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**Official Report
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Tuesday 1 October 2013

**Journal
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Mardi 1^{er} octobre 2013

**Standing Committee on
Justice Policy**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

Tuesday 1 October 2013

COMITÉ PERMANENT DE LA JUSTICE

Mardi 1^{er} octobre 2013

The committee met at 1502 in committee room 2.

MEMBERS' PRIVILEGES

The Chair (Mr. Shafiq Qadri): I call the Standing Committee on Justice Policy to order. Before we hear from our first witness, we have a motion, Mr. Tabuns, which is pending consideration.

Mr. Peter Tabuns: I ask that it be held down until Thursday morning.

The Chair (Mr. Shafiq Qadri): We will do so. Thank you, Mr. Tabuns.

Mr. Peter Tabuns: Thank you for your accommodation, Chair.

HON. JOHN MILLOY

The Chair (Mr. Shafiq Qadri): The committee would like to welcome the Honourable John Milloy, government House leader and Minister of Government Services. Minister Milloy, please accept our greetings personally on behalf of the committee, as well as to your very able parliamentary assistant.

You will now be sworn in by the Clerk.

The Clerk pro tem (Mr. Trevor Day): Mr. Milloy, do you solemnly swear that the evidence you shall give to this committee touching on the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Hon. John Milloy: Yes, I do.

The Chair (Mr. Shafiq Qadri): Thank you, Minister Milloy. I'd invite you to please begin with your opening address for five minutes, beginning now.

Hon. John Milloy: Thank you, Mr. Chair, and thank you to the members of the committee for inviting me.

Since being elected in 2003, I've had the privilege of serving in a number of ministerial portfolios. In the fall of 2011, I was pleased to be appointed as government House leader. I expect that this is the role that is of most interest to this committee and, in particular, the role of my office with respect to the document requests made by the estimates committee in the spring of 2012.

Between May 9 and July 11, 2012, the Minister of Energy appeared before the Standing Committee on Estimates. The Minister of Energy was repeatedly asked to answer questions relating to the Oakville and Mississauga facilities. The overwhelming majority of the ques-

tions related specifically to the ongoing outstanding legal proceedings and confidential negotiations. The committee also passed a motion requesting all correspondence relating to the cancellation of the two plants within a certain period of time.

The Minister of Energy was placed in a very difficult position: being faced with the competing interests of recognizing the committee's authority versus the need to protect the public interest in the midst of highly sensitive commercial negotiations and litigation. As the former Minister of Energy has testified, he was left with the impression that the Chair estimates, through a number of rulings, recognized and understood these competing interests. It became clear, however, that members of the opposition did not, and on June 5, 2012, the member from Cambridge, Mr. Leone, moved a motion referring the matter to the House.

Throughout this process, the office of the Minister of Energy sought advice from my office. The advice provided was that there was a paramount right of the committee to request information, but that there was also parliamentary precedent that clearly showed an obligation on the part of the House and committees to take into consideration other competing interests.

As government House leader, I witnessed first-hand the opposition's refusal to acknowledge this parliamentary tradition and their refusal to deal with the documents in question with any sensitivity.

When directed by the Speaker, toward the end of September, to work out a solution between the House leaders, I presented a number of options to the opposition, including: a confidential briefing for the members to explain how the release of these documents at that particular time could jeopardize the outcome of negotiations; delivering the documents under seal, which would remain sealed until all outstanding commercial discussions had been settled; and setting up an ad-hoc committee consisting of one member per party, to conduct hearings in camera to determine whether, when and how the documents could be disclosed without compromising the public interest. We also sought input from the opposition if none of these solutions were satisfactory.

Unfortunately, the opposition would not engage in any way. I can recall, Mr. Chair, travelling from Kitchener to Toronto to a House leaders' meeting on Friday, September 21. After fighting through two hours of traffic to get there, the meeting lasted less than five minutes. Our suggestions were all rejected.

What is clear to me from these failed negotiations is that this was never about the release of these documents. It was about scoring cheap political points.

Before taking your questions, I would like to speak briefly about document retention in the Archives and Recordkeeping Act, which falls under the purview of the Ministry of Government Services.

There has been testimony before this committee, including from former Premier McGuinty, that in the past, staff had not received proper training with respect to their obligations under this act. We've taken a number of steps to address this and to, in a broader sense, ensure our new government is open and transparent.

Premier Wynne has made it a priority to educate staff on their responsibilities. To date, we've held an all-staff meeting in April to provide general information about record-keeping obligations; designated chiefs of staff as being accountable for proper records management in their offices; developed further mandatory training for all political staff, in consultation with the Archivist of Ontario; with the assistance of the Information and Privacy Commissioner and the Integrity Commissioner, issued a directive from the Premier with respect to the importance of proper record-keeping; and held small group training sessions with the majority of ministers' offices. This training should be completed by the end of next week. We are also producing updated records-retention schedules, to better reflect the types of records managed within the Premier's and ministers' offices.

We are also taking steps beyond just the education of political staff, including reviewing the proposed legislative changes to FIPPA and MFIPPA, revising staff training materials for OPS employees and initiating the enterprise email records management project. This project will use software to improve the management of the over one million emails produced in the OPS every day.

These actions make it clear that, as a government, we are committed to openness and transparency.

I thank you very much, and I look forward to the questions.

The Chair (Mr. Shafiq Qadri): Thank you, Minister Milloy, for your precision timing. We'll begin with the PC side, with Mr. Fedeli.

Mr. Victor Fedeli: Thank you very much, Chair. Good afternoon, Minister Milloy.

Hon. John Milloy: Good afternoon.

Mr. Victor Fedeli: We've handed out a series of documents. The first document you'll see is 1 of 8, and it goes all the way to page 8 of 8.

I want to talk about this walk-around. Now, if you look at document 2, it's the treasury board's submission. This is TransCanada Energy Ltd., and it's the cabinet direction, and it's the term sheet, if you will, of costs for Oakville.

I understand from this series of emails here on September 21 that they're looking for a fourth minister to sign off on Oakville. Pardon my abruptness; it says, "So far we have"—I won't refer to them with their proper

titles; I'm just reading it. "So far we have: Chan ... Jeffrey ... Takhar" and they need a fourth for cabinet.

So the series goes on. They're trying to get this person or that person, and they land on you at 1:07 in the afternoon. They started at about 11 o'clock, looking for somebody, so they found you.

I understand, from reading the rest of the email chain, that somehow you never made it there to sign the document. Is that correct?

1510

Hon. John Milloy: Yes—this is the first time I've seen these, so I'm just looking through.

Mr. Victor Fedeli: Okay. Take your time. Somewhere down there, it says, "Minister Milloy will now be leaving ... QP at 2:45 ... he can't stay any longer ... scratch his appointment as the fourth signing minister."

Hon. John Milloy: Yes.

Mr. Victor Fedeli: So you were going to be the minister who signed off on the treasury board submission. Were you briefed, then, on what you were going to be signing?

Hon. John Milloy: I don't recall what I was doing on September 21, 2012. As a minister, I have, from time to time, signed off on walk-arounds, as they're called. When that happens, Cabinet Office is very good at putting together a group of individuals who would outline to you exactly the details of what you're signing. I can't speculate on this. As I say, on September 21—to be honest with you, this may have been handled only at the staff level about my schedule.

Mr. Victor Fedeli: That's fair. So if you were going to be signing this document, then, did you say you would have had a briefing on what you would be signing?

Hon. John Milloy: Members of Cabinet Office, when I've done a walk-around, come with other officials, and they would have explained, as I say, in other walk-arounds, the nature of the signature. As you can understand, different walk-arounds are about different issues in terms of putting a regulation into place—they can be on all different items. But they are there to answer any questions and give you an overview of what you're signing.

Mr. Victor Fedeli: So what was the overview that you received on what you were signing?

Hon. John Milloy: I didn't sign anything, so I didn't receive an overview.

Mr. Victor Fedeli: So this particular document, those people, then, who did the signing—Chan, Jeffrey, Takhar, and it appears that they ended up on Hoskins. It says "Hoskins" but I presume I know who they mean. They would have received a briefing, then, on what they were signing?

Hon. John Milloy: I can't speculate on what happened on a walk-around that I did not participate in. In general, when a walk-around happens, the Cabinet Office would present the material and explain it. If a minister—in fact, I note on some of these—has questions, there are people to answer those questions. As to what happened on this, I didn't sign it.

Mr. Victor Fedeli: So in general, when you are asked on a walk-around to sign a document of this substance, would you receive a briefing—generally?

Hon. John Milloy: What's a briefing? I mean, an explanation of the nature of what you're signing?

Mr. Victor Fedeli: Perhaps.

Hon. John Milloy: What you have to realize is that members have different levels of knowledge about walk-arounds. If it's a walk-around on an item which is a follow-up to something that has been discussed in committee and treasury board and cabinet, that is different than if it was something that you're not familiar with. Members would have different levels of knowledge.

Mr. Victor Fedeli: That's actually a perfect segue to my next question, then. Can you list the number of cabinet meetings you attended where the Mississauga and Oakville gas plants were discussed?

Hon. John Milloy: I know, from following the proceedings here, that they were discussed at a number of different cabinet meetings. I can't come up with a number off the top of my head.

Mr. Victor Fedeli: Would you speculate, or do you have notes or a Day-timer that would tell you that, and/or including the dates?

Hon. John Milloy: No, I do not. I do not keep notes of topics that are raised at cabinet.

Mr. Victor Fedeli: Would you receive an electronic invitation to those meetings with an agenda attached, or would that be a standard meeting?

Hon. John Milloy: Cabinet is held at regular times. Occasionally, they change the date, and there's an agenda that you receive with the material for cabinet. I'm sure you see ministers walking into the cabinet room with their red binder.

Mr. Victor Fedeli: So although you don't remember how many times or the dates of the meetings of cabinet that the gas plants—Oakville and Mississauga—would have been discussed, can you tell us what would have been discussed about Oakville and Mississauga?

Hon. John Milloy: I don't understand the tense of your question, "What would have been discussed."

Mr. Victor Fedeli: What was discussed?

