdependencies and connections in nature.

Dr. Stephen Marshall: All similar legislation suffers from that one-size-fits-all flaw. I think that when comparing our species-at-risk act to many similar pieces of legislation I've looked at, from the Soviet Union, the United States, whatever, ours is as good as any. But these are limitations, you're right, and I'm perhaps more acutely aware of them than anybody else in the committee because my organisms are this big. They're below the size that the legislation is really designed for. In many cases, it fits, it works well, and it provides the tool we need to protect critical habitat and the species that reflect that critical habitat. In other cases, simply because invertebrates are so different, it's just a little bit more difficult to bring to bear.

Mr. Randy Hillier: One final thing: There's a whole number of species on here. Some are very common where I live—I can often see them out my back door—like the butternut, which is, of course, on the list. But not only is it the role of COSSARO, from my understanding, to recommend to the minister which species should fall into which category, it's also to provide the minister with general advice on a whole range of subjects under this act.

I want to just ask your opinion: Would we be better off recognizing individuals and property owners who have facilitated and created habitat for threatened species, as compared to the punitive approach that the legislation takes?

Dr. Stephen Marshall: A carrot's always nicer than a stick, isn't it? Sure, that seems like a logical point to make, but an odd case, though. It's sort of like the Atlantic salmon. On the face of it, it seems very difficult to draw lines between native stands and plantations and hybrids etc. But given that some of the MNR people have done a really bang-up job of figuring out where the relatively small patches of undisturbed native butternut occur, I think that practical protection of those stands is highly desirable.

Mr. Randy Hillier: Do you not believe that where those species are at present is a result of the practical protection of the people who own those properties?

Dr. Stephen Marshall: Again, that has to be a case-by-case thing. I think that, in some cases, it's just luck.

Mr. Randy Hillier: Just luck? Well, I—

The Chair (Mrs. Julia Munro): I'm sorry, we've run out of time. Thank you very much.

Ms. Gélinas.

M^{me} France Gélinas: Good morning. Thank you for coming to Queen's Park. My questions will be very brief. The first one is that I am truly impressed with your resumé. I can't say that I have met too many people who started a bug collection at five years old and have made it into a Ph.D. So you're telling me that there may be hope for my grandson? I have a back porch full of those things right now.

I see that you're also a very busy man. Do you think that you will have the time, in your busy schedule, to do the work of this committee?

Dr. Stephen Marshall: I've managed it so far, on a volunteer basis, and I think that every member of the committee would tell you that my different expertise and different point of view have been very useful. I've always had very positive feedback from both chairs of the committee that I served with. As I've said, I prefer to be in the field, so I limit the number of committees I serve on. There are some key ones: the Biological Survey of Canada, which I think is tied to this, and which is very, very important in documenting our fauna and tracking it; and COSSARO. I don't see a problem. I've found the time and I've enjoyed it. It's been productive for me and it's been productive for the committee.

I must say that one of the reasons that I have prioritized COSSARO is that I get to serve with some of the best naturalists in the country, and I've learned an awful lot about fish, reptiles, birds and habitat in Ontario. So it's not a problem.

M^{me} France Gélinas: Very good. Those were my questions. Feel free to come and visit beautiful northern Ontario any time you want.

The Chair (Mrs. Julia Munro): That concludes the comments from the committee. We really appreciate that you were able to join us here this morning.

Dr. Stephen Marshall: Thank you very much.

JAYASHREE SENGUPTA

Review of intended appointment, selected by official opposition party: Jayashree Sengupta, intended appointee

as member and vice-chair, Human Rights Tribunal of Ontario.

The Chair (Mrs. Julia Munro): Our next interview is with Jayashree Sengupta, the intended appointee as member and vice-chair, Human Rights Tribunal of Ontario. Welcome to the committee. As you have observed, you have an opportunity to make a few comments should you wish, and then we will entertain questions from the committee. So if you are ready, then you may begin.

1010

Ms. Jayashree Sengupta: I am. Good morning, Madam Chair, and good morning to the members of the committee. Thank you for giving me the opportunity to come here today and speak to you. I'm here to tell you a little bit about my interest in this position, the appointment as a member and vice-chair of the Human Rights Tribunal, and answer any questions that you might want to ask of me.

I think you have my application documents in front of you, so you know my legal background and what I've done in terms of a career. What my application document perhaps does not say is that I came to this country in my teens from India. My family and I chose this country, so we're Canadians by choice. I'm a naturalized Canadian. Some of those experiences growing up in this country have made me even more eager to contribute by seeking out this type of appointment.

Since coming to this country, my family has lived in five different provinces, and we now make Ontario our home. We've been here for a significant length of time. I did my undergraduate degree out west in Alberta, in arts, and I did my law degree in Ontario at Osgoode Hall Law School at York University. Since then, I've worked delivering legal information sessions to live-in caregivers who work out in Alberta. I've done work primarily in the legal clinics as a staff lawyer and as a clinical instructor at Parkdale Community Legal Clinic for a four-month term. At the moment, I'm working as the executive director of a community legal clinic in the Rexdale community, which is a very diverse community.

The areas of law that I've practised in are social assistance, housing, criminal injuries compensation, immigration, workers' compensation, human rights, Canada pension, employment standards and employment insurance. I've done this at various times during the course of my career in the clinics.

I've been practising for almost 15 years, and I feel I have something meaningful to contribute because of my life experience and my legal training. I'll leave my comments there, and I'm open to any questions you have.

The Chair (Mrs. Julia Munro): Thank you very much. We will begin with the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: Thank you very much, Ms. Sengupta. I appreciate you appearing here today. I have a couple of questions for you with respect to the Human Rights Code amendments. As you're probably aware, Bill 107, which was debated and passed in 2006, now allows individuals to bring their complaints directly to

the tribunal. The new system has been criticized on the basis that only wealthy complainants will be able to bring forward human rights matters. But the Attorney General at the time countered that the new legal support centre will provide complainants with any legal assistance that they require. I have a couple of questions based on that. One is, will all complainants be guaranteed a lawyer?

Ms. Jayashree Sengupta: That question goes to the mandate of the Human Rights Legal Support Centre, and I don't think I'm in a position to tell you what they will be in a position to do and what their mandate will eventually become. I hope that's a sufficient answer for you.

Ms. Lisa MacLeod: Okay. Down the same path, do you think that a respondent against whom a false complaint is made is entitled to some or all of the legal costs when they are acquitted?

Ms. Jayashree Sengupta: I think that's a question that has to be decided in terms of a case-by-case basis. I'm not in a position yet, not having received any training as to how the adjudication process will flow, to give you a sufficient answer.

Ms. Lisa MacLeod: Well, in your opinion, then, and let's use a recent example not from this province. Ezra Levant of the Western Standard published something and withstood 900 days of a complaint process against him. He spent thousands upon thousands of dollars and then he was acquitted. In that case, if he were in the province of Ontario, would you say that he would receive some or all of the costs after he was acquitted? It does seem that he was proven guilty before he was even given the right to a trial or to provide proof. I think that's what I'm getting at: the question that if someone receives a complaint, goes through the process and is acquitted, in your opinion, should that person receive compensation?

Ms. Jayashree Sengupta: I can't comment on that case, obviously, but if barriers are placed in front of people who feel that their rights have been affected or who have suffered discrimination or harassment, if there's a chill with respect with them being able to step forward and make complaints, I don't think that that would be in keeping with the system that has been designed. With respect to the question of whether or not Mr. Levant should have been granted any kind of compensation for what he went through, I can't really say.

Ms. Lisa MacLeod: I think that might be an issue that this tribunal may be confronted with at some point in time.

I have another question. Because there has been a change in the way we deal with human rights complaints in the province of Ontario as a result of Bill 107, there is a concern that there could be a backlog. Many have said that the backlog of complainants with the commission using the old system will happen with the tribunal under the new system, and I would like to know how you would be prepared to deal with that.

Ms. Jayashree Sengupta: I guess you're asking me about the transitional backlog that is coming to the system. I gather that the chair of the tribunal has turned his mind and the team surrounding him have turned their

minds to that question. I understand that there are some part-time appointees who are coming on board to assist in dealing with the larger numbers that will come to the tribunal as a result of that operational backlog.

Ms. Lisa MacLeod: Just one final question: In your opinion, what is the difference between offensive conduct and discriminatory conduct, and do you think that the commission—or, in your case, the tribunal—should oppose offensive conduct?

Ms. Jayashree Sengupta: The way I see my role as an adjudicator, if appointed, is to adjudicate cases that come before me with a view to whether or not there has been a violation of the code, and whether there has been a violation of the code in terms of enumerated grounds of discrimination. If I find that, after having reviewed each case based on the facts and based on the law, then at that point I'm required to act.

Ms. Lisa MacLeod: Just a follow-up, then, because if as proposed, all individual discrimination issues come directly before the tribunal, which would be you, how would the commission and the tribunal ever be able to determine what systemic discrimination is and if it exists?

Ms. Jayashree Sengupta: I believe that there's going to be communication between the tribunal and the commission, that there is supposed to be—the three pillars of this system—there are ways in which all three will be working towards the same end. If similar cases keep coming before the tribunal, and those decisions are public, the commission will be able to spot the trends and to see what systemic discrimination cases require the attention of the commission, whose mandate it is going to be to look at systemic and broader issues.

Ms. Lisa MacLeod: Thank you. I appreciate that. My colleague does have a question.

The Chair (Mrs. Julia Munro): Mr. Hillier?

Mr. Randy Hillier: Thank you very much for being here today. Just a couple of brief and quick questions. If you're successful with this appointment, will you be leaving your position as a staff lawyer with Hamilton Mountain?

Ms. Jayashree Sengupta: I'm no longer at Hamilton Mountain. I'm now executive director at the Rexdale Community Legal Clinic, and yes, I would be leaving that position. It's a full-time appointment, I gather.

Mr. Randy Hillier: Okay. One other thing: As I mentioned earlier with the previous intended appointment, I'd like to just ask: Do you believe, either as a human right or as a civil right, or an inalienable freedom, that we have that freedom or right not to be offended?

1020

Ms. Jayashree Sengupta: I'm sorry. I don't quite—

Mr. Randy Hillier: Do we, as individuals, have a right not to be offended by others engaging in their freedoms and rights, such as speech?

Ms. Jayashree Sengupta: I think that the question and the discussion that you had with the previous witness had to do with the intersection of freedom of speech and how it—

Mr. Randy Hillier: But I'm asking now, do you feel that an individual has an inherent right not to be offended by another's speech?

Ms. Jayashree Sengupta: I think it depends on the nature of the speech. I think that people—I'm having trouble understanding. Sorry. I think that if something is said that either—

Mr. Randy Hillier: Offends someone.

Ms. Jayashree Sengupta:—offends or could properly be considered harassing speech or discriminatory in nature, then—

Mr. Randy Hillier: No, I'm just speaking about somebody finding something offensive. Forget all the other adjectives that we may throw in there. Just on this one point, do you believe that somebody has the right not to be offended by another's expression of speech?

Ms. Jayashree Sengupta: I think that the code is clear in terms of what a person has the right to be free from, the types of discrimination that a person has the right to be free from.

Mr. Randy Hillier: I'm asking your opinion.

Ms. Jayashree Sengupta: Yes. I think my job as an adjudicator would be, if appointed, to simply apply the code as it's written and as it's been applied in previous decisions, to follow a certain line—

Mr. Randy Hillier: So you don't have an opinion on that?

Ms. Jayashree Sengupta: I don't have a particular opinion. I'm not sure I quite understood the question to begin with. I'm sorry.

Mr. Randy Hillier: Okay. We've got another moment?

The Chair (Mrs. Julia Munro): A moment.

Mr. Randy Hillier: Briefly, what would you describe as the difference between civil rights and human rights?

Ms. Jayashree Sengupta: I think I came in at the tail end of your questioning of the previous witness as well, and I think that what he said made a whole lot of sense. There is certainly a difficult—

Mr. Randy Hillier: He mentioned that he didn't have any opinion—

Ms. Jayashree Sengupta: I think he said that in terms of the—he talked about the place where freedom of speech and harassment sort of—

Mr. Randy Hillier: No, I'm—

Ms. Jayashree Sengupta: You're asking about—

Mr. Randy Hillier: So you wouldn't be able to give us your own view or definition of what a civil right is as compared to a human right?

Ms. Jayashree Sengupta: No, I wouldn't.

The Chair (Mrs. Julia Munro): Thank you very much. We must move on. Ms. Gélinas.

M^{me} France Gélinas: Good morning.

Ms. Jayashree Sengupta: Good morning.

M^{me} France Gélinas: I read the information that we have on you, and I was curious to know your level of experience doing adjudicating versus—it seems to me that you've been mainly the advocate for your clients in the past.

Ms. Jayashree Sengupta: Yes.

M^{me} France Gélinas: I was just curious if you could go into a little bit of detail as to when you have had to be adjudicative.

Ms. Jayashree Sengupta: As you've seen from my resumé, I've worked as an advocate for all of my career since I've been called to the bar. I have some experience working in a neutral capacity. While I was articling at the Office of the Ombudsman, I had an opportunity to look at things from a neutral perspective, not as an advocate for one party or another, and I think that that experience served me well. I've also worked in an employment context as a manager, and I've had some occasion where I've had to adjudicate disputes within the workplace. I think those are the informal adjudicative experiences that I've had.

