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**Tuesday 24 September 2013**

**Journal  
des débats  
(Hansard)**

**Mardi 24 septembre 2013**

**Standing Committee on  
Justice Policy**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON JUSTICE POLICY

## COMITÉ PERMANENT DE LA JUSTICE

Tuesday 24 September 2013

Mardi 24 septembre 2013

*The committee met at 0830 in committee room 2.*

### MEMBERS' PRIVILEGES

#### MOWAT CENTRE

**The Chair (Mr. Shafiq Qadri):** Colleagues, I respectfully call the Standing Committee on Justice Policy to order. I invite Mr. Carlson and Ms. Richardson to please come forward and to be affirmed. Before we begin their opening statement, just a couple of procedural questions from Mr. Fedeli. Please be seated, join us, and be affirmed by the Clerk.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** We'll do Mr. Carlson first. Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

**Mr. Richard Carlson:** I do.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Ms. Richardson, do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

**Ms. Mary Ellen Richardson:** I do.

**The Chair (Mr. Shafiq Qadri):** Thank you for your presence and representation on behalf of the Mowat Centre.

Before I offer you the opening five minutes, we just have some procedural issues. Mr. Fedeli.

**Mr. Victor Fedeli:** Thank you, Chair. I'm going by memory—a pretty good memory on that. Were we owed some documents on September 18, last Thursday?

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Check your package. Sometimes we've had a lot of letters and stuff that were saying, "We're getting back to you." From where? Do you know what organization—

**Mr. Victor Fedeli:** It was the major amount of documents from the Ministry of Finance and the OPA. This is the bulk of the documents—

**The Clerk of the Committee (Ms. Tamara Poman-ski):** We received OPA documents; they're actually in there.

**Mr. Victor Fedeli:** In here?

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Actually, the OPA had given confidential/non-confidential, so we're going to talk about that.

**Mr. Victor Fedeli:** And what about the Ministry of Energy?

**The Clerk of the Committee (Ms. Tamara Poman-ski):** I think there was a letter in there with a status update, if you open up all the packages.

**Mr. Victor Fedeli:** Just a moment, then, Chair, please.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** There's a letter from September 10 from the Ministry of Energy.

**Mr. Victor Fedeli:** So the documents were due on the 12th; we received a letter on the 12th that said we're going to receive another letter on the 27th, but no documents.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Right; they'll be reporting back. Yes, that's all I've received.

**Mr. Victor Fedeli:** But I don't find that to be satisfactory. They were due on the 12th.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** We can get committee agreement to write a letter or—

**Mr. Victor Fedeli:** Well, I think we're going to have to. All they've committed so far is, they're going to send us another letter on the 27th, not the documents. This was asked for back on—

*Interjection.*

**Mr. Victor Fedeli:** Yes, the letter on the 12th says we're going to get another letter on the 27th. A month will have gone by and all we're going to get from them is a second letter, not our documents.

**Mr. John Yakabuski:** A month goes by and we get to be pen pals.

**The Chair (Mr. Shafiq Qadri):** All right, why don't we begin the witnesses, and we'll let you prepare a motion to that effect.

Mr. Carlson, Ms. Richardson, you have your introductory five minutes beginning now. Please begin.

**Mr. Richard Carlson:** Thank you, Chair, and thank you to the committee for allowing the Mowat Centre to contribute to deliberations.

As a brief opening statement, I would like to review Mowat Energy's recent research on energy planning, which can be found in the report Getting the Green Light: The Path to Public Support for Ontario's Power Plans.

We have provided copies for you, and it is available on the Mowat Centre's website as well.

Clearly, there have been challenges and controversies in recent years in siting generation facilities. In large measure, these problems have prompted this committee process. We believe that this problem is a symptom of a larger systemic problem and experienced by successive governments due to a lack of transparency, accountability and public engagement in energy planning.

We cannot speak to specific siting issues; rather, our research is focused on how to address a larger problem, that of achieving social licence for Ontario's energy plans and drawing from the best practices from other jurisdictions and other sectors.

Our report identifies 10 principles centred on transparency, accountability and public engagement that, if incorporated into the planning process, would lead to greater social licence for long-term energy plans, including for the siting of energy infrastructure. Ontario and five other jurisdictions—New South Wales, British Columbia, Great Britain, New York state and Sweden—as well as an example from outside the energy industry, Ontario's Metrolinx, are then measured against these principles and best practices identified.

Compared to Ontario, the other jurisdictions we've studied incorporate greater democratic review and accountability in planning and are able to secure greater social licence for long-term plans. Our conclusion from this is that public input and democratic engagement need to be strengthened in Ontario. This could happen in two ways: through enhanced clarity around the role of the actors in the sector, and through more meaningful public consultation and public advocacy.

Our report makes 12 recommendations related to all energy planning in Ontario. In relation to the discussion here, we recommend the following: first, the creation of a community participation charter that sets out the process for community and public engagement, as well as the extent and bounds of authority of the various actors involved in planning; second, increasing the role of the OEB to include reviewing applications for new generation in addition to their current role of reviewing transmission and distribution projects; and third, increasing the importance of regional and community energy plans.

For the most part, our recommendations involve getting the public and the community involved throughout the entire energy planning process, from deciding on energy objectives to detailed energy plans and the siting of new infrastructure. This will need to look at all forms of energy, such as heat, and not just electricity.

Involving communities and the public will require a major change from the centrally planned system we currently have. There will be a need to balance the necessity for local involvement with the accountability for the decisions and their outcomes; namely, a reliable electricity supply and the cost of obtaining it. All energy systems involve trade-offs. It is not sufficient to reject all options. With the power to make decisions comes the responsibility to make good decisions. To do this mean-

ingfully, it is important for regions and communities to consider the local energy requirements, to have access to the information needed to understand their options, and, finally, to plan accordingly.

What we have heard from numerous sources is that we have enough supply for the immediate future. That is why we're recommending a moratorium on building further generation capacity until these planning systems are complete.

We are pleased to answer any questions that you may have on these matters. Thank you.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Carlson, for your opening address. I'll begin with the government side. Mr. Delaney, 20 minutes.

**Mr. Bob Delaney:** Thank you very much, Chair. Good morning, and thank you both for being here.

As I'm sure you know, a large part of the mandate of this committee is going to be to provide recommendations to the Legislature on how we can improve the siting process for large-scale energy projects. We've asked you here today as co-authors of the recent report that you've mentioned from the Mowat Centre entitled *Getting the Green Light: The Path to Public Support for Ontario's Power Plans*.

During the past several months, you've been researching and considering many of the same issues that this committee is also exploring. I know our committee could learn a lot about the research process that went into producing your report and into formulating its conclusions.

Just before we get into it, both of you have career and research experience in the energy field. Would each of you tell us just a little bit about your history in the energy sector?

**Mr. Richard Carlson:** A lot of my experience in the energy sector is in Europe and North Africa. For the last five years—sorry, four and a half years—I worked in London for a consultancy advising on investment projects in energy in Europe, North Africa and the Middle East, primarily in renewable energy, but I also worked on gas power projects as well.

I have since moved back to Ontario, and I've worked on projects in North America. Now I work for the Mowat Centre, researching energy policy.

**Ms. Mary Ellen Richardson:** My experience in the energy sector is approximately 30 years, primarily in Canada, starting in the oil patch in the west and moving east, working in the natural gas sector, and then, for the last 15 years or so, in the electricity sector. I have worked for two associations. I was the president of the Association of Major Power Consumers in Ontario and I was the president of the Canadian District Energy Association.

My experience in the last five years has been working in Canada and in northern Europe, in the community energy field, primarily. I am currently doing work in Nova Scotia, advising them on policies related to energy.

**Mr. Bob Delaney:** Okay. Thank you. Could you talk a little bit more about the Mowat Centre and, in particular,

the energy hub? What are its objectives? What are some of the principles that underlie the work that's done?

**0840**

**Mr. Richard Carlson:** The Mowat Centre is a public policy think tank, centred at the University of Toronto. Mowat Energy is a separate unit within the Mowat Centre itself. We look at the systemic problems that are facing the energy sector in Ontario and in Canada. Most of our work revolves around researching public policy objectives in energy and making recommendations. We've also organized conferences in order to share information.

**Mr. Bob Delaney:** Thanks. I think it's critical for governments to receive this kind of outside perspective from non-partisan organizations like the Mowat Centre.

What kind of research went into preparing your report?

**Mr. Richard Carlson:** The research involved two levels. First, we did a literature review of energy planning, and we also talked to actors within Ontario and internationally on identifying the best principles for energy planning. Then, in discussion of the principles, we also identified the six jurisdictions I mentioned, including Metrolinx, and for that, we interviewed people in all those jurisdictions to identify the best practices, how they go about it. We then related the practices that they do to our principles and identified the actions that adhere to our principles.

The second part was looking at the situation in Ontario. One of the main aims of the Mowat Centre and Mowat Energy is that we try to have actionable recommendations. We fit our recommendations into the current environment so that they can improve the situation and will meet the current institutional framework that we have.

**Mr. Bob Delaney:** Perhaps, then, you could speak in just a bit more detail about what experts you worked with and how their input contributed to the final report.

**Mr. Richard Carlson:** The list of the people we interviewed is available in our report, in one of the appendices at the end. I believe it's appendix I. I've got to double-check that.

We first identified actors within Ontario. From there, we moved out and also got recommendations from people as to who we should talk to. Some of them were with public organizations, ministries of energy, in various areas, as well as external consultants. A lot of those were the ones who were recommended who have experience working in that particular jurisdiction. In particular, we're looking at people who have had experience building new infrastructure and in working in that jurisdiction.

**Mr. Bob Delaney:** Let's move to the underlying theme in your report, which is the role of the public. I'll quote from the opening line in the executive summary: "For decades Ontario has struggled to gain public support for some aspects of electricity policies and plans. Too often, longer-term plans are battered by short-term controversies. These controversies, experienced by successive governments, arise from shortcomings in Ontario's

planning process, most notably a lack of clarity around the role of the public."

I found this quote very interesting in light of the work this committee has undertaken. Could you talk in a little more detail about how that sentiment guided the work that went into the report?

**Ms. Mary Ellen Richardson:** We believe that good decisions come from democratic decision-making processes and that those require the involvement of a large number of stakeholders, including the public. Drawing from, again, best practices in other jurisdictions, what we found was that this kind of consultation took place all along what we call the continuum between policy-making and ending with the actions that arise from plans. So the consultations with the public took place all the way along that continuum.

Good consultation requires access to good decision-making information, so one of our recommendations also goes to the creation of an information repository that people can access to better understand the energy situation and energy choices.

**Mr. Richard Carlson:** If I can just add something, I think it's important that we should look—if you're going to do any large, long-term plan, especially a large infrastructure plan, you need to have social licence. These are long-term plans. You need to have the public agree that this is the direction you want to go in, or if not agree, at least accept that it is the most acceptable direction that we should go in of all the other options.

Every system involves trade-offs. You always have to look at what can be done, what the costs are of doing it, and what people want. That is important to bring the public into that, because they're the ones, in the end, who are going to be paying for it. So it's important that they form part of that conversation.

Without the social licence—I believe that for the last couple of decades in Ontario, it has been somewhat lacking—you are going to continue to have controversies about energy plans in general, overall, as well as in specifics such as the infrastructure siting. So along the whole continuum, there will continue to be controversies.

**Mr. Bob Delaney:** Okay. Let's take the report's recommendations, then, that are grouped into four themes. Let's begin with the theme of public engagement, as that topic has consistently been at the forefront of our committee's efforts to improve the siting process of energy infrastructure in Ontario.

Could you talk about some of the specific recommendations that you provided to strengthen public engagement in Ontario?

**Mr. Richard Carlson:** We had two major recommendations in that. The first one was to legislate a community participation charter. One of the problems when we're talking to people involved in the sector, in terms of public engagement consultation, both at the policy and government end and all the way down to the siting, is that it tends to be erratic. Some developers have very good public engagement processes and do very good

public engagement; others, not so much, and sometimes it's the same developer but different projects.

There needs to be some set of descriptive guidelines, at least, that will help guide developers in knowing what the goals are. What are the expectations of public engagement? What is the public allowed to do? What are they allowed to do?

This would also reduce the problem of people not knowing when they can intervene in a process as well, which is a problem. For example, if someone is developing an infrastructure, they don't know when they are supposed to intervene. When are their opinions accepted? This would be a framework to inform everybody of the process around it, so that it is clear to both the public as well as to the project proponents. It would also clarify the roles of the actors, including the government ministries as well, that are involved in this—for example, for the environmental assessment.

The second recommendation we looked at was to create a public energy consumer advocate. I believe this is very important if we're going to be looking at securing social licence. The consumers have to have some form of advocacy so they will be able to be informed about what is happening in the energy sector as a whole, as well as to ensure that their rights are being upheld by the various actors. Thus, they know that there is someone who will represent them in the various institutional fora in energy, and that it is open and clear for everybody.

**Mr. Bob Delaney:** Okay. Our government has said that we want communities to be more engaged early in the process with regard to the siting of energy infrastructure. How do you think the various parties in energy infrastructure decisions can more effectively engage local communities on siting decisions? For example, are public consultations enough, or would you recommend more ways to reach out to communities affected by energy infrastructure?

**Ms. Mary Ellen Richardson:** We see a larger role for municipalities and local authorities in energy planning matters. This, again, is consistent with experience in other jurisdictions where the local authorities are much more involved in energy planning.

One of our recommendations in that regard calls for embedding energy planning responsibility in the provincial planning statement. Just as other essential municipal infrastructure must be considered in community planning, so also we think that energy should be considered in community planning, and that structure, we believe, includes public outreach and stakeholder engagement and community engagement within that structure, if you will. We believe that that will give the communities much more say in decisions that affect them and in finding energy solutions that meet their local community needs.

0850

**Mr. Richard Carlson:** I'll just add to that. I believe that public consultation is an important element, but at the moment there is a lack of information available for people to even be able to begin to make effective decisions. If people do not have the information, they cannot

make good decisions. You need that element. One of the roles of communities would be to present that information. That could be one role for them, for example, or the consumer advocate or the government or however it is worked out. But the information needs to be shared so that people can actually make good decisions, and to start them in the conversation early so that we can decide what is needed and what is desired. There are many ways of solving people's energy needs, and each involves different trade-offs. I believe that if people are involved in that discussion, there will be an acceptance of the trade-offs and therefore of the plan in general, which would lead later on to fewer problems in the energy infrastructure. The engagement really needs to begin very early, during the policy stages at the government, right down to the community planning stages as well.

