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Assemblée législative  
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## **Official Report of Debates (Hansard)**

**Tuesday 18 October 2016**

## **Journal des débats (Hansard)**

**Mardi 18 octobre 2016**

**Standing Committee on  
Government Agencies**

Intended appointments

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues

Chair: Cristina Martins  
Clerk: Sylwia Przedziecki

Présidente : Cristina Martins  
Greffière : Sylwia Przedziecki

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 18 October 2016

Mardi 18 octobre 2016

*The committee met at 0901 in committee room 2.*

WITHDRAWAL OF INTENDED  
APPOINTMENTS

**The Vice-Chair (Ms. Daiene Vernile):** Good morning, everyone, and welcome to government agencies. The first order of business is that I would like to advise the committee that the nomination of the following intended appointee, who had been selected to appear before this committee, has been withdrawn: Guylaine Bourget, nominated as a member of the North East Local Health Integration Network. Ms. Bourget's nomination will therefore not be considered by this committee.

## SUBCOMMITTEE REPORTS

**The Vice-Chair (Ms. Daiene Vernile):** On to our next order of business: Before we begin our intended appointments review for today, we are going to consider business from our subcommittee.

The subcommittee report, which is dated October 6, 2016: Would someone please move adoption of the report? Yes, Mr. Pettapiece.

**Mr. Randy Pettapiece:** I move the adoption of the subcommittee report on intended appointments dated Thursday, October 6, 2016.

**The Vice-Chair (Ms. Daiene Vernile):** Is there any discussion on this? Are we all in favour? Opposed? The motion is carried.

Committee members, the subcommittee report that is dated October 13, 2016: Would someone please move adoption of this report? Mr. Gates.

**Mr. Wayne Gates:** I move the adoption of the subcommittee report on intended appointments dated Thursday, October 13, 2016.

**The Vice-Chair (Ms. Daiene Vernile):** Any discussion, members? All in favour? Opposed? The motion is carried.

## INTENDED APPOINTMENTS

## MR. RAYMOND HESSION

Review of intended appointment, selected by third party: Raymond Hession, intended appointee as member, Workplace Safety and Insurance Board.

**The Vice-Chair (Ms. Daiene Vernile):** We now move on to our intended appointments. I would like to ask Mr. Raymond Hession, nominated as member of the Workplace Safety and Insurance Board, to please come forward. Mr. Hession, please have a seat and make yourself comfortable.

**Mr. Raymond Hession:** Thank you, Madam Chair.

**The Vice-Chair (Ms. Daiene Vernile):** You will have 10 minutes to speak and then, after that, that will be followed by questions from members in this room. Please begin any time.

**Mr. Raymond Hession:** I understand, Madam Chair. It's almost seven years to the day when I last appeared before this committee. At the time, the government had asked me to assume the leadership of the governance of eHealth Ontario. It was a privilege then to meet the committee, and it's a privilege now.

I don't propose to spend much time on my curriculum vitae or any relevance from that, except to say that I've now had 40 years of experience in governing in the public, private and community domains. It's with that in mind that when I received a call from an executive search person about this opportunity, that was the centre of our discussion. Was I comfortable in doing it? Of course I said yes. The doing of it included, in his opinion at least, an important focus on governance per se.

My experience in the world of governance has applied to a lot of different parts of the economy, not the least of which is information systems and business transformation activity, service delivery models and things of that sort.

I spent a number of years in the finance and insurance world with Canada Mortgage and Housing Corp., as I know you know, and in that regard I was at a point in time the chief financial officer of that enterprise, responsible for the significant pension fund of the corporation.

Later, I found myself as the main investor and as the chairman of a company in the decision support or risk analysis business which, after 11 years, led to its sale to a US company in Omaha, Nebraska, in the engineering and architecture domain, and I've been a member of that board now for almost five years.

Then, finally, through that whole period, starting in the late 1970s, I got a great deal of exposure to the health care system in Ontario. In that context, it's ranged from, in its initial stage, as a trustee of a mental health institution in Ottawa, and then assuming—at the time that the

former Harris government was looking to consolidate hospitals and other institutions across the province, school boards and the like, I was given the responsibility as chairman of the board of governors of the Ottawa Hospital, which some of you may know involved the integration and consolidation of four hospitals to become one hospital. It was an eye-popping experience, Madam Chair, to do that.

Finally, I ended up coming out of that experience putting considerable emphasis as chair at the time on health quality and the continuous quality improvement of health care delivery. I found myself as an advocate in that particular domain and was then asked by the government to found, as its chair, what was then called the Ontario Health Quality Council. It's now called Health Quality Ontario. So I did that, and then along came eHealth Ontario.

A little segue here would be helpful—not that it's especially obvious at the outset, but I think it'll become obvious in the course of our discussion. So much that happens in health, whether it's found in the purest form in the health care institutions or found in the likes of the WSIB, clinical data, facts related to the case that's being managed, again either in a clinical context or in the context of the insurance board, is particularly relevant. That was a learning that was simply profound when we pooled these four hospitals together and collapsed them into one. There was an extraordinary absence of any notion of interoperability amongst those hospitals—extraordinary. Without interoperability, the data that sits in hospital A, which is looking to be consumed by hospital B, is not really very accessible or very usable in that context.

