



ISSN 1180-4335

**Legislative Assembly
of Ontario**

First Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Première session, 39^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 27 October 2009

**Journal
des débats
(Hansard)**

Mardi 27 octobre 2009

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

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Room 500, West Wing, Legislative Building
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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



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

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Tuesday 27 October 2009

Mardi 27 octobre 2009

The committee met at 0905 in committee room 1.

INTENDED APPOINTMENTS

MICHAEL GOTTHEIL

Review of intended appointment, selected by official opposition party: Michael Gottheil, intended appointee as member and chair, Assessment Review Board / Board of Board of Negotiation / Environmental Review Tribunal / Ontario Municipal Board.

The Chair (Mr. Ernie Hardeman): I think it is 9 o'clock, so we will call the Standing Committee on Government Agencies to order—

Interjection.

The Chair (Mr. Ernie Hardeman): Oh, and I'm being told I'm supposed to use the gavel—just to show you that I can do it.

Mr. Michael A. Brown: Very good.

The Chair (Mr. Ernie Hardeman): That was the first part of the course in the training session on being Chair.

Mr. Michael A. Brown: You have to practise.

The Chair (Mr. Ernie Hardeman): Exactly.

The first order of business this morning is dealing with the concurrence vote on a deferred vote from the previous meeting. I guess we have a motion.

Mr. Michael A. Brown: Mr. Chair, upon reviewing the transcript from last week and having had a week to consider the deferred vote, I wish to have on the record that I am incredibly disappointed with the treatment of the intended appointee. Mr. Gottheil was treated, in our view, harshly by Ms. MacLeod. Her line of questioning was offensive, demeaning and highly disrespectful.

Words cannot describe how I and my colleagues cringed at the memory of Ms. MacLeod presenting written questions in tiny font to a citizen with a sight impediment. Would it have been too much to ask that these questions be presented at least in an electronic way so he could have accessed them?

In briefly reviewing these questions, one must wonder why the official opposition—

The Chair (Mr. Ernie Hardeman): If I could stop you there, Mr. Brown, and have a motion. There are opportunities to debate the motion, but unless we have a motion, then we're not open to debate.

Mr. Michael A. Brown: All right. I'll make the motion to concur in the appointment of Michael Gottheil.

The Chair (Mr. Ernie Hardeman): Thank you very much. We have a motion to concur with the appointment. Discussion?

Mr. Michael A. Brown: I will start over then, Mr. Chair.

Upon reviewing the transcript last week and having had a week to consider the deferred vote, I wish to have on the record that we are incredibly disappointed with the treatment of the intended appointee, Michael Gottheil, by Ms. MacLeod. Her line of questioning was offensive, demeaning and highly disrespectful.

Would it have been too much for the member to have presented electronically to him? I cringe at the memory of Ms. MacLeod presenting written questions in a tiny font to a member of Ontario society, a citizen, with a sight impairment.

Briefly reviewing the questions, we must wonder why the official opposition felt it necessary to ask the same question 11 different ways.

Mr. Gottheil is a respected and accomplished leader in the administrative justice field. His qualifications to lead a new grouping of tribunals are beyond reproach. He had just finished establishing the Human Rights Tribunal, which involved comparable complexities. He is an expert in administrative justice. It is true that he is not an expert in the subject matter of each component tribunal. I would suggest to Ms. MacLeod that there is nobody in the province who could do that. That is why each tribunal will be led by an expert with management and operational duties.

It is also important at this time, on behalf of government members, to clearly and unequivocally express our view that the Chair erred in his ruling about the legitimacy of presenting written questions. Our rules are very clear: There are 10 minutes per caucus. That is all the time for both posing and answering questions.

It is my understanding that Mr. Gottheil has provided answers to the general themes presented by the official opposition. That is a credit to his character and his integrity. Ms. MacLeod would do well to learn by his example.

The Chair (Mr. Ernie Hardeman): Thank you very much for the comments. Ms. MacLeod?

Ms. Lisa MacLeod: What is truly cringeworthy here is this written statement provided orally from the Premier's office by the member opposite. What is truly cringeworthy is the treatment by which taxpayers in this province have had to endure what this government has

done to government agencies, boards and commissions by way of the appointees and the way they've conducted business; i.e., OLG, eHealth.

I would like to make an apology, because my colleague opposite raised a point which, in retrospect, was inappropriate. I read 29 questions into the record verbally and orally. The individual listened to them, and I provided a written copy of the questions. I wish now, having listened to him, that the font was either larger or that it had been done in a more accessible manner.

But given the resources of the official opposition, given the fact that two of my caucus colleagues who do not sit on this committee provided questions to me as early as that morning, we did the best we could, given the circumstances of a super-agency being created by the Liberals under the dark of night. We felt that the questions that we asked, that we put forward, were reasonable.