Hon. John Milloy: I don't have any great recollection of discussions. We have a cabinet meeting every week. I understand that this committee has had access to various documents that were presented at cabinet. There were discussions at treasury board—I was not a member of treasury board—and there would have been reports to cabinet from treasury board, but nothing sticks out in my mind of discussions around those. I was Minister of Community and Social Services at the time and government House leader. I wasn't directly involved in the energy file or had a portfolio that would have touched on the energy file.

Mr. Victor Fedeli: There were discussions at cabinet about the Mississauga and Oakville gas plants, but nothing particular about those discussions sticks out in your mind?

Hon. John Milloy: That was—what?—a year and a half ago, or over the course of several years? So no, I don't—anything I can report—

Mr. Victor Fedeli: It was September 2012. It was a year ago.

Hon. John Milloy: Yes, so a year ago.

Mr. Victor Fedeli: It's probably one of the biggest issues that came to this sitting of the Legislature in the last two years—the gas plant scandal, as we call it on this side here. You don't recall anything in particular being discussed about the Mississauga or Oakville gas plants?

Hon. John Milloy: I don't have anything that comes to mind that I could share. As I say, there were numerous items discussed at cabinet. I know, from watching the proceedings here, that there were discussions that took place in cabinet, but I don't have anything to add.

Mr. Victor Fedeli: So you were prepared on September 21 in the middle of the afternoon—you accepted to go in and sign the TransCanada Energy submission based on the few cabinet meetings that you had?

Hon. John Milloy: No, not at all. I never said that. On September 21, my office indicated that I was around; that's it. At that point, as I say, I'm not even sure if I had been consulted. Possibly someone on my staff said, "Cabinet Office has a walk-around. Would you be willing to deal with it?" That's all I would know, judging on that most likely. I'm not going to speculate on what may or may not have happened if I had been included on that walk-around.

Mr. Victor Fedeli: So you're suggesting that you were going to be the fourth signee of this. At 1:07 you were going to sign it, but at 2:30 you were no longer available to sign this.

Hon. John Milloy: According to these emails, yes.

Mr. Victor Fedeli: But you were prepared, at 1:07, to sign this document.

Hon. John Milloy: No. What I just said was that I was prepared at 1:07 to meet with representatives from Cabinet Office who had an issue that they wanted to raise with me and potentially get my signature on. Ultimately, I would have decided whether to sign that walk-around.

Mr. Victor Fedeli: The ones who ended up signing it—Chan, Jeffrey, Takhar and I presume it's Hoskins—would have been briefed on what they signed?

Hon. John Milloy: I cannot speak to what happened on September 21. I can say that when someone from Cabinet Office approaches you, they provide an explanation, obviously, as to the documents that they're asking you to sign and they are ready and available for any questions.

Mr. Victor Fedeli: Lisa, I'm going to turn it over to you.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much, Mr. Fedeli, and thank you, Mr. Chair.

I appreciate you coming in, Mr. Milloy. This can't be easy for you. This has now been two years of you in the line of fire. Some embarrassing emails came out this

summer from the former Premier's office about your handling of this.

First, I have a quick question, and then I just want to walk through some other issues. Has there been a day in the last two years where you just wished your government had handled this differently?

Hon. John Milloy: Well, I suspect that I could ask you the same question, whether you wished that the PC Party or the NDP hadn't made the same promise to cancel it.

Ms. Lisa MacLeod: Okay. We can be cute or we can actually try to get to the bottom of why we're actually here, John. I read your statement as you delivered it. I reread it when Mr. Fedeli put it forward. A big part of the solution to this is you guys actually acknowledging that you have sort of taken the approach of "ready, fire, aim" and not really hit the mark, and then cost taxpayers lots of money. I asked you a simple question. Instead of blaming whoever our candidates were in the last election, I'm just asking you, do you think that your government could have done this a little differently?

1520

Hon. John Milloy: That is the whole point of the committee.

Ms. Lisa MacLeod: No, I'm asking you.

Hon. John Milloy: The point of the committee is that we sited 19 gas plants, and two of them were a mistake, which has actually been acknowledged. Every party in the House admitted it was a mistake.

Ms. Lisa MacLeod: At a cost of a billion dollars.

Hon. John Milloy: So we've asked this committee—part of their mandate is to provide advice to our government and to future governments on how to better site them—

Ms. Lisa MacLeod: I was just simply asking you if, during the time that my colleague—

The Chair (Mr. Shafiq Qaadri): Colleagues, if we might go one at a time.

Ms. Lisa MacLeod: I'm just pointing out, for example, that my colleague Mr. Fedeli just pointed out that he signed submissions in 2011, last year, in September 2012, ongoing through to even this past summer in 2013. For two full years, this minister promised that we would have all of the documents, and then we would find out that there would be another document dump. In fact, I've been here a few times when those document dumps had occurred, as have Mr. Fedeli and Mr. Yakabuski.

I'm just simply asking this minister, after he betrayed the trust of so many in this assembly and refused to disclose the documents for so long and then told us in the House that he had done it—I simply don't think that's satisfactory. I'm simply asking him, would he have done it differently?

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod, we welcome your questions. I would just respectfully ask all members of the committee to please adopt parliamentary language.

Ms. Lisa MacLeod: Sure.

Hon. John Milloy: What happened that summer was not rocket science. The parliamentary—

Ms. Lisa MacLeod: Which summer was that?

Hon. John Milloy: The summer of 2012. Parliamentary committees have been dealing with sensitive material for years. You can go back to the parliamentary precedents of the 1800s. The idea of a minister coming to a committee and saying, "Look, we have some documents that are very, very sensitive, that are commercially sensitive and that involve solicitor-client privilege, and it would not be in the best interest of the public just to sort of slap them on the table and make them public for everyone to see in the midst of commercial negotiations" etc. There are numerous examples where the three parties or the opposition and the government got together, and they were able to make arrangements to have those documents looked at.

What I regret is that when the Speaker charged—the Speaker's ruling, if you read it, was a very thorough and thoughtful ruling, and he said, "I think the three parties can figure this out." What disappointed me the most is that I went to the three parties and I suggested a few ways forward—I said, "If you have alternate ways you want to bring forward, by all means let's figure this out."—the opposition parties waited out the clock.

Ms. Lisa MacLeod: I don't think that's necessarily fair. I think it's easy and convenient for you to try and blame Mr. Wilson and Mr. Bisson, and I think it's convenient for you to try to put this on us in the opposition, but I think in these failed negotiations—and you mentioned it in your deputation—you actually have to look in the mirror as well.

Again, I go back to this betrayal that we feel in the opposition when we're told consistently, time and time again, that the documents would be coming and then they weren't. We received some, then there were more. This happened over a two-year period. I would expect that anybody with a sense of self would understand that what they were doing was wrong.

I'm simply asking you, yet again, don't you think you could have done things differently? Even in your opening statement you talk about cheap political points. All we're simply trying to do is get the answers.

Hon. John Milloy: I think that we could learn a lot from this committee in terms of the future siting of gas plants. Obviously, it was a mistake, as we decided not to proceed with either Oakville or Mississauga. It was a mistake that was acknowledged by every party in the House. Part of the charge to this committee is to figure out a process to move forward. In terms of the gas plants, of course we wish that we had a better process so that we hadn't gotten into the Mississauga or the Oakville situation.

In terms of the production of documents, we are talking about a government—with emails alone, my officials tell me that we have over a million emails that are exchanged every day here in government. I think the Premier said in her testimony it's not like there's a file cabinet somewhere marked "gas plants," and it's a matter

of photocopying them and sending them in. This is very complex work; it's complicated work. People have worked in good faith.

In terms of the issue of that September, the production of further documents following that initial tranche that was given—that's something that has been dealt with by the House. In fact, Mr. Chair, the Speaker has ruled on that already.

Ms. Lisa MacLeod: Here's the issue: You brought up the siting of gas plants and that this is what this committee is supposed to do, and then you talked about the production of documents, which I think are both important. I do have a problem with how your government has chosen to site gas plants and then renege on them at a cost that you have never actually calculated. Again, I go back to the "ready, fire, aim" situation. You've never done that cost analysis.

Do you have the documents—this package?

Hon. John Milloy: Yes.

Ms. Lisa MacLeod: Can you just go to tab 11? This document was provided to your office in July 2012 outlining the potentially embarrassing documents that would be emerging and that had been identified by the Ministry of Energy. When we talked about—

Hon. John Milloy: I'm sorry, I'm not sure what page I'm supposed to be on.

Ms. Lisa MacLeod: It's the last page.

Hon. John Milloy: Oh, sorry, I wasn't looking at the right package.

Ms. Lisa MacLeod: Okay. When we talk about the production of documents, when we talk about the siting of the gas plants and we talk about money—first, I have a question: Why weren't those documents that are noted here in the July 7, 2012, memo under the name of Vapour Lock provided to us? It indicates that there would be an impact to ratepayers, yet at the time, you were still suggesting to everyone that it was only \$190 million to the taxpayers—and we still don't know how that breaks down to the consumer. You knew that the cost of Mississauga was higher, yet you chose not to disclose it.

The question that I have, after reading all of these documents and going through all of the Hansards that I've gone through in the past two years, is: Why do you feel, after withholding this information from us, that you should not be held in contempt of Parliament?

The Chair (Mr. Shafiq Qadri): One minute.

Hon. John Milloy: I don't know where to start with one minute. No documentation was withheld from you. That summer, there were ongoing discussions at the committee, trying to balance commercial interests with the right of the committee to those documents—

Mr. Victor Fedeli: Point of order.

The Chair (Mr. Shafiq Qadri): Point of order: Mr. Fedeli.

Mr. Victor Fedeli: The witness has said no documents were withheld, but it's very, very clear, Chair, that on September 24—

The Chair (Mr. Shafiq Qadri): Mr. Fedeli, I sense that's a point of disagreement, which you're welcome to continue to disagree on—

Mr. Victor Fedeli: No, no, it's a point of order that we've discussed in here. Well, it's a point of fact: We received documents two weeks later—

The Chair (Mr. Shafiq Qadri): Points of fact are very welcome, but it's not a point to interrupt the committee testimony with.