We've spent the last seven years at eHealth Ontario doing a lot of things, overcoming a lot of obstacles, but the most profound of them all is to bring into being in our province an extraordinarily high-quality, interoperable, massive database of electronic health records. It's very close. We're on the cusp, in fact, of completing that work after seven long years.

**0910**

So with that, it's an indication of where my head is these days. I thought I'd share that with you. Frankly, I think I've said enough. I'd rather go to questions, Madam Chair.

**The Vice-Chair (Ms. Daiene Vernile):** Thank you, Mr. Hession. The first line of questioning for you is going to come from the official opposition.

Mr. Pettapiece?

**Mr. Randy Pettapiece:** Good morning.

**Mr. Raymond Hession:** Good morning.

**Mr. Randy Pettapiece:** Can I get a sense of why you applied to be a member of this board?

**Mr. Raymond Hession:** Yes, I'd be happy to do that. I did indicate that I was approached last summer. I didn't say "last summer," but that's when in fact it happened. The consultant simply asked me if I would have an interest.

I did have some awareness of the board, in particular because I had spent time briefing both the government—

naturally, in my direct report, so to speak—but also the critics in health through the time that I was chairing the Ontario Health Quality Council. I met Elizabeth Witmer during that time—she was the then-critic—and, naturally, with the NDP critic. I found that a very enriching experience, because perspectives really matter. For sure, there were different perspectives, but the one thing on which we all agreed was that the facts of the conditions in which we find ourselves, in health or indeed in case management in the insurance board's work, were relevant.

I was asked, in particular, to focus on the contribution I could make in two areas. One was what I referred to earlier as business process and information systems oversight; and governance, more broadly. Quite frankly, looking at the history of that board and, in particular, the former president, who happened to be my successor at Supply and Services Canada, Mr. Marshall, with whom I had had some discussions way back, it strikes me as a particularly enriching experience and challenge.

**Mr. Randy Pettapiece:** You were the chair of eHealth at one time, is that—

**Mr. Raymond Hession:** I am.

**Mr. Randy Pettapiece:** You are the chair?

**Mr. Raymond Hession:** I have been for seven years.

**Mr. Randy Pettapiece:** Oh, okay. Oh, yes—

**Mr. Raymond Hession:** I used to be 10-feet tall.

**Mr. Randy Pettapiece:** I read my note wrong here. It says that you are the chair of eHealth.

Certainly, that has had a number of issues—some people call them scandals—over the years, so I would assume that one of your goals would be to restore public confidence in that agency. Last year, taxpayers found out again that they are on the hook for another \$26 million for a computer project that the government promised would not cost taxpayers a cent. What happened here? You are the chair of eHealth. How did this happen?

**Mr. Raymond Hession:** Specifically, with that \$26-million contract?

**Mr. Randy Pettapiece:** Yes.

**Mr. Raymond Hession:** Let me go right back to the beginning, in February 2010, when I assumed office. I was presented very soon after my arrival, within a week, with what was a proposal to enter into a contract with a company at that time, CGI. So I examined what was in the file and made some inquiries. It was a somewhat opaque situation at the time because procurement has a certain propriety about it and there was a desire to keep the detail of that particular transaction under wraps, so to speak. So time passed and there was an eventual presentation of the board of directors after some degree of change in the contract form, and we went ahead with it, obviously.

Early on, it became evident to CGI that there were a number of desirable changes to the contract, on the one hand; on the other hand, there was little or no appetite within eHealth Ontario to make changes. There was not an unusual to-ing and fro-ing between the vendor and the owner. That began to develop a degree of resistance, shall we say, one to the other. It became increasingly

problematic as time passed that the likelihood of delivering the proposed solution that the contract contemplated was running out of time. In the meantime, in the rest of the enterprise, there was a lot of business going on to do with the marshalling of the clinical data, as I mentioned, so there was a degree of contention, I suppose you could say, in the use of resources.

But in the meantime, there was delay upon delay upon delay. The management came to the board roughly in the middle of the second year of the contract and said, “We just don’t think this is going to happen.” In other words, the fulfillment of the undertaking to the contract was improbable.

Other discussions took place during that period to attempt to repair the circumstance. I personally met with the CEO and the executive chairman of the company, both of whom I knew, and attempted to find a way forward, but in the end it just didn’t appear feasible, so the contract was terminated in those circumstances.

The company obviously objected to that, and legal proceedings were initiated. In the end, we sought arbitration. It was successfully arbitrated. There is, in the terminology of contract law, in particular as it relates to this sort of contract, “termination for convenience”; I think you’ve heard that language, perhaps. I can’t put my mind into the head of the arbitrator; I wasn’t physically there. But the evidence would suggest that costs were incurred on the part of the contractor. Similarly, costs were incurred on the part of the crown through eHealth Ontario. He ruled that that was the value transfer, as it were, that ought to occur, and that’s the end of the story.

**Mr. Randy Pettapiece:** I see. You know, \$26 million is a lot of money, to me, anyway. This is something that’s been reoccurring over the last number of years since I’ve been here. In fact, one of the other ministries which I’m involved with just upped to \$50 million for a computer system that they were working on. These things seem to be more of a habit than they should be.

