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**Official Report
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Tuesday 19 August 2008

**Journal
des débats
(Hansard)**

Mardi 19 août 2008

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Julia Munro
Clerk: Douglas Arnott

Présidente : Julia Munro
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Tuesday 19 August 2008

Mardi 19 août 2008

The committee met at 0900 in room 151.

INTENDED APPOINTMENTS

The Chair (Mrs. Julia Munro): Good morning, everyone. The agencies committee is to proceed this morning. I have first on the agenda the issue of the concurrences from yesterday. We will begin, then, our agenda this morning with the issue of the concurrences.

Ms. Lisa MacLeod: I was wondering if it was possible, where we have blocks of intended appointees for different agencies, commissions and boards, for those to be dealt with together. In other words, could we have, in the case of the Human Rights Tribunal, just one vote?

The Chair (Mrs. Julia Munro): Certainly that's a possibility. I would just ask, are there any comments?

Mrs. Maria Van Bommel: We have no objection to that. I'm not quite sure what the purpose might be.

Ms. Lisa MacLeod: I think it only impacts two, which would be the species at risk and the Human Rights Tribunal. The others are individual appointees.

The Chair (Mrs. Julia Munro): Any other comments or concerns? I'm quite willing to go with that, if everyone is comfortable.

Mr. Michael A. Brown: I'm a little confused. This committee is about concurring in the appointments of individuals to boards, commissions and agencies of the province of Ontario. It's about the individual, not about the board.

I don't have an objection. I'm just trying to understand why we would lump one board or one group—

Ms. Lisa MacLeod: Unless the government—in all honesty, the official opposition is quite comfortable in its votes today; we've discussed them. So if there's a split vote in the Liberal caucus, from the government caucus, then I could understand why we may want to do this individually. But we certainly know where we're standing on the official opposition side.

Mr. Michael A. Brown: Okay. So we're going to vote individually on the other ones?

Ms. Lisa MacLeod: Well, the other ones are only individual appointments.

The Chair (Mrs. Julia Munro): There are two where you could put them together, in terms of the individual agency or commission. The others are individual appointees.

Ms. Gélinas, we're in the middle of a discussion about the issue of concurrences. The suggestion has been put forward that the vote be divided according to the agency, as opposed to individuals. That would mean that there wasn't any division within the individual appointments to an individual board. That's the conversation. I just need your—

M^{me} France Gélinas: I'm comfortable with this.

The Chair (Mrs. Julia Munro): Okay, that's fine. That's what we shall do.

The first concurrence, then, will be for four people. I'm looking for someone who wishes to move concurrence.

Mrs. Maria Van Bommel: I will move concurrence of the following to the Human Rights Tribunal of Ontario: Andrew Diamond, Jayashree Sengupta, Alan Whyte and Maureen Doyle.

The Chair (Mrs. Julia Munro): Concurrence has been moved in the appointments by Mrs. Van Bommel.

Ms. Lisa MacLeod: Recorded vote, Madam Chair.

Ayes

Brown, Gélinas, Lalonde, Moridi, Sandals, Van Bommel.

Nays

Hillier, MacLeod.

The Chair (Mrs. Julia Munro): The motion is carried.

Now I am looking at the members for the status of species at risk.

Mrs. Maria Van Bommel: I would move the following concurrence for the Committee on the Status of Species at Risk in Ontario: Ronald Brooks, Stephen Marshall and Melville Brockett Fenton.

Ms. Lisa MacLeod: Recorded vote, Madam Chair.

The Chair (Mrs. Julia Munro): Concurrence in the appointment has been moved by Mrs. Van Bommel. Any discussion? If not, all in favour?

Ayes

Brown, Gélinas, Lalonde, Moridi, Sandals, Van Bommel.

Nays

Hillier, MacLeod.

The Chair (Mrs. Julia Munro): The motion is carried.

Now we will consider individuals, and I'd like to begin with Mark Sakamoto, the intended appointee to the Ontario Media Development Corp.

Mrs. Maria Van Bommel: I would move the concurrence of the appointment of Mark Sakamoto.

The Chair (Mrs. Julia Munro): Concurrence in the appointment has been moved by Mrs. Van Bommel. Any further discussion? If not, all in favour?

Ayes

Brown, Gélinas, Lalonde, Moridi, Sandals, Van Bommel.

Nays

Hillier, MacLeod.

The Chair (Mrs. Julia Munro): The motion is carried.

I'm now looking at Janice D.A. Beazley.

Mrs. Maria Van Bommel: I would move the concurrence of the appointment of Janice D. A. Beazley.

The Chair (Mrs. Julia Munro): Concurrence in the appointment has been moved by Mrs. Van Bommel. Any other discussion? Seeing none, all in favour?

Ayes

Brown, Gélinas, Lalonde, Moridi, Sandals, Van Bommel.

Nays

MacLeod.

The Chair (Mrs. Julia Munro): The motion is carried.

The next appointment: Lloyd Komori.

Mrs. Maria Van Bommel: I would move the concurrence of the appointment of Lloyd Komori.

Mr. Michael A. Brown: Recorded vote.

The Chair (Mrs. Julia Munro): Concurrence in the appointment has been moved by Mrs. Van Bommel. Any further discussion? If not, all in favour?

Ayes

Brown, Gélinas, Hillier, Lalonde, MacLeod, Moridi, Sandals, Van Bommel.

The Chair (Mrs. Julia Munro): The motion is carried.

The next one would be Joanne Jackson.

Mrs. Maria Van Bommel: I would move the concurrence of the appointment of Joanne Jackson.

The Chair (Mrs. Julia Munro): Concurrence in the appointment has been moved by Mrs. Van Bommel. Any discussion?

Mr. Michael A. Brown: Recorded vote.

Ayes

Brown, Gélinas, Hillier, Lalonde, MacLeod, Moridi, Sandals, Van Bommel.

The Chair (Mrs. Julia Munro): The motion is carried.

I believe that's it.

0910

AILSA WIGGINS

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

The Chair (Mrs. Julia Munro): We will move to the next part of our agenda. We will begin with the interview with Ailsa Wiggins. Good morning, Ms. Wiggins, and thank you very much for coming here today. As you may know, you have an opportunity to provide any comments you wish, and then we will move in rotation to the members of the committee to ask any questions. If you're ready, please begin.

Ms. Ailsa Wiggins: Good morning, Madam Chair and members of the committee. Thank you for giving me this opportunity to speak to you about my background and my interest in this appointment.

I grew up in Ottawa and enrolled in the B.A. honours program at Carleton University. I was accepted to law school after second year, and as I had taken extra courses, I was able to complete my B.A. that summer, with distinction, with a double major in law and political science. At the University of Ottawa, I participated in student legal aid and was a student editor of the Ottawa Law Review. My intention at that stage in my education was to continue to study law and become a law professor. However, having done well at law school, I was invited to Toronto to interview with some downtown firms, and I ended up accepting an articling position in Toronto with Campbell, Godfrey and Lewtas.

After being called to the bar, I moved to England to study law in furtherance of my original goal of becoming a law professor. I completed my LL.M. at the London School of Economics and Political Science, including a course in individual employment law.

I returned to Toronto and decided after all to look for a position practising law rather than teaching. During my job search, I wrote two titles for the Canadian Encyclopedic Digest, securities and trusts, long ago replaced by updated versions by other authors. I worked briefly for the federal-provincial inquiry commission into safety in

mines and mining plants in Ontario before joining the law department of Imperial Oil.

There were about 18 lawyers in Imperial's Ontario law department at that time, and we operated much like a small law firm. For my last 15 years at Imperial, my client was their human resources department and my practice was almost exclusively employment law, including human rights, advising the company on its obligations under human rights legislation such as the duty to accommodate in employment, preparing responses to human rights complaints in conjunction with outside counsel, attending a variety of human rights hearings as an instructing solicitor.

I am married and I have two sons, and for a few years while my sons were young, I worked part time, four days a week, which allowed me both to spend more time with them and to get involved in their daycare and their schools. I joined the board of Allenby Day Care centre and spent a year as its president. The following year I was president of the Allenby Parents' Association. I continued to be a parent volunteer at my sons' schools, Montcrest School, Royal St. George's College and Upper Canada College. One year I managed my older son's rep soccer team.

When Imperial moved its head office from Toronto to Calgary in the summer of 2005, I elected to take an early retirement package for family reasons. Immediately after leaving Imperial, I joined Gowling Lafleur Henderson as a special counsel in the employment and labour group. My practice at Gowlings has been much the same as my employment practice with Imperial, except that I deal with a variety of clients, primarily companies but also occasionally individuals. While at Gowlings, I have written numerous articles on alcohol and drug policies: three for the Ontario Bar Association labour and employment section's newsletter, and a book on alcohol and drug policies with Norm Keith, a partner at Gowlings, published by Butterworths LexisNexis.

I'm on the executive of the Ontario Bar Association labour and employment section. Last year, as continuing legal education coordinator, I co-chaired the 2008 Ontario Bar Association annual institute labour and employment program and I presented a paper on pre-employment screening. This year I am their program coordinator.

I've given many talks on human rights issues, including accommodation in employment, and I assisted the Canadian Psychiatric Research Foundation with their publication *When Something's Wrong: Strategies for the Workplace*. With a colleague, I prepared and presented a presentation to clients on the changes to the human rights regime in Ontario.

I believe strongly in fairness, reasonableness and respectfulness. Part of my practice has involved wrongful dismissal claims and human rights complaints. I strive for a settlement; I look for a solution, a resolution which both sides can accept. I'm confident that my academic background and experience, both in-house and in private practice, will assist me in the role of a member of the

Human Rights Tribunal of Ontario. I'm happy to answer any questions you may have.

The Chair (Mrs. Julia Munro): Thank you very much. This morning, we'll begin with the third party.

M^{me} France Gélinas: Good morning. Welcome to Queen's Park.

Ms. Ailsa Wiggins: Thank you.

M^{me} France Gélinas: Right now, you're looking for a part-time appointment with the tribunal. Will that mean that you will also be keeping your full-time employment with your relatively new employer?

Ms. Ailsa Wiggins: Actually, at the moment, that's not settled. I've been with Gowlings on a series of contracts, and I haven't come to a resolution with them. So, at this point, I can't tell you whether I will just be doing this or whether I will be working with Gowlings or elsewhere at the same time.

M^{me} France Gélinas: What has motivated you to apply for this tribunal position?

Ms. Ailsa Wiggins: I'm very interested in human rights law. When the change to the regime was announced, I realized that there would be a need for additional people in the tribunal. I thought that would be an extremely interesting thing to do. As I was at a stage in my career that I was looking around for what I was going to do, that looked to me as something that I would really enjoy and thought that I would be good at.

M^{me} France Gélinas: You've done mainly advocacy for one side. Do you have experience doing adjudicator work?

Ms. Ailsa Wiggins: No. My only adjudicator experience is law school moots when you act as a judge. I understand that the tribunal will be putting on a training course, so we will be trained in adjudication.

M^{me} France Gélinas: Okay. I was interested when you said that when you worked in wrongful dismissal etc., you looked for settlements that both sides could accept. Have you used alternative dispute resolution? Can you give us an example, without breaking any secrets or anything?

Ms. Ailsa Wiggins: I've done both formal mediations—you know, when clients decide that mediation is the route to go; plus, in trying to get a resolution, litigation isn't good for either side. Even if we're not going to a formal mediation, I have used the back-and-forth negotiation, much like the type of diplomacy, room-to-room kind of thing, in order to get things settled. As I said, litigation isn't good for either party; it takes a long time; it's expensive; it's emotionally trying.

M^{me} France Gélinas: Those are my questions, thank you. Oh, maybe one last one. You have been representing the employer through your entire career. What's your level of comfort now that you won't be in that position anymore? You've never been representing the employees before. How does that work?

Ms. Ailsa Wiggins: I think, particularly when I was in-house, there is a certain empathy with the employees, because you're one of them. So while I was representing the employer, I certainly had empathy for employees.

Then, in private practice, although primarily I've been representing employers, I have represented some individuals. So I have had some experience representing individuals.

M^{me} France Gélinas: And you're comfortable with this?

Ms. Ailsa Wiggins: Yes.

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

The Chair (Mrs. Julia Munro): We'll move on. Mrs. Van Bommel?

Mrs. Maria Van Bommel: Thank you, Ms. Wiggins, for coming in and being here with us this morning. Certainly, just from your comments about mediation and your approach to conflict resolution, I think you're quite well qualified. Thank you very much for coming.

The Chair (Mrs. Julia Munro): Ms. MacLeod.

Ms. Lisa MacLeod: I'll be splitting my time with my colleague from the official opposition. Welcome today.

In terms of researching for your dissertation today, I came across an article that you'd written for Labour Relations, volume 9, number 2, Alberta Court Considers Pre-Employment Drug Testing and Whether Casual Drug Users are Protected by Human Rights Legislation. I just want to jump to your conclusion. As it pertains to bona fide occupational requirement—there's no tea in here, so I'm looking for my tea, for the people downstairs. That's why I'm not getting everything out right.

0920

You say, "But employers take heart, the answer to the second question: Can pre-employment drug testing ever amount to a BFOR?"—which is what I just wrote in—

Ms. Ailsa Wiggins: Bona fide occupational requirement.

Ms. Lisa MacLeod: —bona fide occupational requirement—"is also 'yes.' In the appropriate circumstances, as long as the employer properly drafts and administers its alcohol and drug policy, pre-employment drug testing of safety-sensitive employees should be supportable as a BFOR. As ever, the issue for employers will be accommodation."

I read that with interest and a couple of weeks ago, in preparing for this, I came across one issue that the Human Rights Tribunal recently confronted, which was denying a Christian ministry the right to be Christian, according to lifesite.net. I also came across Deborah Gyapong, who is a former CBC journalist, and in her blog she writes, "The court upheld the right of the college to have a behaviour code. That gets overlooked." She goes on to say, "But the Ontario Human Rights Tribunal is now insisting that a Christian organization does not have the right to make sure that chaste, practising Christians are involved in an important, often thankless ministry to the most vulnerable people in our midst."

In this particular case—I'm not sure if you are aware of it—in this instance, would there be a BFOR? If one employer has the right to drug test, doesn't the other have a right to ensure those serving in their job—if I want to have an employee who is drug-free and I'm able to give

them a drug test, shouldn't the fellow next to me, if he wants to run a Christian organization, make it available to practising Christians?

Ms. Ailsa Wiggins: These cases are very fact-dependent. You have to apply the human rights legislation and case law in order to determine whether it's a BFOR, and the Supreme Court has set down rules in determining that, so it would have to go through that to determine whether it was a BFOR. I'm not sure that this morning I have enough facts to really give you an answer to that.

Ms. Lisa MacLeod: Okay. This is something that has just recently occurred. I would encourage you—chances are you will have the votes to succeed and get past the post here, but you may be confronted with other issues like this.

I have only one more question for you. Human rights commissions and tribunals traditionally have been used, rightly so, for those who have been discriminated against, and most often those folks are minority groups who felt discriminated against or who are discriminated against. But I'd like to know if you believe it's possible for non-minority groups to be discriminated against and if you could give me an example of that.

Ms. Ailsa Wiggins: For non-minority groups? Well, I guess you could say women are a non-minority group and they get discriminated against. I guess it also depends on what your definition of "minority" is. I mean, there are some groups within our society that aren't generally referred to as minorities but who may be discriminated against.

Ms. Lisa MacLeod: Okay. Thank you. My colleague—and if someone's listening, bring up the tea.

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

Mr. Randy Hillier: Good morning, and thank you for being here. You mentioned "duty to accommodate," and that's an important phrase these days. I'm just wondering, in your own mind, if you can explain to us how far is the duty to accommodate reasonable. If the accommodation for one individual will cause significant hardship on the business, maybe even put it out of business, is that still reasonable to accommodate?

Ms. Ailsa Wiggins: That's always been very difficult for employers. One of the things that I always tell my employer clients is that there is no absolute legal definition of the point of undue hardship, because you have to accommodate, but up to the point of undue hardship. It's, again, a case of looking at the facts in the particular case. There is a recent Supreme Court of Canada case in which the court seemed to modify a little bit the word "impossibility" that they had used in an earlier case. So it's a very hard test for employers to meet, but there is a limit.

Mr. Randy Hillier: Well, certainly the impossible would be difficult to meet. So here, then, in a case where—the duty to accommodate if you're Imperial Oil, for example, will be significantly greater than if you're Joe's Deli.

Ms. Ailsa Wiggins: Yes, exactly.

Mr. Randy Hillier: Do you think that is a reasonable case?

Ms. Ailsa Wiggins: I think it is reasonable because the small company is going to reach that point of undue hardship much more quickly because they just don't have the resources that a large company does.

Mr. Randy Hillier: Sure. So a level of discrimination would be acceptable, then.

Ms. Ailsa Wiggins: Not so much a level of discrimination, but how far you have to go to accommodate. So you're not supposed to be discriminating, but somebody has something that you need to accommodate, and a small employer simply doesn't have to go as far.

Mr. Randy Hillier: So if the cost to comply would be unreasonable, then it would be acceptable to say, "You can't work here."

Ms. Ailsa Wiggins: That may be the case, yes.

Mr. Randy Hillier: If I have a little bit of time, recently there's been a case in Westport with Asian anglers that the commissioner has made reference to. I'm just wondering if you have some comment on that particular case, if you're aware of it.

Ms. Ailsa Wiggins: I've heard a little bit about it in the press, but I don't really have any details of it.

Mr. Randy Hillier: That was a case where individuals were poaching valuable game fish out of season and people in the community took action because the government people, the MNR, were not. There were some allegations of violence; I'm not sure to what degree. Anyway, people wanted to protect that valuable resource; it's in a community close to me where tourism and resorts are very important. The commissioner ruled that this was a hate or race-based action instead of just protection of the local economy and upholding the law. I'll let you make a comment on that.

Ms. Ailsa Wiggins: Again, I think it would depend on the facts. If there were no racial slurs when the people tried to stop the poachers, then maybe there wasn't discrimination. But what happened to cause the decision that there in fact had been discrimination?

Mr. Randy Hillier: I know some of the people involved in this case, and there probably were some angry words and probably some slurs. Emotions get people to say some things that they otherwise might not. Knowing the community and knowing the people involved, I found it abhorrent that the human rights people would suggest that that was racism when people want to protect their community and their economy.

I think I'm running out of time here.

The Chair (Mrs. Julia Munro): You're getting close.

Mr. Randy Hillier: Okay. I'll leave the rest for the next one.

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

ROBERT GREGOR

Review of intended appointment, selected by third party: Robert Gregor, intended appointee as vice-chair, North West Local Health Integration Network.

The Chair (Mrs. Julia Munro): Our next interview is with Robert J. Gregor, the intended appointee as vice-chair, North West Local Health Integration Network. Thank you very much for coming here this morning for us. As you might have already heard, you have some time in which to make a statement and then we'll have questions from the members.

Mr. Robert Gregor: Thank you for the opportunity to appear before you today in regard to my pending appointment to the position of vice-chair of the North West LHIN.

I am a lifelong resident of northern Ontario, born in Sudbury, raised in Thunder Bay, and since 1972 I have been a resident of the beautiful community of Marathon. I am a graduate of Lakehead University and did post-graduate work at the University of Manitoba.

In addition to my university studies, I have formal education and training in accounting, conflict resolution, mediation, labour relations negotiations and human resources management. I retired from Marathon Pulp Inc. in 2004 after 32 years of service, the last 13 as president and resident manager. Since retiring, I have operated a small consulting business specializing in human resources, forest products and labour relations negotiations. I am married with three grown children, the youngest of whom has just completed her master's degree and will be entering law school in September.

Since graduating from university and entering the working world, I have devoted a significant amount of my personal time to community, regional and provincial service. In the health-related area, I have served on the master planning committee for Marathon emergency services and the Wilson Memorial General Hospital capital review planning committee and was a member of the Marathon physician recruitment and retention coalition. I also served as chairman of the Marathon community development commission.

0930

In addition, I have extensive experience serving on boards of directors, having served on the boards of the Northern Ontario Heritage Fund Corp., the Ontario Forest Products Association, the Forest Products Association of Canada, Ormiston Mining, Dubreuil Forest Products, the Ontario Pulp and Paper Health and Safety Association, Marathon Pulp Inc. and the North of Superior Training Board.