Your time now resumes, Ms. MacLeod.

Ms. Lisa MacLeod: Well, this says:

"Confidential

"Overview of contentious responsive records in possession of energy

"Vapour-Lock

"July 7, 2012."

At the very end, it says:

"Note: Should be out of scope—not 'correspondence.'"

You withheld the information. Why should you not be held in contempt of Parliament, is my question.

Hon. John Milloy: First of all, I'm not familiar with this document, but in terms of anything that talks about scope, if we're talking about scope, we are talking about how—if the committee asks for certain documents, you provide certain documents. There obviously is a process by which you go through documents—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. MacLeod.

The floor passes now to Monsieur Bisson.

Mr. Gilles Bisson: Welcome, my dear House leader colleague. It's nice to have you before this committee.

Hon. John Milloy: It's great to be here.

Mr. Gilles Bisson: I'm used to meeting under more informal circumstances, but nonetheless, I have a series of questions I want to ask you.

You're aware of what the standing orders are and what standing order 110(a) and (b) are all about. Let me remind you: Standing order 110 deals with, "(a) Standing and select committees shall be severally empowered to examine, enquire into and report from time to time on all such matters as may be referred to them by the House."

And more to the point: "(b) Except when the House otherwise orders, each committee shall have the power to send for persons, papers and things."

Were you aware that that is in the standing orders?

Hon. John Milloy: Very much so.

Mr. Gilles Bisson: When you said earlier that this was all a cheap political trick on the part of the opposition, when you met with us—and I was there; I remember—for a short five minutes when you were trying to drib and drab the documents and control them in whatever way that you could, that in fact the government had an obligation to provide those documents to the committee, and if the committee so desired to have them, you had to provide them. Agreed?

1530

Hon. John Milloy: You're quoting from one procedure—

Mr. Gilles Bisson: The standing orders.

Hon. John Milloy: From the standing orders. Let me quote from O'Brien and Bosc—

Mr. Gilles Bisson: Okay. Well, hang on. Before you go to O'Brien and Bosc, you know that standing orders supersede O'Brien and Bosc or Erskine May or Beauchesne. The first authority is the standing orders, and where the standing orders are silent, then it goes to the precedents. In this particular case, it says "Except when the House otherwise orders," you have to provide the documents. So were you aware that the government had to provide those documents?

Hon. John Milloy: I was aware, but I was also aware of the commentary of O'Brien and Bosc, if I can share it.

Mr. Gilles Bisson: Yes, please.

Hon. John Milloy: "The power to call for persons, papers and records is absolute, but it is seldom exercised without consideration of the public interest. The House of Commons recognizes that it should not require the production of documents in all cases; considerations of public policy ... enter into the decision as to when it is appropriate to order the production of such documents."

The reason for my frustration with the four meetings between myself and the House leaders—and I remember very well the first meeting because it happened only a few hours after the Speaker's direction for us to figure it out—is, I said, "Look, there's a lot of different ways we could go here. We could have a lawyer. We could have judges. We could have in camera. We could have sealed documents. But the fact of the matter is, folks, we've got to figure this out. Please come to me with your suggestions." When I went forward with two potential paths, I said over and over again, "We are open to all discussions." If you say, "Look, we like this part of it but not this part. We want to do it this way," we will have that.

Mr. Gilles Bisson: My honourable colleague, my honourable colleague, you're aware of what the Speaker's ruling was, and the Speaker's ruling was that the government had to provide those documents and couldn't hide behind sub judice. He was pretty clear in his decision. What he had said was, "If you guys want to work something else out, that's up to you," but it was the right of the committee, which was maintained by the opposition, that in fact those documents had to be produced. Would you accept this following premise: that in fact, your government and your House leader's office were trying to slow down the process of releasing those documents?

Hon. John Milloy: I disagree with your interpretation of the Speaker's ruling. Let me quote just from a piece of it. This is Speaker Levac's ruling, and he quoted two passages from Speaker Milliken as reflecting his views. He said, "It seems to me that the issue before us is this: Is it possible to put into place a mechanism by which these documents could be made available to the House without compromising the security and confidentiality of the information they contain? In other words, is it possible for the two sides, working together in the best interests of the Canadians they serve, to devise a means where both their concerns are met? Surely that is not too much to hope for."

And he went on to say, "I, too, have immense faith in the abilities of the honourable members of this House. I

know that a solution can be found to this impasse. All sides need to exercise sobriety in this. Political fortunes should not be the motive for eroding"—

Mr. Gilles Bisson: Okay, so we all know how much time you can take reading that.

The point is, you had an obligation as a government to comply with the request by the committee. It's pretty clear in the actions of your government that, in fact, you guys were doing everything you could not to. Why do I know that? Because as House leader, I observed the strategy of your people—Dave Phillips and others—who were trying to do everything they could, including filibustering the estimates committee, to never allow the matter to be dealt with. So was it not the intent of the government not to release those documents?

Hon. John Milloy: Well, what you have termed "filibuster" was members of the committee going forward and raising the point over and over again that these were sensitive documents; these were documents that could interfere with—

Mr. Gilles Bisson: Listen, even in the case of Afghanistan, Speaker Milliken was pretty clear: You've got to give the documents. And our Speaker was pretty clear: You can't hide behind sub judice. So was it not the case that your government was actually trying to limit, in some way, the release of those documents, either in timing or in scope?

Hon. John Milloy: We were trying to help the committee and help the minister—when you ask about my office—come to terms with the fact that there were two competing interests here, in terms of public interest and in terms of the right of the committee to those documents. At the end of the day—as I say, this is not rocket science here. This is done over and over. There are all sorts of precedents.

Mr. Gilles Bisson: Right. Let me refer to a document dated July 4, from your office. It was drafted—

Hon. John Milloy: Is it in the—

Mr. Gilles Bisson: It's in our package, number 7—NDP package, number 7. And I read here from Dave Phillips an email that went out on July 4—

Hon. John Milloy: I don't know if I have that. Sorry.

Mr. Gilles Bisson: Here, I'll give you a copy.

Hon. John Milloy: If I have the NDP—

Mr. Gilles Bisson: Page 7.

Hon. John Milloy: Oh, okay. It doesn't have a—

Mr. Gilles Bisson: As you guys are looking for the document—David Phillips, who was at the government House leader's office and, I believe, was your chief of staff and also related to the Premier's office, has a memo that says, "I've attached a memo that Spaf and I drafted up re options for release of vapour..."

Turn to the next page, and go down to page 2 of that document, at the bottom:

"Strategic Goals

"To the extent possible, reduce the risk—fiscal and otherwise—posed by the production of documents to the successful resolution of litigation..."

But then, in point 2:

“Successfully manage the timing and manner of release of the documents so as to limit the negative communications/issues management impact on the government.”

Doesn't that sound as if you were trying to protect your political hide?

Hon. John Milloy: I look at the first point—

Mr. Gilles Bisson: Why did you write the second point?

Hon. John Milloy: First of all, I didn't write this document. The first point was, “To the extent possible, reduce the risk—fiscal and otherwise—posed by the production of documents....” We were trying to manage.

Mr. Gilles Bisson: I read that document for you. But why, on this point 2, do you say, “Successfully manage the timing and manner of release”—and then, in the third bullet point, “Facilitate the Minister of Energy's completion of his final five hours before the committee and avoid having the matter come before the House for a debate/vote”?

It sounds to me like you were trying to not comply with the request by the committee. Can't you come to that conclusion?

Hon. John Milloy: We were trying to reach a solution with the committee, which was ignoring their responsibility to balance both their right to documents with their responsibility to look at risks, fiscal and otherwise.

Mr. Gilles Bisson: We literally have thousands of documents that the government said were extremely sensitive, and when you look at them, you could post them on the front page of the Star, and it wouldn't make a difference.

Hon. John Milloy: The reason why, Mr. Bisson, is because the negotiations are over.

Mr. Gilles Bisson: A whole bunch of documents that you were saying were a risk in regard to confidential information in fact were documents such as, “Let's try to find a way to bully the Speaker so that we can change his mind.” Those are the kind of documents that you were trying to hold back.

The Chair (Mr. Shafiq Qaadri): Mr. Bisson.

Mr. Gilles Bisson: I stand corrected, Chair. I withdraw that. Thank you very much. But I do have it on the record.

Is it not the case that the House leader's office and you, as House leader, were in fact trying to manage the release of those documents?

Hon. John Milloy: Let me put something on the record. The Auditor General said, on September 5, in public accounts: “My sense on the Oakville one”—meaning the Oakville power plant—“is that it could very well be that some of this information could be subject to client-solicitor privilege, or even if we were to get it”—the documents—“in my opinion, it could be damaging to the province's negotiating position.”

Mr. Gilles Bisson: Was it or was it not your office that had the issues management on this file?

Hon. John Milloy: The Minister of Energy and the Minister of Energy's office would have had the primary lead on this file.

Mr. Gilles Bisson: So your office was not responsible for the management of how those documents would be released, as per the estimates committee request.

Hon. John Milloy: It would be ultimately up to the Minister of Energy and the Minister of Energy's office.

Mr. Gilles Bisson: What was your role in managing the response among the cabinet members?

Hon. John Milloy: During what time period?

Mr. Gilles Bisson: It was your time period; you were the House leader.

Hon. John Milloy: No, I said, during what time period?

Mr. Gilles Bisson: My question is, at the time that the request by the committee had been made and you were trying to hold that thing up at estimates committee, what was your role in regard to informing cabinet about what was going on, and who were the decision-makers?

Hon. John Milloy: Over the course of the summer, I didn't have a role.

Mr. Gilles Bisson: No, this is back in May. When the estimates committee put forward the request for the release of those documents and the documents had not been released and there had been no decision by the Speaker yet because the matter was not completed within the estimates committee, was it your office or the Ministry of Energy that was managing what was going on in that committee?

Hon. John Milloy: It was ultimately the Ministry of Energy, and they were getting any assistance they required from our office.

Mr. Gilles Bisson: What was the role of the government House leader's office in managing that issue?

Hon. John Milloy: At that point, very candidly, I don't think there was much of an issue to manage because it had just started in estimates. There was a discussion going on—sorry, maybe I'm misunderstanding your question.

