



**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Tuesday 3 December 2013**

**Journal  
des débats  
(Hansard)**

**Mardi 3 décembre 2013**

**Standing Committee on  
Justice Policy**

Members' privileges

**Comité permanent  
de la justice**

Privilèges des députés

### **Hansard on the Internet**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

### **Le Journal des débats sur Internet**

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

### **Renseignements sur l'index**

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

---

Hansard Reporting and Interpretation Services  
Room 500, West Wing, Legislative Building  
111 Wellesley Street West, Queen's Park  
Toronto ON M7A 1A2  
Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON JUSTICE POLICY

## COMITÉ PERMANENT DE LA JUSTICE

Tuesday 3 December 2013

Mardi 3 décembre 2013

*The committee met at 1500 in room 151.*

### MEMBERS' PRIVILEGES

HON. KATHLEEN O. WYNNE

**Le Président (M. Shafiq Qadri):** Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice. Je voudrais accueillir notre prochaine présentatrice, députée de l'Assemblée législative de la circonscription de Don Valley-Ouest et notre 24<sup>e</sup> premier ministre de l'Ontario, the honourable Kathleen Wynne. Premier Wynne, I welcome you back to the justice policy committee and invite you to please be sworn in by our able Clerk.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Do you solemnly swear 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, so help you God?

**Hon. Kathleen O. Wynne:** I do.

**Le Président (M. Shafiq Qadri):** Première ministre Wynne, comme vous le savez, vous avez cinq minutes pour vos remarques introductives. Je vous invite à commencer maintenant.

**Hon. Kathleen O. Wynne:** Merci. Good afternoon, everyone. I'm pleased to be here with you again.

I'm going to start by repeating what I told the committee in April. I was not involved in the decision to relocate the Oakville plant. Eight months after the decision was announced, on July 29, 2011, as Minister of Transportation, I, along with three other cabinet ministers, signed a cabinet minute that authorized the Ministry of Energy to formalize settlement discussions with TransCanada and to enter into an agreement under the Arbitration Act should negotiations fail. This was reported to cabinet at a meeting that I attended on August 10, 2011.

On October 3, 2011, I was present at a cabinet meeting, which included a report-back from treasury board on the negotiation mandate that had been approved from TransCanada. With respect to Mississauga, I learned about the plans to relocate the plant from media reports.

On November 21, 2011, I signed a cabinet document along with three other ministers approving a \$10-million settlement with Eastern Power concerning litigation costs over the Keele Valley project.

On November 24, 2011, I attended a cabinet meeting with a high-level update on the ongoing discussion with the OPA and Eastern Power.

On May 30, 2012, I was also present at a cabinet meeting where the report back came on the treasury board negotiation mandate, which had been approved to settle with EIG. This included a directive from the Ministry of Energy and the OPA to continue their settlement discussions with Greenfield.

Finally, I attended a cabinet meeting on August 15, 2012, where it was reported that the treasury board order for the settlement on the Keele Valley issue had been approved.

Just before I take your questions, I want to comment on three important things.

First of all, in 2010 and 2011, the government listened to the advice of experts and began to build gas-fired power plants in Mississauga and Oakville. Over time, it became evident that the concerns of the residents in those communities were legitimate, and the government listened to those concerns and cancelled those power plants for relocation elsewhere. All three political parties agreed with those decisions.

Secondly, while estimates vary over what the relocations will cost over the next 20 years, all of them are unacceptably large. Money is too tight for tax dollars to be spent in any way that is not productive. As a member of the cabinet under which this happened, I have taken full responsibility and I have apologized. We are ensuring that this never happens again by improving the siting of energy infrastructure and introducing new rules governing political staff.

Third, since day one, I have been committed to being open and transparent about the relocations. I wrote to the Auditor General, immediately struck this committee and offered all documents. To date, I believe that more than 244,000 documents and emails have been provided, including 30,000 from the Premier's office. I promised to be open and to open the government up completely, and we have done so, to an unprecedented degree.

