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**Official Report
of Debates
(Hansard)**

Thursday 28 February 2013

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des débats
(Hansard)**

Jeudi 28 février 2013

**Standing Committee on
Justice Policy**

Organization

**Comité permanent
de la justice**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 28 February 2013

Jeudi 28 février 2013

The committee met at 0906 in committee room 1.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Tamara Poman-ski): Good morning, honourable members. It is my duty to call upon you to elect a Chair. Pursuant to standing order 117(c) and the sessional paper that was tabled on November 24, 2011, the Chair of the Standing Committee on Justice Policy must be a member of the government.

Are there any nominations? Mr. Delaney?

Mr. Bob Delaney: Thank you very much, Clerk. It's my pleasure to nominate Shafiq Qaadri as Chair of the committee.

The Clerk of the Committee (Ms. Tamara Poman-ski): Does the member accept the nomination?

Mr. Shafiq Qaadri: I am honoured to accept the nomination.

The Clerk of the Committee (Ms. Tamara Poman-ski): Are there any further nominations?

Mr. Gilles Bisson: Bob Delaney.

The Clerk of the Committee (Ms. Tamara Poman-ski): There being no further nominations, I declare the nominations closed, and Mr. Qaadri elected Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. Pomanski, and thank you, colleagues, for your extreme confidence in electing me Chair of the justice policy committee.

We have a number of items to attend to. At the outset, I would like to invite the election of the Vice-Chair. Mr. Del Duca?

Mr. Steven Del Duca: Thank you, Mr. Chair. It's my pleasure to nominate Ms. Albanese as Vice-Chair.

The Chair (Mr. Shafiq Qaadri): Madame Albanese, do you accept said nomination?

Mrs. Laura Albanese: I am honoured to accept such nomination.

The Chair (Mr. Shafiq Qaadri): Seeing no further nominations, I will congratulate you, Ms. Albanese, on being elected the Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Shafiq Qaadri): May we now move to the subcommittee? Mr. Natyshak?

Mr. Taras Natyshak: Thank you, Chair. I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Delaney, Ms. Armstrong, Mr. MacLaren; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. Any discussion on that subcommittee motion? All in favour? Carried—none opposed. I congratulate you on the formation of the subcommittee.

COMMITTEE BUSINESS

The Chair (Mr. Shafiq Qaadri): Is there any further business before this committee? Mr. Delaney.

Mr. Bob Delaney: Chair, I'd like to beg leave to make a motion pertaining to the terms of reference for the Standing Committee on Justice Policy.

The Chair (Mr. Shafiq Qaadri): Please present your motion, Mr. Delaney.

Mr. Bob Delaney: Okay. Chair, I move that, pursuant to standing order 110(b), the Standing Committee on Justice Policy directs the government of Ontario, including ministries, ministers' offices, the Cabinet Office and the Office of the Premier; the Ontario Infrastructure and Lands Corp.; and the Ontario Power Authority to produce, within 10 sessional days from the date of this motion, any and all identified paper and electronic files and records, including but not limited to correspondence, briefing notes, emails, memoranda, issue or House book notes, opinions and submissions, and including any drafts of or attachments to those records, that occurred between September 1, 2010, and October 15, 2012, related to the cancellation of the Oakville power plant, and that occurred between August 1, 2011, and October 15, 2012,

related to the cancellation of the Mississauga power plant;

Within five sessional days of the passage of this motion, the secretary of cabinet shall provide for the committee's approval a detailed work plan, including parameters and processes to be undertaken to identify the responsive documents;

Within four sessional days of the passage of this motion, the committee shall identify search terms to be used to conduct the search. At any time, the committee may exercise its authority to modify the list of search terms.