Mr. Gilles Bisson: You were filibustering the committee. Who gave that order?

Hon. John Milloy: You asked an earlier question about ministers speaking publicly and all that.

Mr. Gilles Bisson: No, what I asked you was, at the time that the committee had requested the estimates documents and they had not been produced and there was no Speaker's ruling and they were still at the estimates portion, who, within the government, was responsible for the strategy about what that committee did?

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Hon. John Milloy: It was ultimately the members of that committee. We had the Minister of Energy, and our office played a facilitating role. We were trying to help the Minister of Energy—

Mr. Gilles Bisson: Who made the final decisions? Who made the final decisions about strategy in that committee?

Hon. John Milloy: Ultimately the members of that committee would have made decisions about points that they would have raised, and the Minister of Energy

would have made points about what was going forward. We would have provided advice to them.

If your question is: Were we trying to help the Minister of Energy and work with all involved—

Mr. Gilles Bisson: Let me make it really clear again: Who was responsible for directing the strategy at the estimates committee at the time that the documents had been asked to be released? Was it the Minister of Energy's office, was it yours or was it the Premier's? Who controlled the strategy?

Hon. John Milloy: You're characterization—I don't know—smacks a little bit of Hollywood. I mean, we had a situation—

Mr. Gilles Bisson: It's not Hollywood.

Hon. John Milloy: No, but it does; it does.

Mr. Gilles Bisson: No, John, don't be glib, here. Somebody manages what happens on committees. The committee just doesn't do what it wants; it takes a direction either from the ministry or from the government House leader's office. My question is, who was directing the strategy at the estimates committee at the time of the original request for the documents?

Hon. John Milloy: We had a problem, and that problem was that we had a committee that had asked the Minister of Energy for documents which were highly sensitive and which were subject to solicitor-client privilege.

Mr. Gilles Bisson: We know all that. But who directed the strategy? Was it the Minister of Energy or was it you?

Hon. John Milloy: We worked with the Minister of Energy and with committee members to try to, in a sense, bring the committee to recognize its responsibility to balance its right to ask for them.

Mr. Gilles Bisson: That's fine, but that's defined as "strategy." So my question is, who was responsible, in the end, for determining what the strategy was going to be?

Hon. John Milloy: As I say, it was a decision—I mean, it was ultimately the Minister of Energy that identified the problem, and it was our office that tried to offer his office advice on how we could manage it at committee.

Mr. Gilles Bisson: Who in the government, who within your caucus was responsible for directing the strategy at that committee? Were all your committee members rogue? Was it your political staff that went rogue? Was it your decision? Was it the Minister of Energy's decision? Was it cabinet? Who made the decision?

Hon. John Milloy: As I said, you don't seem—it's the premise of your question I'm having trouble with, because ultimately, it was the Minister of Energy who identified the problem. It was our office that helped make the case to the committee and worked with our members of the committee. So ultimately, if you're looking for a decision-making tree, it was joint. It was us working together.

Mr. Gilles Bisson: So it was the Minister of Energy's office and it was the House leader's office? Was it also

the Premier's office that ultimately made those decisions?

Hon. John Milloy: Again, "ultimately made the decision"—the fact of the matter was that there was a problem and we were trying to deal with it, and we were trying to find the best way forward. I reject your, as I say, House-of-Cards view that somehow, there was someone sitting in a dark office saying, "Do this" or "Do that." We were working together to try to make the committee aware of its responsibilities.

Mr. Gilles Bisson: So things just happen naturally. There are no decision-makers within government; it just happens. Come on, John. We've all been around. Somebody had to go and give direction to your members on committee about what to do. It was clear, according to your own email here, that you didn't want to release those documents. Somebody had to manage how that committee functioned, and I know you were involved because I was in your office a couple of times when some of those management issues were going on.

So I ask again: Who ultimately was responsible? Was it the House leader? Was it the Minister of Energy? Was it the Premier? Was it all of you?

Hon. John Milloy: I'm going to give the same answer. We worked with the Minister of Energy's office to help him deal with a very serious problem he was facing in committee; the committee was asking for documents which were sensitive in nature.

Mr. Gilles Bisson: Was the Premier's office involved?

Hon. John Milloy: The Premier's office was obviously kept informed at a staff level of what went on.

Mr. Gilles Bisson: Okay. Kept informed is different than being involved. Were they just kept informed or did the Premier's office give back direction about, "No, you can't do this. Yes, you can do that"?

Hon. John Milloy: But ultimately—again, I reject your Hollywood view that it was one person sitting in a room. It was the fact that the—

Mr. Gilles Bisson: Listen, the bad Hollywood movie is what you guys did. I'm asking a question.

Hon. John Milloy: It was the fact that the Minister of Energy faced a problem in front of the committee, and we helped the Minister of Energy manage that problem.

Mr. Gilles Bisson: We know that the Minister of Energy was trying to manage a problem, and what you've confirmed is that both the Minister of Energy's office and your office, as government House leader, were managing how that committee did its work. I asked you the question and I ask again: Was it strictly reporting to the Premier's office what was going on, or did the Premier's office give back direction on what to do there?

Hon. John Milloy: Again, I think people worked cooperatively to help the Minister of Energy deal with the problem that he was facing.

Mr. Gilles Bisson: So the Premier's office was also involved in the decision-making; that's essentially what you're saying. So it was the Premier's office, your office and the Minister of Energy's office.

Hon. John Milloy: I'm saying that the relevant political offices that were involved would be involved in trying to help the minister deal with this issue that he was facing in front of the committee.

Mr. Gilles Bisson: Okay. Do you have something?

Mr. Peter Tabuns: What my colleague and I find strange is the idea that you, as House leader, would not have been consulted on the strategy. Were you not consulted on the strategy? Did your staff not come to you and say, "House leader, this is the approach we're taking on committee. We're going to filibuster this one. Do you think that this is a good direction or not?"

Hon. John Milloy: You see, I characterize it a little bit differently than filibustering. I see it as a situation where we had a committee where, quite frankly, the opposition was not taking seriously their responsibility to balance the public interest versus their absolute right. When you look at the procedural authorities, they will say there is an obligation on the part of the committee. What we were trying to do was to make that case, and we made that case through amendments, we made that case through discussions at the committee—

Mr. Peter Tabuns: Mr. Minister, document 8, from Ryan Dunn to David Phillips from your office and John Brodhead from the Premier's office, refers to this as a filibuster:

"In exchange, we agree to:

"(a) End the filibuster on the motion and resume questions ... if they don't agree we will filibuster estimates for the entire summer."

You guys were filibustering; that's what you were doing. That was your strategic and tactical approach.

Hon. John Milloy: Well, the strategic and tactical approach was, as I said, to try to get the committee to recognize its responsibility and to come up with a solution, and that was ultimately what I pitched—if I can use that term—to the Speaker. What's very interesting about the Speaker's ruling is that the Speaker's ruling was not absolute. He said, and he cited me as saying, "Yes, I recognize what the government House leader said. You three House leaders go and try to figure this out."

Mr. Peter Tabuns: Was this matter discussed at cabinet?

Mr. Gilles Bisson: And we're talking specifically when the estimates committee was requesting the documents.

The Chair (Mr. Shafiq Qaadri): One minute.

Hon. John Milloy: No.

Mr. Gilles Bisson: It was never discussed at cabinet?

Hon. John Milloy: Well, you said—ask your question again.

Mr. Gilles Bisson: The question is, at the time that the estimates committee was requesting the documents and prior to the decision by the Speaker of a prima facie case of contempt, did this get discussed at cabinet—the strategies around the estimates committee?

Hon. John Milloy: The strategies around the estimates committee during that period; we're not talking about after the Speaker's ruling.

Mr. Gilles Bisson: No, we're talking about during that period.

Hon. John Milloy: No, not that I can recall. No.

Mr. Gilles Bisson: Let me go further, then. Was there any discussion amongst cabinet in regard to this issue at all? Did you guys ever discuss it at cabinet? "Hey, by the way, there's something going on at estimates. They're asking for documents." "Oh, my God, we can't do that. They're commercially sensitive." Did you ever have those kinds of discussions?

Hon. John Milloy: As we headed, obviously—we had the Speaker's ruling and—

Mr. Gilles Bisson: No, there was no Speaker's ruling at this point. I'm talking prior to the Speaker's ruling.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bisson. To the government side: Mr. Delaney.

Mr. Bob Delaney: Thank you very much, Chair. Good afternoon, Minister Milloy. I've just got to ask you this: Are all House leaders' meetings like this?

Hon. John Milloy: No, they're not as much fun.

Mr. Bob Delaney: I see.

I've listened very carefully for 40 minutes, and this is all about, "Were you briefed on something you didn't need a briefing on because you didn't sign a document?"

I want to start out by asking you about then-Minister Bentley's appearance at the estimates committee. I'm going to give you a bit of a preamble here. On May 16, Mr. Leone moved a motion for correspondence from the Minister of Energy, the Ministry of Energy and the Ontario Power Authority regarding the two gas-fired peak power generating plants, one in Oakville and one in Mississauga. At the time, sensitive commercial negotiations were ongoing with both companies, and in response, then-Minister Bentley wrote to the committee outlining that the motion was requesting documents subject to solicitor-client privilege and litigation privilege. The minister warned that these documents were highly commercially sensitive and cautioned the committee that their release at that time would impact ongoing negotiations.

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So here's the question: Can you speak to some of the issues raised by Mr. Bentley at the estimates committee?

Hon. John Milloy: That committee was one of many that was going on, and I guess I'm picking up a little on the NDP. I became much more engaged later in the summer when the Speaker put forward his ruling. As I said, I think it's very important that you read the ruling, because the ruling was not some slam dunk that said, "Oh, the opposition was right and the government is wrong." It actually said, "Look, we understand. There are two competing interests here. Ultimately committees have absolute right to this material, but there are many instances where committees have been able to sort this out."

He tasked the three House leaders, and I quoted a little bit earlier that he quoted Milliken. He put a lot on our shoulders. He said, "You're responsible individuals. I think you can put aside some partisan differences and figure it out."