M^{me} France Gélinas: Okay. If we look specifically at human rights law, within your 15 years of experience, can you point out to me which one of your dealings had a significant part to play with human rights?

Ms. Jayashree Sengupta: In terms of the areas of law that I've practised in, I would say that most of my work in the human rights area has been in the area of housing law. I've had occasion to argue about code violations as they relate to tenants, and usually that's been with respect to accommodation issues for tenants with mental health disabilities or tenants with other physical types of disabilities.

M^{me} France Gélinas: Have you had any involvement with alternative dispute resolution?

Ms. Jayashree Sengupta: Yes. A lot of the work that we do requires quick results that can only come through negotiation and through having good relations with respondents and with welfare administrators and that kind of thing. So I've done a lot of informal negotiating. I've done a lot of mediation in the tribunal settings. I've not done any arbitration, not having practised in the field of labour law, but I've done mediation and the informal negotiations.

The Chair (Mrs. Julia Munro): Mr. Brown.

Mr. Michael A. Brown: I just want to tell you how delighted we are that you've put your name forward today for this important position. The government will clearly be supporting you.

The Chair (Mrs. Julia Munro): That concludes this portion. We certainly appreciate your coming here today.

Mr. Michael A. Brown: Are we going to vote now or do them at the end?

The Chair (Mrs. Julia Munro): We are. I would like to have everyone's attention, committee members, and deal with concurrences from this morning's interviews now, as opposed to leaving them all to the end of the day.

Ms. Lisa MacLeod: My colleague and I from the official opposition would respectfully request deferral of all intended appointees until Wednesday, at the conclusion of our meetings.

Interjections: Why?

Ms. Lisa MacLeod: Well, we're dealing with a serious number of intended appointees from several different

commissions and committees and agencies. We would like to hear, based on the questions that we have, particularly for the Human Rights Tribunal and for the species at risk, from all intended appointees before making our decision, so we would request that.

The Chair (Mrs. Julia Munro): Deferral is, as you committee members know, not a debatable issue. So we will then defer the—

Ms. Liz Sandals: On a point of order, Madam Chair: I understood that it was deferral to the next meeting.

The Chair (Mrs. Julia Munro): I would just refer you to the fact that it does indicate here in the standing orders that "Any member may request that the committee defer its determination to the next meeting of the committee, but in any event no later than seven calendar days."

Mr. Michael A. Brown: So that would be tomorrow, then.

The Chair (Mrs. Julia Munro): But it also allows for a deferral up to seven days.

Ms. Liz Sandals: On a point of order, Madam Chair: I believe that the interpretation of that would be that if the next meeting isn't scheduled till a month away, you would have to have the next meeting within seven days. But it seems to me that it's quite clear that the right to a deferral is the next day, the next meeting, which, in this case, happens to be scheduled tomorrow.

Mr. Randy Hillier: Can I interject just for a moment? I'd just add a comment here. I would like to take some time to reflect on and evaluate the intended appointments, and I think it would be appropriate—

Mr. Mario Sergio: It's not debatable, sorry.

Mr. Randy Hillier: No, I'm just providing a view of reflection.

The Chair (Mrs. Julia Munro): I'm sorry, I would simply have to rule on the fact that I'd already mentioned that it isn't a debatable issue. I would also point out that in the standing orders, it does not give further direction, other than it is no later than seven calendar days. So we are able, then, to accept the deferral to Wednesday. All right? Thank you. The committee, then—

Mr. Mario Sergio: Excuse me, don't you vote on the deferral?

The Chair (Mrs. Julia Munro): No, it's not a debatable motion. The standing orders do give the flexibility to allow till Wednesday.

Mr. Michael A. Brown: I don't think they do.

The Chair (Mrs. Julia Munro): Well, I would just—

Mr. David Ramsay: Can you read it again?

Mr. Michael A. Brown: Yes, read it again. I don't think that's what it says.

The Chair (Mrs. Julia Munro): It does. I'm reading on page 52 of the standing orders, just to clarify: "Any member may request that the committee defer its determination to the next meeting of the committee, but in any event no later than seven calendar days."

Mr. Michael A. Brown: Which means tomorrow.

The Chair (Mrs. Julia Munro): So they may request, but there is the limit of seven days.

Mr. Michael A. Brown: But that's only if the meeting doesn't occur for seven days. The meeting actually occurs tomorrow.

The Chair (Mrs. Julia Munro): Unfortunately, I've read to you exactly what it says.

Mr. David Ramsay: It doesn't say "seven days"; it says "the next meeting."

The Chair (Mrs. Julia Munro): The whole sentence gives "no later than seven" days.

That concludes our business for this morning. We are recessed until 1 p.m.

The committee recessed from 1030 to 1305.

The Chair (Mrs. Julia Munro): Good afternoon. The committee is now in order.

I just want to comment on the issue that came up prior to our recess. I've had the opportunity to do a little bit more consideration of the issues that were raised and also to look more closely at the standing order. Obviously, the issue is the question of the wording and the procedural intent of that. I've come to the conclusion that, in the circumstances, the intent is the next meeting and that that would take precedence over the seven-day issue. So that means that any deferrals would be deferred until tomorrow. I hope that clarifies the position that we needed some clarification on this morning.

At this point, I'd also indicate to you that I have been advised that this morning's Hansard should be ready this afternoon.

ALAN WHYTE

Review of intended appointment, selected by official opposition party: Alan Whyte, intended appointee as member and vice-chair, Human Rights Tribunal of Ontario.

The Chair (Mrs. Julia Munro): With that, I would like return to the intended appointments on our agenda this afternoon. We will begin with Alan Whyte, the intended appointee as member and vice-chair of the Human Rights Tribunal of Ontario.

Good afternoon, Mr. Whyte, and welcome to the committee. Certainly, while you are seating yourself there and getting organized, I should indicate to you that you may wish to make a few comments, after which we will proceed with questions from the committee. As soon as you're ready, you may begin.

Mr. Alan Whyte: Thank you for having me here this afternoon. I'll just give you some background that will put you in a position to review my intended appointment.

I grew up in Montreal. I attended Queen's University, where I secured two degrees: one in arts and one in law. I articulated with a Toronto law firm back in 1979 to 1980. I moved to Belleville in 1982, and I've lived in Belleville and have practised in eastern Ontario since that time. I currently work from the Kingston office of a firm called Hicks Morley. The name is longer than that, but I won't bore you with the long name. Hicks Morley is Canada's largest labour and employment law firm, acting ex-

clusively in that area and acting exclusively on the employer side. I've been with that firm for nine years.

I'd like to speak to you about two areas in my background that, in my view, will allow me to contribute to the success of the new Human Rights Tribunal.

The first area is the breadth of my practice as a legal practitioner. In my 26 years of practice, I have appeared before many tribunals, including the Human Rights Commission, the Ontario Labour Relations Board, the Workplace Safety and Insurance Board, the Workplace Safety and Insurance Appeals Tribunal, many labour arbitrators and courts at different levels. These tribunals and courts have at least a couple of common denominators: One is that, in a formal or informal way, they all contain mediation processes; the other, of course, is that in the event that whatever the dispute is is not resolved, there is an adjudication process.

Going back to mediation: Mediation is going to be a hugely important issue at the Human Rights Tribunal. There is a large volume of cases that the tribunal is inheriting from the Human Rights Commission, and there are also new tribunal applications coming in every day. So there's a high volume, and mediation has been shown to be a very effective way of resolving cases, with a very high success rate. So my point is that mediation is a tool by which the large caseload can be worked through.

In addition, there are, of course, limited resources for adjudication. Adjudication is a resource-heavy process, and we all want to see the resources put in the right place in terms of just deciding those cases that need to be decided.

Finally, mediation has been found to be the best resolution for the disputing parties. If they're able to come to their own resolution, that is almost always preferable to one imposed by a third party.

In terms of adjudication, I'm excited to hear that the tribunal is attempting to put in place new adjudicative processes. These processes are designed to narrow the issues and make the hearing time that the tribunal spends the most effective and most expeditious. I laud the efforts in that regard.

1310

So my overall point on this first issue is that the breadth of my experience will put me in a position to make a significant contribution to the development of the processes at the new tribunal. Those processes are in a formative state. There have been rules promulgated by the tribunal for two or three months only, and those rules are going to have to be interpreted as the cases come along. I believe that my background will allow for positive and effective interpretation of those rules.

I've spoken a fair amount about process, but just a word on that. Process is important, in my view, to securing a fair and just result in whatever the proceedings are. The process has to be an appropriate one in order for the parties to have confidence in the tribunal and the outcomes at the tribunal. So process is an important issue and will be at the new tribunal.

The second area that involves my background that will allow me to contribute to the success of the tribunal is my

knowledge of the substantive law of human rights. Obviously, the tribunal is focussed on the adjudication and determination of human rights issues. In order to do that, the adjudicators have to bring to bear human rights law. Human rights law is a reasonably complex area. For example, the law of discrimination: All of us have a fairly general sense of what discrimination is. However, the law of discrimination is in fact quite complex and involves issues such as comparator groups, perceived discrimination, considerations of respect and dignity and the like. That's an area that I've worked in and can adjudicate in.

Another area is the accommodation of disability in employment. This is an area that I have dealt with almost daily in my practice in a number of contexts, arbitration or whatever it may be. If you look at page 5—you don't really need to go there—in your briefing paper, there is a chart, and you will see that accommodation of disability, or I should say disability in employment, is one of the most common grounds that serve as the basis for human rights complaints previously before the commission and now at the tribunal. It's a large and important area and I feel very comfortable dealing with it.

Another area that's important in human rights law is damages. Human rights damages are different than damages in other areas of the law. Human rights damages are there to reward or compensate people to be free of discrimination. They are there to award damages for mental distress in certain circumstances. These are very important issues, but they're very difficult to apply in practice. Again, I have experience in addressing those types of issues.

Another area that I have had exposure to is administrative law in the form of judicial review proceedings. When a tribunal makes a decision, it is open to the parties to apply to the courts for something called judicial review in certain circumstances. I have participated in judicial review proceedings before the Divisional Court of Ontario.

My point here is that, in my practice, I have been regularly exposed to different aspects of human rights law and can bring to bear those aspects in my role as adjudicator.

Turning to another area, I wanted to speak to you about my transition, if you like, from being an employer advocate or employer counsel to being a neutral adjudicator. Although I have no direct experience as an adjudicator, I have worked with many very good adjudicators and have observed how they function, how they make their decisions, how they treat their parties, what processes they follow to reach the result that they find etc., and I intend to assimilate those practices in my personal practice as an adjudicator.

I also believe that I enjoy a reputation in the legal community as someone who is fair and someone who is looking for the practical result that is satisfactory to all parties concerned to the dispute. I believe that I enjoy the respect of both union counsel and adjudicators, such as labour arbitrators, with whom I have dealt over the years.

So I don't anticipate any difficulty in moving to the neutral role, if you like.

In summary, what I bring to the important role of vice-chair of the tribunal is my experience, my knowledge of the law, and an attitude of thoughtfulness, balance, empathy and openness, all of which I think are important attributes for someone engaged in the adjudication of human rights disputes.

The Chair (Mrs. Julia Munro): Thank you very much. We'll begin our questions with Ms. Gélinas.

M^{me} France Gélinas: Good afternoon, Mr. Whyte. I was puzzled a little bit when I read, "I would welcome the opportunity to conduct hearings using an 'active' style, which should result in a more effective decision-making process." I'm just curious to see: What does an active—

Mr. Alan Whyte: What is "active"?

M^{me} France Gélinas: Yes. What does that mean?

Mr. Alan Whyte: The traditional way of adjudication is for there to be an adjudicator and two parties—usually two—who bring a dispute to the adjudicator. The traditional view is that it's open to the parties to call evidence and bring forward facts to allow the adjudicator to determine the issue. That sounds very simple, but in practice it has led to lengthy and expensive litigation because the parties have been allowed to wander from the issues and to generally prolong the proceedings. So what I meant by an "active" style was a little more direction to the parties, as an adjudicator, about what is relevant and what is going to be helpful to me in terms of evidence and the like in making the decision that I have to make. "Active" is the right word. It's a more active way of participating in the process, as opposed to just being passive and receiving what is brought to you by the parties.

M^{me} France Gélinas: Makes sense. All right.

You did mention that in your lengthy work experience you have never worked as an adjudicator; you've always been advocating for a client. Am I right?

Mr. Alan Whyte: That's true, yes. But as I mentioned earlier, I've been involved in the process for 26 years—the adjudicative process.

M^{me} France Gélinas: Okay. You also put in your application that you have "a reputation for ... developing creative solutions which result in the satisfactory resolution of disputes...." Can you give us an example that is—I don't want any secrets of the gods or anything, but something that you're allowed to share?