I was originally appointed to the North West LHIN as a board member for a two-year term in May 2006 after answering an ad in the local newspaper. I went through an extensive interview process and had my name submitted as a result of that process to the office of the Minister of Health and Long-Term Care. I was recently reappointed to the board for a further three-year term. During my tenure on the North West board, I have served and continued to serve as chairman of the audit and finance committee.

My initial interest in serving on the board of the North West LHIN, an interest that is just as relevant today, was in playing some small part in making the health care

system in our province more accessible, more sustainable and more accountable. I believe that the principles that underline the LHINs will make this happen by integrating health care at a local level and consolidating planning, systems integration, service coordination, funding allocation and evaluation of performance through the accountability agreements. I believe and support the objectives of the LHINs as critical to the sustainability of our health care system: to manage health system planning, coordination and funding at the local level; to engage the community in local health system planning and setting of priorities, including formal channels of citizen input and community consultation; to improve the accessibility of health services to all people to move more easily through the health system by the greater integration of services; and to bring economic efficiencies to delivery of health services, promote service innovation and improve quality of care.

I further believe that as a lifelong resident of northern Ontario, supported by my background and experience on other boards of directors, my business background, my experience being in a union and dealing with unions, my education, my community service in the north, my passion for working collaboratively and co-operatively in the spirit of innovation and finding a better way, and my specific experience to date on the North West LHIN board will continue to contribute to my maximum on that particular board.

I'm pleased to answer any questions.

The Chair (Mrs. Julia Munro): Thank you very much. We move to Mr. Brown.

Mr. Michael A. Brown: Thank you, Mr. Gregor. It's good to see you. Thanks for making that considerable journey down here from the great northwest. I am the only member here who actually has communities in the North West LHIN. As you know, I represent Manitowadge and Pic Mobert—a little bit of it.

We're very pleased to have you. Your community service is well known; your business experience is also well known in the northwest. We are most delighted to have you here as an intended appointee. Congratulations. We will be supporting you.

Mr. Robert Gregor: Thank you very much for those comments.

The Chair (Mrs. Julia Munro): Ms. MacLeod?

Ms. Lisa MacLeod: Thank you very much, Mr. Gregor. I hope you enjoyed your trip down here. I'm just wondering: You are now being reappointed?

Mr. Robert Gregor: They're considering me to be the vice-chair. I was recently reappointed for a three-year term as an ordinary board member.

Ms. Lisa MacLeod: Could you walk us through some of the challenges you faced through reorganization from the previous system to the LHIN system in your community?

Mr. Robert Gregor: The major challenge—and it was a significant challenge, bearing in mind that the LHINs are only three-plus years in existence—was coming up with a structure, a staffing, making sure that

we had the most competent possible people in our staff with the necessary background and experience. When I talk about necessary background and experience, it was important that, as we worked through the accountability agreements, which I think are critical to the success of the LHINs, we had people in the staff who are able to communicate on the same knowledge level with the health service providers whom they have to deal with. I'm pleased to say that the staff that we have at the North West LHIN—and I've had the opportunity to sit in at three other LHIN offices with three other boards—is just exceptional. That was critical—that you had the human resource capability to follow up. It's a tremendous challenge.

It's particularly challenging in northwestern Ontario, for those of you who are familiar with our area. That's the second-biggest challenge we have: the geography. We represent 47% of the land mass of Ontario, yet we only have 2% of the population. We have 458,000 square kilometres of land mass and a bunch of small communities, many of which are remote and isolated, that we have to deal with, so travel is a major, major impediment to us providing the best possible service.

So, getting the structure in place, the geography, and the fact that we have probably the least healthy people in all of Ontario in northwestern Ontario—we have the highest incidences of diabetes, heart failure, asthma and rheumatoid arthritis, and the life expectancy, both male and female, in northwestern Ontario is the worst in the entire province. So we have a real challenge in chronic disease management and prevention.

Ms. Lisa MacLeod: That was very fascinating, actually. Thank you very much for that. Now I just want to follow up: How many hospitals do you have?

Mr. Robert Gregor: We have 14 hospitals.

Ms. Lisa MacLeod: And how are your relations with your hospital CEOs?

Mr. Robert Gregor: I think they're excellent. I think that's again a reflection of northwestern Ontario, where you have many communities where the CEO of the hospital is also a member of the curling club, a member of the golf club, of the service clubs and fundraising clubs. We have a really close liaison with the CEOs.

Ms. Lisa MacLeod: So none of them would complain that they're not getting their funding envelopes on time?

Mr. Robert Gregor: I hope not. We pride ourselves—the staff pride themselves—again, I say “we.” It's the staff. We have a monitoring function; the staff are the operating people. They do a super job.

Ms. Lisa MacLeod: I just want to talk briefly about chronic health care management. You mentioned that as probably being one of your biggest health care challenges. The other two issues were basically the remoteness and the structural issues, but the health care issue is the one that's probably paramount in all of it, and that's making sure that people receive the care they need when they need it. Can you tell me a little bit more about the challenges that you face and some of the things, when

you have an opportunity with all of these legislators, that you wish could be located in your LHIN?

Mr. Robert Gregor: I think the challenge can be met by innovative and creative thinking. Part of the problem in chronic disease prevention and management is an education problem; it's an accessibility problem with our remote communities. It's particularly difficult with the First Nations, who in many cases do not have the human resources at their location to deal with the prevention aspect or to deal with the education aspect after they have the disease and to deal with the aftercare. Education, the increased use of telemedicine—we're going to move into telehome medicine, developing CDs so that we can even go to a remote First Nations community that has no health professionals, identify somebody in the community who has the education, and then can follow up.

Another statistic that is just mind-boggling is that a First Nations person has a 3,500% increased chance of having a limb amputated because of a lack of aftercare from diabetes. We've got to do something about it.

Ms. Lisa MacLeod: How are you, in your LHIN, working with the Ministry of Health to address that? That's actually very fascinating for us to hear, and probably to some of our viewers from the rest of Ontario. This is a critical problem. How do we meet that challenge?

Mr. Robert Gregor: We have a chronic disease management and prevention committee. We have advisory committees. We have forums in the communities and we try to move around. We even try to move our board meetings around northwestern Ontario. Education and prevention: This is a wish I have, that eventually public health comes under the umbrella of LHINs so that we can work from the prevention aspect, the education aspect and the aftercare aspect. I think that's something that we will be discussing with the Ministry of Health and Long-Term Care from a board perspective. We could do an even better job if we had public health under our bailiwick, because then we'd have the coordination, the collaboration, and could go in the front end, the prevention end, rather than the back end, dealing with them.

Ms. Lisa MacLeod: Wouldn't that be great?

Mr. Robert Gregor: It would be fantastic.

Ms. Lisa MacLeod: That's very interesting. I just have one quick question; I'm hoping I have time. One of my interests is children's rights, but more than that, pediatric—making sure that children are receiving adequate care when they need it. Certainly where I live—and I live in the national capital—the wait lists are quite long. I'm interested to learn a little bit more about your area and how the children in your community are being served, particularly those on native reserves. It would be very fascinating from your perspective how we can address some of the paediatric challenges that we're facing.

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Mr. Robert Gregor: It's an area that's close to my heart. My sister is a pediatric nurse at Thunder Bay Regional Health Sciences Centre and has been for 30

years. I get a chance to get some inside information from her.

Let me say first, from the human resource aspect, that in my dealings in the northwest, we have nothing but the best primary care health service providers—and that's not just because my sister is a nurse; it's everywhere I go. If we have any problem with the health care system in the province of Ontario, it's not with the people; it's with the system, because we have some of the best possible people. I know I'm pontificating here in responding to your question, but children's services is a priority with the North West LHIN. When we work with the hospitals on their accountability agreements in terms of wait times, getting the proper service etc., those are performance indicators and targets that we really stress. It is a priority.

Ms. Lisa MacLeod: Thank you very much, Mr. Gregor. I appreciated it. You were very fascinating.

The Chair (Mrs. Julia Munro): Ms. Gélinas.

M^{me} France Gélinas: Good morning. I, too, appreciate the long trip you made to come to visit with us this morning.

Mr. Robert Gregor: It's my pleasure.

M^{me} France Gélinas: I was interested in your opening comments when you were talking about your beliefs, going from accessibility to sustainability, accountability, economic efficiencies etc. It certainly shows good governance. One that was missing from the list, though—and I would certainly like your comments on that—is that medicare is a publicly funded service that is available based on needs, not on ability to pay. You went on and on about your beliefs, but you certainly did not touch on that one, and I was curious to see how come.

Mr. Robert Gregor: Well, partly because it's so fundamental to my beliefs, I take it as a given. I believe in the public system. I believe in universal accessibility. I believe that 100% of our efforts should be to improve our public system and deflect from any discussion on moving into the private sector. I believe that we have tremendous potential, in terms of our publicly funded health care system, to make it better, to make sure that the right treatment is done by the right person in the right time in the most efficient, economic way to ensure that it's patient-centred, to ensure that everybody has equal access. The reason that I don't have it: It's fundamental in me. It's not an add-on.

M^{me} France Gélinas: I know that Thunder Bay Regional Health Sciences Centre, last I heard, hadn't signed their accountability agreement, based on budget difficulties. Here again, I heard you loud and clear, but I know that some hospitals are looking at divesting physiotherapy services. Basically, they would continue to offer in-patient services but not offer outpatient services anymore, which can be picked up in the communities. In a community like Thunder Bay, you do have a private physiotherapy practice. If it came to this, could you tell me how you would handle that?

Mr. Robert Gregor: Okay, I've got some strong thoughts in that regard too. First off, I think that dropping services is a non-starter, that you move away from

discussions on dropping services, that if you work cooperatively and collaboratively with the hospitals, there are many areas—I come from an industry where we had to fight for our sustainability and continue to fight for our sustainability. If we had listened to people saying that, for instance, the market pulp mill in Marathon would never survive because of their economies, that you'd have to cut people, shut the hospital down and cut services, we would have been history. I don't accept that. I accept that if we work together, we can find efficiencies, we can find opportunities to eliminate waste, reduce redundancy, eliminate duplication—in some cases, triplication—and provide all of the services that we still provide, but in a better way. I do not accept that we have to cut services.

In regards to Thunder Bay Regional Health Sciences Centre, they have a specific issue that has significant budget implications that have to do with a prior deal with the Ministry of Health and Long-Term Care. That's their major impediment in getting to a balanced budget. They will continue to work through that, and we'll continue to support them through that, but we have accountability agreements with 12 of our 14 hospitals. The two that we don't I just referenced: One is Thunder Bay Regional Health Sciences Centre; the other is Kenora. We're working closely with them and we're optimistic that we can get balanced budgets from both of those, taking the positive, innovative, creative approach, and not talking about cutting services.

M^{me} France Gélinas: There are a number of services that are financed by the LHINs. There are also some that continue to be financed by the province. You shared your views about how you wished public health would also be under the LHINs. What is your view towards primary care? I know that you have community health centres under the LHIN, but I'm talking about fee-for-service physicians, family health teams, family health groups, northern health groups etc.

Mr. Robert Gregor: I think that would be my second phase, if we can get public health in. In the meantime, what we're doing is liaising very closely with the family health teams and the physicians. In fact, just a couple of months ago, we met with the physicians in Thunder Bay to ensure that we were hearing all of their issues and concerns, that they were hearing all of our issues and concerns, and coming up with some collaborative and cooperative initiatives in terms of making the system as seamless and as patient-centred as possible.

Eventually, I would like to see all of that, but I think that's a long way off. Public health would be the first approach I'd take.

M^{me} France Gélinas: My last question has to do with First Nations. You certainly give some statistics as to the health level of the First Nations in the northwest, but I think they apply to First Nations pretty well everywhere in Ontario. I wanted to know, aside from your work at the LHIN, what kind of work have you been doing with First Nations to learn their culture, learn their way of life?

Mr. Robert Gregor: Thank you for that question. The North West LHIN is blessed on its board by—it's a competency-based board, but we also have two First Nations people as part of the board, Ennis Fiddler and Judy Morrison, who bring invaluable input to the board level. In fact, we've had two sessions with them on First Nations awareness, of the issues they face, for the staff and for the board. Secondly, we've hosted two, soon to be three, forums on bringing in all of the chiefs from the First Nations—the remote, isolated First Nations; the ones that aren't so remote and isolated—and hearing their issues, because public consultation is critical so that we get their real needs. We're in the needs-accumulation phase right now, and it's dealing directly with them.

Of course, you have the added thing that there's double jurisdiction with the federal and the provincial, but key to the LHINs is local input, and it's no clearer than in our relationships with First Nations.

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

The Chair (Mrs. Julia Munro): Thank you very much for being here today. We appreciate that.

Mr. Robert Gregor: Thank you for the opportunity.

ERIC WHIST

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

The Chair (Mrs. Julia Munro): Our next interview will be with Eric Whist as the intended appointee, member and vice-chair of the Human Rights Tribunal of Ontario. Good morning, Mr. Whist. Welcome to the committee. As you will have observed, you have an opportunity to make a statement, and then we will entertain questions from the members. When you're ready, you may begin.

Mr. Eric Whist: Thank you, Madam Chair, members of the standing committee. I believe it is my nearly 30 years of professional experience that make me a qualified candidate for a position of vice-chair of the Human Rights Tribunal of Ontario. In particular I would like you to consider my experience with human rights issues, working with disadvantaged individuals in communities and with a variety of institutions, as well as my adjudicative responsibilities as a member of an administrative tribunal.

In brief, my very first job after completing my university degree was with the Ontario Human Rights Commission in 1979. I began as an intake officer before being hired on contract as a compliance officer, a job that involved the investigating and conciliating of formal complaints of discrimination. In 1981, I was hired on a permanent basis by the Human Rights Commission in its race relations division. I was employed by the race relations division and its successor, the Ontario Race Relations Directorate, for a period of 10 years.

I was initially employed as a race relations officer. One of my responsibilities was to design and deliver

workplace race relations and anti-discrimination programs. These one- and two-day training programs were often implemented as the results of formal human rights complaints and delivered in workplaces with significant tensions or resistance. I was also responsible for working in what were considered high-needs areas of Toronto, promoting the need to address race relations issues and facilitating contact between individuals, community groups and the institutions that serve them.

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I subsequently became a manager in the race relations divisions and was responsible for the division's work with institutions. This included the developing of a generic race relations policy for school boards in Ontario, an initiative that ultimately led to the Ministry of Education setting mandatory guidelines for school boards to adopt race relations policies.

Another initiative was a summer youth employment program, which matched 150 disadvantaged youth with local employers while providing life skills training for program participants.

After this, I became the regional manager for the race relations directorate, and was responsible for the directorate's work outside of metropolitan Toronto. I managed race relations consultants in Ottawa, Hamilton, Windsor, Thunder Bay, Sudbury and Kingston. One accomplishment of note was the organizing and chairing of a conference involving representatives from 16 municipal race relations committees from across the province.

I was next employed by the Ministry of Municipal Affairs and Housing as a manager in their tenant support services branch. I was with the ministry for seven years. My work focused on strategies to improve the quality of life in public housing communities across the province, in large measure by encouraging local housing authorities to be more responsive to tenant needs. There were 56 local housing authorities and approximately 84,000 public housing households. Some initiatives focused on services to seniors and persons with mental health issues, others on improving race relations and service quality and on involving tenants in decision-making.

A particular initiative called Planning Together involved establishing planning committees and structured tenant involvement in all 56 housing authorities. Over 1,000 tenants, housing staff and service providers were involved in this initiative.

After that, I worked briefly at the Ontario disability support program branch of the Ministry of Community and Social Services before beginning my career as a member of the immigration and refugee board.

I have spent the last 10 years at the board as an adjudicator in the immigration appeal division. My work has consisted primarily in determining appeals of persons wanting to sponsor family members to Canada or persons who have been ordered deported from Canada. In this capacity I've presided over an average of six hearings a week and have rendered hundreds of written and oral decisions within expected timeframes. These decisions require an understanding of the guiding legislation,

namely the Immigration and Refugee Protection Act and the evolving case law as well an ability to consider and weigh extensive evidence.

It is also appropriate to note that the appeal process at the immigration appeal division is adversarial in nature, which requires a presiding member to use a broad range of skills in order to successfully manage the hearing process and to promote fairness and efficiency. Many of these appeals, it should be further noted, involved unrepresented appellants, which requires additional sensitivity and care.

The immigration appeal division also has an alternative dispute resolution process to resolve appeals without requiring a full hearing. I've participated in this program on numerous occasions as a mediator. I would also note here that I have also participated in a number of mediation training programs over the years.

Finally, over the last year I've been acting as the assistant deputy chair for the immigration appeal division's central region. In this capacity I currently manage 15 members in a high-pressure environment, with a significant regional caseload of over 6,000 appeals. Last year we completed over 4,000 appeals. The volume of cases before the immigration appeal division has required a willingness to continuously alter or adjust case management practices.

In summary, I believe my cumulative experiences and skills make me qualified to be a member of the Human Rights Tribunal. I've worked with individuals, communities and institutions to address discriminatory and other barriers. I have adjudicated hearings of persons in an adversarial process. I believe I have the sensitivity and judgment to consider and decide applications under the Human Rights Code.

I'm honoured to be considered for an appointment to the Human Rights Tribunal of Ontario and to be given an opportunity to participate in a tribunal that has an important role to play in the province. I believe I can make a contribution, given my adjudicative skills and my commitment to public service and human rights. Thank you.

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

Ms. Lisa MacLeod: I'll be splitting my time with my colleague in the official opposition.

Welcome. Thank you very much for coming. I want to focus on your work with the Ontario disabled community. The reason I want to draw from your experience there is because it's been criticized that, since now individuals can bring their complaints directly to the tribunal, the new system appears, on the surface, that only wealthy complainants will be able to bring forward human rights matters.

The Attorney General has indicated—and we have obviously appointed a chair to the new legal support centre to provide complainants with legal assistance. I want to know, will all complainants be guaranteed a lawyer? My supplementary will deal with why I've asked.

Mr. Eric Whist: I don't know. I can't speak authoritatively of what's going to happen at the Human Rights Legal Support Centre. I know that that's the intention, to help appellants or claimants. I don't know whether the practice will, in each and every case, be to provide some- one for them to appear before the tribunal.

Ms. Lisa MacLeod: Does it concern you, as a former advocate and supporter of the Ontario disabled community, that the Accessibility for Ontarians with Disabilities Act Alliance says that this system weakens human rights by planning reforms to the Ontario Human Rights Commission that will eliminate its role, in leaving cases to the Human Rights Tribunal?

Gary Malkowski, a former MPP for the New Democrats, said in the *Toronto Sun*, "It will force discrimination victims ... to investigate their own complaints.'... 'It is wrong of the McGuinty government to privatize human rights enforcement on the backs of those discriminated against.'...

"There's a real sense we've been treated unfairly,' said David Lepofsky," former coalition chairman.

Are you concerned that there is privatization of the Human Rights Tribunal process, and are you concerned that this may be difficult for those who may be discriminated against and who have some type of disability?

Mr. Eric Whist: You've asked several questions there.

Ms. Lisa MacLeod: You can answer all of them.

Mr. Eric Whist: Yes, well, I actually don't have an opinion to offer about the relative merits of legislative change in Ontario. I don't think that's my role as a future adjudicator.

I would like to comment on the issue of accessibility to processes for persons with disabilities. I think it would be absolutely fundamental to the tribunal to make sure that its process is as accessible as possible to persons with disabilities who are coming forward with complaints of discrimination. I can extrapolate a little bit from my experience in the immigration appeal division, where, for example, if you're a person who doesn't necessarily understand the process or needs assistance in the process, we designate representatives to help appellants participate in the process. So I think the tribunal has a responsibility to do everything it can to make itself as accessible as possible.

You're raising the question of whether the members who are activists in the disability community would prefer the old system as opposed to the new system. That may be, but that's not my place to comment on.

Ms. Lisa MacLeod: Where it is your place to comment is to make sure that those with legitimate complaints are being dealt with—

Mr. Eric Whist: Categorically.