**Mr. Bob Delaney:** Okay. You have a set of recommendations that fall under the theme of good governance, in which you outline a number of recommendations to ensure that citizens feel confident that energy plans are both prudent and effective for the province. Could you expand on what steps need to be taken to strengthen governance on this issue?

**Mr. Richard Carlson:** We've looked at four different steps. One was to define the roles of ministers and elected officials and limit the use of ministerial directives. If there is going to be a long-term plan that has social licence, then it has to be a long-term plan. It has to be somewhat set for the future and it cannot be changed depending on various issues. That, I believe, is quite important, and I think that's been echoed by many people here.

The other one is to make sure that the energy plan is prepared by an independent expert agency. Once the government sets the policy as to what energy in Ontario is going to look like, then it is very much up to the expert agencies in order to see how that can be realized. That plan should also be checked to make sure that it is in the best interests of consumers and Ontarians. We recommend that that be checked, as in the current legislation, through the Ontario Energy Board, which has the ability to review these plans, and to look at the economic effectiveness and to ensure that it meets the government's policies. Also, in addition to that, for the procurement plans and the leave-to-construct applications for new infrastructure—that they are also reviewed by the OEB and the options are looked into, so that a cost-benefit analysis of the different options is presented throughout the entire spectrum and these are then checked to make sure that the option being presented, say for infrastructure, is the most cost-effective plan possible, and that the other solutions are not as cost-effective or do not meet the requirements for sustainability or for what the community wants. So there are different aspects of looking at that.

**Ms. Mary Ellen Richardson:** Just to add, the elements of good governance we thought of were clarity of role, transparency of process and access to consultation.

Each of those elements that Richard discussed include those three goals, if you will; those three objectives.

**Mr. Richard Carlson:** I believe it's important—the model we present is one possible model and is based upon what we see in the Ontario energy sector. Other models are available, but the key point is that it meets the principles that we identified. These could be organized in different ways, but the most important part is that the principles are met in terms of planning, as opposed to the exact model. We believe that this model does meet the principles, which is why we recommended it.

**Mr. Bob Delaney:** Let's move to your next theme, which is integration. Your report recommends that local and regional plans, goals and concerns should be better integrated. One recommendation you have is that municipalities should include energy planning in their infrastructure plans. What other steps should the provincial and municipal governments be taking to work more collaboratively on energy planning in the future?

**Ms. Mary Ellen Richardson:** Well, I think that there is an opportunity to better integrate the plans at the various levels. We acknowledge that there is provincial-level planning for the major grid elements of the electricity system, but there are also opportunities for regional and, indeed, community energy planning. What we have recommended is that there be better integration between those three levels of planning, which requires an information-sharing between the three levels and then finding solutions that integrate those three things and meet the goals of each level. I would say that, in energy, we have to do a far better job at integrating community needs, regional needs and provincial needs, and I would say that this is the time to do it, given our electricity—

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

**Ms. Mary Ellen Richardson:**—supply situation. We have the opportunity to better integrate those three levels of plans.

**Mr. Bob Delaney:** Anything else you want to add on that topic?

**Mr. Richard Carlson:** I think it's important to look at it as a continuum, so that community plans and community needs can then inform regional needs, which then inform provincial needs, but, at the same time, provincial policies inform regional plans, which also inform community plans. They go both ways, so that there is a conversation going on throughout the entire process.

**Ms. Mary Ellen Richardson:** I think the other thing we should add and note is that, in other jurisdictions in particular, when issues related to energy planning are being considered, it's a much broader definition of "energy" beyond just electricity. They are also considering the thermal energy needs of communities, the energy needed to heat and cool buildings, and that's a very significant part, in particular, of community energy needs.

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

To the PC side: Mr. Yakabuski.

**Mr. John Yakabuski:** Thank you very much, Chair. Thank you very much, Ms. Richardson and Mr. Carlson,

for joining us this morning. I appreciate the efforts you've made in this report, but it's not your first rodeo either; I can see that you've done a number of reports. I also appreciate the interviewees and the credentials that they have and their contributions to this report, as well.

It's interesting—maybe it would have been nice to have this report several years ago; we might not be here today. But it's somewhat rich to listen to my colleague on the other side, Mr. Delaney, on how consultative they believe they've become, the members of the government, and that they're really interested in public input now and how that could have led to better siting of energy projects.

The projects that we're talking about in Oakville and Mississauga—that's why this committee is here: the gas plant cancellation scandal perpetrated by the Liberal government. The history goes way back, and I'm sure you're familiar with it. All of the problems existed at the time of the decisions to locate those plants on those specific locations. Nothing changed from the point of view of the problems inherent to the location, and nothing changed with regard to the community support for those projects. There was no community support from the start, and that continued to be the problem in the end.

The decisions to locate those plants—if you were going back in time, could you possibly have supported those decisions given your process for siting large-scale power projects?

**Mr. Richard Carlson:** There are a lot of examples that we can use from the energy sector of not consulting at any earlier stage. The case in point is one example, but we are looking at the systemic problem that has been faced by successive governments over many years, and how we can move forward and solve this problem so that there is less likelihood of any controversies in the future.

**0900**

**Mr. John Yakabuski:** I understand that. Would you have sited these projects on those locations?

**Mr. Richard Carlson:** Without knowing the full details of the power plants, it's very difficult to know. I don't have the information to be able to answer that.

**Mr. John Yakabuski:** Well, I think you know some of them. You and Ms. Richardson worked at the OPA, so I think she knows some of them as well.

This was a bad decision, was it not? I mean, I think you're confident enough in your credentials to give us that answer: yes or no.

**Mr. Richard Carlson:** The decision would not have met the principles that we identified.

**Mr. John Yakabuski:** Thank you very much. Now, I see all these recommendations, and I think they're really well thought out. It goes through many of these different projects.

"The planning process" is "based on public policy objectives which have been broadly debated and democratically accepted." I think we have to give them a fail in that regard.

"The planning process has to be integrative." I think we have to give them a fail.

“The planning process has to include a clear economic analysis.”

I want to go on to another, because we’re talking about all power projects in the province of Ontario now, past, present and future.

The member opposite talks about integration and integrating the public and involving the public in the process, and that’s a key component of your recommendations here. We’ve got now a government that has built roughly 2,000 megawatts of wind power in this province, in most cases against the will of the communities. They’re planning to build at least another 3,000 or 4,000 more megawatts. We’re already in a position where we’ve now started paying wind developers not to produce the power because it’s (a) not needed, and (b) the wind doesn’t operate at the proper time, but they signed on with these exorbitant contracts guaranteeing ridiculous prices for wind power—

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

**The Chair (Mr. Shafiq Qaadri):** Mr. Delaney on a point of order.

**Mr. Bob Delaney:** We are here to discuss the issues in our committee mandate—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. I think given the Mowat Centre’s energy expertise—plus, by the way, I remind you respectfully that it is a government witness—I think the questions are quite in order. Go ahead.

**Mr. John Yakabuski:** Thank you very much, Chair. They brought the witness in. I think they can—as Jack McCoy would say on Law and Order, “You opened the door, counsellor.”

Now we’ve got these massive wind projects that have been proven to fail miserably, if you want to do your economic analysis. Yet the government is insistent on going ahead and continuing to perpetrate this failed source of energy, building something that is not needed and is not cost-effective and is opposed vehemently. We have resolutions by scores of municipalities, saying they do not want, under any circumstances, these wind developments in their communities.

Would you agree, then, that their plan for large-scale wind development in the province of Ontario would fail miserably in getting the green light, from your report?

**Mr. Richard Carlson:** Well, I really can’t just talk about any one particular element of Ontario’s energy plan.

What we recommend, and what we are discussing, is that there is an engagement with the process and a cost-benefit analysis of what is going on. The cost-benefit analysis is not just strictly economics. There could perhaps have been other issues in play.

But at the same point, there needs to be a public discussion over this. This is not just one issue that we can say has only come up in the last recent years. It has faced successive governments over many decades, from way back, from when, in 1998, Ontario Hydro was broken up and partially privatized. You could even say, since then, that there has been a lack of public engagement and

social licence in Ontario’s power plans. So this is a decades-long problem as opposed to—

**Mr. John Yakabuski:** I’m asking you specifically for the green power scheme of this government: windmills across the province of Ontario, the Green Energy Act. I really want to stick specifically to that.

Now, you say there are more things to a cost-benefit analysis, but I didn’t ask about a cost-benefit analysis; I asked about an economic analysis. The economic analysis for wind power simply isn’t there.

**Mr. Richard Carlson:** I’m not an economist, and it would be very difficult for me to answer that.

**Mr. John Yakabuski:** You’ve done a lot of research, though. I see your list of papers. You’ve done a lot of research, and you’ve got people in your list of interviewees who are actually economists.

**Ms. Mary Ellen Richardson:** We didn’t address that specific question with them, and we haven’t got the data to do the assessment of economics of a particular generation source. It simply wasn’t the focus of this research, so I don’t think we can speak to it.

**Mr. John Yakabuski:** Okay. So we do know, given your expertise and background, that the decision that was made by this government to site the plants where they did, in Oakville and Mississauga, would not have met your criteria. You’ve already answered that you would not have built them there; it would not have met the criteria for getting the green light.

Given that they made that decision—we now have at least \$585 million that this decision will have cost, and we’re anxiously awaiting the Auditor General’s report, which we expected before the Legislature reconvened, when the Premier promised it; to be fair, not all the holdup has been the fault of the government, but it is being held up, and we’re anxiously awaiting that—would it not be fair to say, then, that the cost that is being put on the backs of ratepayers and taxpayers is due to the faulty decision of the government that should never have gotten the green light in the first place?

**Ms. Mary Ellen Richardson:** Again, I don’t think we can speak to that matter specifically. It wasn’t the focus of our research. In particular, I think we are here today to address the issue of how we’re going to move forward and the principles that should guide how we move forward. Frankly, that was the focus of our research; the questions that we asked other jurisdictions.

These are tough decisions. We have aging infrastructure that needs to be replaced and refurbished in the energy sector and in many sectors, and the question we wanted to address is: How do we do that and how do we move forward as a province? It was with that in mind that we looked at the principles that guide other jurisdictions in how they’ve tackled these same questions. So I feel that we can speak to those and we can speak to our experience and our research in those matters, but with respect to the specifics, I don’t think—I know—that we did not address those, and I don’t feel capable of—

**Mr. John Yakabuski:** No, you didn’t, in your research, and I wasn’t suggesting that you had. But we also



have your resumés here, or at least brief snippets of your qualifications and credentials, and they're impressive. So, regardless of the research you've done on this particular issue, you have a sense, you have an understanding, you have knowledge of the sector. Given your research but the conclusions you've drawn from your research about what should or should not receive a green light and what meets the test, as we say, when a project clearly did not meet your green light, as you've already indicated agreement with my statement that it did not meet the green light, then is it not fair to say that the government that made those wrong decisions is responsible; whoever made those decisions. At the end of the day, we had the former Premier of Ontario, perhaps to some degree trying to defend the current Premier of Ontario, sit in that very seat in a different room and say, "It was my decision. It was my decision." Is it not fair to say, then, that that person who makes that decision is responsible to the people of Ontario for whatever costs are now being borne by them?

0910

**Mr. Richard Carlson:** That is an issue—as opposed to responsibility over any particular case in point. That is not an issue that we have examined, and I would not feel comfortable discussing that. That is a very complicated issue.

As we say, this has been a systemic problem for many decades in Ontario—a lack of social licence—and that needs to be improved. We are looking at how we can improve so that in the future there's less likelihood of any such problems arising.

**Mr. John Yakabuski:** We're in the future, and it's still going on. In fact, it's worse, because it doesn't just involve Mississauga or Oakville; it involves half the rural communities in this province. They continue to insist, "Daddy knows best. We're going to build those wind turbines wherever the heck we please. It doesn't matter what the community says, and it doesn't matter what the economic benefits may or may not be. We're going to do it because it fits with our narrow ideology about where we think energy should go." That's what this government continues to do. Research notwithstanding, I don't believe for a minute that that could possibly fit with your criteria for getting a green light based on how you understand and how you perceive the energy sector, its future and public involvement in those decisions.

**Mr. Richard Carlson:** Your concerns actually validate some of our points. We're saying that we need to have a public discussion over this. We need to be able to sit down and talk about what kind of energy policy people in Ontario want. That is pretty much what you are saying. We're looking at the future as to what is coming up and how we can change that. We have identified that there have been problems for many years, and now we want to know how we can improve it so that there will be fewer problems in the future. That is really what we're looking at.

As to current cases, I'll allow you to reach your own opinion based on our research.

**Mr. John Yakabuski:** I appreciate your visit here today. I appreciate your expertise and your research. I hope that when this government—however much longer we have to put up with them—makes decisions, that they talk to people who have actually done some research. Thank you very much.

**Mr. Richard Carlson:** Thank you.

**The Chair (Mr. Shafiq Qadri):** To the NDP side: Mr. Tabuns, 20 minutes.

**Mr. Peter Tabuns:** Good morning. Thank you for coming today.

As I look at your documentation, there seems to be a pretty clear focus on trying to depoliticize the whole process of energy planning and generation siting. Is that fair to say?

**Mr. Richard Carlson:** We look at the two areas: planning and policy. The government definitely has a role in coming up with policy on a provincial scale. What is the future? Planning should be after public consultation and engagement and looking at the benefits.

**Ms. Mary Ellen Richardson:** If I could just add: These are assets and infrastructure that have long lifespans. Those lifespans go beyond any political cycle and therefore, we believe, need a long-term outlook and good policy. I think your characterization is quite accurate.

**Mr. Peter Tabuns:** That being the case, the government set up the Ontario Power Authority as an arm's-length agency to make these decisions, as we saw extensively in the emails that we, as a committee, reviewed. When they didn't like the arm's-length agency's actions, they just worked around them. They negotiated with proponents they didn't have contracts with. In any way, shape or form, did this government follow your recommendations when it came to their version of depoliticizing this energy system?