We expect public appointees put forward by the McGuinty Liberals to come to committee with answers to show that they are qualified appointees. This is not the first time an appointee has come before this committee without the requisite qualifications. This is nothing against Mr. Gottheil; he is qualified to lead the Ontario Human Rights Tribunal. When his name was put forward as an Ontario Human Rights Tribunal chair, the official opposition did not bring Mr. Gottheil into committee because we felt he was qualified. Unfortunately, we do not feel that he is qualified here. In the member opposite's own words, "It is true he does not have experience in any of these clusters," and that is of major concern to us.

0910

This is not the first time in this committee that we have either been admonished in the official opposition or tried to be silenced by the government. It will not happen; please understand that. No matter how many written missives you deliver orally from the Premier's office or anyone else, we will not be deterred in our determination to ensure that governments, boards, agencies and commissions in the province of Ontario run effectively.

Thank you, Mr. Chair. I have no problems with how you deliberated last week. I will just suggest right now that we move on and vote. The official opposition will not be supporting this appointee.

The Chair (Mr. Ernie Hardeman): I just want to point out, if I could for a moment, that Mr. Brown had every opportunity to appeal the Chair's ruling last week. I want to point out that the ruling was made based on the standing orders, not on past practices of the committee. There is nothing in the standing orders that says that in fact the time is limited to the time that was set up for the hearing of the delegations. The standing orders are quite clear that you can ask for further information from the applicant in writing.

At this point in time, the Chair has ruled, and the member is allowed to take that ruling to the Speaker of the House if he so wishes, but presently it is not open for debate as to whether the Chair's ruling was proper. Thank you very much.

The member wanted to say more?

Mr. Michael A. Brown: I just wanted to say that Ms. MacLeod—

Ms. Lisa MacLeod: On a point of order, Mr. Chair: I think we've already exhausted where I stand and where you stand. At this point in time, we've got significant committee business. I would just propose we move on because—

Mr. Bruce Crozier: That's hardly a point of order.

Ms. Lisa MacLeod: Well, at the end of the day, if we're going to spend our entire committee time here when we have intended appointees—we've got report writing to do. We can go on at this all day.

The Chair (Mr. Ernie Hardeman): I would point out that the reason for the debate is to debate the concurrence motion. If the members wish to debate the process that the committee follows or the actions of one another, one might want to take a different time to do that. We do have a delegation coming forward that is waiting to be heard, and I think he has the right to be heard.

With that, Mr. Brown?

Mr. Michael A. Brown: Could I ask the Chair, is it your view or is it the ruling of the Chair that when a deferred vote comes before the committee, the only thing that comes before the committee is the vote, or is there discussion at that point?

The Chair (Mr. Ernie Hardeman): My understanding is there's discussion on the motion to defer. As in any other practice, you bring forward the motion, and any motion that's brought forward has the opportunity to have debate on the motion, as it would at any other time.

Mr. Bruce Crozier: On a point of order, Mr. Chair: Why does a deferred vote have to be moved a second time? It's already been moved. It's only been deferred. Why does it have to be moved a second time?

The Chair (Mr. Ernie Hardeman): It didn't.

Mr. Bruce Crozier: Well, you interrupted my colleague to have him move the motion again.

The Chair (Mr. Ernie Hardeman): My apologies for that.

Mr. Bruce Crozier: Okay.

Mr. Michael A. Brown: But I want to be clear, when a deferred vote is asked for, when the vote is deferred for seven days, when we come back to deal with that deferred vote, that's what we do? We just vote? There is no discussion on the matter before us? Is it just a deferral of the vote without discussion?

The Chair (Mr. Ernie Hardeman): I would just point out that the deferral was not for a deferred vote, as it would be in the House; it was a deferral of the determination. In fact, that would change the effects of the deferred vote. When it's a deferred vote in the House, it is just called and then, because it was previously voted on, all that's left to do is record it. This was not voted on in the previous meeting and so it is a reconsideration or a redoing of the total concurrence motion.

Mr. Michael A. Brown: So that I'm clear, just so that I understand, when there's a deferred vote called and we convene seven days later to deal with that matter, it is

appropriate at that time for the committee to discuss it before the vote is taken. Or is it just the vote that we will be taking? The vote is the determination and that is what we are interested in doing. I just want to understand this.

The Chair (Mr. Ernie Hardeman): For the record and for the benefit of the member, I will read it:

“At the conclusion of the meeting held to review an intended appointment, the committee shall determine whether or not it concurs in the intended appointment. Any member may request that the committee defer its determination to the next meeting of the committee, but in any event no later than seven calendar days. In its report, the committee shall state whether or not it concurs in the intended appointments and may state its reasons.”

