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**Official Report
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(Hansard)**

Tuesday 23 September 2008

**Journal
des débats
(Hansard)**

Mardi 23 septembre 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 23 September 2008

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The committee met at 0900 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mrs. Julia Munro): Good morning, and welcome to the Standing Committee on Government Agencies. This morning our first order of business is the report of the subcommittee on committee business dated Thursday, September 18. I'd ask Ms. Sandals.

Mrs. Liz Sandals: I move approval of the subcommittee report dated Thursday, September 18, 2008.

The Chair (Mrs. Julia Munro): Thank you. Is there any discussion? Seeing none, all in favour? Opposed? The motion is carried.

We will now move to the second part of our meeting, which is the appointments review.

INTENDED APPOINTMENTS

JOHN LANGS

Review of intended appointment, selected by third party: John Langs, intended appointee as member, Central Local Health Integration Network.

The Chair (Mrs. Julia Munro): Our first interview is with Mr. John Langs, intended appointee as member, Central Local Health Integration Network. Please come forward.

Good morning and welcome to the committee. As you may know, we have 30 minutes set aside. You may choose to make a statement to begin with, and then we will divide the time subsequently for questions from committee members. So if you're ready?

Mr. John Langs: Thank you very much. I would like to make a very few brief remarks just to introduce myself.

Madam Chair, honourable members, thank you for the opportunity to meet with you today to review my proposed nomination. My name is John Langs. I'm a partner with Fraser Milner Casgrain, which is a large law firm across Canada. My area of practice is corporate law. I primarily focus on mergers and acquisitions. I've been with the firm for over 40 years, having started with the firm as a second-year law student.

As indicated in my resumé—and I believe you have copies—I served on the hospital board of North York General Hospital from 1995 to 2007, holding various positions with that corporation. I was chair of the govern-

ance committee, vice-chair of the board and secretary of the corporation. Prior to that service and my original introduction to North York, I was on the hospital foundation board and served as a member of their executive committee and its secretary.

North York General was my most recent and extensive experience in the health care sector, although a number of years ago I did serve on the board of what was C.M. Hincks. It's now Hincks-Dellcrest, which is a combination of residential and outpatient service for young people up to the age of 13 who have unfortunate problems, usually psychological ones.

As I say, I'm a lawyer. My practice is mergers and acquisitions and not health care. Through my contacts in hospital work, I have developed some expertise in health care but certainly not a lot. That is not my main focus. But my work in the medical area or in the hospital area has focused on governance, it has focused on leadership and it has focused on transformation, of which there was a tremendous amount from the time I first joined the board of North York General Hospital through the health restructuring commission and, later, the introduction of LHINs and the impact of that on North York General.

I do live in the catchment area and welcome the opportunity to make an additional contribution.

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

Ms. Lisa MacLeod: Good morning, Mr. Langs. How are you?

Mr. John Langs: I'm well, thank you.

Ms. Lisa MacLeod: That's great. Just a couple of quick questions with relation to your LHIN. It is the fastest-growing LHIN in all of Ontario, and I'm wondering how you feel you'd be best able to suit that fast growth. The numbers that I've got: It will grow by 119%—that will be for all LHINs in Ontario; the rest of Ontario will have grown by 72%, but this LHIN that you're going to be working on will have grown by 129% by 2031. That's quite a handful, because you're going to be dealing with high birth rates. Also, you're going to be dealing with a lot of issues with respect to the other end of the spectrum, with the aged. I'm just wondering what skills you bring and how you think that you and your team can best work toward dealing with these growth issues.

Mr. John Langs: I think you're absolutely right. From what I have read about the LHIN—and I have only

read material on the Web pages; I did attend one retreat that they held—it is the fastest growing. It is that whole corridor moving north of Toronto, the population concentration. At the Toronto end of the geography it is, I believe, one of the fastest-aging populations. As you go north, you're into the new communities. We've seen tremendous growth in the Alliston area with the plants.

I think it faces challenges, quite frankly, like every other LHIN. How can I help? I think my experience will focus on organizational structure, governance, assisting to put in place the right approach to governance that can reach down and really help the organization—not to get into the details of how each hospital works, how each CCAC will work, but rather put in place an organization responsive to the needs of that community.

