



ISSN 1180-4335

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 21 April 2004

**Journal
des débats
(Hansard)**

Mercredi 21 avril 2004

**Standing committee on
government agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Lorenzo Berardinetti
Clerk: Anne Stokes

Président : Lorenzo Berardinetti
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Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 21 April 2004

Mercredi 21 avril 2004

The committee met at 1004 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr Lorenzo Berardinetti): Good morning, everybody. Our first order of business is the report of the subcommittee on committee business, dated Thursday, April 15, 2004. Is there a member to move adoption of that report?

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): OK.

The Chair: Mr Tascona has moved adoption. Any discussion? None? All in favour? Opposed? The motion is carried.

We'll now move to the appointments review.

Mr Tascona: I have two matters I want to raise.

The Chair: On a point of order?

Mr Tascona: That's correct, as a point of order for the committee.

A couple of weeks ago we reviewed Dan Burns as chair of Ontario Realty Corp, and I just want to go back to whoever is doing the biographies with respect to the Public Appointments Secretariat. Looking at his bio, Mr Burns was described as a retired civil servant, and about a week later, on April 12, in the Toronto Star it's reported that Mr Burns, "a former high-ranking provincial civil servant who served as deputy minister in several ministries," is a consultant to a developer involving Geranium Corp. I just want to point out that in future the biographies should be reflective of what the individual is actually doing.

This was reported in the Toronto Star on April 12, and he was reported as being a consultant for Geranium. That would be something we obviously would have wanted to question him on, in terms of background. So the background checks should be a little more thorough, especially if we're finding out in the paper, with respect to Daniel Burns, what his background is. It certainly wasn't in his bio that was presented to us as a committee, and further information was reported in the paper. I think that's something that would have been very relevant, since he was up for chair of the Ontario Realty Corp and in fact was active as a consultant in the development business—I don't know whether he still is. I want to raise that for the committee, because it makes our job a little easier in terms of doing things.

The second point I want to raise is with respect to the subcommittee. We got the orders in council last Friday with respect to the McMichael Canadian Art Collection and the chairs. A person by the name of Noreen Taylor is on for selection, and we have until tomorrow at 5 pm to make our choices.

Well, it's reported in a press release and also in the April 17 Globe and Mail that she has been named chair. That pre-empts our duties as a committee here. She hasn't been named chair; she hasn't even been selected. We have until tomorrow at 5 pm to select whom we want to interview, and it's reported in the paper that in a press release from the government she has been named the chair. I think that's improper, because it's really usurping our role as a committee and breaching our privilege as members and also as a committee.

So I want to raise, with respect to individuals who are put forth, that certainly until the subcommittee makes a decision as to who is going to be selected, they are certainly not named. There is a process of how they become members, but being named in the paper certainly isn't one. I want to raise that, because it's something that usurps the role of this committee in terms of how we can effectively operate—reading in the paper about people we haven't even chosen to be interviewed as being already named to, in this case, the McMichael art gallery.

I just want to raise those two points, and it's something I want the clerk to look into so that we can do our job better here.

The Chair: Thank you, Mr Tascona.

1010

INTENDED APPOINTMENTS

MICHAEL POWER

Review of intended appointment, selected by third party: Michael Power, intended appointee as member, Ontario Municipal Employees Retirement Board.

The Chair: We will now move to the appointments review. Our first interview is with Michael Power. Mr Power, you may come forward.

As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. At our last appointment review, we started the questioning with the Conservative Party. We will commence the questioning today with the NDP

party. Each party will have 10 minutes allocated for questions, and we will go in rotation. As is also the practice of this committee, any time you take in your statement will be deducted from the time allotted to the government party. Welcome.

Mr Michael Power: Thank you very much, Mr Chairman and members of the committee. It's a pleasure to be with you today, and it's certainly a pleasure to appear as a potential appointee to the OMERS board.

I believe that I have many of the qualifications that would enable me to be an effective and participating member of the OMERS board. I am not an actuary. I am not a chartered accountant. I am neither a retired bank president nor a retired mutual fund manager. What I am is the sitting mayor of a municipality in northwestern Ontario. That municipality is Greenstone, 14 hours north of here on Yonge Street, so I always say that I live on Yonge Street north, because if you just take that little drive up Yonge Street, you'll come to me.