That was on a Thursday, I believe, and we had a regular House leaders' meeting that followed a few hours later. I remember saying, "Look, I haven't had a great opportunity"—at that point—"to put together formal proposals. But the bottom line here is that there are all sorts of precedents where you could seal records, where you could hold in camera meetings, where you could put the records"—I understand this was maybe in pre-electronic days—"in a sealed room, you have a security guard there and members of the committee are allowed to go see them, and they sign a confidentiality agreement."

I said to them, "Look, there are all sorts of ways forward. We could get a retired judge to come in. We could ask the Auditor General to come and any documents that Mr. Bentley was concerned with, the Auditor General could go through and say, 'Look, you're right. We can't release these,' and we could find a way to move forward."

So I said to them, "Look, there are a million and one ways to do it." I'll be very candid. I actually said, "You guys hold all the cards here. Ultimately, we've been charged. We've got a week. You guys have raised the concern. Please, come forward with your suggestions and ideas. I will try to develop something."

And we did develop what we called the two paths. First of all, I said, "Look, you have doubts about the commercial sensitivity about this. We can provide you with a very, very detailed briefing. We can sign an oath of confidentiality. We'll walk through exactly where we are with the Oakville negotiations, and explain to you why there are some sensitivities around it." Then, "We think we're going to solve Oakville. We're going to solve it very soon. Why don't we seal the documents for a period of time? You can have an insurance policy." Initially, I said six weeks. I said, "At the end of six weeks they'll be unsealed because we think we can get it done in six weeks." In fact, I believe I said a few times that if six weeks is too long, then come up with another date, and move it forward.

Or another way to do it would be to hold in camera hearings, where the material is provided confidentially; again, perhaps the use of a panel. We talked about how there are former judges and lawyers, and all that.

But what frustrated me is that there was no engagement. The opposition sat there, and basically waited out the clock. The opposition didn't say to me, "You know what? Okay, option 1, we kind of like this but we don't like that," and, "Oh, this is unreasonable. Why don't we do it this way?" They just waited out the clock, and I do not feel that, in any way, respects the tone or the spirit of the Speaker's ruling, which is, "You're responsible parliamentarians. Put aside some partisan differences and find a way for a committee to deal with it."

I bumped into a former Tory MPP who had been around in the Davis years and beyond. I remember, during all of this, I think I bumped into him on the street. He said to me, "This is crazy. Committees deal with confidential information all the time. You could come up with a system very quickly. There are all sorts of preced-

ents. Use a lawyer. Use a judge. Put something in camera." You can go to Ottawa—and not just on Afghan detainees—you can go to Queen's Park, you can go to Legislatures across this country and find all sorts of instances where committees were able to deal with documents.

But what I think upset me the most was that—first of all, they would not engage. But what upset me the most is that it stopped being about the documents, which they had a right to—I fully admit they have a right to. It had to do with going after Chris Bentley. I believe it was the first meeting, and there was a Conservative staffer, Jeffrey Kroeker, who has since left Queen's Park, who went on a tirade like I had never heard, a staff member speaking to elected members, talking about how Chris Bentley could potentially be disbarred. We had Jim Wilson, I believe in a press release, talking about him going to jail. This is outrageous.

This is a former Attorney General who was trying to protect the best interests of taxpayers, and instead of the opposition engaging and saying, "How can we figure a way forward?" as had been directed by the Speaker, I had to listen to some staffer talking to me about a former Attorney General being disbarred.

Mr. Bob Delaney: Okay. Thank you for that.

Let's just shift, then, to the actual decision to cancel the two plants. Again, just a quick recap: The commitment to cancel the Mississauga gas plant was made by all three parties during the 2011 election and, shortly after being re-elected, our government announced—

Mr. John Yakabuski: Point of order.

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski, a point of order.

Mr. John Yakabuski: On a point of order: I give Mr. Delaney the opportunity to correct his record. No decision was made by all three parties. A decision was made by the political arm of the Liberal Party during the 2011 election—

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski, however interesting and valuable, it's not a point of order. Thank you.

Continue.

Mr. Bob Delaney: So let's recap: The commitment to cancel the Mississauga gas plant was made by all three parties during the 2011 election and, shortly after being re-elected, our government announced its intention to relocate the facility. The decision caused the commencement of civil proceedings in both the province of Ontario and the state of New York. These lawsuits, as well as confidential settlement negotiations, were ongoing at the time that Mr. Leone moved his motion at the estimates committee here in Queen's Park in May 2012.

Speaking about Oakville, all three parties supported the cancellation of that plant. While no formal litigation resulted from the government's decision, the province and TransCanada Energy, the proponent in Oakville, had been engaged in formal arbitration and confidential settlement discussions.

In this committee, numerous independent witnesses have testified that had these documents been made public

before the deals were finalized, it would have greatly jeopardized the government's negotiating position. In fact, the Auditor General likened it to not wanting to tip your hand in a game of cards.

Could you comment on how these concerns mirrored some of the concerns you yourself had when you were working with the opposition to try to negotiate a solution with regard to the release of the documents?

Hon. John Milloy: That was the bottom line. Nobody argued with the absolute right of the committee to produce the documents. In my written presentation to the Speaker, which was shared with all parties as a public document, I pointed out—and I quoted from O'Brien and Bosc earlier in response to Mr. Bisson—that there is parliamentary tradition going back to the 1800s which says that all parties—in this case, we're talking about the opposition—have a responsibility to balance the public good with their right to ask for documents.

The advice that I was receiving from the Minister of Energy, which obviously he had made very clear to the committee, was that these were very, very sensitive documents, and to simply give them to the committee, to make them public, could have jeopardized some very high-stakes negotiations that were going on.

What was interesting is that I was being advised that we were close to a deal on Oakville, so when I met with the House leaders, I made that very clear. As I said, I offered them a briefing where we spoke about, "Look, give us a little bit more time. We think we can get a deal." I realize there are limits to the patience of the opposition. I never said, "Make this open-ended. We'll seal it until Oakville gets done. If that takes 10 years, who cares?" I said, "Give us six weeks." I actually, if I recall correctly, had said, "Look, if you want to make it less than six weeks, outline your concern."

The whole issue was simply to protect the taxpayers' dollars. What shocked me was just the absolute lack of engagement on the part of the opposition. I mean, if you look up "passive aggressive," there they were. They sat and waited out the clock because the Speaker had said, "Unless you reach an agreement by X date"—I guess it was the 24th of September—"then we'll go back to my ruling."

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So there was no attempt. They did not come forward with their own plan. They didn't raise it. When I became House leader, I always joked in the media that I thought we'd be ordering a lot of Chinese food for late-night meetings and we'd be there until 2 or 3 in the morning. Party X would say, "Well, we could do it this way, and we want a lawyer," and the other party would say, "No, we want a judge," and I'd say, "Okay, well, maybe we'll get a lawyer and a judge, and could we get the Auditor General?"

I thought there would be those discussions, but instead they just sat there. As I outlined it, they showed absolutely no recognition of their responsibility. They have a responsibility here as much as a right, and it was that lack of balance, and unfairness, which was causing so much

frustration over the summer. It was causing frustration for Minister Bentley. It was causing frustration for committee members. Read the Hansard of the estimates committee that summer. You had deputations that were made by a number of our members, very passionate ones, that this was very, very dangerous. You had support from the Auditor General and from others around this issue of releasing the documents, and that it could jeopardize them.

Mr. Bob Delaney: Okay. Thank you. Dave Phillips, at that time your chief of staff, wrote a memo on July 4, 2012. In that memo, which we've seen in the committee, he emphasized that there was a fiscal risk posed by the production of the documents until there was a successful resolution of litigation and some of the other legal processes related to both of the gas plants. In every option that he laid out, it depended on the outcomes of these negotiations.

It's clear that the documents were going to be provided to the committee. In fact, the opposition has alleged that there was an attempt to keep the documents hidden forever, but the testimony and the emails that we've seen at the committee showed that this was simply not true. In fact, as soon as the Mississauga relocation deal was finalized and all legal matters had been settled on July 10 of that year, 2012, the minister directed his ministry to provide the committee with all correspondence related to the Mississauga facility responsive to the motion, except those records subject to solicitor-client privilege.

Would you comment on how this reinforced what then-Minister Bentley has said, that it was not a matter of if, but when the documents would be released?

Hon. John Milloy: That's the crux of the matter. This was about timing. This was about the negotiations that were going on. This was about the potential fiscal hit that the taxpayers could have, and this was very much about trying to protect them and trying to find that balance. That was Minister Bentley's concern. He faced a committee that recognized its right—and I recognize its right—to ask for those documents, but certainly did not recognize its responsibilities to try to balance them. What my office did was try to help manage this challenge that Minister Bentley had.

After the Speaker's ruling, we were actually tasked with having to find a way forward. As I say, somehow around this place there's this view that this is the first time that a parliamentary committee has had to deal with this. There are dozens and dozens of examples where parliamentary committees deal with sensitive material. There were all sorts of opportunities to come up with what I think would have been a very reasonable solution. We threw out the idea of a judge, we threw out the idea of the Auditor General, in camera, documents sealed until the negotiations are over, but the reason why—I'm pleased, Mr. Delaney, that you raised all these quotes—was because of the taxpayers' dollars, because these were sensitive negotiations.

I'm putting it in a very simplistic form, but it's the same principle. If I'm selling my car and Mr. Del Duca is

looking at it, and I send you an email saying, “Well, I’m asking this amount, but I’ll take this amount,” I certainly don’t want Mr. Del Duca to see that email or to see that document. It’s simple, but that’s the principle. These are very, very complex negotiations. There were internal documents that could affect those negotiations and ultimately affect the taxpayer.

Mr. Bob Delaney: Let’s go back to some of the early part in the estimates committee. I want to talk to you a little bit about the Chair’s ruling during those proceedings. On a number of occasions, Mr. Prue, the member for Beaches–East York, the estimates committee Chair, made such comments as: “I think the minister, being a lawyer himself, knows full well that he may choose to answer the question in such a way as not to prejudice the province in any way, and I would expect him to do so.”