I was just interested—you were there, or you are there—as to why these things happen. I don’t know why. Maybe I’m just being naive here, but a contract is a contract. If it’s going to cost you a dollar, that’s all it should cost you. These things get out of control. I understand an arbitrator was involved, and that certainly changes things.

One of the concerns that certainly my office gets, and I would suggest half of other offices, is that employees have complained to us that they are being forced back to work by the WSIB against their doctor’s advice. I need to know—you certainly wouldn’t know of any specific cases of that, I’m sure, but this has happened. We have personal knowledge of that.

There’s a balance that has to be struck here between the board’s goals and the rights of workers. I wonder if you would have any comments on that type of thing.

**The Vice-Chair (Ms. Daiene Vernile):** You have one minute remaining.

**Mr. Raymond Hession:** Say again, Madam?

**The Vice-Chair (Ms. Daiene Vernile):** You have one minute remaining with this line of questioning.

**Mr. Raymond Hession:** Wow. I’d better hustle.

You used the exact relevant word when you said “balance.” My research and my discussions with parties in the industry—of which I was one at one point; I had a small construction company at one point—in particular with the physicians, whose opinions naturally hold considerable sway in these matters—I mean, this is very much, in a sense, in the eye of the beholder, but my instincts tell me that finding that balance is the key to our success in dealing equitably with claimants of the sort that have come to you.

**0920**

In the early days, if you are so good as to approve my appointment, I’m going to inquire about the physician role, which I have an understanding of more generally, but also the appeal process.

**The Vice-Chair (Ms. Daiene Vernile):** Thank you, Mr. Hession. Our next line of questioning for you is from the third party.

Mr. Gates.

**Mr. Wayne Gates:** Hey, how are you?

**Mr. Raymond Hession:** I’m fine, thank you, Mr. Gates.

**Mr. Wayne Gates:** I always get a thrill when I listen to the PC Party ask about the rights of workers after what Harris did under Bill 99 and the rights of workers on Bill 99.

*Interjection.*

**Mr. Wayne Gates:** Well, it’s true.

I’ve got a few questions here for you. I know that particular comment was outside of that, but quite frankly that was what really started a mess under WCB.

As the chairman of eHealth Ontario, you oversaw the payment of \$26.9 million to CGI for not designing an electronic health record system. Now, barely a year later—and you’re still the chair—the Premier and her cabinet want to appoint you to the WSIB, where you’ll be expected to make important judgments about potential compensation for WSIB claimants. How, with the record of eHealth, do you expect members of the public to trust some of the judgment in these cases?

**Mr. Raymond Hession:** Well, I don’t mean to mischaracterize your question, but it could be a somewhat apples-and-oranges situation. All of the issues that have confronted eHealth Ontario—and you’ve heard me comment on the \$26-million settlement that was an arbitration outcome—need to be understood in context.

First of all, eHealth Ontario has spent a great, great deal of public money. I don’t have to be told that; I know that well. But relative to the end result, relative to the assets that have now been created, and in particular the electronic health record, which sheds relative enormous light on what becomes possible in effective care—it’s becoming obvious to a lot of people, mainly the doctors and nurses and others who use it, on the one hand.

On the other hand, the form of adjudication that occurs within the WSIB, as I understand it, is very much a human-scale activity, and very much based on the representations of the parties, not least of which is the

claimant, not least of which is the medical commentary and, of course, the application of the policies and the regulations of the legislation. These all take into account the inputs that members of the board rely on in coming to a consensus, a judgment, a decision.

I am particularly well-versed in the ways and means of finding—amongst a disparate board, in this case—a consensus. My confidence in that regard personally is very high, and my record, I think, for those who have taken a close look at it, would suggest that it is even-handed, and that equitable handling is very much the characterization of how I proceed.

You asked the question at a higher level in terms of how can the public have confidence. I would only say that the two circumstances are, as I pointed out earlier, in my mind apples and oranges.

**Mr. Wayne Gates:** I appreciate the apples and oranges, but the reality is that the public has to have trust in what's going on. I understand that the eHealth \$26.9 million was an arbitrator ruling.

**Mr. Raymond Hession:** Yes, it was.

**Mr. Wayne Gates:** But the arbitrator can only rule on what was in the contract and the language. Obviously, he made the ruling based on facts.

The second part of my question—and this is one that a lot of people even in this room probably aren't aware of: Over the past two years, the WSIB has seen a large number of reports and complaints regarding the increased use of "paper doctors." They're overruling medical advice and increasing barriers to obtaining adequate medical treatment faced by injured workers. Do you have an opinion on these reports and complaints?

**Mr. Raymond Hession:** I don't because I don't have the data that's before you. What I do have, however, are other questions.

You heard me say in my opening remarks that I spent a number of years as chair of the rehabilitation hospital in Ottawa; in fact, it's the eastern Ontario rehabilitation centre. I saw case after case after case, largely in the construction trades, of injuries that people incurred. Within that rehabilitation centre, I watched the practice of determining in a just fashion the cause and effects and what that might mean in terms of that individual's ability to perform in the future. One of the things that I learned during that period was that the role of the physiatrist—a very important specialty within the medical field. I've made inquiries about the extent to which physiatry is engaged in doing these analyses of these injured people, and at the moment, at least, I have the impression, not much. And yet physiatrists are particularly able in doing the diagnosis of the whole body, the whole physiognomy of the person. They get very much into the classic kinds of injuries that you see, particularly in the construction trades, involving back injury and the like, limbs generally, shoulders, things of that sort.