**Ms. Mary Ellen Richardson:** One of our recommendations, indeed, is that planning should be done by an independent expert agency, whatever that's called, and that there should be a review process for the plan that results from that. Those two agencies, if you will—embedded in their mandate would also be public consultation and stakeholder consultation. So there is a lot more transparency of process in our recommendations and certainly in what we've seen elsewhere.

**Mr. Peter Tabuns:** Thank you very much.

**The Chair (Mr. Shafiq Qadri):** Time is over, Mr. Tabuns. Thank you very much.

Back to the government side: Mr. Delaney.

**Mr. Bob Delaney:** Thank you very much.

Let's do something novel and go back to your report. The last series of recommendations we talked about was integration, so let's move on to your transparency and accountability recommendations.

You state, "If the planning process is transparent and accountable, people will be more likely to support the plan and accept planning decisions." Let's expand on that a little bit. What steps need to be taken to improve transparency and accountability in electricity planning and siting?

**Mr. Richard Carlson:** We've identified three steps initially that can be taken.

First of all is the need to improve statistical availability, analysis and reporting. This is an issue in most of Canada that we looked at, not just Ontario. It's very difficult to get current, up-to-date information on the Ontario energy system, and broken down by region, broken down by generation type, so people can really understand what is happening in Ontario. A lot of that information is very disparate and scattered throughout very different sources, federal and provincial. It's hard to get an accurate picture of what's going on. Without that information, it's impossible for not only decision-makers or investors but also the public to make good decisions about the future—unless they actually know what is happening or what is going to happen.

I'll skip down to number 12. We're looking at policy changes, and government definitely has a role in setting energy policy. But that should be debated before the Legislature, as opposed to the directives that have been issued before that, so that there can be full accountability, democratic accountability of energy policy in Ontario, as well as public consultation and discussion so that there can be an acceptance of where we're going. Where that direction is is up to the discussions that go on, as opposed to any particular generation type.

Finally, as I mentioned in my opening statement, at the moment, Ontario is blessed with a surplus of power. Now is really the time that we should stop and take a look and see where we are and how we can improve things in the future so that we do not repeat what has happened.

**Ms. Mary Ellen Richardson:** I'll just add to that, if I may, the statistical availability. We talk a lot about integrating regional and community planning with provincial planning. We believe that municipalities and local authorities definitely have the capacity to do that and do it in other forms of infrastructure. But at the same time, we understand that our energy planning system in this province has been quite fragmented, and therefore they may not have all of the information they need to make those decisions. That comes back to the need for better information sharing between the different planning levels and, in fact, this notion of a central information repository, if you will. Again, that is best practice in terms of what we have found elsewhere. We believe that good information will support good decision-making ultimately.

I just wanted to add that point.

**Mr. Bob Delaney:** In your report, you state that, compared to Ontario, other jurisdictions are doing a better job of incorporating greater democratic review and accountability in planning. Because of this, they're able to secure greater public support for long-term energy plans and for energy infrastructure. In particular, your report compares Ontario's energy planning process to that of New South Wales in Australia, to British Columbia, to Great Britain, New York state and Sweden.

Could you elaborate a bit? What are some of the lessons that Ontario could learn from these jurisdictions, and what best practices should we follow to achieve greater buy-in from the public on long-term energy planning?

**Mr. Richard Carlson:** We identified quite a number of recommendations and best practices throughout the report. One of the main important areas is that there is more of a discussion on energy policy right from the beginning. It starts early and it continues on throughout the entire time. It's not irregular or ad hoc or only when certain particular things come up. It is discussion that goes on: What is the future going to be? A lot of these places have different visions of the future, but they have managed to get broad public support on the big issues as to what they want it to be.

**0920**

Beyond that, especially in many cases like Sweden and the UK and, to a certain extent, New South Wales, because it's a liberalized market, the siting process and everything is inherently a lot more depoliticized, as it is up to the developers to satisfy the local requirements. But there is generally an acceptance that the public has to be consulted and that there have to be long-term consultations.

Another important thing is that options have to be looked at so that developers or the government do not issue a, "This is what we want to do. What do you think?", but that there are options—"These are different things that we could do. These are the benefits and these are the cons of everything." There are trade-offs in any energy system. There is no perfect one, unfortunately, so we need to be able to have a public discussion of what those trade-offs are so that we can then move forward. Then once that is decided, it is up to the expert agencies or the developers, depending on the jurisdiction, to actually implement it, and that has been left depoliticized, and the planning is very much kept local, and they sometimes will have independent siting boards. Those also include local representation in many cases as well.

**Mr. Bob Delaney:** Okay.

**Ms. Mary Ellen Richardson:** I think a key element of those jurisdictions that we've studied is that the local communities or local authorities have the accountability for energy planning within their borders. That is where the local opportunities often lie, and the plans are developed that support their sustainability goals. Often, they are not only their energy and energy-efficiency goals, but also their economic development and environmental goals. In those jurisdictions, with energy planning more decentralized, if you will, local authorities are finding solutions that actually meet their local needs in much more holistic ways. Again, we refer to energy more broadly than just electricity and also consider the thermal energy needs of communities.

The experience is that, yes, the opposition occurs at the community level, but so also do the opportunities, and putting the accountability for energy planning closer to the community has helped, as Richard said, to get the

social licence to move forward because the benefits are more immediately transparent. Again, I think that the notion of embedding energy planning along with other infrastructure planning in a municipality's mandate is very consistent with our view of the opportunity and the need to integrate between community, regional and provincial plans.

**Mr. Bob Delaney:** Let's conclude our time with your recommendations on next steps.

**Mr. Richard Carlson:** Implement our report—next steps? The next steps would be, I think, to start having a public discussion—well, two steps, actually. First would be that we have to start allowing information to be available so that people can understand what is happening in Ontario. That is very important, not just in the siting but in energy in general as we're talking about electricity and thermal.

The second would be to start having a discussion over what it is we want, what kind of energy system we want in Ontario and what is the best and most cost-effective way of meeting that goal. Like I say, there are many different ways we can go forward, but we need to make sure that there is a vision of where people want to be somewhere in the future.

**Ms. Mary Ellen Richardson:** I think there's an opportunity to look at the provincial planning statement with respect to energy planning in particular—

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

**Ms. Mary Ellen Richardson:** —and I believe that there is an opportunity to refine the review criteria for the Ontario Energy Board against which the provincial plan will be assessed.

**Mr. Bob Delaney:** Any concluding remarks? I'm not going to ask you a question in the last 30 seconds.

**Ms. Mary Ellen Richardson:** We thank you for the opportunity to appear before this committee. I think you're doing very important work, and we look forward to a brighter future where we are trying to institute some of the recommendations that we've put forward. Thank you for the opportunity.

**Mr. Bob Delaney:** Thank you, Chair.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. As part of that brighter future, Mr. Yakabuski, I offer the floor to you.

**Mr. John Yakabuski:** Thank you very much. The sun is shining.

There are two questions we ask all those who appear before this committee. The first question is—and each of you could answer it individually. Do you know how much the cancellation of these power plants is actually going to cost?

**Ms. Mary Ellen Richardson:** No.

**Mr. Richard Carlson:** No. I am looking forward to the Auditor General's report, though.

**Mr. John Yakabuski:** Do you know who ordered the cover-up of the information surrounding the costs of the cancellation of these power plants?

**Mr. Richard Carlson:** No, I do not.

**Ms. Mary Ellen Richardson:** No, I do not.

**Mr. John Yakabuski:** Thank you very much. I'm just going to wind up by, again, thanking you for coming. I appreciate your frankness and candidness.

Based on your testimony this morning, it would be my recommendation to the Liberal government and the Liberal Party just to simply enter a guilty plea and throw themselves at the mercy of the court.

Thank you for coming in this morning.

**The Chair (Mr. Shafiq Qaadri):** To the NDP side: Mr. Tabuns.

**Mr. Peter Tabuns:** My thanks to the witnesses.

**The Chair (Mr. Shafiq Qaadri):** Thanks to you, Mr. Carlson and Ms. Richardson, for your deputation and report on behalf of the Mowat Centre.

Since we do have extra time, we have some issues with regard to confidential and non-confidential documents. I invite the Clerk to lead us through that.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** We received confidential and non-confidential documents from the OPA in regard to the August 27 motion. I can distribute them, one per caucus, the confidential ones, as per committee practice. Then committee members can decide at a later date what they want to do with them and keep them confidential for now. Again, it's up to the committee to decide what they'd like to do.

**The Chair (Mr. Shafiq Qaadri):** That's fine?

**Mr. John Yakabuski:** I think they're being distributed to Mr. Fedeli.

*Interjection.*

**Mr. John Yakabuski:** He has been the recipient on behalf of our caucus.

**The Chair (Mr. Shafiq Qaadri):** Thanks, colleagues. We'll return here after recess, at 3 p.m.

*The committee recessed from 0927 to 1501.*

MR. RYAN DUNN

**The Chair (Mr. Shafiq Qaadri):** Colleagues, I call the Standing Committee on Justice Policy once again to order. Our next witness, Mr. Ryan Dunn, come forward to be affirmed by our Clerk.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

**Mr. Ryan Dunn:** I do.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Dunn. Your five-minute introductory address begins now.

**Mr. Ryan Dunn:** Thank you, Chair and committee members. My name is Ryan Dunn, and I joined Queen's Park in February 2011 as an assistant to Minister Brad Duguid. After the election in 2011, I was asked to join Minister Bentley's office as a legislative assistant. In February 2013, I left government.

For the purposes of this committee, I think it's important to provide context about my job as legislative assistant to the minister. The legislative assistant's role across government is to assist and provide the minister

with the information they need to respond to questions in the House and in the media. This meant that I would routinely obtain from the ministry facts, stats and messages to include in the minister's House book and other media materials such as Qs&As. In addition, the legislative assistant's job is to review documents so that the minister can respond to questions in the House or in the media.

My role while the minister was at the Standing Committee on Estimates was to ensure that the minister had the information he needed to answer the committee members' questions. This included asking ministry officials for stats, facts and page references from the government's long-term energy plan.

In addition, I was asked to review documents that the ministry and the OPA had assembled in response to a motion passed at the committee. I reviewed a photocopy of the OPA's documents and a photocopy of the ministry's documents so that the minister could respond to questions in the Legislature or the media.

The Ministry of Energy lawyers and the OPA lawyers were the custodians of the documents, and they had control over what was responsive and what was not responsive. The minister's office had no authority in the matter.

Finally, I would like to address the issue of my own records and emails. As many people have testified before this committee, political staff, including myself, were not properly trained on the archives and records management act. During the dates in the Standing Committee on Estimates motion, I was not actively involved in the policy or decision-making around the cancellation of the gas plants, as I was the legislative assistant.

The electronic communications I was privy to on the gas plant file during that period of time were mostly limited to draft Qs&As or communications materials.

Thank you. I look forward to being as helpful as possible.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Dunn. We'll begin with the PC side. Mr. Fedeli, the floor is yours.

**Mr. Victor Fedeli:** Thank you very much, Chair. I appreciate it. Welcome, Mr. Dunn. When you ended your talk, basically about how you were not properly trained and that type of thing, does that mean you deleted your emails?

**Mr. Ryan Dunn:** I would keep what I needed to do my job.

**Mr. Victor Fedeli:** I appreciate that, but did you delete your emails?

**Mr. Ryan Dunn:** Again, as I said, I would keep what I needed to do my job.

**Mr. Victor Fedeli:** What about to do our job? Did you keep those?

**Mr. Ryan Dunn:** I can't answer questions about what you need to do your job.

**Mr. Victor Fedeli:** You know, getting to the truth about who did what, who ordered the cover-up of documents—that type of thing.

**Mr. Ryan Dunn:** I think it's important to take a step back and go back to the Standing Committee on Estimates motion. I believe that the motion itself was asking for documents up until December 31, 2011. I believe the Standing Committee on Estimates was sitting in May 2012. Somebody can correct me if I have those dates wrong.

The most recent document I believe that the committee was asking for was close to five to five and half months old. You have to understand: In my job as a legislative assistant, I would do whatever I could to help the minister address the issue of the day. So oftentimes, I'm having to prepare his House book or prepare messages for him when he leaves the lobby, when he's going to get scrummed. So the documents that I would have—

**Mr. Victor Fedeli:** I'll take it as a yes, then, that you've deleted documents.

**Mr. Ryan Dunn:** I think it's important to finish because again, it's through the purview of my job that issues that are about eight months old—I wouldn't need to keep the draft Q&A or the messages simply because the issue wasn't relevant anymore. Moreover, the ministry would often keep the final copy of a Q&A.

**Mr. Victor Fedeli:** So I'll take it as a yes, then, that you deleted emails.

**Mr. Ryan Dunn:** So, again, as part of my job as legislative assistant, I'd be keeping what I needed to help the minister respond to questions in the Legislature.

**Mr. Victor Fedeli:** We would have had the opportunity to choose whether those were good ones to keep or not had we seen them all.

We've had some Hansard discussion—your name has come up an awful lot. I have said this to probably five people that have sat in the chair: "Are you the guy? Are you the guy at the centre of all this?" They've all said no. But let me just tell you what about a half a dozen Liberal operatives and others have said.

Peter Tabuns asked Jesse Kulendran one day about, "Was there an overall plan for the production of documents?" It got down to—the minister's office indicated they didn't have these responsive records. Mr. Tabuns asked Jesse Kulendran, "Do you know who communicated that to you?" "I do, yes. It was Ryan Dunn." It was the first time that we got a "Ryan Dunn" out of somebody.

Craig MacLennan was asked, "What happened when you first heard, 'You need to turn documents over'? Give us a couple of names of what happened." Well, you know, "There were ongoing negotiations," "I wasn't lead on the file," "There were heavy consultations with government." I said, "By whom? I'm just trying to get some names here. Who were you talking to?" "My colleague Ryan Dunn." That's from Craig MacLennan. He says it's you.

Serge Imbrogno, the deputy minister: Mr. Tabuns again asked him, "I'm going back to an earlier question about documents. You noted, and we discussed, that the minister's office reviewed copies of ministry and OPA

documents.” “That’s correct,” he said. “Who in the minister’s office did that review?” “I know Ryan Dunn would have gone to the OPA to review the documents.”