I have been a mayor for over 20 years, off and on. Like a lot of people who enter political life, you enter to do something and it catches up to you. You end up wanting to do more and more, and so your time ends up being a little longer than you anticipated in the beginning.

I served as president of the Association of Municipalities of Ontario for more than three years. The Association of Municipalities of Ontario contacted me, advised that there was a vacancy on the OMERS board and asked if I would be interested in applying for this appointment. After due consideration, I did decide to apply through the appointments secretariat, and I am supported by AMO in writing.

In all the years that I have been a mayor, it is only since the last municipal election that I have made contributions to the OMERS pension fund, because it's obligatory. I believe it is important, in terms of the board, as much as possible in today's world, to ensure the integrity and security of workers' pensions. They need to have assurance that when the time comes to retire, the plan they have paid into will provide an appropriate lifestyle at the end of their formal working career. The function of a board is to set the policies and guidelines that will allow this to happen, and we on the board also need to be mindful of the views of the members concerning the types of investments they would like to see.

Over the years, I have made contributions to all three major political parties in the province of Ontario. It is my view that a mayor must be on good terms with whoever is the government of the province. All orders of government need to work for the betterment of the citizens they collectively serve.

I look forward, Mr Chairman, to our dialogue this morning.

The Chair: We'll begin with questioning from the NDP party. Mr Prue has the floor.

Mr Michael Prue (Beaches-East York): Thank you, Mr Chair, but to have an "NDP party" is to have a New

Democratic Party party, and I don't see any streamers and things here.

The Chair: The party was last night on Yonge Street, for some people.

Mr Prue: All right.

The staff has done an excellent background report, Michael, and I've known you for years, so I know you can do this job. But the question I have, because I think this is going to become quite controversial within OMERS and many of the other public retirement plans, is, what's your take on OMERS getting into public-private partnerships?

I know, when I listen to my Conservative colleagues, that they're salivating at the thought that OMERS and all these teachers' pension plans and others will be going into the private market. I'd just like to know what you think about this.

Mr Power: Mr Prue, as you know, as a municipal mayor I'm not involved in deciding where our investments are made. I get advice from staff, council makes decisions and we move forward in that manner; and the same with the OMERS board, until I'm actually there, if the committee sees fit to appoint me. Then it's my job to get up to speed and learn what the board has already decided or what advice is being put before them in terms of investments, be it in funds or in public-private partnerships. Then together, the board has a responsibility to make decisions and provide the policy framework in which we'll operate.

Mr Prue: I'm trying to understand where you're coming from in terms of this. We have a quote here from Dale Richmond. You obviously know Dale? Yes. We all know Dale. According to this, "Mr Richmond suggests that OMERS would not participate in projects that had 'a significant impact on union jobs.'" That's where he's coming from. Where are you coming from?

Mr Power: I think Mr Richmond has made that statement presumably on behalf of the board. Normally with boards, the chair is charged with announcements to the press or giving interviews. Certainly, I would not want to see the unionized workforce adversely affected by investments that we make.

Mr Prue: That would be my question. Thank you.

The Chair: We'll move to the Liberal Party. Are there any questions? None? Then we'll move to the Progressive Conservative Party.

Ms Laurie Scott (Haliburton-Victoria-Brock): Thank you very much for coming today and appearing before us. I noticed in your resumé that you've had a long-standing involvement with the Liberal Party. I'm glad to hear you contributed to all the parties. Are you still a member of the Liberal Party?

Mr Power: No, I'm not.

Ms Scott: You said you heard about the appointment through AMO and then applied through the appointments secretariat.

Mr Power: That's true.

Ms Scott: As a current mayor, are you a member of OMERS?

Mr Power: I am since November, and I will tell you that I objected, because I didn't see the point, at my stage in life, of being part of OMERS, and I certainly didn't look to OMERS as providing any pension. As you're well aware, political life is at best sometimes fleeting, certainly at the municipal level.