Mr. Alan Whyte: Sure. About 10 years ago, a young lawyer in my office came to me with a problem, and the problem involved a registered nurse who had a disability of the legs such that she couldn't do all the walking that was required of a registered nurse. Her nursing skills were completely fine; it was just the walking that was a problem. The young lawyer didn't know how to address this. There was a claim being made by the employee that she should be allowed to work. The employer, of course, was saying, "You can't work, because you can't walk enough." I looked at the young lawyer and I said, "Why don't you give her a scooter?" She almost laughed be-

cause it just seemed like a silly idea. In fact, the employer gave her a scooter, and she was able to function very effectively as a registered nurse.

M^{me} France Gélinas: That is pretty creative.

Do you foresee quitting what you're doing now to take on this role, or adding it on?

Mr. Alan Whyte: Quitting it. No, this is not an add-on. I've applied for a full-time position. So I would be leaving the practice of law and engaging in this role on a full-time basis, yes.

M^{me} France Gélinas: On a full-time basis. Okay.

You did mention that you grew up in Montreal. Do you have any French-language skills?

Mr. Alan Whyte: Very basic. I used to be bilingual when I was there, but living in Ontario for so long, I'm afraid I've lost it. I wouldn't be able to conduct a hearing in French; that wouldn't be possible at this stage.

M^{me} France Gélinas: Okay. Those were my questions. Thank you.

The Chair (Mrs. Julia Munro): Thank you very much.

Do you have a comment, Mr. Brown?

Mr. Michael A. Brown: Thank you for appearing, Mr. Whyte. We are suitably impressed with your qualifications, and the government will be supporting your nomination.

Mr. Alan Whyte: Thank you.

The Chair (Mrs. Julia Munro): Thank you. We'll move on to Ms. MacLeod.

Ms. Lisa MacLeod: Thank you, Madam Chair. Welcome, and thanks for your very informative dissertation. Just a couple of quick questions; they may actually turn lengthy, but—I was just wondering. So you're appointed full-time—

Mr. Alan Whyte: Yes.

1320

Ms. Lisa MacLeod: Do you know what the salary range is for this position?

Mr. Alan Whyte: I understand it's \$110,000 to \$124,000, or something in that range.

Ms. Lisa MacLeod: Thank you. I was just asking for clarification; I didn't see it in my notes.

I was very intrigued by your discussion with respect to human rights damages and how you reward or compensate people and assess damages for mental distress. I'm just wondering, what is the standard of proof, in terms of your perspective, that a complainant should meet to have a complaint upheld? Beyond a reasonable doubt? The balance of probabilities? Or is there some other standard?

Mr. Alan Whyte: If I understand your question, the answer would be a balance of probabilities. The proof beyond a reasonable doubt is a criminal standard and doesn't apply in civil proceedings such as those before the tribunal.

Ms. Lisa MacLeod: With that in mind, I'm just wondering, and I asked this question earlier today of another person who is going to be appointed to the tribunal, do you think that a respondent against whom a false com-

plaint is made is entitled to some or all of their legal costs when they are acquitted?

Mr. Alan Whyte: In general, yes, but I stand to be corrected. I believe the tribunal may not have the power to award costs. I need to learn that point. There is concern about frivolous complaints being filed and respondents or, sometimes, employers being put to very significant expense for no real apparent reason. So, in general, I would support the concept of the awarding of costs but, as I say, I believe there may be an impediment in that regard at the tribunal.

Ms. Lisa MacLeod: I want to shift gears just a little bit right now to a quote from the Ontario Human Rights Commission. It's more of a philosophical question, and this is what I'm getting at. On April 9, 2008, the commission issued a statement on the decision in the Maclean's case, which I'm sure you're aware of, with regard to Mark Steyn. I'm going to take a direct quote out of this press release, and I have a question to follow up. This is from Barbara Hall, who is the Ontario Human Rights Commissioner:

"While freedom of expression must be recognized as a cornerstone of a functioning democracy, the commission strongly condemns the Islamophobic portrayal of Muslims, Arabs, South Asians and indeed any racialized community in the media, such as the Maclean's article and others like them, as being inconsistent with the values enshrined in our human rights codes." Where I have a problem with this quote is this: "Media has a responsibility to engage in fair and unbiased journalism."

Well, I'm a politician and, boy, I wish it were true. I want to know, do you think the media has that responsibility, or do you think that news stories should be told in the media through the "filter" of human rights, as Chief Commissioner Hall has said, and how do you see that being enforced?

Mr. Alan Whyte: In general, I would support media having the broader, freer right to report stories as they see fit. The basis of that, from a legal perspective, is the protection of freedom of expression in the Canadian Charter of Rights. Having an independent media in our society is extremely important, I believe.

Having said that, if there is some sort of discrimination that comes out in the reporting that is arguably contrary to the code, then I would also feel that it would be open to a complainant to challenge the reporting as being discriminatory on the grounds of race.

Ms. Lisa MacLeod: I just have two quick questions with respect to Maclean's.

Had this gone to the tribunal and you were adjudicating, would you have let Maclean's off the hook?

Mr. Alan Whyte: I don't know that I can answer that, to be candid, because I don't know enough about the facts of the case to properly express an opinion on it. I'm aware of the case; I haven't read it.

Ms. Lisa MacLeod: My sense is, in just reviewing this in the context of these meetings that we're having, it was almost as if they said, "You're guilty, but we're going to let you off. But we're still going to write a press

release and issue a statement that rebukes you.” Philosophically, I have an issue with that. I don’t like to make a comment on what they did, but freedom of expression is a fundamental right of being a Canadian.

With that in mind, I just want to know your opinion on what the difference between offensive conduct and discriminatory conduct is. Do you think that the commission and, in your case, the tribunal should oppose offensive conduct?

Mr. Alan Whyte: No. That’s not the jurisdiction of the tribunal. The tribunal is the enforcement mechanism for the provisions of the Human Rights Code which prohibit discrimination in various contexts. Offensive conduct, to my mind, is just a generalized phrase that could occur in virtually any context, not necessarily one protected by the code.

Ms. Lisa MacLeod: Thank you, Mr. Whyte. My colleague Randy Hillier has a question.

Mr. Randy Hillier: No, I’m fine.

Ms. Lisa MacLeod: Okay. Thank you very much. I appreciated your answers.

The Chair (Mrs. Julia Munro): This concludes this part of the process. Thank you for coming today.

Mr. Alan Whyte: All right. Thank you very much.

MELVILLE FENTON

Review of intended appointment, selected by official opposition party: Melville Fenton, intended appointee as member and chair, Committee on the Status of Species at Risk in Ontario.

The Chair (Mrs. Julia Munro): Our second interview this afternoon is with Melville Brockett Fenton, intended appointee as member and chair, Committee on the Status of Species at Risk in Ontario.

Good afternoon.

Dr. Melville Fenton: Good afternoon.

The Chair (Mrs. Julia Munro): Please make yourself comfortable. As you know from my previous comments, you have an opportunity in which to make comments as you wish, and then we’ll entertain questions from the members.

Dr. Melville Fenton: Thank you very much. I did circulate a written statement. I can just briefly point out that it is very important for us as a species to start protecting other species if we wish our world to stay at least as it is for our children, for our grandchildren and perhaps for their children as well. I believe that committees such as COSSARO play a vital role in this, and it’s absolutely crucial for a committee like COSSARO to make data-based decisions. In other words, whether you like an animal or a plant or not is not the issue. The issue is: Is there evidence suggesting that it needs protection? If so, we would recommend to the minister that the protection is enacted. It’s important that the committee operate in a timely fashion because there are many, many species yet to be considered, and we wouldn’t have the luxury of spending many, many hours discussing each and every species that might come before us. My background

includes a lot of experience in dealing with those kinds of issues, making data-based decisions on a relatively timely schedule. I believe that I can be of service to the province of Ontario, the people and the species.

The Chair (Mrs. Julia Munro): Thank you very much. We’ll begin with a government member. Mr. Brown.

Mr. Michael A. Brown: Thank you, Dr. Fenton. We appreciate you not only taking the time to be here, but undertaking this very important task on behalf of the people of Ontario. I’ve had a look at your resumé, as have my colleagues, and it is quite astounding. We congratulate you on putting forward your name and look forward to seeing an appointment.

Dr. Melville Fenton: Thank you very much.

The Chair (Mrs. Julia Munro): Mr. Hillier.

Mr. Randy Hillier: Yes, thank you very much for being here today. There are a few questions, just more general. I’ve looked over your resumé as well, and competency is not an issue at all.

Just some general comments on the Endangered Species Act and the role of COSSARO: You mentioned that these are often data-based decisions, but we also know that data in nature are seldom complete. I’ve yet to ever come across somebody who has studied any part of nature and has a complete data set on it. In your mind, how much data do we need? How can we make decisions with incomplete data, especially in this area? Because it’s not just a matter of putting the name of a species on a list, but there’s a serious number of consequences once that name gets put on the list.

Dr. Melville Fenton: I appreciate your point, and of course, one could have the idea that incomplete data is just a way of keeping scientists off the streets and being paid. I recognize that.

In many cases, the evidence will be very open and shut. Unfortunately, this occurs at the end of the spectrum where there are hardly any of the organisms left. American ginseng, the plant, would be an example, where there are fewer than 10 populations left in Ontario. Because of the commercial importance of ginseng, you may not know everything you need to know about ginseng, but when there are only 10 populations left, it’s relatively easy to make a decision.

At the other end of the spectrum, you might have something like moose, and as much as we love moose, I doubt if anyone—

Mr. Randy Hillier: They’re fairly rare down here in Toronto.

1330

Dr. Melville Fenton: Indeed, indeed.

Mr. Randy Hillier: —now that Mel Lastman is gone.

Dr. Melville Fenton: And we have a province-wide mandate. The point is, of course, that as much as you may like moose, there’s no evidence to suggest that they are in danger. In fact, there’s a legal harvest of moose every year and probably a reasonable illegal harvest of moose every year, but it’s not a problem.

Mr. Randy Hillier: That would be part of the incomplete data set, I guess.

Dr. Melville Fenton: But the point would be that you don't need to have—the committee should not spend any time on a species which is obviously superabundant. The more difficult situations come, for a country like Canada—because most species in our country are mainly species that have an American, as in US, distribution, or perhaps North American: They just get their toenails into Canada and into Ontario. This requires a more philosophical approach. I agree that the data set will never be complete, but if you know approximately how many individuals or how many populations there are and you know something about their reproduction history—how long a generation is, because a generation time for a mosquito is different from the generation time for a snapping turtle—you can put together a reasonably good case. COSSARO is a committee of 11 colleagues who are trained in using information and making data-based decisions.

Mr. Randy Hillier: You touched on a comment there which I think is important. Most of the species in our province, let alone our country, have a distribution that extends beyond our own borders. For many of those species, this is the extreme northern range of their ability to survive. They will always be endangered in the extremes of their range. A species that is at its northern range or the extreme of its range will always be endangered, will always be threatened, or there will not be a significant population of them. Under this legislation, those species are afforded significant protections, and there are also significant consequences for the people or the businesses that are in those extreme ranges. The loggerhead shrike is one that has gotten a lot of play lately. Do you think there should be a qualifier on the species list that the reason why they are endangered or threatened or there is not a significant population of them is due to that climate and that we should make some allowance or accommodation for that in the list?

Dr. Melville Fenton: This is where I would place my faith in the committee members and the data that are available. Ironically, with the advent or the increasing evidence in favour of global warming, many species that used to just have their toenails in Ontario now in fact have their whole head and shoulders in Ontario. A good example would be American opossums, which used to be hardly ever seen in Ontario and now are in fact quite commonly seen, usually dead on the road. So it's a rather dynamic situation. Just the fact that something is at the northern edge of its range should not be a rationale for protecting it. Another example would be grey foxes: There's evidence of a very small population of grey foxes, probably mainly on Pelee Island. Should the government of Ontario invest heavily in protecting grey foxes? My view would be no, but COSSARO was only making recommendations to the minister, not saying, "You have to spend this much money on it."

Mr. Randy Hillier: That's correct. Once a species is identified, and along with the advice provided by

COSSARO is that advisory role as well, I'm not sure if there would be a—now that there are opossums in the area, should we enter into a re-introduction program for them, now that we have seen that they are here—

Dr. Melville Fenton: They have their own program.

Mr. Randy Hillier: That has never prevented the bureaucracy from starting a new one, just because nature's already taking care of it. I'll go back to the first question: Should there be that qualifier attached in your recommendations, that there ought not to be any further protection afforded or that the population levels are due to conditions beyond the role of man and government and society?

Dr. Melville Fenton: I think that most biologists would already recognize that and accept it. Every year, we have examples of birds that are blown off course during migration and end up in Ontario. I would imagine that most of the 11 members of COSSARO would not use a committee's time to consider the case of some storm-blown vagrant. It wouldn't be a good use of their time or the province's resources. I would place a great deal of faith in the wisdom of the committee and the data they have available to them. There's a difference between an opossum and a storm-blown Arctic tern, for example, as opposed to something like ginseng, and that's what your committee members bring to the table.

Mr. Randy Hillier: We have to speak in general terms, because there are just too many specifics here, but one of the ones that I found interesting was the aurora trout. Of course, that has been determined to be a distinct subspecies of the brook trout. It is only and will only ever be found in a very few lakes north of Sudbury. It will never have a wide distribution unless man interferes. Should that species and those lakes be afforded the greater—because, again, it is a tiny variant from a species that is not threatened.