Again, I think all the LHINs are going to face challenges. They're going to be different challenges. This particular one will have the challenges that you've identified, but at the same time I think breaking regions down gets closer to the clients and the patients and hopefully will serve them better.

Ms. Lisa MacLeod: Do you think that your work with the North York General Hospital Foundation and the hospital will be good in terms of training and experience for this new role?

Mr. John Langs: I think we saw exactly the same type of thing in the years that I was at North York in terms of growth and aging population. It was very reflective of that. When I first joined the board, it was only about 30 years old, 25 years old. It was the original hospital site. Since that time, it has doubled in size. It's the busiest emergency room in Ontario, if not Canada. It is developing programs for seniors and aging. As I say, it doubled its size about five years ago; it has added a facility at Branson. So it has seen growth, and I think what we saw on the board there will be the types of challenges that we will see in the LHIN area.

Ms. Lisa MacLeod: Very well. I congratulate you, and the official opposition will be supporting your appointment.

Mr. John Langs: I appreciate that. Thank you.

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

Ms. Cheri DiNovo: Welcome, Mr. Langs. Thank you for coming here and thank you for the erudition that you've already expressed and your knowledge of the area.

A couple of concerns that we, as New Democrats, have: Number one is about the accountability of the LHINs. There was a concern raised when the LHINs were first introduced that in fact if you had a problem with a decision made by the LHINs, you couldn't, as under the old system, go to your MPP or to your Minister of Health, but somehow you had to go through the LHINs, and that process was murky. I was wondering how you would answer those concerns.

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Mr. John Langs: I would hope it would not be murky. I would hope that the LHINs would be re-

sponsible, responsive and accountable, being more directly associated with the community in which they're serving. I would hope that was one of the intentions.

As somebody who was participating in the system over the years, I think our health care system, for some of the reasons that you cited—going to MPs, going directly to the government, going and making special pleas—contributed to a system that basically was perceived as unfair, and that was all parties, not any particular party. Funds were directed often in response to an immediate issue so that somebody who had influence could get funds. I always felt sorry for the Ministry of Health because they would set up their budget—they've got a huge budget—and try to live within it, and I think they were constantly badgered with, "Well, that's fine, but this hospital needs \$2 million; give it to them." If you have everybody making those requests, it certainly starts to tear apart your budget.

I would hope that people will be responsive, will be more in touch with their community and, quite frankly, perhaps a little more removed from third party pressures.

Ms. Cheri DiNovo: As you're probably aware, New Democrats are all about medicare, and we have been since the days of Tommy Douglas, and all about public accessibility to health care. I would be interested in what you think about the move of the McGuinty government to increasingly build public-private partnerships around hospitals, if you could just comment generally about that.

Mr. John Langs: First of all, I think all Canadians, not just the NDP, think medicare is now part of our way of life and what we expect. I think we've all benefited from it, and I think the country as a whole has.

Public-private partnerships, in my view, are simply means of financing capital construction. They are not the medical care in a particular facility. The delivery of service is done by the professionals. We're not creating HMOs as you would have in the States. I think it's a matter of financing.

Is it the best way to finance? I'd have to defer to people in finance on that. It certainly means that the government has to put up less money on day one, but really all you're doing is providing financing for the facilities and the infrastructure that in reality I think our province needs, both in health care and in other services.

Ms. Cheri DiNovo: Certainly, with your background and as someone who's expert at mergers and acquisitions, you would be the first to know corporations usually invest in something if they're hoping to make a profit. The question is, where does that profit come from when it comes to public health care? We've seen with Brampton and other hospitals cost overruns with corporations involved. Of course, the fear of the public, and I'd like to hear from you whether you think it's justifiable or not, is that that profit comes out of the actual delivery of quality health care. Could you comment on that?

Mr. John Langs: I don't know enough about the Brampton situation to comment on it. It's certainly been in the paper, and there are a lot of issues out there. My own sense from reading the paper is the issues do not

arise because it's a public-private partnership that put up the structure.

My understanding is that they're having tremendous difficulty recruiting staff and doctors to the facility and operating it. Not just that hospital but our whole province is short of health care workers, and the reality is if a place is having difficulty, it's hard to recruit to a place like that. That just compounds the issue. It spirals down. I contrast it with hospitals that are doing very well, and if there's good morale in the hospital, people want to work at that facility.

