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Wednesday 5 September 2012

Journal des débats (Hansard)

Mercredi 5 septembre 2012

Standing Committee on Public Accounts

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 5 September 2012

Mercredi 5 septembre 2012

The committee met at 0906 in room 151.

COMMITTEE BUSINESS

The Chair (Mr. Norm Miller): I'll call this committee to order, then. The first thing we're going to do is talk about a motion that was passed a while ago—it was moved on March 7 by Ms. Gélinas, and I'll just read it again for everyone's benefit because it was a while ago that it was moved, and that is:

"I move that the Standing Committee on Public Accounts immediately request that the Auditor General examine the contracts between the Ontario Power Authority and gas-fired plant proponents TransCanada Corp. (Oakville) and Greenfield South Power Corp./Eastern Power (Mississauga), focusing specifically on the potential cost to ratepayers of the government's 2010 and 2011 decisions to cancel the projects, and report back in a special report."

I will open the floor up for debate. Ms. Gélinas.

M^{me} France Gélinas: Thank you. This is a motion I had put forward way back at the beginning of March. At the time, after I had heard what everybody had to say, including some of the comments that the Auditor General had made regarding the timing of his work and what he had to do, I felt quite comfortable with a deferral of the motion.

This being said, I brought it back last week and listened to some of the comments that were made. Then again, one of the most telling comments that was shared last week had to do with the auditor feeling that—at the time, he used a two-to-three-week time frame—he would have time in his schedule to do some of that work.

I fully understand that the state of negotiations between the government and TransCanada Corp. is not the same as the one with Greenfield South Power Corp./Eastern Power; that is, the state of negotiations between the cancellation in Oakville and the cancellation in Mississauga is not the same.

The direction from the committee is clear: We want the auditor to go in to really look at what the potential costs to ratepayers are. This being said, I trust his judgment. If sharing information was to have a negative impact, as in increasing the costs that the ratepayers would end up paying, then I will trust his judgment that he would let us know that and not share any information.

What I would like him to do is really go in, look at the state of the transactions, the way they are, and report back to us information that is as precise as he can, always with the caveat that if sharing some of that information puts the ratepayers at risk, then be very, very conservative in your reporting back. Only share with us information in a way that will never result in the taxpayers having to pay more.

I trust the Auditor General. He has a good relationship with the people he works with to ask those questions, and if the answer to those questions is that the auditor believes that there's a risk in sharing that information, then use your judgment as to how you share that information or when you share it. I would like the auditor to go in, investigate those two transactions and report back to us. You would certainly be free to report back on one of those contracts before the other, if that makes sense, report in great detail about one and in great generality about the other. At the end of the day, I will, and I think we all will, trust your judgment that you will not make public any information that puts the ratepayers at risk.

The Chair (Mr. Norm Miller): Are you finished? Okay. And the auditor did have a comment about the specific language of this particular motion.

M^{me} France Gélinas: Sure.

Mr. Jim McCarter: The only comment was that when it says "examine the contracts," I'm always wary of when we go in, someone might say, "Well, Auditor"—

Mr. David Zimmer: Sorry, Auditor, I can't hear you. There's a fan in the back.

Mr. Jim McCarter: Just in reference to the second line, where it says, "examine the contracts," I'm always a bit wary when it's very specific about just the contracts. I might get the people who we're talking to saying, "Well, the motion just allowed you to look at the contracts, Auditor. We're not going to provide you with other information." I suspect there will be a lot of other information besides the contracts, such as correspondence, letters, emails, so maybe "contracts and related information" or "related documentation" would give me a bit of a wider purview to access what I feel would be needed to do a complete job in looking at this.

M^{me} France Gélinas: So examine the documentation between?

Mr. Jim McCarter: The documentation or anything like that which doesn't—

Mrs. Liz Sandals: So this would be an amendment, then?

M^{me} France Gélinas: Yes.

Mr. Jim McCarter: I would say “contracts and related documentation” or the documentation between—anything like that would be fine, just as long as it doesn’t limit it to a specific document such as a contract.

M^{me} France Gélinas: Okay, so, “examine the contracts and related documents.”

Mrs. Liz Sandals: Chair, point of order: This would need to be placed as an amendment, I think.

The Chair (Mr. Norm Miller): I think she’s just working on that right now.

M^{me} France Gélinas: If everybody is okay with a friendly amendment, I could change the word “contracts” to “documents.”

Mrs. Liz Sandals: No.

M^{me} France Gélinas: No friendly amendment?

Mrs. Liz Sandals: We told you what we would agree to.

M^{me} France Gélinas: Okay, so then I would—I don’t know if I’d move to amend, but I would take the recommendations of the Auditor General to say, “examine the contracts and related documentation.”

The Chair (Mr. Norm Miller): Any comments?

Mrs. Liz Sandals: Could we have that in writing, please?

The Chair (Mr. Norm Miller): Certainly. We’ll have to recess for five minutes to get that in writing.

M^{me} France Gélinas: No problem.

The committee recessed from 0915 to 0919.

The Chair (Mr. Norm Miller): Okay, we’re back in session. Everyone has a copy of the amendment to the original motion. Discussion? Mr. Zimmer.

Mr. David Zimmer: My concern with the amendment, “and related documentation,” is that the auditor shows up at the office at these power places and wants to examine the contracts. I can see that’s a clearly defined—it’s the contract between the entities involved in this thing.

But then, speaking as the lawyer—and I’ve been through this in complex commercial litigation where parties, either on examination for discovery or in the proceedings, want to examine related or—another expression that is sometimes used—relevant documentation.

Then there’s a great row that gets started about what’s relevant, because the parties are sitting around the table with a pile of documents and one party says, “I don’t think these documents are related,” and the other party says, “Well, I think they are,” and the other party says, “But you haven’t seen them. I’ve got them in my possession and I say that these documents are not related. Not only that, but the other party to the contract agrees with me and says they’re not related.”

So the only person who thinks they may be related—and I say this with the greatest respect to the auditor—is, in this case, the auditor or the person who wants to examine the document. But that person is caught in a Catch-22, because they haven’t seen the documents so

they can’t make an informed decision on whether it’s related. And the other party’s in a Catch-22 and saying, “Well, we’re not going to show you the documents because we say they’re not related.” We get into this bizarre situation, then, of trying to sort out that issue.

So my point is that the expression “and related documents”—what does that include? What does that exclude? How does one define “related documents”? Related documents in person A’s view may be such-and-such, and person B may have another view, and person C has another view. Then we get into a great toing and froing, and the thing doesn’t get resolved.

Then, I suppose, the question becomes who sorts out what’s related, what form is used, or who’s got the hammer on that decision. I suppose what happens then is that perhaps it comes back to the public accounts committee, and we have a discussion. But how do the members of this committee sort out what’s related?

It’s such a loose definition of “related documents,” or “relevant documents,” as it’s sometimes used in other contexts, but the essence is the same. It seems to me that the amendment “and related documents” is going to cause, and has the potential—in fact, I would argue that it’s a potential that will actually be realized, because we all know the sensitivity of the documentation involved.

We’ve heard from both parties to the contract, the government side and the private sector side, and their positions are, or have been publicly—and at other times, messages they’ve sent to this committee. Indeed, the Minister of Energy, speaking before the estimates committee, spoke at length on this issue and in fact tendered a four-page, single-spaced, detailed letter outlining the reason why he was claiming privilege on, really, what is the related documentation, because the related documentation necessarily has to deal with the negotiations and all the documentations that have arisen post-contract, as the parties are trying to wind down the contract.

This issue was debated for hours and hours and hours at the estimates committee, and I was subbed onto the estimates committee to speak to these issues. The final result of that is, as I understand it, the question about whether that documentation has to be produced at estimates committee is working its way up to the Speaker’s office now for a ruling. But the same issue that the Speaker has been asked to deal with on this question of what documents are properly before the estimates committee, on this very same issue, is still awaiting a decision from the Speaker. So we may well find ourselves in the situation where the Speaker has issued a ruling which may be in conflict with this amendment—if it were to pass—that the Auditor General should go out and look at other documentation.

I have no difficulty with the auditor looking at the contracts if the main motion passes because the contract is a clearly defined document that both parties have access to. It’s there in its entirety, there’s a start and a finish to it. But it’s the related documentation, it’s such a loosey-goosey—and I say that with the greatest of respect. I think it presents problems for the auditor

because where does one draw the line? Do you look at 10 cubic feet of documentation or do you look at a pile of six inches of documentation?

It puts the Auditor General in a difficult position because he shows up at one of the private sector companies and says, “I want the related documentation,” and they respond through their lawyers or through their contract people who are managing the contracts, “No, that’s not related.”

What does the Auditor General do then? He can take the company at its word that it’s not related. He can accept the company’s lawyers’ arguments that it’s not related. Or the Auditor General may quite properly say to himself, “I’m the Auditor General, I have to do my job and I’ve been asked to look at the related documents. I want to see all the documents and I’ll decide if they’re related.” Then we get into this whole issue of why the Auditor General should decide what’s related rather than the private sector entity or the government.

Do you know what’s going to happen with all of this? It’s going to end up in front of a judge who’s going to hear respectfully from the Auditor General and hear respectfully from the private sector entities and from the government. And the judge, as he does—as Ms. Elliott will tell you, this is an issue that crops up in litigation all the time. Parties A, B and C, however many parties, are arguing over whether document X should be produced or not produced and that sort of stuff. They generate hours and hours of billings and hours and hours of time—and Ms. Elliott’s smiling knowingly at that, as I expect we’ve both been through that.

Ultimately, it ends up in front of a judge who says it is or it isn’t. And that’s not the end of the matter and it won’t be the end of the matter at that level because there’s the potential for significant amounts of money involved on these penalties that may or may not be out there. We don’t know and we won’t know until the negotiations to wind down the contracts are over. So whoever loses at that first-level judge is going to end up in the Divisional Court and it’s going to go on from there. It’ll be months and months, it’ll be the better part of a year, before somebody says, “This is the relevant documentation that should be turned over to the auditor.”

Now, what happens in the meantime? In the meantime, while everybody’s arguing over the related documentation, the main issue about having the Auditor General examine the contracts in the narrower sense is parked and it’s waiting, because the Auditor General—and the committee properly says, “We want the related documentation to go along with the examination of the contracts and we’re not going to examine the contracts until we sort out the related documentation issue,” and this thing’s going to go on and on for the better part of a year.

It seems to me that the amendment to the motion ought to fail. I’m going to vote against it. Let’s stick to the definition of “contract,” because all of the parties to this issue, the private sector and the government parties, know what the contract is. They have it in their hand.

I appreciate where Ms. Gélinas is coming from on this, to get more and more, but there may be a principle here, the old philosophical concept of Occam’s razor—he’s heard of it—where less is actually more. And more, in this case, asking to look at a ton of documentation, is going to create a whole host of problems, which is just going to, like dumping a whole lot of stuff down the drain, choke the drainage system.

0930

That’s why I’m going to vote against this, because I see big, big problems down the road because of the looseness of the definition “other documentation.”

I know my colleague Ms. Sandals wants to speak to the matter, so I’ll stop there. Thank you.

The Chair (Mr. Norm Miller): And I would just ask the auditor to make a comment, if I may, on the definition that you were discussing.

Mr. Jim McCarter: Sure. My sense is, the reason for the suggestion was to make the motion consistent with the Audit Act. Under the Auditor General Act, when I go in to do an audit, I’m entitled to have access, basically, to anything that I feel is necessary to do the audit. I think in this case, even if the amendment wasn’t made, and even if it just said “contract,” I think my position would be, when I go in to do the audit, I would still say that under the Auditor General Act I’m entitled to all information that I think I need in order to assess what the intent of the motion is. So my sense was just to make the motion consistent with the Audit Act.

Just as far as going before a judge, I think my position would be that if at any time—and I face this in other audits, too, from time to time—a ministry or an agency might say, “Auditor, we’re not going to give you access to that,” basically all I do is I just report that, and that’s the end of it.

The Chair (Mr. Norm Miller): Ms. Sandals?

Mr. David Zimmer: Can I ask the auditor a question?

The Chair (Mr. Norm Miller): Go ahead and ask the question.

Mr. David Zimmer: If one of the parties says on an audit, “I don’t want to give you that documentation,” and you say, “That’s the end of it. I just report to the Legislature then that I was denied or I couldn’t get access to this,” then the matter is still out there hanging, isn’t it?

Mr. Jim McCarter: Usually what we find is that when somebody says to us, “Auditor, we’re not going to give you this piece of information,” typically that would be at a lower level. Usually it goes to the deputy minister. At that point, usually we tend to get the information fairly quickly. There have been one or two instances where we still had some resistance. In that case, I would typically pick up the phone and even phone the minister and say, “I just want to make you aware that I’m going to be reporting this in my report.” And again, usually we get the information. The odd time we haven’t gotten the information, it would be because of kind of a legal matter and we would basically point that out in our report.

On this one, it could happen, but with respect to the amendment, whether the amendment is passed or not, I

was just trying to make the wording suggest that the motion be consistent with the intent of the Audit Act, and the intent of the Audit Act is that the Auditor General will be provided with the information that he feels is necessary to basically do the audit work necessary. But I think even if the amendment was not passed, that's how I would approach the audit when I went in, to basically say, if I think there's a piece of correspondence or something that I need in order to address the motion in a fulsome way, I would request it. And if, at the end of the day, the OPA said, "We're still not going to give it to you," I think I would just include that as part of my report to the Legislature and indicate the underlying reasons, and that would be the end of it. But I certainly wouldn't be going to court or going before a judge.