Dr. Melville Fenton: As a person who doesn't spend a lot of time fishing and therefore doesn't worry about whether I can go and catch aurora trout, I would argue that they've done very well. They've survived acid rain. They've survived some amount of angling. They probably don't need additional protection.

Your question also raises the other difficult one for biologists: What is a species and at what level do you actually start applying protection? Do you give the same amount of energy to protecting a subspecies as you do a species? And then what about some weird genetic variant that might be locally abundant?

Mr. Randy Hillier: This is why I'm coming to this. Every imposed ecosystem or habitat will have a slight variant to a species that is commonplace, but we ought to provide a greater level of protection for that slight variant, even though—and when that variant is included in the list, then we go through the whole process and procedures of applications and permits to do what otherwise would just be generally accepted best practices on your land.

The Chair (Mrs. Julia Munro): We've run out of time. I must move on to Madame Gélinas.

M^{me} France Gélinas: I read that you're applying to be member and chair of the committee.

Dr. Melville Fenton: Correct.

M^{me} France Gélinas: I also saw that your address is no longer in London, but in Etobicoke.

Dr. Melville Fenton: That's correct. It's a rather long story, which I can give you or not. I continue to be the chair of the biology department at the University of Western Ontario and I will be for another year. The university, not being particularly nimble, allowed me to make all my housing plans and whatnot and then changed the ground on me, which is why I will be working out of London. But I do have my home in Etobicoke.

M^{me} France Gélinas: Do you feel ready for the task of chairing? Is this a position that you've had before?

Dr. Melville Fenton: I've never been chair of COSSARO or a conservation committee of this nature before. I've served on COSEWIC, which is the federal equivalent of COSSARO. I've chaired committees at the Canada Foundation for Innovation and the Natural Sciences and Engineering Research Council and the World Wildlife Fund, where we've been making funding decisions. In those situations, you've got a schedule and you have to meet it, and you have to put aside your personal like or dislike for a project or a species and make sure the committee makes a sound data-based decision. That's why I'm interested in this position: I believe I have relevant experience, and I feel quite up to the task.

M^{me} France Gélinas: We've had the pleasure to meet some of the biologists that you will be working with. Let me tell you, they are very committed to the species they're studying, so good luck to you.

Dr. Melville Fenton: Not that I'm committed—I've refrained from that, but—I am.

The Chair (Mrs. Julia Munro): That concludes the questions from the members. We certainly appreciate the time you've taken to be here and your comments.

Dr. Melville Fenton: Thank you very much.

The Chair (Mrs. Julia Munro): All right. Our next interview is with Janice D.A. Beazley, the intended appointee as chair of the North West Local Health Integration Network.

Interjections.

The Chair (Mrs. Julia Munro): That's what happens when you don't look up at the same time as you read.

Mrs. Liz Sandals: I'm not sure that that was her, because she's not till 2:30. I think she was maybe with Dr. Fenton.

The Chair (Mrs. Julia Munro): That's what I wondered, because my notes have her at 2:30.

Mrs. Liz Sandals: Yes. We've got half an hour blank.

The Chair (Mrs. Julia Munro): Yes, there was a gap. We don't have anyone at this particular point. Members, I'm going to take a recess until 2:30.

The committee recessed from 1341 to 1429.

JANICE BEAZLEY

Review of intended appointment, selected by third party: Janice Beazley, intended appointee as chair, North West Local Health Integration Network.

The Chair (Mrs. Julia Munro): We will resume our meeting. I'd like to call forward Janice Beazley, who is the intended appointee as chair, North West Local Health Integration Network. Good afternoon, and welcome to the committee.

Ms. Janice Beazley: Thank you.

The Chair (Mrs. Julia Munro): Please make yourself as comfortable as possible. I should explain to you that you have time as you wish to make a few comments, and then we will have questions from the committee members.

Ms. Janice Beazley: Okay. Thank you. I did understand that I had an opportunity to make an opening statement—

The Chair (Mrs. Julia Munro): Yes.

Ms. Janice Beazley: —so I have something prepared.

Thank you, and good afternoon. I appreciate the opportunity to appear here before you to discuss my qualifications and experience with respect to the appointment as chair of the North West Local Health Integration Network. First of all, I'd like to state that I'm not politically active with any party, nor am I a card-carrying member of any party, just for clarification and full disclosure. I've been a resident of northwestern Ontario for about 30 years, with the exception of six years, when I worked at Trillium Health Centre in Mississauga. I understand that you have my application and resumé, which outlines my post-secondary and graduate training in business and management and health services administration, so I will not specifically review these.

I'm an experienced health care professional who has worked for over 25 years in various executive positions in both rural and remote and urban health care settings. As such, I believe the combination of education and professional background has provided me with the knowledge and experience to function as an effective board member of the North West Local Health Integration Network.

Throughout my career, I have worked extensively in the area of health care governance and strategic planning, and for the past 19 years I have also held the designation of certified health executive with the Canadian College of Health Service Executives. In 2001, I was certified as an executive lifestyle coach, and I've mentored a number of health care executives and others over the past six years. I've also been involved in a number of other non-profit boards and organizations outside of health care.

Most recently, I've been elected to the office of treasurer for the Rainy River Future Development Corp., which looks at economic initiatives in the district within which I live. In 2005, as I was leaving my employment at Trillium Health Centre in Mississauga to return to our lake home in northwestern Ontario—and that's Fort Frances, to be specific—my husband and I had talked

about our entrepreneurial role in wanting to own and operate our own business, so we set something up as consultants. Also, one of our dreams on the lake was to run a bed and breakfast, so for the last five summers, I've been doing that, running the Loon's Call Bed and Breakfast. I've been told by many that it's a beautiful place to visit, so any time any of you are in that neck of the woods, by all means join me.

Mr. Kevin Daniel Flynn: Did you bring brochures?

Ms. Janice Beazley: Actually, I didn't. I thought that that might be a conflict to do that, but I can mention it.

Mr. Mario Sergio: Okay, what's your telephone number?

Ms. Janice Beazley: My heart really has always been in the north, and I also wanted to give back to the region in whatever way possible while using my health care background and expertise. I became aware of the establishment of the LHINs and was encouraged by a number of my peers to apply for a position on the North West LHIN board.

In June 2005, I was appointed as one of the founding board members and vice-chair of our LHIN. I've also been chair of our governance committee since that time. I felt that this was a perfect way to package my knowledge and skills, and more specifically my background in governance and strategic planning, to make a contribution to the LHIN as it began implementing its mandate of transforming the health care system to better service the needs of Ontarians.

Accessibility of health care is a huge issue that is very close to my heart, and, as you can appreciate, in the northwest, our vast geography with the smallest population of any other LHIN presents its own very unique challenges.

On April 1, 2008, I assumed the acting chair role when our past chair, Dr. John Whitfield, had to resign for personal reasons. In May, the North West LHIN board of directors asked me to seek the position of chair and unanimously passed a motion of full support for me in this regard. I agreed, and thus my appearance before you today.

My leadership style tends to be very inclusive and collaborative, while actively listening to the issues and concerns of the residents and system partners within our LHIN. I believe in teamwork, and one of my key strengths is to bring people together through transformation and change. It is important that the LHINs, along with the Ministry of Health and Long-Term Care, and all of our health system providers, work together to provide solutions that meet our health system challenges in an efficient, cost-effective, creative and innovative manner.

As I know many of you are aware, our health care budget currently consumes 46% of every dollar in Ontario and, as noted by the Ontario Health Quality Council, it is imperative that we continually look for ways to reduce inefficiencies in the system, and innovation will have a huge impact on this going forward.

I also want to indicate to you that I am a strong proponent of our publicly funded health system but feel

that, working with our health system partners, there are a number of ways we can continue moving forward to make that more efficient and cost-effective.

One of the activities within our LHIN that I'm hugely proud of that has been a focus for our board and senior staff is community engagement. It has been fundamental to our work, since the inception of our LHIN, across the region. As of March 31, I'm very proud to say we've reached over 6,000 individuals personally. With a total population of only 242,000 and the vast geography we have to contend with, this is a tremendous accomplishment and commitment from our entire board and senior team, who have been involved in travelling around the northwest, engaging with our communities and our stakeholders and really listening to what they have to say. Of course, the information gathered was used to identify the priorities in our integrated health services plan.

We also believe there's a great opportunity for real change with chronic disease prevention and management in our region through a number of initiatives that we have funded since our inception. Supporting residents to better manage their chronic illness is also one of our key initiatives.

As you know, access to primary care affects the entire health care system, and we're building on our engagement strategies with physicians, nurse practitioners and other health care professionals as part of one of our strategic priorities. We continue to partner with family health teams, community health centres, the CCAC, public health, and our aboriginal health and wellness centres and aboriginal partners to ensure that our planning, priority-setting and decision-making allow our communities to determine and implement solutions that make sense. We believe we're laying the foundation in the North West for health system transformation.

I also wanted to mention to you that the North West hosted an aboriginal health forum, Elements of Change, at the end of March for aboriginal leaders and caregivers, including First Nations chiefs, the Metis Nation of Ontario, health directors and front-line workers. We had over 250 participants from 35 First Nations communities and 66 aboriginal organizations. This session was the first large event hosted by the LHIN specific to addressing aboriginal health needs and health system understanding. We're since moving forward to try to complete an environmental scan on what else might be required.

I could go on—I've got many documents and pieces of paper here—but I'll stop there and just indicate that I will continue to work very hard for the North West and for the health system in general.

The Chair (Mrs. Julia Munro): Thank you very much. We're going to begin with the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: It's very nice to meet you, Ms. Beazley. Welcome to our committee. I just have a couple of brief questions.

First of all, health care is a very big issue everywhere in the province, but I've had a few meetings with some of our CEOs in Ottawa—and it's interesting because the

LHIN has changed an awful lot. I'm just wondering if you believe that there is a role for private investment into the public delivery of health care in Ontario?

Ms. Janice Beazley: It's a tough question, yet an easy question in some sense. I think I indicated I'm a strong proponent of the publicly funded health system. I think some of the individuals out there and some of the best-practice literature on privatized health care give us some good examples, some good methodologies, that we could look to that could help us in the publicly funded system. Would I go out and advocate for privatization or a private health care system? No, absolutely not.

Ms. Lisa MacLeod: That wasn't what I was asking. I was asking more about private investment into the public delivery of health care, meaning, if you went to the hospital and it was privately run or there was a public-private partnership, such as the Royal Ottawa Hospital in Ottawa, it's still funded by your OHIP card. You still pay for it, but there might be a hybrid system. I'm just wondering what your thoughts are on that.

1440

Ms. Janice Beazley: In the northwest, I guess that's not a specific issue and I'm not as familiar with the situation in Ottawa. But for myself, personally, if you're saying it's funded by OHIP, by the publicly funded system, if we can guarantee the quality of the service for our residents and we have a strong partnership with our current system, I think it's something we could definitely look at. I don't know how to be any more specific than that.

Ms. Lisa MacLeod: That's great. The other question that comes to my mind—I'm from the Champlain LHIN—it does come up from time to time when I meet with health care professionals: The simple thing is we have big hospitals in Ottawa that tend to specialize in different things, and it's harder now because there's a new layer of bureaucracy. The hospital president doesn't necessarily have control over a budget; they get it the next year. If you want to expand your hospital, the LHIN has got to agree. If you want to move your hospital from one end of the city to another over a 20-year period, it's got to be decided upon by the LHIN, and therefore it might be some planning that's going on behind the scenes, but it might come out publicly at a LHIN meeting. I'm just wondering, do think this is the most effective way to administer health care regionally? Or do you have any other ideas?

Ms. Janice Beazley: Maybe I'll make two points. First of all, under our previous system, many of those types of decisions were much more centralized within the Ministry of Health specifically, so I think those decisions going out to the local regions—whether it's the Champlain region or whether it's the northwest region—help to inform those decisions, I believe, in a better way. As board members and as LHIN staff, we work in those areas. I think we understand the issues and the challenges that we're faced with, and I really believe it's a partnership. I would hope that whether it's that hospital that's looking to relocate in another part of a community or

whatnot, it's really a partnership between that executive and that board with the LHIN executive, the LHIN board and whatever other partners need to be involved in that to help inform that decision. I know for us in the northwest that's a really strong method of operation that we use.

Ms. Lisa MacLeod: And just one final question, because you are quite a different area, actually, than the city of Ottawa, the national capital, but you are blessed because you have a very vibrant First Nations community, a very vibrant francophone community and you're very fortunate to have diversity. I'm just wondering, how can the northwest LHIN improve the availability of services for those folks?

Ms. Janice Beazley: You're talking about health care services specifically?

Ms. Lisa MacLeod: Health care services. I understand in even dealing with some of the health centres in our community that it's much more than that, but in terms of health care.

Ms. Janice Beazley: It is. I guess if I think of the aboriginal population initially, one of the issues there is that many, many aboriginal people access health care in the northwest in the mainstream system, so they have that kind of access. For the communities that are only accessible by air and by winter road, and we have 28 First Nations communities much further north, we've really used the Ontario telehealth network system, the OTN system, and the connections that we have with the aboriginal health access centres and the nurse practitioner clinics that they're working with. Again, we see that as a real partnership.