My sense, and this is just from the papers, is that Brampton is off to a rocky start, but its issues surround how it delivers its services. I don't think it's cost overruns. They may be; I haven't looked at the numbers. There may be cost overruns. What often happens in projects is that they take a long time to come to the table, and people go on expectations that maybe can't be delivered over time, but I don't know that for sure. Brampton could just be a case of not being well managed financially.

Ms. Cheri DiNovo: Okay. Thank you, Mr. Langs.

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

Mrs. Liz Sandals: Thank you for appearing before us, Mr. Langs. I think that with your experience with legal issues and your experience with the hospital boards, you'll be a great asset to the board of the local LHIN.

The Chair (Mrs. Julia Munro): Thank you very much. That concludes the questions from the committee members. We certainly appreciate your making time to be here with us today.

Mr. John Langs: Thank you for your time.

ALISON RENTON

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

The Chair (Mrs. Julia Munro): Our next intended appointee is Alison Renton. This is the intended appointee as member and vice-chair, Humans Rights Tribunal of Ontario. Good morning, Ms. Renton, and welcome to the committee. Do make yourself comfortable there. As you may have observed, we have set aside 30 minutes, during which time you may wish to make a statement to the committee, and then we will have questions in rotation around the table. Please begin when you're ready.

Ms. Alison Renton: Good morning, ladies and gentlemen and Madam Chair. Thank you for the opportunity to speak with you today about my background and interest in being appointed as a full-time vice-chair of the Human Rights Tribunal. It is an honour to be considered for this position, and I am pleased to be able to speak with you this morning.

I was born in Mississauga, but as a child moved to different locations across Ontario as my father relocated

our family because of his work. I have an honours bachelor of arts degree from Queen's University, with a major in English that I received in 1987, and a law degree from the University of Windsor that I received in 1991. I was called to the Ontario bar in 1993. I am married and have two girls ages five and eight and live in Oakville. I have 17 years of experience in labour and employment law as well as work experience in this area that predates my articles.

I was fortunate, initially as a high school student and then as a university student, to obtain summer employment with Ontario Hydro at its Pickering nuclear station while it was being constructed. After several summers working in other departments, I was placed in the personnel department and worked there for three summers. During my last summer at Ontario Hydro, and prior to entering my last year of law school, I worked at Hydro's head office in its construction labour relations department. That summer of 1990 I saw collective bargaining in action, as I participated in 13 sets of collective bargaining negotiations with trade unions.

I also remember attending my first arbitration hearing which, interestingly, since I'm being considered for a position with the Ontario Human Rights Tribunal, addressed whether or not an accommodation program that a disabled employee had been working in was covered by a collective agreement.

My work experiences at Ontario Hydro sparked my interest in human resources law, and I decided to pursue a legal career in this area. When applying for articling positions, I decided to focus my attention on labour and employment law firms and secured articles at Hicks Morley, a management labour and employment law firm located in Toronto. I have worked exclusively in the area of labour and employment law since then.

After being called to the bar, I worked with Stringer Brisbin Humphrey, a management labour and employment law firm, for approximately a year and a half, and then at Howard Levitt & Associates, another labour and employment law firm, for three years. In 1997, I left private practice and became a labour and employment lawyer with the LCBO, an agency of the Ontario government, a position that I hold to date.

Having practised exclusively in the area of labour and employment law, I have provided advice, written opinions, conducted presentations, drafted pleadings, policies and communications and attended hearings on a myriad of issues pertaining to employees. Since my articles commenced in 1991, the area of human rights law has grown significantly and it is an area of the law on which I frequently provide advice, particularly in the area of accommodation in employment.

The LCBO, as a retailer, is a service provider for whom the Human Rights Code applies. Further, most of the LCBO's employees are unionized and represented by OPSEU. As bargaining unit employees, they can raise human rights issues pertaining to employment pursuant to the Human Rights Code or the collective agreement between the LCBO and OPSEU. That collective agree-

ment protects against harassment and discrimination on the same enumerated grounds as the code, and if a unionized employee files a grievance which proceeds to arbitration, the arbitrator has the jurisdiction to interpret and apply employment-related statutes, which includes the Human Rights Code.

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I believe that people deserve to be treated with fairness, respect and dignity, and in compliance with the laws of Ontario and Canada. I take my responsibility as a lawyer working for a large public sector organization very seriously, and I work hard to ensure that these principles are met in my practice.