That’s Jesse Kulendran. That’s Craig MacLennan and Serge Imbrogno. I’m now asking Kevin Spafford, talking about his email, about not having to turn documents over. I’m talking about who has written a document: “Dear Mr. Prue?” “Yes.” I said to him, “This is Ryan Dunn, writing to you and others.” Yes, Ryan Dunn. It’s you. Kevin Spafford: Just recently we asked him about his involvement, and he said, “Well, if you’re referring to the letter we’re talking about here,” it’s from Ryan Dunn. You again. Finally, Andrew Forgione: He said, “I’m nobody here; I was just shadowing and helping out with the big guys.” “And who’s that?” “Ryan Dunn was the lead staffer.” It’s you.

So I’ll ask you the same question I’ve asked many. Are you the guy?

**Mr. Ryan Dunn:** I’m not the guy.

**Mr. Victor Fedeli:** You’re not the guy?

**Mr. Ryan Dunn:** I’m not the guy. So—

**Mr. Victor Fedeli:** Jesse Kulendran, Serge Imbrogno, Craig MacLennan, Kevin Spafford, Andrew Forgione: They all say, “It wasn’t me. Ryan Dunn was the guy.” Is that you?

**Mr. Ryan Dunn:** That’s not me.

**Mr. Victor Fedeli:** That’s not you? It’s a different Ryan Dunn they’re referring to?

1510

**Mr. Ryan Dunn:** Mr. Fedeli, let me back up again. As I said in my opening statement, my task as legislative assistant was to assist the minister. It was also to review documents.

When we talk about assisting the minister, I think anybody who was at the Standing Committee on Estimates would have seen me sitting over there with a big binder, trying to help the minister get the facts that he needed to answer the question—

**Mr. Victor Fedeli:** Yes, but you did more than that. You wrote letters. People have sworn under oath here that you wrote letters; you were the author of letters.

**Mr. Ryan Dunn:** Could you please point me to the letter that you think I authored?

**Mr. Victor Fedeli:** I just read a document from the Hansard. So what you’re saying under oath is, you don’t write those letters. You didn’t write the letter to Mr. Prue. You don’t write letters, then.

**Mr. Ryan Dunn:** Sir, I believe that the letter that went to Mr. Prue has the minister’s signature on it.

**Mr. Victor Fedeli:** Oh, they all have—I don’t think you’d sign for the minister, but did you write the letter?

**Mr. Ryan Dunn:** I did not write the letter—

**Mr. Victor Fedeli:** You did not write that letter.

**Mr. Ryan Dunn:** The letter would have come from the ministry. The letter to the Chair on estimates—I think there were two letters—two letters?—two or three letters. Again, as his legislative assistant, I would have seen drafts of those letters before they went. But again, the minister would have signed that. The minister would

have had to have been comfortable with the content that was in there.

**Mr. Victor Fedeli:** Serge Imbrogno says that you went to the OPA to review the documents—and the ministries. Who told you to do that?

**Mr. Ryan Dunn:** I was asked by my chief of staff to—

**Mr. Victor Fedeli:** And who is that?

**Mr. Ryan Dunn:** At the time, it was Craig MacLennan.

**Mr. Victor Fedeli:** The guy that said it’s all you.

**Mr. Ryan Dunn:** Again, he asked me, in my role as legislative assistant, to go to the Ontario Power Authority to review the documents in advance of their release.

**Mr. Victor Fedeli:** Are you the one, then, who decided to take out every second one of OPA’s documents because it was just a little—it didn’t quite meet—because it said “SWGTA” instead of “southwest GTA”? That wasn’t you?

**Mr. Ryan Dunn:** No, sir, I gave no instructions to anybody—

**Mr. Victor Fedeli:** You gave no instructions. So all these people who say it’s you—they’re making this up under oath?

**Mr. Ryan Dunn:** Sir, I’ve sworn an oath here, and I’m telling you the truth about what my job was. It was my job to review documents.

**Mr. Victor Fedeli:** So what instructions did you give to the OPA, then? Because we know now, after sworn testimony and after just evidentiary proof, that there were 56,000 documents but they took 20,000 out the first time we got documents—kind of a little wink and just went ahead and gave us the 36,000 documents, hoping we’d be maybe silly enough to think that that was all of them. Two weeks later, we did get the 20,000 documents. Are you the one who ordered the 20,000 documents to be removed?

**Mr. Ryan Dunn:** Sir, I did not have the authority to order any documents removed. I would like to point out that—I believe that the deputy minister and the CEO of the Ontario Power Authority have come to this committee to testify on, I guess, the events that transpired.

**Mr. Victor Fedeli:** Yes, we have sworn testimony that tells us the members of the Ministry of Energy were at OPA, telling them to remove certain documents. We have that sworn testimony by more than one person.

**Mr. Ryan Dunn:** Again, I think it’s—

**Mr. Victor Fedeli:** So—

**Mr. Ryan Dunn:** Sorry, Mr. Fedeli. May I get this on record?

**Mr. Victor Fedeli:** —Jesse Kulendran worked with you on the document production. Did you direct her to withhold any documents?

**Mr. Ryan Dunn:** No, I did not.

**Mr. Victor Fedeli:** So it wasn’t you.

**Mr. Ryan Dunn:** No.

**Mr. Victor Fedeli:** You’re not the guy that told her, then. Okay. Did you direct the destruction or deletion of documents whatsoever?

**Mr. Ryan Dunn:** No.

**Mr. Victor Fedeli:** Even including your own email that you deleted?

**Mr. Ryan Dunn:** I did not instruct anybody to suppress or delete any documents.

**Mr. Victor Fedeli:** Did you delete your own documents?

**Mr. Ryan Dunn:** I believe I've talked about my email practices before. Again, as political staff, we were not trained on the archives and records management act.

Again, the dates on the Standing Committee on Estimates motion—you were asking for documents that were anywhere from five months to two and a half years old.

**Mr. Victor Fedeli:** All these people, though—again, Kulendran, MacLennan, Imbrogno, Spafford, Forgione—they all say it's you. We only have 800 email from you. You're about the least amount of email we have. But they all say you're the guy. How come we have so few email from you?

**Mr. Ryan Dunn:** Because I was not involved in the policy or decision-making on the gas plant file.

**Mr. Victor Fedeli:** Who told people to withhold documents from the committee, then? Was it Minister Bentley? The Premier's office? If it wasn't you, and there are only a few above you—

**Mr. Ryan Dunn:** I don't know who would have said anything of that sort. I know that the Deputy Minister of Energy and Jesse Kulendran have been to this committee to testify on it. I was not part of any of those conversations.

**Mr. Victor Fedeli:** Do you acknowledge that there were 20,000 documents withheld in the first round, when this committee received the 36,000? Do you acknowledge that there were 20,000 withheld and then subsequently turned over, two weeks later? Do you understand that?

**Mr. Ryan Dunn:** I think that there was—well, from what I can tell from reading the testimony of the deputy minister, Jesse, Kristin Jenkins and the CEO of the Ontario Power Authority, I believe that there was some miscommunication on that.

**Mr. Victor Fedeli:** Oh, there was no miscommunication. This was a purposely done, devious, purposely motivated effort to conceal documents from this committee. Nobody is going to whitewash that. That's so, so old news now. We know that for a fact, that this committee had 20,000 documents withheld on purpose. We're just trying to find out who is the one who did it, and everybody is pointing their finger at you, by the way, so far—five of them, including the deputy minister. They're all pointing fingers at you, saying that you're the guy; you know everything.

So, if it wasn't you, then, whose decision was it? Was it the Premier's office or Minister Bentley's, then? There's only two above you.

**Mr. Ryan Dunn:** Again, I don't know your line of questioning, because I believe—

**Mr. Victor Fedeli:** My line of questioning is, who ordered the cover-up of the documents, period.

**Mr. Ryan Dunn:** I don't believe there was a cover-up of the documents, Mr. Fedeli.

**Mr. Victor Fedeli:** Well, but we know that to be done. That's not a question about if there was; we know that. The 20,000 documents were withheld from us. We have sworn evidence how they were withheld. We're just trying to find out the "who" now. We're just quibbling over price here.

**Mr. Ryan Dunn:** Again, Mr. Fedeli, I believe that the deputy minister and Jesse Kulendran have come forward to this committee to testify—

**Mr. Victor Fedeli:** All right. So you're not going to answer that one.

What role did Andrew Forgione play in the document production process, then?

**Mr. Ryan Dunn:** Andrew's role and my role was simply to review a copy of the ministry's documents, to review a copy of the Ontario Power Authority's documents, so that we could prepare the minister to speak on them when they were released.

**Mr. Victor Fedeli:** You can simply sit here and say, "My role was simply." I don't accept that from you. We have from others—Andrew Forgione, he was shadowing; he was helping out. Somebody had to do the damned work. Was it you?

**Mr. Ryan Dunn:** I reviewed the copy of—

**The Chair (Mr. Shafiq Qadri):** Mr. Fedeli, as the afternoon progresses, I would just invite everyone to use parliamentary language and decorum. Thank you.

**Mr. Victor Fedeli:** Well, Chair, thank you for your comments, but I've got to be honest with you: I've had it up to the top here with the Liberal operative witnesses who refuse to give us the full answers, who have deleted emails, who tell us they have nothing to do with it, when we've got five sworn people here, including some very senior people, people I know have all said here that he's the guy. So he's the guy.

Who else was involved in the document production process, then?

**Mr. Ryan Dunn:** The production of documents was done by the ministry and the Ontario Power Authority, and I believe that the deputy and the CEO have testified to that.

**Mr. Victor Fedeli:** Well, do you have the documents? Are they handed out?

Let's start with some of these documents. Document 1: You requested a legal opinion from William Bromm regarding contempt of Parliament back in June 2012. If you weren't planning to comply—well, if you were planning to comply with the committee's request, why did you seek this opinion on contempt back in June?

**Mr. Ryan Dunn:** Sorry. Which document were you—

**Mr. Victor Fedeli:** Document 1, the top page.

**Mr. Ryan Dunn:** Oh, okay.

**Mr. Victor Fedeli:** Page 2, down at the bottom, "In light of the motion"—this is from you now; this is one of your emails. "In light of the motion before the committee, the minister needs to understand the nature of the motion ... potential jeopardy that it places the minister ...

regarding contempt of Parliament.” Were you planning to be in contempt of Parliament as early as June 2012?

**Mr. Ryan Dunn:** No, Mr. Fedeli. I—

**Mr. Victor Fedeli:** Then why would you have sent this email asking, “What is the ... principle of contempt of Parliament? Can a committee impose contempt ... on a minister? When is it applicable? Who rules on it? Who is able to impose it?” Why would you ask all those things way back in June?

**Mr. Ryan Dunn:** Sir, I’m not a lawyer, nor am I a parliamentary expert. I don’t pose to be one, and in my job as a legislative assistant, it would have been my role to provide the minister with the information that he needed. So—

**Mr. Victor Fedeli:** So are you suggesting the minister asked you, “Check out how far I can go until I’m in contempt”? Is that what you’re suggesting?

1520

**Mr. Ryan Dunn:** No. I believe that what we were trying to do is understand. I don’t know that anybody at the time knew anything about contempt of Parliament or contempt, and we were—

**Mr. Victor Fedeli:** Why would you worry about that if you were planning on turning over all the documents? How could contempt have been an issue? You were planning this back in June 2012.

**Mr. Ryan Dunn:** Sir, I don’t know if anybody has a copy of Mr. Leone’s motion, but I believe the word “contempt” was introduced in Mr. Leone’s motion at the Standing Committee on Estimates—

*Interjection.*

**Mr. Ryan Dunn:** Just let me finish, please. We didn’t know what that meant, and we wanted to know what contempt meant, and all of the things that I guess legally come with it.

**Mr. Victor Fedeli:** So go to the next set of documents. You’ll see Liberal gas plant scandal document 2, page 1 of 13. It’s a Vapour-lock call that you’re required to attend. Again, this is back in June, from John Brodhead of the Premier’s office. What was discussed at that Vapour-lock meeting?

**Mr. Ryan Dunn:** I don’t recall. That’s over a year and a half ago.

**Mr. Victor Fedeli:** But you recall a year and a half ago finding out about contempt?

**Mr. Ryan Dunn:** Well, sir, I believe you’ve seen the email.

**Mr. Victor Fedeli:** Go to the next page, then—

**Mr. John Yakabuski:** The email about the call.

**Mr. Victor Fedeli:** Yes, I’m looking at the email about the call.

Actually, my time is short. Let’s just stay in this document 2. Go to page 13 of 13. This is from you. This is to David Phillips, Kevin Spafford and Andrew Mitchell. “Here is the letter that the minister is comfortable with.” This is the “Dear Mr. Prue” letter. Are you telling us here that you did not write this letter? You’re sending the letter now. You’re sending the letter around.

**Mr. Ryan Dunn:** Sorry, sir; I just need to read it. This is the first time I’ve seen this in a while.

**Mr. Victor Fedeli:** “I’m writing to provide an update ... estimates committee,” etc.

**Mr. Ryan Dunn:** No, I did not write this letter.

**Mr. Victor Fedeli:** You did not write this letter. But you’re sending the letter.

**Mr. Ryan Dunn:** Yes. It would be my job as the legislative assistant to routinely keep folks in the government House leader’s office in the loop on anything that the minister would be providing to the committee. In this case, I believe I was simply doing my job and forwarding the information to him.

**Mr. Victor Fedeli:** So this is pretty much a policy letter. Would you not agree to that?

**Mr. Ryan Dunn:** Sorry, sir?

**Mr. Victor Fedeli:** Is this a policy letter?

**Mr. Ryan Dunn:** I think this is a draft of a minister’s letter that was going to be going to committee.

**Mr. Victor Fedeli:** Who wrote the letter?

**Mr. Ryan Dunn:** I don’t know.

**Mr. Victor Fedeli:** You’re the senior policy adviser—senior. You’re not the shadow guy. You’re not the guy who’s overlooking—somebody else here told us they just proofed typos. You’re the senior guy here. Who wrote this letter? Who sent it to you? How did you get it to send it to somebody?

**Mr. Ryan Dunn:** I would have received it from the ministry.

**Mr. Victor Fedeli:** Who? Why don’t we have that email where they said, “Here’s the letter we crafted”? All of the email we have from you—we only have you with this letter.