Mr. David Zimmer: Just a question for clarification from the auditor. So the situation is a little different here in that, for instance, at the estimates committee, a request for the same documentation has been made and the minister responded in a fulsome letter, which I'll get into later, in which the minister formally claimed privilege on essentially all of these documents until the negotiations have been concluded and the matter has been settled. And as I understand the minister's position, he obviously has no difficulty with the hindsight view after the negotiation, but the privilege has been claimed, that if the documents are produced, it could jeopardize the negotiations. That matter is working itself through to the Speaker's office now, because it was unresolved after hours and hours and hours of debate.

So what is the auditor's position if, on the same issue that's working its way to the Speaker's office, the Speaker—I'm not prejudging. Just hypothetically, if the Speaker says the minister's claim for privilege stands and the documents don't have to be released, yet at the same time the auditor is going in with a direction to examine the contracts and related documents, which is the negotiation stuff on the settlement, and the Speaker and the Auditor General then find themselves in what amounts to conflicting positions, what would the auditor's view of that difficulty be?

Mr. Jim McCarter: On the Mississauga one, where there has been a settlement, my sense is that we would get access to the documentation that we need in order to be able to fulfill the intent of the committee's motion.

My sense on the Oakville one, where it's currently in arbitration—and taking into consideration Ms. Gélinas's comments about not disclosing any information—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, in my opinion, it could be damaging to the province's negotiating position.

In either one of those situations, I think that I would basically—it might be a much shorter report relating to the Oakville one, basically saying that here's sort of the state of the nation on this, but at the end of the day, all I can do is come up with a fairly broad range. Because of these other factors, in my opinion, it's not appropriate either to divulge the information, or it's protected by

client-solicitor privilege. That could very well be the end result.

Mr. David Zimmer: But, Auditor General, under our parliamentary system and the ministerial system of government, it's the minister's decision to make the call on whether documents are privileged. If this motion went through with the amendment, "examine the contracts and related documents"—and I say this with respect—and the Auditor General gets in and gets the related documents, and this Auditor General decides, "No, these documents aren't going to affect the province's negotiating position, so I'm going to comment on them and they'll in effect be out in the public forum," isn't that a call, as a matter of parliamentary law, that the minister makes, the claim to privilege, subject to the ruling of a judge on the judicial branch of the government? We've got the legislative branch, the public service, the executive branch and the legal branch. It puts the Auditor General, whether it's you or any other Auditor General, in a difficult position, because you are making a call on whether documents are going to affect the province's negotiating position or not. Surely that's a decision that, in our system of government, the minister makes.

Mr. Jim McCarter: I think there's probably some truth to that. I think there could be some of the documents or some of the information for which the Auditor General would have to use his or her professional judgment to make the call: "No, I think they're just saying this because they don't want the information disclosed," or "I think what they're saying is reasonable. It could affect the province's negotiating position, and therefore, in my opinion, notwithstanding that I have right of access, I'm not prepared to disclose it." I don't disagree that the Auditor General would have to exercise his or her professional—

Mr. David Zimmer: But my question is, isn't that something that properly rests with the minister and—I say this with the greatest respect—not the Auditor General, subject, of course, to a judge's view of the matter?

Mr. Jim McCarter: But I—

The Chair (Mr. Norm Miller): We'll go on. Ms. Elliott had a comment she wanted to make.

Mrs. Christine Elliott: Sure. I would just suggest, from a strictly legal perspective, that the suggestions for the amendment that have been made are consistent with the provisions of the Audit Act in that the Auditor General already has the ability to take a look at this. He has never been constrained by looking strictly at contracts before. It has always been understood that he has the ability to look at all relevant documentation.

I think the rest of it is purely speculation about what might or might not happen. The auditor routinely looks at all documentation, not just contracts. We trust his judgment and that if there are conflicts that arise in the course of examining the documents, whether they're privileged or not, the Auditor General will make his professional determination in that case, and we certainly are satisfied that he would exercise that judgment accordingly.

I would respectfully ask that we move on. I think we're arguing about something that we don't really need to be arguing about at this point.

The Chair (Mr. Norm Miller): Other comments?

M^{me} France Gélinas: Ready for the vote.

Mrs. Liz Sandals: Point of order.

The Chair (Mr. Norm Miller): Ms. Sandals.

Mrs. Liz Sandals: Could we have a 20-minute recess before the vote?

The Chair (Mr. Norm Miller): Before that can happen, I will call the vote, then.

Mrs. Liz Sandals: And now point of order. I thought you had called the vote.

The Chair (Mr. Norm Miller): No, I hadn't. Okay, so we'll have a 20-minute recess before the vote.

The committee recessed from 0940 to 1000.

The Chair (Mr. Norm Miller): We're back in session, then, and we have a vote on the amendment from Ms. Gélinas.

All in favour? A show of hands. All opposed? We have a tie vote, and I will vote in favour of the motion. My logic is that I trust the auditor's discretion and judgment, and this was an amendment specifically suggested by the auditor to make the amendment consistent with the Auditor General Act.

We now move to the motion, as amended. Any debate?

Mr. Victor Fedeli: Chair?

The Chair (Mr. Norm Miller): Yes, Mr. Fedeli.

Mr. Victor Fedeli: Thank you very much, Chair. I will be—

Mrs. Liz Sandals: Excuse me. If you're on the main motion, we never got to speak to the main motion.

The Chair (Mr. Norm Miller): I believe that's what we're doing.

Mr. Victor Fedeli: I haven't either.

The Chair (Mr. Norm Miller): You'll get a chance to speak.

Mrs. Liz Sandals: Okay.

Mr. Victor Fedeli: Thank you again, Chair. I will be supporting this motion. I did sit through this committee when it was discussed the first time and agreed with the AG's point that it should be taken up later. I congratulate you for moving it to this particular point.

I do recall that one of the comments made at that time was, "Well, we shouldn't be discussing it," because it was in litigation. The Mississauga one was in litigation at the time. As we all know, that's over. That has been settled, and we've moved on. There is no litigation for the Oakville plant. Therefore, there's nothing interfering with the Auditor General to proceed with this report.

We're most eager—I think the public is most eager to understand this as well. I agree with Ms. Gélinas's point about discretion, that if and when something is determined, its release would end up costing the taxpayers more money. I agree with it being kept in the purview of the AG until such time as it would not affect the taxpayer.

For instance, we've seen the math from Mississauga, the \$190-million cancellation of Mississauga. We've seen that almost \$90 million of it was purely a cancellation fee, and when extrapolated over the cost and size of the Oakville plant, we know the bare minimum of this cancellation will be \$300 million. Many industry insiders expect that number to be \$1 billion. Certainly, if there are documents within the government that say, "We're concerned about paying a billion dollars, but maybe we should be doing this at this point rather than fighting for the \$300 million"—these are the kinds of areas where I would expect the auditor not to release those facts. Those facts would of course lead the other side to know what's in the deck of cards of the government. If it would cost \$300 million instead of \$1 billion, the taxpayer of course will be much happier, but I would not want the corporations to know that the government is ready to pay out a billion dollars.

So, while I support this motion, I agree with your philosophy of not disclosing numbers at the purview of the Auditor General if it would be deemed or viewed to increase any cost to the taxpayer. The \$300 million will be bad enough; any further is unnecessary. So I will be supporting this, Chair. Thank you.

The Chair (Mr. Norm Miller): Ms. Sandals.

Mrs. Liz Sandals: Yes, thank you very much.

We've made it clear all along that obviously the Auditor General can go in at any point without a special request from the committee. So if the auditor chooses to do a value-for-money on either Mississauga or Oakville or both, that's certainly within his authority to do so with respect to looking at the Ministry of Energy and the Ontario Power Authority. There's no question that the auditor has the authority to do this within the legislation that controls the auditor's activities anyway.

But we've been very clear that if we're going to have the auditor spending time on this—because there is an issue of having his staff gearing up to do an investigation—if we were going to have the auditor use his time to do this, it would be most productive to do it at the point where the negotiations, arbitrations, whatever, happen to be complete.

We've had extensive conversation with the auditor already this morning about whether or not the auditor would have access to the documents with respect to Oakville, given that Oakville is still under negotiation, and that it would be the auditor's view—I think I'm paraphrasing you accurately, Jim, if I say that it would not be your intent to interfere with negotiations over Oakville if that would interfere with the public interest. Is that fair?

Mr. Jim McCarter: Yes, that would be fair to say.

Mrs. Liz Sandals: We see the Mississauga issue, where the negotiations are complete, it's a matter of public record what the settlement is—that's settled; it's been resolved. It isn't that the audit will in and of itself interfere with the process of trying to resolve the issue, and it would be appropriate for the auditor to have a look at the Mississauga situation and look at value for money.

That is not the case with the Oakville plant. The Oakville plant, the cancellation of that plant, is still the subject of negotiation. Although not the subject of litigation before the court, I believe that there is an arbitrator involved, so there are proceedings which are legal, though not necessarily litigation, ongoing. This is a very active issue.

To our mind, if we're going to send the auditor in, it should be when the process on Oakville is complete, because if we're asking the auditor to comment on value for money, he's in no position to comment on value for money if the discussion is still ongoing; we don't know what the outcome is. How can he possibly tell us what the value-for-money implications are if in fact there has actually not been a resolution?

It seems to us that the motion as it is before us requesting that the auditor—and I quote the motion: "...immediately request that the Auditor General examine the contracts and related documentation between the Ontario Power Authority and gas-fired plant proponents TransCanada Corp. (Oakville)"—we have a problem with that—"and Greenfield South Power Corp./Eastern Power (Mississauga)"—we're okay with that—"focusing specifically on the potential cost to ratepayers of the government's 2010 and 2011 decisions to cancel the projects, and report back in a special report."

1010

We see this as two distinct issues. We're in agreement with one of the issues; we're in disagreement with the other issues. As my colleague Mr. Zimmer has reflected, not only has there been extensive conversation at the estimates committee about what documents can and cannot be produced with respect to Oakville, but the issue of the production of documents with respect to Oakville is currently before the Speaker, and we really don't see that we should be sending the auditor off to look at Oakville when the Speaker hasn't even ruled on the issue yet.

As I say, we agree: Mississauga's done. It's appropriate for the auditor to look at Mississauga, either as directed by this committee or of his own volition. Either way, we agree that that's an appropriate activity. We do not agree that Oakville is an appropriate audit to be pursuing at this point because of the practical reason: What on earth is the auditor going to audit with respect to value for money?

Furthermore, what is the Speaker going to say about the availability of the documents? Because we now get into this issue that my colleague raised, which is that the auditor is an officer of the Legislature. We know that the Speaker is about to make a ruling—well, we don't know when he is. I know no more than you do about when he might choose to make that ruling, but we know that it has been presented as an issue to the Speaker, which has been extensively argued and which the Speaker will need to rule on. So we believe that it is quite premature to pursue the Oakville part of this motion at this time.

We think that we also need to have a bit of a discussion around what are the expectations of the committee with respect to timing. There was some suggestion that

the auditor would be able to move in very quickly right now and have a look at Mississauga. I think the auditor had indicated to us one day when we were having a discussion—I don't know if it was captured by Hansard, but the auditor talked about the fact that he could go in now because he's got a little bit of a lull and look at Mississauga. You also mentioned I think that from the other part of your role, from the public accounts point of view, you had actually already been doing some work on Mississauga. So that's a file which is sort of half open, if I can put it that way—your office is familiar with the documentation—so that's something you might be able to do reasonably quickly. I think Ms. Gélinas suggested that February would be an appropriate date.

But if we are going to add on this whole issue of Oakville, that's not a quick in-and-out for all the reasons we've just mentioned, which is that the information isn't really available yet. When I look at the conversation that we had back on March 21, which I think would have been captured in the Hansard of this committee, Mr. McCarter raised some quite important concerns about his ability to conduct a high-quality audit. Those were the circumstances he was reflecting on at the time, but I think with respect to Oakville, his comments then are still quite relevant. I would like to, if I may, review some of the concerns that were raised at that time.

Do you want me to continue right now with those concerns, Chair?

The Chair (Mr. Norm Miller): If you would like to raise those concerns, go ahead.

Mrs. Liz Sandals: Okay. I will continue with that right now, then.

If we look at the record back on March 21, Mr. McCarter said, "There's a number of challenges in doing this audit. We would probably not have access to—and I also talked to my staff about the challenges we would have in doing an audit of this nature. I've got a long list here. We would probably not have access to TransCanada or Greenfield records."

If I can interject, Auditor, is that still true, regardless of whether or not—that you, under the act, don't have access to the records of the private companies?

Mr. Jim McCarter: Yes. If we were to request something, we would probably do it through the OPA, and I suspect it would be up to them whether they wanted to provide it to us or not. I'm not sure we would have access to a private sector company's records.

However, with respect to the Mississauga one, where it's been settled, I'm hopeful that there would be enough documentation residing with the OPA to enable us to conduct a fairly fulsome review. We have very little information on the Oakville one, so it's hard for me to answer that.

But to get to your question, I'm not sure we would need any documentation from Greenfield, and I'm not sure, if we did, whether they would be liable to provide it to us. I think it might be at their discretion.

Mrs. Liz Sandals: Yes, because you did go on to say, back in March, "We would probably not have access to their staff to talk to them." That would not have changed.

“We might not even have access to the site, to go out and have a look at the site.” I’m not sure of the status of visiting the site, or whether that would actually be relevant.

Mr. Jim McCarter: I suspect that the OPA would be able to—I think certainly we could go out and look at the Mississauga site, and with the Oakville site, I’m not sure they could stop us from looking at the site. But it would be more the documentation which would be of interest to us.