In terms of the document production motion, Mr. Prue, in his role as committee Chair, stated, regarding the committee: “They have the right to ask for the documentation. The minister has the right to decline either giving that documentation or giving voice to that documentation during his answering of the questions.”

To what degree were you interpreting the fact that the Chair was validating the concerns that then-Minister of Energy Chris Bentley had raised?

Hon. John Milloy: I think they’re very, very important quotes. I think it’s also important to look at the discussion and debate that took place over that period of time, to look at amendments that were moved, particularly by government members. I think there was a glimmer of a grappling with this responsibility. When I look at those quotes—which I cited myself when I made my speech in the Legislature on the motion that emanated from the Speaker’s ruling—I cited these, and I think other members did, of giving Mr. Bentley some comfort that there were these competing interests and at least the Chair of the committee recognized these competing interests and, I think, set the playing field for the debate and the discussion that went on that ultimately led to the report by the committee, and then, from that, Mr. Leone’s motion, and then the charge to the House leaders.

If you look at this, again, you can’t paint this simple picture that the opposition sometimes like to paint, that the committee said, “We want these documents.” The minister said, “No.” And the Speaker said, “Oh, you’ve found a prima facie contempt because you said no.”

No; what happened was the committee grappled with it through the Chair’s ruling—or the Chair grappled through it. Certainly government members of the committee grappled with it through their speeches, through their amendments that they tried to put forward and through their efforts to bring the committee to this understanding of their responsibility. The opposition just tuned out. I mean, the opposition only saw half of the glass, which said, “We have the right,” and they forgot about the responsibility. That’s the crux of the matter; that’s the frustration. I think the Speaker’s ruling was very, very clear that, as the quote I gave, you’ve got to

put your partisan differences aside and you’ve got to do what other committees have done and what other House leaders have done, and find something workable. The opposition never showed up.

Mr. Bob Delaney: Okay. Thanks, Chair. We’ll pick it up on the next round.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Delaney.

Thanks for your patience, Mr. Yakabuski. The floor is now yours.

Mr. John Yakabuski: Thank you very much. Patience has nothing to do with it.

Thank you very much, Minister, for joining us today. I know you’re a very busy man with all your meetings and everything else, especially those House leaders’ meetings that you seem to enjoy so much.

Just getting back to some of the line of questioning between you and Mr. Delaney, I just want to put the end to that story—just real quick. He keeps going on about how the release of the documents could jeopardize the negotiations between the government, the OPA and TransCanada. The fact of the matter is that the Speaker made his ruling that the documents must be released. The opposition parties said no to your proposal, and a day later, the deal was done. The deal was done. So this bogus, ridiculous story about how you were in sensitive negotiations is just a load of bull—

The Chair (Mr. Shafiq Qadri): Mr. Yakabuski, that’s probably a new low for Parliament.

Mr. John Yakabuski: Oh, sorry—a load of horse feathers.

You guys were done. It was done. You were just trying to stand in the way of us getting the documents because the minute that your last attempt to withhold those documents from us failed, within a day, the deal was done. The deal was done with TransCanada. You’re moving it down to Napanee, building a 900-megawatt power plant there where it’s not needed, where we have a natural gas and oil power plant there now that gets used less than 5% of the time. But the deal was done. So that story, I think you should just forget about it. There’s no credibility to it whatsoever.

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Hon. John Milloy: Can I respond?

Mr. John Yakabuski: I haven’t asked you a question yet.

Hon. John Milloy: Oh, okay. It’s sometimes hard to tell, John.

Mr. John Yakabuski: On September 24, you stated in the House that all the documents had been released. Then, later—in fact, I think it was during the Thanksgiving constit week—all of a sudden, a little memo came out: “Oh, we found more documents.” You changed your tune at that point. You stopped saying, “We’ve released all the documents”—“We released documents.”

When did you know that there was another tranche of documents that had not been released when you said—and I don’t say “you” necessarily personally. Premier McGuinty said at the time, and others had said, “All the

documents have been turned over to the committee.” When did you know there were actually more?

Hon. John Milloy: Mr. Yakabuski, this has been the subject of a point of privilege in the Legislature. Actually, I stood up on a point of order, and then on a point of privilege. I made two very thorough statements to the Legislature on this whole issue, and the Speaker has ruled on it.

Chair, I’m very sensitive because I’ve gotten my wrist slapped a number of times in the House for referring to one Speaker’s ruling. This is another Speaker’s ruling. As I say, the presentations have been made. I look for guidance as to whether we can go into this.

The Chair (Mr. Shafiq Qaadri): Thank you, Minister Milloy. We’re just conferring. The time is stopped.

Fair game. Continue.

Mr. John Yakabuski: He could answer that question.

You’re more than welcome to answer that question. You’re not obliged to, but you’re more than welcome to.

Hon. John Milloy: I’m going to be very candid and say that because it was a point of privilege—I don’t have my notes in front of me, but I would refer you to Hansard, where I outlined in my presentation the point of privilege.

As to when I found out—and I believe—

Mr. John Yakabuski: Thank you, Minister. You don’t have the date. We don’t need your sad story about why you can’t tell us here.

You did know long before you let us know, you did know long before you let other House leaders know, you did know long before you let members of the Legislature know, that there were other documents. What was the reason? What was the plan? What was the strategy? Why were you withholding that information from people in the House?

Hon. John Milloy: No, not at all. I refer you to my statement in the House. I received confirmation of the existence of more documents—I believe it was the day before the note that you’re talking about, or the statement that went out, of more documents. When the House reconvened after the Thanksgiving break on the Monday, I stood up on a point of order to correct the record and explain the fact that more documents had been found. When I stood in the House on the 25th of September and said that all documents had been put forward, that was my knowledge at that time.

As I said, I have outlined this in great detail. A point of privilege was raised by one of your colleagues, and the Speaker has ruled on it, and I consider the matter closed.

As I say, my wrists have been slapped enough—

Mr. John Yakabuski: The question is closed. Thank you very much.

Hon. John Milloy: —without referring to another Speaker’s ruling.

Mr. John Yakabuski: You’ve been going on about this committee and how you feel that it has been kind of an opposition-driven witch hunt. Well, this scandal has been well known for two years, and we still don’t know how much Oakville is going to cost us. We only know

Mississauga because of the auditor’s report. You people know what Oakville is costing, and you’re still withholding that information.

The other thing that I have a problem with this committee—you wonder why we get a little frustrated—

Mr. Bob Delaney: Point of order.

The Chair (Mr. Shafiq Qaadri): Point of order, Mr. Delaney.

Mr. Bob Delaney: Chair, standing order 23(h), I believe, does not allow a member to make an allegation against another. Mr. Yakabuski has made an unsubstantiated allegation against the witness.

The Chair (Mr. Shafiq Qaadri): Fair enough. The point is well taken.

Mr. Yakabuski, please continue.

Mr. John Yakabuski: Thank you very much.

What we do know—and you wonder why we get frustrated at this committee. Liberal staffers have come before this committee—and we’re trying to find out who is conducting the orchestra, who is giving the orders. This is a cover-up of gigantic proportions. It’s orchestrated somewhere. We’re trying to find that out. Liberal staffers have come here and perjured themselves. We know that—

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski, there’s no—

Mr. John Yakabuski: Just a minute, Chair. When one staffer says one thing and another staffer contradicts that staffer, the two of them can’t be telling the truth. At least one of them is lying before this committee. That is not deniable.

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski, those would be points of differentiation and difference of opinion. I would invite you to please continue and perhaps—

Mr. John Yakabuski: People sit before there, and witnesses other than MPPs take an oath. We have had Liberal staffers come before this committee and directly contradict the testimony of another Liberal staffer. You wonder why we’re getting frustrated? That’s why we’re getting frustrated, because we have been on a two-year search for the truth, and we can’t get it. Your testimony here today is not helping us one little bit.

Mr. Gilles Bisson: We’re getting a pretty good idea of what happened.

Mr. John Yakabuski: Well, we have a pretty good idea, but we need to hear it from the government officials who are ready to take responsibility for their actions.

Hon. John Milloy: I’m not sure what your question is. What’s your question, Mr. Yakabuski?

Mr. John Yakabuski: I didn’t have a question yet. It’s coming.

Hon. John Milloy: As I said, it’s hard to tell sometimes.

Mr. John Yakabuski: I’d like to know when you knew—even though you were saying in the House that \$40 million was the total cost of cancelling Oakville—that it was going to be more, because we have documentation that goes way previous to when there was an

admission in the House that there were other costs. When did you know?

Hon. John Milloy: Any information that I received on costing during that period would have come from the Minister of Energy or the Ministry of Energy, which in turn received it from the OPA. When questions came up, the Premier asked the Auditor General to look into the Oakville plant. I know from media reports that the new Auditor General has said that her report is forthcoming in the coming weeks. I have not seen a copy of that report and I have no idea what that report is going to say. So I do not know what the costs are of the cancellation or the re-siting of the Oakville plant according to the Auditor General.

I reject, and I actually am a bit appalled, that you at this committee and in the House continue to state that I somehow have that knowledge. I do not have that knowledge.

Mr. John Yakabuski: In your opening statement today, you as much said that the problem here was the opposition. You've accused us, about the release of those documents—let me quote it—of “scoring cheap political points.”

Let me ask you. You continue to raise the names of Progressive Conservative candidates in the 2011 election. You seem to know very little, or at least you disclosed very little to this committee, about what went on in the decision-making process about cancelling these plants and when those decisions were made. What possible involvement in the decision to cancel these plants and knowledge of it would Geoff Janoscik or Zoran Churchin have? Is it fair to say that they would know nothing?

Hon. John Milloy: Well, I would have suspected, with the amount of drama that I've seen coming from the opposition benches, particularly the Conservatives—

Mr. John Yakabuski: What would they know, I asked you, Minister?

Hon. John Milloy: —that when you—

Mr. John Yakabuski: Minister, what would they know? They were in an election and they took a stance saying they would stand to see this—

Hon. John Milloy: —when those members in that riding—

The Chair (Mr. Shafiq Qaadri): Colleagues, one at a time, please.

Mr. John Yakabuski: What would they know? What factual evidence would they know about the contracts or anything else? Would they know anything?