**Mr. Ryan Dunn:** So, sir, I’d like to point out that the date on this letter is July 11, 2012. I believe that the original motion from the Standing Committee on Estimates was up until December 31, 2011.

**Mr. Victor Fedeli:** Yeah, yeah, yeah. We’ve had 110,000 documents since then. We have all kinds of documents. How do you think we got this?

**Mr. Ryan Dunn:** But you asked me why it wouldn’t have come out with the Standing Committee on Estimates motion—

**Mr. Victor Fedeli:** Yes, because it doesn’t exist. You’re the only one who has ever had your name on this letter. There’s no other email from anybody with this letter.

**Mr. Ryan Dunn:** I believe that the date on the letter was outside of the date of the motion for the standing committee—

**Mr. Victor Fedeli:** Yeah, yeah, yeah. We’ve had many motions since you’ve been gone to wherever it is you’re gone to. We have lots of motions and we have a lot of other documents. We’re getting the picture painted here around you. We’re getting that picture now. It’s being painted—not by you and the emails you may have deleted, but by emails that we have recovered—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Fedeli. To the NDP. Mr. Tabuns, 20 minutes.

**Mr. Peter Tabuns:** Thank you, Mr. Dunn.

**Mr. Ryan Dunn:** It's good to see you, Mr. Tabuns.

**Mr. Peter Tabuns:** Good to see you as well.

Were you responsible for assembling the documents from the minister's office in response to the direction from the estimates committee?

**Mr. Ryan Dunn:** I was asked by the FOI coordinator to ask my colleagues if they had any documents that were responsive to the motion. I—

**Mr. Peter Tabuns:** Sorry. And who was the FOI coordinator?

**Mr. Ryan Dunn:** I don't recall who the FOI coordinator was at the time.

**Mr. Peter Tabuns:** It was in the minister's office?

**Mr. Ryan Dunn:** No, it would have been from the ministry.

**Mr. Peter Tabuns:** Okay. Why were you given that task?

**Mr. Ryan Dunn:** I was the legislative assistant.

*Interjection.*

**Mr. Ryan Dunn:** And I would like to address sort of some of the timeline issues. In May 2012—I just have to remember my years here. In May 2012, I was promoted to be a policy adviser to the minister for conservation policy. However, they needed to find a new legislative assistant before I could, I guess, assume that role. We would have hired somebody in June, and then I was essentially training them through that period of time. Because we were obviously dealing with the documents from the Standing Committee on Estimates, I would have been essentially performing the function of a legislative assistant because the new person just wasn't up to speed—

**Mr. Peter Tabuns:** Okay. I think you've cleared that up. Who did you report to?

**Mr. Ryan Dunn:** As legislative assistant?

**Mr. Peter Tabuns:** Yes.

**Mr. Ryan Dunn:** I would have reported to the director of communications and the chief of staff.

**Mr. Gilles Bisson:** Why the director of communications?

**Mr. Ryan Dunn:** The way it's often structured in a minister's office, the legislative assistant is part of the communications shop, but everybody reports to the chief of staff.

**Mr. Peter Tabuns:** Okay. And the description of your role in putting all of this together?

**Mr. Ryan Dunn:** Putting all of what together?

**Mr. Peter Tabuns:** Putting together all the documents from the minister's office: How was that described to you?

**Mr. Ryan Dunn:** Again, it was a year and a half ago. I recall sitting in a meeting with the FOI coordinator and somebody from the deputy's office, and they informed us that we had to do a search.

**Mr. Peter Tabuns:** And what were you told to remove from the search?

**Mr. Ryan Dunn:** Pardon?

**Mr. Peter Tabuns:** What documents were you told not to pick up in the course of the search?

**Mr. Ryan Dunn:** We were simply told to provide any responsive records to the motion.

**Mr. Peter Tabuns:** And were you given a list of search terms?

**Mr. Ryan Dunn:** I was not.

**Mr. Peter Tabuns:** So you were told, "Anything that's responsive to the motion" that passed through this committee, or the estimates committee at the time.

**Mr. Ryan Dunn:** Correct.

**Mr. Peter Tabuns:** Can you tell us what you did to secure those documents?

**Mr. Ryan Dunn:** I can talk about the search process. After I had a meeting with the FOI coordinator and the member from the deputy's office, I would have printed off copies of the motion that was passed at the Standing Committee on Estimates, and at our Friday staff meeting with all staff present—we had weekly Friday staff meetings to discuss various things—I brought this as an agenda item.

I asked my colleagues to provide—sorry. I distributed a copy of the motion and I asked my colleagues to provide any responsive records to me by—I would normally set a deadline to do it by, and then I would have followed up with each of my colleagues individually and asked them, "Do you have any responsive records?" And each of them reported that they did not.

**Mr. Peter Tabuns:** Did you personally have any responsive documents?

**Mr. Ryan Dunn:** I did not.

**Mr. Peter Tabuns:** Did the minister have responsive documents?

**Mr. Ryan Dunn:** I was asked to search the minister's computer. I went on to his government computer. I searched—well, opened up his Outlook, and he didn't have any documents.

**Mr. Gilles Bisson:** And emails?

**Mr. Ryan Dunn:** Any emails.

**Mr. Peter Tabuns:** So how many people worked in the minister's office?

**Mr. Ryan Dunn:** I can't recall the specific number.

**Mr. Peter Tabuns:** Ten? Twenty?

**Mr. Ryan Dunn:** Let's call it 10.

**Mr. Peter Tabuns:** Let's call it 10. And that office didn't produce a single document?

**Mr. Ryan Dunn:** Again, I'm not responsible for managing my colleagues' inboxes. It was my job to ask them if they had any responsive records, and I did that.

**Mr. Peter Tabuns:** Right. You're also confirming for me they had nothing?

**Mr. Ryan Dunn:** Each of them reported to me that they had no responsive records.

**Mr. Peter Tabuns:** And you told Jesse Kulendran from the ministry that you had no responsive documents?

**Mr. Ryan Dunn:** That is correct.

**Mr. Peter Tabuns:** Were you aware that Craig MacLennan regularly deleted everything he had, contrary to the law?



**Mr. Ryan Dunn:** Again, I was not responsible for managing my colleagues' email practices. I didn't know what their email practices were.

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**Mr. Gilles Bisson:** You say that you had these staff meetings once a week in order to discuss what was going on at the minister's office. Did you guys ever discuss the requests by the estimates committee to get the documents?

**Mr. Ryan Dunn:** We would have discussed the motion, and I would have asked them to provide any responsive documents.

**Mr. Gilles Bisson:** And we know that the minister didn't want to provide the documents initially. Can you tell us why that was and where that came from?

**Mr. Ryan Dunn:** Sorry, what do you mean?

**Mr. Gilles Bisson:** Well, you met every week. So my question is: At these staff meetings, did you guys discuss the refusal to release the documents to the estimates committee? Yes or no?

**Mr. Ryan Dunn:** I don't recall.

**Mr. Gilles Bisson:** So you never had a discussion in regard to this request by the estimates committee.

**Mr. Ryan Dunn:** We would have had a discussion where I would have asked my colleagues if they had any responsive records to the motion—

**Mr. Gilles Bisson:** No, no, no. Did you discuss, in the minister's office, at these staff meetings, the request by the estimates committee to get documents where your minister refused at the time? Was there any discussion about that?

**Mr. Ryan Dunn:** Sir, it was a year and a half ago. I can't recall what specifically—

**Mr. Gilles Bisson:** Do you think that they may have discussed that?

**Mr. Ryan Dunn:** Again, I wouldn't want to speculate. I can't recall.

**Mr. Gilles Bisson:** Are you throwing your minister—former minister—under the bus here? It was only him?

**Mr. Ryan Dunn:** I can't recall.

**Mr. Gilles Bisson:** Go ahead.

**Mr. Peter Tabuns:** Didn't it worry you that there were no documents?

**Mr. Ryan Dunn:** Again, it's not my job to manage their inboxes.

**Mr. Peter Tabuns:** No, I understand that. But you're in a senior position—

**Mr. Ryan Dunn:** At the time, I would have been in a junior position.

**Mr. Peter Tabuns:** Well, you were an issues manager by this point—

**Mr. Ryan Dunn:** Correct.

**Mr. Peter Tabuns:** —a senior position. You've got a minister who's facing a grilling at a committee. Having documents showing what really happened provides your minister with some defence to being prosecuted by committee. Weren't you worried that there was nothing?

**Mr. Ryan Dunn:** I don't know. I don't recall what I was thinking back then.

**Mr. Peter Tabuns:** Okay. Serge Imbrogno—Mr. Fedeli touched on some of this—says you were the point person in the minister's office reviewing OPA and ministry documents. Did you give the OPA instructions on what search terms to use that substantially limited their search?

**Mr. Ryan Dunn:** No, I did not.

**Mr. Peter Tabuns:** When you went to look at the OPA documents, did you not notice that quite a few documents appeared to be missing, something we noticed when we were given the documents?

**Mr. Ryan Dunn:** I believe when I went to the OPA—I would have gone to the OPA in July 2012. Andrew Forgione and I went there. We requested that a lawyer from the OPA be present in the room simply because we didn't want to be around the originals without somebody there. We thought that that was doing our due diligence.

**Mr. Peter Tabuns:** Yes. And?

**Mr. Ryan Dunn:** And we would have reviewed the documents. We would have looked at the pages. Again, we weren't responsible for managing what they put in. We weren't responsible for managing how they did their search. We were simply responsible for reviewing.

**Mr. Peter Tabuns:** I don't think I need you to go into that particular detail. Was a lawyer assigned by the OPA to sit in with you?

**Mr. Ryan Dunn:** Yes.

**Mr. Peter Tabuns:** Who was that?

**Mr. Ryan Dunn:** I can't recall the lawyer's name.

**Mr. Peter Tabuns:** And, again, you didn't notice that there seemed to be a lot of documents missing when you went through what they'd presented?

**Mr. Ryan Dunn:** Sir, there were 10 boxes of documents, and I was at the OPA for two days. I was reading documents. I wasn't looking to see what was included and what was not included. I was simply trying to understand what was in there so that the minister could respond to questions in the media and the Legislature.

**Mr. Gilles Bisson:** Were you part of any discussion in regard to strategy about how to deal with the request by the committee for the release of those documents?

**Mr. Ryan Dunn:** What do you mean by "strategy," sir?

**Mr. Gilles Bisson:** Were you part of any discussion with anybody on the minister's staff or the minister? When the estimates committee requested those documents, were you party to any discussion about strategy, how you should or should not release those documents?

**Mr. Ryan Dunn:** The minister, I believe, has come forward and testified that he didn't want to release the documents while the negotiations were going on.

**Mr. Gilles Bisson:** We understand that. Were you part of any discussion with the staff for the Minister of Energy, or with the minister, about strategies in how to deal with the issue of the estimates committee asking for those documents?

**Mr. Ryan Dunn:** I don't recall what specific conversations I would or would not have been a part of.

**Mr. Gilles Bisson:** Were you ever part of any conversation that dealt with strategies around how to control the release of the documents?

**Mr. Ryan Dunn:** I don't believe that we were trying to control the release of the documents.

**Mr. Gilles Bisson:** Well, we're looking at the emails, and the emails are pretty clear from you. There's an email here dated back in June 5, 2012, where you talk about the need to develop a strategy in order to deal with this. Were you just forgetting what you were writing?

**Mr. Ryan Dunn:** Which page, sir?

**Mr. Gilles Bisson:** Page 2.

**Mr. Ryan Dunn:** Sir, I've got two packages in front of me. I don't know—

**Mr. Gilles Bisson:** The Tory package, Liberal gas plant scandal—but if you look at number 2, it says, at the very bottom, “In light of the motion before the committee, the minister needs to understand the nature of the motion and the potential jeopardy that it places the minister....” Clearly, you were having a discussion. There was a problem; maybe your minister was in trouble. Do you recall having those discussions?

**Mr. Ryan Dunn:** I think that with the email that we're referring to I was trying to find out a couple of points about contempt. I believe on page 3 you've got the questions that I was asking.

**Mr. Gilles Bisson:** If you're worried about contempt, does that mean to say that you thought maybe there was an issue and that the minister may be in some kind of trouble?

**Mr. Ryan Dunn:** I believe that at the time there was a motion that was passed with the word “contempt” in it. We didn't know what that meant.

**Mr. Gilles Bisson:** So you guys didn't worry about that. You just went along on your merry business and never tried in any way to contrive the release of the documents?

**Mr. Ryan Dunn:** I believe that what we were trying to do in the document that you're referring to here was understand what “contempt” meant.

**Mr. Gilles Bisson:** I'm going to try one more time and then I'll give it back to my colleague here. Were you part of any discussion around strategies about how not to release documents to the estimates committee?

**Mr. Ryan Dunn:** I don't believe I agree with the premise of the question—

**Mr. Gilles Bisson:** I don't care if you agree with it. My question is, were you party to any discussion—it's a very simple question—were you party to any discussion that had to do with how or how not to release the documents to that committee?

**Mr. Ryan Dunn:** The instruction that I received from the minister was that as soon as negotiations had concluded, to release the documents. He always said to us, “It's not a question of if they go out; it's a question of when they go out.”

**Mr. Peter Tabuns:** Just on this question of your strategizing or not, if you could take a look at the package that was most recently given to you.

**Mr. Ryan Dunn:** Yes, sir. Where would you like me to go?

**Mr. Peter Tabuns:** It should look like this. That smaller package in front of you. It's an email from you to Andrew Mitchell, David Phillips, Kevin Spafford and John Brodhead: “Mitch and I would like to chat if you folks are around. We have mapped out some potential scenarios based on our conversation earlier today.”

The next page is talking about how you'd negotiate with the opposition in order to delay or limit the way documents were given out. It seems pretty straightforward to us that you were part of a group that was strategizing on filibustering, on holding things back to give you leverage so that you could decide when, where and in what form documents would be released. In this email, you signed yourself as senior policy adviser.

**Mr. Gilles Bisson:** Not the legislative assistant any more.

**Mr. Peter Tabuns:** No.

**Mr. Ryan Dunn:** On that, on the legislative assistant bit again, I was performing the functions of a legislative assistant at the time.