It's really important for us in the northwest—you may or may not be aware that we have two board members who are of aboriginal descent, and they really do provide a lot of information and feedback to us. They provided some education and cultural awareness sessions for us as a board, and we found that to be very beneficial as it relates to the aboriginal piece. I think I mentioned about the conference, or I shouldn't call it a conference, the forums that we had, where we were seeking that information on the types of services that we could have some impact on helping to provide to them.

Of course, there are also the jurisdictional issues, as you're well aware, between the provincial system and what the federal government funds for them. We're looking at those in a partnership way as much as possible between the provincial government and the federal government, in terms of access to service for aboriginals.

Ms. Lisa MacLeod: And just one final question that occurs to me, and it's more of my own interest: You paint a very good picture when you say that they're remote communities and you have to sort of shuttle between them. How is the level of pediatric care in those remote communities, in terms of our children who are living in the north? Do they have adequate resources? Because this is your five minutes to tell us what you need.

Ms. Janice Beazley: Well, in my own personal health care experience, if I speak from that perspective, I don't

believe that it's totally adequate. I believe that under the circumstances we are in in some of those communities, everyone—the federal government and the provincial government—is doing the very best that we can, but there's more we can do. There are many things. When I look at chronic disease prevention and management—you mentioned children and the issues of diabetes in children. We've done a number of "train the trainer" programs and set up a number of diabetes education programs specifically for aboriginal children, but also others, to try to help deal with some of those issues. If I look at just that one example, we're really making inroads, but yes, there's much more to do.

Ms. Lisa MacLeod: Thank you very much. You were very fascinating. I appreciate that.

The Chair (Mrs. Julia Munro): We'll move on to Mrs. Gélinas.

M^{me} France Gélinas: Thank you, Ms. Beazley, and thank you for coming all the way down. I know the trip all too well; it's a long one.

I wanted to ask you a little bit about how you feel about the accountability mechanism that exists at the level of the LHINs and if you are satisfied. I know that you've negotiated your first accountability agreement with hospitals; if you could comment on that.

Ms. Janice Beazley: Probably everyone here is aware that we do have our MOU with the minister's office, and we also have our LHIN ministry accountability agreements, as well as the accountability agreements now with the hospitals. When you ask if we're satisfied, I think this has been a foundational approach. We've just started down this road. We've used a very collaborative approach with our hospital partners in working through those agreements with them, between ourselves and our senior team. I think that that has been very important. We have had some issues and some challenges, obviously, but both teams have been very committed to keep on working together, so it hasn't been adversarial in our particular LHIN. As well, our boards have also made the effort to meet and communicate in areas where we are having some difficulties, and that has gone exceptionally well as well, and actually made a further commitment to continue meeting on a very regular basis, so we're using that approach as collaborative.

I feel it's a very positive step forward for us, and I guess the rest is sort of wait and see as we get a little more experience under our belt over the next year or two.

M^{me} France Gélinas: Okay. Were any of the hospitals in your LHIN catchment area having problems balancing their budgets?

Ms. Janice Beazley: Yes. We have two that currently have still not signed their agreement, and we're working through that process with them. Next week, as a matter of fact, we have some folks up who are doing a third party review in Kenora. That was mutually agreed upon between that hospital board and the LHIN board to help them sort of re-look at their operation, and they're looking forward to that. We're also working through the various steps with Thunder Bay Regional Health Sciences Centre.

M^{me} France Gélinas: Coming back a little bit to the issue of privatization that Mrs. MacLeod had put forward: If a hospital just cannot balance with the money they have and put forward to the LHINs a solution that would include divesting outpatient physiotherapy to the private sector, is this something that would be agreeable to you?

Ms. Janice Beazley: Our focus, again, when we've even thought about any of those types of issues is, if divestment of some service is required, we would like to see it done in non-clinical, non-front-line areas, because we feel, particularly for us in the northwest, we're underserved to start with, so for us to even remotely consider that type of divestment, no, that would not work well for us.

M^{me} France Gélinas: On what basis wouldn't it work well?

Ms. Janice Beazley: From the perspective that we're probably already underserved. You're using the physiotherapy example, so in all likelihood, there is not someone within the community—another clinic or whatever the case may be—that could help pick up that service for our community or for our residents. That's something that would create concern for us. We would want to look at other alternatives, also respecting the role that hospital and their board of directors have to make—they're still accountable and responsible for their own operation. Hopefully they would work in partnership with us prior to making some sort of a major decision like that in terms of a clinical service.

1450

M^{me} France Gélinas: I'm still not—

Ms. Janice Beazley: I'm sorry, I'm not answering your question?

M^{me} France Gélinas: No, you are. I'm still not exactly sure where you stand. I mean, you say things like you are committed to publicly funded medicare, but at the same time, you've answered—her question, like my question, had privatization in it, as in, divest it to a private physiotherapy clinic. You didn't pick up on that, so I'm getting a little bit of a mixed message as to where you stand toward privatization of clinical services.

Ms. Janice Beazley: My personal philosophy?

M^{me} France Gélinas: That's what I want, your personal philosophy.

Ms. Janice Beazley: Sorry, maybe I'm trying to play the diplomat; I'm not sure. My personal philosophy is publicly funded health care, not privatized health care. That's how I feel, personally. In the role that I have to play, or am playing, I feel that it's important we look at all the options, ensuring that every possible route is followed to make our publicly funded system work and work efficiently the way it needs to work. I would be very reluctant to ever want to see something like outpatient physio become privatized.

M^{me} France Gélinas: Okay. What would you say is the most serious challenge facing the North West LHIN right now?

Ms. Janice Beazley: The most serious, I would probably have to say, is accessibility, access to health

services. We talked a little bit before about the whole issue of the geography. That's a huge challenge for us in a number of areas, so that would be the one.

M^{me} France Gélinas: Okay. Would you say, in the three years that you've been there, that the LHIN has been able to make a difference in this most crucial area of accessibility?

Ms. Janice Beazley: Yes. I feel I can say that very definitively. If I look at the wait time strategy and the whole issue around wait times, we in the North West LHIN over the past three years have dramatically decreased wait times in every area, with the exception of MRI. We're working very closely on that one and hopefully within this next year we'll meet those targets. I feel quite good about saying yes.

M^{me} France Gélinas: Have you thought about whether other services should be under the LHINs? I'm thinking primary care, public health etc. Or are you satisfied with the division there, the ministry keeping some, and some with the LHINs?

Ms. Janice Beazley: Again, my personal philosophy is that I think full integration is always a really good thing, because I think it helps us work more closely together. Again, maybe there's more administrative-type efficiencies that can be achieved through that. However, in the system that we're in, we've got a very good partnering relationship with the community health centres, our physician engagement group and public health. They're at the table with us as we're planning and moving forward on initiatives. So we feel we've got a good rapport with those other health care organizations that are able to help us move forward. At the end of the day, they're interested in the same thing we are.

M^{me} France Gélinas: So you're comfortable with the way the system was split, with some of it staying financed by the ministry and others being financed by the LHIN?

Ms. Janice Beazley: When you say comfortable—we can work within the system that's currently there. Would I like to see more of that pulled into the LHIN? Yes.

M^{me} France Gélinas: What would be your top pick?

Ms. Janice Beazley: Public health.

M^{me} France Gélinas: Public health, okay. You have mentioned that you certainly have the highest concentration of First Nations in your LHIN. I was wondering, aside from your work with this LHIN, what is your experience working with First Nations?

Ms. Janice Beazley: When I was working in Fort Frances previously, I was on the executive team of Riverside Health Care Facilities in Fort Frances. I worked with that hospital organization for 18 years, so again, we had an opportunity there to work with our aboriginal partners in other health programming and things like that, and also with the aboriginal health access centre that they have located in Fort Frances, which I know they're using as a model in some other areas.

From a personal perspective, I have a daughter-in-law who is aboriginal and two grandchildren who are aboriginal.

M^{me} France Gélinas: All right. When the little vans spread out throughout the province, you got some too?

Ms. Janice Beazley: Yes, we did—eight, I believe.

M^{me} France Gélinas: Were you able to make them wheelchair-accessible in the northwest, or was that an issue?

Ms. Janice Beazley: It was expressed as an issue by, I believe, one or two of the groups that received those vans to run. For the most part, what we're doing at this point in time—I'll give you an example. The Red Cross in Thunder Bay was the recipient of two of those. They also had other handicapped-accessible vans within their system that they were using. So what they're doing is seeing how that works out over a period of time, because then the ones that aren't handicapped-accessible may be used for ambulatory-type seniors and others to get to appointments and things. So we're using a little bit of that wait and see. We do have the ability to retrofit a couple of them, and that may be the sort of thing we need to do in the future, but we're sort of assessing that now over the next six or eight months to see how that goes.

M^{me} France Gélinas: Okay. Those were my questions. Again, thank you for coming down.

Ms. Janice Beazley: Thank you.

The Chair (Mrs. Julia Munro): Mr. Brown.

Mr. Michael A. Brown: Thank you. I believe I'm the only member here who has communities that are in the North West LHIN. I'm pleased to represent Manitowadge and Pic Mobert. So I'm pleased to see you. I also believe that your board members have made a good choice in recommending you to come here today. So I thank you for that.

Just so my colleagues have some comprehension, I know that it took you a considerable amount of time to arrive here today. And just so that my friends know, when we're in Toronto, we're as close to the Florida border as we are to where you live.

Ms. Janice Beazley: Yes.

Mr. Michael A. Brown: I think that is something that people sometimes need to understand. So congratulations.

Ms. Lisa MacLeod: So when are you going to invite us all up, Mike?

Mr. Michael A. Brown: Come on, Lisa.

Ms. Janice Beazley: You're welcome to come anytime. I have a place that you'd probably enjoy staying at.

Ms. Lisa MacLeod: This is televised.

Ms. Janice Beazley: Is it? Oh, well, maybe we'd better can that part of it.

Mr. Michael A. Brown: Anyway, I've had the opportunity, as have some of my colleagues, to visit many of your health care facilities over the years, from Fort Frances to Dryden to Kenora and many other places. You're doing a wonderful job in an area that has some extreme circumstances at times. So thank you, and the government will be supporting your appointment.

Ms. Janice Beazley: Thank you.

The Chair (Mrs. Julia Munro): Thank you very much for coming. I would just like to say that I've been

to Fort Frances several times and I know exactly how far it is. I did tell other people that I could get to Florida just as easily. So I appreciate that you've come today. Thank you very much for being here.

Ms. Janice Beazley: Thank you very much.

LLOYD KOMORI

Review of intended appointment, selected by third party: Lloyd Komori, intended appointee as member, Toronto Central Local Health Integration Network.

The Chair (Mrs. Julia Munro): I would like to move now to the next person, who is Lloyd Komori. We'd ask Mr. Komori to come forward. He is the intended appointee as member, Toronto Central Local Health Integration Network.

Ms. Lisa MacLeod: Madam Chair, what happened to Joanne Jackson?

The Chair (Mrs. Julia Munro): I'm sorry. Mr. Komori has an appointment. We asked Ms. Jackson if she would mind, and she has kindly agreed to allow Mr. Komori to go first. I should have made that clear to the committee.

Mr. Komori, welcome to the committee. We appreciate your coming, and we certainly want to accommodate our intended appointees as much as we can. You have a few minutes. You may make a statement if you wish, and then we will have questions from the members of the committee.

Mr. Lloyd Komori: Thank you, Madam Chair, and to the committee for your consideration. I had a sudden change—I have a business planning meeting. I have a board meeting coming up in a couple of days, and my chairman decided to change the date of this meeting. So I apologize for that.

Good afternoon, ladies and gentlemen of this committee. I am going to avail myself of some time to state some opening remarks. It's a hard act to follow, given the previous lady and her extreme qualifications in health care.

1500

I appreciate the opportunity to be presented to this committee for consideration for appointment to the Toronto Central LHIN.

I'd like to take a few minutes just to highlight some of my personal motivations for applying for this position, as well as the nature of the contribution that I hope to make.

The public health care system in Ontario is highly regarded for its universal availability, its quality of patient care and its ability to meet some growing challenges. However, there are several trends and economic developments that give rise to some very significant challenges and risks that will need to be addressed by the health care sector. More specifically, our aging population, rising costs, finite financial resources and the growing demands of diverse health care services have combined to create an environment of uncertainty and risk. In order to navigate this perfect storm, health care organizations such as LHINs will need to demonstrate to their stakeholders the

highest level of prudent oversight, transparency and risk management capabilities.

These capabilities are the foundation blocks of modern corporate governance, and success or failure of various health care initiatives will be, in part, assessed by many using these standards. I see this challenging environment as an opportunity for me to step up to the plate, be part of the solution and contribute to the well-being of Ontario's health care system.

The nature of my contribution to the Toronto Central LHIN is based on four elements.

The first element can be characterized by the first 15 years of my career, working in the financial services industry, where I developed a comprehensive set of tools, skills and knowledge in finance. It was during this time that I learned the complexities of cost versus benefit, return on investment and, naturally, all the factors that create exceptions to all of these disciplines.