So I have questions about that, and if I'm approved by you, I intend to pursue these questions at the board. I'm not trying to be inquisitive for its own sake. I genuinely believe there may be an opportunity here to do a better

job, in terms of relying on people who are highly specialized in the very areas that are most often the form of injuries that are put before the board.

**Mr. Wayne Gates:** Those are interesting comments.

Do you think it is appropriate for the WSIB to be using resources trying to stop injured workers from making claims? That's what the paper doctors are doing.

**Mr. Raymond Hession:** Well, that's a significant charge and one that deserves considerable thought, and I'm not in a position to comment. If that has a basis of reality and fact, it certainly is worthy of pursuit, but, frankly, I'm not qualified to comment at this point.

**Mr. Wayne Gates:** When you get appointed—because the way this committee really works is, there's a majority of Liberals over there who will support it, no matter what.

Doctors are coming and saying the same thing: that they're putting in the paperwork, they're seeing the patient, they're doing the treatment form, and then when it goes to WSIB, a doctor who has never seen them is denying the claim. I have complete trust in a doctor who sees an injured worker.

I have another question that I'd like to ask you, if you don't mind. According to the WSIB, their unfunded liability, or the UFL, has been reduced over the last four years from a high of \$14.2 billion to \$6.6 billion as of 2015.

**The Chair (Mrs. Cristina Martins):** There's one minute left.

**Mr. Wayne Gates:** As a result of this work, which is ahead of the schedule for reducing the UFL that was set out by the government in 2012, the WSIB has announced that it will be reducing employer premiums.

Do you think it's appropriate for the WSIB to be spending these savings along to the employers rather than spending that money on patient care for injured workers that they are responsible for?

**0930**

**Mr. Raymond Hession:** Well, it's a question that's a subset of the point made by the former speaker. It is about balance. I'm not in a position to judge what the allocation of someone's perception of the present value of long-term cash flows should be, but in finding the balance, which I'm sure we all agree with, use of funds should put emphasis first on the objectives of the act, and I'm—

**The Chair (Mrs. Cristina Martins):** Thank you, Mr. Hession. That concludes the time for the third party.

I'm going to turn it over to the government side. Mr. Qaadri, you have three minutes and 45 seconds.

**Mr. Shafiq Qaadri:** Thank you very much, Mr. Hession. We appreciate your presence. I think all of us have reviewed your curriculum vitae, such as it is. As a physician, I know that you have overseen—yes, with its challenges and hiccups every now and then with regard to eHealth, but as I recall, there's something in the order of about nine million or possibly 10 million Ontarians who now have access to electronic medical records. I think that's something that probably should be publicized and better communicated to Ontarians.

On behalf of the government side, I'd like to thank you for your presence and your shared expertise. We look forward to your serving in the capacity at the WSIB.

**Mr. Raymond Hession:** Thank you, sir.

**The Chair (Mrs. Cristina Martins):** Does someone else have any questions here on the government side? Ms. Vernile.

**Ms. Daiene Vernile:** I just might wade in here and say to you, first of all, thank you for agreeing to step forward as an Ontarian citizen and wanting to serve your province. If you're selected to serve on this agency, Workplace Safety and Insurance Board, what are your goals? Is there anything in particular you wish to accomplish?

**Mr. Raymond Hession:** My goals are conditioned quite naturally by the perspective of the existing board and its chair. I'm not going to leap too far, too fast in answering that question for myself.

I do have, as I tried to point out in the course of our dialogue just now, questions about the efficacy of medical advice. You heard me make reference to the engagement of physiatry, in which I have enormous confidence, and for good reason; and the question of the efficacy of the governance of WSIB. This is not a thought that entered my mind out of the blue. Things have been said to me that are encouraging, because there's a desire to introduce whatever additional increments of discipline in governance that are applicable here. I don't know what they are yet because I haven't seen it face-on, but knowing what I know—and I'm not wanting to overstate this, but in my 40 years of governance experience, the fashion in which a board operates is a critical condition to its success. The makeup of the representation on those boards is similarly of great importance as we think about these things.

If I'm asked to comment on this after, say, three or six months of service on this board, I will, and I'll offer a perspective that may or may not be accepted. I can't know that.

**Ms. Daiene Vernile:** Thank you very much for your service to the province and your interest in this position.

**Mr. Raymond Hession:** Thank you.

**The Chair (Mrs. Cristina Martins):** If there are no more questions, then that concludes the time for this interview. Thank you very much, Mr. Hession. I'm going to ask you to step down, and we will vote at the end of the session.

**Mr. Raymond Hession:** Thank you very much, Madam Chair.

#### MR. JAWARA GAIREY

Review of intended appointment, selected by third party: Jawara Gairey, intended appointee as member, Ontario Labour Relations Board.