As Premier, I have accepted full responsibility, I have apologized for the expense of these relocations and I've put in place new rules to ensure that this does not happen again.

Our government is focused on moving forward. Yesterday we released Ontario's new long-term energy plan. It's a balanced approach, providing clean, reliable and affordable power. Going forward, we have a very clear choice: We can choose to continue this narrow focus on the past, with no end in sight, or we can work

together and focus on what we were elected by the people of Ontario to do.

I've heard from Ontarians—I have heard from lots of them—and they want us to focus on our economic plan to drive jobs and growth, and that is what I am doing. We cannot change the past, but what we can do is look forward, and this means working together to improve our future.

I'm happy to answer your questions again.

**Le Président (M. Shafiq Qadri):** Merci, première ministre Wynne. Maintenant je passe la parole à M. Bisson. Vingt minutes.

**Mr. Gilles Bisson:** Merci beaucoup, monsieur le Président.

Welcome to our committee, Madam Premier. We called you here because the testimony that you gave the last time you were here was not exactly in sync with what the arbitrator had to report in regard to the report that the arbitrator gave on the gas plant settlement.

**Interjection:** The Auditor General.

**Mr. Gilles Bisson:** The Auditor General; excuse me. You had said in your last round of testimony that you insisted that by signing the arbitration agreement, you weren't responsible for driving up the cost. The auditor has a very different view of that, and says that is central to what pushed the cost up, because the arbitration agreement essentially says, "Let's take away the protection that the government had to protect itself from high settlement costs," and instead, you wrestled yourself to the ceiling. So do you maintain that testimony that you had here last time, that in fact your signing that document did not lead to a high settlement?

**Hon. Kathleen O. Wynne:** Let me just repeat some of what I just said, which is that I was part of a cabinet that made a decision vis-à-vis the relocation of the gas plant. There was a necessity for negotiation as part of the implementation of that, and so my signing of that document—which I believe your colleague has acknowledged was part of a process that one would expect of a member of cabinet that had made a decision—did not mean that I had access to chapter and verse of the parameters or the discussion that was going to or had taken place vis-à-vis the negotiation with the company.

**Mr. Gilles Bisson:** But my question—

**Hon. Kathleen O. Wynne:** So I'm just challenging the notion that there was a direct link there. We were working to avoid litigation, and the advice that we had was that avoiding litigation was the way to go, that that was in the best interests of the people of Ontario, and so that's why the decision was made to enter into that negotiation. I was part of the cabinet that made that decision, and so I—

**Mr. Gilles Bisson:** But, Premier—

**Hon. Kathleen O. Wynne:** —signed the document.

**Mr. Gilles Bisson:** But, to be fair, I asked you a question. The first question is, you said that your signing that document was not related to the high cost of settlement. The auditor has a very different view of that, in fact says that it's central. So do you maintain the original

testimony, that it wasn't your fault, that signing the document didn't lead to the high cost, or are you prepared to change your testimony?

**Hon. Kathleen O. Wynne:** Look, I accept the findings of the Auditor General, and as I've said before, I was part of a cabinet that made a decision vis-à-vis relocating a gas plant. There was a negotiation that needed to take place, as we understood it, in order to avoid litigation, and I signed that document as part of a cabinet walk-around. I understood that it was part of the process whereby we'd enter into negotiation, but I did not have access to the details of that discussion. So—

**Mr. Gilles Bisson:** I'll get to the details in a minute.

**Hon. Kathleen O. Wynne:** —I accept the findings of the Auditor General.

**Mr. Gilles Bisson:** Okay. So that means to say your original testimony, then, wasn't spot on?

**Hon. Kathleen O. Wynne:** No, I'm not saying that. I'm saying I accept the findings of the Auditor General and I signed a document as part of a cabinet—

**Mr. Gilles Bisson:** But, Premier, to be clear, you were before committee and gave testimony. You said, "My signing of the document that led to the arbitration settlement didn't increase the cost." The arbitrator said quite the contrary. So you're now saying that your previous testimony wasn't spot on?