Hon. John Milloy: May I answer?

Mr. John Yakabuski: Yes, answer the question. Stop trying to score cheap political points, and answer the question.

Hon. John Milloy: Well, I would have suspected, based on the presentation that you have put forward, that they would have been very, very concerned when your leader made that promise, and they would have asked about costing. They would have consulted—

Mr. John Yakabuski: We've taken two years trying to find out about costing, and we're members and don't

know. How in the name of God would they get to know? How would they get the information if we can't get it at this committee?

Hon. John Milloy: —with Conservative policy advisers who were involved in advising your leader, and they could have made sure that they had voiced either their concerns or been made aware of the estimates that were coming forth from the Progressive Conservatives. I invite you to encourage them to come in so that we can ask those questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. Gentlemen, we are setting a bad example for the children, but I would like to acknowledge the presence of Dr. Shafiq Qaadri Jr. and Dr. Shamsa Qaadri. Welcome.

I pass the floor now to the NDP. Mr. Bisson.

Mr. Gilles Bisson: Chair, I am sure if we called your children before this committee, we would find out all kinds of things. Anyways, that's another point.

I want to bring your attention—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bisson.

Mr. Gilles Bisson: You're welcome.

The Chair (Mr. Shafiq Qaadri): That's not in the scope of this committee.

Mr. Gilles Bisson: I bring you back to our documents, document 7. In that is an email from David Phillips in your office as government House leader, where he and Kevin Spafford developed, essentially, a summary of options of how you were going to manage the estimates committee. Previously in our round of questioning, we established that, in fact, your office was involved in the management of what happened at the estimates committee prior to the ruling of a prima facie case of contempt. We established that it was also done with the co-operation of the Minister of Energy's office and the Premier.

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I want to bring you to page 3. It says, at the very top of it, “Continue moving and debating government amendments to the motion for the remaining four summer committee days.” That's one of your options. It says, “Details: Government members continue to debate amendments and move additional amendments for the remaining 32 hours of summer committee time.” Sounds like a filibuster to me, but it says, “Advantages: Would ensure both that no documents are released and that Minister Bentley does not face five hours of public testimony in immediate aftermath of Mississauga announcement.”

So it's pretty clear that your office was involved in developing the strategies about how the estimates committee was not to release the document. Is that not the case?

Hon. John Milloy: We were attempting to deal with a committee that was not taking its responsibility seriously to manage the two competing interests. The committee members who ultimately make the decision, including Liberal committee members—I invite you to read the

Hansard. Our folks were going forward and making the case over and over again, and it was like talking to a brick wall with the opposition.

Mr. Gilles Bisson: My honourable friend, it was clear from this particular document, this was a strategy document. This was a document that was a summary of options of how you were going to manage the estimates committee at the time, is it not? That's what it says at the top: "Summary of options."

Hon. John Milloy: We've already established the fact that Minister Bentley was reluctant to release the documents because of their sensitive nature.

Mr. Gilles Bisson: We've already established the fact that, by the standing orders of this assembly, the committee has the right to ask for those documents. You may not want to give them, you may have reasons not to give them, but the committee does have that obligation, does have that authority.

I would say it's fairly clear; under "Advantages" it said, "Would ensure both that no documents are released" and that the minister doesn't face the five hours. It further goes on to say, "If the government is successful in debating amendments, it would simply kick the matter to the fall when the House returns."

It's pretty clear you guys were trying to manage how you were going to not release these documents. Isn't that the case? You guys were actually trying not to release the documents?

Hon. John Milloy: I will quote Minister Bentley, as Mr. Delaney did. He said it was a question of when, not if, and there were issues around timing because of the sensitive ones.

Mr. Gilles Bisson: I understand what was said in the House. I don't argue that for a second. I've heard you say it and I heard Minister Bentley say it, but the fact is that the committee had a right to ask for those documents. The prima facie case of contempt was found because those documents weren't released, and you couldn't hide behind the sub judice rule.

It's pretty clear that your office was involved in this, and I guess I come back to the main question that I had earlier: Who, at the end, was ultimately responsible to make the final decisions about the strategies of dealing with the release of those documents? Was it the Premier, was it you or was it the Minister of Energy?

Hon. John Milloy: I just want to correct one thing: The prima facie case was found by the Speaker because the three House leaders could not come to an agreement between them—

Mr. Gilles Bisson: No.

Hon. John Milloy: —and the two House leaders would not—

Mr. Gilles Bisson: No, that's not the case. Minister—

Hon. John Milloy: He suspended it for one week—

Mr. Gilles Bisson: No, Minister. The prima facie case of contempt, for the record, was found way before he said, "You guys try to go work it out." I agree that he said, "Try to go work it out," but he found that there was a prima facie case of contempt and later said, "Why don't

you guys try to work it out?" The point is, he found a prima facie case of contempt, and it was related to the non-release of the documents.

I go back to my original question: Who ultimately had the responsibility for decision-making about what that committee did? Was it you as the government House leader? Was it the Minister of Energy? Was it the Premier? Was it a combination of all of you?

Hon. John Milloy: Just to go back to the point, if the three House leaders had gone to the Speaker and said, "We have found a way forward"—

Mr. Gilles Bisson: That's not the question. We all know the Speaker said, "Try to work it out."

Hon. John Milloy: —we would not have had the prima facie contempt.

In terms of the committee, we are talking about—the Minister of Energy was appearing in front of the committee, and our office was helping them manage it.

Mr. Gilles Bisson: Your office was trying to manage it. Okay.

Hon. John Milloy: As I say, I reject your premise. I reject this House of Cards—that there was someone in the backroom running the show. It was us working together.

Mr. Gilles Bisson: Somebody was running the show, Minister.

Hon. John Milloy: It was us working together to do it. It was ultimately the Minister of Energy who determined that these documents were sensitive in nature, and they sought assistance from our office.

Mr. Gilles Bisson: So the final decision-makers were the Minister of Energy, your office and the Premier's office, if I understand what you said correctly.

Hon. John Milloy: The final decision-makers were the members of the committee, but we had worked with the members of the committee because we were trying to advise them.

Mr. Gilles Bisson: As to your strategy, the decision-makers on the strategy were the energy minister, you and the Premier.

Hon. John Milloy: Well, as soon as the energy minister faced the challenge at committee, we were trying to support him in that.

The Chair (Mr. Shafiq Qadri): Mr. Tabuns.

Mr. Peter Tabuns: Thank you. Before I ask you a question, Mr. Milloy, I just want to put on record—because Mr. Delaney raises this in every session—that these plants were put in place as the decision of the Liberal government. They were advised, as has been noted by the former Premier and one of his former chiefs of staff, against the advice of opposition parties. I just want that to be on the record. The mess started with the Liberal Party.

Mr. Milloy, there are very few emails to johnmilloy-mpp@rogers.blackberry.net and a single email from this account related to a media interview. Did you ever once email anyone about this matter?

Hon. John Milloy: The email that you're referring to is my constituency office BlackBerry. I know that there

have been certain requests for papers that have come through our office, and I don't manage my accounts. In terms of my personal habits, despite my youthful appearance, I am not a BlackBerry guy. Mr. Bisson will tell you about my office set-up. Dave Phillips, my chief of staff, was literally right beside me as a door to go through, so most of it was done on discussions that went through.

Mr. Peter Tabuns: Was that email account searched and included in this whole document-gathering process?

Hon. John Milloy: As you know, in the document-gathering process, there have been a number of different motions that have come from this committee. I don't manage my own accounts. I know there have been searches done of various accounts that I'm responsible for, but I can't answer specifics.

Mr. Peter Tabuns: And was johnmilloy@rogers.com searched for emails relevant to this committee?

Hon. John Milloy: You quoted johnmilloy@rogers.blackberry—

Mr. Peter Tabuns: At rogers.com, yes. There was an email in this package that came from that account.

Hon. John Milloy: Yes, that is my personal—

Mr. Bob Delaney: Chair?

The Chair (Mr. Shafiq Qaadri): Mr. Delaney.

Mr. Bob Delaney: Chair, I'd like to raise what I think is a very important point of order on this. I respect Mr. Tabuns's privilege to ask a question, but not when it comes to spontaneously divulging personal information pertaining to either the witness or to any third party, because this is one area that as a committee we have, to date, stayed away from.

Mr. Peter Tabuns: I hope you've stopped the clock, Mr. Chair.

Mr. Bob Delaney: I hope so too.

We have stayed away from it. We're not interested in searching your personal email accounts. I don't think they are germane, nor, I would suggest, are the personal email accounts of our witnesses or our committee members. I would ask you please to exercise some caution in where you're going with this so that this doesn't turn out to be the kind of spitting match that it could potentially be.

The Chair (Mr. Shafiq Qaadri): Mr. Delaney, we appreciate your point. We appreciate the concerns with reference to privacy, but these are now, I believe, contained within public documents, and I think that's the actual intent.

Mr. Bob Delaney: Chair, that's not the point. Those emails that are part of the public record are fine.

Mr. John Yakabuski: Don't argue with the Chair.

Mr. Bob Delaney: The point I'm raising is that if an email from a non-responsive account is sent to a government email, that part of the email is properly part of the public record. But the committee's jurisdiction does not extend into a fishing expedition into personal email accounts belonging to anyone who has testified before the committee or anyone who is before the committee or to anyone on the committee.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Delaney. Mr. Tabuns, the floor is yours.

Mr. Peter Tabuns: Thank you. Mr. Milloy, we have many draft versions of letters from Chris Bentley in regard to this matter, yet we have almost no drafts from you on letters related to this matter and no instructions to drafters. Can you explain why there is so little in the written record from you?

Hon. John Milloy: Because I was not involved in the drafting of that letter.

Mr. Peter Tabuns: Or any other letters related to this matter?

Hon. John Milloy: Obviously, there are letters on file that I sent as government House leader, but in correspondence between the minister and the committee, I can't speak for my staff, who I know were in constant contact with his office, but I was not involved in the drafting of any of the correspondence from Mr. Bentley to the committee.

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Mr. Peter Tabuns: Or any other correspondence to staff or cabinet about this matter?