**The Chair (Mrs. Cristina Martins):** Our next intended appointee today is Jawara Gairey.

Jawara Gairey is nominated as member, Ontario Labour Relations Board. Please come forward and take a

seat at the table. Welcome. Thank you for being here this morning.

You may begin with a brief statement, if you wish. Members of each party will then have 10 minutes to ask you questions. Any time used for your statement will be deducted from the government's time for questions. Once we get to that point, questioning will begin by the third party.

Welcome, Mr. Gairey. You may begin.

**Mr. Jawara Gairey:** Thank you, Madam Chair and committee members. Thank you for the opportunity to have me before your presence. I'm very privileged this morning to come before you regarding my appointment to the Ontario Labour Relations Board.

I have over 15 years of work-related experience in labour relations. I'm currently a negotiator with the Public Service Alliance of Canada, the largest federal public sector union. We have a large presence growing in Ontario also, and we currently represent a number of local units across the province of Ontario under the Ontario Labour Relations Act.

I'm responsible for the negotiation of first and renewal agreements in several sectors, including First Nations, policing, university graduate and post-doctoral scholars, gaming and energy, to name a few. These sectors all fall across different legislative jurisdictions, federally, provincially and also within the territories. I have also been party to arbitration hearings, presenting at arbitration hearings, and been party to adjudication and arbitration grievances throughout my career.

Previously, I held a position as a diversity and human rights consultant at Mount Sinai Hospital, where I specialized in investigations, conflict resolution and mediation, with the goal of ensuring a healthy workplace among staff, which is integral to patient health and safety.

I provided representation and support in many areas to union members in my capacity as an organizer previously with OPSEU and throughout my career with the Public Service Alliance of Canada.

With the support of my partner—she had a young daughter at the time; she's now 22 and just graduated Western University—and son, I sought my own education, achieving an honours degree at York University in environmental studies and political science in 2005. I then continued to further my education at the University of Toronto with a master's degree in education in 2011, with a specific focus in sociology and equity studies in education. I continued that in 2015 by completing a dispute resolution certificate at York University. I'm a member of the Alternative Dispute Resolution Institute of Ontario.

I'm a volunteer with the Coalition of Black Trade Unionists, which provides a bridge between communities of colour and the labour movement. My focus has been working with young racialized men and providing mentorship to them.

I recently became a member and supporter of 100 Strong this past year. This is a not-for-profit organization

which has been in existence since 2012. The organization focuses on building strength through education and mentorship of young African Canadian youth, with the intention to rewrite the current status quo and create a new and lasting social commentary, one young man at a time.

I was motivated and encouraged to seek a position with the board as I believe my qualifications, outlined in my CV, and knowledge will provide renewal and add diversity to the board. Throughout my work life I have become familiar with the role of the board as an independent adjudicative tribunal that administers the Labour Relations Act and other statutes. I believe my knowledge of the pertinent legislation and the statutes, along with the related experience, would provide a significant contribution to the board.

Currently, as a negotiator I'm able to hear both the employer and union sides and work towards mutually beneficial agreements. The employer and the union in most cases are working towards an agreement that's based on a community of interest.

I will bring these skills to the board and will make collaborative contributions to its mandate. I will remain impartial and recognize that my commitment, when representing the board, is to the board, and ensure that it maintains the objectivity as outlined in its mandate and provides service to the clients in Ontario.

Thank you, and I welcome any questions the committee may have.

**The Chair (Mrs. Cristina Martins):** Thank you very much. We will now begin our questions with the third party. Mr. Gates.

**Mr. Wayne Gates:** Good morning. How are you?

**Mr. Jawara Gairey:** Not bad, Mr. Gates. Thank you.

**Mr. Wayne Gates:** I've got a few questions for you, then maybe a couple of observations.

Ontario currently operates under a two-step process for union certification, including a secret ballot vote. It has been noted in many pieces of research that a two-step process makes it significantly more difficult for unions to form and has, therefore, been supported by right-wing groups in Canada and the United States. However, there have been some recent moves away from the two-step process and back to the card-check certification process that existed before. Do you have an opinion on which process should be used, card-check or secret ballot?

0940

**Mr. Jawara Gairey:** I know that there are other jurisdictions throughout the country that still use card-check certification. I know that there also is the Changing Workplaces Review under way, which is examining the processes that you've described there, as to what would be the best possible changes for workers' interests and employers' interests in the province. The review is yet to be complete and they have provided several options—going back to the card-based certification for union certification in the province. Based on the completion of the review, the board would take direction accordingly, based on the recommendations out of that review.

**Mr. Wayne Gates:** Okay, I'll ask the question again—the last part—because I think it's important: Do you have an opinion on which process should be used?

**Mr. Jawara Gairey:** I do believe card-based certification provides an opportunity for a growth in unionization, but it also can provide an avenue to protect workers from some of what you've mentioned that has evolved in research with the two-step process, which does at times overload the board's responsibilities in having to respond to unfair labour practices that may be filed or charged by unions.

**Mr. Wayne Gates:** Okay. Thanks very much.

Over the year 2014-15, the OLRB was unable to dispose of more than 2,000 cases, which were then carried over to the 2015-16 year. This represents nearly a 50% increase in the number of cases that were carried over from 2014-15 to 2015-16 as compared to the previous year. Why do you think the OLRB was unable to dispose of so many cases? Do you have any suggestions for how they would be better able to do that?