**Hon. Kathleen O. Wynne:** My signing of the document and what happened at the negotiation table and what the final settlement was are—they're not one and the same thing, because there was no final agreement when I was signing that document. It was the initiation of a negotiation, and that was part of the process of relocating the gas plants. So my signing was part of that process of implementing the relocation of the gas plants.

**Mr. Gilles Bisson:** We'll get to what's in the document, but essentially what you're saying is that you accept the auditor's report, which essentially means—

**Hon. Kathleen O. Wynne:** Well, I've said that many times, that I accept the auditor's report.

**Mr. Gilles Bisson:** Okay, but I want to be clear: It puts into question your previous testimony. Shelly Jamieson—

**Hon. Kathleen O. Wynne:** Just a sec. I don't accept your contention.

**Mr. Gilles Bisson:** And I don't accept yours. That's fair.

**Hon. Kathleen O. Wynne:** I accept the auditor's report, and I've said why I do.

**Mr. Gilles Bisson:** That's fair, and I don't accept yours.

Shelly Jamieson said at the time of the arbitration framework, when it was being contemplated, that the government knew they had a good understanding of the contract and its protections and the protections the government had arbitrarily given up. In fact, Colin Andersen echoed that, as well, to the cabinet.

So when you say you didn't know what the cost was, clearly the evidence that we now have said that both

Shelly Jamieson and Colin Andersen call into question that the cabinet didn't know what the costs were.

So, to that, would you at this point say what you said last time is again not spot on?

**Hon. Kathleen O. Wynne:** Well, what I would say to that is that the reason that I thought it was important that we have the Auditor General look at the situation in Oakville was that there were many numbers being bandied about. I said that in my remarks at the last committee hearing when I said that as recently as the day before or a couple of days before I came to the committee the last time I'd been given another document that had another set of numbers in it. The Auditor General has come in with a different set of numbers.

1510

There has been a lot of discussion about exactly what the numbers were, Mr. Bisson. From my perspective, it was very important that we get the Auditor General to come in because there was no clarity about exactly what the numbers were.

**Mr. Gilles Bisson:** No, there was a fair amount of clarity, because according to Shelly, since you appeared—the testimony that we have from Shelly Jamieson and Colin Andersen says that cabinet knew that it was giving up its protections to higher settlement costs by signing the arbitration agreement. So clearly, cabinet knew that by signing this, it was going to lead to higher costs than if you didn't sign it.

**Hon. Kathleen O. Wynne:** What we were doing was we were entering into a negotiation—and I'm just going to read a couple of the pieces of advice that we were given and some of the quotations that demonstrate why we believed—

**Mr. Gilles Bisson:** Chair, can she do that on Liberal time?

**Hon. Kathleen O. Wynne:** No, no. This is—

**Mr. Gilles Bisson:** No, seriously. She can read this on—

**Hon. Kathleen O. Wynne:** This is in answer to your question, because it's relevant to why we were entering into the negotiation in order to avoid litigation. John Kelly—

**Mr. Gilles Bisson:** Did Shelly Jamieson and Mr. Colin Andersen not explain to cabinet that signing that arbitration agreement was getting rid of your protections that you had under the contract?

**Hon. Kathleen O. Wynne:** The advice that we got was that entering into a negotiation in order to avoid litigation was the responsible thing to do. If you don't want me to read the quotes—I mean, there's testimony that's been given here. John Kelly, counsel to the Ministry of the Attorney General, said, "In my experience, after 40 years of litigating, if you can avoid litigation, you should. It's a process that's fraught with risk." Jim Hinds, OPA chair: If the cancellation "was done in a way that showed disregard for contractual rights, there's ... an opportunity that we could get sued for punitive damages...."