Ms Monique M. Smith (Nipissing): Don't get discouraged. You always try to have a backup profession.

Mr Power: As your predecessor Chris, a close friend of mine, knows, you would never anticipate that you could bank your future on either the ongoing salary or the pension at the end of it. So I did, and after I objected I was told, "Your Worship, you have to. That is the rule." Well, fine. I'll bend to it.

Ms Scott: OK. Thank you for that political advice.

Do you see a conflict then, being a contributor to OMERS and being on the board?

Mr Power: No, I don't. I think that what I can bring to it is no different from anybody else. There are other employee members of the board, and there's a member from the retired group. Of course, all of us, I think, who are appointed are interested in ensuring that the fund is run appropriately so that we can guarantee workers that their pensions are there when they need them. One person cannot influence anything to favour themselves.

1020

Ms Scott: There has been a lot in the papers about OMERS and the administrators: 327,000 current and former employees with the Ontario municipalities, school boards, libraries and other boards; third-largest pension plan in Canada, administering over \$30 million in assets. It's great to be on this committee; you find out more about these boards.

Do you have a financial background that will help you guide the board in their financial decisions? Do you have much of a financial background?

Mr Power: As I said up front, I'm not an actuary. I don't come from a mutual fund or a bank, and perhaps that's a good thing. I know it's not in vogue to use these words today, but bringing good common sense to a board is quite often the best thing to do. It's been my experience in the municipal field that you are exposed to a wide range of issues and concepts that you need to get up to speed on and that you need to deal with. I think that what I bring to the board is my experience dealing with councils and dealing with a wide range of people.

As you know from my resumé, I have been involved in arbitration and dispute resolution. I do labour negotiations. So I think I've shown over the years that I'm able to learn, I'm able to move forward and make decisions in a collegial manner, and I think that is crucial in terms of a board.

The Chair: Further questions?

Mr Tascona: Are you familiar with the Windsor ratepayers' group that has called for a public inquiry into the government's practices at OMERS?

Mr Power: No, I'm not. I guess if I were to add it up, I'm about 20 hours from Windsor. Neither the Globe and Mail nor the Toronto Star reaches my area—nor the

Windsor Star. So I'm not the least bit knowledgeable. It's something I would have to become knowledgeable about if I were appointed by this committee.

Mr Tascona: What information have you been given with respect to your role as a part-time board member?

Mr Power: Not a great deal. It is my view that it is the function of the board not to be involved in the day-to-day administration of an organization—that's why you have staff. Certainly it's my job to thoroughly look at materials that are put before the board, that are brought to us for our decision-making processes. But in terms of the Windsor-Detroit tunnel—I think Canadian Pacific Railway is involved in that—I honestly don't know. It's not something I needed to know. If I am confirmed, I'll need to know and I'll have to find out.

Mr Tascona: Yes, because in this day and age the government's role, to me, with respect to running a pension plan is critical, especially in the municipal sector and this size of fund. You have staff who have been assigned to do a job. But you, as a board member, have a public duty, a trust, to the members, of which you also are one, so I think you'd take that seriously. But in terms of a governance role, not only having an opinion on where they're investing or whether they're properly investing, and in terms of whether there's a proper return, do you not think that, as a board member, you have a duty to the public to make sure they're doing proper investments for the members and certainly that they're getting value for money?

Mr Power: I think I said right up front that I believe it is the function of the board to ensure that the fund is managed, as much as you can do so in today's world, in a manner that we're able to guarantee our members that their pension will be there. Input from the members would have quite a lot of direction on board decisions, in terms of the kinds of investments that are made. For one reason or another, the members may prefer not to invest in a certain area as opposed to another area. I did read that the fund has made some shifts away from the stock market and into the realty area. But honestly, I haven't followed it closely, and it's something I have to get up to speed on.

Mr Tascona: I'm not asking you how they are doing their job at the moment, because you're not there. What I'm asking—and I think Mr Prue was putting that to you—is, do you share the opinion, which I think is out there today, that a board member shouldn't just be a rubber stamp of what's happening at the management level? You're there to do a duty to the public, to make sure that this trust you've been given—which you have been given, because you're obviously up for appointment—is to do more than just rubber-stamp things.