The second element is based on the 11 years that followed that, when I was a consultant, when I developed insights related to governance and risk management, how it's best designed and how it's actually implemented, and how boards of directors actually operate effectively. During this period, I developed a keen understanding of the importance of non-financial factors in tactical and strategic decision-making—because it's not about the numbers. If problems could be solved by numbers, we'd all have computers; we would have no people. Some of these issues that are non-financial include employee engagement, corporate social responsibility and environmental sustainability.

The third element relates to my current position at Ontario Power Generation, where I fulfill two key roles. I am the chief risk officer, and I'm also the chief audit executive. Since my arrival in the spring of 2006 to OPG, I have effected significant change to how the corporation performs its risk management, while at the same time significantly altering how the board looks at its internal audit function. These changes are essential steps, in my opinion, that will help the corporation meet its ambitious objectives, as set forth by the province.

The fourth and last element relates to my ongoing involvement as an active faculty member of the board certification program at McMaster University. My participation in the program, as an instructor, has provided me insights into some of the current challenges faced by directors, who must strive to meet continually escalating governance standards. In addition to being part of the faculty, I've also been awarded the program certification for audits and been certified as chartered director.

It is clear from my biography, which I know you have, that I am not a health care professional. But I believe that the specific skills, experience and expertise that I have complement the current capabilities of some of the members of the Toronto Central LHIN, and I hope to join them in helping them meet their strategic objectives.

I'll be looking forward to answering your questions.

The Chair (Mrs. Julia Munro): Thank you very much. We'll begin with the government.

M^{me} France Gélinas: Madam Chair, wasn't it my turn?

The Chair (Mrs. Julia Munro): Frankly, I was doing this to make it easier for myself, simply because we took Mr. Komori out of order. So then I thought, okay, if I keep that part of it together and then come back to Ms. Jackson—is that okay?

M^{me} France Gélinas: That's okay.

The Chair (Mrs. Julia Munro): I can see I may need to provide explanatory notes for all of my minor changes to our scheduling here. Having done so, can we have comment from the government members—one of them?

Mr. Michael A. Brown: Thank you, Madam Chair.

Good afternoon. We are most delighted to have your application before us today. The government is fully supportive of your appointment. We believe that you have a lot to contribute and that financial management is important in the health care system. As someone noted early on, we spend 46% of our revenues here in the province on health care, and we need to be able to deliver that as effectively as possible. I just offer our congratulations for putting your name forward.

Mr. Lloyd Komori: Thank you.

The Chair (Mrs. Julia Munro): We'll move to Ms. MacLeod.

Ms. Lisa MacLeod: Thank you very much, Mr. Komori. It was a pleasure to hear your dissertation. Just two very quick questions: What part of Toronto are you from?

Mr. Lloyd Komori: I live in the central part of the city.

Ms. Lisa MacLeod: You live in the central?

Mr. Lloyd Komori: Yes.

Ms. Lisa MacLeod: And do you know what—

Mr. Lloyd Komori: Embarrassingly close to this building.

Ms. Lisa MacLeod: Okay. What provincial riding are you—local?

Mr. Lloyd Komori: I think it would be Toronto Centre.

Ms. Lisa MacLeod: Okay.

Mr. Lloyd Komori: I'm sorry; I'm not politically inclined.

Ms. Lisa MacLeod: I was just asking in terms of geography. I'm actually from Ottawa, so I don't know the city that well myself. Just one very quick question relating to your business background: Are you open to private investment into the public delivery of health care?

Mr. Lloyd Komori: I think that the availability of public health care—the public health care system in Canada and in Ontario, obviously, is pretty important. I don't mean to dance around this issue, but I'm not going to apply a pure business-type discipline to understand whether business should be investing in health care. I don't know enough about the issue. I have some knowledge of it, but clearly it's a very complicated issue. I don't want to be wiggling off the hook here, but I don't think I'm in a position to really comment on that.

Ms. Lisa MacLeod: In terms philosophically, though, if you were at a LHIN meeting and there was an opportunity to expand a health care facility if there was private investment brought in, would you be open-minded to that?

Mr. Lloyd Komori: I think as long as there's no degradation or negative impact on the existing services. I guess the issue of being on a slippery slope has probably been brought up at times in some of these discussions. This is only me hypothesizing that if you start to privatize one element, all of a sudden more and more elements start to slip away. I think you'd have to really get at what the motivation was behind private enterprise wanting to form or deliver services, and to the extent that they can do so efficiently and not endanger the public health care system, I don't see why that couldn't be considered. At the end of the day, it's for patient care.

Ms. Lisa MacLeod: And what if patient care were to benefit?

Mr. Lloyd Komori: I think that's important. Ultimately, that's what we're all here for.

Ms. Lisa MacLeod: So that's your primary concern.

Mr. Lloyd Komori: I would say so.

Ms. Lisa MacLeod: So if the primary concern, for example, would be to bring an MRI to one of your local clinics and the LHIN couldn't fund it but did go out to a private citizen or a private company to request that they bring the MRI into operation, which would benefit my constituents and your constituents but they're still paying through their OHIP card, would you be open to that?

Mr. Lloyd Komori: Again, if all else is exhausted, if all other solutions were exhausted, that it cannot, in the current framework, meet those specific needs—I think you have to look at: “Am I in a position to make a decision or a recommendation on a public policy issue like that?” I don't think so. At the end of the day, we all have to think about what we're trying to accomplish. My apologies for being evasive, but I don't think I can really answer that with a clear yes or no. Sorry.

Ms. Lisa MacLeod: Okay. That's fine. Thank you.

The Chair (Mrs. Julia Munro): We'll move to Ms. Gélinas.

M^{me} France Gélinas: Good afternoon. A pleasure to meet you, Mr. Komori. I kind of liked your answer to the last question. The privatization of medicare is currently a policy issue, and this is the type of policy that should be clearly given to the LHINs, as to, is Ontario open to privatization of our public health care system or not? Just to get your thoughts—again, it's the same line—and if you don't know, it's okay: Do you believe that a private clinic for anything, be it cataract surgery, physiotherapy—we'll take cataract surgery. Do you believe that if we had a parallel system of private clinics where people who can afford to pay, this would decrease the wait times for the public system and that would be a good thing for medicare?

1510

Interjection: Absolutely.

M^{me} France Gélinas: I didn't ask you.

Mr. Lloyd Komori: Not being privy to how much wait time there actually is with regard to cataract examinations and the extent of the source of those delays—how much demand there is relative to the supply and having the statistics that decompose it—I can't say that for sure. What I believe is done in business can look complicated. At the end of the day, it should come down to some very, very simple principles, and I think those principles need to be transparent; people need to be accountable for them, and they need to be understood. I have read the LHIN mandate, so I understand its principle. I think if you can be true to that, you're not going to get yourself in trouble. If you start getting away from that, I think you might find yourself standing on a slippery slope a little bit.

M^{me} France Gélinas: Although I can tell you don't have a strong background in health, I think your principles are in the right place. Medicare, the publicly funded health care system, is something that everybody in Ontario cherishes. As soon as you open the door to privatization, for one good reason or another, you enter a slippery slope there will be no backing out of. So I admire your principles, and I think you will serve your LHIN very well.

I was interested by some of the work that you talked about in governance design. You've done some consulting work, I take it. Did you have a chance to look at how LHINs were organized and the governance of LHINs, and are you ready to comment. Or have you had a chance to look?

Mr. Lloyd Komori: No, my governance work was focused primarily on the private sector, not involving government.

M^{me} France Gélinas: Do you think there are principles that will go from—have you sat on a not-for-profit board of directors before?

Mr. Lloyd Komori: Yes, I have. I was brought onto a couple of not-for-profit boards specifically for my governance background, to sort of give them structure, because a lot of them don't have it; they don't know where to start. So those good governance principles are pretty much universal, I think. It's about accountability; it's about transparency; it's about writing things down. There's no difference between whether it's in business or if it's public, not-for-profit; I think those principles still apply.

M^{me} France Gélinas: They do. Did you have a chance to look at the accountabilities of the LHIN, how it is accountable to the ministry and how the transfer payment agencies are accountable to the LHIN?

Mr. Lloyd Komori: I did read the accountability statement.

M^{me} France Gélinas: Do you have an opinion or something you'd like to share with us?

Mr. Lloyd Komori: Not really. It looked like obviously a lot of good work had been put into place. It's kind of like what I've seen in other organizations. If, in fact, they could do a lot of what they—I've been in corporations where they write down policy and procedures

in their governance, and I sat back, as an external consultant, and said, "If you can do all that, then you really don't need me to be here." Again, I don't know how it's actually being performed, but I think from its structure, it seems to be intuitive and it seems to be logical.

M^{me} France Gélinas: For a citizen of central Toronto, what would you say is the biggest challenge to the LHIN and to health care in Toronto central?

Mr. Lloyd Komori: Luckily I'm not a client yet, but at some point I suppose I might be. I've read the demographic analysis of the Toronto Central LHIN, and it's a study in diversity, the difference between those who are very, very well off from a financial perspective and those who are not. It has a very, very wide diversity of people who are young and also people who are elderly. So I think some of the greatest challenges will be around integration, which at its core is how to pull the whole thing together in one of the most populous LHINs of the province. That's the challenge to me. This, to me, is about challenge, and I see that being a huge challenge for the central LHIN as well as for Ontario in general. You shouldn't be sitting back, looking at a problem and kind of going, "Okay, here's a problem," and then turn your ear sideways. So it's an opportunity to effect change and for me to have an impact on that. I need to study the issues and then, hopefully, I can make some marginal impact being part of their board of directors.

M^{me} France Gélinas: Sounds good. Good luck to you.

Mr. Lloyd Komori: Thank you.

The Chair (Mrs. Julia Munro): Thank you very much for coming, and that concludes the questions from the members. We appreciate your being here today.

Mr. Lloyd Komori: Thank you, Madam Chair.

JOANNE JACKSON

Review of intended appointment, selected by official opposition party: Joanne Jackson, intended appointee as member, Ontario Film Review Board.

The Chair (Mrs. Julia Munro): Now I would like to ask Joanne Jackson to come forward. Thank you very much for coming today and for agreeing to step out of line and allow us to allow Mr. Komori to go ahead of you. We appreciate that.

Ms. Joanne Jackson: No problem. I'm just going to grab a little bit of water.

The Chair (Mrs. Julia Munro): Of course. As you know from observation, you have an opportunity to make any statements that you wish, and then we will have questions, and we will begin with the third party.

Ms. Joanne Jackson: I am going to present a little bit about myself to you, more than what's on the resumé. Good afternoon, and thank you, Madam Chair and members of the public appointments committee, for inviting me here today.

It's my privilege to be considered as a member of the Ontario Film Review Board and I appreciate your taking my application. I've been working in the television

production business for over 20 years, so I hope to bring my knowledge about production techniques, marketing and evaluative skills to the board—I do a lot of work that’s evaluative right now for broadcasters—along with my sensibilities as a parent and as a citizen in the community.

First, I’d like to mention that I’ve never worked on a feature film or a video game, but my life work started out in TV stations and it has been primarily television production focused, with an information, factual, lifestyle storytelling side—with a brief stint in TV news.

I was raised in northern Ontario, in Mr. Ramsay’s riding—New Liskeard. I spent my youth in the area which is now part of the Temiskaming Shores community about 100 miles north of North Bay. I also did grade 12 in Cochrane High School. So I’m a girl from the north, basically, and have those rural sensibilities about me still.

I currently live in Durham region, in Ajax, and have a lot of family R&R time in Haliburton county. I came to Toronto to attend Ryerson Polytechnical Institute, because if you wanted to work in radio and TV, that’s where you had to go in the 1970s.

My work has primarily been GTA-based but I’ve also been able to travel and see different parts of the world and have had the privilege of working on two Olympics in the past, which has been amazing. I also took political philosophy when I was at Ryerson. While I’m not a real political animal, I did take on a role of representing the RTA department in the politics committee within Ryerson.

My first real job in the business was at Citytv, and working there made me realize how important media and film are to the community. Since that time, I’ve had a lot of varied experiences, including managing a cable-based community television station in Durham region, which taught me a lot about being responsive to the needs and sensitivities of the community. I was also on staff at youth broadcaster YTV for 12 years. I’ve freelanced for CBC national news, Alliance Atlantis Broadcasting, WTN, the Women’s Television Network, which is now W Network, CTV, and I’m currently doing some contract work with the Discovery Channel. It has been a successful career amid a rapidly changing landscape, and it has been a time of constant learning and adaptability.

Throughout my life I’ve also found time to be involved in the community and volunteer. Before I had my own family, I was a volunteer for Metro children’s aid and did the Big Sister role—or they call it a Special Friend. While I was there I also produced a video for the organization to help them recruit volunteers. When I was at YTV, I was on the sexual stereotyping committee and I helped start up the workplace daycare. I was an active board member of that daycare for six years. I also saw a really unique program that YTV did called the YTV Achievement Awards. Some of you may remember it. It was a community-based program that awarded national youth awards to kids all across the country. So I oversaw 15 categories that included things like public service,

innovation and performing arts. My involvement with that production led to an invitation to join the board of directors for the national youth foundation, which was based in Ottawa. I was on that board from 1995-2000.