The threat of litigation was hanging over us and that's why we entered into a negotiation.

**Mr. Gilles Bisson:** You threw in the towel and you wrestled yourself to the ceiling and the OPA said—in fact, they were upset that you were taking away the protections that you had under the contract, and all that was known when you signed the arbitration agreement. Again, I ask you the question. What you said when you were here last time is quite different from what we found out the facts are as they were given in testimony to this committee. So I ask the question once again: When you signed the arbitration agreement—do you now state again that you didn't know that it was going to lead to higher costs or, in fact, do you now say it was going to lead to higher costs?

**Hon. Kathleen O. Wynne:** We entered into the negotiation in order to attempt to avoid litigation. That is why we did that and that was the advice that we were given. Our understanding was—and nobody knows what the cost of litigation could be or would have been over time. We believed that it was in the best interests of the people of Ontario, given that we were relocating these gas plants—the gas plant—that entering into a negotiation and not risking litigation was the right thing to do.

**Mr. Gilles Bisson:** Well, you can try to say that, but the facts, as told to this committee from Shelly Jamieson, Colin Andersen and others from the OPA, say that you were giving up your protection, which was going to lead to a higher cost and you guys knew that when you signed the arbitration agreement.

I'm going to ask you the question another way: Did you know that the arbitration framework you approved clearly favoured TCE?

**Hon. Kathleen O. Wynne:** I just need to be clear: You are not talking at all about the reality that the option could have been litigation. There were risks in this situation. This was not a risk-free situation for the government. The risk, however, of litigation was, we believed, greater in terms of the interests of the people of Ontario than the risk of entering into a negotiation. That is the decision that we made and—

**Mr. Gilles Bisson:** But you didn't answer my question. Were you aware—

**Hon. Kathleen O. Wynne:** The risk of a higher cost was there on both options.

**Mr. Gilles Bisson:** I've asked you a question. The question is, when you signed the arbitration agreement, were you aware that it was removing the protections that you had as a government towards a settlement of higher cost?

**Hon. Kathleen O. Wynne:** I have said clearly that I was aware that this was what we needed to do in order to implement the decision of relocating the gas plants: enter into a negotiation in order to avoid litigation. That's what I was aware of. Did I know chapter and verse about what was going to be discussed at the negotiation table? No, I did not.

**Mr. Gilles Bisson:** Everybody else kind of knew that it was going to be a higher cost before all of the facts came out, so why is it that you didn't know? You had more information than most of the members on this committee did. So my question to you is, did you not ask—

**Hon. Kathleen O. Wynne:** I said the costs were unclear.

**Mr. Gilles Bisson:** When somebody brought you this cabinet document to sign—was there anybody there when you signed it? Was there any kind of a briefing involved?

**Hon. Kathleen O. Wynne:** I've told you. I've said that I understood that this was part of the implementation of the decision to relocate the gas plants, that we were entering into a negotiation. But as with all negotiations, the details of the parameters, and what the detailed discussions were going to be, were not part of a briefing. I knew that we were working to avoid litigation, that that was the track that we had adopted.

**Mr. Gilles Bisson:** But Shelly Jamieson, Colin Andersen and others told cabinet that in fact you were removing the protections that the government had towards a higher settlement. So my question is, did you know that, and did you ask any questions to that effect when you signed the cabinet document?

**Hon. Kathleen O. Wynne:** As I've said, we were working to avoid litigation. Again, this was a situation that was obviously fraught with unknowns. The reason that I asked the Auditor General to look at the situation was because there were many numbers that were being talked about. We needed some certainty. We needed to get her analysis—his analysis, at the time. That's why we have the Auditor General's report.

You've had a lot of documentation, tens of thousands of pieces of paper, so you've got all the information. I've told you what I know. I've told you what my role was.

I really believe that it was the decision to avoid litigation that was driving those decisions.