The records be produced notwithstanding any legal privilege or statutory confidentiality, except that the secretary shall identify those records subject to any such claim of privilege or confidentiality so that the committee may determine appropriate steps to be taken to address those claims of privilege or confidentiality;

The records shall be tabled with the Clerk of the Committee, along with an explanation of the search terms, parameters and processes;

The committee may exercise its authority pursuant to standing order 110(b) to order any further records or request any further search it considers relevant to this motion;

Where the secretary is unable to comply with the motion by the 10 sessional days, he shall table immediately with the Clerk a copy of any and all records collected pursuant to the terms of this motion, with an explanation of the further steps that will be taken to comply with the motion, along with an estimate of the time required for such compliance.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Delaney. I think for committee members to better sense and appreciate and deliberate on this, we'll need to take a little time to make copies and then we'll reconvene. Is that agreeable to the committee?

Mr. Gilles Bisson: Is it an order—

The Chair (Mr. Shafiq Qaadri): I believe that's also to be considered, Monsieur Bisson.

Mr. Gilles Bisson: Because, just for the record, an order of the House giving us our—

Interjection.

Mr. Gilles Bisson: Yeah, okay.

The Chair (Mr. Shafiq Qaadri): All right. So, agreeable, then, gentlemen, ladies?

As fast as the—

Interjection.

The Chair (Mr. Shafiq Qaadri): Tamara, time? ETA, please?

Mr. Gilles Bisson: Shall we return at, let's say, 2 o'clock this afternoon?

The Chair (Mr. Shafiq Qaadri): I think we're entertaining both pathways here. We can have it done instantaneously and return, or reconvene this afternoon.

Mr. Peter Tabuns: I move a motion that we return at 2 p.m. today.

The Chair (Mr. Shafiq Qaadri): Is that agreeable?

Mr. Rob Leone: And we'll have copies of the motion?

The Chair (Mr. Shafiq Qaadri): Yes, of course.

Fine. All those in favour of reconvening at 2 p.m., the motion of—

Interjection.

The Chair (Mr. Shafiq Qaadri): Well, we'll accept that. All right. Therefore, we will reconvene. Committee is recessed till then. Thank you.

The committee recessed from 0912 to 1403.

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du comité de la justice.

We're now reconvening, and I thank members for their indulgence, not only with the election, the subcommittee, Vice-Chair, Chair and the entertainment of the motion.

Are there any comments before we consider it? Mr. Leone.

Mr. Rob Leone: Mr. Chair, we would like a ruling on whether the motion that we received this morning, presented by Mr. Delaney, is actually in order.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Leone. Has every member of the committee received the motion in writing? Fair enough.

Mr. Bob Delaney: Chair, on a point of order.

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

Mr. Bob Delaney: I am aware that the House leaders are even now discussing this motion and its implications to the mandate of the committee. May I request that we defer your ruling on whether or not the motion is in order, pending a decision by the House leaders?

The Chair (Mr. Shafiq Qaadri): Mr. Delaney has asked, as I understand it, a deferral of the consideration of the validity of this motion.

Mr. Bob Delaney: Correct.

The Chair (Mr. Shafiq Qaadri): Is that the will of the committee?

Interjection: No.

The Chair (Mr. Shafiq Qaadri): It is not the will of the committee.

The Chair will now proceed to rule. As I have been edified by the various researchers here, I understand that this particular motion is out of the scope of this committee. There's some very entertaining reasoning why, and I would turn that over to procedural Clerk Peter for the description.

Mr. Peter Sibenik: Thank you very much. The rationale is that a committee may only deal with matters within its mandate as determined by the House. Consequently, the committee would be restricted to dealing with the specifics of the motion that apply to the committee.

The committee does not have the authority to deal with any aspect of the tabling of documents.

The mandate of this committee is to consider and report to the House on the matter of the Speaker's finding of a prima facie case of privilege with respect to the production of documents by the Minister of Energy and the Ontario Power Authority, as ordered by the Standing Committee on Estimates on May 16, 2012.

The Chair (Mr. Shafiq Qadri): Thanks to our procedural clerk. That is the official ruling and the justification thereof. This motion is now ruled out of order and now dispensed with.

Mr. Peter Tabuns: I would then move adjournment of the committee until 9 a.m. Tuesday morning.

The Chair (Mr. Shafiq Qadri): I would respectfully entertain that in a moment. Just before we do that, if I might, Mr. Tabuns, there is a small matter of the assignment of the subcommittee, meaning the next meeting. My respectful suggestion is, we do it in person on Monday at some point, and that will arrange that. Is that agreeable to the committee, to decide, for example, things like when the committee will meet and so on? All right?