I have appeared as an advocate hundreds of times before the courts and various administrative tribunals, including the Ontario Labour Relations Board, the Workplace Safety and Insurance Appeals Tribunal, and arbitrators. Many times the nature of the dispute is about harassment or discrimination in employment. In my position with the LCBO, the administrative tribunal that I have appeared before most frequently is the Grievance Settlement Board, an adjudicative tribunal created by statute to hear and determine grievances filed by bargaining unit employees employed by the Ontario government or its agencies, such as the LCBO.

As I've worked at the LCBO now more than 10 years, most of my career I have appeared before administrative tribunals representing employers. However, during my three years of working with Howard Levitt and Associates, I represented employees, from junior office workers to senior managers, on employment law issues, and frequently attended before the courts or administrative tribunals on their matters. I have experienced difficult legal issues, difficult clients, difficult opposing counsel and difficult witnesses, and feel comfortable providing advice to individuals and companies.

Of the numerous cases that I have handled, many have been resolved. I have resolved cases by conducting behind-the-scenes negotiations with the other party before the hearing date, by attending before the Alternative Dispute Resolution Centre when I was in private practice, or by attending on the hearing date and resolving the issue with the assistance of an arbitrator or mediator.

I was on the LCBO's bargaining committee during its last round of collective bargaining in 2005 and saw firsthand how a large public sector organization conducts perhaps its most significant negotiations.

Over the years, I have represented my clients at formalized hearings with days and days of protracted litigation. My advocacy style has evolved during my practice from the traditional adversarial method by which evidence is presented through witness testimony, examinations-in-chief and cross-examinations to a style designed to avoid long, protracted and expensive litigation. Now I try to determine what evidence can be presented in a more expeditious and less adversarial manner while still representing my client's interests.

I saw the position of vice-chair with the tribunal advertised in the Ontario Reports in about March 2007

and applied for this position because it advances the principles of fairness, dignity, respect and legal compliance that I strongly hold. I am confident that my background will assist me in the role of vice-chair of the Human Rights Tribunal of Ontario and I look forward to the opportunity to fulfill this important position.

I am happy to answer any questions that you may have.

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

Ms. Cheri DiNovo: Thank you very much, Ms. Renton, for coming in. Could you perhaps talk about why we have a Human Rights Tribunal and why it's so important?

Ms. Alison Renton: The Human Rights Tribunal is established so that people in Ontario who feel that they have been harassed or discriminated in a variety of different areas in their life from either receiving or not receiving services or employment have an avenue to raise these issues.

Ms. Cheri DiNovo: I ask the question, obviously, because there has been, I think, a pointed attack on the work of human rights tribunals across this country, and particularly here. We in the New Democratic Party certainly uphold the work you do, and uphold your background too, for that matter; it has been an excellent one.

One of the questions, of course, that comes at human rights tribunals is, why can't people just seek some solution through the normal court process if a law has been transgressed? How would you respond to someone who would say something like that?

Ms. Alison Renton: I think the Human Rights Tribunal has been established so that it is an expeditious and more cost-effective way for people to pursue their complaints and their views of being harassed and discriminated in a variety of services. It's designed to be expeditious and to be really user-friendly to the people of Ontario.

Ms. Cheri DiNovo: Who might not—

Ms. Alison Renton: Right—and also to appear before people who have specialized knowledge in the area of human rights.

Ms. Cheri DiNovo: Thank you. We certainly will be supporting you.

Ms. Alison Renton: Thank you very much.

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

Mrs. Liz Sandals: I too would like to thank you for appearing. You certainly have a breadth of legal experience which I think will qualify you for your role on the Human Rights Tribunal. Thank you for appearing.

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

Mr. Randy Hillier: Thank you very much for being here. I've got a few questions from your previous answers.

The role of the Human Rights Tribunal: Of course, you mentioned that instead of our regular court system, it was developed to be an expeditious vehicle to deal with human rights complaints. Clearly it hasn't turned out to

be very expeditious, because we're hiring a whole lot more people for human rights tribunals because of the backlog. I believe that backlog is there because of, as you used the term, the growth in human rights law, where it has been a very expanding law and getting more unwieldy.