Mrs. Liz Sandals: Okay. “We don’t know what kind of access we would have from a legal perspective.” Then you go on to say, “Ongoing negotiations—often, parties don’t want to talk during ongoing negotiations. There is a list of challenges to doing this audit. We’re certainly aware of the challenges that there would be to do this audit.”

Some of those exist regardless on the Mississauga site, on the Mississauga contract. You’ve got adequate information on the Oakville. All of those challenges would still exist. Is that fair?

Mr. Jim McCarter: I think with respect to the Mississauga one, most of those challenges would no longer exist because it’s been settled. With respect to the Oakville one, because it’s in arbitration, I suspect that a number of those challenges would remain.

Mrs. Liz Sandals: Okay. Thank you.

The Chair (Mr. Norm Miller): Perhaps at this time, with the amount of debate that’s going on, I can see we’re not going to get this resolved, either before we have to break for question period or before we have a witness scheduled at 12:30 this afternoon. So we’ll postpone this until after we come back, after our witness this afternoon.

Also, for the committee’s knowledge, there is one matter we have to deal with in camera this afternoon—the response to a question put to legal counsel—so we will want to have time for that.

Mrs. Liz Sandals: So would you be doing that after the witness?

The Chair (Mr. Norm Miller): Perhaps if the committee agrees, after our witness we should deal with the in camera concern first and then deal with the motion, so that it’s looked after.

Mrs. Liz Sandals: Okay.

Mr. David Zimmer: Is this the matter that I raised, Speaker, about getting an opinion from counsel about the—

The Chair (Mr. Norm Miller): Yes.

Mr. David Zimmer: Yes. Thank you.

M^{me} France Gélinas: So, Chair, can I call the question now?

Mrs. Liz Sandals: No, because I haven’t finished.

The Chair (Mr. Norm Miller): We’re still in the middle of debate, so no.

You can have five more minutes of debate.

Mrs. Liz Sandals: Then it goes on. When you look at Hansard, it goes on after that. This is an exchange between Mr. McCarter and Mr. Zimmer.

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“Mr. Auditor, how would you handle this, hypothetically, if you were doing the audit? You get into the audit, you’re looking at things and one of the parties to the contract, the government side, one of the private contractors or the utility and so forth says to you, ‘Mr. Auditor, we’d really like to co-operate with you fully and share all the information and so on, but we are on the cusp of a very delicate negotiation with various parties, and we just can’t respect our fiduciary relationship to the parties we’re representing in the negotiation and, at the same time, at this time, share this information with you, because it may do one of two things: It may place us, the party that’s raising this issue, in a terrible conflict of interest’ vis-à-vis their obligations to get the best deal for their side, and it could well place you, in their opinion, in a conflict-of-interest position because, depending on how you manage or interpret or use that information, you have the ability—almost inadvertently—to affect the negotiation one way or the other.”

I think that would be—from the conversation that we’ve had so far, that would still be the situation with Oakville, in response to the question that Mr. Zimmer raised at the time, and I think, given your earlier comments, that that situation would still be problematic with respect to Oakville.

Mr. Jim McCarter: I think we would go into Oakville, we would ask to see the documentation, but it could well be that the OPA indicated that because it was in arbitration, they might give us some documentation but say it’s protected by client-solicitor privilege; it may be harmful to the negotiations. At that point, it would be up to the professional judgment of the Auditor General either to essentially report that or to make a decision whether the Auditor General agreed with that statement. Some of those challenges would still remain with respect to Oakville, but we would pursue it as far as we could.

Mrs. Liz Sandals: And then in response to his question about how you would handle that, I think you said, at that time, something similar to what you just said now, that you “would not be surprised to see that situation arise, especially with respect to the two external parties, Greenfield and TransCanada, who would probably say, ‘Our primary responsibility is our fiduciary interest toward our shareholders, and consequently it’s not in the best interests of our shareholders to provide or share any information with you. We’re under no legal obligation to do so. Consequently, unfortunately, as much as we would like to help you out, it’s not in the best interests of our shareholders. Therefore, we cannot share information with you whatsoever.’”

So that would still be true of Oakville, then, what you said at the time?

Mr. Jim McCarter: Probably.

Mrs. Liz Sandals: Then you went on to say, “The ministry would be in a more difficult position with respect to that, because I think they’d be required to share information with us. Their concern would probably be,

‘Just don’t disclose anything, Auditor, that might jeopardize us paying the least amount of cancellation charges that we can pay.’”

Presumably, still the case with Oakville.

Mr. Jim McCarter: My sense is that the committee has made their direction to me very clear: not to disclose anything which could be harmful to either the taxpayer or the ratepayer’s interests.

Mrs. Liz Sandals: Then you go on to say that “the ministry would have to provide us with full and complete access to whatever information they have, although I suspect they would also say that some of this is protected by client-solicitor information.”

And that’s what we’re waiting for the Speaker to, in essence, rule on.

The Chair (Mr. Norm Miller): Ms. Sandals, we are now out of time for this morning, so we shall continue this debate after our witness this afternoon and after we’ve done the in camera discussion. We are recessed until 12:30.

The committee recessed from 1025 to 1230.

SPECIAL REPORT, AUDITOR GENERAL:
ORNGE AIR AMBULANCE
AND RELATED SERVICES

MR. JAY LEBO

The Chair (Mr. Norm Miller): I’d like to call the meeting to order and welcome back Mr. Jay Lebo to the committee as witness, and just remind you that you swore an oath last week, so you are still under oath. Thank you for coming back. Did you want to make any statement to begin with?

Mr. Jay Lebo: No. I’m back to answer your questions.

The Chair (Mr. Norm Miller): Very good. The committee does appreciate you coming back. At the end of your testimony last week, there were some points that came up, and then we did run out of time. We will move to the official opposition to begin with. Ms. Elliott.

Mrs. Christine Elliott: Thank you, Chair, and thank you, Mr. Lebo, for agreeing to come before the committee. We certainly appreciate your assistance and you gave us some very interesting information last time. I’d really like to pick up where Mr. Klees left off. He was asking you, during your time at Ornge, if you’d been asked to participate or be involved in any illegal or immoral activities, and you gave us an example with respect to—

The Chair (Mr. Norm Miller): Sorry, can I ask you to move your microphone a little closer?

Mr. David Zimmer: I just couldn’t hear.

Mrs. Christine Elliott: Sure. Sorry. He asked you whether you had been asked to participate in any illegal or immoral activities, and you gave us several examples. I wonder if you could expand on anything else that you

were asked to do that you felt was wrong, either illegal or immoral?

Mr. Jay Lebo: Sure. It’s hard to know where to start. I’m just kind of taking a minute to gather my thoughts.

Mr. David Zimmer: Sorry, I couldn’t hear that either.

Mr. Jay Lebo: I just said it’s hard for me to know where to start. There’s a lot I could say, so I want to start with the most important things.

As a regional operations manager, I didn’t feel as though paramedics were being treated in a particularly ethical way, and I gave some details last time about that, how I was instructed to lie about why I had to deny vacation.

Other circumstances centering around the paramedics would involve things like workplace injuries. There were a lot of workplace injuries at Ornge. Many of them, I felt, were due to defective equipment, and there really wasn’t any appetite among senior management to do something like that, so I think letting people work with equipment that you know is likely to cause injury is unethical.

There were things that I was asked to keep secret like—this committee has heard a lot about the debate as to whether or not the Toronto base should be relocated to Hamilton or Oshawa or some other location, and this is a question that paramedics cared a lot about, because it had to do with where they were commuting to work. I wasn’t allowed to tell them anything about that. I’m not sure that that was really unethical, but I sort of felt like they deserved more information about where they were going to be working next year. Some of them were in the process of buying houses closer to work and so forth, and I felt if somebody could have told me, “Give that person a nudge and maybe suggest that they shouldn’t buy that house,” that might have saved people a lot of money and aggravation, but—

Mrs. Christine Elliott: I’m sorry, could you tell us specifically what you did know about that decision?

Mr. Jay Lebo: The decision to move to Hamilton versus Oshawa versus whatever decision?

Mrs. Christine Elliott: Yes.

Mr. Jay Lebo: Well, I knew that Ornge was unhappy with having a base located on the Toronto Island, primarily because of the access issues to the island. I personally had to take the ferry to work every day. For a manager, that was merely inconvenient, but for paramedics and pilots, it had an impact on the service when people couldn’t get to work or home from work because crossing that channel was impossible, which at times it is. And at that time, the question as to whether or not there was going to be any kind of pedestrian or automotive link from the mainland to the island was all up in the air. I think they’ve settled on a pedestrian link now, but at that time it was really ambiguous. So the company needed to move and there were a lot of variables that the decision needed to satisfy. I’ll state right off the bat that I wasn’t involved in any of that decision-making, but I can tell you what I understood the variables to be.

Obviously, there had to be an appetite on the part of the airport to have Ornge there, and not only on the part

of the airport but also the community. Ornge's helicopters are extraordinarily loud. They can't be compared to news helicopters or police helicopters, and that's something that people who aren't in the business might not appreciate. Ornge's helicopters are much bigger and much louder than the helicopters we see in the sky every day. So it was important to find a community that was going to welcome the helicopters and not be a long-term thorn in the organization's side.

It was also important to the organization, wherever they moved, to have the ability to accommodate jets, because that was part of Dr. Mazza's long-term vision. That immediately ruled out a lot of possibilities. When you start talking about jets—they make a lot of noise too, so some airports simply don't allow them. And even though most airports will make exceptions for medevac flights, you can't, for example, be flying jets in and out of Buttonville all day. The community wouldn't tolerate it. So finding a community that was welcoming was important.

As far as I know, probably the third-most important variable would have been the paramedics. People at Ornge did appreciate that if you live in Oakville, you don't want to work in Oshawa, and if you live in Scarborough, you don't want to commute to Hamilton. There was some desire to accommodate the paramedics as much as possible, although, of course, they weren't unanimous themselves as to where they wanted the new base to be. But certainly the senior management at Ornge didn't want to add to the already volatile relationship between management and the unionized staff.

Mrs. Christine Elliott: Do you know anything more about the decision-making process and what ended up happening?

Mr. Jay Lebo: No. I and the other regional operations managers were kept in the dark on that—intentionally, I'm sure, but I couldn't say why.

Mrs. Christine Elliott: Okay. What did they ask you to say to the staff, then?

Mr. Jay Lebo: I was instructed to say that all the opportunities were being examined and that the organization would make a choice that best fit the criteria and the constraints.

Mrs. Christine Elliott: What do you think was immoral about that, then? That they were kept in the dark too long, or that a decision had been made that was being withheld from them or—

Mr. Jay Lebo: I think it's debatable as to whether or not it was immoral, but being on the front line, I saw people who were uprooting their families in order to be closer to work. Anybody knows that their place of work might change at any time, but paramedics who work at Ornge don't really have the option of going somewhere else. If you're a critical care paramedic, there really only is one game in town and you're tied to that organization. It upset me to see people making long-term, family-type decisions to be closer to the island when I knew that it was coming to an end; or people speculating that the base was moving to Oshawa and then buying homes close to

Oshawa, and then if they find out later that they're commuting to Hamilton, that's going to be big problems for them.

I can't really put my finger on that and say that was unethical, but it was part of a pattern of keeping paramedics in the dark, and I think that the pattern overall was unethical.

Mrs. Christine Elliott: Can you tell us about any other maybe direct instructions you would have received from either Dr. Mazza, Ms. Renzella or anybody else that wasn't in keeping with perhaps the truth?

Mr. Jay Lebo: You want me to specifically think of times where I was instructed to lie?

Mrs. Christine Elliott: Yes.

Mr. Jay Lebo: I don't recall any other times. It seemed to me that there came a point that senior management—I say "seemed to me." It's important that I say I don't know what I don't know, but it seemed to me that there came a point when senior management decided to keep information from the regional operations managers to avoid having that problem. Rather than asking us to mislead the paramedics, we were just kept in the dark so that we didn't have any information at all.

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For example, I was frequently asked by the paramedics working in my region, "When are the new helicopters coming online? When will the first ones be delivered? When can we expect to be working on the new helicopters?" That was information I didn't have. It was never shared with me.

I mentioned the last time I was here about a couple of people I was instructed to terminate and how I felt that that was wrong.

I don't have a long list of lies that I was asked to relay to people, if that's what you're looking for, but what I can speak to more is just a general culture of opacity and secrecy. I'm sorry I'm not able to be more specific.

Mrs. Christine Elliott: Okay. And where did that come from?

Mr. Jay Lebo: Dr. Mazza.

Mrs. Christine Elliott: Did he ever say anything specific to you about any of these issues—about, you know, we need to keep information close—or was it just understood?

Mr. Jay Lebo: When I stopped working directly for Dr. Mazza and became a regional operations manager, my communications with him stopped. I remember being a little surprised by that, because I had worked closely with him for a year and I kind of expected him to maintain some sort of relationship. But I had very little personal contact with Dr. Mazza after I became a regional operations manager. My contact then was with my direct superiors and their superiors in the operations department.

Mrs. Christine Elliott: During the time that you did work directly with Dr. Mazza, you must have observed his interactions with a number of other people.

First of all, can you describe his relationship with Ms. Renzella. Were they close, in terms of business, dis-

cussing issues back and forth, or was she sort of left in the dark, as other people were?

Mr. Jay Lebo: No, most definitely they were close. Dr. Mazza was pretty good about getting the input of his senior executives, especially Ms. Renzella, before going ahead with something. I think that Dr. Mazza relied heavily on her financial expertise. They were fairly close. Dr. Mazza gave the orders, and Ms. Renzella followed them, but it seemed to me that they discussed things at length before pulling the trigger on anything.