1520

When Canadian Women in Communications, or CWC, wanted to start regional chapters, I co-chaired the initial steering committee to build an active Toronto chapter. It was a four-year volunteer commitment I took very seriously. When they needed help producing videos for their big awards gala show, guess who they asked? It was me, so I volunteered my time and resources once again to that organization in 2004 and 2005.

Similarly, in 2004, I produced the opening ceremonies and awards for the Innoversity Summit. I don’t know if anyone here has heard of it. It’s a conference that’s dedicated to diversity in film, television and media. I donated my time and services for that.

I’m currently a member of the Documentary Organization of Canada, the academy of cinema and television, and I have volunteered my time chairing Gemini juries.

In 2005, I became involved with Operation Katrina. I don’t know if any of you have heard of it. There was a Bowmanville truck driver named Peter Bruno who took relief supplies down to Mississippi. He was the first long-haul trucker from anywhere in North America. My partner, Doug, is a cameraman, so he was able to hop in the truck and go with him. We were able to share that story with the rest of Canada through a documentary. If you are interested in Peter’s story, he’s just had his third heart attack. He’s not in a great way right now. There are a group of people who have started up a trust fund for him to help him get back on his feet, because he’s probably going to lose his driving licence.

Today, I’m seeking this position for the Ontario Film Review Board because I believe it’s another way to give back to the community. I hope that my business skills and my technical and evaluative skills gained in the television industry will be an asset to the board that the public will benefit from. Thank you.

The Chair (Mrs. Julia Munro): Thank you. Ms. Gélinas?

M^{me} France Gélinas: I noticed that you said you were self-employed. I think you will have the flexibility to attend the film review board meetings. Do you know how many days those will be and what kind of demands it will put on your time?

Ms. Joanne Jackson: I spoke to the chair, Janet Robinson, and she said three to four days a month. Given my situation, I have a fair bit of flexibility to work at home, even for the contract I’m doing now with the Discovery Channel, and take days when I need them. I think I’ll be able to contribute those days, maybe more.

M^{me} France Gélinas: Have you ever attended any of the Ontario Film Review Board’s public screenings?

Ms. Joanne Jackson: I haven’t, but I’m really looking forward to it. I think it’ll be a great opportunity.

M^{me} France Gélinas: What motivated you to seek that position rather than any other? There’s lots of opportunity to give back to your community. Why this one?

Ms. Joanne Jackson: I think it's a unique opportunity where my skills might be quite useful. I'm always looking for that. I was also looking for things that fit in with the other freelance work that I do. A friend of mine had been on the Ontario Film Review Board before. She told me a little bit about it and said, "I think you'd like it," so that's why I'm volunteering.

M^{me} France Gélinas: Sounds good. Those are my questions.

The Chair (Mrs. Julia Munro): Mr. Flynn?

Mr. Kevin Daniel Flynn: Mr. Brown isn't here, but if he was, I think he'd say you're a wonderful person and we're really glad you applied for the job. I think you did a terrific presentation. It appears you do bring a lot to the table, and we're looking forward to supporting this.

Ms. Joanne Jackson: Thank you very much.

The Chair (Mrs. Julia Munro): We'll move on. Ms. MacLeod?

Ms. Lisa MacLeod: Thank you very much, Ms. Jackson. It's very important that you're here today. The role you're about to take is very important to the province's children. That's why the official opposition called you in.

I've got a little background in this; it's not direct. My uncle was a film classification review officer in Nova Scotia, and at the time—he's since passed now—a few years back, he made a very important decision, I think. If there are parents with their children at home, just turn this down a little bit. He was the person who decided to ban the *Bastard Out of Carolina* from Nova Scotia, and the Maritimes provinces followed, because of the explicitness in those scenes and how drastically it was portrayed, for a child. As somebody who espouses freedom of expression and freedom of speech, there are limits, and I was so proud of my uncle at the time. I remember him telling us. He had achieved national recognition for this on both sides. Of course, people thought that he shouldn't have done it, but I was proud of him because he stood up and said, "Well, if that were my child," and different things.

I just want you to know that that may happen to you. You may see something, and you will have that philosophical debate in your head: There is freedom of expression, but there are also limits to that. You must protect Ontario's and, in some cases, Canada's children. I just wanted to say that and wish you well because you are going to get a lot of free movies—sometimes they give you popcorn; I was a recipient of that as a kid—but you may be at a crossroads. I just wanted to see if you had any comments on that. I applaud your work with YTV, and I think that that's wonderful, the community commitment, but this is a very interesting job, and I don't want anyone to think it's just all free movies because it is tough decisions.

Ms. Joanne Jackson: I understand, and I'm not afraid to speak up if I don't agree with something that someone else on the panel wants to put forth as a PG show or something like that. I will not be afraid to speak up because I did work at YTV, and we looked at a lot of

stuff and sexual stereotyping. I took that role very seriously, and I will in this position as well.

Ms. Lisa MacLeod: I appreciate that. Just one other question: I was interested in your CV, where you said you worked on the sex role stereotyping committee. Could you just expound on that for us? I thought that was quite fascinating, but I'd like to know a little more.

Ms. Joanne Jackson: In the early days of YTV, they used to run music videos, quite a few of them actually. The music videos all had to go through this committee where we would look at the images and decide if they were suitable or not for the network. We were very conscientious about it being a safe place for kids, even to the point that there were products that we wouldn't take the ads for on YTV.

Ms. Lisa MacLeod: Thank you very much, Ms. Jackson. I wish you well.

Ms. Joanne Jackson: Okay. Thank you very much.

The Chair (Mrs. Julia Munro): That concludes the questions from the committee. I appreciate your coming and being able to be so flexible for us. Thank you.

Ms. Joanne Jackson: Thank you very much.

MAUREEN DOYLE

Review of intended appointment, selected by official opposition party: Maureen Doyle, intended appointee as member, Human Rights Tribunal of Ontario.

The Chair (Mrs. Julia Munro): I'd like to move on to our next interview with Maureen Doyle, the intended appointee as member, Human Rights Tribunal of Ontario. Good afternoon, and welcome to the committee, Ms. Doyle.

Ms. Maureen Doyle: Good afternoon. Thank you.

The Chair (Mrs. Julia Munro): As you will have observed, you have an opportunity to make a presentation yourself, and then we will entertain questions from members of the committee.

Ms. Maureen Doyle: Thank you very much.

The Chair (Mrs. Julia Munro): So as soon as you're comfortable, you may proceed.

Ms. Maureen Doyle: Good afternoon, Madam Chair, members of the committee. Thank you for the opportunity to speak to you today regarding my background and my interest in the position of member of the Human Rights Tribunal.

I grew up in Ottawa and in Niagara Falls, Ontario. As you may have already noted from my resumé, I went to King's College at the University of Western Ontario for my bachelor's degree. My degree was in English literature and religious studies, with a minor in French. On the completion of my B.A., having spent one summer earning academic credit in *Trois-Pistoles* in Quebec, I studied French for a year at the Centre international at l'Université Catholique de l'Ouest in Angers, France. Following that, I returned to Canada and obtained a bachelor of education degree at Brock University.

I then spent the next five years working as a French teacher and taking in-service courses, particularly in

French-language teaching, in educating children with special needs, and in religious education. I taught as an itinerant French teacher in two schools in small centres in Simcoe county, and then I taught for the remainder of my time as a teacher, the majority in fact, in one school in Scarborough, Ontario. To be frank, my original goal in going into teaching had been to teach religion in high school, but I actually immensely enjoyed working with children in grades 1 to 8 teaching French.

I was always keen to make the language that I was teaching relevant to them and to their understanding of the world around them. I tried to use the opportunities available to me in that position as a French teacher to encourage them to become aware of the diverse world around them and the possibilities that surrounded them.

1530

I recall, for example, always trying to avoid translating as I taught, so I would instead draw pictures on the board to try to get ideas across. I recall—this was in the early 1980s, I think—illustrating the word for “secretary” on the board by drawing a man at typewriter. The children struggled with that for a few moments, but it was a wonderful learning moment when I saw them realizing, dawning: This was in fact a picture of a secretary, and that’s what the word that I was using actually meant.

I enjoyed my years teaching, but I began to look for a new challenge, and so after several years of teaching, I returned to school in 1986 and began studies at York University’s Osgoode Hall Law School, where I received my L.L.B. in 1989. While I was at law school, I did volunteer work at the school’s legal clinic, known as CLASP, working in what was then referred to as the workers’ compensation division. Additionally, while at law school, I spent one summer and one entire term working full time for academic credit at Parkdale Community Legal Services, which is a law clinic in the Parkdale area of Toronto. The clinic gears its services to lower-income residents of Parkdale, providing legal education, advice and representation in several targeted areas. The area in which I worked was the workers’ rights division.

I then articulated at the law firm of Gowling, Strathy and Henderson in Toronto, working primarily in the area of labour law. Following my bar admission courses and exams, and the birth of my first child, in 1991, I began work at the firm of Ryder Whitaker Wright and Chapman. I became a partner there in January 1994 when I returned from maternity leave after the birth of my second child. I continued to work there until I left what had become Ryder Wright Blair and Doyle to accept an appointment as a part-time vice-chair at the Workplace Safety and Insurance Appeals Tribunal. I was appointed there in 2004, but had to take a little time to wind down my practice and actually commenced work there in January 2005.

In my 14 years of private practice, I worked primarily on behalf of unions and employees, giving advice to clients and representing them before various administrative tribunals, including grievance arbitrations, the

Ontario Labour Relations Board and the public service Grievance Settlement Board. During my years in private practice, my work in mediation and arbitration of disputes included numerous opportunities to address issues of human rights as incorporated into collective agreements between unions and employers. While I did work with employees making complaint to the Human Rights Commission, most frequently for me these issues were dealt with in the context of grievance arbitration, where hearings took place before an arbitrator with the subject matter of the grievance being discrimination on a basis prohibited by the Human Rights Code.

In addition to hearings, however, I often participated in mediation of these disputes, where parties worked together to craft solutions which would address their rights and responsibilities in a creative and effective way. Examples of such mediated solutions included settlements where work arrangements were structured in such ways as to accommodate disabilities, as well as putting into place education programs for workplace audiences.

Some of these settlements had far-reaching implications which went beyond the matter at hand, the matter being litigated at that moment. For example, in negotiating and structuring a work-at-home arrangement for an employee with a disability, it became recognized midstream by the parties as the template by which this very large employer would ensure accommodations of its employees with such disabilities.

Additionally, during my time in private practice, I was called upon to deliver educational seminars to client groups, especially with regard not only to their rights but also their responsibilities vis-à-vis issues of accommodation in the workplace. I’ve had from a very early time a keen awareness of the need for us as a community to encourage, to support and to facilitate the full participation in society of all our members. I’ve known that that participation must be participation with dignity.

On a very personal level—minor, but it was striking for me, perhaps because it’s such an old memory. I always recall going on a trip overseas with my family when I was very small. My grandmother was in a wheelchair with us. We were flying out of New York City—this was in the 1960s—out of JFK airport. There were no ramps or elevators to be used, and my father had to haul my grandmother up and down flights of stairs. That image, as I say, has remained with me as being one which I knew even then was an unacceptable image.

Continuing for a moment on a personal level, I must admit it was a moment of enormous pride for me when my eldest son, in announcing in the spring of this year his choice for university next year, advised us that he was in no small part influenced in his decision by the fact that he expected the university he had chosen would be a very diverse and therefore very interesting and stimulating community.

As an educator, first of children and then institutional clients, and as a litigator, I’ve worked enthusiastically to support the goals of the Human Rights Code and the right of full participation of all in the life of our province.

When I moved out of private practice into the role of a neutral adjudicator as a vice-chair at the Workplace Safety and Insurance Appeals Tribunal, I was gratified by the many expressions of goodwill and support I received, both from members of the labour side of the bar and the management side of the bar. In particular, though, I was buoyed by the congratulations and support that I received from experienced neutrals—arbitrators, mediators, vice-chairs—before whom I had appeared for many years. They expressed to me their confidence in my ability to act as a neutral decision-maker, as someone who'd be able to take a balanced view and provide fair resolutions and decisions.

My responsibilities at WSIAT, the Workplace Safety and Insurance Appeals Tribunal, are primarily to conduct hearings and to write decisions. I sit sometimes alone as a single vice-chair, sometimes as a vice-chair on a panel of three members. It's not entirely unusual for an unrepresented individual to appear before me. In these instances, in particular, the individual may or may not have a clear understanding of the process and the issues before the tribunal. I'm required to use an expert, active approach to ensure that the facts and arguments necessary for a fair determination of the issue are put before the tribunal. I must also ensure that those appearing before me know that the process is providing them with a meaningful opportunity to be heard. To be successful in this, I must be able to listen attentively and respectfully, analyze and weigh information, ask appropriate questions and communicate clearly with those appearing before me. Additionally, at the tribunal it is not unusual to conduct a hearing with the assistance of translators. At the end of the day, in writing my decisions, I must rely upon my ability to weigh the facts and apply the law in a balanced, impartial fashion to write a well-reasoned decision which clearly explains the result to the parties. I feel that all of these skills which I am called upon to use at the WSIAT would be key in successfully filling the role of a member of the human rights tribunal.