Do you think that is the proper place, not the court system, seeing that it is not expeditious? In many cases, it's slower than our courts, which is pretty unbelievable. Do you not believe that if timing and efficiency were available in our courts, human rights ought better to be dealt with in our courts?

Ms. Alison Renton: Well, I think that's difficult for me to answer, because it's clearly the decision of the Legislature to determine where people are going to have access to these concerns. They have determined that it's not going to be through the court system; it's going to be through the tribunal. It set up the new tribunal to provide access to people who have complaints in the areas that are defined under the Human Rights Code.

Mr. Randy Hillier: Part of the growth in the human rights tribunals and in human rights law has been—in one of your answers, you talked about discrimination, mostly for law and employment law, and that is certainly a significant component of it, but we've seen the growth of human rights tribunals and commissions delving into thoughts and conscience. I'd like to get your views on the Human Rights Tribunal's role when it comes to determining or adjudicating the validity of one person's thought.

Ms. Alison Renton: Again, I think that's a difficult question to answer in the abstract. The role of adjudicator is to determine the issues and the facts that are before you, so that's what I would be doing in my role as adjudicator.

Mr. Randy Hillier: Still, we have to speak in the abstract here; surely we don't have the time to deal with the details of any specific case. But there have been lots of cases, and I'm sure you're aware of a number of them, before human rights tribunals across the country where we've expanded beyond a tangible discrimination for an apartment or for employment in ruling on the validity of a person's opinion.

Today, we're hearing your opinions, we're hearing my opinions and other people's opinions. Do you think that the Human Rights Tribunal or any tribunal should be ruling on the validity of another person's thought?

Ms. Alison Renton: I think that, in my role of adjudicator, my role and my mandate is to interpret the cases before me based upon the legislation that is drafted. So if the legislation were changed to address the areas that you're identifying, then that would be part of my role as an adjudicator.

Mr. Randy Hillier: Okay. Those will be all of my questions, thanks.

The Chair (Mrs. Julia Munro): Thank you very much. We certainly appreciate your being here today at the committee.

Ms. Alison Renton: Thank you very much.

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MICHELLE FLAHERTY

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

The Chair (Mrs. Julia Munro): Our next intended appointee, also as member and vice-chair of the Human Rights Tribunal of Ontario, is Michelle Flaherty. Good morning and welcome to the committee.

Ms. Michelle Flaherty: Good morning. Thank you.

The Chair (Mrs. Julia Munro): As you will have observed, you have the opportunity to make some comments yourself and then we will go in rotation amongst the members of the committee. Whenever you're comfortable, please begin.

Ms. Michelle Flaherty: I will be making an opening statement.

Thank you very much for inviting me to appear before the committee today. It's a great honour for me to be considered for a position on the Human Rights Tribunal.

Je vais prendre quelques moments pour vous décrire un peu mes antécédents professionnels ainsi que personnels, pour ensuite faire le lien entre ceux-ci et les exigences du poste de vice-présidente.

Je suis originaire d'une communauté rurale dans l'est de l'Ontario. J'ai grandi et, en très grande partie, j'ai été éduquée en français en Ontario.

Ma mère est Franco-Ontarienne, mais comme vous pouvez peut-être le deviner à partir de mon nom de famille, mon père est d'origine irlandaise. Néanmoins, en famille, on mettait beaucoup d'importance sur le français et je me suis toujours considérée comme membre de la communauté franco-ontarienne.

J'ai reçu un baccalauréat en droit à l'Université d'Ottawa où j'ai fait mes études, en français, en common law. Depuis que je suis membre du barreau de l'Ontario, la pratique du droit en français a toujours été une composante importante de ma pratique.

Je m'intéresse aux droits de la personne depuis très longtemps. En fait, c'est ce domaine qui m'a attiré à la profession.

Après avoir complété mes études en droit, j'ai eu l'opportunité de faire un stage auprès d'une juge à la Cour suprême du Canada. En tant que stagiaire, j'ai pu observer de près le processus de l'adjudication et la prise de décisions juridiques. Donc, en tout début de carrière, j'ai compris l'importance d'évaluer les intérêts des parties, avec le but d'arriver à un résultat juste et équitable dans les circonstances.