Mrs. Christine Elliott: What about the relationship with Mr. Beltzner, the board chair? How did that work?

Mr. Jay Lebo: I'm not the one who placed Dr. Mazza's phone calls for him or made his appointments, so I don't know all of what went on between them, but they did seem to me to have a reasonably close relationship. The chairman was in the office fairly regularly. It was my understanding that they also met outside of the office fairly regularly. They seemed to have a reasonably close and friendly working relationship.

Mrs. Christine Elliott: Did Mr. Beltzner have an office at Ornge?

Mr. Jay Lebo: No, he didn't.

Mrs. Christine Elliott: And when you say "reasonably often," how often would he have been around?

Mr. Jay Lebo: Maybe once a month, maybe a little more.

Mrs. Christine Elliott: Okay. Did he have any interaction with staff, or was he mostly just speaking with Dr. Mazza or anybody else?

Mr. Jay Lebo: Mr. Beltzner is a friendly person, from what I know of him, and he would be friendly to anyone he would bump into in the office. But his business discussions were with Dr. Mazza.

Mrs. Christine Elliott: Did you, while you were working with Dr. Mazza, have the ability to attend any of the board meetings?

Mr. Jay Lebo: No. Actually, I never attended a board meeting.

Mrs. Christine Elliott: Did you get any reports about the board meetings? Did you see the minutes of the meetings?

Mr. Jay Lebo: Occasionally, but nothing memorable sticks in my mind. There was a corporate secretary at Ornge whose responsibility was all things board-related. There were minutes taken, and there was at least one board member who was present at all the—excuse me. There was at least one non-board-member who was present at all the meetings. That would have been the corporate secretary. That wasn't me.

Mrs. Christine Elliott: So the board meetings were always closed to anything other than strictly—

Mr. Jay Lebo: Yes, and often after hours too.

Mrs. Christine Elliott: Okay. Were staff ever invited to make any presentations on any issues? To your knowledge, anyway, were any issues discussed relating to paramedics, relating to design of helicopters? Were any of those issues discussed?

Mr. Jay Lebo: Executives often made presentations during board meetings, but I wouldn't be able to tell you anything about the substance of those presentations.

Mrs. Christine Elliott: When the issues arose with respect to the design of the helicopters, were you one of the managers at that point, or were you still working—

Mr. Jay Lebo: I was one of the managers. You've probably heard that two paramedics were assigned to that design team. One of those paramedics was in my region, so I heard second-hand information about how that process was progressing, but I wasn't involved.

Mrs. Christine Elliott: Can you give us some indication of what he told you?

Mr. Jay Lebo: That paramedic?

Mrs. Christine Elliott: Yes, please.

Mr. Jay Lebo: It sounded to me like things were going well. I was very glad to know that paramedics were on the team. That seemed to me like a reasonable assurance that whatever was designed would be acceptable to the paramedics. He told me that there were trips to Switzerland to try out the prototype. It seemed that that particular paramedic was pleased with the progress of the project.

I left the organization before that project was complete, so what happened after that, I couldn't say. Whether or not that paramedic was pleased up until the end, or whether it all fell apart after I left, I couldn't say.

Mrs. Christine Elliott: So you left, then, before people began experiencing difficulties with it. You've probably heard that they were unable to perform CPR on the helicopters. So that all happened—

Mr. Jay Lebo: Yes. It's my understanding that these problems weren't discovered until the new helicopters actually went into service, and that didn't happen until after I had left.

Mrs. Christine Elliott: Last week, you indicated that Dr. Mazza had wanted a meeting with Mr. Caplan when he was then Minister of Health—

Mr. Jay Lebo: Yes.

Mrs. Christine Elliott: —after he succeeded Mr. Smitherman. Did he make the same request with Minister Matthews? Do you know if there was a meeting with Minister Matthews at all?

Mr. Jay Lebo: I don't remember when Minister Matthews became the Minister of Health. Could you tell me? Do you know? I think it was after my time.

Mrs. Christine Elliott: It may well have been, but I'm just not sure.

Mr. Jay Lebo: I don't remember her name coming up while I was there.

Mrs. Christine Elliott: What about Minister Caplan? Were there discussions with him?

Mr. Jay Lebo: All I recall is Dr. Mazza mentioning, during a meeting of the executive management team, "There's a new Minister of Health and I ought to meet that person face to face." I don't know that that meeting ever happened.

Mrs. Christine Elliott: Have you ever heard the name Sophia Ikura?

Mr. Jay Lebo: No, I don't know that name.

Mrs. Christine Elliott: So you never had any interactions with her at all when you were there?

Mr. Jay Lebo: I've never heard that name before.

Mrs. Christine Elliott: I guess I'm just looking for some general information. While you were there, did you ever hear any other concerns that were being expressed about the operation by paramedics, by pilots, other than what we've heard already?

Mr. Jay Lebo: No, I think you've heard it all. There were lots of concerns expressed by paramedics, but I think most of them have come out in this committee.

In my time as regional operations manager, one of the most common complaints among paramedics had to do with a recent policy that had come out that said paramedics were not to engage in conversation with the Ornge communications centre; that when a call came in from the communications centre saying, "There's a call and you're going," paramedics weren't to engage in any kind of conversation. I don't recall if you've heard about that before, but it was certainly a major source of tension in the time I was there.

I could elaborate on that, if you'd like.

Mrs. Christine Elliott: Yes, please.

Mr. Jay Lebo: Okay. When a call comes in to a base, two things start happening at the same time. The pilots start preparing themselves and the aircraft, and the paramedics start preparing themselves to meet the patient. These two things happen in parallel.

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Usually the pilots take longer, meaning that the paramedics have some buffer time. The paramedics are always in uniform, ready to go out the door and get on the helicopter with zero notice, but the helicopter is not usually ready to go, because the pilots have to check the weather; they have to plan the route; they have to make sure the appropriate amount of fuel is on board etc. So usually the paramedics have a bit of downtime before the helicopter is ready to take them.

The paramedics felt—reasonably, it seemed to me—that a good use of that time would be to engage in conversation with the Ornge communications centre, and with the patch physician in the OCC, to refine the patient treatment strategy. Basically, the thinking was, "We've got five minutes here. The helicopter's not ready. Let's talk for five minutes about this patient."

An order came down from senior management that these conversations were not to happen anymore. The feeling was that paramedics were using this as an opportunity to delay calls or refuse calls or basically to obstruct the operation, and they just wanted that conversation stopped. The paramedics were really frustrated by that. They felt that they weren't given an opportunity to express their opinions and to share their expertise. They felt that they had value to offer in making the decisions as to how this patient would be treated. They were really bothered by the fact that their opinions were no longer welcome. That annoyed them a lot, and that was something I heard a lot about.

Mrs. Christine Elliott: And do you know what happened with that? Did those concerns get expressed back to senior management?

Mr. Jay Lebo: Yes. I brought those concerns directly to Mr. Lepine, the COO, and he was angry that these concerns were being voiced. The consensus among the senior management team seemed to be that paramedics don't like helping patients and they would rather stay at the base and not work, and that if they were expressing concerns like these, they were just smokescreens for the medics' real motive, which was to watch TV. That was how senior management felt, but it didn't take me very long on the front line to see that that wasn't the case.

The Chair (Mr. Norm Miller): You have three minutes left.

Mrs. Christine Elliott: Okay, thank you. Can you just express—was Mr. Lepine the person that you would normally have spoken to about any issues during the time—

Mr. Jay Lebo: He wasn't my direct superior, but when things got hairy, he would often join the operations meetings. He wasn't my primary point of contact, but, yes, I spoke with him frequently, both one-on-one but more commonly as a group, as an operations department.

Mrs. Christine Elliott: So he was certainly well aware of what the concerns were on the ground, so to speak?

Mr. Jay Lebo: Absolutely.

Mrs. Christine Elliott: And to your knowledge, then, he was pretty dismissive of any complaints of the nature we just discussed?

Mr. Jay Lebo: Yes.

Mrs. Christine Elliott: Was there anybody else—your direct supervisor, I'm sure. Can you tell me again who it was?

Mr. Jay Lebo: Yes. My direct superior was initially Steve Farquhar, the vice-president of operations, and during the second half of my time as regional ops manager, there was a director of operations inserted between me and Mr. Farquhar. That was a position that hadn't existed before.

I tried repeatedly to communicate my concerns to all of these people and could not get any traction.

Mrs. Christine Elliott: I guess I'm running out of time. Just in conclusion, is there anything else that you wanted to say before the committee that I haven't asked you about yet? Any specific thing that you think is important that we know about?

Mr. Jay Lebo: No, I don't think so. I don't know what's most important to you. I don't think I have any more bombshells, to use the Star's word, like the one that came out last week. So much of my knowledge is just superficial. I saw and heard a lot of things, but my knowledge about these things doesn't go very deep. I don't think that I have anything else, but I'm certainly happy to hear your questions. I'm sorry; I can't help you ask the right questions. I don't know what I could tell you that you'd want to hear.

Mrs. Christine Elliott: Thank you very much. We certainly appreciate your candour and, again, your appearance before the committee.

Mr. Jay Lebo: My pleasure.

The Chair (Mr. Norm Miller): Thank you, and we'll move on to the NDP. Ms. Gélinas.

M^{me} France Gélinas: Thank you, Mr. Lebo. The first thing I would say is, I'm assuming that the last week was very stressful for you: "Why is this committee calling me back?" Not to worry, we just want to continue the conversations we have had with you. You're not in danger of anything. It was just we ran out of time to finish the questions.

I will read, from your testimony from last week, a short paragraph, and this is where I will lead off—if I had had more time.

You start by saying, "As I mentioned to Mr. Klees, the overarching strategy goal for the organization was operational excellence. The biggest problem, in my region in particular, was trust, morale and engagement. I felt that senior management's style was making it impossible to achieve those objectives."

But you did go and become the regional manager. Were you able to change things? Was it successful?

Mr. Jay Lebo: No, in a word. I wasn't able to—I made some small incremental changes, but I wasn't able to have the kind of influence that I would have liked to have.

I didn't really understand—I had been told, before I became a regional ops manager, that the operation was in crisis and that the organization wasn't happy with the operations department. I didn't begin to understand until after I became an ops manager what the causes of those problems were.

M^{me} France Gélinas: Okay. So you went in thinking that a different management style was going to fix the issues, but the issues were different than that? Is that it?

Mr. Jay Lebo: Yes, exactly. I had thought that—yes, that's precisely right. I thought that a different manager with a different style could help restore trust and morale and start bringing the operation—start improving the operation. But when I got to the job, I discovered that the causes of the problems were originating at senior management. As a middle manager, I didn't have any ability to impact that, other than expressing my opinion to senior management, and I did that a lot.

M^{me} France Gélinas: Okay. So you have front-line workers who are very unhappy. You go in there with the goal of—you have some strong management skills, a new set of skills—a new manager who will be able to get this team to gel together and produce good-quality care. Once you look at the situation, you realize that it doesn't matter how fantastic a manager we put in there; the problems are coming from above. Were you also aware that some of those people who were really, really unhappy, participating in that low morale, were reaching out outside of the organization?

Mr. Jay Lebo: No. It wouldn't have surprised me to know that, but I didn't know that.

M^{me} France Gélinas: Okay. You say it wouldn't have surprised you. What makes you say that?

Mr. Jay Lebo: Paramedics were quite desperate for change. They had been operating in an environment that I would have considered to be intolerable, for a long time. I guess that, like me, they perceived no appetite for change within the organization. So if I had been in their shoes, I would have felt pretty desperate myself and probably would have taken that to anyone who would listen.

M^{me} France Gélinas: Some of what you call the immoral activities that you faced or had to deal with—you give an example of having to let go an employee. Did that employee—was he or she actually let go?

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Mr. Jay Lebo: There were two employees that I was ordered—there were two specific cases in which I was ordered to terminate an employee, over my objections. I ultimately had to. I objected for a while and then was ultimately given a point-blank direction: "You will do this today."

With one of those employees, it's my understanding that that termination was later overturned in a labour arbitration. The other employee, I don't know what happened with that, but it's my understanding that the union grieved it. But, yes, I did terminate those people.

M^{me} France Gélinas: Okay. And so—

Mr. Jay Lebo: I would prefer to say I delivered the termination message. It wasn't my decision to terminate them.

M^{me} France Gélinas: But the dirty deed was done.

Mr. Jay Lebo: Yes.

M^{me} France Gélinas: So it wouldn't be a big stretch to think that those employees, then, felt the need to reach out because they felt that what was happening to them was not fair.

Mr. Jay Lebo: Well, because both of those terminations were grieved by the union, I would infer that those paramedics had some expectation of getting their employment back and probably would have stayed quiet to avoid burning that bridge.

M^{me} France Gélinas: So the people who you felt would be reaching out would be other than those two?

Mr. Jay Lebo: Precisely, yes.

M^{me} France Gélinas: I forgot—you gave us the size of your workforce last week and I forgot how big it was.

Mr. Jay Lebo: It was in the neighbourhood of 35 people, including part-timers and a couple of admin staff.

M^{me} France Gélinas: Was this general feeling of low morale throughout everybody or was it specific to the paramedics versus the pilots versus the fixed-wing versus the temporary workers or the—

Mr. Jay Lebo: I would say that low morale penetrated all parts of the operations department but was particularly strong among the paramedics. The pilots had a different employer, but by virtue of how closely they worked with the paramedics, the low morale contagion spread to them, and to me.

M^{me} France Gélinas: And to everybody else around.