**Mr. Jawara Gairey:** I think the mandate of the board to adjudicate many of these cases has to be—there's a direct correlation between the legislation, the scope, that the board covers. Given the increased powers of the board or the scope of the board over different statutes—recently, the School Boards Collective Bargaining Act would be one—and growth in the number of files under the Employment Standards Act or unfair labour practices under the LRA, there is pressure on the board, clearly. Even if you read the board chair's report, he recognizes and acknowledges the various pressures that they're under. They still have met timelines with respect to establishing hearing dates, but I think the board needs to continue to examine the current processes that they have and how they can adjudicate matters in a more timely fashion. But that will also be incumbent on what the end result of the review is and if the board's mandate changes based on the recommendations out of the review.

**Mr. Wayne Gates:** You've already mentioned this, but I'll do the question a bit. With the Changing Workplaces Review well under way, I'm wondering what your thoughts are on the changing nature of work in our province and how it will affect the OLRB. I'll give you an example: Is the increased presence of temporary and precarious workers an issue that the OLRB should examine?

**Mr. Jawara Gairey:** Yes, I think that the review clearly highlights, as we're probably all aware, the growing nature of precarity in the province of Ontario, let alone across this country. The board is going to have to find mechanisms and ways to address that, but that will, again, have to wait for the review to be complete before the board can actually take direction on any recommendations.

**Mr. Wayne Gates:** There's a story in the Star on this today, quite frankly. Thanks for that.

Is the two-tiered bargaining system introduced in the education system something that is beneficial?

**Mr. Jawara Gairey:** I'm not too familiar with the process of the two-tiered bargaining system. I am famil-

iar with what you've referenced with respect to the article in the Star. I think there's different commentary from media all across the spectrum, but again I think it would be incumbent on the board to review the Changing Workplaces Review prior to making any changes to its current mandate.

**Mr. Wayne Gates:** You might not know this either, but there are still teachers' locals in the province of Ontario that have not got local agreements and some are doing work-to-rule. I'm not so sure the two-tiered system is working very well, but that's only my personal opinion—from somebody who may know a little bit about bargaining.

Finally, are there any specific changes you would like to see coming out of the review?

**Mr. Jawara Gairey:** Significant changes? I think the direction of the review currently addresses some of what were my interests specifically around the precarious nature of work because it is growing within the province.

Again, my experience representing graduate students and postgraduate students in the university sector actually speaks to that. You have a high level of education in this sector and you have a high percentage of them who cannot find full-time employment, which I think is a challenge for us as a province in moving forward and how we put a lot of these young people to work.

**Mr. Wayne Gates:** That's a big problem with trying to get young people to work. It's a good one. I like the work you're doing as well. Good for you on volunteering.

I've got two questions—one statement actually. I'm hoping that the review, once and for all, gets rid of replacement workers.

You touched on something that I've done for basically my entire adult life outside of being an MPP. I've been in the labour movement for a long, long time. There's a misconception out there—you touched a little bit on it yourself—that when you're bargaining collective agreements, all we want to do is take our members out on strike. I can tell you that our members don't want to strike. Our members, obviously, will use that as a ploy to try to get a fair and just collective agreement. You touched on that on the balance.

I can tell you that I had the privilege of doing about 150 collective agreements and at the bargaining table—

**The Chair (Mrs. Cristina Martins):** Two minutes.

**Mr. Wayne Gates:** Two minutes?

**The Chair (Mrs. Cristina Martins):** Yes.

**Mr. Wayne Gates:** At the bargaining table, as you know, you make decisions and the last thing you want to do is put a company out of business by your unrealistic demands, but you also understand there's expectations by your members. In the province of Ontario—and it may be higher now, but the last stat I saw is that 97% of all collective agreements in Ontario are negotiated without a work stoppage, which goes to the talent that you bring to the table in bargaining and the talent that we saw with Chrysler and GM so far. Obviously Ford is up next.

That's something I wanted to say. I did have one strike, out of 150; it was three days. It's all about balance. It's all about understanding what to do.

I congratulate you on the work you do. I'm certainly looking forward to you getting appointed. I think you'll bring a lot of expertise and a lot of heart and passion to the position—

**The Chair (Mrs. Cristina Martins):** One minute.

**Mr. Wayne Gates:** —and I want to say thanks.

**Mr. Jawara Gairey:** Thank you very much, Mr. Gates.

**The Chair (Mrs. Cristina Martins):** We're now going to move on to the government side. Ms. Vernile.

**Ms. Daiene Vernile:** How much time do we have, Chair?

**The Chair (Mrs. Cristina Martins):** You have four minutes and 23 seconds.

**Ms. Daiene Vernile:** Thank you. Good morning and welcome.

**Mr. Jawara Gairey:** Thank you.

**The Chair (Mrs. Cristina Martins):** Sorry. Let me correct that: five minutes and 37 seconds.

**Ms. Daiene Vernile:** Okay. Now it's 36; now it's 35.

Reading your resumé here and listening to you this morning, you bring many unique and varied talents to this position—very impressive—and you are no doubt going to bring diversity and expertise to this board. First of all, I want to thank you for stepping forward and considering serving the province of Ontario.