When I began working as a lawyer, my practice initially focused on administrative and constitutional matters, but for the past six years or so I've worked more directly in the field of human rights law, particularly in the context of employment and workplace issues. I initially acted exclusively for applicants in unions. However, as legal counsel at the University of Ottawa, I've

more recently become involved in acting for respondents in human rights matters. Universities are in interesting situations in that they are landlords, employers and service providers, and so in that context I've had an opportunity to work across the areas that are covered by the Ontario Human Rights Code.

For the past several years, I've taught human rights law in French at the University of Ottawa. I've also taught a labour law class in English which has a significant human rights component. I've taught public law for the Law Society of Upper Canada's bar admissions program and I write part of the materials that are used for that program. I've spoken at a number of conferences about administrative law and workplace issues, particularly human rights matters.

In addition to this, I've tried to make a contribution to my community as a lawyer by taking on pro bono cases, by teaching and mentoring young lawyers, and by being a member of the executive of a young lawyers' group in Ottawa. I've also volunteered with a number of community organizations. The University of Ottawa recently recognized my contributions and has inducted me into their common law honours society.

I'm extremely honoured to be here today and I would like to thank you for this opportunity. I'd be pleased to take your questions.

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

Mrs. Liz Sandals: Thank you very much for appearing today, and congratulations on the recent honour from the University of Ottawa.

Just to note: Two of our regular colleagues would want to say that we're very pleased that somebody with a francophone background will be available to hear cases in French. So thank you very much for appearing.

Ms. Michelle Flaherty: Thank you.

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

Mr. Randy Hillier: Thank you very much for being here. Just a few questions; I noticed you were here earlier, so you have seen some of my line of questioning. But on another subject that has been recently raised in the media and with human rights law is freedom of conscience. One example, of course, is with the College of Physicians and Surgeons of Ontario. I'm not sure if you're aware of that subject that's in the media right at the moment, of compelling physicians to do actions even if it is against their beliefs?

Ms. Michelle Flaherty: I've seen some of the media reports on that, yes.

Mr. Randy Hillier: I just want to get your thought about human rights law. Typically, I view law and I think a lot of people view law as a vehicle or means to prevent an injustice from happening, to prevent an action from taking place. As human rights laws evolve, it appears that now we're getting into, not preventing people from doing something, but compelling people to do things. I just wonder what your view is on that change in our legal and human rights laws.

Ms. Michelle Flaherty: I'm not sure if I'd agree that there has been a change that has taken place. As an

adjudicator, when I look at the statute that I may be called upon to apply, I'm not certain that I would agree that it's preventive. I think it's a remedial statute, so that people who feel that their rights have been violated have a right to come before the tribunal, present evidence, make argument and attempt to prove that there has been discrimination in their case. So I don't see the statute as either preventing or compelling any particular action, but more as providing recourse for people who feel that they've been mistreated.

Mr. Randy Hillier: In this case that I'm referring to with the college, it would be compelling people to provide services that are against their fundamental beliefs, such as abortion or medication, whatever. It could be a number of different circumstances. That is again not, as you stated earlier, where there should be a remedial process if there has been an untoward action taken and then some remedy to address. But we're moving into a new facet, I think, where we are now compelling somebody to do something or possibly compelling people to do things that are contrary to their faith and their beliefs. Do you think that is in the spirit of human rights law?

Ms. Michelle Flaherty: I should say, to start off with, that I'm somewhat familiar with the media reports that have come out, but I'm not particularly familiar with the crux of the issue that you're mentioning. So it's difficult for me to speak to something without having the full context and a full panoply of evidence. As an adjudicator, I think my role would be to consider fully the evidence and the submissions of all the parties that might come before me and to not draw a conclusion until I've had an opportunity to give it the weight it deserves.

Mr. Randy Hillier: Again, I think your role will be as an adjudicator and it appears, through this whole process of appointing quite a significant number of new adjudicators, we've often heard the term "advocacy," and we've seen people who have a history of advocacy being appointed to the Human Rights Tribunal. Of course, as an adjudicator, it's very important to be unbiased or to have as few biases as possible, not that there are any. You have substantial experience in employment law, labour law. What's your sense of duty to accommodate, for example? How far should we go with duty to accommodate, because there is usually a cost attached to it? In these economic times, I'm just wondering what your thought is. How far should we go with duty to accommodate? If it puts a business in jeopardy, the duty to accommodate, is it still acceptable to go that far?