Ms. Lisa MacLeod: —and that there is fairness and perceived fairness on the part of the tribunal. If the tribunal is inaccessible to those who require the most assistance, I'm wondering how the tribunal will deal with that. I think it's a very relevant question, as a legislator asking a member, or a potential member, of this tribunal.

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Mr. Eric Whist: Right, and to which I would say I think it is categorically important that the tribunal be as accessible as possible, and I would presume it would make efforts in that regard and I'd be part of that. For example, again, I used to deal all the time, and do now, with persons with mental health issues appearing before our tribunal. Routinely, there are efforts made to accommodate them in that process, and I presume the tribunal would do that.

The point I don't feel so comfortable answering is the suggestion that some people would prefer the old process of the Human Rights Commission investigating complaints, as opposed to the new process, which now has everybody coming straight to the tribunal.

Ms. Lisa MacLeod: Just one very brief question, and then I'm going to cede the floor to my colleague. Chief Commissioner Hall has said she'd like to see the number of complaints filed in Ontario spike in number. Do you agree?

Mr. Eric Whist: You mean the complaints before the tribunal or just in general across—

Ms. Lisa MacLeod: Well, now it is to the tribunal.

Mr. Eric Whist: Yes. I presume, of course, the tribunal will get more complaints, because they're now not going forward to the commission; they're coming forward to the tribunal. That, presumably, is one of the reasons that the numbers are going up from a complement of 20-something to 44. So it will be important that they have systems in place to manage an increase. I presume it's coming.

Ms. Lisa MacLeod: Okay. Thank you.

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

Mr. Randy Hillier: I've got a question. We've seen the Human Rights Commission and the tribunal expand their role from the original intention or expectation to address tangible discriminatory practices by individuals against others to a broader scope, and I'd like to get your opinion. Recently, there was a case with Maclean's and author Mark Steyn where the commission did rule that it was beyond its jurisdiction. However, it went on to say that while freedom of expression is a cornerstone of democracy, opinions such as in the Maclean's article are inconsistent with the values enshrined in our Human Rights Code. I'd like to get your comment and opinion on how far the Human Rights Tribunal should go.

Mr. Eric Whist: I'm not going to offer an opinion on that because I don't actually see it as appropriate to give an opinion on a broad public topic such as that. I'm going to have a role as an adjudicator and I'm going to have to consider the cases that come before me, and I intend to do that within the context of the Human Rights Code. You're raising a broad human rights issue in the public eye that doesn't fall specifically within the Human Rights Code and my responsibility, so I actually don't feel comfortable answering that question.

Mr. Randy Hillier: So did you say that the ruling on opinions such as that is beyond the scope of the tribunal?

Mr. Eric Whist: My responsibility will be to deal with cases that come before me and consider the

evidence, the Human Rights Code, and make a decision based on that. You're raising, as I said, I think a general human rights issue which has a high public profile, and I just don't think it's going to be constructive or helpful for me to give an opinion on that.

Mr. Randy Hillier: Well, being before this committee, we're here to review and analyze your appropriateness as an appointment. This is a broad subject. It's increasingly becoming more prevalent within the human rights actions, and it's important for members of this committee to know where your views are, because this was a complaint that was brought to the Human Rights—

Mr. Eric Whist: Commission.

Mr. Randy Hillier: —Commission. So the complaints will now be coming to the tribunal. We can probably expect others such as this, and it's important for us to know where your ideology or philosophy is about: Is it valid, is it appropriate, for the tribunal to rule on the validity or the merit of other people's opinions?

Mr. Eric Whist: I think there'll be lots of cases where you render a decision on opinions. If a person in a position of responsibility in employment renders an opinion which has a discriminatory effect on someone in employment, in accommodation, in services, absolutely.

Mr. Randy Hillier: I'm talking about opinions in the media.

Mr. Eric Whist: Absolutely. If that opinion is discriminatory in effect on someone in an area for which we're responsible, which includes services and employment and accommodation, absolutely, I would rule on that.

Mr. Randy Hillier: I agree with all those when there are opinions that are reflected in actions. That is the question, not discrimination in services or accommodation. Where there are opinions being expressed in the media, is that within the domain of the tribunal?

Mr. Eric Whist: I don't think so, sir.

Mr. Randy Hillier: One last question. You're presently deputy chair for immigration. Will you be maintaining that role?

Mr. Eric Whist: Not at all. My last day is September 5.

The Chair (Mrs. Julia Munro): Ms. Gélinas.

M^{me} France Gélinas: Thanks for coming. You certainly seem very well qualified to take on the role of vice-chair. The tribunal, I'm guessing, will have to hear cases coming from Franco-Ontarians. Do you have any ability in the French language?

Mr. Eric Whist: I do not.

M^{me} France Gélinas: Of the six new appointees coming so far, none of them have said that they are in a position to do hearings in French. Do you feel it is appropriate to have hearings for Franco-Ontarians done through translators?

Mr. Eric Whist: No. I think it's reasonable to expect the tribunal to conduct hearings in French and I presume that that would be an interest of the tribunal.

M^{me} France Gélinas: You did mention that you were responsible for areas outside of Toronto. I think it was in your work with the Human Rights Commission. I was

wondering, what is the extent of your knowledge of northern Ontario and its residents?

Mr. Eric Whist: I think it's all right. I did a lot of work in northwest Ontario wherein I would go out to deal with the public housing authority in Thunder Bay. I remember the Sioux Lookout municipal council. Kenora was always an issue because we were dealing with concerns between police and the local aboriginal community. That activity is a little dated, but I feel comfortable in recognizing the special nature of the north.

M^{me} France Gélinas: What motivated you to leave immigration to go toward the Human Rights Tribunal?

Mr. Eric Whist: First of all, it fits in with my general interest in public service and human rights. I feel I am returning to my roots in many ways. It's appropriate to note that my mandate at the Immigration and Refugee Board is coming to an end. I have a term there, so I'm looking for other opportunities, and this is a very good opportunity.

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

The Chair (Mrs. Julia Munro): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you for appearing before the standing committee today and also for considering the possibility of this challenging role as vice-chair.

Mr. Eric Whist: Thank you.

The Chair (Mrs. Julia Munro): Thank you very much for being here this morning. We appreciate you coming.

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ALLAN HARRIS

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

The Chair (Mrs. Julia Munro): Our next interview will be with Allan Harris, the intended appointee as member, Committee on the Status of Species at Risk in Ontario.

Good morning, and welcome to the committee. As you may have observed, you have an opportunity in which you may make some comments, and then we'll entertain questions from the members. Whenever you're ready, you may begin.

Mr. Allan Harris: Great; thank you. It's an honour to be here. I'm a biologist. I live and work in Thunder Bay, Ontario; I've been there for the last 24 years. I grew up in Sarnia before I moved up to Thunder Bay. For the last 12 years I've been a self-employed ecological consultant.

I have a small business with a business partner called Northern Bioscience. We mainly do work for the provincial government, for Ontario Parks and MNR, doing life science inventory, rare species surveys and so on, and also for hydro development and wind power development, doing environmental assessment work for those groups. We also do forest auditing, wetland evaluations, fisheries assessment—quite a broad range of work. I'm

now completing a fairly major study on the effects of water-level regulation on wetland communities on the boundary waters in Rainy and Namakan lakes in north-western Ontario. It's a collaborative project between the Ontario and US federal governments. Most of my work is in northern Ontario, but I also do work across the province, species-at-risk surveys from Lake of the Woods to the Ottawa area.

As for my education, I have a bachelor of science degree in wildlife biology from the University of Guelph and a master's degree in biology from Lakehead University, where I studied wetland ecology.

Before I started consulting, I worked with the Ministry of Natural Resources for about six years in Thunder Bay and Ignace, Ontario, where I was involved in woodland caribou habitat assessment and population surveys, some peregrine falcon restoration work and wetland classification and inventory work, leading to a wetland classification manual that was produced for northwestern Ontario just before I left MNR in 1996.

I'm a member of the Thunder Bay Field Naturalists in Thunder Bay, and I'm a director of the Thunder Cape Bird Observatory, a subcommittee of the Thunder Bay Field Naturalists.

Over my career, I've collected thousands of plant species and records and submitted them to various herbaria, submitted hundreds or thousands of records of birds to the Ontario breeding bird atlas, which has just been completed. I wrote one of the species accounts for that recently published atlas. I've also done work on mammals, reptiles and amphibians—right across the board, really.

Since starting consulting 12 years ago, I have been an author or co-author of six status reports for COSEWIC; that's the Committee on the Status of Endangered Wildlife in Canada, which is the federal counterpart of COSSARO. Those include four insect species and two plant species. I also wrote the COSSARO status report for woodland caribou in Ontario back in the late 1990s, which eventually led to "threatened" status for the forest-dwelling caribou in northern Ontario. I've also written recovery strategies for eight species for the federal and provincial governments, and I've completed species-at-risk surveys in over 50 parks and conservation reserves across northwestern Ontario and other areas.

As for what I can contribute to this committee, I feel I have a broad knowledge of the flora and fauna of Ontario, especially northern Ontario, but right across the province, really. I've been involved in the various stages of assessing a species right from field data collection through writing the status report and then writing recovery strategies. I'm really excited about the new role of COSSARO in the new Endangered Species Act, and I really hope I can make a significant contribution. Thank you.

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

M^{me} France Gélinas: You've mentioned that you work for yourself as a consultant with a partner, and lots

of your contracts are with the government. Do you see a possibility for a conflict of interest with your new appointment to the committee?

Mr. Allan Harris: Certainly the possibility is there, but I intend to be completely upfront about it and work with the chair and whoever else is involved to identify any potential conflicts.

M^{me} France Gélinas: Okay. Is most of your work through government grants, or do you also—

Mr. Allan Harris: No. It changes from year to year. For the last couple of years, it's been largely through hydro developments, where we're working with an industry client who needs to prepare an environmental impact assessment to gain permission to put in a dam or a wind farm and that sort of thing.

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

The Chair (Mrs. Julia Munro): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you, Mr. Harris, for coming before us today. You say that you came from the Sarnia area originally, so you would be very familiar with Pinery Park—

Mr. Allan Harris: Oh, yes; very much so.

Mrs. Maria Van Bommel: —which has wonderful and unique species in it. It's certainly a gem in my riding. Thank you very much.

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

Mr. Randy Hillier: Thank you very much for being here today. I'll follow up a little bit on my colleague from the third party's question about how you are right now a partner in a consulting firm that does a significant amount of work with the MNR and various government agencies. Of course, when different species are identified on these lists as threatened, endangered, or whatever classification, a whole host of other actions follow through, such as assessments, recovery strategies and what not. Do you not see that there is certainly a possibility for a make-work project, I might say?

Mr. Allan Harris: I can understand how that potential would be there, but I intend to be completely upfront about any potential conflicts. To date, most of our work involving endangered species has been with the federal government, which is at arm's length from this committee. Yes, you're right; there are some potentials for conflicts there, but I intend to be completely upfront and honest about things.

Mr. Randy Hillier: Just some general views on the Endangered Species Act: I've looked at it significantly, and, of course, the committee will be identifying species to put on this list. Once a species is on the list, a whole host of consequences happen, like permits, fees and different things. They can become quite onerous on the person who has established a habitat for these species—quite costly and expensive in preventing their opportunities. It's quite a punitive approach for somebody who has done well, in my view, to create the habitat for species. Do you think there's a better way of approaching this other than the punitive approach?

Mr. Allan Harris: First of all, I hope that it will not be the role of this committee, of COSSARO, to establish what happens beyond the designation of a species as threatened, in danger or something else. It's certainly very important, but that's, I think, beyond the role of this committee.

Most of my involvement with land tenure and stewardship has been with the forest industry. They have been very vocal about the new Endangered Species Act and have raised some concerns. I think they may have blown it out of proportion somewhat. The forest industry has been complying with the Crown Forest Sustainability Act for many years, in which they are required to protect endangered and threatened species when they conduct forest management activities. I don't see that as changing very much. There may be an increase in their administrative burden if they are required to get permits before they can conduct forestry in woodland caribou habitat, for example. But I think it's time to get on with the new act and make it work.

Mr. Randy Hillier: We know that forestry has received some exemptions from the act. You did mention that there could be—"could" should be changed to "there will be"—further administrative burdens to comply with this, at a time, also, when the forestry industry is facing significant challenges on its own. Additional costs are not going to make it more competitive in our global economy. Where do you think the trade-off should be? Should we put people out of work? How far should we go to protect some of these species, in your view?

Mr. Allan Harris: Again, I think the burden on the forest industry has been overstated. There will be some additional administrative work for them, but they have been conducting forestry activities in woodland caribou habitat, for example, for many years now and have been complying with MNR guidelines on conserving woodland caribou habitat. So far, it seems to have been quite successful.

Mr. Randy Hillier: I would agree. So far, I think we've done a very good job in Ontario with our species over the years. We're not putting quite as many into the "extinct" category as once happened in the past. That's due, in large part, to the successful and knowledgeable practices of people who own properties. I have a number of concerns about the whole endangered species list, but the biggest one is this punitive approach. Instead of applying a reward system to people who have done a good job, we apply a penalty to them for doing a good job.

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Mr. Allan Harris: There is a reward system in the community tax incentive program. I can't remember exactly what the name is, but it offers tax breaks for landowners who are protecting endangered species on their land base. That may be a substantial compensation or it may be relatively insignificant, depending on the municipality and the nature of the property and so on.

Overall, I think we need to get on with conserving endangered species. There certainly will be some land-

owners who will suffer somewhat, but I think it's in the greater good of the people of Ontario to protect our endangered species.

Mr. Randy Hillier: In your view, it's okay if what can't be afforded by society should be borne by an individual landowner in some cases.

Mr. Allan Harris: In some cases, I think the landowner will have to take some of the brunt, yes.

Mr. Randy Hillier: Thank you.

The Chair (Mrs. Julia Munro): Thank you very much. That concludes the questions.

Mr. Allan Harris: Thank you.

BRIAN COOK

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

The Chair (Mrs. Julia Munro): Our next interview is with Brian Cook, intended appointee as member and vice-chair, Human Rights Tribunal of Ontario. Welcome, Mr. Cook. I know you just walked in the door. This is called "timing is everything."

Mr. Brian Cook: Just-in-time committee proceedings.

The Chair (Mrs. Julia Munro): That's right. Anyway, welcome to the committee. I would just want you to know that you have the opportunity to make remarks as you wish to the committee and then we will entertain questions from members. When you're ready, you may begin.

Mr. Brian Cook: Thank you. I did prepare an opening statement, and I was also asked in advance by the committee to address a couple of questions, and I'll do that as well.

Madam Chair, members of the committee, thank you very much for the opportunity to appear before you today, to give you some information about my background and qualifications for the position of vice-chair of the new Human Rights Tribunal of Ontario and to answer any questions you may have.

I've been an adjudicator for the past 23 years. I was privileged to be appointed to the Workers' Compensation Appeals Tribunal—it was then called WCAT—when it was first created in 1985. I was originally appointed as a member representative of workers and was appointed as a full-time vice-chair of the tribunal in 1991. The early years of the WCAT were particularly exciting and interesting, as I'm sure the new Human Rights Tribunal will be. As tribunals develop and mature, it's a very exciting time to be a member of a new tribunal. I was the chair of the tribunal's practice and procedure committee, which was responsible for developing the early policies at WCAT regarding the appeal process.

In 1997, I was appointed as a part-time vice-chair of the tribunal. Part time is perhaps a bit of a misnomer since, like most part-time vice-chairs at the tribunal, I

worked on a more or less full-time basis, but I was paid by per diem rather than by salary.

In 1998, the WCAT became the Workplace Safety and Insurance Appeals Tribunal, or WSIAT, and I continued to serve as a per diem vice-chair.

My years at WCAT/WSIAT coincided with the rise of the alternative dispute resolution, or ADR, movement in Ontario, and I developed an interest in ADR. I chaired the WCAT alternative hearing panel, which explored the use of ADR in the adjudicative, rights-based context.

After becoming a per diem vice-chair in 1997, I furthered my interest in ADR. I was appointed to the roster of mediators under the Attorney General's mandatory mediation program and acted as a mediator in a number of civil litigation cases.

I was accepted into the part-time LLM program in ADR offered by Osgoode Hall Law School, and I completed this program in 2005. So although I am not a lawyer, I do actually have a law degree.

I used the LLM program to think about and study the contrast between mediation and adjudication. My major research paper was about the use of ADR techniques in the adjudicative context.

I was attracted to the new Human Rights Tribunal in part because of the amendments to the code regarding the criteria to be used to assess candidates. I have to say I was very heartened by the fact that the legislation requires a merit-based, competitive selection process, and I think this is an important development in the evolution of the administrative justice system in Ontario. I was also very interested to see that the criteria included an aptitude for applying alternate adjudicative practices and procedures. I think that my experience as an adjudicator and my academic consideration of these matters may be of benefit to the new Human Rights Tribunal.

I was asked by the committee to speak to challenges that I anticipate for the new tribunal. The new Human Rights Tribunal will feature a direct access application process which is significantly different than the previous system where complaints were made to the commission and only a few went on to the tribunal. This presents significant design and delivery challenges. The tribunal systems must be flexible so that unrepresented parties can be fairly dealt with. In some cases, evidence will not be fully available or mature at the time that the application is considered by the tribunal. I imagine that a challenge will be how to obtain the necessary information without causing undue delay.

These same challenges were faced by the Workers' Compensation Appeals Tribunal that I have been a member of, and I believe that WSIAT is now recognized as a tribunal that over its years of operation has been able to meet those challenges without compromising its commitment to adjudicative excellence.

On the basis of the leadership of the new Human Rights Tribunal, I am very confident that it will equally meet the challenges that lie ahead and that, if appointed, I will be part of another pre-eminent piece of the administrative justice system in Ontario.

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

Mrs. Maria Van Bommel: Thank you very much, Mr. Cook, for your timely arrival here at the standing committee. Certainly, your experience in dispute resolution will stand the tribunal in good stead.

Mr. Brian Cook: Thank you.

The Chair (Mrs. Julia Munro): Ms. MacLeod.

Ms. Lisa MacLeod: Thank you, Madam Chair. I'll be splitting my time with my colleague.

I enjoyed your dissertation. It was nice to see that you're heartened that there is a merit-based administrative justice program going on here at the committee, because from this side we've already seen two appointees from the former Attorney General's riding come before us and we have a riding president of a current Liberal minister before us later today. So I'm not quite sure it's all just merit-based, but if that's the illusion, then that's great.

I'd like to know, are you planning to leave the WSIB tribunal?

Mr. Brian Cook: I assume if I'm appointed to a full-time position that that would be a consequence, yes.

Ms. Lisa MacLeod: Okay. Do you think that a respondent against whom false complaints are made is entitled to some or all of their legal costs when they are acquitted?

Mr. Brian Cook: I'm sorry. What was that?

Ms. Lisa MacLeod: 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?

Mr. Brian Cook: Well, that would be a matter governed by the code and, to be honest, I'm not sure what provisions there are in the code about awarding costs.

Ms. Lisa MacLeod: I'm mostly interested right now, as I am with all of the deputants today, whether or not—what's in the code is not really what I'm getting at. What I'm getting at is what are your personal philosophies on this? I think that's really important as we move forward in seeing what kind of shape this tribunal is going to take, particularly in light of the fact that we've got a new system before us and 22 new members joining the tribunal. So it's important for me and the official opposition to know what your opinion is and your view on that.

Mr. Brian Cook: Well, with respect, on the question of costs I feel that my job is to implement the provisions of the code, and if there are provisions for awarding costs then costs will be awarded, and if there is no provision then I wouldn't be able to make costs.

I would just say, though, I think this new tribunal has to be—it's not just obviously about complainants or applicants, it's also about those who are complained about. I have seen small employers, for example, who have been accused of violating the rights of workers, and if those complaints turn out to be wrongly based, it's just as important that the system be able to expeditiously clear that person and assure them that they didn't violate that person's rights as it is to be able to properly investi-

gate the complaints made by people who feel that their rights have been abused.

Ms. Lisa MacLeod: This is a real problem. I mean, when you're looking at somebody who has spent maybe three years of their life fighting against something they're acquitted on and they've spent thousands upon thousands of dollars through the tribunal process, I think it's a legitimate question to ask.