Mr. Peter Tabuns: I'm agreeable to that.

The Chair (Mr. Shafiq Qadri): All right; duly done. Is there any further discussion—yes, Mr. Yakabuski?

Mr. John Yakabuski: Well, on the decision of the Chair and with the advice of the procedural clerk, I think we do have some comments. I'm going to let my colleague Mr. Leone speak first, and I may have some things to say later.

Mr. Bob Delaney: On a point of order: The issue has been decided. There is nothing to discuss.

Mr. John Yakabuski: —we have some things to say.

The Chair (Mr. Shafiq Qadri): Understood, Mr. Delaney. I think they still have the floor in terms of any further business. Mr. Leone.

Mr. Rob Leone: I do have a few comments to make. I'm very concerned that this committee—

Mr. Bob Delaney: Chair, on a point of order: Mr. Tabuns has a motion on the floor—

Mr. John Yakabuski: And we're debating it.

Interjection: Regarding adjournment.

Mr. Bob Delaney: —regarding adjournment.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Delaney, for pointing that out yet again.

Mr. Leone.

Mr. Rob Leone: So we are debating the adjournment—

Mr. Bob Delaney: Chair, a motion to adjourn cannot be debated.

The Chair (Mr. Shafiq Qadri): Because the motion to adjourn is projected for Tuesday as opposed to any other day of the calendar, it is apparently a debatable motion, which I would now like to engage. So thank you again, Mr. Delaney.

Mr. Leone.

Mr. Rob Leone: Well, finally I can get this out, Mr. Chair. I'm disgusted about what happened today. We have a motion that was drafted without the consultation of the Clerks and was already ruled out of order. We have seen in the press today a charade of a dog-and-pony show of what we'll be talking about in this committee or what the scope of this committee is going to be. This is just an unacceptable practice that we're engaged in right here.

We know that the media is at least reporting—and there's a couple of articles that we've seen that essentially say that the Liberal Party documents are going to also be forthcoming. In the motion that was presented in this committee there's no such indication that the Liberal Party has actually been included in the document request—

The Chair (Mr. Shafiq Qadri): Mr. Leone, just before you continue, I'd just respectfully remind all individuals who'd like the floor currently that we are actually supposed to be debating the motion to adjourn till Tuesday 9 a.m., and would invite you to do so.

Mr. Rob Leone: In the process of debating that motion to adjourn, Mr. Chair, I do have to express my disappointment that we've been waiting for four months to discuss the matters before us. We've been waiting for four months and now we're here debating an adjournment of this debate again till Tuesday—further time being wasted with respect to getting to the bottom of what's happened with the—I'll use the word “cover-up,” in terms of the politically motivated decisions to cancel two power plants. We cannot allow this to continue. I strongly urge this committee to continue to talk about the issues.

We have a number of questions that we have before us. The House has ordered us to meet, and I strongly urge the committee members to consider that. Our business is to talk about how this committee will conduct itself. We had a motion that was put before us that's now ruled out of order. We have another charade that's happening with House leaders right now. We have to get to the bottom of this, and the more delay, the longer it will take to get the answers we seek. I just find this whole debate completely unacceptable. People have asked us to do this work. We should be doing this work today.

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The Chair (Mr. Shafiq Qadri): Thank you, Mr. Leone. Mr. Fedeli has the floor.

Mr. Victor Fedeli: Thank you, Chair. I would like to discuss the motion to adjourn to Tuesday with the following comments: Clearly, this entire charade was all about the spin. Putting forward a motion that's out of order and clearly knowing in advance that this motion would be ruled out of order was all a charade to delay—I continue to bring up the word “delay” because we're talking about delaying until Tuesday, as I continue to speak about the motion to adjourn. This particular spin on the delay was so that the Premier can stand outside and say, and I quote from our friend Rob Ferguson, sitting here, “Premier Kathleen Wynne admits the Liberals made a ‘political’ decision ... and has pledged to reveal more government and party documents on the controversy.”