Mr. Jay Lebo: Yes.

M^{me} France Gélinas: But you're not surprised that those people would—you basically tried within the organization, the communication channel that existed to you, to help them. They had tried to help themselves. Nothing in-house was working, so it's no surprise that they started to become whistle-blowers.

Mr. Jay Lebo: Yes. I mean, you learn at business school that in order for people to deliver excellence and to be engaged in their work, management needs to give them the right kind of environment and culture, and that if you don't do that, then it's a foregone conclusion what's going to happen. People who aren't treated with dignity and respect won't deliver excellence and won't be excited to go to work every day.

M^{me} France Gélinas: And given, as you said, that if you're a critical care paramedic, your employer is Ornge or you're not working in Ontario, they knew that they didn't have—because what most employees will do is they will walk.

Mr. Jay Lebo: Exactly.

M^{me} France Gélinas: They will say, "I had fun here, but I'm going to go have fun someplace else." They have nowhere else to go, so they have to make things work. For them, talking with their feet is not an option. Therefore, they started talking.

Mr. Jay Lebo: Exactly. For a critical care paramedic to leave Ornge and accept a job with another ambulance service would represent an enormous pay cut beyond what you could reasonably ask someone to do.

M^{me} France Gélinas: My colleague had a few questions.

Mr. Jagmeet Singh: Sure. Thank you again for being here today. You mentioned before to one of my colleagues that you weren't exactly sure what we wanted. I can tell you what I'm looking for and that might help you jog your memory or perhaps give you some insight into what I'm looking for.

What I want to know is if you could tell me, were there any signs that things were going wrong at Ornge, any red flags that the ministry ought to have known of, that the ministry ought to have seen because it was so flagrant—whether it's in the culture, whether it was in the management, whether it was in this culture of secrecy, whether it was in any other business arrangements? Were there any signs that ought to have been apparent?

Mr. Jay Lebo: I don't think so. We know that Ornge wasn't collecting a lot of data, and it's hard to make good decisions when you don't have any data. It's my understanding that the performance agreement didn't require them to collect lots of data, but it seems to me—maybe this is just because I went to business school, but it seems to me like common sense that in an operation like that you need to rely on data and evidence-based decision-making. Choose any successful company you care to name, whether it's McDonald's, Air Canada or whatever: They make decisions based on data, not on intuition and whim. And these are companies that are just trying to

earn money. When you've got an organization that's trying to save lives, it seems to me a moral imperative to collect lots of data and make data-based decisions. It always disturbed me that that wasn't happening at Ornge. But I can't say that it was any failing on the ministry's part that they didn't identify that, because I don't know how closely—

Mr. Jagmeet Singh: Sure. Whether working with Dr. Mazza or when you were working as a regional manager, what knowledge or awareness were you aware that the ministry knew about within your purview? Whether it was the helicopter purchases or whether it was the business plan or the vision of Dr. Mazza, what did the ministry know?

Mr. Jay Lebo: I really don't know what the ministry knew. I would hear people talking about upcoming meetings with the ministry, but I can't tell you anything about the substance of those meetings.

Mr. Jagmeet Singh: Okay. In terms of oversight—again, when you were working directly with Dr. Mazza or as a regional supervisor—did you ever experience or witness, or are you aware of any ministry officials and any audits, any spot checks, any sort of oversight?

Mr. Jay Lebo: There was the performance review I mentioned last week where ministry representatives came into the organization to evaluate the aero-medical side of the operation.

Mr. Jagmeet Singh: This is while you're a regional?

Mr. Jay Lebo: Yes. So they did things like inspect the paramedics' bags to make sure that everything was in there that was supposed to be in there, make sure that vehicles were ready to launch when they were supposed to, make sure that paramedics' documentation and vaccinations were in order—that sort of thing. But that really focused on regulatory compliance, which is a very different issue from organizational excellence, right? Legislation and regulations don't tell you how to run an excellent organization.

So, yes, there was oversight of the kind you're asking about, but it's not the kind of oversight that would have helped put a stop to the kinds of problems I've been talking about in the last few minutes.

Mr. Jagmeet Singh: The last area I want to touch on: looking at organizational excellence. I think that's really what it comes down to. I mean, regulatory oversight is important, but what I think the ministry should be doing or ought to have done then and should certainly be doing now in all organizations is provide operational oversight to ensure that there is excellence in the service that's delivered. As someone applying your business school lens and that critical analysis, what were some key, I guess, lack of excellence, flawed operational issues that were glaring in your mind?

Mr. Jay Lebo: Okay. I could give you a few examples. One example that comes to mind has to do with shifts. At the time I was there, paramedic shifts were always 12 hours, and there are always challenges that happen during a shift change and challenges associated with what happens when a paramedic shift ends but he or

she is not finished dealing with a patient, or maybe he is finished dealing with the patient but he's in Kenora and he lives in Toronto. So there are always challenges having to do with the timing of shifts.

So, senior management and operations senior management decided to play around with shifts a little bit. Instead of 7 to 7, maybe we try 9 to 9 or maybe we try overlapping the shifts or something like that. It seems that the question of when a shift should start and end can be answered with management science. You create a model and run simulations, and you see the impact of those simulations before you make a decision. But the decision in this case was just based on human intuition; you know, someone saying, "I believe that if the shift starts at 9, it will be better than if the shift starts at 7." We could have easily modelled that on a computer to see the operational impact of that decision, but that wasn't done. That's the first example that comes to mind, but that's typical.

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Mr. Jagmeet Singh: Any other examples that you can think of in—

Mr. Jay Lebo: Sure. During the summer months, the Toronto base puts a helicopter at Muskoka. There are two operational helicopters at the Toronto base. During the summer months, what the paramedics call "trauma season," you'd have one helicopter taking off in the morning and flying to Muskoka airport and just waiting there so that it could respond more quickly to a trauma in cottage country.

That seemed pretty reasonable to me, but you have questions about when does trauma season really start, what is the real operational impact of doing this? Again, that's something that you would model, right? You'd want to look at your call volume and where the calls are coming from and all of your response times and have a computer tell you where your helicopter ought to sit and wait, rather than just saying, "Well, it's the first day of summer, so starting today, we'll put the helicopter there." It's a multi-million-dollar asset and lives are in the balance. In my opinion, that's not how you make a decision like that.

Mr. Jagmeet Singh: Okay. Do you have any—

M^{me} France Gélinas: No. I would throw in, chart the temperature also.

Mr. Jay Lebo: Yes.

M^{me} France Gélinas: On big rainy days, you're not going to get any calls.

Mr. Jay Lebo: Absolutely.

M^{me} France Gélinas: All right. The last time—sorry, go ahead.

Mr. Jay Lebo: I just want to throw in that doing some regression analysis to correlate call volume with weather would have been an amazingly valuable piece of information. It would have taken a couple of hours for someone to do that, but that kind of thinking just didn't go on there.

M^{me} France Gélinas: And we see the consequences of it.

I'm going to take you on a whole bunch of things that we talked about last week that I wanted to dive into and didn't have time. Last time you were here, you talked about a conscious decision for salaries to be removed from the sunshine list. So how I would like to expand on this is, do you think that the people at Ornge—the executive at Ornge, were they worried about this decision, as in thinking that the ministry may be coming and asking about this? What do you know about this state of affairs?

Mr. Jay Lebo: I only know that Dr. Mazza wanted to keep salaries secret. I don't know why. There may not even—

M^{me} France Gélinas: He was successful; the salaries were secret.

Mr. Jay Lebo: Yes, but I don't necessarily know that he was trying to keep it secret because he believed it to be an unreasonable salary. It could have just been that he valued his privacy. He certainly did value his privacy, so I can't speculate on what his motives were but—I'm sorry, I've gone off track.

M^{me} France Gélinas: No, that's okay. I was asking you what you've heard about this conversation and this decision. At any point did people raise the issue that the ministry may come asking and the ministry should have access?

Mr. Jay Lebo: Not that I heard.

M^{me} France Gélinas: Not that you heard?

Mr. Jay Lebo: No.

M^{me} France Gélinas: So nobody worried about the ministry? They knew the ministry wouldn't be looking?

Mr. Jay Lebo: If anyone voiced an opinion along the lines of, "I think this is a bad idea," then I didn't hear it.

M^{me} France Gélinas: So nobody was worried about that decision?

Mr. Jay Lebo: No. I think it's important to recognize that Dr. Mazza built a team of people who would not disagree with him.

M^{me} France Gélinas: Okay.

Mr. Jay Lebo: So if you're wondering why didn't anybody say anything, it's because the people who might have said something had already been systematically eliminated from the organization.

M^{me} France Gélinas: And that was systematic, as in, you didn't agree with him, you didn't stay there long.

Mr. Jay Lebo: Sure. According to the testimony you've heard, it even happened among board members.

M^{me} France Gélinas: Yes, we did.

Another loose end: The MNP audit—this is where you talked to us about having been required to produce documents that basically had to be postdated. You did not do this. You produced the documents, but you put the dates that you wrote them on them.

Mr. Jay Lebo: That's what I remember.

M^{me} France Gélinas: Okay. Was management nervous about the audit taking place?

Mr. Jay Lebo: Yes.

M^{me} France Gélinas: And how can you know that?

Mr. Jay Lebo: When people are anxious, it shows. You can tell that there is anxiety. I don't think I'm able to

point to anything concrete, but there were—I mean, I don't know what to say.

M^{me} France Gélinas: No, that's okay.

Mr. Jay Lebo: It seemed to me like some very important people were spending an awful lot of time on something where it seemed to me like if you were just going to disclose the truth about everything, then that shouldn't take very long. It's obfuscation that takes time.

M^{me} France Gélinas: Yes. Of those people that you felt were nervous, could you name me a few?

Mr. Jay Lebo: Dr. Mazza and Ms. Renzella. The other people, I think, would have been too busy in their day-to-day jobs to worry too much about that. But Ms. Renzella was the point person for the audit. I expect that the chairman of the board would have been involved in those discussions too.

M^{me} France Gélinas: Okay. During the time that the audit was going on, do you know if the ministry ever did follow up, or even after, or intervene? Because there were long, long delays in getting that audit finally done. Anything you know as to people interfering? Something that should have taken a couple of weeks ended up taking a year and a half.

Mr. Jay Lebo: No, I don't remember anything about that.

M^{me} France Gélinas: Nothing about the length of time or anything like that?

Mr. Jay Lebo: No. I do know that in the executive management team meetings, questions were often brought to the table as to, "The auditor is asking for this. Do we disclose it or do we not disclose it?" I can't remember what it was they were discussing whether or not to disclose, but there was certainly a lot of attention paid to disclosing only the bare minimum.

The Chair (Mr. Norm Miller): You have about three minutes left.

M^{me} France Gélinas: Wow.

Who was the corporate secretary taking minutes?

Mr. Jay Lebo: In the time that I was there, it was Melinda Moore.

M^{me} France Gélinas: Melinda Moore?

Mr. Jay Lebo: Yes.

M^{me} France Gélinas: I'm going to save my two minutes.

The Chair (Mr. Norm Miller): Very well. We'll move on to the government, then. Ms. Sandals.

Mrs. Liz Sandals: Thank you for coming back again and making yourself available today.

One of the things that's certainly very clear to us from the testimony you gave last time and the testimony today is you've demonstrated a lot of concern about treating employees ethically. You've expressed concern about low morale. You seem to have a great deal of empathy for how the front-line staff, when you were regional manager, were feeling about things.

Certainly, some of the testimony that we've heard from other individuals who were front-line staff sort of has given us a sense of the passion and the commitment to really helping people. I think of Brandon Doneff, who

is a front-line paramedic, a critical care paramedic, based out of London, who is very highly trained and has written books on it; Jonathan Lee, who works out of Markham. Would he have been in your area?

Mr. Jay Lebo: Yes. Mr. Lee reported to me.

Mrs. Liz Sandals: Yes, and he would be on the pediatric team now. We were very impressed with the commitment and the passion that these folks have had.

I'm not asking you to name names, but can you think of incidents or people who—as I say, I'm not asking for names, but the sort of characteristics you observed demonstrating that sort of passion that people had, and commitment to the job?

Mr. Jay Lebo: I'm sorry. I don't think I understand your question.

Mrs. Liz Sandals: You seem to be very empathetic and concerned about what was going on with the front-line people. So often, what we've heard is negative. I mean, we've had Mr. Klees, who said, "I wouldn't want to be a pilot, I wouldn't want to be a patient, I wouldn't want to be a paramedic. This is just something that's totally broken."

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You seem to have been at the regional management level and paying a lot of attention to what was going on on the front lines. You've told us some of the operational challenges. What about the actual service delivery?

Mr. Jay Lebo: Okay—

Mrs. Liz Sandals: In terms of the individuals, the paramedics, who were out there actually interacting with patients.

Mr. Jay Lebo: The individuals that I worked with in the operations department were as universally dedicated and committed as any group of people you'd hope to have in any organization. Certainly my peers, the regional operations managers in other regions, were at least as dedicated as I was. For me, this was a pit-stop position on the way to a business career; for them, it was their career.

Mrs. Liz Sandals: This was their life.

Mr. Jay Lebo: That's right. Many of them had been former paramedics and had dedicated their careers to helping sick people. For me, helping sick people was just a lucky opportunity, something I was proud to be a part of but not something I dedicated my career to.

There were scores—I'm sure, still, scores of people in the organization who want to do a good job and have what it takes to do a good job, but they need the right leadership and direction and culture. Without the right support, your best intentions don't get you far enough.