1030

I want to shift gears a little bit. Recently, in Burlington, there was a case regarding medical marijuana being smoked on the premises of a restaurant. When the owner wanted to remove that person because no smoking is allowed in the community—we're a smoke-free Ontario—the Human Rights Commission said that the case was not about marijuana but the duty to accommodate someone who has a disability. I'd like your opinion on that.

Mr. Brian Cook: My opinion on whether it's a disability issue?

Ms. Lisa MacLeod: If this case were before you, would you allow someone to smoke medicinal marijuana on the property of a restaurateur under the guise of the Smoke-Free Ontario Act? Would you permit that based on what the previous spokesperson for the Human Rights Commission said? Afroze Edwards said that "the case was not about marijuana but the 'duty to accommodate' someone who has a disability. She said the Ontario Human Rights code supersedes all other legislation, unless there is a specific exemption to exclude it written into a law." Do you agree?

Mr. Brian Cook: What I definitely agree with is that that case represents the sort of challenges that are faced by adjudicators on the Human Rights Tribunal, and it's very similar to the difficult cases that are faced in workers' compensation. As you know, there have actually been medical marijuana cases in the workers' compensation system as well. I have to confess that I do not have the expertise in human rights legislation and adjudication—I know that I will be given a very thorough training session—so I'm really not comfortable giving you an opinion on that, because I would want to study it as an adjudicator: What are the competing interests? What is the evidence? I understand that there's sort of a general principle, but the actual case would arise in the particular context of a particular person—

Ms. Lisa MacLeod: So will you be just adjudicating on labour rights or will you be adjudicating on all rights?

Mr. Brian Cook: I assume on all.

Ms. Lisa MacLeod: So the question then becomes, is the right of my child or the right of anyone else's child or the right of the asthmatic under the Smoke-Free Ontario Act—there are competing rights there. How do you balance that? That's why I wanted your opinion. It's really less about the specific example as it is about how you are going to balance rights. I think it goes to the question of, at some point, how do you choose which are rights? I asked this of an earlier deputant. You traditionally have been known as a commission to be used by

certain groups in society which are discriminated against, and that's what your job is, but do you believe it's possible for non-minority groups to be discriminated against?

Mr. Brian Cook: Yes.

Ms. Lisa MacLeod: Okay. Thank you, and now to my colleague.

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

Mr. Randy Hillier: It was interesting that, in order to fulfill the human rights role, you have to break some other law in Ontario.

In the tribunal, they do not post decisions or the disposition of cases. To me, that's very fundamental. We need to have that openness and full disclosure. In Canadian human rights, there's been one case where an individual has been the complainant in over 50% of all cases relating to hate messaging, a fellow named Richard Warman. He's obviously manipulating human rights at the federal level for his own zealous political agenda. Do you believe that there should be checks and balances within the tribunal to prevent it from being manipulated by zealots, and do you believe that full disclosure of the dispositions and decisions should be made available on the website?

Mr. Brian Cook: To answer the second question first, certainly the tribunal I've come from has believed all along that having decisions at the tribunal be publicly available is paramount to the system operating. I'm surprised to hear that they're not posted, because my understanding was that the commission stopped, perhaps, posting its decisions, but certainly there are some available.

Mr. Randy Hillier: They have stopped.

Mr. Brian Cook: Yes.

Mr. Randy Hillier: Yes, that's correct. They've stopped posting decisions.

Mr. Brian Cook: So I'm not sure what—

Mr. Randy Hillier: This is what I'm getting at: your opinion. Should they be available? I think the answer from what I've heard is yes, in your view.

Mr. Brian Cook: That is my view, yes.

Mr. Randy Hillier: It's pretty hard to conduct a just and democratic society in secrecy, in my view, although some are attempting to do it. Those are all my questions.

The Chair (Mrs. Julia Munro): Ms. Gélinas.

M^{me} France Gélinas: Thanks for coming, Mr. Cook. My first question: You are the seventh person we've seen being appointed to the tribunal, and I was wondering, do you have any competency in the French language?

Mr. Brian Cook: No, I'm afraid I don't.

M^{me} France Gélinas: Well, you're in good company, because none of the other six did either. Some did, but none of them could actually hold a hearing in the French language. Do you feel that Franco-Ontarians who want to use the services of tribunal should be able to have the hearing in French, or is it all right to have translators?

Mr. Brian Cook: My understanding is that they're entitled to have their hearing in French.

M^{me} France Gélinas: I was curious to know about your—all of the seven whom we have seen so far are

either from the GTA or very close thereto—knowledge of northern Ontario.

Mr. Brian Cook: The tribunal where I've been for many years—

M^{me} France Gélinas: Twenty-three.

Mr. Brian Cook: —is also based in Toronto, but we hold regional hearings all around Ontario. I definitely feel that experience—it's really interesting, actually. The cases are different. Workers' compensation cases, anyway, are different in northern Ontario than they are in the GTA, for sure. And the culture is different, so the cases are different. I feel like I've really enjoyed that experience of the exposure to all of Ontario and Ontarians, in this case for workers' compensation, and I'm sure the same will hold true for human rights.

M^{me} France Gélinas: Did you actually travel to northern Ontario?

Mr. Brian Cook: Oh, yes.

M^{me} France Gélinas: You did.

Mr. Brian Cook: We travelled the whole—people shouldn't have to come in from Thunder Bay, for example, all the way to Toronto to have their hearing.

M^{me} France Gélinas: After 23 years of working with workers, I'm sure there's a degree of comfort and knowledge in your skills that you're doing a good job. What motivated you—human rights is so huge—to make the switch?

Mr. Brian Cook: Well, to be perfectly honest, part of the issue is that it's not really a question of my understanding of whether I would have to leave where I am now, but when, because of the government appointment process that stipulates a maximum tenure now. So I would have to leave at some point.

To be frank, I agree with you. It's a bit of a problem when tribunals—especially the senior tribunals that are dealing with highly complex areas such as workers' compensation, human rights, the labour board and so on—for people who have that expertise, lose those people. On the other hand, there are obviously competing things that have to be considered in the government appointment process.

My feeling in terms of the transition from workers' compensation to human rights is that there actually is a lot of overlap. The majority of the cases fall under the employment situation, and a lot of them are about accommodating disability, which of course is certainly something I'm no stranger to at workers' compensation.

M^{me} France Gélinas: Did I understand you correctly, that you were basically happy at your job but that there's a deadline when you have to go?

Mr. Brian Cook: That's my understanding, but I am also very excited about the possibility of joining a new tribunal. In particular, as I mentioned, the Human Rights Tribunal is particularly interested in alternative adjudicative systems and I'm really intrigued by that.

1040

M^{me} France Gélinas: Which you've already said is something that you have done lots of in your previous employment.

Mr. Brian Cook: That's right.

M^{me} France Gélinas: Those are certainly skills that are transferable. You look like a very qualified candidate. I wish you all the luck.

Mr. Brian Cook: Thank you very much.

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

ALLAN FURLONG

Review of intended appointment, selected by official opposition party: Allan Furlong, intended appointee as member, Durham Regional Police Services Board.

The Chair (Mrs. Julia Munro): I'd like to ask Allan Furlong, the intended appointee as member, Durham Regional Police Services Board, to come forward. Good morning, Mr. Furlong, and welcome to the committee.

Mr. Allan Furlong: Good morning, ma'am.

The Chair (Mrs. Julia Munro): As you would know from observation, you have an opportunity to make comments as you wish, and then we will entertain questions from the members. If you're ready, you may begin.

Mr. Allan Furlong: Thank you. Good morning, Madam Chair and members of the committee. It is an honour to appear before you this morning as the nominee to the Durham Regional Police Services Board. I have a brief opening statement, after which I look forward to the opportunity to discuss my qualifications and skills as they relate to this position.

I have been a resident of Oshawa for almost 40 years and have served my community in a number of different capacities. I have been elected to public office at two levels of government. I am a former trustee with the Durham region Roman Catholic separate school board and a former member of the Ontario provincial Legislature.

I am currently the managing partner of the law firm Strike Furlong Ford and have practised law in Oshawa since 1971. My practice includes, but is not limited to, family law, labour and employment law, and corporate and commercial law. As such, I have frequently been called upon to act in the areas of dispute resolution and labour relations.

I have been an arbitrator on numerous boards of arbitration in Ontario in both rights and interest disputes. As counsel, I have negotiated several collective agreements in the Durham region. I have appeared as counsel before administrative tribunals, including the Ontario Labour Relations Board, Ontario Municipal Board, Workers' Compensation Board, and the Canada pensions appeals tribunal. I have also been a deputy judge in Small Claims Court dealing with bilingual trials when this experiment was tried several years ago.

Over the past 40 years, I have been active in the volunteer community, serving as a coach in the Christian youth hockey league, as president of the Oshawa and District Association for Community Living, and as a fundraiser for the United Way.

Je suis aussi bénévole dans la communauté francophone de Durham. Pour plusieurs années, j'étais membre du conseil d'administration, et au commencement, membre du comité responsable pour bâtir un centre culturel à Oshawa.

I do pro bono work for Big Brothers and Participation House, and I am currently a member of the area committee for legal aid and a member of the Durham Region Law Association.

I believe that I possess the requisite skills to serve as a member of the Durham Regional Police Services Board and would be a valuable addition to that team. I have good analytical skills and have years of experience in the area of consensus-building.

Before I was accepted to law school, I spent three years as a budget and management analyst for the province of New Brunswick. In addition to working on the provincial budget, I was responsible for the preparation of job descriptions, the continuous monitoring of management systems, and salary negotiations with unions. The skills I acquired then have served me well in my work career and will serve me well on this board.

I am currently a member of the senior compensation committee of the University of Ontario Institute of Technology board of governors. Budget preparation and review, salary negotiation and goal-setting are areas where I have demonstrated experience and had success.

I consider myself to be a moderate in most areas and have good listening skills. I never hesitate to ask the difficult questions. I have a reputation for being fair and well researched. I have an ability to see things from several different perspectives. I am not afraid of hard work nor of any new challenges. I have always considered it a privilege to play an active role in my community. I look forward to the opportunity to join the Durham Regional Police Services Board and to offer my time and expertise.

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

Ms. Lisa MacLeod: Thank you, Madam Chair. I appreciate the opportunity to question Mr. Furlong. Welcome back to Queen's Park. I'll be splitting my time with my colleague from the official opposition.

My question: Basically, I understand that there are some drug issues in the city of Oshawa. According to the research provided to us by the legislative research branch, it's been indicated that a recent news report on the drug problem in the city of Oshawa describes how drug dealers and addicts are giving the downtown a bad reputation. There is a station clerk who says, "I get threats all the time."

"Mallinos says the city is trying to do something about it, but he doesn't see the cops enough and civic change is slow."

I come from the city of Ottawa, where we face some of the same issues with respect to drug problems. We've got a great police chief. We stole him from the region of Durham, and we're very happy about that, but I know that there's a big hole to fill. But we're very fortunate,

because he's a proactive police chief, Vern White. He has brought with him a lot of common sense to the drug problems that the city of Ottawa is facing.

I'd like to know what your views are in terms of harm reduction, i.e., needle exchange programs, free crack pipe programs, and what your opinions are on those. The views in our community probably are similar to what's happening in Oshawa.

Mr. Allan Furlong: The drug problem: As the population increases, it becomes more and more popular. As you read the local press, certainly the downtown area has been an area in which a lot of attention has been focused. We also have a methadone clinic that's right in the downtown core, which, according to press releases, draws addicts and drug people to this area.

There are several programs that have been put in place. The big issue—I think there was a survey done recently, and in my recollection of it, I believe that the complaint from the business people in the downtown area was that a heavier police presence was required. There were programs like the bicycle police officers, the patrol officers walking the downtown area and hitting these spots in the area that you mentioned. If they're there, it seems that they either move away—and hopefully, they'll move further away. But the issue becomes one, from my perspective, of the police officers and police force being more active in presentations and lectures to deal with these people to try to illustrate the problems that the drug is creating, not only within the person but to the community in general.

I'm not familiar with all of the programs that police services have available, but certainly it's a learning process. I recognize it as a problem and I look forward to my initiation with the board—if I'm the appointee. That's certainly an area which we would have to explore.

Ms. Lisa MacLeod: Do you believe in crack pipe programs or free needle exchanges for drug addicts?

Mr. Allan Furlong: Again, at this moment, I really can't give you an opinion on it. I don't know enough about it. I've read the comments that were made even as late as yesterday by the federal Minister of Health with respect to these programs. I really don't know enough about it to give you an opinion at the moment.

Ms. Lisa MacLeod: I would encourage you to read up on it. I look at the excerpt that was provided to us by the legislative library. It's very similar to what's happening in Ottawa's Byward Market. A Tim Hortons in the city of Ottawa basically had to close its public washroom facilities because the free needle clinics were providing free needles, and crack addicts were going in there to either smoke up or inject.

I was very fortunate that Police Chief Vern White arranged for a tour for me with one of his finest officers in that part of the national capital. What I saw was stunning. I think that it's important for any police service, especially a board member, because it became very important in our community when we decided to take a stand. It wasn't just the police chief, it was also the police services board. When they decided, with the city of

Ottawa councillors, to remove the city's crack pipe program and withdraw their funding from it, the province decided to go over their head and inject funds—no pun intended—directly into a program. We've been battling with that.

I think it's a legitimate question to ask what your opinion is. I know that your previous ties to the government may—you may philosophically be inclined to support them, but it is an issue which you are going to have to address. That's why I ask you again: What, on the surface, is your opinion on these harm reduction programs?

Mr. Allan Furlong: My answer is the same. I don't think I know enough about the situation. I can't relate to experiences like you've had. Perhaps something that I might do as a member of the board is travel to the area, have a police officer take me around and show me what the problems are. But at the moment, all I know is what I read in the newspapers. You mentioned Tim Hortons, for example. There were suggestions of a Coffee Time shop in Oshawa with the same problems. But I don't know the details and I don't know what involvement the police force currently has in the program, so I really can't tell you. To be perfectly honest, I don't know whether it's good or bad at this stage; I don't know enough about it.

Ms. Lisa MacLeod: Okay. I'll cede my question time to Mr. Hillier.

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

Mr. Randy Hillier: Just briefly, although you don't have the same programs in Oshawa as my colleague was speaking of, you did mention that there is a methadone clinic there and that has attracted difficulties and problems. How long has that clinic been there?

Mr. Allan Furlong: Several years.

Mr. Randy Hillier: Several years.

Mr. Allan Furlong: Yes, and it's been a bone of contention with the councillors. Some want to move it from outside of the downtown core. Oshawa council has been attempting to revitalize the downtown area, and this is part of the problem.

Mr. Randy Hillier: I can imagine it would be hard to revitalize when you have methadone clinics there, and the crowd that that may attract.

Mr. Allan Furlong: It's a problem. My office is downtown and I see what happens on the street. You walk by and you see the things that are going on, the disrespect for property and people, and the language. It's a bit brutal.

Mr. Randy Hillier: Well, there are always, I guess we could say, the unintended consequences of these Liberal policies that attract this.

Just to finish off, I find it interesting today the numbers of people coming through with political connections. I understand you have been a member of the Liberal Party here, past president for the Ontario Liberal Party. I guess it's just patronage day at Queen's Park for intended appointments.

Mr. Allan Furlong: Well, I would actually hope—

Mr. Michael A. Brown: Name the other ones.

Mr. Allan Furlong:—you would look at my credentials, as opposed to making comments like that.

The Chair (Mrs. Julia Munro): Excuse me. Could we just have one speaker at a time. Mr. Furlong, if you could continue.

Mr. Allan Furlong: I'm done.

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

M^{me} France Gélinas: It's a pleasure to meet you, and thanks for coming.

I want to follow up a little bit as to what the official opposition has been talking about: harm reduction. I think your answer to the first question, where a lot of it has to do with education, was the right one. Your refusal to answer, I think, was also very wise. If you don't have enough knowledge, you shouldn't jump to conclusions. I've spent 25 years of my life on the front line working with homeless people, and we do have a methadone clinic in downtown Sudbury. It has been integrated. We've done our renewal, and it can work. It can work when you do education and you make sure you look after the needs of everybody who lives in Ontario and everybody who lives in your community.

So I encourage you, as you go on to the board of the police force, to really look as to what has brought those people there, what we can do to help them, and what some of the best practices are. In some chronic alcoholism, chronic drug use, harm reduction is part of the best practice and is part of the only ray of hope that we can give those people. So keep your mind open, look at what's out there, and I think you're going at it the right way.

J'étais curieuse de vous entendre parler en français et de voir que vous étiez membre du conseil d'administration du centre francophone.

M. Allan Furlong: Oui.

M^{me} France Gélinas: Je ne savais même pas qu'il y avait un centre francophone à Oshawa. Ça s'appelle comment ?

M. Allan Furlong: Il y a plusieurs organismes dans la communauté. Le COFRD est le conseil des organismes francophones; c'est, comme en anglais, « an umbrella », un parapluie pour les places comme l'Amicale, la bâtisse qui sert le comté comme centre francophone. Ça fait longtemps que je suis à Oshawa, puis il y a beaucoup de francophones qui ont moi comme avocat. Mon problème est que ça fait longtemps que je ne parle pas français parce que j'ai déménagé—je suis né à Rouyn-Noranda, puis j'ai déménagé à Fredericton, au Nouveau-Brunswick, où j'étais à l'université. Après ça, je suis venu ici, puis maintenant je suis au point que je peux écrire ça en anglais puis faire la traduction en français, puis des fois ça ne se traduit pas. C'est un peu de les intégrer pour mieux parler.

M^{me} France Gélinas: Pour en venir à bout ?

M. Allan Furlong: Oui.

M^{me} France Gélinas: Est-ce qu'il y a plusieurs francophones à Oshawa ?

M. Allan Furlong: Il y a une grosse communauté. Il y a une paroisse, une église francophones. Je n'en sais pas les numéros de membres, mais il y en a plusieurs.

M^{me} France Gélinas: Il y en a plusieurs ?

M. Allan Furlong: Oui.

M^{me} France Gélinas: Lorsque vous serez sur le conseil, qu'est-ce que vous voyez comme priorité pour le service de police d'Oshawa ?

M. Allan Furlong: Deux choses. Premièrement, ça prendrait un budget pour être certain de pouvoir faire ce qu'on a besoin de faire. Je sais que la communauté à Oshawa a déjà établi des priorités : en anglais, road safety, property issues, violations against public people, assaults, gangs. Moi encore, je ne sais pas exactement quels sont les programmes. Ça va me prendre un peu de temps pour me faire « up to speed ».

M^{me} France Gélinas: J'ai vu que vous étiez très, très impliqué dans votre communauté; il y a des listes et des listes de conseils et de commissions, etc., sur lesquels vous avez siégé. Pour moi, le conseil de la police est toujours quelque chose un peu différent. Qu'est-ce qui vous attire vers ça ?

M. Allan Furlong: Dans mon bureau d'avocat, au commencement, le 1^{er} janvier 2007, j'ai changé mon « partnership », puis j'ai plus de temps pour faire les autres choses que je veux faire. Quand j'ai entendu que la commission était ici, j'étais « online », puis j'ai fait application. Ils m'ont appelé pour me poser des questions sur mon résumé, et puis je suis ici aujourd'hui. Depuis ce temps-là, je regarde sur le Web pour voir ce qui se fait, puis je crois que j'ai la capacité de bien le faire.

M^{me} France Gélinas: Je vous remercie.

The Chair (Mrs. Julia Munro): Thank you. Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you, Mr. Furlong, for appearing before the standing committee today and for considering the challenges of a role on the police services board for Durham.

The Chair (Mrs. Julia Munro): Thank you very much. That concludes the formal part of our meeting. We are recessed until 1 p.m., but I would ask members of the subcommittee, if it's possible, after I've adjourned the meeting, to have a brief meeting.

This committee stands recessed until 1 p.m.

The committee recessed from 1057 to 1302.

MORGAN McCAGUE

Review of intended appointment, selected by official opposition party: Morgan McCague, intended appointee as member, Workplace Safety and Insurance Board.

The Chair (Mrs. Julia Munro): I'd like to call the committee to order and continue with our appointments review: Mr. Peter Morgan McCague, intended appointee as member, Workplace Safety and Insurance Board.