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Ms. Michelle Flaherty: I think you're raising two questions. The first is about impartiality and bias. I imagine that a number of people who have come before you as intended appointees for this tribunal have advocacy experience, and I think advocacy experience is perhaps part of the package for what is desirable in an adjudicator. It's what helps us evaluate cases, having been in the position of people who are presenting cases. But in my own view, having advocated for one party or the

other doesn't necessarily make someone biased or impartial. In my case, I've had the opportunity to advocate for both sides of the coin. I've acted for a respondent and I've also acted for complainants and applicants. So I think that enhances, as an adjudicator, someone's ability to see both sides of the coin.

Moving from that to your question about the duty to accommodate, the question you pose is one that the courts have wrestled with for a number of years and, again, is a contextual one. It will vary on a number of factors. Certainly, factors such as the viability of a business, were it required to implement a particular form of accommodation, would be an important consideration. But again, it's difficult to speak to that in a void. I appreciate your concerns about the scope of the duty to accommodate, and it's something that I think as an adjudicator I too will wrestle with.

Mr. Randy Hillier: Thank you. Those are all my questions.

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

Ms. Cheri DiNovo: We in the New Democratic Party think you're a wonderful applicant and we'll certainly be supporting you. We think the work of the Human Rights Tribunal is excellent work and needs to be done.

My question is really just one of interest. What we're concerned about is more access to your services on the Human Rights Tribunal. A number of people who probably should be complainants don't get to be complainants. How would you improve access?

Ms. Michelle Flaherty: With respect, I'm not sure that I have a role in the administration of the tribunal, so I think a lot of those issues will be addressed by the administrators. As an adjudicator, I would strive to be accessible to the parties to make the process accessible to them, to explain it to them clearly and concisely in a way that they can understand it when they're presenting matters before me. Of course, I'd do my best to make proper use of adjudicative resources to ensure that we can expedite matters where that's appropriate.

Ms. Cheri DiNovo: You're obviously aware of the sustained attack upon the work that you do across the country, and I just wanted to assure you that we New Democrats are absolutely stalwart in defence of what you do. So if there's anything that we can do to help, let us know.

Ms. Michelle Flaherty: Thank you. I'm very grateful.

The Chair (Mrs. Julia Munro): Thank you very much, and that concludes the questions. We appreciate very much your taking the time to be here with us today.

Committee, we will now move on to concurrences. Our first, then, will be to consider the intended appointment of John Langs, intended appointee as member, Central Local Health Integration Network. Ms. Sandals.

Mrs. Liz Sandals: I move concurrence in the appointment of John Langs as member of the Central Local Health Integration Network.

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

We will now consider the intended appointment of Alison Renton, intended appointee as member and vice-chair of the Human Rights Tribunal of Ontario. Ms. Sandals.

Mrs. Liz Sandals: I move concurrence in the appointment of Alison Renton as member and vice-chair of the Human Rights Tribunal of Ontario.

Mr. Randy Hillier: Madam Chair, could I ask for a deferred vote?

The Chair (Mrs. Julia Munro): We've been asked for a deferral and so we will move—

Mr. Michael A. Brown: Can we have a roll call vote on it at the time of the deferral?

The Chair (Mrs. Julia Munro): Oh, at the time of the deferral. Certainly, and I will entertain that instruction at that time.

Mr. Michael A. Brown: Okay, fine; thanks.

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

Our third intended appointment: Michelle Flaherty, intended appointee as member and vice-chair, Human Rights Tribunal of Ontario. Ms. Sandals.

Mrs. Liz Sandals: I move concurrence in the appointment of Michelle Flaherty as member and vice-chair of the Human Rights Tribunal of Ontario.

Mr. Randy Hillier: Madam Chair, I'd like to ask for a deferral, please.

The Chair (Mrs. Julia Munro): All right, we have a second deferral. So I believe that concludes—

Mrs. Liz Sandals: Just as a point of clarification, Madam Chair, the votes will be held at next week's meeting?

The Chair (Mrs. Julia Munro): Indeed. That concludes our business on intended appointments, and I would just remind the committee that next week's time is 9:30.

This committee will stand adjourned until 9:30 on Tuesday, September 30, in room 228 to consider intended appointments and, obviously, the deferred votes.

The committee adjourned at 0945.

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