**Mr. Jawara Gairey:** Thank you.

**Ms. Daiene Vernile:** It says here that you've been recommended by the chair?

**Mr. Jawara Gairey:** Yes.

**Ms. Daiene Vernile:** Elizabeth Witmer?

**Mr. Jawara Gairey:** Yes.

**Ms. Daiene Vernile:** She is a neighbour of mine in the Kitchener-Waterloo area, and I have a great deal of respect for her. Can you tell me about your relationship with her?

**Mr. Jawara Gairey:** I don't have that much of a relationship with Ms. Witmer. I believe the recommendation was—I'm familiar with the work that Ms. Witmer does. I live in Woodbridge myself, so I'm familiar more with Mr. Del Duca and his work that he does in transportation. But I believe the recommendation came from the chair of the board itself when I had an interview with them as outlined in the scope of being appointed. So they contacted me. I was encouraged to apply first by some other members of the board, and I finally did. Then I sat down with the chair and the vice-chair and they provided some insight into what the role would be and then contacted me a few weeks later and said that they would recommend me for an appointment. I believe that they may have made the contact with—

**Ms. Daiene Vernile:** Clearly, you would be a great asset to this board. Do you have any special interests or anything that you hope to achieve once you're on this board?

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**Mr. Jawara Gairey:** I think the scope of the review interests me a lot, but again, we're going to have to wait until the completion of the review and any changes that the government may make to legislation to see if that alters the mandate. I think the board is headed in a great direction, and any contributions I can make, with the experiences that I have or the diversity that I bring, I think would be of value to the board.

**Ms. Daiene Vernile:** You don't look old enough to have kids in university.

**Mr. Jawara Gairey:** Thank you very much. I do appreciate that.

**Ms. Daiene Vernile:** I'm sure your family is very proud of you. Thank you very much for stepping forward and wanting to be part of this board.

**Mr. Jawara Gairey:** Thank you.

**The Chair (Mrs. Cristina Martins):** Are there any further questions from the government side? If there are no further questions, then we are going to pass it on to the opposition.

Mr. Cho.

**Mr. Raymond Sung Joon Cho:** Thank you for coming out and applying for this position.

**Mr. Jawara Gairey:** Thank you.

**Mr. Raymond Sung Joon Cho:** It would appear you were an NDP supporter, though I understand that that may have been tested in the last election. I'd like to know if you're still an NDP supporter. This is a non-partisan appointment. How will you set aside your party affiliation in your work as an impartial board member?

**Mr. Jawara Gairey:** I think my impartiality speaks to the history of work that I've done, the body of work that I've done. I don't necessarily believe that my politics would carry into my ability to work as a member of the board. So I would be able to separate that and maintain that impartiality, as I do within my work on a daily basis negotiating contracts.

**Mr. Raymond Sung Joon Cho:** But generally speaking, the NDP are supporting unions, and this is the labour board. Are you still an NDP supporter, which I raised in the first question? And then how can you remain impartial?

**Mr. Jawara Gairey:** Sorry, I'm trying to understand the question: if I'm a supporter of the NDP or am I a member of the NDP?

**Mr. Raymond Sung Joon Cho:** Yes, are you still an NDP supporter?

**Mr. Jawara Gairey:** I am not currently a member of the New Democratic Party, no.

**Mr. Raymond Sung Joon Cho:** So you think you could remain impartial?

**Mr. Jawara Gairey:** Yes, I can remain impartial.

**Mr. Raymond Sung Joon Cho:** Okay. Thank you.

**The Chair (Mrs. Cristina Martins):** Mr. Pettapiece.

**Mr. Randy Pettapiece:** I'm reading the draft I have here, and I'm interested in your community involvement. It says here that it includes serving as a member—and I think you mentioned this—of the Coalition of Black Trade Unionists.

**Mr. Jawara Gairey:** Yes.

**Mr. Randy Pettapiece:** What is that organization about?

**Mr. Jawara Gairey:** The Coalition of Black Trade Unionists is an international organization primarily based in the United States. We do have a chapter in Ontario. It covers across Canada right now. We have members in Montreal, Nova Scotia and out west, in Vancouver.

The goal of the organization historically was to address the internal issues pertaining to racism or anti-black racism in the labour movement in the United States and also in Canada. So it was a forum for black workers to get together and speak about issues that they had in the workplace, issues internally with their unions, and from that it expanded across the United States and became a political organization for black workers, mainly in the United States.

**Mr. Randy Pettapiece:** I see. Are you still a member of that?

**Mr. Jawara Gairey:** I am a member of that organization, yes.

**Mr. Randy Pettapiece:** As I understand it, then, this organization would go to their union if they have issues with—mostly on racism type of things?

**Mr. Jawara Gairey:** Well, it wouldn't necessarily directly go to the union. It is a member of the AFL-CIO in the United States, so it does have a seat there. It would communicate any issues using that platform to try to address internal issues around racism within unions or within the workplace, or any issues pertaining to members.

It has broadened its scope recently. There are some of us who have more of an interest outside of the workplace too and believe that we should be involving our communities. Currently there is a coalition of black trade unionists in the United States that is heavily involved in the election. They're engaging their members to get out more and push people to become registered to vote in the United States.