Good afternoon, and welcome to the committee. As you might know, you have a few minutes in which to make a presentation, should you wish, and then we will have questions from the committee members.

Mr. Morgan McCague: Thank you very much, Madam Chairman and members of the committee and, if I do say so, thank you to the staff for all the wonderful background material that they provided.

I have been on the investment committee of the WSIB for three years, and it's from that involvement that I was asked by the chairman, Steve Mahoney, to apply to become a member of the board. I've also been encouraged in doing that by other board members on the investment committee.

The WSIB has a quite a few challenges. One of the biggest challenges is the unfunded liability. The unfunded liability at the end of last year was \$8 billion, and as things are going and so forth, it's probably going to get bigger. The board has a policy, the Road to Zero, which is to reduce fatalities, illnesses and injuries in industry down to zero, and they're working on that. The success of that will reduce it, but it's only half the equation.

The other part, if you're going to reduce the unfunded liability, is the investment returns. The investment returns have to at least equal what the actuary is assuming, or, preferably, be greater than that and get it down to the level.

On a personal basis, I've had the very, very good fortune to be engaged in almost all capital markets at different times in my career. Most recently, I was senior vice-president at the Ontario Teachers' Pension Plan. I joined the Ontario teachers' plan and headed up what they call the core portfolio, which we were using to move out of fixed-income assets and get us equity exposure. We did that predominantly through swaps. Later, I took over quantitative portfolios and headed up equity trading and equity derivative. In my last position, I was heading up asset mix and risk.

Prior to that, I actually established the equity operation at WCB. Before that, I was at Alberta teachers. We had 10% of our assets in real estate, large direct oil and gas investments. Prior to that, I worked at James P. Marshall consulting company; at Manulife, and established a number of funds for them; at the Bank of Nova Scotia and Wood Gundy. So, as I said, I'm very fortunate; I've had a very broad background.

What do I bring to the board? First of all, I bring investment things: attitude and so forth. I believe we're in a period of economic change. It's affecting the investment markets around the world, and the old approach where you're going to look at what happened for 20 years is no longer going to work if you're going to achieve the returns that you need. Those changes are also evident in the economy of Ontario. I want to contribute to the board and hopefully make them prosper as they go forward. From my experience, a good board has a variety of different backgrounds and skill levels, and the individuals use their judgment based on the information that they're provided with, in the best interests of the organization, that it pursues its goals.

My background of over 40 years has been in the investment industry. Obviously, because of the variety of things I've had, I tend to be very flexible. I believe that I

will make a contribution to the board. Thank you very much, Madam Chair.

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

M^{me} France Gélinas: Thank you very much for coming. It's a pleasure to meet you. You realize that being on the board you are part of the governance of the WSIB. Certainly, I agree with you that we need diverse knowledge and skills, and yours are certainly valuable ones. But you will have to take all of the activities of the board, now, into account. How do you feel toward this? You have spoken extensively about your breadth and wealth of knowledge in investment. How about the rest of what goes on at WSIB?

Mr. Morgan McCague: Actually, I look forward to it. I love challenges. I love doing new things. Hopefully, that will never change. Because I love challenges is why I had so many different experiences. They happened to be in one industry, but I love to tackle new challenges, and that's what makes getting up in the morning worthwhile.

M^{me} France Gélinas: Okay. So what do you think of the proposed change to the early and safe return to work programs, which are certainly things that the governance that you're going to be joining will have to have an opinion about?

Mr. Morgan McCague: I have not had an orientation session, so I am not privy to the studies and the analyses and the work that they put forward there. So I can't really speak with any knowledge on that at this point in time. Intuitively, I know myself—In the past, I've had some back problems. I couldn't wait to get back and be doing things and being useful and going forward. That's myself, personally. I think the majority of people want to contribute and be active. So, depending upon the injury of the person or the sickness or the conditions they have, that is obviously going to do it, but I think the majority of people would like to get back and be productive.

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M^{me} France Gélinas: Are you knowledgeable at all about the experience rating program?

Mr. Morgan McCague: At this point in time, sorry, I'm not.

M^{me} France Gélinas: Okay. Just a quick one: Do you know how to speak French?

Mr. Morgan McCague: No, I do not speak French.

M^{me} France Gélinas: Very good. Thank you.

The Chair (Mrs. Julia Munro): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you, Mr. McCague, for coming today. You're certainly very qualified in terms of investment knowledge. From our perspective, we have no questions of you or comments, so thank you very much.

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

Mr. Randy Hillier: Good afternoon, and thank you very much for being here today. I was intrigued by some of your comments. It's good to see somebody with that investment experience coming forth. We certainly know that there is a significant number of challenges with

WSIB; funding is certainly one of them. They also provide a significant number of challenges to the employers that they deal with as well.

I'd like to just get a couple of your personal comments. I get a great deal of requests to intervene by people involved with WSIB. One of the big ones lately has been the view of WSIB that, at any time, everything is referred to as an incident or an accident. The case I have in mind is an individual who, because of age, gets too old and can no longer do the job that he once did. The WSIB does not recognize that people at age 50 may not be quite as flexible or nimble as when they were 20.

Mr. Morgan McCague: I'm certainly not.

Mr. Randy Hillier: Neither am I. We've had cases where somebody who has—although there was no accident and there was no prior injury, because the gentleman got older and couldn't do the job because his knees were getting a little bit sore and his back was getting a little bit sore, like the rest of us, and he couldn't bend down and crawl around in the basements quite as easily as he once did, the contractors were levied penalties, surcharges. I'd like to just have your thoughts: Should the WSIB recognize that old age is not an injury?

Mr. Morgan McCague: Really and truthfully, with my background, I love to go with probabilities and look at things, and it's a very interesting question that you raise. I don't know what work they've done on that. I don't know what considerations they've done on that. I'd certainly have to take a look at that. You're right: I can no longer do what I could do when I was 20 or 30. However, on the other side of things, I think because of my experience I'm much more productive than I was at 20 or 30. It's an interesting question, and at this point in time, I wouldn't have an answer for that.

Mr. Randy Hillier: Well, I think that goes back to your unfunded liability. We're creating problems where they ought not to be.

Another thing that's very evident as well is that the WSIB actually encourages employers to be deceitful or cheat on the system instead of reporting minor incidents or accidents, just because the cost and the process is onerous.

There's a quote from the president of the Ontario Federation of Labour saying exactly that: "We have a system that encourages employers to lie and cheat to WSIB." I'd like to get your comments on that.

Mr. Morgan McCague: Let me step back for a second—and I think that the analogy is accurate. In the industry where I come from, most of your income is based upon performance bonuses. When you design a system in that area, you've really got to look hard, look at all the different angles and things, because you want to give the right incentives. If you give the wrong incentives, then people will cheat.

Mr. Randy Hillier: So are you saying that we clearly have the wrong incentives?

Mr. Morgan McCague: Well, I've seen in the investment industry where people should have done a transaction and didn't do it because it was close to year end

and it would impact their bonus. It's somewhat similar here. It's exactly the case you're talking about. It is how you construct it. But boy, you've got to take a lot of time and thought as you design it and try to figure out if you're giving the right signals, and if the right signals aren't being given, then you need to take a very hard look at it. But it is one of the most important things to look at, because people will do what's in their best interests.

Mr. Randy Hillier: Absolutely. I hope we always will continue to do what's in our best interests. But what I was getting at is where we have such minor incidents and such an onerous consequence. That is one of the big factors in this treating and misreporting of incidents or accidents. There ought to be, in my view, and I think in many others', a less onerous burden for such minor incidents and get these statistics that we're making decisions on more accurate and more complete, because clearly the data sets are not accurate that we're making decisions on at the WSIB.

One final thing, and I'm going to bring this up just because—it has nothing to do with WSIB, I don't think, but when I was doing some research on your background, I came across a little something regarding the BCE deal, and you did talk about your investment. It just didn't appear right to me, so I'm going to ask you: There's a comment in here, and first I would ask you if it's truthful, and then if you could add some comment.

Mr. Morgan McCague: You're talking about Morcague?

Mr. Randy Hillier: I'll tell you what I've read here, what's quoted: "The Financial Services Commission of Ontario, which regulates pensions in the province, through the technicality of arranging for a former executive, P. Morgan McCague, to hold the teachers' 66.7% of" voting shares in a BCE deal.

Mr. Morgan McCague: On that one, I have the tightest handcuffs that have ever legally been created. Effectively, the way the pension legislation is written at this point in time, a pension fund—you can own 66% of BCE in this case, but you can only vote 30%. So if that was the case, the foreign partners of Teachers in terms of BCE would control it. To get around that, what Teachers has done is they put all of their voting shares in, shall we say, very friendly hands—mine. But I've got the tightest handcuffs that have ever been created in terms of—and I do exactly what Teachers—

Mr. Randy Hillier: Right. But that is truthful, that you hold two thirds of the voting shares?

Mr. Morgan McCague: Believe me, I wish I had that wealth.

Mr. Randy Hillier: I don't know if the voting shares pay as big a dividend on the other side, but anyway, that just struck me as sort of an odd—

Mr. Morgan McCague: Teachers has used that approach. Maple Leaf Gardens—they basically used convertible debt, which effectively was equity. The Caisse de dépôt, CPP are taking large positions in it. At this point in time, the pension legislation in Ontario hasn't been changed. Other provinces have changed it. BC has

done it and Alberta is now doing it. The Ontario act is going to be changed; it just hasn't been changed at this point in time. So it's an avenue, until it does change, where they can exercise their full control.

Mr. Randy Hillier: Thank you very much.

The Chair (Mrs. Julia Munro): Thank you very much for coming. We appreciate it.

Mr. Morgan McCague: Thank you very much, Madam Chair. Thank you, members.

MARY TRUEMNER

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

The Chair (Mrs. Julia Munro): Our next intended appointee: Mary Truemner, as a member and vice-chair of the Human Rights Tribunal of Ontario. Good afternoon, and welcome to the committee. As you may have observed, you have an opportunity to make any statements you wish, and then we'll have questions from the members. So if you're ready, you may begin.

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Ms. Mary Truemner: Thank you for this opportunity to appear before you and to speak to you about my qualifications for an appointment as a vice-chair to the Human Rights Tribunal of Ontario.

I am a lawyer and a member of the Ontario bar. Except for a couple of years when I was a visiting professor at Osgoode Hall Law School while academic director at Parkdale Community Legal Services, I have been practising law for 20 years, and I have developed an expertise in both human rights and administrative law. I have also worked in management roles while at Osgoode Hall. Presently I am acting director of legal services at a specialty provincial legal aid clinic.

Being in management positions in my career provided me with insights and experience in balancing interests. I realize that you have my application to the Public Appointments Secretariat before you, but I would like to briefly highlight my relevant work experience.

From 1989 to 1996, I was a staff lawyer at the Centre for Equality Rights in Accommodation, which provided legal advice and representation to complainants throughout the process at the Human Rights Commission and what was then the Ontario Board of Inquiry, now the Human Rights Tribunal. In that role, I advised clients alleging discrimination with respect to the merits of human rights complaints and, if warranted, I represented them in mediation, in hearings before the tribunal and sometimes in appeals. Given the lengthy delays at the commission, I regularly initiated resolving complaints through negotiation on behalf of clients, a process that respondents often welcomed, particularly when creative solutions in the interest of both parties were crafted.

Since 1997, I have worked in the legal aid clinic system, where I have regularly created documents and provided training on human rights law to clinic staff

across the province. In the clinic system, I continue to carry traditional human rights files, but my area of practice has expanded into many administrative law arenas, including landlord and tenant, employment insurance, Canada pension, criminal injuries compensation and social assistance matters.

Currently, at the Advocacy Centre for Tenants Ontario, I specialize in test cases and appeals, many of which involve human rights issues that must be argued outside of the process provided through the Human Rights Code. Instead, they must be argued at tribunals like the Landlord and Tenant Board; for example, when an eviction proceeding intersects with discrimination because of a failure to accommodate special needs arising from a ground enumerated in the Human Rights Code. As another example, I represented psychiatric survivors before the Ontario Municipal Board in matters involving opposition to supportive housing and discrimination because of disability. Most recently, I represented low-income residential consumers of Enbridge Gas in a Divisional Court appeal of an Ontario Energy Board decision regarding its jurisdiction, and one of the issues in that case involves section 15 of the charter and equality rights.

All of this is to say two things: one, that I have developed my expertise in human rights and administrative law in a number of contexts; and two, that while I have not been an adjudicator or mediator, as a litigator, I have extensive experience in the following ways: I have represented clients in mediation processes offered by diverse tribunals, I have argued before diverse tribunals, and I have challenged and defended the decisions of diverse tribunals at appeal levels and in judicial review.

This experience has enabled me to assess best practices for adjudicators and mediators so that I can be effective in those roles myself if appointed to the Human Rights Tribunal. Throughout my career I have spoken on human rights and administrative law at professional events and forums, including some sponsored by the Ontario Non-Profit Housing Association, the Law Society of Upper Canada and the Ontario Bar Association. I have received training and I have provided training to legal aid lawyers and law students in trial advocacy and alternative dispute resolution. In that context, I have played the role of adjudicator and mediator.

This is an exciting and dynamic time for the tribunal when it is important that all parties appearing before it, applicants and respondents, respect it for its professionalism, impartiality and accessibility. I applaud the Human Rights Tribunal's core values of accessibility, fairness, transparency, timeliness and an opportunity to be heard. I am committed to those values, and I welcome the opportunity to become a member. Thank you.

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

Mrs. Maria Van Bommel: Thank you very much, Ms. Truemner, for your willingness to apply for this posi-

tion on the Human Rights Tribunal. I wish you the greatest success.

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

Ms. Lisa MacLeod: I'll be splitting my time with my colleague from Smiths Falls.

I was interested, Ms. Truemner, with your speech of November 19, 2002, where you singled out six communities as being discriminatory. One was Smiths Falls, Ontario, where you said its official plans and bylaws were discriminatory.

Coming from that region, there's probably no more compassionate community—and it's not my riding, it's his. There's no more compassionate community, when you look at the Rideau Regional Centre and the work that they do, and the amount of effort the people of Smiths Falls put in trying to keep that Rideau Regional Centre open. I would encourage you to learn a little bit more about Smiths Falls. I'm sure my colleague from Smiths Falls will talk about that.

But we're here today to talk about human rights. I have a few questions about that. Right now, we have an issue that actually happened in Ontario, but it's part of a B.C. human rights complaint process. It's in respect to a popular TV program, one that I admit I watch from time to time, Kenny vs. Spenny. Are you familiar with it?

Ms. Mary Truemner: No, I'm not.

Ms. Lisa MacLeod: Recently, there was a competition—

Interjection.

Ms. Lisa MacLeod: It is really not that funny, for the members opposite. I'll explain to them why, if they haven't been keeping up with the news. During a recent competition—the whole show is about competitions—one of the individuals lost. The person who won was able to do anything he wanted to the other. He thought it would be funny to rent a plane and fly over the city of Toronto with a banner that read "Jesus sucks." Right now, it's in front of the B.C. human rights process. I'm wondering, if that were to come before the Ontario Human Rights Tribunal, how you would respond.

Ms. Mary Truemner: I would imagine that would come to the tribunal by way of an application made by someone who felt they were being discriminated against on the basis of religion, creed. Really, there's no guessing as to how that would unravel. It would depend upon the evidence that was led by the parties and the application of that evidence and those facts to the law. I really can't, at this point, comment.

Ms. Lisa MacLeod: Sure. It's interesting, because recently, Maclean's magazine was brought before the Human Rights Commission of Ontario. The statement that the commissioner released was, "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 it—"as being inconsistent with the values enshrined in"

our Human Rights Code: “Media has a responsibility to engage in fair and unbiased journalism.”

Having said that, earlier, the Human Rights Commission does make a point saying that it’s not within their boundary, because it’s an article in Maclean’s. But the Human Rights Code in Ontario specifically says something about signage and if a sign is discriminatory. I’m just wondering, in your personal opinion, do you think that what was on that sign—and I’m not going to repeat it again—is discriminatory, or is it offensive?

Ms. Mary Truemner: I think the Human Rights Code talks about an announcement or a publication that shows an intention to discriminate. So it would have to be an analysis as to whether the facts apply to the code. Again, I can’t really comment unless there’s evidence.

Ms. Lisa MacLeod: Okay, then in your opinion, is there a difference between offensive conduct and discriminatory conduct? Do you think that the tribunal should oppose offensive conduct?

Ms. Mary Truemner: Well, my children offend me all the time, in terms of them commenting on my clothing. Offensive doesn’t necessarily have to be discrimination, discrimination as defined by the Human Rights Code. So there are enumerated grounds in the Human Rights Code, and it may be an assessment of whether a poisoned environment has been created or whether there’s differential treatment or harassment. There are a number of factors that would have to be looked at.

Ms. Lisa MacLeod: In your opinion, would the sign be discriminatory or offensive?

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Ms. Mary Truemner: Again—

Ms. Lisa MacLeod: What I’m looking for is not—at the end of the day, what I’d like to know is what the composition of this tribunal is going to look like. That’s why I have asked most of the board members—in fact, I would have had all of the tribunal appointees in if I could have, just because I would like to see what the face of this new organization is going to look like.

What I would like to know, just based on what you heard in terms of this sign—and I can provide you with a document here if you need to look at it. Those two words: In your view, would they be discriminatory or offensive?

Ms. Mary Truemner: Again, I’m a lawyer, and as a lawyer you have to look at the law very carefully and look at the facts and apply case law. So I’m not really prepared to give a decision—

Ms. Lisa MacLeod: So you’re not comfortable saying you think it’s discriminatory or offensive.

Ms. Mary Truemner: No, and I don’t think, as a member of the tribunal, I would ever be in a position of having to render a decision that quickly. So, no, I don’t feel comfortable providing an opinion. There is a difference between being offensive and being discriminatory, and certainly there are instances where one can be offensive without violating the Human Rights Code, if that’s an answer to your question.

Ms. Lisa MacLeod: I think that’s a good start. Thank you. My colleague will follow up.

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

Mr. Randy Hillier: Thank you very much. I actually want to draw your attention to another element of the human rights processes, if I might call it that. Recently, there has been evidence at the federal level of human rights being taken over by people with political agendas, zealots with a political agenda. The case in point I refer to is a fellow named Richard Warman, who, by his own account, has lodged more than 50% of all complaints to the human rights at the federal level and has even gone so far as planting evidence and baiting people into human rights complaints.

My question to you is—we don’t know what’s happening at the provincial level because the tribunal does not post its decisions or its dispositions of cases. We would not be able to find out that information readily at the provincial level. Do you think that that is fair or reasonable, that the tribunal does not post decisions?

Ms. Mary Truemner: I know each tribunal has a different position on posting their decisions or not, and certainly I have had access to Human Rights Tribunal decisions through Quicklaw and other reporters, so I haven’t faced a problem in accessing decisions practising in that area of law. But I guess what you’re saying is, I’m not accessing all of them.

I think that the tribunal is making an effort to be transparent. I don’t know how it’s going to evolve, so I can’t really comment.

Mr. Randy Hillier: Yes, it would be one thing for people in the legal industry to have access to decisions and whatnot, but this again is a public tribunal and, just like our court system—what’s the phrase?—justice must be seen as well as be completed. If we cannot see the results of the tribunal, then it really puts democracy, justice and our freedom in jeopardy. Do you agree?

Ms. Mary Truemner: I think it’s important to be able to access decisions of a tribunal.

Mr. Randy Hillier: Right. Well, what I would like to see happen, of course, is that that motivation is instilled in this new board, that openness, transparency and accuracy is available to all members of society.

Ms. Mary Truemner: Well, I think the chair is in the room, so—

Mr. Randy Hillier: Maybe I’ll get around to that when she comes up for another intended appointment.

I’m probably out of time there. I’ve got a few moments?

The Chair (Mrs. Julia Munro): You do have a few moments.

Mr. Randy Hillier: Okay. The last thing—I’ll go back to your speaking notes about, can the law stamp out discriminatory NIMBYism? I did find that somewhat offensive, with the view that the focus on NIMBYism in eastern Ontario is a pretty general statement. I’m not going to make a complaint to the tribunal about it, though. So thank you very much for being here today and answering our questions.