Mrs. Liz Sandals: You talked about the fact that even at the time that you were there, that morale was low because people had a sense of struggling to do their job. What sort of impact would you expect it would have, then, to have this intense public scrutiny, a lot of it very, very negative, people denigrating the job that the people do? How would you expect that to impact the people that you had working for you?

Mr. Jay Lebo: I know that workers on the front line have been exposed to some abuse because people tend to

tar the whole group with the same brush. People see the Ornge scandal in the news and most people don't take the time to understand that this was orchestrated by a small group of people. They're brightly coloured vehicles, so they're sort of a magnet for public opinion, and I know that gets some of them down.

I think that they see it as a necessary evil. I'm not really close with people there anymore but I know that they believed that the leadership was broken and that the operation was broken, and I expect that they see this as a catalyst towards fixing those things. I would expect that they see it as the darkest—what's the saying? The night is darkest before the dawn? I think that's probably where they are now. Nobody's happy to see what's happening, but then nobody was happy with the status quo either. If this moves them forward, I think they probably welcome that and will suffer with the short-term damage to their brand that they literally wear on their sleeves, but hopefully it's a new beginning.

Mrs. Liz Sandals: You're certainly right about visibility. My little preschooler grandson sees one flying over Muskoka and goes, "Oh. Ornge. Helicopter." He knows what it is. He knows it's headed in and out of hospitals—

Mr. Jay Lebo: Yes. Nobody on that helicopter had anything to do with what we're discussing here. They're hard-working, highly trained professionals.

Mrs. Liz Sandals: You talked last time about the fact that you were terminated from Ornge in—I think it was January 2010—

Mr. Jay Lebo: Yes.

Mrs. Liz Sandals: —from the area manager position that you had talked about. Who did you report to directly at the point you were terminated?

Mr. Jay Lebo: Sandra Burnside, the director of operations.

Mrs. Liz Sandals: And she in turn reported to?

Mr. Jay Lebo: The vice-president of operations, Steve Farquhar.

Mrs. Liz Sandals: Okay. You indicated that you were fired because other executives at Ornge said that you thought they lived in an ivory tower. Can you explain, number one, who said that to you, and then, secondly, why would they say that? It seems like an unusual conversation to have at termination, if I can put it that way.

Mr. Jay Lebo: It was. The whole conversation was unusual. Steve Farquhar said that to me—and it was true; I did believe that. They were living in an ivory tower. They were disconnected from reality, unable to see that the problems that were driving them crazy were of their own making. I tried many times to explain that: "You've made operational excellence a strategic objective, yet the culture you cultivate precludes operational excellence." I couldn't make my superiors understand that.

Mrs. Liz Sandals: If you went back, say, six months before you were terminated—because you had been there for six months as area manager—would you have still had a positive relationship at that point? Was there a

culminating incident point when this relationship went south for you?

Mr. Jay Lebo: No. It was a pattern of me bringing forward my concerns and my analysis as to what I thought the causes of the problems were and what I thought the right remedies were and my being rebuffed. There was no climax, so to speak, but it was a pattern.

As I said to Ms. Gélinas, this company systematically eliminated people who disagreed with the direction in which things were going, so I felt that I was one of those casualties.

Mrs. Liz Sandals: You felt that you were one of the people being systematically eliminated because you were speaking out on behalf of the employees and trying to find a better way of doing things.

Mr. Jay Lebo: Yes. I had seen it happen to other people before me. When I was terminated, it wasn't a surprise.

Mrs. Liz Sandals: Thank you. I'm going to turn it over to Mr. Moridi.

Mr. Reza Moridi: Thank you, Mr. Lebo, for appearing before this committee for the second time.

Last week when you appeared before this committee, you said, "There were plenty of secrets at Ornge." I just want to explore this statement a little further with you, if I could. It has become abundantly clear to this committee through our 17 hearings and dozens of people who have appeared before this committee that Dr. Mazza kept many, many secrets from the employers, from the employees, from the public and also from the government.

Shortly after you said that there were plenty of secrets at Ornge, you made mention of Dr. Mazza's girlfriend, Ms. Kelly Long. Did you know Ms. Long?

Mr. Jay Lebo: I did.

Mr. Reza Moridi: As Dr. Mazza's executive aide—you served for some time as his executive aide—what was the nature of your professional relationship with Dr. Mazza?

Mr. Jay Lebo: The nature of my professional relationship with Dr. Mazza?

Mr. Reza Moridi: That's right.

Mr. Jay Lebo: I was his executive aide. I worked closely with him. He very generously allowed me to observe a lot of high-level meetings. He and I understood that part of the reason I accepted this role was so that I could observe first-hand what happens at the highest levels of an organization and learn from that. I often accompanied him on meetings and observed him day to day. He didn't include me in everything, but I was physically close to him. My desk was closer to his desk than anyone else's desk. I'm not sure what else I can tell you. It was a good working relationship.

Mr. Reza Moridi: And what was your professional relationship with Ms. Long?

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Mr. Jay Lebo: Again, our desks were in close proximity, so we saw each other in the office every day and we chatted and said hello, as you do with people you see in the office every day, but our work—we didn't cross

paths very much in terms of our work. I never worked with her on anything. But she was a face that I would see in the office every day.

Mr. Reza Moridi: You used the word “secret.” What were you referring to in relation to Ms. Long?

Mr. Jay Lebo: Mr. Singh asked me last week what the secrets were and he put me on the spot and I had trouble coming up with some answers. I’ve had a week to reflect on that and have some other ones that I’ve already shared in the last little while. I can only speculate. I was always told that they were friends. We know now that they’re together, so when did that change? Is that a recent development or is that an old development that was kept secret? I don’t know, but I suspect the latter.

Mr. Reza Moridi: Do you believe that Dr. Mazza kept his relationship with Ms. Long secret from employees?

Mr. Jay Lebo: It wasn’t a secret that they were friends. If they were more than that, then that was secret, and that’s why I can’t tell you, because it was secret from me.

Mr. Reza Moridi: Do you believe that Dr. Mazza played a hand in the rapid ascension of Ms. Long’s position and also her salary?

Mr. Jay Lebo: In the time that I was at Ornge, Ms. Long was a relatively junior person in the communications department, and she seemed to me well suited to that position. There were no red flags, to me, at that point. What happened to her career trajectory after that, I only know what I’ve read in the media. But if your question is, could she have become a vice-president without Dr. Mazza’s intervention, I don’t see how that could possibly be the case.

Mr. Reza Moridi: Thank you.

Mr. Tom Lepine testified before this committee that if anybody “crossed”—that’s his word—Ms. Long, then that person wouldn’t last long in the organization. Would you agree with this statement?

Mr. Jay Lebo: I’ve heard stories about people who discovered that for themselves. But I have no first-hand knowledge of anyone who suffered repercussions for upsetting her.

Mr. Reza Moridi: Mr. Lepine also claimed that Ms. Long had special access to Dr. Mazza relative to her colleagues. Do you agree with this statement?

Mr. Jay Lebo: Yes, I do.

Mr. Reza Moridi: Are there any secrets regarding Dr. Mazza and Ms. Kelly Long that you would like to elaborate on?

Mr. Jay Lebo: I really don’t know anything about them other than what I’ve read in this committee’s transcripts and the media. I knew that they were friends. I don’t believe that that was a secret. But as for further details of the relationship or the timing of the changes in the relationship, I don’t know.

Mr. Reza Moridi: Thank you very much, Mr. Lebo. Mr. Chair, I’m turning to Mr. Zimmer.

The Chair (Mr. Norm Miller): Mr. Zimmer.

Mr. David Zimmer: Thank you. What was your starting compensation?

Mr. Jay Lebo: As executive aide to the CEO, \$75,000 a year plus an opportunity to earn up to 30% of that as performance pay. I, in fact, earned about 20%.

Mr. David Zimmer: And your departing compensation?

Mr. Jay Lebo: As a regional operations manager, my base salary was \$85,000 plus an opportunity to earn up to 27% performance pay.

Mr. David Zimmer: And when you left, did you get a package?

Mr. Jay Lebo: I did.

Mr. David Zimmer: And what was the package?

Mr. Jay Lebo: I received three months’ severance plus a bonus payout that was—because the year wasn’t complete and it’s supposed to be performance pay, it was really just a calculation. They took my result from the previous year and calculated it pro rata and that’s how they decided how much bonus pay I would get.

Mr. David Zimmer: Who led the negotiations on that, on the company side?

Mr. Jay Lebo: Rhoda Beecher.

Mr. David Zimmer: And what reason were you given for your sayonara?

Mr. Jay Lebo: I was told that the organization was undergoing restructuring in the operations department and that I didn’t fit in with the new vision.

Mr. David Zimmer: How long had you been employed there?

Mr. Jay Lebo: Exactly two years.

Mr. David Zimmer: Do you know Mr. Blum?

Mr. Jay Lebo: Yes.

Mr. David Zimmer: Where do you know Mr. Blum from?

Mr. Jay Lebo: From Ornge.

Mr. David Zimmer: Did you know Mr. Blum before Ornge?

Mr. Jay Lebo: No, I didn’t.

Mr. David Zimmer: Did you work with Mr. Blum at Ornge?

Mr. Jay Lebo: I was in close physical proximity with Mr. Blum—our desks were close together—but I didn’t work with him, no.

Mr. David Zimmer: Were you aware of the rumours floating around the place about Mr. Blum’s drug problem?

Mr. Jay Lebo: No.

Mr. David Zimmer: On Dr. Mazza’s salary, the evidence that we heard was that Dr. Mazza went to great pains, or was greatly troubled by the idea that the knowledge of his salary would get out into the public domain. Were you aware of that concern of Dr. Mazza’s?

Mr. Jay Lebo: Yes.

Mr. David Zimmer: How did he express that concern to you?

Mr. Jay Lebo: It wouldn’t have been expressed directly to me, but I would have overheard him expressing that during the meetings of the executive man-

agement team. He wanted his salary to remain private. He was a private individual. I guess he felt that there are a lot of people out there who would be eager to get him, and the less information they have, the better.

Mr. David Zimmer: At the time that you became aware of those concerns, did you know what his salary was, that it was \$1.4 million, I think it was?

Mr. Jay Lebo: When I was his executive aide—okay. A few issues that I need to unpack. I don't think his salary was \$1.4 million while I was there. I understood his salary to be in the neighbourhood of \$400,000 to \$500,000 while I was there. He disclosed documents to me that suggested that his salary was in that range, and that's what I believed his salary was.

Mr. David Zimmer: And it was a matter of public record at that time. It was on the sunshine list.

Mr. Jay Lebo: In the time I was there, I think he had already disappeared from the sunshine list, but I could be wrong.

Mr. David Zimmer: But his salary initially was on the sunshine list.

Mr. Jay Lebo: It was initially, yes.

Mr. David Zimmer: So it wasn't a surprise that he was getting \$400,000. But then sometime afterwards, he became agitated that the salary was going to get out into the public domain—

Mr. Jay Lebo: Yes.

Mr. David Zimmer:—so a logical conclusion is that it must have taken a big jump, to create that anxiety on his part.

Mr. Jay Lebo: I don't know if I would necessarily say that's a logical conclusion, but it's a reasonable guess.

Mr. David Zimmer: All right. Did you know that he had taken some steps to get some opinions from a leading Toronto law firm, Fasken's, and in particular one Guy Giorno, about whether he had to disclose his salary or not?

Mr. Jay Lebo: No. I know that Ornge worked with Fasken Martineau a lot and was getting legal opinions from them on all kinds of things, but I wasn't part of those conversations. I don't know what was discussed.

Mr. David Zimmer: Typically, at least around this place, my executive assistant, and I'm sure others here have access—they see what's coming in on their boss's email account. They see the correspondence coming in. Did you have access to Chris Mazza's incoming emails and his correspondence, incoming and outgoing?

Mr. Jay Lebo: No. It's important to distinguish my role from that of an executive assistant. Dr. Mazza did have an executive assistant, but my role was one of business analysis.

Mr. David Zimmer: Let me take you to the email—I think we've got a copy of it here. I'm referring to the email from Chris Mazza dated November 1, 2007, to Malcolm Bates at the Ministry of Health.

Mr. Jay Lebo: Thank you.

Mr. David Zimmer: Everybody's got that?

The Chair (Mr. Norm Miller): Does everyone have that?

Mr. David Zimmer: Yes, that was introduced—

Mrs. Liz Sandals: Oh, dear. By Malcolm?

Mr. David Zimmer: Yes.

Mrs. Liz Sandals: I think in Malcolm's testimony—because somehow we've got it that—it came from testimony. I think it was part of Mr. Bates's testimony.

The Chair (Mr. Norm Miller): Would other members like a copy of this email?

Mrs. Christine Elliott: Yes, please.

Mr. David Zimmer: Yes, you might want to have it, because I'm going to go through it in some detail.

The Chair (Mr. Norm Miller): Okay, we'll have to make a copy. You just have a couple of minutes left, although if the committee decides they want to extend it a few minutes, that's fine.

Mr. David Zimmer: Why don't we take a couple of minutes and do the copying. Then I can pick it up and treat it all as a whole.

The Chair (Mr. Norm Miller): We'll recess for a couple of minutes, then, until we get those copies made.

The committee recessed from 1340 to 1341.

The Chair (Mr. Norm Miller): We'll start. You have three minutes. Hopefully, we'll have the copies back.

M^{me} France Gélinas: Again, thank you for agreeing to come back. Some of the most shocking testimony that you did last week—certainly the one that grabbed headlines—had to do with what you said at the very end. Coming back on this, it had to do with—anything you can remember about the disgruntled employees: when they talked to one another, if they talked to people outside? Anything at all that you haven't shared with us yet?