This may indeed be what the Premier told the media, but in the motion that we are now seeing ruled out of order, that we won't be able to discuss on Tuesday, there is no mention of the Liberal Party. That was part of the charade. Again, first the charade was to meet in here. The second charade is to tell the media one thing, but have

the actual document be completely different. This was nothing other than intended to cover up the cover-up of the cover-up, and I can't tolerate that any further, Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Fedeli. I would just re-invite all members to engage in what is truly parliamentary language, but anyway, since it's our opening meeting, I'll permit what's just passed.

Mr. John Yakabuski: We will certainly keep this parliamentary, Chair; I can assure you of that.

The word "disgusting" is certainly parliamentary, isn't it? Because that's what we saw today: a disgusting exercise to protect Liberals as opposed to getting to the bottom of the scandal dealing with the gas plants. Knowingly—I mean, the staff working for the Liberal Party and the Premier's office, who—she made a big deal about calling the media together this morning to say, "I have ordered the committee—I've got a motion before the committee that is going to deal with the gas plant issue. I've got a motion that says we're going to reveal even more. We're going to take this to all ministries."

They knew then that the motion was out of order. That's misleading. That's dishonest. That's wrong. When you go out to the media and say, "We've got a big announcement"—

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski, I think I'm going to have to intervene there, despite your sincere attempts, to ask you to please rephrase.

Mr. John Yakabuski: I didn't accuse anybody in particular of being misleading or wrong—

The Chair (Mr. Shafiq Qaadri): My misinterpretation; I apologize. Go ahead.

Mr. John Yakabuski: I said when "you," meaning "the Liberal Party"—the Liberal Party is not a person. The Liberal Party is misleading. The Liberal Party is wrong when they produce a document like this and say, "This is what we've got: a new announcement to be made about how we're going to be even more transparent and more open in this committee." And they knew all along that it was a game; it was a charade to send their three puppets in here to be able to sit here and bring out a motion: "Oh, look at what we're going to do. Look at what we're doing for the people in Ontario." Within a few short hours, we know that it's completely wrong and out of order.

The people of Ontario want the truth. They want to get to the bottom of what happened here. They want to know who pulled the strings, they want to know who pushed the buttons, they want to know who made the decisions, and they want to know how much it has cost them already—the real numbers—and how much it's going to cost them through the length of the term of this contract. That's what this committee's business is, and it's also to deal with the contempt motion that was in the House earlier this year. Chair, not only has this motion been ruled out of order, it was—I'm trying to think of a parliamentary word—just very, very wrong to bring it forth in the first place before this committee.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. Is the committee ready to entertain—Mr. Leone?

Mr. Rob Leone: Mr. Chair, in addition to the comments I previously made, there are other issues and matters I wished to bring to this committee today: to talk about the format for which these proceedings would occur with respect to—I was prepared to move a motion earlier this morning about putting these proceedings on webcast. All of these kinds of things we could be dealing with today will not be able to be dealt with if we adjourn this committee.

On another matter, Mr. Chair, I do have one question for the legal counsel of this committee, and that is, if we had reintroduced this motion to include the Liberal Party as a party to release documents, would this motion, in fact, be in order?

The Chair (Mr. Shafiq Qaadri): So you're asking legal counsel formally for a ruling on that?

Mr. Rob Leone: Yes.

The Chair (Mr. Shafiq Qaadri): Fine. Are you prepared to—

Mr. Peter Sibenik: It won't matter; it's a matter of orders. If the initial motion has been ruled out of order by the Chair, the addition of such an amendment does not make it more in order. It would still be out of order.

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

Are there any further—yes?

Mr. Victor Fedeli: Thank you. This is specifically referring now—this is not about the scandal or the charade of this morning. This is specifically referring to the motion to adjourn.

I wish to move an amendment to the motion to adjourn: that all witnesses called before the committee be required to swear an oath or affirm that they shall tell the truth, the whole truth and nothing but the truth.

I wish to add an amendment: that all meetings of the standing committee on justice related to the matter of privilege henceforth be held in a televised committee room, and that committees branch be directed to ensure—

Mr. Bob Delaney: On a point of order, Chair.