Finally, I just note that I am committed to public service. I feel that the time and the talents we have are to be used to build up our community. I try to do this in my free time as well as in my work. I've had the great privilege of participating in fundraising here and doing field work construction in Tanzania. There, I worked beside Tanzanian people, making bricks for schools and building windmills for clean water for communities. In Canada, I've been honoured to be part of volunteer work through my parish, serving meals to homeless people. As a parent, I have volunteered at my children's schools, including approximately one and a half months of daily volunteering in my son's school when his class lost their French teacher and they were unable to engage a supply teacher who spoke French. Parenthetically, at the end of that year, the English-speaking supply teacher with whom I'd been coordinating advised me that our class had scored the highest in the grammar portion of the final exam.

In summary, I hope you'll find that my combination of education, my experience in and my commitment to

human rights, as well as my experience both with alternative dispute resolution and hearing work, and my commitment to public service, make me an acceptable candidate for appointment to the Human Rights Tribunal. Thank you very much.

The Chair (Mrs. Julia Munro): Thank you. We'll begin with the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: Thank you, Madam Chair.

Thank you, Mrs. Doyle. Just quickly, I wanted to know what provincial riding you live in. It says, according to the research I have, that you're in the riding of St. Paul's.

Ms. Maureen Doyle: I can tell you who my MPP is, and I believe the name of the riding is St. Paul's. It's Mr. Bryant, Mike Bryant.

Ms. Lisa MacLeod: So the former Attorney General.

Ms. Maureen Doyle: That's right.

Ms. Lisa MacLeod: It's just interesting because this is a 22-member board and there are two members already from the former Attorney General's riding.

Two quotes, two excerpts, I want to read, and then I'm going to jump into my questioning. This one's from more left of centre, from David Lepofsky, who is very well known around these parts. He writes, on May 8, 2008, that, "To cope with an anticipated tenfold-plus caseload increase, McGuinty gave the tribunal sweeping power to make rules that override long-standing legal safeguards—safeguards needed to ensure fair hearings. The tribunal proposes new rules to give itself excessive new powers. These are troubling, whether you support or oppose Bill 107."

1540

The National Post, I believe; I do not have the date—oh, sorry; it was April 19, 2008—says: "Instead of passing through the commission for vetting as they do now, individual complaints of discrimination will now go directly to the Ontario Human Rights Tribunal, a change that is designed to alleviate a crippling backlog of cases. A separate Human Rights Legal Support Centre has also been established to guide complainants through the process.

"Freed of its gatekeeper role, the commission will be allowed to bring complaints on its own initiative to the Ontario Human Rights Tribunal, even without individual complainants. It can also intervene in specific complaints if they involve wider issues."

There are a few national issues that have come up recently with respect to Maclean's magazine, and a well-known political commentator out of the west, Ezra Levant, that have certainly brought human rights cases to the forefront for public discussion. With respect, I'd like to know if in your opinion there is a difference between offensive conduct and discriminatory conduct. Do you think that the commission should oppose offensive conduct? In the case of the two excerpts that I just read, do you support the fact that the Ontario Human Rights Commission, without individuals making a complaint, can actually go to your tribunal?

Ms. Maureen Doyle: I'll try to address those in order. I think you've got three questions in there, if I'm not mistaken, the first one being: Is offensive conduct the same as or different than discriminatory conduct? Certainly in legislation, there are grounds—prohibited grounds, they're often referred to as. There is to be no discrimination on prohibited grounds. It's a very large question for me to answer where any particular kind of offensive conduct might fit. All I can say is that I would, in each factual circumstance, have to make reference to the legislation to determine whether or not this was something that we as a province and the Legislature have determined is contrary to the Human Rights Code.

Ms. Lisa MacLeod: Okay. Chief Commissioner Hall has said she'd like to see the number of complaints filed in Ontario “spike” in number. In the context that she will now have more power to bring forward an individual complaint without the individual actually complaining, are you concerned with that?

Ms. Maureen Doyle: To be frank, I hadn't heard that quote previously, so it's not something I've given a tremendous amount of thought to. I think to the extent that a complaint indicates that there is a concern out there, I think we're all always keen to see numbers go down, I would imagine, because we want to improve our society collectively. To the extent that it means that people are feeling empowered to speak up, we also want to be sure that people feel that they do have access to justice. I'm sorry that I'm not able to give you a really direct answer to that other than to say that those are the two considerations that I would have when I see a number going up. Does it mean that there are more problems? Does it mean that people are feeling more empowered?

Ms. Lisa MacLeod: That's very good, because that actually leads me to my next question. The number of complaints in Ontario has declined over the last several years despite our population growth, so it's interesting that the chief commissioner would say that she hopes that the numbers would spike. I'm wondering, in the current context of the increased population with the decline in complaints, is this a good sign or a bad sign, in your opinion?

Ms. Maureen Doyle: I wouldn't have the facts in front of me to be able to form an opinion on that. As I say, I can identify the two perhaps competing views that you would come away from those kinds of figures with, but to know exactly how to get behind those numbers at this point, I can't. I'm sorry.

Ms. Lisa MacLeod: Ms. Doyle, thank you very much. My colleague Randy Hillier has a question.

The Chair (Mrs. Julia Munro): All right, just go through the Chair.

Ms. Lisa MacLeod: Sorry, Madam Chair.

Mr. Randy Hillier: Thank you very much for being here today. I was listening to your comments in your address. I would just like to get you to expand on this a little bit more for my own sake and maybe for others. On a couple of occasions you mentioned “full participation

by all.” I believe that was in the context of the full participation of all disabled people in all activities.

Ms. Maureen Doyle: I intended it to be broader than the participation of all disabled people. I really intended it to mean that as a diverse community, with all of our differences—my belief is that we all need to be able to make a full contribution to our society.

Mr. Randy Hillier: In all activities? It just seems a little bit odd to me. We all have different impairments in life; we all have different and unique skills and abilities. When you mentioned full participation by all in all parts of society, I just wanted to get that clarification. Do you think we can get to that point where everybody can participate in everything?

Ms. Maureen Doyle: That's a very broad question.

Mr. Randy Hillier: You used it a couple of times.

Ms. Maureen Doyle: I did use it a couple of times because I believe that our society needs to be barrier-free. It needs to allow people to make the contribution to our society that they want to make.

Mr. Randy Hillier: To have the opportunities to do that.

Ms. Maureen Doyle: That's right.

Mr. Randy Hillier: Also, I want to follow up a little bit. In my view, and I'm sure there are others out there who share this view, when we look at the original Human Rights Tribunal and Human Rights Commission, they were looking at discrimination, harassment and reprisals. We've seen that growth beyond just discrimination. My colleague mentioned the case with Levant and Steyn in Maclean's recently, where now opinions are being ruled upon. If opinions can be discriminatory or heresy or creating reprisals, do you believe that we, as individuals in society, have a right not to be offended by others' comments?

Ms. Maureen Doyle: I believe that we as individuals in society have a responsibility to treat each other in a fashion that is consistent with our rights under the human rights legislation. There may be times when others are offended, but the touchstone will always be: What are the rights under our human rights legislation?

Mr. Randy Hillier: The question was, though, do you believe that individuals have a right never to be offended by others' opinions? That was the essence of that case. People found some of those articles offensive.

Ms. Maureen Doyle: I think that it's always going to be a question, again, of: What are the grounds? There are certainly going to be opinions that individual members of society may or may not be offended by. They may be political opinions. They may be any number of opinions, philosophical opinions and so on. But again, the fundamental question that would be before the Human Rights Tribunal is always going to be with reference back to the legislation.

The Chair (Mrs. Julia Munro): Thank you very much. We'll move on to Ms. Gélinas.

M^{me} France Gélinas: I guess that's it.

The Chair (Mrs. Julia Munro): It is.

M^{me} France Gélinas: Bonjour, Madame Doyle.

M^{me} Maureen Doyle: Bonjour.

M^{me} France Gélinas: Vous avez mentionné que vous pouvez parler français.

M^{me} Maureen Doyle: Je peux parler français, oui, mais je n'ai pas vraiment l'occasion de le faire de façon quotidienne, alors, ce n'est plus parfait.

M^{me} France Gélinas: Ça va, ça va. Vous êtes la quatrième personne que l'on voit aujourd'hui pour le Tribunal des droits de la personne et la seule qui sait parler français. Est-ce que vous savez si le tribunal a un mandat d'offrir des services en français ?

M^{me} Maureen Doyle: Franchement, je sais très peu sur cette question-là. Je peux vous dire tout simplement que quand je travaillais comme avocate, j'ai donné des services légaux quelquefois, j'ai fait des interviews, des rendez-vous dirigés vers la médiation en français, etc., mais je n'ai jamais fait de « hearing » en français, par exemple.

M^{me} France Gélinas: Est-ce que vous avez déjà écrit vos rapports en français ?

M^{me} Maureen Doyle: Non, pas encore.

M^{me} France Gélinas: En ce moment vous avez déjà un emploi à temps plein.

M^{me} Maureen Doyle: Oui.

M^{me} France Gélinas: Puis ce sera un poste à temps partiel.

M^{me} Maureen Doyle: Non, excusez-moi. Mon poste maintenant est à temps partiel aussi.

M^{me} France Gélinas: Le poste que vous détenez est à temps partiel ?

M^{me} Maureen Doyle: Oui.

M^{me} France Gélinas: Puis celui-ci en serait un deuxième ?

M^{me} Maureen Doyle: Oui, c'est ça.

M^{me} France Gélinas: Et vous avez l'intention de combiner les deux, c'est ça ?

M^{me} Maureen Doyle: Oui, exactement.

M^{me} France Gélinas: Est-ce que vous savez les demandes de l'un et de l'autre pour savoir si c'est réaliste et vivable, etc. ?

M^{me} Maureen Doyle: Je crois que ça va être réaliste, oui. Je vais donner au tribunal les dates où je suis disponible et ça va être à eux de décider, « Bon, on a un cas pour elle aujourd'hui », ou on n'en a pas. Comme ça, je vais accepter ce qu'ils vont me dire.

M^{me} France Gélinas: Lorsque vous avez appliqué, etc., on ne vous a pas demandé si vous étiez capable d'offrir des services en français ?

M^{me} Maureen Doyle: Je ne me rappelle pas. Je crois que c'est possible que c'était discuté. Je ne suis pas certaine. Ce que j'aurais dû dire, c'est que je parle français ; ce n'est pas parfait. Ça fait des années et des années ;

franchement, c'était en 1988 que j'étais en Angers. Je n'ai pas de famille française pour parler français régulièrement. Alors, pour le faire, j'aurais besoin d'entretien.

M^{me} France Gélinas: C'était tout. Je vous souhaite bonne chance, Madame.

M^{me} Maureen Doyle: Merci beaucoup.

M^{me} France Gélinas: Ça me fait plaisir.

The Chair (Mrs. Julia Munro): Mrs. Sandals.

Mrs. Liz Sandals: Thank you, Ms. Doyle, for appearing before us this afternoon. You've got a very impressive record, and I'm sure that you'll make a great contribution to the tribunal. Having seen your record, the government will certainly be supporting your appointment.

I just wanted to comment, because we've had a number of potential appointees to the Human Rights Tribunal today, that I've been very impressed with the professional qualifications of all the potential appointees and I find the breadth of different experiences quite interesting. We've heard from people who have done management side or union side or who have tribunal experience or maybe have community advocacy experience. It seems to me, as we've listened to people, that there will be a tremendous diversity of legal experiences on the tribunal itself, so I think also congratulations are due to the people who have been looking at putting the tribunal together and getting a good mix of legal experience. Certainly, with your experience in workers' compensation, you will be adding to that, so thank you very much for appearing today.

The Chair (Mrs. Julia Munro): Thank you very much for coming. We appreciate the time you've taken.

Now, if I'm given to understand by what I suggested to you when we came back this afternoon, we are deferring the concurrences until tomorrow. So the committee stands adjourned.

Mrs. Liz Sandals: Just one thing: Will we be doing the concurrences at 9 or at the end of the day? When will the concurrences for today be?

The Chair (Mrs. Julia Munro): You know, I hadn't given that thought, yet.

Ms. Lisa MacLeod: I'm fine with the morning, if you want.

Mrs. Liz Sandals: I think it would just be helpful for people to know when you're going to call the concurrences.

The Chair (Mrs. Julia Munro): Certainly. All right, we'll do it first thing, then. So the committee stands adjourned until 9 o'clock tomorrow morning.

The committee adjourned at 1552.

CONTENTS

Monday 18 August 2008

| | |
|------------------------------------|-------|
| Subcommittee reports | A-113 |
| Intended appointments | A-113 |
| Mr. Andrew Diamond | A-113 |
| Mr. Mark Sakamoto | A-116 |
| Dr. Ronald Brooks | A-117 |
| Dr. Stephen Marshall | A-120 |
| Ms. Jayashree Sengupta | A-122 |
| Mr. Alan Whyte | A-126 |
| Dr. Melville Fenton..... | A-129 |
| Ms. Janice Beazley | A-131 |
| Mr. Lloyd Komori..... | A-136 |
| Ms. Joanne Jackson..... | A-138 |
| Ms. Maureen Doyle | A-140 |

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