**Mr. Gilles Bisson:** Some decision. You drove up the price to \$1.1 billion. Listen, the question—

**Hon. Kathleen O. Wynne:** Well, there's nothing like 20/20 hindsight.

**Mr. Gilles Bisson:** Listen, the question is, when you were signing the cabinet document, did you ask any questions? Did you say, "What does this mean to the ratepayers in the end?" Did you ask those questions?

**Hon. Kathleen O. Wynne:** What I'm telling you is that avoiding litigation was, we believed, the responsible avenue to take.

**Mr. Gilles Bisson:** But you had protections—

**Hon. Kathleen O. Wynne:** That was about avoiding costs.

**Mr. Gilles Bisson:** But you had protections under the agreement, and you were signing away those protections by signing this cabinet document. Didn't it strike you as passing strange that the government was essentially putting everything in the favour of TCE and not in the favour of the ratepayers?

**Hon. Kathleen O. Wynne:** I believe I've answered this question a number of times.

**Mr. Gilles Bisson:** All right. Well, then, let me come at it this way: If you didn't know, you should have known, and it calls into question your judgment when it

came to signing on that document, wouldn't you say? Why didn't you—

**Hon. Kathleen O. Wynne:** I've answered that question. I've said that I was part of a cabinet that was implementing a decision to relocate a gas plant and to avoid litigation.

**Mr. Gilles Bisson:** Were you concerned at all about what this meant to the Liberal Party?

**Hon. Kathleen O. Wynne:** You know, that was not part of my personal calculation. I mean, my personal calculation was, we'd made a decision that was responding to concerns in a community.

What's critical for me in my role now is that we make sure that we have a better process in place. That's why implementing the recommendations of the ISO and OPA report are very important to me.

**Mr. Gilles Bisson:** But you were key to the process that led to a higher cost, so I ask you the question: You were campaign co-chair for the Liberal Party at the time. Was any of your consideration in making this decision to try to keep this issue under the radar in order not to have this rise up before a provincial election? Was that part of your consideration?

**Hon. Kathleen O. Wynne:** I was one of two vice-chairs of the campaign. I was not integral to the timing of the decision-making. I've told you that I was part of a cabinet that made this decision, and it was in response to community concerns. I've said that a number of times.

**Mr. Gilles Bisson:** But I ask you the question again: As co-chair of the Liberal campaign, was that on your mind, what it meant to the Liberal Party? Because clearly, this was about saving some Liberal seats, so was there political consideration in signing that document?

**Hon. Kathleen O. Wynne:** Well, this was a decision, and this was a position, that had been taken by all parties in the Legislature and all parties in the campaign.

**Mr. Gilles Bisson:** No, no, no, no. Just to be clear, it's not the position—

**Hon. Kathleen O. Wynne:** Well, it was.

**Mr. Gilles Bisson:** No, it wasn't. It was not the position of—

**Hon. Kathleen O. Wynne:** Well, it actually was—

**Mr. Gilles Bisson:** Listen, I was co-chair—

**Hon. Kathleen O. Wynne:** —and we have—

**Mr. Gilles Bisson:** Madam Premier, I was co-chair of our campaign. I took part in the morning meetings. Definitely, on this one, we said, "We're not going to start scrapping contracts, any more than we're going to scrap contracts with Samsung without knowing what the cost is." But let's not—

**Hon. Kathleen O. Wynne:** My understanding is that you had candidates who were out saying that you were going to cancel the gas plants.

**Mr. Gilles Bisson:** And you had candidates who said things as well, so I guess we can exchange a list. But the point is—

**Hon. Kathleen O. Wynne:** Well, okay, but it was pretty much well agreed among all the parties.

**Mr. Gilles Bisson:** To get to the point, I guess what I'm asking you is, when you finally did sign that docu-

ment that allowed the arbitration process to go forward, are you maintaining that there was no political consideration on the part of yourself or others in government in order to keep this issue under the radar?