The Chair (Mrs. Julia Munro): Thank you very much, and we'll move, then, to Ms. Gélinas.

M^{me} France Gélinas: Merci. Bonjour, M^{me} Truemner. C'est un plaisir de vous rencontrer. Ça va si on se parle en français ?

M^{me} Mary Truemner: Oui.

M^{me} France Gélinas: Merci. Dans un premier temps, je dois dire que je crois qu'on est rendu à la huitième personne qui va travailler pour le tribunal et vous êtes la deuxième à qui je peux m'adresser en français. Ma deuxième question devient, est-ce que vous vous sentez confortable pour être capable de faire votre travail en français ?

M^{me} Mary Truemner: Oui, j'ai travaillé en français à Ottawa.

M^{me} France Gélinas: Vous êtes capable d'entendre les causes et d'écrire vos rapports ?

M^{me} Mary Truemner: Moi, j'aimerais un peu de support si j'écris des décisions en français. J'aimerais mieux écrire les décisions en anglais puis avoir un traducteur professionnel traduire mes documents, mais peut-être avec un peu plus de temps pour apprendre le vocabulaire et tout ça—j'aurais besoin d'un petit peu de support au commencement, mais je peux le faire.

M^{me} France Gélinas: Vous êtes la première à me répondre que vous êtes capable d'entendre les causes. C'est déjà un pas dans la bonne direction, parce que pour les Franco-Ontariens, nous avons un droit d'être entendu en français, puis lorsqu'il n'y a pas de personnel-là qui parle français, c'est toujours un peu embêtant.

Ma deuxième question, c'est que j'ai vu une partie de votre présentation à la télé, mais j'en ai manqué une partie également. J'aimerais savoir un peu vos connaissances au sujet du nord de l'Ontario.

M^{me} Mary Truemner: Maintenant je travaille avec une clinique juridique avec un mandat pour servir toute la province, puis je connais pas mal les villes comme Thunder Bay, Sault-Sainte-Marie, Sudbury, puis Timmins aussi, parce qu'il y a des cliniques juridiques là aussi. Je sais qu'il y a des problèmes avec l'accessibilité. Il y a des communautés isolées et le transport est très cher, puis c'est difficile d'aller au bureau du gouvernement pour commencer des actions, des requêtes, des choses comme ça. Vraiment les litiges au nord sont dans le domaine de la communication et l'accessibilité de jouer dans le système de justice. Je connais aussi les histoires des autochtones au nord, parce qu'il y a beaucoup de discrimination là contre les autochtones, la pauvreté au nord—je connais le nord, comme ça, oui.

M^{me} France Gélinas: Donc, vous vous êtes rendue, dans votre emploi, dans les sites de Sudbury, de Timmins, etc ?

M^{me} Mary Truemner: Oui.

M^{me} France Gélinas: Assez fréquemment ?

M^{me} Mary Truemner: Non, probablement une ou deux fois par année.

M^{me} France Gélinas: Je vous remercie. C'étaient mes questions.

M^{me} Mary Truemner: Merci.

The Chair (Mrs. Julia Munro): Thank you very much. I appreciate that you've been able to be here and join us.

THOMAS RANKIN

Review of intended appointment, selected by third party: Thomas Rankin, intended appointee as vice-chair, South East Local Health Integration Network.

The Chair (Mrs. Julia Munro): Next is Thomas Rankin, the intended appointee as vice-chair, South East Local Health Integration Network. Good afternoon, Mr. Rankin, and welcome to the committee. As you will have observed, you have an opportunity to make some comments and then we will have questions from members.

Mr. Thomas Rankin: Thank you very much, Madam Chair, committee members. This is a new thing for me, after all of these years that I worked for the Ontario government, to actually come before a committee of members. It's the first time.

I've been involved with health care for almost 10 years now—in all of that involvement as a board member. My first involvement was with the community care access centre for Lanark, Leeds and Grenville, where I eventually became the chair, and was the vice-chair of the Ontario Association of Community Care Access Centres, where I chaired the transition committee that developed a process for moving from 43 CCACs to 14—a rather difficult period of time for us. I had to give that up when I put my name forward for the LHIN, unfortunately; I really wanted to see that one through.

I've also spent a couple of years as a member of the board of the Merrickville District Community Health Centre, where I chaired the centre effectiveness committee, where we introduced a balanced-score-card approach to a strategic plan for the first time. While I was with the CCAC, I was the CCAC rep for Cancer Care Ontario, for the southeastern advisory council. I've now been with the LHIN for a little over two years and I chair the finance committee and the CEO—what do we call that now?—evaluation and compensation committee.

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All of that has come after the 30 years I spent in public service. I worked at the University of Waterloo for almost three years and 27 years with the Ontario government. Most of that time, I was a manager or an executive. In all cases, I would say I was in the field. I worked in regional offices; I was a regional director. The focus of the work was what I would describe as quality of life; it was all the good-news side of government and leadership development. We did quite a bit of work developing community boards and developing leadership capacities in the organizations that we worked with.

In the last couple of years and after I retired, I moderated executive development programs with the Niagara Institute and the Canadian Centre for Management Development. I think those experiences—my wife would say that I spent all of my time either on the train or in

meetings, and now that I'm retired I'm still doing the same kind of thing.

I'm interested in being a vice-chair of the LHIN to be more involved in the actual leadership of the development of the LHIN concept, and the southeast in particular. My name was nominated and recommended unanimously by the board to be put forward for this position, which I very much appreciated.

In my role as a regional director, I found that when you're trying to make developments happen it's helpful if you have some control over the money that's associated with that. Without boasting, in the ministries that I was involved with for the last 10 years or so, once it was signed off by me as the regional director, the next person who signed it was the minister. So, for all intents and purposes, the development activity and the funds related were, in fact, in the region.

That's the kind of thing that I saw was missing when I started to become involved with the health care system, so my sense of what the LHIN is about—the business of planning, coordination, integration and having the funding associated with that all in one place—was an appropriate step, and I'd really like to take an active part in making it successful.

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, all the way from a lovely little spot that I've driven by a few times—

Mr. Thomas Rankin: From your backyard. I'm actually living in Montague township, Randy. You're my MPP.

Mr. Randy Hillier: Right on. Thank you, anyway, for being here. There are a couple of comments. Of course, we all recognize health care has significant challenges, and I can tell you that there's not one hospital, pharmacy or chiropractor that has not called me up over the course of the last year conveying to me their challenges and their difficulties. Most of it is in the administration of health care; that is where the bulk of the delays and the problems come into play. I just want to get your comment. What role do you see for the LHIN in helping to alleviate that administrative problem in health care, other than just controlling the money, which of course is a very important thing?

Mr. Thomas Rankin: Maybe I need to be a little clearer on what you mean by administration and the administrative problems.

Mr. Randy Hillier: I can give you a bunch of different examples that may illustrate it. I was speaking with a number of people. I'll not mention the long-term-care facility, but they were saying that approximately six hours of every nurse's shift in that facility was spent doing administrative paperwork. That would be one example; I could give you a few more.

Mr. Thomas Rankin: I'll go with that one, if that's okay.

Mr. Randy Hillier: For the hospitals, generally a third of the shift is what I've been told by the CEOs of

the hospitals: Approximately a third of each nurse's day is consumed with administration.

Mr. Thomas Rankin: Just a couple of preliminary comments first: As a member of the LHIN board, I'm not going to be in a position to directly affect the administrative structure of a particular institution. But I think what we can do—and we've been seeing this—is that if we take the hospitals as an example in negotiating the service accountability agreements, we've been encouraging individual institutions to take a really hard look at their processes. We have provided some funding to that end.

It's fair to say that—I don't know what percentage, but a significant part of the cost problems the institutions are facing could be addressed by looking at internal processes. A number of hospitals have significant absenteeism. A lot of that, I think, is tone, the nature of how work is organized. We're seeing in a number of institutions, not just in the southeast but across the province, that there are a number of best practices that are addressing that problem head on. I'd like to think that the CCAC that I was involved with was well managed, and I would put them up as an example for anyone.

The other thing that I think you'll get comments about is how you make a transition from one place in the health care system to others. That's probably our largest challenge, to determine clearly which institution has responsibility for which kind of service. Each of these units have grown up, in a sense, in isolation. Everybody uses the silo imagery, but the way they've related to the ministry has been by branches in the Ministry of Health. A big part of our job is to try and make sense out of those practices that have grown up, evolved, and try to reshape them into something that is in fact a system. George Smitherman said that there is not a health care system, that our challenge is to create some local systems that are more reflective of the need and more patient-centred.

Mr. Randy Hillier: I would agree. I think we have more of a health care puzzle at the present time than a system.

Mr. Thomas Rankin: I'm very good at puzzles.

Mr. Randy Hillier: Well, that's very good.

One other last comment if I have time is on the Rideau Regional Centre, something nice and local. Of course, there have been a number of different suggestions and opinions offered with Rideau Regional. I see that as a great facility. I think we're doing society and ourselves a disservice by not re-engaging that facility, especially at this time when we do have severe bottlenecks causing wait times. We do know that we do have significant problems with long-term care, getting people in. I'm not going to put you on the spot on—

Mr. Thomas Rankin: You could try.

Mr. Randy Hillier: What do you see as some of the solutions on this long-term care—alleviating that hardship and also at the same time alleviating bottlenecks created earlier in the system?

Mr. Thomas Rankin: Our stats indicate that in south-eastern Ontario we're shy on long-term-care beds. Given

the population base and the age of our population—over 65—in looking at provincial averages, we have insufficient beds. We have absolutely no supportive living spaces at all—senior apartments with additional services provided.

1350

It seems to me, in our discussions, that the answer is not always to go into a long-term-care facility. In fact, most of us would prefer to die before we have to go into them; that's not necessarily the answer for most of us. It's to look at alternatives in supportive housing. We've just launched a new SMILE program, which is unique to southeastern Ontario, which is aimed at keeping people at home, the high-risk population, to see what kind of services they would need in order to keep themselves at home and not have to go into long-term-care facilities. A big part of it is creating reasonable alternatives to long-term care, but at the same time, I think we do need a few more beds, realistically.

In terms of what the uses of Rideau Regional are, I haven't seen the report. If it comes to us, I'm sure it'll get reasonable consideration. I would say that my experience in my working life was that it's very difficult. Let me give you a quick example. The Clinton air base was offered to the province of Ontario for \$1. We asked to look at it because we could see it as a possible support training centre; it had some good facilities. But the cost of bringing something like that up to standard, changing its usage and then maintaining it over time just made it prohibitive.

It's not a simple question, taking a facility which was built for one purpose and trying to look at it to create alternatives. I would just hope that the work that has been done in studying that is well done and has some options built in.

Mr. Randy Hillier: I want to thank you very much for being here, and I look forward for an opportunity to sit down and discuss over in Perth sometime some more of these items. Thank you.

Mr. Thomas Rankin: My pleasure.

The Chair (Mrs. Julia Munro): Ms. Gélinas.

M^{me} France Gélinas: Thank you very much for coming, Mr. Rankin. As a member of the board of the LHIN, you will be the governance of the LHIN for the southwest and—

Mr. Thomas Rankin: Southeast.

M^{me} France Gélinas: Southeast; sorry. Given the policy direction for your LHIN, I'm interested in your personal view as to medicare and privatization and where you stand on that issue.

Mr. Thomas Rankin: At the root, I spent my career in public service, so my orientation would be to say that health is probably better to be maintained as a public service. In practical terms, in my role with the LHIN, our job is to make the health care system as it is at the moment work better. The decisions about what may well be privatized will be made somewhere else. Within my term limits, I don't see that becoming an issue for me to address at all.

M^{me} France Gélinas: Okay. How did the first round of negotiations with the accountability agreements for the hospitals in your LHIN catchment area go?

Mr. Thomas Rankin: I would say, good and bad. Out of the seven hospitals, we had five sign the agreements within the time frame. Some of you may know that Kingston General Hospital is under supervision at the moment, and that was done at our recommendation, so that has been postponed pending the work of the supervisor. There are lots of issues at Kingston General. I think they're all signed now, with the exception of the Kingston hospital. It was difficult for some.

Last time out, the Kingston hospital signed an agreement that they would in fact balance their budget, and then the first time we did a review, they said they were going to be \$9 million over budget. The fact that we have a signed agreement doesn't mean that we're all free and clear.

I would say, though, that I'm quite impressed with the quality of the staff that we have who are negotiating with the hospitals and getting the agreements to the point where both the boards of the hospitals and the board of the LHIN can sign off on them with confidence.

M^{me} France Gélinas: You answered the first part of my question that had to do with how you feel about medicare and privatization.

In the South West LHIN, one hospital has run into a problem, and it could have happened in the South East LHIN. Basically, they decided to privatize their out-patient physiotherapy service. There will be in-patient physiotherapy services that will continue to be provided to the patients in the hospital, but the out-patient clinic won't be there anymore; it will be a private clinic that will be looking after the physiotherapy needs of the clients. This is a decision that the LHIN had to approve. It could go to your LHIN, and I'd like your view on that. If that was the way that a hospital was to balance their budget to sign their accountability agreement, which side of the coin would you fall on?

Mr. Thomas Rankin: Whether we would end up going private or not, I don't know. The key, though, in any one organization making a decision to balance their budget at the expense of a service would be to look at how that decision is affecting other agencies in the region, as well as the overall service pattern. We've provided physiotherapy services through the CCAC. In the Brockville area, between the hospital and the CCAC, we were negotiating to move that kind of out-patient service that was provided at the hospital to come under the auspices of the CCAC. So there are other options.

In principle, I would say that I'm a pragmatist. Ultimately, my instincts are more to the public sector, but pragmatically, if that's the only option and it's a reasonably good option, I would say that it would have to be considered.

M^{me} France Gélinas: Although there are not very many French-speaking Ontarians living in your catchment area, Kingston has been designated a French-language area. Do you know how the governance of the

LHIN is going to handle this issue, given the small numbers?

Mr. Thomas Rankin: The answer to that is yes and no. There have been two provincial committees established, one to address issues of native communities and the other to address the needs of francophone populations. We will be guided by the protocols, the approaches that will be decided at that level. Within that context, we do have a report on the shortfalls for south-eastern Ontario in the area of French-language services. Until such time as we get that overarching approach coming from the provincial committee and some indication of whether there is going to be funding assistance, we will be waiting. I would anticipate that probably one of our largest challenges will be getting appropriate human resources to address the needs.

It's our instinct that much of the French population in the Kingston area is because of the military. That may be an opportunity for us to look at how we can marry some of those community issues with the bases in the area, but that's just off the top of my head. We'll wait until such time as we get an idea of how this is going to be approached provincially.

1400

M^{me} France Gélinas: You've been on the LHIN for a few years now, so you know the services that are funded by the LHIN, versus public health, primary care etc, which are funded directly by the province. What are your views on this? Is this a good split? Is this something you want to see continue the way it is, or would you see some services shifting one way or another?

Mr. Thomas Rankin: I must say that the ones that we've got are a huge bite as it is: It's \$850 million. We haven't let the fact that we're funding stand in the way of taking initiatives. One of our priorities is primary care, so we initiated a primary care forum using the family medicine people at Queen's.

We've also initiated a regional waiting list so that as people are identifying a need for a physician, we can try and manage that with opportunities as they come up on a regional basis. So levers are important, but there are other things that we can do without that, and we're not going to let that stand in the way. I think that public health and activities related to illness prevention might be the next wave. It would be nice to have some funding for physicians. I don't see that happening. It hasn't happened anywhere in the country. That's one that I can't see the medical establishment giving up, their ability to negotiate provincially.

Personally, I have a daughter who worked as a physician in a community health centre, and it happened to be the one that I was on the board for eventually. That model, where you have physicians who work on salary and within a team, to me is an excellent model, and I'd like to see more of them. At the moment, we do have funding for community health centres.

M^{me} France Gélinas: Very good. Say hello to Peter McKenna for me.

Mr. Thomas Rankin: I shall. The last I heard he's doing quite well.

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

Mr. Jean-Marc Lalonde: Thank you very much for being here. Your experience could be a great asset for the LHIN board, to become vice-chair. I was under the impression that the east end was really the five eastern counties, but I've just found out today that there's another LHIN that exists, so Champlain is not part of yours.

Mr. Thomas Rankin: No.

Mr. Jean-Marc Lalonde: How many, beside the seven hospitals that you have—you mentioned you have seven hospitals in your south east. How many long-term-care facilities do you have?

Mr. Thomas Rankin: I should have written those numbers down, but I didn't. I think it's 23 facilities. I don't know how many beds that represents.

Mr. Jean-Marc Lalonde: And you mentioned there's a lack of beds in your area for long-term care.

Mr. Thomas Rankin: Statistically.

Mr. Jean-Marc Lalonde: Because there are some ratios to follow.

Mr. Thomas Rankin: That's right.

Mr. Jean-Marc Lalonde: So many beds per 1,000 people of 75 and over, I believe it is. I know it's costing the government over \$3 billion at the present time for nursing homes in Ontario, which is \$186 a day that the government is either paying or partly paying the full amount.

My question is—at the present time, it is a problem in eastern Ontario, and I believe it is all over Ontario: the emergency room at the hospital. The doctors at the present time who have patients don't want the patients to go to a public clinic; they want them to go directly to emergency. That has to be corrected; emergency is for an emergency. It happens every week down in eastern Ontario, and I'm sure down your way it's the same.

I'd just like to know—right now the doctors are saying to their patients, "If you stop at the Orléans clinic, you're not part of my patient list any more. You've got to go directly to the hospital emergency." You'll wait there six hours, eight hours, nine hours; I know I had to wait nine hours, but I'm not allowed to stop at the public clinic, which is fully paid by the government. But the doctors are saying they're not getting paid. I just found this out, talking to other doctors, and I'd just like to get your opinion: The doctors, when they get you to sign this form that you become their patient, they get, I believe, \$120 a year. Whether you go or not, the doctor gets that. If you happen to stop at the public clinic, they lose that amount of money, so this is why they're sending them directly to emergency, which is really there for those people who are an emergency case. The hospitals don't want the government to stop that because the answer we got from them was, "Don't ever do that, tell the people to go the public clinic. The emergency is our bread and butter." I'd just like to hear your opinion, because this is part of your responsibility, to correct that.

At the present time, besides this, how many times have we found out lately that there is not a single ambu-

lance available on the road? Up to 12 at the same time were at the Ottawa General, all in the emergency room. People are still under the impression that if you go there by ambulance, you're going to get through immediately—not anymore. I've heard the experience of a lady, who, when she found out she was going to be there for four hours, collected money from people to take a cab to go back home. So that is part of your responsibility, really, to try and correct that.

Mr. Thomas Rankin: I accept the challenge.

Mr. Randy Hillier: He's good at doing puzzles.

Mr. Jean-Marc Lalonde: But as Madame Gélinas also mentioned, eastern Ontario, the five counties plus your area, has over 225,000 francophones; in Kingston, I'm told that quite a few families now don't even speak English at all because they came in from Quebec to go to the military college. I think it's an issue that the government will have to address, and it would be according to your recommendation what the LHIN would do to serve those people.

Mr. Thomas Rankin: Everything you've said is true, and I'm sure it's true in other parts of the province as well. We have a number of leads. Let me just back up for a second. There isn't anything that the LHINs—if you want to make a change in the long term in the way health operates in the province, what you don't want to do is introduce another policeman. What you want to do, in my view, is, this has to be done in a collaborative way. We have levers, but all of the work is being done by other agencies who get the money, who get the mandate and who have their own boards.

Mr. Jean-Marc Lalonde: But you control the money.

Mr. Thomas Rankin: We do control the money, and that's not a small thing. It's not an equal partnership.

Mr. Jean-Marc Lalonde: We've gone a long way, though.

Mr. Thomas Rankin: But our capacity to make change, if we're the only ones who thought this was a good idea, is limited. So we have in place a number of leads for these issues. We've got somebody who's addressing the e-health issue, and we do have somebody who's addressing the issue of emergency. It's an issue. It's an issue everywhere, and we have someone who will be working with the hospitals and the primary care physicians, as well as the CCACs, to see how that interaction with hospitals can be improved.