Mr. Jay Lebo: No. If any paramedics were talking to outside parties, I'm sure they would have tried hard to keep that from me, lest I inform on them.

M^{me} France Gélinas: Okay, so it would be by design that you would have been excluded from this because you were considered part of management?

Mr. Jay Lebo: Sure. People understood that if you went to the ministry or you went to the press, you were going to lose your job, so they weren't going to tell their manager about it.

M^{me} France Gélinas: You know that they would lose their job because of the confidentiality agreement that they have to sign?

Mr. Jay Lebo: No, I think it was just understood that you did not go outside the organization.

Mr. Jagmeet Singh: So right now, I'm sure you've heard what's going on with Mr. Wade, who testified here and has been suspended. Does that seem consistent with the culture at Ornge when you were at Ornge?

Mr. Jay Lebo: I don't know what's going on with Mr. Wade. I understand that Ornge is saying that what's happening has absolutely nothing to do with his testimony here, and I don't know if that's true or not. I don't feel like I could comment on that.

M^{me} France Gélinas: The confidence has not been rebuilt so that now, when Ornge speaks, we know for a fact that it's speaking the truth. The old culture, where people didn't believe when management spoke, is more or less still there?

Mr. Jay Lebo: I don't know. I can only speculate, but it seems unlikely to me that they would treat Mr. Wade that way because of his testimony, because it's so transparent. I don't know Mr. McKerlie, but I don't think he's that dumb, which makes me think that what he's saying is probably true, that there's something else. But I don't know.

M^{me} France Gélinas: If you look at what was happening at Ornge, it was having an effect on the operations of it, yet we function within the Ministry of Health where the Ministry of Health pays agencies to deliver services to the people of Ontario. The ministry has a role of oversight, yet none of this worked. Ornge continued to go down this path that affected operations. Do you figure that what happened at Ornge could be happening in the 3,000-and-some other transfer payment agencies of the Ministry of Health, that those circumstances could be repeated someplace else?

Mr. Jay Lebo: I guess that's more likely than not. I mean, it depends if you want to say that the mistakes made at Ornge were random errors or systemic errors; "There's something wrong with the system." Is the system fundamentally lacking in oversight and controls? You probably know better than me.

It looks to me like the basic framework of a strong performance agreement was missing. The performance that Ornge was supposed to deliver was not sufficiently articulated and the compliance wasn't sufficiently communicated. So it would be my guess that that's probably a systemic error that you would find in other organizations.

The Chair (Mr. Norm Miller): And thank you very much. We'll move to the government, which has two minutes left.

Mr. David Zimmer: Thank you. You've got this memo from Mazza to Bates. The first sentence is, "Further to our telephone conversation yesterday, I am deeply concerned by, and opposed to, the sudden and overreaching proposal of the office of the provincial controller," to consolidate the financial statements of Ornge.

He goes on in four pages of detailed analysis on 10 points, and then he concludes in the last sentence: "Given all the foregoing"—that's all his detailed reasoning why it's a bad idea—"we trust that you," meaning the ministry, "will immediately withdraw this proposal which completely flies in the face of the public policy," and so on and so on and so on. Then he says, "There is not one single indicia," or reason, why Ornge's statements should be consolidated.

Did you work on this document?

Mr. Jay Lebo: No, I've never seen this document before.

Mr. David Zimmer: Did you know that Mazza was passionately opposed to consolidating—

Mr. Jay Lebo: Yes, I did. I did know that.

Mr. David Zimmer: And did you give him any advice on that?

Mr. Jay Lebo: No.

Mr. David Zimmer: Did he ask you for any of your advice?

Mr. Jay Lebo: No. Governmental relations is not my area of expertise. He wouldn't be looking to me for that kind of advice.

Mr. David Zimmer: Do you know who at Ornge worked with Mr. Mazza on this idea, that this was a bad idea to consolidate?

Mr. Jay Lebo: He would have relied on his vice-president of governmental relations.

Mr. David Zimmer: In your role as executive assistant, MBA person, do you have a view on whether it was reasonable for the government to say to Ornge, because of the public monies involved, "Consolidate"?

Mr. Jay Lebo: I don't feel qualified to give an opinion on that. I really don't have any opinion about it. I guess it seems reasonable to consolidate.

Mr. David Zimmer: Did Mazza ever treat you badly, rudely, aggressively, unprofessionally, yell at you, shout at you, say, "Get the hell out of here," or lose his temper with you?

Mr. Jay Lebo: No more so than you would expect any boss to do from time to time.

The Chair (Mr. Norm Miller): And we are out of time there.

Mr. David Zimmer: Thank you.

The Chair (Mr. Norm Miller): We thank you very much for coming once again to the committee, Mr. Lebo. We appreciate you taking the time.

Mr. Jay Lebo: You're welcome.

The Chair (Mr. Norm Miller): We are briefly going to go in camera now.

The committee continued in closed session from 1349 to 1356.

COMMITTEE BUSINESS

The Chair (Mr. Norm Miller): We're back in open session then. We were in the midst of debate on the motion from Ms. Gélinas from March 7, as amended by the committee. Ms. Sandals, you wish to speak to it?

Mrs. Liz Sandals: Yes. I was talking about the concerns that we had and that had been captured by the auditor. Clearly, there are going to be some challenges.

Just to review, because we're coming back to the middle of this, we are not opposed to doing a review of Mississauga. For Mississauga, the information is public; it's appropriate now to do a review. In our view, the whole issue around Oakville is the issue of whether it's the appropriate time to be looking at Oakville because, obviously, there are still going to be challenges accessing the volume of records that are protected by privilege, in particular solicitor-client privileged records. In the case of Oakville explicitly, there are still ongoing proceedings,

confidential negotiations; there are going to be a lot of concerns there.

It seems to me that this has been presented by the opposition as cut and dried and “You can just do this and do it quickly.” But it seems to us that in fact this is something that’s going to be a somewhat difficult process because Mississauga’s pretty cut and dried; Oakville is very much up in the air. We’re still awaiting the ruling from the Speaker on how much of the information is privileged.

I would actually like to move an amendment to the motion that’s currently on the floor that recognizes, the way it is currently structured, that this is going to be a difficult audit and to add the words “by no later than September 1, 2003” to the end of the motion. As amended, it would end up saying, “I move that the Standing Committee on Public Accounts immediately request that the Auditor General examine the contracts between the Ontario Power Authority and gas-fired plants proponents TransCanada Corp. (Oakville) and Greenfield South Power Corp./Eastern Power (Mississauga), focusing specifically on the potential cost to ratepayers of the government’s 2010 and 2011 decisions to cancel the projects, and report back in a special report by no later than September 1, 2003.”

M^{me} France Gélinas: Is it 2003?

Mrs. Liz Sandals: Sorry, 2013. I’m missing reading a “1” in there. You’re right, 2013. There’s the motion.

The Chair (Mr. Norm Miller): We’ll recess for a few minutes so that we can make copies for everyone.

M^{me} France Gélinas: If all it is, is a date and if she’s going to support the motion if we support her amendment and if—Mr. Auditor, can you live with it, within a year? Let’s get this done.

Mr. Victor Fedeli: They’re suggesting Mississauga, not Oakville.

Mrs. Liz Sandals: No, I didn’t—I just read the motion that’s currently on the floor. I disagree with the main motion, but if you insist on putting Oakville into the main motion, I think we need to make it clear that this is going to take a little while, or at least that we’re clear that we’re allowing the auditor—but I think they’re copying—

The Chair (Mr. Norm Miller): Basically, the only change you’ve made is by adding the date, “by no later than September 1, 2013,” correct?

Mrs. Liz Sandals: Yes.

The Chair (Mr. Norm Miller): Is everyone fine with that?

Mrs. Liz Sandals: I’d like to speak to that, if I may.

Mr. Victor Fedeli: Can you read it? Would you mind? Just so we get it.

Mrs. Liz Sandals: Well, it’s in writing. You can get a copy of it.

Mr. Victor Fedeli: I’m fine.

The Chair (Mr. Norm Miller): We’ll just read it into the record, please, Will.

The Clerk of the Committee (Mr. William Short): Ms. Sandals moved “that the Standing Committee on

Public Accounts immediately request that the Auditor General examine the contracts between the Ontario Power Authority and gas-fired plant proponents TransCanada Corp. (Oakville) and Greenfield South Power Corp./Eastern Power (Mississauga), focusing specifically on the potential cost to ratepayers of the government’s 2010 and 2011 decisions to cancel the projects, and report back in a special report”—here’s the amendment—“by no later than September 1, 2013.”

The original motion, as amended, included “and related documentation,” which isn’t in this motion, but that’s already in the main motion, as amended. Now we’re adding “by no later than September 1, 2013” to the end of the motion. That’s the new amendment that is now on the floor.

Mrs. Liz Sandals: So if I may speak to the amendment, then, please?

The Chair (Mr. Norm Miller): Yes, you may.

Mrs. Liz Sandals: This amendment is directed toward addressing a number of the concerns that have been raised by the government and by the auditor about the feasibility of conducting this audit at this point in time.

As we’ve said, this is a matter that was discussed over the course of several weeks at the estimates committee—that is, the availability of the documents. It’s a matter that involves large volumes of privileged records; it’s a matter that involves third party private sector companies in relation to highly sensitive commercial projects; and it’s a review that will require the dedication of substantial resources by the Auditor General.

It is incumbent on us to ensure that the Auditor General has the necessary time to conduct this audit, both to ensure he can get at the information he needs to get at—and it has got both Mississauga and Oakville in, at the moment—but also to ensure he isn’t forced by this committee to dedicate an overwhelming volume of resources in the immediate term, because we don’t want to interfere with the production of the annual report.

This just lays out the expectation that, obviously, the auditor would produce the report whenever he is finished, but to make it clear, given the requirement to look at both Mississauga and Oakville, that that may be a project that would take longer than simply to look at Mississauga.

The Chair (Mr. Norm Miller): Very well. Mr. Fedeli?

Mr. Victor Fedeli: Thank you, Chair. I appreciate that. The need to do this is real. I have heard on the other side that Mississauga is cut and dry, but I think it’s anything but cut and dry, and opens the door to questions that I would have about Oakville as well.

First of all, after the announcement was made of the \$180 million, a very short period of time passed before it was corrected to \$190 million. Then we learned of the sole-sourced deal between the government and the Mississauga proponent to build a new plant in Sarnia. This was a sole-sourced deal. You’ll see in a moment why I’m highlighting that, Chair. It’s anything but cut and dry. There are numbers that we are not aware of, because it was sole-sourced.

I have a concern about that sole-sourcing. First of all, we have no idea what kind of a deal was made; whether that was part of the deal with the \$190-million penalty; whether it was included in there; if part of it is buried in there. It's sole-sourced.

At the estimates committee on July 19, our finance minister, the former Minister of Energy, said, and I quote from Hansard—when we were talking about why the Lambton coal plant was not simply converted from coal to gas, on the tour that many of us took of Lambton, one of the first things that OPG representative said when we walked in the door was about how all parties agree that the coal plants should be shut down by 2014. We weren't even sitting down before the executives talked about how easy it is to convert a coal plant to a gas plant. In estimates on July 19, Minister Duncan—former Energy Minister Duncan—said, "...to my knowledge, you can't convert a coal plant to a gas plant." That is part of the reasoning used to allow Greenfield to build a new plant, because you "can't convert a coal plant." Yet only days later, in northern Ontario, referring to the Atikokan coal plant—I'll read you the release: "Ontario Power Generation (OPG) has signed a contract awarding Aecon's industrial division design and construction work for the Atikokan" coal "Generating Station ... conversion project"—"biomass conversion project"; I'm sorry. It is a gas biomass project.

I bring these two issues up because certainly we do know that you can convert a coal plant to a gas plant. The people at OPG told us that. The press release only days later, about a different coal plant, boasts about converting it. Yet we see a sole-sourced contract, not to convert the coal plant in Lambton but to give this company, after a \$190-million payout, a sole-sourced contract.

Why do we need to look at Oakville now? For the same reason, Chair. We need to look at Oakville to potentially learn, in advance this time, of any of these deals being negotiated between this government and Transfield with perhaps Nanticoke. That is what we will call the word on the street, that one of the side deals being looked at is the conversion of Nanticoke or a brand-new plant in that area. We're very concerned. You can fool us once, but shame on us if it's the second time, Chair.

We need to get into this Oakville plant's numbers. The auditor needs to have that opportunity to let us know what's going on before, and as soon as possible.

The Chair (Mr. Norm Miller): Thank you for that. Mr. Singh.

Mr. Jagmeet Singh: My first question is to the Auditor General specifically. Auditor, if we added that amendment, "by no later than September 1, 2013"—the earlier language of the motion says, "to immediately request that the Auditor General examine"—would this in any way slow you down? Would it in any way make the report come back later to us if we added that amendment? Would we—

Mr. Jim McCarter: I think my interpretation would be that, initially, the gist of what I was getting is, "We'd like you to get the Mississauga done as quickly as

possible, because it has been settled. However, with respect to Oakville, we understand that because it's in arbitration, we'd like you to go as far as you can. But having said that, Auditor, we would not want you to be disclosing information which could be prejudicial to the ongoing negotiations. If that's the case, then we'd expect you to come back again and basically say, "Well, here's what I can report, but I can't really go any further."

My sense, and perhaps I'm reading the tea leaves wrong, is that by putting in the September 1, 2013, you might be saying to the auditor, "Even though you maybe get the Mississauga plant done within"—whatever—"six months' time, because we've given you to September 1, if it looks like the arbitration might be winding up in the spring, perhaps hold off and see if you can get that completed so you can get it to us by September 1." That would be my interpretation of it. Other than that, I would have to say that having the date in here certainly is no constraint to us. Regardless of the date, we would report as fast as we could report.