1520

**Hon. Kathleen O. Wynne:** Our calculation was that the concerns of the community should have been taken into account, that this was a decision that needed to be made. I've said before that it would have been better had the decision been made earlier. It would have been better had we listened to the community and had we had a different process in place earlier. That's why we're changing the process. I've said that many times. I've said it in the House, and I've said it here.

**Mr. Gilles Bisson:** But the auditor also said that, in fact, the Liberal government was desperate to keep TCE down low; in other words, under the radar. That's the auditor's own words. Why? Because otherwise the government would be in a situation where the public would find out a heck of a lot sooner what the costs were, and that would have been bad for the timing of the election. If the auditor was able to make that connection, why weren't you? Or did you do it, and you're just not telling us?

**Hon. Kathleen O. Wynne:** I've said what my motivation was in signing the document. I've said that I was part of the cabinet; we were making a decision about relocating a gas plant. I've said that we were working to avoid litigation, which was the advice that we had been given. I believe that that was the right thing to do given the situation. Had we made the decision earlier, had we listened to the community, then the outcome would have been very different.

**Mr. Gilles Bisson:** So is it fair to say that you had more concern for the fate of the Liberal Party than the ratepayers in signing that document?

**Hon. Kathleen O. Wynne:** No, that's not right. That's not accurate, and I don't accept it.

**Mr. Gilles Bisson:** Okay, I guess we'll agree to disagree.

Let me ask you in regard to the issue of the estimates committee. The estimates committee had requested documents. We all know that, in fact, committees have the ultimate right to ask for those documents. Was there any discussion at cabinet or at caucus in regard to the request by the estimates committee to release the documents?

**Hon. Kathleen O. Wynne:** I don't have any recollection of a discussion of estimates committee. I don't have any recollection of that. I've said what—

**Mr. Gilles Bisson:** So while you were in cabinet, in the time around May 16 until about August, do you recall any discussions around the request by the estimates committee for the release of documents? Was that discussed at cabinet?

**Hon. Kathleen O. Wynne:** I don't recall, and I think you've got all the cabinet minutes. I think you've got all the information from that time period.

**Mr. Gilles Bisson:** No, actually we don't, but that's a whole other issue.

**Hon. Kathleen O. Wynne:** I think you do. Mr. Chair, is that—

**Mr. Gilles Bisson:** That's the assertion.

**Hon. Kathleen O. Wynne:** I think that those cabinet minutes are all in your possession.

**Mr. Bas Balkissoon:** That's the assertion, that we do, but we'll come back to that at another date.

My question is, was there any discussion, and are you knowledgeable of any discussion, in regard to the refusal by the government to release those documents to the estimates committee? Did you talk about it at cabinet or at caucus?

**Hon. Kathleen O. Wynne:** As I said, I don't have any recollection of that, and I believe you have all of the cabinet minutes from that time period.

**Mr. Gilles Bisson:** Okay, to the record and to the testimony: We have a couple of cabinet ministers who, in fact, said there was discussion at cabinet.

**Hon. Kathleen O. Wynne:** Well, I'm telling you that I don't have a specific recollection. But you have the cabinet minutes, so you have that information.

**Mr. Gilles Bisson:** The point is, is everybody having collective amnesia in regard to that discussion?

**Hon. Kathleen O. Wynne:** Again, you have the cabinet documents. I've told you my involvement in this issue. I'm happy to go through that chronology again, if you'd like.

**Mr. Gilles Bisson:** So you're saying that you do not remember any discussions at cabinet or at caucus in regard to the refusal to release the documents to the estimates committee.

**Hon. Kathleen O. Wynne:** I do not recall a specific discussion. I apologize if that specific discussion on the estimates committee has slipped my mind. You've got the minutes of the cabinet meetings, and I have told you what my involvement is.

**Mr. Gilles Bisson:** As I said, in testimony, we have a couple of cabinet ministers, in fact, who say there were those discussions.