So, in fact, the ask for the deferral takes the whole action of the consideration to the next meeting.

Mr. Michael A. Brown: Does that mean, though, that it's just the vote or is there debate or discussion on the concurrence motion?

The Chair (Mr. Ernie Hardeman): In my opinion, there is.

Mr. Michael A. Brown: What? There is opportunity for debate and discussion? That's what you're—

The Chair (Mr. Ernie Hardeman): If the motion had not been made at the last meeting to defer it for seven days, we would have had the debate. We didn't have the debate because the whole issue was deferred to the next meeting. So everything that was not done would be done at this meeting, which would include the debate.

Mr. Michael A. Brown: So at this point we are to be debating or discussing, if the committee so wishes, the appropriateness of concurring with the appointment of—

The Chair (Mr. Ernie Hardeman): It was my opinion, Mr. Brown, that that's what we had been doing, and I was just asking if there was any further debate on this motion before we vote on the concurrence with this appointment.

Mr. Michael A. Brown: And so what I'm given to understand, then, is that the official opposition, having received the response from Mr. Gottheil, is totally happy with the response they received and don't wish to discuss the response to the questions that they provided.

The Chair (Mr. Ernie Hardeman): I would point out to the member, it's not his position to take positions on the opposition's position. The member spoke to issues that were well beyond the concurrence motion, and we accepted that as you have a right to say what you want to say, but you do not have a right to question other people's right to say the same thing.

With that, if there's no further debate, we'll call the question. All those in favour? Opposed? The motion is carried.

BEN SHAYAN

Review of intended appointment, selected by official opposition party: Ben Shayan, intended appointee as member, council of College of Dental Hygienists of Ontario.

The Chair (Mr. Ernie Hardeman): The second item this morning is a hearing on the appointment of Ben Shayan. We'll ask Ben to come forward. He's an intended appointee as a member of the council of College of Dental Hygienists of Ontario. If you would come forward. You will be given an opportunity to make a statement as to the appointment. We then will split the time for questioning. The total time allotted is a half an hour, 10 minutes for each party, and the time that the appointee uses to present his credentials will in fact be deducted, as is the practice, from the government's 10 minutes. With that, we will start the questioning, incidentally, with the government party when the questioning starts. With that, we welcome you, Mr. Shayan. The floor is yours.

0920

Mr. Ben Shayan: Good morning, ladies and gentlemen, and thank you for the opportunity of attending in this session.

I am a professional engineer with extensive background in project management. My skills are mainly delivering the work, decision-making and problem-solving while implementing the designs and ideas. I always participate in activities with the attitude of implementation and fulfillment.

In addition to my great interest in my profession, which I make my living off, I have always been interested, as extracurriculum, in being involved in other aspects and affairs of the society where I live that directly or indirectly will affect the well-being of myself, my family and people of the society. By saying that, today, in my opinion, there is no subject matter more important than health care, which is directly or indirectly affecting our lifestyles regardless of which phase of our lives we are in.

As a Canadian, I am very and truly proud of our universal health care system, which I consider a very advanced and humane system that not only provides health, well-being and peace of mind to fellow Canadians regardless of their wealth and financial status, but also makes Canada a role model for those countries that are willing be 21st-century societies and establishes one of the parameters of a real democracy, fulfilling the requirements of being civilized and becoming a caring society.

With this way of looking at health care in its entirety, I would like to consider myself someone who likes to contribute, gets involved and is part of standing guard on the system by looking into shortfalls and deficiencies and trying to have input towards good functioning and perfection. I am willing to have the experience of working with different disciplines of the health care system in order to see how they are related together and how a problem or well-being in one discipline affects or helps the other disciplines.

I am also a recipient of the five-year volunteer award from the government of Ontario.

Mr. Chair, at this time I conclude my short statement in order to be within time limits. I am ready to answer your questions. Thanks again.

The Chair (Mr. Ernie Hardeman): Thank you very much. I have about five minutes for the government. Questions?

Mr. Michael A. Brown: I'm just so pleased and the government is so pleased that you've put your name forward for this important position. You are eminently qualified and have served the province in other ways over the years, and we just wish to again say how delighted we are. We will be voting to concur with your appointment.

The Chair (Mr. Ernie Hardeman): Thank you. The official opposition?

Ms. Lisa MacLeod: Welcome to committee today. I hope things are well with you.

Mr. Ben Shayan: Thank you.

Ms. Lisa MacLeod: I'm wondering what motivated you to seek this appointment.

Mr. Ben Shayan: I think I explained in my short statement what motivates me. I'm interested in participating in all aspects of our society, and particularly in the health care system. Again, I explained why the health care system is important for me. That's why I would like to do this.

Ms. Lisa MacLeod: Do you have any experience in health care policy, health care legislation, dental policy or dental legislation? Do you have any experience whatsoever in the field?