Mr Power: I apologize if I gave you the impression that I felt a board just rubber-stamped. Staff provide information and advice. The board makes the decision. So you have to do your due diligence as a board member. You have to read everything you are provided and you have to ask the appropriate questions on whatever issue it may be that's coming before you. You have to be

prepared to do the work to decide in your humble opinion what the best area is that we should be moving into. Certainly you're not a rubber stamp. It's no different than a council or a Legislature; they're not rubber stamps. They take advice, they consider it, they do due diligence and then they make a decision. That's the same function with a board, because you do have as a board member a very heavy responsibility to ensure that the decisions that are made are appropriate decisions.

Mr Tascona: Do you feel you're qualified to protect that public trust?

Mr Power: Most definitely.

The Chair: That concludes the questions. Thank you very much, Mr Power. You may now step down.

BRIAN BROWN

Review of intended appointment, selected by official opposition party and third party: Brian Brown, intended appointee as member, Social Benefits Tribunal.

The Chair: Our second interview today is with Brian Brown.

Mr Brown, you may come forward. As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there will be questions from members of the committee. Each party will have 10 minutes allocated for questions, and we will go in rotation. Any time that you take in your statement will be deducted from the time allocated to the government party. Good morning, and welcome.

Mr Brian Brown: Mr Chair and members of the committee, thank you for the opportunity to appear before you today and for playing an important role in my application to become a member of the Social Benefits Tribunal.

I'd like to use my opening statement time to, first, provide insights into my experience and, second, explain why I believe I can make a contribution to the tribunal.

The government Web site notes that some of the key skills required of an appointee include speaking and writing skills; analytical ability, judgment and tact; capability of interpreting legislation fairly and accurately; experience at conducting hearings efficiently and inclusively; and administrative and organizing ability.

As a speaker, I have appeared on provincial and local media and delivered speeches at town-hall-style meetings and service clubs, most recently on behalf of the United Way of Oxford, where I am the campaign co-chair, and the Oxford Women's Emergency Centre, where I am a board member.

As a writer, I am a guest columnist. I write all of my own speeches to service clubs and I publish a newsletter. During my career as an English teacher, I had the pleasure of teaching hundreds of students how to write thoroughly researched, cogent term papers, and I wrote extensive curriculum documents.

Analytical ability, tact and judgment are all important attributes for an effective member of the tribunal. I see myself as a problem-solver who specializes in proactive,

positive analysis as opposed to crisis management. At the same time, I remain calm and poised during dispute, look to hear all sides of an issue in order to defuse conflict and find fitting, non-judgmental solutions. In my mid-campaign analysis at the United Way of Oxford, for example—and that's something we do every year—I make use of SWOT analysis, where we look at strengths, weaknesses, opportunities and threats, and I make use of a proactive leadership style and team dynamics as part of our local United Way philosophy of continuous improvement.

A successful applicant must also be capable of interpreting legislation fairly and accurately. I am familiar, and comfortable, with the language of government and legislation. I read quickly and I have a high level of comprehension. I am computer literate. At the same time, I am not afraid to ask for help with particularly difficult language.

1030

Your appointee should be experienced at conducting hearings fairly and accurately. While I do not have legal or arbitration training, I do have a lifetime of experience of conducting meetings and informal hearings, and a reputation for conducting those meetings fairly and efficiently. I have served as host and moderator at a wide variety of functions from over 1,000 participants to less than five. On each occasion I believe I acted with fairness, always respecting the dignity of the participants.

Administrative and organizational abilities are key, as a tribunal member often conducts single-member panels. I do have a record of successful administration in my professional life, business life and volunteer life.

The second insight I wish to provide, and it may be the more important of the two, is to explain why I believe I can make a contribution to the Social Benefits Tribunal. I am seeking to give back to my community and to my province. As you know, I was a candidate in the election last fall and in 1999. Those were two attempts to serve my community. Unsuccessful as a candidate, I decided on this process. You may have noticed on my resumé that I am involved in the United Way of Oxford, the Mayor's Youth Task Force, the Canadian Mental Health Association and the women's emergency centre. Also, I volunteer at Operation Sharing. That's Woodstock's food bank and it's also the Ontario Works community workfare provider.