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Mr. Jagmeet Singh: Just to make everything clear, by adding September 1, 2013—if that amendment was to pass—it wouldn't slow you down. It wouldn't be that you would wait till that date.

Mr. Jim McCarter: It wouldn't slow me down. It might give me second thought: Is the committee really saying to me, "If you think the arbitration is going to be winding up in April, May, June, if before you might have just come out and given us a report at the end of February or in March on Mississauga saying, 'Here's what I can tell you on Oakville, but some of it I can't tell you because the arbitration is under way,'" I might be thinking—and I'm speaking a bit off the top of my head—the committee has said to me, "Take till September 1, if you'd like to, Auditor," and if the arbitration was winding up, I might decide to hold off tabling what I would have tabled, in the hopes that I could get all the information on the Oakville plant and give you a more fulsome report, if I could put it that way. Am I making myself clear, Mr. Singh?

Mr. Jagmeet Singh: Yes, you are, absolutely.

My submission to the committee is that I think that what we should do—and I'm hoping we can have some consensus on this—our goal would be to get as much information immediately on the Mississauga plant, because it's completed, and have that tabled as soon as possible within, obviously, your resource limitations, Auditor.

With respect to Oakville, I would prefer, and I have a feeling that my colleague would also prefer, that we get updated with as much information as possible as soon as possible, even if that's, "It's in arbitration. We can't release very much information to you." We'd like to have whatever is possible as soon as possible. If your report can't be as fulsome until later on, that's fine as well. But we'd like to immediately find out as much as we can as quickly as possible.

Mr. Jim McCarter: I can obviously go either way. Whatever the committee directs me to do, we'll do.

The Chair (Mr. Norm Miller): Ms. Gélinas.

M^{me} France Gélinas: I would just echo what Mr. Singh just said. I agree, Auditor, with your read of the thing, understanding that you'll give us what you can as soon as possible, respecting the taxpayer at the end of the day. Don't give us anything that will increase the cost, but give it to us as fast as you can. We've put a hard deadline as to no later than—but as fast as you can with a hard deadline.

The Chair (Mr. Norm Miller): Mr. Zimmer.

Mr. David Zimmer: Auditor General, I'm still struggling with this concept. As we all know, the Minister of Energy, Minister Bentley, has formally, in a lengthy letter, claimed not just that he's reluctant to give the information, but made a formal, technical and legal claim of privilege with respect to this information. I'm just talking about the Oakville thing now; Mississauga is done. How will you deal with that formal claim of privilege when you ask to see the documents? That's one thing. Then, how will you deal with this issue of that formal claim of privilege on those documents, which, I've said earlier this morning, was debated at length before the estimates committee? There was a vote on it and now an appeal of that decision the committee has taken to the Speaker, and we await the Speaker's decision on that.

The problem is that in the space of the same week—I'm making this hypothetically—you could show up and say, "Give me those documents," and the minister could say, "There's an outstanding formal, legal and technical claim of privilege, and we don't expect the Speaker's ruling until next week." Or it may be that the Speaker rules and upholds the minister's claim of privilege. Then what do you do?

Mr. Jim McCarter: I'll speak practically. I think, practically, what we would do is we would use our staff and get the Mississauga work up and running as quickly as we could. I think on the Oakville one, knowing that the Speaker's ruling is coming out in a week or two, we'd probably want to read the estimates Hansard documentation. It would take a bit of time for us to do all that, and I think we would wait for the Speaker's ruling to see what the Speaker's ruling would be.

Having said that, I think we would still go out and ask the question, "We've been asked to do this. What documentation are you prepared to share with us to allow us to go as far as we can on the motion?" I think it would be incumbent on us to at least ask that question. I guess that would be the way I would proceed.

The Chair (Mr. Norm Miller): Very well. Mrs. Elliott?

Mrs. Christine Elliott: Auditor General, you had asked for some direction on which way we would want to proceed with this, and we would certainly, as PCs, agree with the position articulated by Mr. Singh, which is to proceed with a Mississauga inquiry and then to go as far with the Oakville inquiry as you're able, with the ability to come back and report again, if material becomes available to you by the deadline.

Mr. Jim McCarter: And I would have to say, I think I would also use my judgment in the sense that if it looked like the arbitration was wrapping up and it meant that maybe in just an extra month I could get a more fulsome report—I think to some extent I'd have to use my judgment. I've always felt I could come back to the committee and also seek direction from the committee in three or four months' time saying, "This is where the situation stands now." My sense is I would have no hesitation in coming back to the committee and saying, "This is where I stand right now. I can go this route or this route. Does the committee have any direction?" Sometimes the committee will give me direction and sometimes the committee will say, "No, Auditor, you make the call and decide what you think is best."

The Chair (Mr. Norm Miller): Very well. Mr. Singh?

Mr. Jagmeet Singh: I'm very satisfied, Auditor, with your response and I'm completely satisfied with your position on it and the way you want to carry it out.

One thing I forgot to mention, and it's already been covered mostly, but I think it's important for us to know that each committee is independent and it's important, if we make a request, that this committee's request is honoured and respect. Then the Auditor General would do his job, and then if he receives information that he can't—whatever assertion made by the minister, whether it's an assertion of his right, under his discretion, not to release information, that that would happen to the Auditor General and that's fine, that would happen.

I think waiting to hear from the ruling would probably make sense, but I like the idea of asking the question and if, again, the minister asserts that, "This is under my discretion. I don't want to release this information," we'll deal with that when that happens. I think that doesn't preclude us from making the request. The minister can still exercise his discretion as he feels fit.

The Chair (Mr. Norm Miller): Mr. Zimmer?

Mr. David Zimmer: Just one question to the auditor just so it's on the record. Mr. Auditor, is it your position that if the Speaker gave ruling X and, notwithstanding that ruling X, your view of the matter was Y, the way the system works here, the ruling Speaker trumps your view of the matter? In other words, the Speaker has got the last word in this. If the Speaker says whatever and you disagree with that, does the Speaker have the last word?

Mr. Jim McCarter: I don't like to sit on the fence, but it would be difficult for me to give you a definitive answer without actually doing a bit more homework on what the issue is and, basically, what the ruling was all about, and then reading the exact Speaker's ruling. I think it would be hasty of me to give you a yes or no in advance of that, Mr. Zimmer.

Mr. David Zimmer: Thank you.

The Chair (Mr. Norm Miller): Very well. Can we put the question?

Mrs. Liz Sandals: Point of order.

The Chair (Mr. Norm Miller): Yes?

Mrs. Liz Sandals: A 20-minute recess before the vote.

The Chair (Mr. Norm Miller): Okay, this is on the amendment—

Mrs. Liz Sandals: On the amendment.

The Chair (Mr. Norm Miller): —put forward by you, Mrs. Sandals. Okay, 20-minute recess.

The committee recessed from 1420 to 1440.

The Chair (Mr. Norm Miller): We're back in session. Do we have unanimous consent to withdraw the amendment and the main motion, as amended? Agreed? Agreed.

Ms. Gélinas, I believe you have a new motion—

Mrs. Liz Sandals: And the other motion that was on the table about Oakville?

The Clerk of the Committee (Mr. William Short): The main motion, as amended.

Mrs. Liz Sandals: No, also withdrawing the other. There are two motions on the table that mention Oakville. The one that mentions Oakville only that France tabled the other day—

The Chair (Mr. Norm Miller): They've never been moved.

Mrs. Liz Sandals: Oh.

The Clerk of the Committee (Mr. William Short): They were never moved, so they're not on the floor.

M^{me} France Gélinas: We're not going to do this.

The Chair (Mr. Norm Miller): Okay. We have a new motion from Ms. Gélinas, if you would like to move that.

M^{me} France Gélinas: Yes, it reads as follows: I move that the Standing Committee on Public Accounts immediately request the Auditor General examine the contract and related documents between the Ontario Power Authority and Greenfield South Power Corp./Eastern Power regarding the cancelled Mississauga gas plant, focusing specifically on the cost to taxpayers, and that the Auditor General report back to the committee in the form of a special report before September 1, 2013, notwithstanding any prorogation of the House.

The Chair (Mr. Norm Miller): Any discussion? Ms. Sandals.

Mrs. Liz Sandals: Just one note: You read in “and related documents,” and I thought we had decided we were better to rely on a Hansard reference to his usual powers under the act.

The Chair (Mr. Norm Miller): The Auditor General.

Mr. Jim McCarter: If I could just offer a comment: As long as it's the understanding of the committee that although it says “examine the contract” in compliance with the intent of the Audit Act, basically the intent is that I should have access to all related documentation to do as fulsome a job as I could, that that would be the committee's direction to me.

M^{me} France Gélinas: That's the direction.

Mrs. Liz Sandals: That would be our understanding.

Interjections.

Mrs. Liz Sandals: So it will be as printed, with September 1.

The Chair (Mr. Norm Miller): Yes, I believe so. Ms. Gélinas, is that fine with you?

M^{me} France Gélinas: It's absolutely fine with me. It was a technical error on my part.

Mrs. Liz Sandals: And then we'll get the—we're implying that we will pick up the motion, the wording around documents, from the Audit Act, which are the powers the auditor would normally have.

Mr. Jim McCarter: The only way I can see this coming up is, for instance, if the OPA said, “Well, Auditor, it just said ‘contract’ or ‘contracts.’ That's all we're giving you.” I would then show Colin Andersen the discussion in Hansard to say it's very clear that the will of the committee is that I be provided access to all documentation. At that point, I don't think Colin Andersen would then say, “Auditor, I don't agree.” I think it would be very clear from Hansard.

Mrs. Liz Sandals: Yes.

Mr. David Zimmer: Could you just read it again for me?

M^{me} France Gélinas: Absolutely. I move that the Standing Committee on Public Accounts immediately request the Auditor General examine the contract between the Ontario Power Authority and Greenfield South Power Corp./Eastern Power regarding the cancelled Mississauga gas plant, focusing specifically on the cost to taxpayers, and that the Auditor General report back to the committee in the form of a special report before September 1, 2013, notwithstanding any prorogation of the House.

Mr. David Zimmer: Thank you.

The Chair (Mr. Norm Miller): All in favour of this? Carried.

Mr. Singh, I believe you have a motion?

Mr. Jagmeet Singh: I do indeed, my friend. Mr. Chair, the motion that's before everybody is titled “Motion 5.” Does everyone have that motion?

The Chair (Mr. Norm Miller): Just a sec. I think we have the copies here.

Interjections.

Mr. Jagmeet Singh: Mr. Chair, is it all right if I begin reading it?

The Chair (Mr. Norm Miller): Just hold on for a second.

Mr. Jagmeet Singh: Sure.

The Chair (Mr. Norm Miller): Okay, go ahead.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair.

I move that notwithstanding the order of the House dated Thursday, February 23, 2012, the Standing Committee on Public Accounts request to the House leaders that it continue to sit past September 9, 2012, with its current membership in order to meet on the 2012 Special Report of the Office of the Auditor General of Ontario on Ornge Air Ambulance and Related Services.

The Chair (Mr. Norm Miller): Okay.

Mr. David Zimmer: You might want to take out request “to.” Just “request the House.”

Mr. Jagmeet Singh: Sure, that's not a problem. If you want to do a friendly amendment, I agree.

The Chair (Mr. Norm Miller): Okay, any discussion? Ms. Sandals?

Mrs. Liz Sandals: Yes. I guess I'm a little bit confused by this in the sense not that I don't hope that the current membership of the committee continue, because I actually do hope that the current membership of the committee continue because it would be a shame for us to have heard all this testimony and then not to actually digest it and make recommendations about it. I don't disagree with the request that the current membership continue. What I'm struggling with is that my understanding was that it was the opposition House leaders who actually wanted the motion that says that the committees sort of self-destruct on September 9. It wasn't the government that asked for it; it was the opposition that asked for it. So I'm a little bit confused as to why the opposition is asking the House leaders to change something that we, in good faith, negotiated with the House leaders. I don't feel like I've got the authority to overturn an agreement that we made with the opposition at the opposition's request.

The Chair (Mr. Norm Miller): Yes, and apparently, this wouldn't be binding on the House leaders, but it would be reported to the House leaders. It would still be up to them. Jagmeet?

Mr. Jagmeet Singh: That doesn't change the meat or the substance of the motion, so I'd like to call the vote at this point.

The Chair (Mr. Norm Miller): Mr. Zimmer?

Mr. David Zimmer: I don't have any problem with this because what it says is that we "request the House leaders." At the end of the day, the House leaders are going to figure it out and we, as the loyal foot soldiers of our respective parties, will get our marching orders.

I'm quite happy to see—although I'm speaking personally and privately, I would hope that your House leader of the official opposition might remove Mr. Klees.

M^{me} France Gélinas: You'll have to put that in the motion.

Mr. David Zimmer: I think he wants me off too.

The Chair (Mr. Norm Miller): Any other debate? Okay. All in favour?

Mrs. Liz Sandals: Point of order. Sorry, Chair: Point of order.

The Chair (Mr. Norm Miller): A point of order.

Mrs. Liz Sandals: A 20-minute recess, because it goes against what we—I've got to figure out whether we're going there or not.

The Chair (Mr. Norm Miller): Okay, well, a 20-minute recess, then, and this will not be finished at this meeting, as the committee finishes at 3 o'clock. We are recessed.

The committee recessed from 1448 to 1500.

The committee adjourned at 1500.

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