**Mr. Gilles Bisson:** But answer the question.

**Mr. Peter Tabuns:** To the point, you were strategizing about how to deal with this and push this back.

**Mr. Ryan Dunn:** Again, I haven't had an opportunity to review this document in detail, but from what I'm looking at right now, this is a document to try to get the motion amended. I know Mr. Bisson is going to want to say something, but—

**Mr. Peter Tabuns:** He will, I'm sure.

**Mr. Ryan Dunn:** I believe that when we talk about documents and we talk about amending the motion, those are two entirely different things. The minister was concerned with a motion passing that would have the word “contempt” in it. What we were trying to do and what I believe the government House leader's office was trying to do was reach an agreement, a deal—whatever word you want to use—

**Mr. Gilles Bisson:** To not release the documents.

**Mr. Peter Tabuns:** You were looking for leverage to push us back on this.

**Mr. Ryan Dunn:** Again, what I was saying earlier is that what we were looking to do was find a way to amend the motion so that the word “contempt” would be taken out. Again, I would like—

**Mr. Gilles Bisson:** So you recognize that in fact you were in a position where your minister might be found in contempt.

**Mr. Ryan Dunn:** I don't know what the minister would or would not have been found in.

**Mr. Gilles Bisson:** So he never thought that maybe there might be a contempt motion coming forward?

**Mr. Ryan Dunn:** I think that what we were trying to do at the time—

**Mr. Gilles Bisson:** Do you realize that everything you say here is under oath and if you lie, it's perjury?

**Mr. Ryan Dunn:** I believe I swore the oath, sir.

**Mr. Gilles Bisson:** I'm just warning you. It's pretty incredible what you're trying to say to this committee, that as a senior policy adviser to the minister you were not party to any discussion about strategy and how to release these documents, you had nothing to do with the release of documents, you had nothing to do about deciding who got what. It's not credible. How do you explain the gaps in the testimony you're giving us to the facts that we have in documents?

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**Mr. Ryan Dunn:** Sir, I believe when it comes to the release of documents, it was the ministry and the OPA that released the documents. They were the ones who delivered them to the Clerk.

**Mr. Peter Tabuns:** But in fact your minister's office was asked for documents, and not a single document, not a single email, not a single letter—zero—came from what was the black hole of the minister's office.

**Mr. Ryan Dunn:** So what's your question, sir?

**Mr. Peter Tabuns:** Well, my point is that it was not just a question of the ministry and the OPA. It was your office that was responsible for keeping track of what was going on in the office and producing documents for this committee, and a very big chunk of documents simply disappeared in that office. For you to come to us and say you were following the directions when in fact documents were just simply being disposed of is hugely problematic.

**Mr. Ryan Dunn:** Sir, again, my involvement when it came to documents in the minister's office—I was asked to ask my colleagues if they had any responsive records to the motion. I did that. That was the extent of my role in that.

**Mr. Peter Tabuns:** And you had no documents either?

**Mr. Ryan Dunn:** Again, I believe I've addressed that.

**Mr. Peter Tabuns:** You have, and it seems fairly clear what the practice was in the minister's office, and that was large-scale destruction of documents on an ongoing basis. The fact that you found nothing when you went through is astounding to us.

**Mr. Ryan Dunn:** Sir, may I just quickly add a point in—

**Mr. Peter Tabuns:** I do have a different question for you, though. Did you counsel the minister to not turn over documents to the committee?

**Mr. Ryan Dunn:** I don't recall ever giving the minister that counsel.

**Mr. Peter Tabuns:** Were you part of the discussion with the minister about turning over documents?

**Mr. Ryan Dunn:** I don't recall being a part of any discussion where the minister would have talked about turning over documents. Again, the instruction that we had from the minister and what he gave our office, what he told our entire office, was, "I want the documents to go out when the negotiations have completed."

**Mr. Peter Tabuns:** Did you discuss document production with the Premier's office staff?

**Mr. Ryan Dunn:** We would have given them sort of a heads-up when the ministry would have notified us that they were going to deliver the documents on a specific date. We would have given them a heads-up that the documents would be going at a specific date and time.

**Mr. Peter Tabuns:** Did you talk to the government House leader's office about this?

**Mr. Ryan Dunn:** Again, my job as legislative assistant—well, I guess working as a legislative assistant—would have been to provide both the Premier's office and the government House leader's office a heads-up when things were happening, so I believe we've had a letter that I've written—or not that I've written. Excuse me; I did not write that letter. But the minister's letter—I wrote the email at the top, and what we would do is give them forewarning and advance notice—

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

**Mr. Gilles Bisson:** In the last minute we have, Serge Imbrogno—I'm not pronouncing the name right—says you were the point person in reviewing the documents from OPA and the minister's office. Is that the case?

**Mr. Ryan Dunn:** I was reviewing the documents.

**Mr. Gilles Bisson:** So you were the point person?

**Mr. Ryan Dunn:** I don't believe I would characterize myself as the point person, sir.

**Mr. Gilles Bisson:** So is he lying? Are you accusing him of lying? He's telling the lie and you're telling the truth?

**Mr. Ryan Dunn:** Sir, I'm simply saying that I would not characterize myself as the point person.

**Mr. Gilles Bisson:** So he just made that up?

**Mr. Ryan Dunn:** It was my task, along with Andrew Forgione—it was our task to review the documents that the OPA and the ministry—

**Mr. Gilles Bisson:** Did you withhold any documents?

**Mr. Ryan Dunn:** I did not withhold any documents.

**Mr. Gilles Bisson:** So he's lying?

**Mr. Ryan Dunn:** I don't follow your logic, sir.

**Mr. Gilles Bisson:** Serge is lying? He says you were the point person reviewing all the documents, so he's not telling the truth; you are?

**Mr. Ryan Dunn:** When we talk about review, we talk about reviewing documents for issues management purposes—

**Le Président (M. Shafiq Qaadri):** Merci, monsieur Bisson. Je passe la parole à M. Delaney du gouvernement; 20 minutes.

**Mr. Bob Delaney:** Thank you very much, Chair. Okay, Ryan, I want to start by very briefly discussing records. A few weeks ago, this committee passed a motion that asked for all documents related to the gas plant relocations from the Ministry of Energy up until August of this year, 2013. We've received confirmation from the ministry and the minister's office that they've begun searching the records of nearly 300 current and former staff, and that would include your old records and your email account.

I'm not sure if you're aware, but on March 5, the government members of this committee moved a motion

directing a government-wide search of all documents related to the relocations of the Oakville and Mississauga power plants. That motion would have required all government ministries, ministers' offices, Cabinet Office, the Premier's office and the OPA to conduct a search. The opposition members at the time voted that motion down. Had that motion passed, the energy documents that I've heard my colleagues across ask for would have been provided to them months ago. Before I get on with this, I just thought that was important to get on the record.

I'd like to start by going back to the spring of 2012, when the estimates committee moved a motion asking for documents related to the two gas plants. As we're well aware, at the time negotiations were ongoing with the proponents of both the Oakville and Mississauga power plants. In response to the motion, Minister Bentley at the time wrote to the committee explaining that these documents were subject to solicitor-client privilege and litigation privilege. He did warn in his letter that these documents were highly commercially sensitive and cautioned the committee that their release would impact ongoing negotiations. Could you then speak to some of the issues raised by Mr. Bentley to the estimates committee?

**Mr. Ryan Dunn:** From what I recall, the minister was grappling with two very important points. He was trying to respect the will of the committee while at the same time protecting the interests of Ontarians by not releasing the documents while the negotiation was going on.

**Mr. Bob Delaney:** All right. So we'll consider, then, what was going on at that time, something that you've begun to explain. The opposition was asking for commercially sensitive documents and asking at that time that they be made public prior to the conclusion of the agreements.

As we all know, the commitment to cancel the Mississauga plant was made by all three parties during the 2011 election, and shortly after being re-elected, this government announced its intention to relocate the facility. That decision, the decision to relocate, caused the commencement of civil proceedings in both the province of Ontario and the state of New York. These lawsuits, as well as confidential settlement negotiations, were ongoing when Mr. Leone moved his motion at estimates. For a reminder, that motion was for all correspondence from the Minister of Energy, Ministry of Energy and the Ontario Power Authority.

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

Numerous independent witnesses have come here and testified that had these documents been made public before the deals were finalized, it would have greatly jeopardized the province's negotiating position. The Auditor General in particular—the former Auditor

General, Jim McCarter—told us that he would have been reluctant to put this type of information in the hands of the parties on the other side at the time. He likened it to not wanting to tip your hand in a game of cards.

Do some of these expressions of concern mirror some of the concerns that you yourself had?

**Mr. Ryan Dunn:** Again, I don't think I was in the position to have concerns. I was simply a legislative assistant. I'm not a lawyer. I'm not a parliamentary expert. I was not involved with the policy or decision-making. I think that question would be better posed to decision-makers such as Minister Bentley.

**Mr. Bob Delaney:** Ryan, how many years have you been in the workforce?

**Mr. Ryan Dunn:** Six.

**Mr. Bob Delaney:** Then you're not a very senior person, are you?

**Mr. Ryan Dunn:** No, sir.

**Mr. Bob Delaney:** Andrew Forgione isn't a very senior person, is he?

**Mr. Ryan Dunn:** No, sir.

**Mr. Bob Delaney:** Jesse Kulendran isn't a very senior person.

**Mr. Ryan Dunn:** I can't speak to Ms. Kulendran's work history. I don't know it.

1550

**Mr. Bob Delaney:** That's fine. I just wanted to ask that.

To your knowledge, to use Mr. Tabuns's words, there was no "large-scale destruction of documents" on a systematic basis?

**Mr. Ryan Dunn:** Again, I can't speak to my colleagues' email practices. I can only speak to my email practices.

**Mr. Bob Delaney:** Okay. When Minister Bentley testified before the committee, he told us—again, you told us that it was not a matter of if but when the documents would be released. Despite the allegations that there was an attempt to keep these documents hidden, emails and testimony at this committee have shown that wasn't true at all. In fact, as soon as the Mississauga relocation deal was finalized and all legal matters had been settled—July 10, 2012—the minister directed the ministry to release to the committee all correspondence related to the Mississauga facility that responded to the motion, except those records that were subject to solicitor-client privilege. Does that square with your recollection?

**Mr. Ryan Dunn:** Yes.

**Mr. Bob Delaney:** If the minister had been trying to hide the documents, why would he have asked for them to be released the moment the settlement was reached?

**Mr. Ryan Dunn:** Again, I believe the minister told us that it was never a matter of if; it was always a matter of when. The instructions that we received were that as soon as the negotiations had completed, he wanted the documents to go out.

**Mr. Bob Delaney:** All right. Let's talk a little bit about some of the attempts by the government to reach a

negotiated solution with the opposition parties regarding these sensitive documents, and the allegations made against then-Minister Bentley. As outlined in a January 2013 transition memo, these attempts were, of course, clearly unsuccessful. The memo says, “The government made several offers to the opposition to resolve the matter, but all were rejected. The opposition refused to engage in any meaningful negotiations.”

What offers were made to work with the opposition? Do you know?

**Mr. Ryan Dunn:** I don’t know specifically. Again, it was the government House leader’s office that was liaising with the opposition parties. I was simply being kept up to speed on what they would have been doing, through the government House leader’s office, through Kevin Spafford, who I believe has come before this committee. I can’t speak with any certainty to what was said in those meetings.

**Mr. Bob Delaney:** Something that maybe you can speak with some degree of authority on—earlier, Mr. Fedeli asked you about an email that you had sent to Deputy Imbrogno. I’m looking at the email. It’s dated Tuesday, June 5, 2012; it’s written in the evening. It refers to a motion made the same day—if I recall, it was made during the afternoon—by MPP Leone, who said, “I move that the Chair write a letter to the Speaker as well as report to the Legislature and to draw its attention to a possible matter of contempt and a breach of the ancient parliamentary right of privilege....” The same evening, you asked the deputy what the implications were. That sounds more like due diligence that a legislative assistant would do on behalf of his minister, correct?

**Mr. Ryan Dunn:** That is correct.

**Mr. Bob Delaney:** That was really what you were trying to do in sending the email, right?

**Mr. Ryan Dunn:** Correct.

**Mr. Bob Delaney:** Okay.

**Mr. Ryan Dunn:** It’s my job, as the legislative assistant, to get the information that the minister needs.

**Mr. Bob Delaney:** It’s not as if matters of contempt had been raised often enough that you knew them by heart, correct?

**Mr. Ryan Dunn:** Sir, I’m not a lawyer, nor am I a parliamentary expert.

**Mr. Bob Delaney:** Well, I join you in not being a lawyer.

During the past six months, the opposition has suggested that they actually would have been quite willing to engage in a compromise solution, but they’ve suggested they weren’t going to put taxpayers at risk.

To go back to September 18, 2012, in a letter to the former Premier, the official opposition House leader wrote, “It is our position that the documents should be tabled in the Legislature, unedited and unredacted.” As a reminder, the Oakville deal was not yet finalized at the time that he sent this letter. Might this reinforce the fact that, from your vantage point, the opposition weren’t out, at that time, to protect the public interest? Could you comment on that?

**Mr. Ryan Dunn:** I can’t speak to what the opposition were or were not thinking. What I do know is that Minister Bentley did not want to release the documents while the negotiations were going on, and what I do know is that I guess during the summer months the government House leader’s office was trying to work with the opposition to come up with a solution or an agreement.

**Mr. Bob Delaney:** Did you have a good working rapport with then-Minister Bentley?

**Mr. Ryan Dunn:** I did.

**Mr. Bob Delaney:** Did you know him reasonably well as an individual?

**Mr. Ryan Dunn:** He’s a man of integrity.

**Mr. Bob Delaney:** Do you believe that Chris Bentley would have put himself and his family through all of the things that he subsequently endured if he didn’t truly believe he was acting in the public interest as a minister of the crown?

**Mr. Ryan Dunn:** There’s not a day that I worked for Minister Bentley that I do not believe he was working in the public interest. He was always trying to do what was best for the people of Ontario.

**Mr. Bob Delaney:** To go back to the spring and the summer of 2012, could you describe your role with respect to the production of documents to the estimates committee?

**Mr. Ryan Dunn:** As I stated, my job was to review copies of the OPA’s documents and copies of the ministry’s documents for issues management purposes, so that we could prepare the minister to answer any questions in the House or in the media.