As a result, I have close contact with Ontario disability support program clients who have physical or mental disabilities, or both, and with Ontario Works clients who struggle to pay for rent, groceries and other necessities in tough circumstances. Their lives are difficult. Some are not capable of working or even seeking employment. Most, however, seek the dignity of a steady job. One of their last pillars of support comes from the Social Benefits Tribunal. If appointed, I would seek to provide a fair hearing for those persons who appeal to the tribunal and to provide respect for them as fellow human beings.

In summary, I feel confident that the demands placed on a member of the Social Benefits Tribunal are within

my skill set, and that I can make a positive contribution to the work of the tribunal. I thank you for the opportunity to speak with you this morning and look forward to your questions.

The Chair: We'll begin the questioning with the government party. Are there any questions?

Ms Smith: Thank you for coming, Mr Brown. We appreciate it. Can you tell us what attracted you to this particular tribunal?

Mr Brian Brown: Yes, I can. I think it's got a lot to do, Ms Smith, with my work at Operation Sharing at the United Way of Oxford. Through our 17 member agencies at the United Way, for example, I've had an opportunity to meet with people who provide and receive services through Ontario Works and through the Ontario disability support program. I thought, "There's an area where I could make a contribution."

The Chair: We'll move on to the Progressive Conservative Party.

Mr Tascona: Thank you for attending here today. We got a copy of your resumé that you provided. I just want to note your work experience. It says you're a co-owner of Laurel and Brian's Wilderness Adventures.

Mr Brian Brown: Yes.

Mr Tascona: You're still an owner of that?

Mr Brian Brown: I am.

Mr Tascona: I'm curious. What does that involve?

Mr Brian Brown: Laurel is my wife and—with Laurel's permission—Laurel and I work together on wilderness canoe trips and whitewater canoe trips through northern Ontario, central Ontario, Quebec and British Columbia. Basically, what we do is we meet a group of clients, usually 14 in number, in their homes, analyze their needs and plan a trip that will meet those needs, usually of a week to 10 days in length.

Mr Tascona: You did admit earlier that your related experience on your resumé—you ran as the Oxford provincial Liberal candidate in 1999 and 2003. Is that correct?

Mr Brian Brown: I did.

Mr Tascona: And in your references, you show the Honourable Chris Bentley, Minister of Labour, as a reference?

Mr Brian Brown: Yes.

Mr Tascona: What's your relationship to him?

Mr Brian Brown: We're friends. We have a relationship based on friendship and also a professional relationship in the sense that we ran together in the 2003 election. Chris represents London West, as you would know, and that's my home. I grew up in London West on Elworthy Avenue, about a block and a half from where Chris and his wife now reside, on Windsor.

Mr Tascona: So you've known him for quite a while.

Mr Brian Brown: Actually, I've known him well for about the past two years, and we've known of each other for periods before that.

Mr Tascona: How did you find out about the position?

Mr Brian Brown: I researched the government Web site. I took a look at what was available there, and I thought, might there be a fit between what I have to offer

in terms of my skill set and what might be on the government Web site in terms of an opportunity to serve?

Mr Tascona: What experience do you have that you think might serve you well in this position?

Mr Brian Brown: I think my people skills are key. People who know me would tell you that I'm respectful, attentive, fair-minded, and most important I think for this position, inclusive. I'm a very good listener in the sense that rather than make up my mind on the basis of hearing one side, I want to listen to all the facts that are out there before coming to a conclusion, which I hope will be non-judgmental and inclusive so that there's a win-win opportunity for any decision I have to make.

Mr Tascona: As you're aware, when people arrive before the tribunal, it's like a court of last resort.

Mr Brian Brown: Yes.

Mr Tascona: Do you have any legal training or arbitration experience?

Mr Brian Brown: I do not have legal training. I do not have arbitration experience. What I do have is a lifetime of conducting meetings fairly and inclusively: town hall style, municipal advisory committees, United Way allocations meetings, for example. I would look forward to the training that would be provided to a potential appointee over the six to eight weeks prior to taking on a position as tribunal member.