The other question is, the government moved with fury to try to delete emails and documents as part of their ability to not have some of this information—

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

**Mr. Gilles Bisson:** —surface later. Were you aware of any of that going on? Were you party to any discussion about the deletion of emails, the deletion of documents?

**Hon. Kathleen O. Wynne:** No, I was not.

**Mr. Gilles Bisson:** Did you have something?

**Mr. Peter Tabuns:** When—

**Hon. Kathleen O. Wynne:** Just to that point, we have changed the procedures in the Premier's office and across government.

**Mr. Peter Tabuns:** So how bad was it in government when you came in? We found that you had a chief of staff in the Ministry of Energy who testified he deleted everything. The Premier's chief of staff testified he deleted everything every day. In fact, he went out to get access codes so he could delete. He questioned the head of IT about how he could make sure things were wiped out. How bad were things when you became Premier?

**Hon. Kathleen O. Wynne:** I've said repeatedly that we've changed the protocols around retention of information; we've done training among staff. The privacy commissioner is quite satisfied that we've made changes that will make the system work better.

**Mr. Peter Tabuns:** What sparked that—

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

Just before I offer the floor to the government side, our official verdict, I guess, on the issue of the cabinet documents is that everything that Cabinet Office has released, you have. Whether that is actually everything probably requires some research.

With that, I now offer Mr. Delaney.

**Mr. Bob Delaney:** Just to clarify what the Chair just said, Cabinet Office has released everything we've asked for. Correct?

**The Chair (Mr. Shafiq Qaadri):** Correct.

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

**Mr. John Yakabuski:** That's not what you said.

**Mr. Bob Delaney:** Premier, just before we begin, I'm just wondering if there's anything you'd like to clarify either from the previous series of questions or perhaps add to the record today?

**Hon. Kathleen O. Wynne:** No, I think I'm good so far.

**Mr. Bob Delaney:** Okay, thank you. I want to ask you about something that you had said when you first appeared at committee, what now seems like a long time ago. You said that you had supported the decisions to relocate the two gas plants. At that time, the end of April, April 30, the report from the Auditor General on Oakville had not been released. Would you please review for the committee—encapsulate your involvement in the Oakville decision?

**Hon. Kathleen O. Wynne:** Well, as I've said, my role was not as the Minister of Energy, was not as someone who was involved in the day-to-day discussion around the relocation of that plant—or the siting of the plant, for that matter. I was part of cabinet at the time.

My understanding was that a decision had been made based on expert advice, the site had been selected and there was a lot of community reaction. There was a lot of community pushback on the siting of the plant, and certainly there was a lot of concern about the location. My involvement was to hear that, to understand that and, as we worked towards making the decision, to understand that, really, we hadn't taken into account the concern of the community. Then the decision was made.

I was involved in a cabinet walk-around, in which, as one of four ministers, I was implementing a decision that we had agreed on to relocate the plants. We were doing that to enter into a negotiation and to avoid litigation.

**Mr. Bob Delaney:** Okay, thank you. In fact, between your last visit and now, Ben Chin appeared before the committee and said that by the end of 2010, the OPA realized that they didn't actually need the energy that would have been produced by both gas plants.

**Hon. Kathleen O. Wynne:** Right.

**Mr. Bob Delaney:** Last week, Shelly Jamieson, the former secretary of cabinet, appeared before the committee for a second time. She confirmed what you've just said to the committee. Again, to read a little quote from her transcript, "I would say it would be a pattern in the province of Ontario to look to avoid litigation where we can. Litigation is not a pleasant exercise. So there would be several times that things would come into Cabinet Office when they had been unresolved, and it looked like we were tracking towards litigation. We might ask ourselves, 'Is there something else we could do to avoid that situation?' At that point, I saw this as the same as those other instances."

When David Lindsay, who was the former Deputy Minister of Energy, was here, he had this to say about litigation: "If you have a contract and you don't honour the contract, the party on the other side can sue you for breach of contract and the damages would be all the benefits they were hoping to procure."