**Mr. Bob Delaney:** In other words, to provide a heads-up on any potential issues that you saw in a first pass at the documents?

**Mr. Ryan Dunn:** Correct.

**Mr. Bob Delaney:** It strikes me that it’s completely appropriate for staff that you’ve hired for that purpose to review documents before they’re disclosed in response to a committee motion or a freedom-of-information request; correct?

**Mr. Ryan Dunn:** That was explained to me, when I signed up, as a duty of a legislative assistant.

**Mr. Bob Delaney:** Let’s go back to before all of this started. In May 2011, Dr. Ann Cavoukian stated: “Our position has consistently been that a system designed to give ministers and senior officials a ‘heads-up’ about the disclosure of potentially controversial records is acceptable. These processes or systems are designed to ensure the timely notice and communication of relevant details of the request and the related records, in order to assist the minister or senior officials when responding to questions in the Legislative Assembly or from the media or members of the public.” Does that sound about right?

**Mr. Ryan Dunn:** That’s correct.

**Mr. Bob Delaney:** I’d just like to chat with you about a Ministry of Energy staff person, Jesse Kulendran, whom you did work with, who helped compile documents for the estimates committee and attended a meeting at the OPA last summer regarding the motion. As

you're aware, this meeting has come under scrutiny. Ms. Kulendran has since testified that she did nothing inappropriate, and the Deputy Minister of Energy agrees with that.

Deputy Imbrogno told the committee, "I never directed Jesse to go to the OPA and ask them to exclude documents. I never myself directed the OPA to exclude any documents. When I talked to Jesse about the allegations, she told me ... that she did not direct the OPA. I have no reason to not believe what Jesse has" said.

Further, "Secretary Wallace launched an investigation into the allegations ... and confirmed that there's no evidence that Ms. Kulendran acted inappropriately."

What seems to be clear is that there was some miscommunication at some level, but ultimately that the OPA was responsible for its own search and provided the responsive documents to the committee. Would you agree with that, and is there anything you can add to it?

**Mr. Ryan Dunn:** I was not at the meeting at the OPA between Ms. Kulendran and the officials at the OPA. I believe that you've said that the deputy has testified and Jesse has testified. I have no reason not to believe sworn testimony.

**Mr. Bob Delaney:** As various people have told us, that type of search had little, if any, precedent. Over and above the some 56,000 documents received from the minister, ministry and the OPA, it appeared that either errors or omissions were made, and a number of document releases occurred. While we've heard some suggestions that these additional document releases occurred because of some sort of wild and mysterious cover-up, the testimony from the secretary of cabinet, the ministry staff and the OPA has consistently stated that the searches were done in good faith. From your vantage point, would you agree with that?

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**Mr. Ryan Dunn:** I would agree with that.

**Mr. Bob Delaney:** Okay. When Deputy Imbrogno testified before the committee, he described in some detail the time and the resources that went into searching for and identifying and compiling the documents responsive to the estimates committee motion. What he said was this: "We basically shut the ministry down for that search period.... A lot of the time and effort was spent with policy legal staff going through and determining what is responsive and what is non-responsive." It "took a lot of time and effort, but the ministry basically worked 24/7, and that was the priority for the ministry."

From your vantage point, does that accurately encapsulate what went on in the ministry while they were responding to the estimates committee motion?

**Mr. Ryan Dunn:** I was not involved with the ministry's activities to prepare any of those documents or do a search. So, again, if the deputy has sworn to that at this committee, I would have to believe him.

**Mr. Bob Delaney:** Okay. Let's move on to the costing and relocation of the two gas plants. May I ask who provided your office with the information on costing, in particular the sunk costs for Oakville, which was the \$40-

million number, and the \$190-million number for Mississauga?

**Mr. Ryan Dunn:** I wasn't involved with, I guess, the calculation or the communication of the costs. So I would have seen, I guess, a draft of a news release from a ministry official.

**Mr. Bob Delaney:** Okay. Would the ministry, or the minister's office, ever release a figure like that without it either coming from, or at least being fact-checked by, the OPA?

**Mr. Ryan Dunn:** Again, I wasn't part of the communications or the calculations of the costs. We would routinely rely on information from all of our agencies to provide us with accurate information.

**Mr. Bob Delaney:** I keep forgetting you're not a senior guy.

**Mr. Victor Fedeli:** Only his title is "senior guy."

**Mr. Bob Delaney:** As a Liberal staff person, then, let's assume that you pay close attention to the policies and commitments of the other parties. Would you do that?

**Mr. Ryan Dunn:** Sorry, sir?

**Mr. Bob Delaney:** As a staff person, I'm assuming that you would have paid close attention to the policies and commitments of the other two parties, right?

**Mr. Ryan Dunn:** I would have, as a legislative assistant, paid attention to what was said in the House.

**Mr. Bob Delaney:** Almost every witness before this committee has confirmed that there were clear commitments by all three parties to cancel or to relocate the two plants. For example, my own mayor, Hazel McCallion, said, "The impression that was certainly given beyond a doubt ... I think all parties would have cancelled it," referring to the plant. During his testimony here at the committee, the mayor of Oakville, Rob Burton, told the committee that he "won promises from all parties to stop the proposed power plant." And we have transcripts and campaign literature and robocall scripts that highlight the commitments made by the opposition to cancel or move the plants.

So, then, in your role, you would have been fully aware that all three parties had promised to either cancel or relocate the Mississauga and/or Oakville power plants, correct?

**Mr. Ryan Dunn:** Correct.

**Mr. Bob Delaney:** Okay.

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

**Mr. Bob Delaney:** Chair, I think I'm going to stop there for this round.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney. Mr. Fedeli, 10 minutes.

**Mr. Victor Fedeli:** Thank you, Chair. Would you just repeat your title that you held during the time that you were at the Ministry of Energy?

**Mr. Ryan Dunn:** I'd be happy to go through the timeline again, Mr. Fedeli.

**Mr. Victor Fedeli:** No, no. Just the last title—your last title.

**Mr. Ryan Dunn:** I would have been a policy adviser for conservation and smart grid.

**Mr. Victor Fedeli:** What about the one before that?

**Mr. Ryan Dunn:** I would have been a legislative assistant.

**Mr. Victor Fedeli:** How come it says “senior policy adviser” on your email?

**Mr. Ryan Dunn:** I don’t know if there’s a difference between a policy adviser and a senior policy adviser.

**Mr. Victor Fedeli:** Mr. Delaney seemed to think there was some importance of not having you a senior person, but your own title says “senior policy adviser.”

**Mr. Ryan Dunn:** I understand that, as I’ve testified before this—

**Mr. Victor Fedeli:** I just wanted to have a little fun there for a moment with Mr. Delaney.

Back in document 10—

**Mr. Ryan Dunn:** Sir, may I just say something quickly?

**Mr. Victor Fedeli:** You can say something when you answer—you can answer my question about document 10. There’s a GHLO meeting on Vapour that you were invited to. Can you tell us what that meeting would be?

**Mr. Ryan Dunn:** Sir, I have two packages in front of me. Could you—

**Mr. Victor Fedeli:** One’s not mine. I only have the ones that say “Liberal gas plant scandal document.”

**Mr. Ryan Dunn:** Sorry, what page am I going to, sir?

**Mr. Victor Fedeli:** Document 10. It’s probably about fifth or sixth from the back.

What was discussed at the September 12 meeting on Vapour? Well, that’s Oakville. So we’re going to talk for a few minutes about Oakville. Was that the first time that the \$40-million messaging was hatched?

**Mr. Ryan Dunn:** Sir, I just have to find the document, sir.

**Mr. Victor Fedeli:** It’s right near the back. It’s the fifth-last page. So you have a meeting now, September 9—

**Mr. Ryan Dunn:** Sorry, number 6?

**Mr. Victor Fedeli:** Document 10, the fifth-last page. The meeting on Vapour: Was that the first time that the \$40-million messaging was hatched? Was that where that came from, at this meeting, at that point in time?

**Mr. Ryan Dunn:** I don’t recall.

**Mr. Victor Fedeli:** Okay. So you don’t recall where the \$40 million was hatched. At that meeting—why don’t we go to document 11, then, the next page. You’re sending this to David Phillips and Kevin Spafford and you’re asking them to “feel free to make edits.” Did you write this letter?

**Mr. Ryan Dunn:** I did not write this letter.

**Mr. Victor Fedeli:** But you’re inviting them to make edits?

**Mr. Ryan Dunn:** That is correct.

**Mr. Victor Fedeli:** It’s not a letter you wrote?

**Mr. Ryan Dunn:** That is not a letter that I—

**Mr. Victor Fedeli:** Again, you’re the only one who’s got this letter in their file. You’re suggesting at another

date, September 24, a couple of hours later now—you’re sending it to somebody new—“Use this version.” Were there changes made between the 9:31 in the morning version and the 11:35 version?

**Mr. Gilles Bisson:** Let me save you the trouble; he doesn’t remember.

**Mr. Victor Fedeli:** He doesn’t remember? Okay.

In the last paragraph, it says, “I have been advised by ministry staff that the documents attached to this letter comprise all documents.” Who would have written this letter that said you have all the documents? I know the minister signed it, so let’s just move on to who wrote it.

**Mr. Ryan Dunn:** I don’t know who wrote it.

**Mr. Victor Fedeli:** How many staff would there be in the minister’s office that could have written that letter under the minister’s signature, and obviously sent it to you—

**Mr. Ryan Dunn:** Sir—

**Mr. Victor Fedeli:** I hope in the new email batch that we get, Chair, we’re going to see who sent that, because obviously Mr. Dunn can’t remember anything as simple as who sent you this letter, which really is the letter that’s at the crux of all of this.

**Mr. Ryan Dunn:** Sir, I believe that the way it works between a minister’s office and the ministry is that often-times they will prepare minister’s letters—

**Mr. Victor Fedeli:** Who’s “they”?

**Mr. Ryan Dunn:** The ministry will prepare a letter for the minister.

**Mr. Victor Fedeli:** So you think it came over from the deputy minister?

**Mr. Ryan Dunn:** Again, I don’t know who wrote this. I’m simply saying that it’s often the case that the ministry will prepare letters for the minister to sign.

**Mr. Victor Fedeli:** So you’re the senior policy adviser and this is probably the biggest thing to hit that ministry—some would claim it has been the biggest to hit this ministry ever—and you don’t know anything?

**Mr. Ryan Dunn:** I don’t know who wrote that letter.

**Mr. Victor Fedeli:** You didn’t know who wrote the letter before. You didn’t know what the meeting I asked you about was. You didn’t know what the other meeting I asked you about was.

We have a lot of deleted emails that we’ve recovered from Chris Morley, and he’s blaming Minister Bentley for a leak to the media. And by other emails that we’ve had between these operatives, there’s no trust between the Premier’s office and the minister, who, in our opinion, and many others in this room would share it, became the sacrificial lamb for this whole thing. Obviously, Chris Morley and the minister were adversaries. How would you have described the resentment that the minister had for the Premier’s office, then, over this activity? You were there; you were in the room.

**Mr. Ryan Dunn:** I don’t know. I was not the minister.

**Mr. Victor Fedeli:** I understand you weren’t the minister. You’re the senior policy guy.

**Mr. Ryan Dunn:** But the minister would not have communicated with me his thoughts or feelings with regard to the Premier's office.

**Mr. Victor Fedeli:** So we just have to leave it up to the email that we have between Morley and others blaming the minister for all this fiasco?

**Mr. Ryan Dunn:** I believe if you want to know what was thought or said, you should ask the authors of the email.

**Mr. Victor Fedeli:** Yes, we don't get any answers from them either.

So do you believe, then, in that letter that you forwarded, that all documents responsive to the committee's requests were turned over?

**Mr. Ryan Dunn:** What I knew at the time is that the Ontario Power Authority and the ministry had conducted a search, that they had found records, that they did the search in good faith—

**Mr. Victor Fedeli:** Well, no, they didn't. Look, let's not even try that. We have sworn testimony that they were told to pull the documents out; 20,000 documents had been withheld. We got the new batch two weeks later. Then they were in good faith, after coming clean with 20,000 documents. So don't even try that with us here.

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**Mr. Ryan Dunn:** I believe that there's testimony from the—

**Mr. Victor Fedeli:** Sworn testimony.

**Mr. Ryan Dunn:** —sworn testimony from the—

**Mr. Victor Fedeli:** So who's lying, then? Which one of the two is lying?

**Mr. Ryan Dunn:** Sorry, let me go back.

**Mr. Victor Fedeli:** Which one of them is lying?

**Mr. Ryan Dunn:** There's sworn testimony from the deputy, and I believe there's sworn—

**Mr. Victor Fedeli:** Which one of them is lying? I'm asking you a question.

**Mr. Ryan Dunn:** I'm trying to answer your previous question, sir. There was sworn testimony from the Deputy Minister of Energy and I believe that there was sworn testimony from the CEO of the Ontario Power Authority that the searches were done in good faith.

**Mr. Victor Fedeli:** And we have sworn testimony from people at the Ontario Power Authority, including the vice-president, who swear under oath that they were ordered to take documents out. So which one of them, in your opinion, then, is lying?

**Mr. Ryan Dunn:** I was not part of any of those conversations, so I can't comment on them.

**Mr. Victor Fedeli:** You didn't pull any documents out yourself, you're saying?

**Mr. Ryan Dunn:** I did not instruct anybody to remove any documents.

**Mr. Victor Fedeli:** No, no. Did you pull out any documents yourself?

**Mr. Ryan Dunn:** No.

**Mr. Victor Fedeli:** You didn't touch the documents?

**Mr. Ryan Dunn:** I would have had photocopies of the Ontario Power Authority's documents and photocopies of the ministry's documents. The one time that I went down to the Ontario Power Authority, I had a lawyer in the room, a lawyer present who watched us—

**Mr. Victor Fedeli:** And who was that lawyer?

**Mr. Ryan Dunn:** As I've told the NDP, I can't recall the lawyer.

**Mr. Victor Fedeli:** I missed part of the NDP—did you ever take notes?

**Mr. Ryan Dunn:** Notes in general or notes—

**Mr. Victor Fedeli:** Notes in general.

**Mr. Ryan Dunn:** Yes, I would take notes in general.

**Mr. Victor Fedeli:** Excuse me for a second. I'm just going to address the—Mr. Bisson, did you go down that line at all about turning over notebooks? I missed part of your testimony.