Hon. John Milloy: I mean, obviously there were letters that I drafted as government House leader. I believe, for example, Minister Bentley's statement—his point of order that he made the same day that I made a point of order. A staff member may have shown me, for my information, what he was going to say. But I certainly was not involved in drafting them.

I don't mean to paint an imperious picture of myself, but I was Minister of Community and Social Services, I was government House leader, there were numerous committees meeting—I did not micromanage this file. Chris Bentley is a very capable and talented individual, and I had nothing to do with his doing that.

Mr. Peter Tabuns: On a last question, before we run out of time, the Ministry of Government Services told the Information and Privacy Commissioner that they could not recover emails when she asked, and yet we were able to find a number of emails that were of consequence to this committee. What went on?

Hon. John Milloy: Well, the deputy minister, I understand has had a chance to testify here. He has also expressed his regret, I believe, an apology to the Information and Privacy Commissioner. Everyone worked in good faith to find those documents, and there were mistakes made—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns. The floor now passes to the government side for a final 10 minutes.

Mr. Bob Delaney: Thank you, Chair. In the interest of fairness, if Mr. Milloy would like to finish answering Mr. Tabuns's question.

Hon. John Milloy: Yes. I believe that Deputy Costante has been in front of the committee. Everyone worked in good faith to work closely with the Information and Privacy Commissioner. They admitted that there were issues around not following up on certain potential leads to find other sources of emails. There has been a

public exchange of correspondence, and we continue to work very closely with them.

Mr. Bob Delaney: Okay. Thank you.

Mr. Milloy, how many times was Geoff Janoscik invited to appear before this committee?

Hon. John Milloy: Oh, he was invited numerous times—I would have to check my notes from question period, but numerous times, and I understand he has said, “Stop calling me.”

Mr. Bob Delaney: Okay. From your vantage point of having been this intimately involved in the evolution of the issue, what type of questions, if you were sitting here, would you like to ask the PC candidate in Mississauga South if he were to finally agree to come to the committee?

Hon. John Milloy: I think that there is an issue around the very aggressive promise by Mr. Hudak that if he became Premier, he would cancel the plant. We’ve seen a situation where all parties agreed that the plant should not have been there. Had they formed government, they would have cancelled it.

And yet, the standard that the Progressive Conservatives, in particular, and the NDP to a degree, have held us to is that they demand the costing, the analysis and the work that was done. I guess what I’m confused about is that when we ask them the same question, because they made the exact same—

Mr. John Yakabuski: Point of order.

The Chair (Mr. Shafiq Qadri): Mr. Yakabuski, point of order.

Mr. John Yakabuski: If I turn to the order of the House, dated March 5, 2013:

“(6) Ordered, that, pursuant to standing order 110(a), the Standing Committee on Justice Policy shall be authorized to consider and report its observations and recommendations concerning the tendering, planning, commissioning, cancellation and relocation of the Mississauga and Oakville gas plants;”

Chair, that is the mandate of our committee. It is not to go into la-la land and find out what some candidate for political office may have spoken about during a campaign. It is about: Find out.

So my question would be, Chair, as a point of order, Mr. Janoscik or anybody else who is not part of this scandal-plagued government would have no knowledge whatsoever that they can offer, nothing they can offer this committee to assist in following the order of the House, dated March 5, 2013.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Yakabuski, for your point of order, which is duly considered by the table officers and your Chair. I would refer you to point 6 in the same document from which you just quoted, and with reference to the word “cancellation,” I think that can also be construed, these questions with reference to the PC candidates, as part of the overall motivation for cancellation. I believe that is the ruling not only of the Chair but of the collective wisdom embodied here.

Mr. Delaney, the floor is yours.

Mr. Bob Delaney: Thank you, Chair. It was our point exactly.

Sorry, Mr. Milloy. You were talking about the type of questions we’d like to ask Mr. Janoscik about the PC commitment to cancel the Mississauga and Oakville gas plants.

Hon. John Milloy: I was just actually, as an aside, chuckling at Mr. Yakabuski’s point of order, after his colleague asked me to discuss the briefing of a document that I never signed in a meeting that I never attended. I think your question is a bit more relevant about a PC candidate who surely, with the level of drama that we’ve seen across the way around the whole issue of costing—presumably Mr. Janoscik would have been on the phone as soon as the promise was made, or when he was presumably given a heads up about the promise, to ask about the costing, to express his concern, I would assume, the same way we were held up to that account, and to have offered his advice and insight, and obviously consulted with the policy experts that I’m sure Mr. Hudak had consulted with before he made that promise that we can now watch on YouTube.

I think it is relevant to find out. There is a standard that has been created by the opposition that this would somehow be irresponsible to have gone into an election campaign and to have said to the citizens of these communities, “We realize a mistake was made and if—if—we are to win re-election we will cancel it,” without having the full body of information. That is part of what has driven the Progressive Conservative Party, and I think it’s very relevant to ask the candidates the costing they were aware of and the analysis that took place.

Mr. Bob Delaney: Okay. Thank you.

Chair, while we’re at this, I’d like to table with this committee Mr. Milloy’s Hansard from Mr. Smith’s point of privilege, where he clearly explained when he learned about the additional documents and immediately corrected his record.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Delaney. Those will be distributed momentarily.

Mr. Bob Delaney: Mr. Milloy, to come back to it, you’ve faced a bit of a hard time here, where they’ve suggested that somehow or another somebody was orchestrating some sort of a campaign. But I can remember reading a letter from the official opposition House leader that said, in part, and I’m going to quote it exactly, “It is our position that the documents should be tabled”—the documents, of course, referring to those requested by the estimates committee—“in the Legislature unedited and unredacted.”

At the time, the Oakville deal was not yet finalized when the opposition House leader sent this letter, which suggests that the opposition, as you’ve said, were not interested in a compromise, and reinforces the fact that when it came to protecting the public interest, to be charitable, they may have been reckless.

Would you like to comment on that?

Hon. John Milloy: Minister Bentley raised a legitimate point. I cited the Auditor General in his testimony

before the committee in early September. There are numerous examples where experts testified that the release of these documents could be harmful to the taxpayers.

As I say, there's nothing new about this; there are numerous precedents. We were prepared to find a way forward, to work with the opposition and find a way in which the committee could look at them in such a way that it did not affect the public purse.

As I say, what frustrated me is that there was nothing new here. We were not going to be pioneers. They weren't going to write about us in the procedural books because this is something that's done all the time. And yet the opposition refused to engage. The opposition refused to acknowledge their responsibility to balance them. That's what's so frustrating.

You know, I would have a much different attitude here today if we had worked out something with the opposition and there was a judge and a lawyer and something was sealed and things were here and it was in camera, and at the 11th hour and 59th minute it all fell apart because we didn't want a judge and they did and all that. I think I'd have a much different attitude. We never had that discussion. Our final meeting lasted five minutes. I drove for two hours to come in, and they said, "No," and I think their basic attitude was, "We'll wait to run out the clock." I said over and over again, "Put something on the table."

Mr. Bob Delaney: Day one, hour one of the committee, Peter Milliken was our first witness. This was in March. He told the committee that if Minister Bentley had complied with the order to produce the documents, he didn't understand how there could be any form of a breach. You've worked in Ottawa. You've worked in that environment. Given that the order to produce the documents was in fact complied with, in your opinion, is there any substance left for the opposition to pursue an allegation of contempt against then-Minister Bentley?

Hon. John Milloy: No, and I think it's very important to read the Speaker's ruling. I commend it to everyone around the table. *Prima facie* means on the surface; it means that there is a potential of it. But when you look at what happened, the committee report dealt with the issue, a request, in a sense, to the House or a report to the House, about the fact that they were not getting access to these documents.

There was a point of privilege from Mr. Leone, but the Speaker in his ruling agreed that the committee had the right to the documents, and asked that those documents be produced by a certain date—September 24, if my memory serves me correctly—and at the same time said, "Look, the House leaders have a week to try to work out a process." We couldn't work out a process, so we released the documents.

I sent a letter to the Speaker that morning or, I believe, the following morning, Tuesday, which was shared with

the other members, to say, "Look, they asked for the documents. We are producing the documents." In my speech in the House on the 25th I said that there may be an expectation that I would come forward with huge parliamentary tomes and all sorts of authorities where I would be able to say, "Look, it's for this reason that Mr. Bentley shouldn't be found in contempt." You didn't need all the parliamentary tomes. You need logic. The Speaker said, "The committee has a right to the documents. Please deliver the documents," and we delivered the documents.

All Mr. Bentley did throughout the summer was try to deal with these competing interests. That was it.

The Chair (Mr. Shafiq Qadri): One minute.

Hon. John Milloy: At the end of the day, he did produce those documents. So when I look at the charge to this committee to look into it, I don't think there's a basis for contempt here.

To go back to a comment that I made earlier: I think the committee has very, very important work in terms of the other bucket of issues it's been asked to look at around the siting of plants and making sure that our government and future governments don't make the types of mistakes that were made in Mississauga and Oakville that had to be rectified by the moving of those plants to other locations.

Mr. Bob Delaney: Thank you, Minister Milloy.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Delaney, and thanks for your presence and testimony, Minister Milloy. The floor goes to Mr. Bisson.

Mr. Gilles Bisson: Well, I just want to say that—

The Chair (Mr. Shafiq Qadri): Mr. Milloy, you're officially dismissed. Thank you.

Mr. Gilles Bisson: You can stay and listen if you want.

The point I want to make is this: It's an interesting line of argument that's put forward by the government House leader, but let me give you an analogy. If a judge at the Superior Court or Divisional Court was to say, "I need you to provide evidence," or "I need to give you documents," or "You need to appear before the court," and the person refuses, they would be found in contempt. So an order would be issued by the judge in order to force the person to come.

The argument that the government House leader makes says, "But eventually I came." The point is, the estimates committee requested documents and the government never produced them until after there was a *prima facie* case of contempt found. So I just find that whole explanation rather interesting—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Bisson, for your edification. The subcommittee meeting is put off till a future date, presumably Thursday.

If there's no further business, committee is now adjourned.

The committee adjourned at 1644.

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