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

Ms Scott: How much training is involved? You said six to eight weeks prior?

Mr Brian Brown: I understand that it's six to eight weeks of training, yes.

Ms Scott: Do you know much more about the board? I'm sure you've done some research. You said you were on the Web site and found it.

Mr Brian Brown: I have a learning curve ahead of me and I welcome that challenge. I'm looking forward to learning all of the ins and outs of the tribunal.

Ms Scott: Do you know how much the appointment pays, the salary?

Mr Brian Brown: I do. It's \$68,800.

Ms Scott: What do you think are adequate social assistance rates for the moment? I know you were a Liberal candidate, so you're familiar with the policy. We haven't seen the increases that have been promised, but what do you feel—

Mr Brian Brown: Certainly, as Liberal candidate, I supported the Liberal position at the time. As a member of the Social Benefits Tribunal, if successful today, a quasi-judicial role, I mustn't be subject to government influence or interference, so it would be up to the people at this table, of course, along with the rest of the MPPs, to set policy and rates. It would be up to me, if successful as an appointee, to see that the legislation was applied fairly.

Ms Scott: You have background working with Ontario Works.

Mr Brian Brown: I do indeed.

Ms Scott: Do you feel there should be an increase? You've seen this front-line.

Mr Brian Brown: If you're asking for my personal opinion, I am concerned that the rates are inadequate, yes.

Ms Scott: Thank you.

The Chair: We'll move on to the New Democratic Party.

Mr Prue: Thank you for that last answer. I would have been really quite concerned if you thought the rates were adequate.

This is a tribunal and it's often called, in legal parlance, poor people's law, because the people who come before the tribunal are often unrepresented, are often marginally educated—not all of them but a fair number—and/or have English as a second language.

What would you do as a tribunal member to make sure they had a full opportunity to explain their cases even though they would probably come not as prepared as they should be?

Mr Brian Brown: It would be very important to put people at their ease as much as possible. My experience with persons who have gone before tribunals of this nature is that they are very much worried about the outcome. They're beyond their comfort zone. It would be important to establish a comfort level with people appearing before the tribunal.

One suggestion I've heard—and I'd like to know if this is possible or not—is to locate the tribunal venue in a place that has a comfort level for the people who appear before the tribunal, rather than a hotel that might be some distance away and cause people to have transportation difficulties in even getting there.

Mr Prue: I must say, I have never been before this particular one, but most tribunals have someone from the government, someone who represents the government position as to why they were refused in the first place. Say they were refused ODSP. That person's job obviously is to uphold the government's position, so sometimes

they do it with great vigour. I know that. I used to represent the Minister of Immigration, so I can do it with great vigour. What would you do to ensure that a person unrepresented was able to adequately counter the evidence and the submissions of the government representative?

Mr Brian Brown: Encourage the person to speak his or her case to the best of his or her ability, do my best to set that person at ease so that the evidence could be given and the case could be made, present myself as a person who listens very, very carefully to both sides—certainly to the government side and to the applicant's side—and then make a decision strictly according to the legislation.

Mr Prue: Thank you.

The Chair: Thank you very much, Mr Brown. You may now step down.

Mr Brian Brown: Thank you for the opportunity.

The Chair: We will now consider the intended appointment of Mr Power as member of the Ontario Municipal Employees Retirement Board. Is there a member to move concurrence?

Mr Ernie Parsons (Prince Edward-Hastings): I would move concurrence?

The Chair: Any discussion? If not, all those in favour? Opposed? That carries.

We will now move on to consider the intended appointment of Mr Brown as a member of the Social Benefits Tribunal. Is there a member to move concurrence?

Mr Parsons: I move concurrence.

The Chair: Thank you, Mr Parsons. Concurrence has been moved by Mr Parsons. Any discussion? If not, all those in favour? Opposed? That carries.

The only other matter I want to raise with the committee is that Mr Tascona's points will be brought forward, through a letter, from the committee clerk to the Public Appointments Secretariat.

The next meeting will be on April 28, 2004.

The committee adjourned at 1043.

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