**Mr. Gilles Bisson:** No, you should go there.

**Mr. Victor Fedeli:** I'm going there, then. Will you turn over all of your written notes and your notebooks that had anything to do with the gas plant scandal?

**Mr. Ryan Dunn:** Sir, when I left government in February 2013, I left all of my records there. I don't know—

**Mr. Victor Fedeli:** Where's "there"?

**Mr. Ryan Dunn:** I would have given electronic records to Andrew Forgione.

**Mr. Victor Fedeli:** Oh, great. We've already had him here. That was unproductive.

What about your books?

**Mr. Ryan Dunn:** I would have left my books at the office.

**Mr. Victor Fedeli:** Just in the desk?

**Mr. Ryan Dunn:** On top of, I guess, the table behind my desk.

**Mr. Victor Fedeli:** So the credenza?

**Mr. Ryan Dunn:** Sure, we can—

**Mr. Victor Fedeli:** That's where you left your book? You just left your books there? And who has that office today?

**Mr. Ryan Dunn:** I don't know.

**Mr. Victor Fedeli:** So perhaps we'll come to some sort of an understanding on how we can get our hands on those books and those notes, then. It seems you can't recall those meetings that you held on Vapour. Maybe your notes will give us some direction on what actually happened, whether that was the meeting where the \$40-million messaging was hatched. The other meeting on Mississauga—maybe that's where the scheme to say that it was \$180 million was hatched.

Do you know anything about the \$5 million that the Auditor General told us about?

**Mr. Ryan Dunn:** Sorry, the \$5 million?

**Mr. Victor Fedeli:** On Mississauga, the minister first said that it was \$180 million. Then the finance minister bumped it up by \$10 million to \$190 million. But they both conveniently forgot to tell us about the missing \$5-million contract. Do you know anything about that contract?



**Mr. Ryan Dunn:** I was alerted—are you referring to Keele Valley, sir?

**Mr. Victor Fedeli:** Yes.

**Mr. Ryan Dunn:** I would have been made aware of the Keele Valley issue the day after the minister, I believe, released the documents—

**Mr. Victor Fedeli:** So why didn't anybody come clean back then? Why did it have to take us and our party to disclose that there's \$5 million more in a—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Fedeli. Mr. Tabuns.

**Mr. Peter Tabuns:** Mr. Dunn, this is the first we've heard mention of you taking notes. Were you taking notes regularly at meetings throughout your time at the ministry?

**Mr. Ryan Dunn:** I would.

**Mr. Peter Tabuns:** And when you were asked to provide responsive documents as part of the request from this committee, did you review those notebooks?

**Mr. Ryan Dunn:** I believe, in the instructions that we were given from the FOI coordinator, it was electronic communications.

**Mr. Peter Tabuns:** I don't think so—"electronic or otherwise." You, in fact, didn't check your notebooks?

**Mr. Ryan Dunn:** I believe that the instructions that I was given by the ministry were to ask my colleagues to search their emails.

**Mr. Peter Tabuns:** Would we have found responsive documents in your notebooks?

**Mr. Ryan Dunn:** I don't know.

**Mr. Peter Tabuns:** Were you not at meetings where these matters were discussed and you were taking notes?

**Mr. Ryan Dunn:** Again, I was not involved in the policy or decision-making on the Oakville and Mississauga gas plants during the dates of the original motion from the Standing Committee on Estimates.

**Mr. Peter Tabuns:** That doesn't say to me that there would not have been anything that was responsive, because I'm going to assume that since you were there through the time that the Mississauga plant was cancelled—were you not?

**Mr. Ryan Dunn:** What dates are we talking about?

**Mr. Peter Tabuns:** We're talking about the fall of 2011.

**Mr. Ryan Dunn:** In the fall of 2011, I was at the ministry.

**Mr. Peter Tabuns:** You were at the ministry?

**Mr. Ryan Dunn:** In the minister's office at the Ministry of Energy.

**Mr. Peter Tabuns:** Sorry, you were in the minister's office from February 2011, correct?

**Mr. Ryan Dunn:** In February 2011 up until June 2011, I would have been in the—probably July 2011 would be a more accurate date. I was in the minister's office, and that would have been Minister Brad Duguid.

**Mr. Peter Tabuns:** Yes, that's right.

**Mr. Ryan Dunn:** Then I would have taken a three-month leave of absence for the campaign, and then I

would have returned in mid-October 2011. I was asked to become the legislative assistant to Minister Bentley.

**Mr. Peter Tabuns:** Okay. So you were certainly there in the lead-up to the election when, in fact, the Mississauga plant was a subject of great concern in the minister's office. Decks were prepared for the minister. Did you see any of those decks in May-June 2011?

**Mr. Ryan Dunn:** I believe I was asked to review one of those decks.

**Mr. Peter Tabuns:** Okay. So in fact you would have been a note-taker in a period that was of great interest to us. You never checked those notes at all?

**Mr. Ryan Dunn:** Sorry, which notes are you referring to, sir?

**Mr. Peter Tabuns:** You say that you were a note-taker. You just were saying to Mr. Fedeli that you left stacks of notebooks on the table behind your desk. I'm assuming that you kept track of what was going on day to day.

**Mr. Ryan Dunn:** I'd write on decks; I'd write on notebooks. But again, I wasn't involved with the policy or decision-making at that time. I think you're trying to get to the search, and when we were asked to do the search, we were asked to check emails.

**Mr. Peter Tabuns:** Well, my recollection is, records in electronic form or otherwise. Others can check for me; perhaps the legislative researcher can produce the motion. But I'm quite certain it wasn't just electronic records.

Going on to another matter, Craig MacLennan testified that ministry legal counsel told the minister not to turn over documents. He couldn't remember who it was. Do you have a different recollection of who was advising the minister to not turn over documents?

**Mr. Ryan Dunn:** I don't recall being a part of any meetings with any lawyers with the minister.

**Mr. Peter Tabuns:** Do you know who the final decision-maker was about not turning over the documents?

**Mr. Ryan Dunn:** I believe that Minister Bentley has come forward to this committee and testified to the fact that he made the ultimate decision and that he was trying to balance two, I guess, very difficult principles. From my perspective, from what I can recall, the instructions that we received from the minister were that it wasn't a question of if; it was just a matter of when.

**Mr. Peter Tabuns:** Just out of curiosity, when you were involved in the election campaign, at any point were you drawn into a discussion of the Mississauga decision?

**Mr. Ryan Dunn:** No.

**Mr. Peter Tabuns:** Okay. When did you first become aware of the possibility of cancelling the Mississauga gas plant?

**Mr. Ryan Dunn:** I recall being made aware of the Mississauga gas plant being cancelled the day after the papers ran the story on the announcement that if the Liberal government was elected, they would commit to, I

guess, cancelling or relocating—I can't recall the specific term.

**Mr. Peter Tabuns:** Some clarity, then: Just a few minutes ago I asked you about your role in the minister's office prior to the election and asked you if you'd seen documents. You remembered seeing a deck related to the cancellation of the plant.

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**Mr. Ryan Dunn:** No, I don't believe it was the cancellation of the plant. I believe it was a deck referring to some of the local issues and local concerns that were going on. It was more of a status update.

**Mr. Peter Tabuns:** And no comment at all, no sense at all that your minister and ministry were entrusted to shutting down this plant at that time?

**Mr. Ryan Dunn:** Again, I don't make the decisions, sir—

**Mr. Peter Tabuns:** No, I understand that, but you do observe what's going on, and you are asked to be aware of what's going in the wider world. Is that not true?

**Mr. Ryan Dunn:** I'm asked to serve the minister. I'm asked to provide him with information.

**Mr. Peter Tabuns:** And—no, go ahead.

**Mr. Gilles Bisson:** No, finish.

**Mr. Peter Tabuns:** No, I'll turn it over to you.

**Mr. Gilles Bisson:** It's really not credible. You're saying to us that you're in the minister's office through this entire period, that you don't recall any conversation having to do with strategies having to do with cancellation. You say that you were not party to any discussion about strategies or withholding—it flies in the face of all of the evidence that we have. So I'll ask you the question one more time: Did you have any part to do with discussions—and not the decision; the decision at the end would have been maybe above your pay grade—but was there any participation on your part when it comes to discussions around how you were going to release or not release the documents to the estimates committee?

**Mr. Ryan Dunn:** Again, I believe that the ministry and the OPA were responsible for releasing those.

**Mr. Gilles Bisson:** Were you part of any discussion in regard to how you were going to release those documents? Yes or no?

**Mr. Ryan Dunn:** As I testified, I believe that the OPA and the ministry were responsible—

**Mr. Gilles Bisson:** Were you part of any discussion about how to release those documents? Yes or no?

**Mr. Ryan Dunn:** I can't recall being a part—

**Mr. Gilles Bisson:** The evidence says the opposite. There's all kinds of information here within emails that point to your involvement. You don't recall any of it?

**Mr. Ryan Dunn:** Sir, if you point me to the emails, I'd be happy to talk about them.

**Mr. Gilles Bisson:** I've only got about three minutes. I'm saying there's enough here that has your paw prints on it when it comes to your involvement. Was there anybody in the minister's office, on the minister's staff,

who was involved in any discussions about the non-release of the documents to the estimates committee?

**Mr. Ryan Dunn:** I believe the discussions that we were having, and I think if you're referring to some documents in here, it was how we would amend the motion—

**Mr. Gilles Bisson:** Who made the decision not to give those documents?

**Mr. Ryan Dunn:** Again, I believe the minister has testified that he was wrestling with two principles, in that he didn't want to release the documents while negotiations—

**Mr. Gilles Bisson:** So it was solely the minister that handled this whole thing?

**Mr. Ryan Dunn:** The minister makes the decisions, sir.

**Mr. Gilles Bisson:** So you're throwing him under the bus?

**Mr. Ryan Dunn:** I'm not throwing the minister under the bus.

**Mr. Peter Tabuns:** You were pretty clearly involved with all the strategizing around how to press back on not producing the documentation.

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

**Mr. Peter Tabuns:** You asked for an email—document 1 in our package—a discussion about the whole matter of how we leverage on this. May I just ask: With this, you refer to information being burned. "If we do not burn the rest of the Mississauga materials...." That's on page 3. What do you mean?

**Mr. Ryan Dunn:** I believe the term "burn" was "release," and that's what we would have said: to release the documents.

**Mr. Peter Tabuns:** Going back, then, you seem to be deeply involved in discussing how to—

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

**Mr. Bob Delaney:** Thank you very much, Chair. Chair, just before I get into talking with Mr. Dunn, I noted with interest the previous two rounds of questioning by my colleagues. I remind them that the original estimates motion was for correspondence from the Minister of Energy, the Ministry of Energy and the OPA. And with regard to many of the questions asked, in a recent meeting, the committee has already passed that motion. The committee is already getting those records discussed, and the committee could have had them in March.

Let's go back here to questioning. Just a few questions on record-keeping. Even Premier McGuinty has talked about the lack of adequate training for staff in understanding the Archives and Recordkeeping Act. In his June 7 response to the Information and Privacy Commissioner's report, he stated, "I agree with the commissioner that despite some efforts, we did not devote adequate resources and attention to ensuring all government staff in all ministries and in the Premier's office were fully informed of their responsibilities. This inadequate training made it difficult for staff government-wide to both under-

stand their responsibilities regarding the preservation of public records and to exercise sound judgment in determining which records must be kept as public records and which can be eliminated.”

Would you agree with Mr. McGuinty that there was a lack of formal training with respect to—for people like you, in your capacity—on how to properly manage your records?

**Mr. Ryan Dunn:** That is correct.

**Mr. Bob Delaney:** Okay. But that being said, it was apparent to staff—I think all staff—that they weren’t required to keep every single record, every single transaction, every unit that came through their email accounts, right?

**Mr. Ryan Dunn:** I’d keep what I needed to do my job.

**Mr. Bob Delaney:** The Archives and Recordkeeping Act explains that transitory records are not required to be kept, and the Common Records Series defines these records as “records of temporary usefulness in any format or medium, created or received by a public body in carrying out its activities, having no ongoing value beyond an immediate and minor transaction or the preparation of a subsequent record.”

When we asked Secretary Wallace about his personal experience with transitory records, he told us, “From the perspective of my office and our daily email practice, a fair amount of what is provided to us, a fair amount of my routine correspondence, is essentially trivial updates or momentary information exchanges that would not be of interest to anybody in the future trying to, for policy purposes, for historic research purposes, understand the basis of current decision-making—it would be irrelevant.”

Would Secretary Wallace’s comments about transitory records make some sense to you?

**Mr. Ryan Dunn:** Yes.

**Mr. Bob Delaney:** Okay. So according to the act, there are many types of records that would fall into this transitory category. For example: duplicates, records of short-term value, intermediate records and draft documents—“draft documents” meaning things you may have typed, written, whatever, that you subsequently incorporated into a finished document. The Archives of Ontario even has a fact sheet entitled “The Fine Art of Destruction: Weeding Out Transitory Records.”

So I want to ask you in particular about duplicate records. The rules show there is no need to retain records held by another branch of government, and this includes materials prepared by Cabinet Office for a meeting with the Premier or the cabinet. I would expect a lot of what you may have received in the minister’s or the Premier’s offices were duplicates and/or materials provided to you on a “for your information” basis, correct?

**Mr. Ryan Dunn:** That is correct.

**Mr. Bob Delaney:** Anything else you wanted to add today?

**Mr. Ryan Dunn:** No.

**Mr. Bob Delaney:** Thank you very much, sir. Chair, we’re done.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney, and thanks to you, Mr. Dunn, for your presence. Before we take a short recess, we have a briefing by OPA and some other issues.

Mr. Tabuns, you have a motion deferred from August 27. Would you tell me how you would like me to dispose of it?

**Mr. Peter Tabuns:** I’d like you to hold it down for one week, please.

**The Chair (Mr. Shafiq Qaadri):** I commend you on that decision. Thank you, Mr. Tabuns.

All right, we are adjourning. We have a subcommittee meeting at 4:45. Thank you.

*The committee adjourned at 1629.*

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