Mr. Victor Fedeli:—all proceedings of this committee are web-broadcasted; and that Hansard be directed to ensure testimony for this committee be made a top priority behind that of the House; and thirdly, Chair, that the standing committee on justice retain counsel forthwith for the purposes of providing guidance and legal advice to members of the committee and their advisers.

The Chair (Mr. Shafiq Qaadri): All right. Before we rule, I'd just entertain Mr. Delaney's point of order.

Mr. Bob Delaney: First of all, Chair, Mr. Fedeli's comments had nothing to do with a motion to adjourn. Secondly, you can't amend a motion to adjourn. Finally, Chair, the—

Interjections.

Mr. Bob Delaney: Chair?

The Chair (Mr. Shafiq Qaadri): I am advised, Mr. Fedeli, that those amendments that you just put forward are also out of order. We would now need to—

Mr. Victor Fedeli: Can you explain to me why, perhaps? I'm new here and I don't understand that.

The Chair (Mr. Shafiq Qaadri): I will seek that.

The Clerk of the Committee (Ms. Tamara Poman-ski): I can do that.

The Chair (Mr. Shafiq Qaadri): Please.

The Clerk of the Committee (Ms. Tamara Poman-ski): Basically, what we should do is that—those amendments aren't related to the motion that's before the floor right now. We would have to deal with the motion at the time right now in terms of—if everyone has finished speaking to it, we'll vote on it.

Another option, Mr. Fedeli: Your concerns and your amendments could be dealt with in subcommittee on Monday, as an option. Then we can bring it back to full committee and vote on it in terms of if you want it to live-stream etc. and broadcast and all that. Those are all logistics that can be worked out with the subcommittee on Monday afternoon, and then we can bring it to full committee for a vote the next time the committee meets.

Interjection.

Mr. Rob Leone: Excuse us. Thank you. We were under the impression from the advice that we've received that this motion was amendable. Peter, could you comment on that?

Mr. Peter Sibenik: A debatable motion is amendable, but the amendments have to be related to the main motion. That's the—

The Clerk of the Committee (Ms. Tamara Poman-ski): The main motion is to adjourn.

Mr. Peter Sibenik: The motion is to adjourn.

The Clerk of the Committee (Ms. Tamara Poman-ski): Until Tuesday.

Mr. Rob Leone: All right.

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

Mr. Jim Wilson: It seems to me that Mr. Fedeli's amendments do pertain to the main motion, in that we'd like these things in place—if the motion passes—by the time we reconvene on Tuesday. These are things that

have to be dealt with by staff, and we're asking this all to be done: the media broadcast and at least a report back by Tuesday. So why wouldn't it pertain to the main motion?

The Chair (Mr. Shafiq Qaadri): I certainly, Mr. Wilson, respect your opinion. But as I say, we've been advised by both legal counsel and the Clerk that those motions are out of order.

I will now invite us to please move to the motion for adjournment, unless there are any further comments. Mr. Delaney?

Mr. Bob Delaney: Chair, just one final comment after listening to the grandstanding here. The purpose of the motion this morning was to actually offer the PC Party not only what they asked for, but a superset of what they asked for. The government has offered all of the documents in its possession.

Now, Chair, our remarks are concluded.

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

I would also respectfully remind the government side—

Interjections.

The Chair (Mr. Shafiq Qaadri): Order, please. Order.

Thank you, Mr. Delaney, for your remarks. I also just respectfully remind you that we are actually entertaining reference to the adjournment motion. Are there any further comments directly on that? Mr. Fedeli.

Mr. Victor Fedeli: Yes, I do have a comment related to the motion, especially on the last comment related to the motion, when I don't see any of that in here, Chair. I don't see that here. I don't know why the member has made that up. I just can't even begin to imagine.

The Chair (Mr. Shafiq Qaadri): Thank you. I think it's time we proceeded to the vote. Those in favour of the motion to adjourn till Tuesday at 9 a.m.? Those opposed? I believe it's carried.

This committee stands adjourned.

The committee adjourned at 1421.

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