**Mr. Randy Pettapiece:** Have you ever participated in a case before the board?

**Mr. Jawara Gairey:** Yes, as support for legal counsel for the PSAC, I have participated.

**Mr. Randy Pettapiece:** For who?

**Mr. Jawara Gairey:** For our legal counsel.

**Mr. Randy Pettapiece:** Oh, okay. Any opinions on how the case was handled? Do you see any areas for improvement?

**Mr. Jawara Gairey:** No. I believe the board does a very decent job on basing any decisions that it makes on evidence and facts and jurisprudence that is brought before it. That would also be an asset that I would bring: relying on facts and evidence and jurisprudence to make a decision. I'm of the firm belief that when you're at the board, you're there representing the board, and unless you're given a direction otherwise, you would follow that mandate.

**Mr. Randy Pettapiece:** Yes. I'm sure that that is something you would try to do, and your community involvement certainly is something that should be admired.

That's why I asked you the question about the coalition of black trade unionists, to see where that went.

**Mr. Jawara Gairey:** Right. We're not recognized under the act in Ontario as a trade union, so it is more of a community group alliance rather than a traditional trade union status or recognition.

**Mr. Randy Pettapiece:** I see. What are your thoughts on the government's Changing Workplaces Review? How do you foresee the proposed changes impacting the board?

**Mr. Jawara Gairey:** I think that right now there haven't been any changes that the board has been directed on. There are more options with a specific focus on chapters 4 and 5, which deal with the Labour Relations Act and the Employment Standards Act, and there are recommended options. Once the review is complete I think that it will have an impact on the board, but the board would be required to take direction based on that review.

**Mr. Randy Pettapiece:** Okay. Caseload is certainly going to increase and is increasing, and the chair of the board has said that the sharp increase would be related to the two-tier bargaining system in the education sector. You did speak to this with my friend over here before. Do you have an opinion as to how this can be managed while ensuring that other cases are mediated in a timely manner?

**Mr. Jawara Gairey:** Sure. I think that there are options that the board attempts to take in addressing some of the caseload issues. One is mediation, and then looking at staffing. I believe the reports that the chair spoke to talked about mechanisms or ways to increase the operations of the board or assist the board to manage these caseloads in the future.

We recognize, given the changing dynamics of the province with respect to work relations, that there will be an increased caseload. It's how the board itself looks to manage those things, as they have done to date, and possibly address some of these caseload issues.

**Mr. Randy Pettapiece:** That's all I have.

**The Chair (Mrs. Cristina Martins):** No further questions?

Thank you, Mr. Gairey. You may step down.

**Mr. Jawara Gairey:** Thank you, Madam Chair.

**The Chair (Mrs. Cristina Martins):** This concludes the time allotted for this interview. Thank you very much. If you want to stick around, you can do that.

We'll now consider the concurrence for Mr. Raymond Hession, who was nominated as a member of the Workplace Safety and Insurance Board. Would someone please move the concurrence? Mr. Qaadri.

**Mr. Shafiq Qaadri:** Yes, thank you, Madam Chair. I move concurrence in the intended appointment of Mr. Raymond Hession, nominated as a member of the Workplace Safety and Insurance Board.

**The Chair (Mrs. Cristina Martins):** Is there any discussion? All in favour? Opposed? The motion is carried. Congratulations, Mr. Hession.

We will now consider the concurrence for Mr. Jawara Gairey, nominated as member, Ontario Labour Relations Board. Would someone please move the concurrence? Mr. Qaadri.

**Mr. Shafiq Qaadri:** I move concurrence in the intended appointment of Jawara Gairey, nominated as member, Ontario Labour Relations Board.

**The Chair (Mrs. Cristina Martins):** Any discussion? All in favour? Opposed? The motion is carried. Congratulations, Mr. Gairey.

We have a couple of extensions. The first extension, Barbara Hicks, nominated as member of the Animal Care Review Board, the Fire Safety Commission and the Licence Appeal Tribunal. It was a selection of the third party from the September 23, 2016, certificate. The deadline expires October 23, 2016, seeking unanimous consent to extend to November 22, 2016. All in favour? Opposed? Extension granted.

Monica Purdy is the second extension, nominated as member, Licence Appeal Tribunal, selection of the official opposition and third party from the September 23, 2016, certificate. The deadline expires October 23, 2016, seeking unanimous consent to extend to November 22, 2016. Do I see unanimous consent? Yes? Perfect. So, her certificate has also been extended.

If there is no further business, the committee is adjourned.

*The committee adjourned at 1002.*





## **STANDING COMMITTEE ON GOVERNMENT AGENCIES**

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Mrs. Cristina Martins (Davenport L)

### **Vice-Chair / Vice-Présidente**

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Mr. James J. Bradley (St. Catharines L)

Mr. Raymond Sung Joon Cho (Scarborough–Rouge River PC)

Mr. Wayne Gates (Niagara Falls ND)

Mr. Monte Kwinter (York Centre / York-Centre L)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mrs. Cristina Martins (Davenport L)

Mr. Randy Pettapiece (Perth–Wellington PC)

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