There are a lot of things that can be done—because it's often seniors who end up in emergency—when there are other options. I think that a lot of that could be addressed by the CCACs. It's a complex issue, and I don't want to take on the role of the physician who's taking a lead on that. All I can say is that we're aware of the issues and there are processes in place to address them. If I come back sometime and I'm coming up for chair, maybe you can ask me how well we've done.

Mr. Jean-Marc Lalonde: Thank you.

The Chair (Mrs. Julia Munro): Thank you very much for coming and providing us with your insights. We appreciate you being here.

Mr. Thomas Rankin: Thank you very much.

JANE BOWLES

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

The Chair (Mrs. Julia Munro): Our next interview is Jane Bowles, the intended appointee as member, Committee on the Status of Species at Risk in Ontario.

Good afternoon, Ms. Bowles, and welcome to the committee. As you may have observed, you have an opportunity to make some comments prior to questions from the committee members. If you wish to do so, as soon as you're comfortable, please go ahead.

1410

Dr. Jane Bowles: Thank you, Madam Chair, for allowing me to appear before the committee. I'd just like to briefly summarize my relevant experience and expertise for this appointment. I have a Ph.D. in plant ecology and over 25 years of experience working as a freelance ecologist and conservation biologist, mainly in southern Ontario, but all over Ontario. I'm author of many life science inventories and other documents dealing with conservation, and I've got a very good familiarity with the flora, fauna and habitat types of Ontario, particularly of southern Ontario.

I'm also co-author of several species status reports for both single species and ecosystem recovery strategies, so I have a fair amount of experience with species at risk. Since 2002, the federal government has awarded me several contracts as a species-at-risk specialist, and I sit on several recovery teams, including those for tall grass prairie, Carolinian woodlands and Walpole Island ecosystems. Each of those involves multiple species at risk.

For five years, I've worked closely with Walpole Island First Nation on their species-at-risk and habitat stewardship program, so I've got a fair amount of familiarity with aboriginal issues as well. Since 2002, I've sat on the plant specialist subcommittee of COSEWIC, which is the federal equivalent to COSSARO, and since 2005 I've been one of the two non-government employees on COSSARO, so the old COSSARO. I was also a member of the minister's advisory panel that gave advice about the new species-at-risk act for Ontario. So I've had input into the new act.

Finally, as director and chair of the property management committee for the Thames Talbot Land Trust, I'm now in a position of being a landowner with species at risk on properties that I have to manage and look after, so I'm getting the other side of the thing too. That's everything I'll say.

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

M^{me} France Gélinas: Were you done?

Dr. Jane Bowles: I was done, yes.

M^{me} France Gélinas: Okay. It seemed like it was quick. Thank you for coming. It's a pleasure to meet you.

I only have a few questions. I realize that most of your work has been in southern Ontario. I'm just curious to know your knowledge of northern Ontario.

Dr. Jane Bowles: I've worked in the clay belt area and I've worked elsewhere in the Arctic, in the Yukon and in Greenland, but I haven't worked in Arctic Ontario. But I'm fairly familiar with the Arctic ecosystems and northern ecosystems. The clay belt is part of the boreal system, but I've mainly been based in southern Ontario, where most of the diversity is, so most of what's happening is happening—

M^{me} France Gélinas: Come on, there's lots happening in northern Ontario.

Dr. Jane Bowles: There's definitely some happening.

M^{me} France Gélinas: All right. Thank you.

Mrs. Maria Van Bommel: Thank you very much for coming in from Thorndale today, Dr. Bowles. Walpole Island is in my riding, and I want to thank you for your involvement in the work that has been done there. Certainly, it is evident; you can see that a lot of progress has been made but there is still a lot more to do, so I hope you'll continue with your work with Walpole.

Dr. Jane Bowles: I'm having so much fun working with them, and it's such a wonderful place that it's worth putting every effort, every atom of effort into protecting it.

Mrs. Maria Van Bommel: It's a wonderful community, and the community really wants this to work for them as well, so thank you.

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

Mr. Randy Hillier: Good afternoon, and thank you very much for being here. We've chatted with quite a number of people this week who are appointees to COSSARO, and it looks like we're going to have quite a breadth of knowledge represented there, from bats to rats to plants and everything in between.

I would like to get a couple of comments. We do have a diverse set of species in this province, and of course there are many things that affect those species. People and development are one, but also climate and a whole host of other factors that are beyond our own control. We also live and work here, and we need to have a prosperous community. We have put in some exemptions from the requirements of the act for different industries, because the act in many cases is a punitive act, or having an identified species on your property can end up with expensive consequences. I'd like to have your view: Do you think that's appropriate, that they be punished instead of rewarded, with the consequence of having an identified species, going through the developments and the permits and all the other restrictions on their properties, or could there be better ways of dealing with this for somebody who has actually taken care of their property and has a diverse set of species on it?

Dr. Jane Bowles: You mean specifically with the exemptions or—

Mr. Randy Hillier: We have exempted some industries from that punitive component. I'm asking you, do

you think that is the right way of going, punishing people for having identified species on their property or exempting them, or could there be a better approach to this altogether?

Dr. Jane Bowles: I don't think punishment comes into it, and it's certainly not the way to get the public, the industries and the landowners onside. The species cannot be recovered or protected without landowner co-operation and buy-in to this. Stewardship is the way to go, not punishment. But some of the exemptions I find quite baffling; for example, one of the forestry industry's reasons for wanting the exemption was that they're already covered by management plans. Well, if they have good management plans they have nothing to fear from the Endangered Species Act.

Mr. Randy Hillier: The way I understand it, with my reading of the act—let's hypothesize that somebody in the forestry business has a management plan and is doing things with best practices and there is then found to be some identified or threatened or endangered species on that property where they have been selectively harvesting or whatever they may be doing. Now there's a new and greater burden for them to continue to do what they've been doing in the past, if they don't have that exemption. The permitting fees and the application processes and the costs involved are quite onerous.

Dr. Jane Bowles: I think you're probably right in some cases, but a lot of the reaction that I saw, certainly when I was on the minister's advisory committee and going to stakeholders' meetings, was fear of change rather than fear of what was actually going to be coming down. I think some of that may still be hanging over. And it's quite a normal reaction. Everybody has that reaction: "It's my property. Why shouldn't I do what I want to do on it?"

Mr. Randy Hillier: There may be that element of fear of change with some people. I actually know people directly who have lost their properties over an identified species on it. It wasn't a fear of change, it was the financial loss that accompanied it, with nesting birds and their inability to do what historically they were able to do on those properties. So I don't think it's just a matter of fear of change. The act does enable and authorize significant new powers and costs.

1420

We're also seeing some involvement now as well where it is infringing upon other provincial initiatives. In the area of my riding, there's a large solar park that has been approved, the largest solar park in North America; however, there has been a loggerhead shrike nesting area identified in that area, and I'm not sure if they'll be able to go ahead. Right now, they're going through significant cost increases to not disturb that nesting area. Do you think that we're seeing a contradiction or we're seeing two sets of laws or two initiatives contradicting each other and making it difficult to achieve anything?

Dr. Jane Bowles: I'm a biologist, so my view of the world is from a biological point of view rather than an economic point of view. I'm quite happy to admit that.

But I think both are very important. We've got to find a balance, and I think, as I said, that stewardship is the key to this Endangered Species Act. If there are financial burdens associated with it, then it shouldn't be the burden of individuals to do that. There's a stewardship fund set up that will help. There are various ways of dealing with it. But a lot of those decisions and those things are political decisions, and I see COSSARO's role as a scientific role. So I'm not denying the importance of what you're saying, but I also think that for the long-term future of biodiversity, which is one of the most important, fundamental things, we need to set down some ground rules.

Mr. Randy Hillier: I'm glad you mentioned the economy, because of course the economy allows us to have botanists and biologists.

Dr. Jane Bowles: Absolutely.

Mr. Randy Hillier: If we didn't have a successful economy, we wouldn't have people like yourself.

Dr. Jane Bowles: We wouldn't be caring whether—

Mr. Randy Hillier: That's right. But you made a point there, and I think it is important: You mentioned stewardship. That, of course, will provide some ability or some means, but it doesn't provide for compensation. It may allow for some mitigation work, but not for any compensation at all for the individual to bear the cost of that public good that we're trying to achieve. Actually, there is no mechanism in the act to compensate for financial losses.

Anyway, thank you very much for being here today. I'm sure you'll have enjoyable conversations at COSSARO.

Dr. Jane Bowles: I hope so.

The Chair (Mrs. Julia Munro): Thank you very much. That concludes the questioning. We certainly appreciate you coming.

SHERI PRICE

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

The Chair (Mrs. Julia Munro): Next is Sheri Price, the intended appointee as member and vice-chair, Human Rights Tribunal of Ontario.

Good afternoon, and welcome to the committee.

Ms. Sheri Price: Good afternoon. Thank you.

The Chair (Mrs. Julia Munro): As you might have observed, you have an opportunity in which to make comments yourself, and then we will have questions from the committee members. You're free to go ahead.

Ms. Sheri Price: Good afternoon, ladies and gentlemen and Madam Chair. Thank you for the opportunity to speak to you today about my background and interest in being appointed as a full-time chair of the Human Rights Tribunal of Ontario. I feel it really is an honour to be considered for this appointment.

I'd like to begin by telling you a little bit about my background. I was born and raised in Corner Brook, Newfoundland. After high school, I was awarded a four-year entrance scholarship to attend Acadia University, where I obtained a Bachelor of Arts degree and earned the distinction of University Scholar.

I moved to Ontario to study law at Osgoode Hall Law School in 1991, and it was there that I began to develop a keen interest in human rights law. I tended to choose courses with a focus on equality rights and diversity issues. During law school, I was selected to complete a human rights internship in Bogota, Colombia, where I had the opportunity to work with some organizations and individuals on issues confronting such groups as street children, women and displaced persons. I also, while I was there, attended two international conferences on human rights, democracy and development. I wrote for and helped to edit an international legal journal during my time there.

I subsequently won a Rotary International ambassadorial scholarship to study law in South Africa. That was 1994, and it was the year of the first democratic election and when Nelson Mandela was elected president of the country. That was an amazing opportunity to study human rights, administrative and constitutional law with some of South Africa's top legal scholars at a time when they themselves were developing their own constitution and a bill of rights.

While I was in South Africa, I also conducted some primary research among domestic workers aimed at investigating the level of compliance with the Basic Conditions of Employment Act, which had been first extended to them in the early 1990s. I wrote a paper about my findings for the University of the Witwatersrand in Johannesburg.

After returning to Canada, articling and being called to practise at the Ontario bar, I completed a master of laws degree at the University of Toronto law school.

Since 1996, I've been in private practice in Toronto, where I have practised primarily on behalf of trade unions and employees in the areas of labour and employment law. In this capacity, I have advised and represented clients before the Ontario Labour Relations Board, the courts, boards of arbitration and other administrative tribunals. I've also had occasion to represent individuals before the College of Nurses, the Workplace Safety and Insurance Appeals Tribunal, the Social Benefits Tribunal, the CPP Review Tribunal and other administrative tribunals.

Outside of my work commitments, I've tried to be involved as an active member of my community as well. In the past, I've served as a director and vice-president of the board of directors of the Open Door Centre, which is now closed but in its day was the largest day shelter for the homeless in Toronto.

Since 2003, I have volunteered with St. Christopher House, which is a large multi-service neighbourhood agency in the west end of downtown Toronto, where I also live myself with my spouse and our three daughters.

After a number of years volunteering with St. Christopher House, I was recently elected to its board of directors. St. Christopher House provides services to seniors, adults, youth and children. Some of the programs which you may have heard of include Meals on Wheels, adult literacy training, English-as-a-second-language classes, drug and alcohol abuse prevention programs, after-school programs and a music school for children.

Turning to my candidacy for appointment to the Human Rights Tribunal of Ontario, I believe that my training, my education and my experience in human rights and administrative law, as well as my personal attributes, make me particularly well-suited to fulfill the responsibilities of a vice-chair and member of the tribunal.

My law practice has afforded me the opportunity to handle numerous human rights cases, and I also regularly advise clients on human rights issues. I have represented both applicants and respondents in complaints under the Human Rights Code. Also, because labour arbitrators in Ontario have jurisdiction to interpret and apply the Ontario Human Rights Code, I've had the opportunity to conduct many human rights cases before arbitrators. In so doing, I feel I've gained considerable expertise in human rights law, particularly in the labour and employment context, which is one of the main areas in which complaints under the code have been filed historically.

I've also spoken on human rights, labour law and administrative law topics. I've spoken to lawyers on behalf of the Law Society of Upper Canada and also to human resource professionals, lawyers and other union representatives at a conferences on human rights. In addition, over the years I've given numerous training seminars to my clients on various human rights topics such as the new human rights system in Ontario, the abolition of mandatory retirement in Ontario, the accommodation of disability in the workplace, and discrimination and harassment in the workplace on various prohibited grounds.

1430

As a vice-chair of the Human Rights Tribunal of Ontario, one needs to be an impartial adjudicator. In my work life to date, I have served as an advocate, so I have not yet had the opportunity to work as an adjudicator. However, I do have every confidence in my ability to do this and to do it well for a number of reasons.

First, the neutral role of an adjudicator is one for which I'm well suited by my nature. Fairness and justice are two of my own core values and a big part of what drew me to law in the first place. I'm also a very thoughtful person who considers things carefully before making a decision. I'm deeply committed to being objective and making fair, well-thought-out and well-reasoned decisions.

Second, my background experience as a labour practitioner has given me a great deal of exposure to the adjudication process. Having spent much of my working life in hearing rooms, I have developed a strong sense of what is required of a good adjudicator and am very con-

fident in my ability to conduct hearings in a manner which accords with the core values of the tribunal, which are accessibility, fairness, transparency, timeliness and the opportunity to be heard. As a frequent participant in adjudicative processes, I am very familiar with the administrative law requirements of natural justice and the right to a fair hearing.

A vice-chair of the Human Rights Tribunal of Ontario also needs to be a good mediator, since I understand that this is one of the tasks that will likely be assigned to vice-chairs. This is definitely an area where I excel. I formally studied alternative dispute resolution methods in law school, both in Canada and in South Africa. However, I feel my hands-on experience is definitely my greatest asset in this regard. In my legal practice, I have adopted a problem-solving approach to dispute resolution. At times, that has led me to advocate for clients because that's what the problem required. The vast majority of my cases, however, have been resolved through mediation, and I take a leadership role in that process. In my years of practice, I have settled hundreds, if not more than a thousand, disputes arising under various statutes, including under the Ontario Human Rights Code.

To sum up, I feel that my expertise in the substantive law and the procedural requirements of the administrative process give me the solid foundation necessary to fulfill the responsibilities of a vice-chair of the Human Rights Tribunal of Ontario. In addition to my knowledge and experience, I bring strong personal attributes to the position: a great work ethic, intellectual rigour, a commitment to fairness, and a strong desire to serve the people of Ontario to the best of my abilities.

Thank you for your attention. I look forward to your questions.

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

Mrs. Maria Van Bommel: Thank you very much, Ms. Price, for coming before the committee today. In listening to your experiences both here and internationally, I would say you're well qualified in the area of human rights, so thank you very much for applying to this position.

Ms. Sheri Price: Thank you.

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

Mr. Michael A. Brown: Just briefly, thank you for appearing. I'm sure you would know this, but we have been looking at a briefing note that told us that the tribunal doesn't post its decisions for the public to know. Apparently that is true, but the tribunal does have a link to the Canadian Legal Information Institute, where every decision that the tribunal makes is public, as are all the decisions that the commission makes. So it's a matter of clicking on the link. Is that correct? Is that your understanding?

Ms. Sheri Price: Yes. My understanding is that all of the decisions of the Human Rights Tribunal of Ontario—I can't speak about the commission—are publicly available through CanLII. I don't know exactly what the name stands for, but it's basically an online search engine of

Canadian legal decisions. They are all available there at no cost.

Mr. Michael A. Brown: We are very fortunate in the government caucus to have some very keen individuals who managed to go get one, just to prove that it's readily available. Thank you.

The Chair (Mrs. Julia Munro): Thank you, Mr. Brown. We'll move, then, to Ms. MacLeod.

Ms. Lisa MacLeod: I'm not really sure where that came from, but I will tell you that the link isn't working for the Human Rights Tribunal of Ontario. So if anyone goes to hrto.on.gc, or whatever it is—

Mr. Michael A. Brown: Press the link.

Ms. Lisa MacLeod: —it doesn't work; it takes you to a Roger's site, and it's down. So someone may want to fix that in the government, but I appreciate—

Mr. Michael A. Brown: It's right here, Lisa. We did it.

Ms. Lisa MacLeod: He did it. If I didn't know any better, I would think I was talking to Dora the Explorer.

In any event, you talked about your human rights experience. It's quite fascinating. You've given speeches on topics such as the new human rights system in Ontario and the Human Rights Code Amendment Act, 2006. I'm just wondering if you had any part during the consultation phase of the human rights amendment act.

Ms. Sheri Price: Oh, no, absolutely not.

Ms. Lisa MacLeod: I guess further to that, I just wanted to know what your view is in terms of the previous system and this system.

Ms. Sheri Price: What my view is of the previous system? Well, I think it's well known that there was a backlog of cases under the old system and that there were sometimes long periods of time that passed before human rights complaints could be dealt with. I don't have all the statistics right at my hands, but I think it was well known that Bill 107 was an attempt to ensure more expeditious and efficient handling of the complaints under the Ontario Human Rights Code.

Ms. Lisa MacLeod: Okay, thanks. Some concerns arose during the debate over Bill 107. I was there at the time. In fact, I did not support Bill 107 because some of the changes, I think, were actually hurtful to the system. I'm just going to go back to the time that we were actually debating it in the Legislature, and one from the Toronto Sun; the headline is "Tribunal Changes Hurt Us, Groups Charge." Another from the St. Catharines Standard: "Human Rights 'Modernization' is Actually a Step Backwards."

I'm going to read you a little bit from the "Tribunal Changes" in the Sun that came from Antonella Artuso, our Queen's Park bureau chief here.

"But several groups representing groups such as minorities and people with disabilities have spoken out against the legislation, fearing David and Goliath mismatches at the tribunal.

"Margaret Parsons, executive director of the African Canadian Legal Clinic, called the changes the 'Americanization' of the provincial human rights commission.

"He has absolutely gutted and taken away our right to a strong human rights enforcement and protection body in this province," Parsons said."

I assume she's speaking about Mr. McGuinty, or, at the time, it would have been Minister Bryant.

The next article is also telling, I think. This was written by Linda Crabtree from the St. Catharines Standard.

"As it stands now, claims are filed with the Ontario Human Rights Commission (OHRC) and if the claim cannot be resolved, they provide legal representation and it goes to the tribunal. Now, they are saying that you will be responsible for collecting evidence, hiring your own lawyer or presenting your case yourself to the tribunal. Yes, some of us might be eligible for legal aid but it, too, is underfunded. Many simply would give up."

This is where I think it's really important for all of us who are here today, because of this next paragraph:

"As one writer said in a letter to the editor of the Toronto Star, '... Under the proposed changes, a sexual discrimination victim could be asked to personally investigate the crime scene, file his or her own police report and then to personally seek prosecution in the criminal court system.' It's the same thing that they are asking of people with disabilities. And, what about people who barely speak English?"

My question to several of the deputants today has been, now that Ontarians will not be able to go to the Human Rights Commission and they will now be expected to go the tribunal, can you answer, will all complainants be guaranteed a lawyer?

Ms. Sheri Price: I'm sorry, but I cannot answer that question. My role as an adjudicator, as a member and vice-chair on the Human Rights Tribunal of Ontario, would be to fairly and impartially decide cases that come before me, but whether or not people will be provided with lawyers or whether everybody will be provided with lawyers, I see those as really political questions that are outside of the scope of my responsibilities and certainly outside of my mandate, and I don't think I can be more helpful on that point. I do want to point out, though, and I am not at all expert on these provisions of the code at this point at all, but I do understand that there has been provision made for the human rights—and I might get the exact name wrong—legal—

1440

Ms. Lisa MacLeod: Defence fund—the human rights legal fund.