Mr. Ben Shayan: I have served three years on the council of the College of Medical Laboratory Technologists of Ontario. Other than that experience, if we can call it experience, I have three daughters. All of them are studying—one in medicine, one in dentistry and one in pharmacy. By saying that, I have visited the faculties and I have toured the faculties, and I have talked and I have reviewed some things about dentistry while I was going through all of those procedures and interviews for my daughter when we were preparing her.

Ms. Lisa MacLeod: Have you ever spoken about this appointment to Reza Moridi?

Mr. Ben Shayan: No, I have not.

Ms. Lisa MacLeod: But it's true you've been a donor to him in the past and to the Liberal Party of Ontario?

Mr. Ben Shayan: If you're talking money-wise, no. I'm not a rich person that I can donate money.

Ms. Lisa MacLeod: So you didn't send \$193 in 2003—

Mr. Ben Shayan: But time-wise, yes. Time-wise, I have donated.

Ms. Lisa MacLeod: —2004, \$221; 2005, \$120; 2006, \$1,000; 2007, \$172? That's not you? Or is that you?

Mr. Ben Shayan: These mostly are membership fees that I am paying; \$10 or \$25 per month.

Ms. Lisa MacLeod: Wow, \$1,000 for a membership fee in the Liberal Party. That's impressive.

That's great, thank you very much.

The Chair (Mr. Ernie Hardeman): Thank you. Third party?

Mr. Howard Hampton: Can you tell me what a quasi-judicial body does?

Mr. Ben Shayan: Do you mean the colleges?

Mr. Howard Hampton: No, I mean a body that makes quasi-judicial decisions. What does that mean?

Mr. Ben Shayan: I'm sorry, this "quasi" word—since my English command is not good, I'm not very familiar with that one. Can you explain what "quasi" means?

Mr. Howard Hampton: One of the functions of the council of the college—it administers the college's affairs and regulates the profession. Some of its committees, in effect, perform a quasi-judicial function. Since you're presumably going to be appointed to this body, I wanted to know.

Mr. Ben Shayan: Actually, that college that I served, I was part of the discipline committee, and I was sitting in one hearing in which I was preparing the report and decision-making. That was referred to by the complaint committee. I don't know if I answered your question correctly.

Mr. Howard Hampton: In your introduction, you talked about how you look favourably upon our system of medicare and the health insurance system. Can you tell me, does the work that dental hygienists do fall within that system?

Mr. Ben Shayan: No, it doesn't.

Mr. Howard Hampton: I'm just puzzled why you would refer to the health insurance system when the work of this body and the work of dental hygienists falls completely outside of the OHIP system, the medicare system.

Mr. Ben Shayan: It's true that it's not part of the OHIP system, but it's part of the regulated health providers act. I'm not looking into only those sections of health care that are covered by the health care system; I'm looking to all disciplines that affect people's well-being. Personally, I think that if we are developed far enough, we can include dentistry and hygienists and all of these things to our health care system. That would be ideal—provided that budgetary or monetary abilities allow us.

Mr. Howard Hampton: But you recognize that we're dealing with two completely different things there.

Mr. Ben Shayan: That's correct.

Mr. Howard Hampton: No further questions.

The Chair (Mr. Ernie Hardeman): Thank you. And with that, that concludes the time—I was going to say that concludes the time allocated, but obviously there were fewer questions than time allowed. But that does conclude the interview. We thank you very much for coming forward and offering your services to the province.

Mr. Ben Shayan: Thank you, Mr. Chair.

The Chair (Mr. Ernie Hardeman): That concludes the hearings this morning, so we'll consider the intended appointment of Ben Shayan, an intended appointee as a member of the council of the College of Dental Hygienists of Ontario.

Mr. Bruce Crozier: Chair?

The Chair (Mr. Ernie Hardeman): Yes?

Mr. Bruce Crozier: I just wanted to point out, because of the line of questioning, that between nine and 11

public members—i.e., laypersons—are appointed by the Lieutenant Governor. I would consider this gentleman, as a layperson, eminently qualified.

The Chair (Mr. Ernie Hardeman): Again, we need a motion to concur before we have a debate.

Mr. Bruce Crozier: That wasn't a debate.

Mr. Michael A. Brown: I move concurrence of the appointment of Ben Shayan as a member of the council of the College of Dental Hygienists of Ontario.

The Chair (Mr. Ernie Hardeman): Thank you very much. Any discussion?

Ms. Lisa MacLeod: Can we defer?

The Chair (Mr. Ernie Hardeman): Okay, the vote is deferred.

That concludes our business on the appointments and we'll now proceed to the meeting in a closed session for the purpose of report writing.

The committee continued in closed session at 0934

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