Ms. Sheri Price: No, the centre: The new human rights legal resource centre I think is the exact, proper name. My understanding is that the intention, at least, of the Legislature is to have that centre fulfill some of the role that you're referring to, but again, I feel like it's not really within my scope to comment or to have an opinion on what the Legislature seemed fit to do in respect of—

Ms. Lisa MacLeod: Just a couple of quick comments, Chair; I'm going to cede my time to my colleague. The Attorney General at the time could not confirm whether people would be able to have access to a lawyer, and I

think that that begs the question that it's possible that only wealthy complainants will be able to bring forward complaints. I can think of far fewer things more horrendous than sexual discrimination or abuses of that nature in the workplace, and that really bothers me. I think if you are at the tribunal, two things you could fix would maybe be legitimate complaints, to make sure that they are actually able to access the tribunal; and the second thing is to fix the link for the HRTO, because I think that access is fundamental, and it's very important. Despite the fact that you could go through 10 links to get what my colleague opposite says, people really need to go to that one website and be able to get the information that they so desire. My colleague—

The Chair (Mrs. Julia Munro): We have very little time left, so I'd ask you to be brief.

Mr. Randy Hillier: I don't know if we can be brief on this subject; I'll do my utmost. We've seen a significant growth in the Human Rights Tribunal and Commission's role, expanding beyond the original concept of brooding on or addressing tangible cases of discrimination and moving into a greater role. I think the case against Maclean's is an example of that. We're now providing opinions and commentary and receiving complaints because of someone's opinion in the press. I'd like to get your comment. Do you think that the tribunal should expand its role into freedom of speech and expression and ruling on that, or should it remain in those defined categories of discrimination?

Ms. Sheri Price: I think that the Human Rights Tribunal is a creature of statute and it is governed by its statute, and the jurisdiction of the tribunal arises from the statute; it has to interpret and apply the statute. So if appointed as a vice-chair, I would very much see my role as to interpret the provisions of the code itself to cases before me. I don't feel comfortable commenting on what I really see as political issues in terms of what the legislation should or shouldn't say, because I see that my role very much is to fairly and impartially apply the provisions of the code as it's drafted.

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

M^{me} France Gélinas: Thanks for coming here. It's a pleasure to meet you. I wanted to ask, first of all, do you have any ability in the French language?

Ms. Sheri Price: I do have some ability in the French language. I speak French somewhat, but I'm certainly not fluent in French, and unfortunately I would not be able to conduct hearings in French.

M^{me} France Gélinas: Or write reports in French either?

Ms. Sheri Price: No. I did study French. French is something that I did study, and I did speak French much better before I came to Ontario. But I've gotten quite a bit rusty and so now I wouldn't be able to conduct hearings or write decisions in French.

M^{me} France Gélinas: Okay. What motivated you to seek this appointment?

Ms. Sheri Price: I think for a lot of lawyers it's sort of a natural progression, after being an advocate for a while, to take the skills that you've built up as an advocate and to apply them in a new context as a neutral adjudicator. I'm also very interested intellectually in the area of human rights law. I find it an intellectually interesting area. I think it's work that is well worth doing, so I was excited to try my hand, to have a bit of a change in my professional life and try something new.

M^{me} France Gélinas: Okay. And this is a full-time position for you that you have applied for.

Ms. Sheri Price: Yes.

M^{me} France Gélinas: Does that mean that you would leave the firm that you're presently with?

Ms. Sheri Price: Yes, that's right.

M^{me} France Gélinas: You would; okay. And have you got any experience as an adjudicator?

Ms. Sheri Price: I don't have any experience as an adjudicator other than I have been practising administrative law since 1996, so for however many years that is. I've got a lot of exposure to the adjudicative process. I've spent a lot of time in hearing rooms. I've spent a lot of time working closely with adjudicators, so I feel very comfortable that I've got a good handle on what makes a good adjudicator and that I can bring those skills forward in this position.

M^{me} France Gélinas: And what is your knowledge of northern Ontario?

Ms. Sheri Price: Actually, as an advocate, I have had a number of clients in northern Ontario. I've regularly been doing cases and advising clients in northern Ontario, in Thunder Bay, Sault Ste. Marie, North Bay, Sudbury. So I do have quite an affinity for northern Ontario.

M^{me} France Gélinas: Would you actually go there to do the work or would they fly down?

Ms. Sheri Price: You know, I'm not too sure about exactly how it's all going to work in—

M^{me} France Gélinas: No, I mean in your previous work, when you worked with people from Sudbury—

Ms. Sheri Price: Oh, in my previous work, I would fly there, of course. It's much more convenient for them to have the lawyer come in, with the witnesses and everybody there. So it's a lot easier for counsel to go in than for them to come to me.

M^{me} France Gélinas: Very good. Those are my questions. Thank you.

The Chair (Mrs. Julia Munro): Thank you very much. That concludes the questions and the interview.

Ms. Sheri Price: Thank you very much.

The Chair (Mrs. Julia Munro): Committee, I would just like to direct you that we have another appointee interview. I understand that this individual is in the building, so I would ask that we have a recess but that you not leave because as soon as our next interview is about to begin I'd like to start again. So we'll just recess for three minutes or something like that.

Mr. Michael A. Brown: Could we start with concurrences and—

Ms. Lisa MacLeod: No.

Mr. Michael A. Brown: No? Okay. It would just save some time, that's all.

The Chair (Mrs. Julia Munro): I would prefer to just give a recess for the next three minutes.

Mr. Michael A. Brown: Sure.

The Chair (Mrs. Julia Munro): I assume that's appropriate.

The committee recessed from 1446 to 1451.

DAVID SHANNON

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

The Chair (Mrs. Julia Munro): Mr. David Shannon, welcome to the committee and good afternoon. You have, as I'm sure you're aware, an opportunity, should you wish, to make a few statements, and then we will go in rotation amongst the members for any questions. Whenever you're ready, we're ready to begin.

Mr. David Shannon: Thanks you so much, Madam Chair. First, good afternoon to everyone. It's a beautiful afternoon and I think it's a sign of our collective commitment to human rights, the fact that there's such full attendance on a lovely August afternoon. With that, I wanted to say that I am truly delighted to appear before the committee and to discuss what the Legislature's view of achieving a discrimination-free Ontario is and my wish to contribute to that dream, the dream of a discrimination-free Ontario, as a part-time member of the Human Rights Tribunal of Ontario.

You will note from my resumé and the briefing notes before you that I am a past member of the Ontario Human Rights Tribunal. This was both a wonderful and critically important experience to prepare me for the demanding adjudicative responsibilities that will be before all tribunal members under the new rules of procedure. The lesson that I took away from this experience was that in order for human rights to flourish, they must be founded upon, as the code states, a principle of dignity for all, and the rule of law must be applied strictly. Without equal benefit and application of the law, equality will run the risk of facing limitations to its objective.

That important education for me, however, came by the year 2002, when my term ended, and you may wonder what I have done to continue to build expertise and utilize my skills in the field of human rights. Broadly speaking, during the past six years I have demonstrated successes and progressive skills in both the provincial and the federal human rights fields, administrative law, the Charter of Rights and Freedoms, health and disability law, aboriginal law and civil litigation. I have frequently appeared as legal counsel before the Consent and Capacity Board, many other administrative tribunals and appellate courts.

Some highlights of my work related to human rights and administrative law since 2002 include the following: First, many of you may have noted in my resumé that I was the founding chairperson of the Ontario Accessibility

Advisory Committee, and that was pursuant to the Ontarians with Disabilities Act as it then was; of course, today it's the AODA or Accessibility for Ontarians with Disabilities Act. My responsibilities at that time included advising the Minister of Citizenship in the province of Ontario on matters respecting the following: first, implementation of the Ontarians with Disabilities Act and preparation of its regulations; second, programs of public information related to the act; third, accessibility to services and employment for persons with disabilities; fourth, all other policy matters related to the subject matter of the act, as the minister directed.

I wasn't just a one-trick pony, though; I didn't rely exclusively on disability rights. I also worked in the area of aboriginal law for the Aboriginal Justice Directorate, Department of Justice, Canada; the acronym is AJD. There, I advised and negotiated respecting aboriginal-based administration of justice. It was very interesting. It included advising on how to develop aboriginal-based courts and tribunals within a self-government framework. I also monitored developments in Charter of Rights and Freedoms litigation and relevant court decisions that would impact on the work of the AJD.

In May 2006, I attended as legal counsel before the Supreme Court of Canada, where I represented the intervenor, the Canadian Association of Independent Living Centres, in the matter of the Council of Canadians with Disabilities v. VIA Rail. Many of you may know of that case, recently decided by the Supreme Court. It is a seminal case that establishes the right to accessibility and accommodation for persons with a disability in transportation and service provision.

Later, in both August 2005 and August 2006, I contributed and attended at the United Nations respecting meetings of the ad hoc committee that was drafting a convention on the rights of persons with a disability. It was not only the drafting of the convention, but also the creation of a quasi-judicial body under the convention through an optional protocol. The text was adopted by all member states on August 25, 2006. It was signed by Canada in March 2007, after much work. Now, the more than 600 million persons with a disability worldwide stand to benefit from this convention. It's a very interesting and progressive view of human rights legislation. It combines the protection of individual and group rights while creating a framework for positive policy and public perception changes for future generations. I like to think that over the past 20 and more years, the work of those committed to the Ontario Human Rights Code has informed those debates that happened at the United Nations.

In January 2007, my text entitled *Six Degrees of Dignity: Disability in an Age of Freedom* was published. This book, using both lived experiences and comprehensive research, provides a six-part model for systemic change that achieves equality for persons with a disability and advances policy and legislative changes, driven by human rights and dignity for all. This text is now on reading lists in universities across Canada at both

the undergraduate and graduate levels. While I have a captive audience, if any of you would like to go to Amazon.com, feel free to buy it.

Ms. Lisa MacLeod: Does the link work?

Mr. David Shannon: The link will work—and if it doesn't, please let me know.

Mr. Michael A. Brown: Can we get your autograph?

Mr. David Shannon: Yes.

Also, in addition to my legal work, I've continued to hone my managerial skills over the past couple of years, where I've worked with the Canadian Paraplegic Association in leadership positions.

In the end, as a result of education, personal experience and my body of work throughout my career, I remain passionate for the belief that human rights will be achieved through the application of the rule of law. I remain committed to the belief also that we are equally connected members of the human family.

Thank you, Madam Chair. I welcome questions.

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

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Ms. Lisa MacLeod: Just a couple of quick questions before I cede the floor to my colleague from the official opposition.

Welcome. I'm not sure if it was you that sent this bio around or if my staff came up with it, but it's quite an interesting read. Was it you that sent it to us? No?

Mr. David Shannon: I think they attached a bio. Maybe they forwarded it.

Ms. Lisa MacLeod: It might be it. It does discuss your time in Nova Scotia, which obviously, as somebody who was born and raised there, I was very interested in. There was one thing I was interested in in terms of this job that I do, and it was the fact that you were the provincial riding president in 2001. Are you still the provincial riding president?

Mr. David Shannon: No. In fact, conscious of my work, as of this year I am no longer a member of any political organization.

Ms. Lisa MacLeod: The Office of the Conflict of Interest Commissioner, in their annual report of 2007-08, made a preliminary finding that acting as a president of a riding association is political activity that is not permitted under the act. So I'll just leave that for you. That was one question.

The second one is that, as I've said to many of the deputants, my reason for calling many of the intended appointees for this commission is to understand what kind of philosophical bent we are going to see at the tribunal because of these major changes. I have two quotes and I want your interpretation of them. I want your gut instinct, where you stand on these issues.

Yesterday we had Alan Whyte in, who will be your colleague. I believe he's going to be a vice-chair. He said "that he supports the media's broad freedom to report stories 'as they see fit.'"

"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," said the candidate for vice-chair."

I want to compare that to the Ontario Human Rights commissioner, Barbara Hall, and her decision to, essentially, rebuke Maclean's magazine. But she did exonerate them at the end of the day. She says that the Ontario Human Rights Code "cannot be interpreted to include the content" of print journalism.

I'm wondering, because this has been a very contentious issue across Canada. Despite my colleagues on the other side, it is important to a lot of people in this province that there is freedom of expression. We've seen with Mark Steyn, we've seen with Ezra Levant, we've seen a case with respect to a Toronto TV show, Kenny vs. Spenny, that these are all very important issues that we need to confront. I would like to know, does discrimination trump free speech to you, or does free speech trump discrimination?

Mr. David Shannon: You've almost put me into the position to answer a hypothetical, which puts me in a very difficult position. You also raised a point in terms of conflict of interest. I would like to say that I've contributed to the previous government in the late nineties, I've contributed work and policy ideas to all three political parties in the province of Ontario, and also, at the federal level, have provided information with respect to position papers. I've always found that work collegial and beneficial, and I feel very comfortable in an apolitical position working with anyone.

You're driving at a question of principle, and that is that tug of war between individual liberties versus group rights. As much as it's trumping—and I like to look at it in more the manner that the Supreme Court of Canada does, where they try to balance rights. We have to find an environment in which all minority or disadvantaged groups trust and feel comfortable as Canadians and as Ontarians in participating in their community. Therefore, when we cross the line into hate literature, we cross the line. However, I do believe, as the charter is very clear, that there is a right to freedom of speech. That is the perspective that I hold paramount: freedom of speech. So if you're talking about hate literature, which will demean and oppress—

Ms. Lisa MacLeod: There are Canadian laws for that. I'm talking solely with respect to the code that you are about to adjudicate upon once you become a member of this tribunal. I think that's where many of us understand that there are federal laws that govern hate literature. I know my colleague will probably question you about that. The entire human rights complaint process with respect to Maclean's I think left a bad taste in a lot of people's mouths. I think that it's a difficult question, no doubt about it, and you're right, it is a tug of war between two different sets of rights, group rights and individual rights, but I think we have to be very cautious that we do not eliminate freedom of expression and freedom of speech in this province.

Mr. David Shannon: I agree with you.

Ms. Lisa MacLeod: Thank you for that.

Mr. Randy Hillier: Thank you very much for being here. I'm going to take a little bit of a different tack, because you did mention collective rights and individual liberties. Of course, we know that any collective is made up of individuals; I'm sure you would agree with that statement. If you diminish the rights of an individual within that group, then of course you must also diminish the rights of the collective. Would that be a fair statement and deductive?

Mr. David Shannon: Broadly speaking. I like to think of what the United Nations Covenant on Economic, Social and Cultural Rights and the United Nations Covenant on Civil and Political Rights each state in article 1. They find that both individual and group rights are inextricably linked. I like to view it more in that fashion.

Mr. Randy Hillier: I want to move on to something else here that has caused me some concern with the whole human rights process, not just the tribunal or commission, but the whole concept and process. Recently there was a fellow who was identified, named Richard Warman—this was at the federal level—who himself represents over 50% of all complainants to the federal human rights tribunal in the category of hate and racism, or hate messaging. Clearly in this case we're seeing the process of human rights being manipulated for a political agenda by this individual. I'm wondering, do you think there should be some checks and balances incorporated in the human rights tribunal to ensure that it does not become a podium for advocacy, or political advocacy, or an agenda by certain individuals?

Mr. David Shannon: I'm conscious not to answer a hypothetical. However, as I said in my opening statement, rule of law must be strictly applied with respect to human rights or any other area of law, in particular the principle that there cannot be matters which are frivolous, vexatious or capricious allowed into those procedures.

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

M^{me} France Gélinas: Thank you, and it's a pleasure to meet you, Mr. Shannon. I thank you for coming down. I do the trip from northern Ontario to Toronto and I know how much fun it can be.

The first one is a quick one: Do you have any French-language skills?

Mr. David Shannon: I apologize; I have some basic understanding. I do not speak French.

M^{me} France Gélinas: You don't have to apologize; that's fine.

My next question is, I see that you are presently employed. Is this a change of employment for you or do you intend to keep both a part-time job with the tribunal and the work that you do now?

Mr. David Shannon: That's a good question. Right now, I am enjoying what I'm doing. It would be a great joy to be a full-time member. As a part-time member—

and that's what I'm here to speak to today—that is my current goal.

Also, as you rightly noted, my residence is in Thunder Bay. I literally haven't discussed the thought of moving out of Thunder Bay and if it would be necessary to move to Toronto. It's difficult to answer. It's open-ended. You do appreciate that drive.

1510

M^{me} France Gélinas: Yes, absolutely.

Mr. David Shannon: It's nice while it's summer.

M^{me} France Gélinas: Let's quit while we're ahead.

I've lost count, unfortunately, but we've had close to 10 members of the tribunal come in the last two days, and you are the first one from northern Ontario. So I certainly hope that you can bring a northern Ontario perspective to the tribunal as well as remain in northern Ontario while doing the part-time work. I have no idea how this works, but it's more of a wish for you than anything else.

You have spoken about your link with the First Nations. I would be interested in knowing a little bit more about your knowledge of the First Nations, mainly of northern Ontario.

Mr. David Shannon: My work in Ottawa with the federal government, working with self-governance, especially with respect to administration of justice—so I did have the pleasure of having a very substantial introduction and work in the area of treaties and aboriginal rights. Also, as a past lecturer with Negahneewin College, which as you may know is a college at Confederation College in Lakehead University, where I taught aboriginal advocacy, European human rights—almost all of my students were aboriginal, and it was to be taught from an aboriginal perspective. Also, I did teach aboriginal law at Lakehead University.

I'm currently on the advisory committee of the Lakehead University medical ethics committee, where we work closely with more than 50 First Nations health care providers and organizations. In Thunder Bay, it's as much an academic pursuit, a career pursuit—also, where over 30%, I believe, of the population now are First Nations, it's simply a part of the community.

The Chair (Mrs. Julia Munro): Mrs. Van Bommel.

Mrs. Maria Van Bommel: I also want to reiterate Ms. Gélinas's thanks for making the long trip. We certainly appreciate your being here today. I want to commend you on the work that you have done for persons with disabilities. Your resumé is certainly very extensive in that area.

The Chair (Mrs. Julia Munro): That concludes questions from the committee. I want, on behalf of the committee, to thank you very much for being here today and certainly giving us further insight into your expertise and your concerns about the tribunal.

Mr. David Shannon: It was a pleasure. Thank you.

The Chair (Mrs. Julia Munro): For committee members, we have concurrences as the final part of our agenda. I would ask you, then, to look back to this morning—

Ms. Lisa MacLeod: We would like to see a deferral of all the intended appointees until tomorrow morning.

The Chair (Mrs. Julia Munro): All right. We have a deferral.

Mr. Michael A. Brown: Can we do those one at a time? Don't we at least get to speak about those even if we're going to defer the vote?

The Chair (Mrs. Julia Munro): We can defer both debate and vote, or—

Ms. Lisa MacLeod: I respectfully request that we defer both until tomorrow morning.

The Chair (Mrs. Julia Munro): I have to remind you it's not a debatable option, but—

Mr. Michael A. Brown: But that part of it is, or is it?

The Chair (Mrs. Julia Munro): Ms. Gélinas.

M^{me} France Gélinas: This has nothing to do with good rules of conduct or anything, but my granddaughter is being born as we speak, and I'm going to be heading back to northern Ontario, so I won't be there tomorrow for the vote. I'm having a really tough time finding somebody to fill in for me tomorrow. I realize that the official opposition has the right to ask the motion and to do this. I just wanted them to know this. I would prefer that we vote today, but I understand that it is their right that we vote tomorrow.

1515

Mr. Michael A. Brown: We would prefer to do this today to accommodate Madame Gélinas, being a recent grandfather myself.

The Chair (Mrs. Julia Munro): I just have to remind you that is not a debatable request.

Mr. Michael A. Brown: We were just hoping that—

The Chair (Mrs. Julia Munro): I understand that. It is deferred, then, until tomorrow.

Mr. Randy Hillier: Before we adjourn, I'd like to just make a comment. I want to thank our colleagues opposite for identifying themselves as the missing link that we've been—

Mr. Michael A. Brown: We found the missing link for you there, Randy.

There was some impression earlier on, just for some clarification, that all three political parties supported the Endangered Species Act.

Mr. Randy Hillier: I was not a member of—

Mr. Michael A. Brown: Well, all three parties, when the act was voted on, supported it. The act only came into force in June, so any speaking about what happened before was the previous act, not this one.

Mr. Randy Hillier: Different act, same name.

The Chair (Mrs. Julia Munro): The committee stands adjourned until 9 a.m.

The committee adjourned at 1516.

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