In fact, John Kelly, who serves as a counsel to the Attorney General's office, stated when he testified words that I think you've paraphrased, that in his "40 years of litigating, if you can avoid litigation, you should. It's a process that's fraught with risk."

Premier, is it your understanding that, as a government, wherever we can avoid litigation, we do try to avoid litigation?

**Hon. Kathleen O. Wynne:** Exactly. It is, I guess, somewhat easier to look back and say, "Well, had you done one thing or the other, the outcome would have been better." At the time, we believed that avoiding litigation was the best course of action, and as I have already said, there was risk associated with both paths, but we believed that the greater risk would have been with litigation and so we entered into a negotiation.

**1530**

I think the other reality is that I believe we have sited 19 gas plants successfully. The other two, these two, were not sited successfully, and there was an enormous amount of community pushback. And so, again, I really want us to have a better process in place, where we take the community's advice and perceptions and opinions into account, and we engage the community in a different and better way at the outset, so that we are not in a situation where we're having to backtrack and repair relationships and undo damage. That's why it's important that we have a new process going forward.

Again, it's easy to look back and say, had we known that at the time, had we made different decisions—yes, had we made different decisions at the time, had we gotten on this earlier, had we responded earlier to communities' concerns, then we wouldn't be having this discussion today.

**Mr. Bob Delaney:** And, of course, in fact, both the Mississauga and Oakville gas plants were subsequently re-sited to willing host communities.

**Hon. Kathleen O. Wynne:** Exactly.

**Mr. Bob Delaney:** There's been a little bit of discussion about that cabinet walk-around. Just for clarity, your

cabinet portfolio at the time the agreement was negotiated was?

**Hon. Kathleen O. Wynne:** Municipal affairs and housing, and aboriginal affairs. I'm sorry, there were a number of them. Transportation was—I was Minister of Transportation before that, yes.

**Mr. Bob Delaney:** And although you signed the document—

**Hon. Kathleen O. Wynne:** So there were two—

**Mr. Bob Delaney:** Sorry, go ahead.

**Hon. Kathleen O. Wynne:** As said in my chronology, in 2011—July 29, 2011—I was still Minister of Transportation, and then, post-election 2011, I was Minister of Municipal Affairs and Housing. So the walk-around on July 29, 2011, I was Minister of Transportation, and in 2011, on the Keele Valley walk-around, I was Minister of Municipal Affairs and Housing and Minister of Aboriginal Affairs. So there were two different walk-arounds, two different cabinet portfolios.

**Mr. Bob Delaney:** And in either case, although you signed the arbitration document, you were not privy to the negotiations on this particular issue, correct?

**Hon. Kathleen O. Wynne:** Right, precisely.

**Mr. Bob Delaney:** Another thing David Lindsay said when he testified was that while cabinet was provided with a status update on the negotiations, they would not have been made aware of any specific details or numbers.

**Hon. Kathleen O. Wynne:** No, and that's a point that I've made a number of times, that we did not have chapter and verse of the discussions that were happening in those negotiations, nor would we in any other negotiation that was going on in a specific ministry, or between a specific ministry and another partner, so we did not have those details.

**Mr. Bob Delaney:** So then, to be very specific, the negotiations were not going on between the proponent and cabinet?

**Hon. Kathleen O. Wynne:** Exactly.

**Mr. Bob Delaney:** Okay. I remember my colleague from Toronto—Danforth saying that he saw nothing extraordinary about the cabinet minute you had signed, and he said in a scrum in April, “I don't see it as a smoking gun. We knew that cabinet was approving this process. So this doesn't surprise me.”

**Hon. Kathleen O. Wynne:** Which I think demonstrates an understanding of how government operates and people's responsibilities as members of cabinet.

**Mr. Bob Delaney:** So as the Minister of Transportation, there were—

**Hon. Kathleen O. Wynne:** So we're going back to July?

**Mr. Bob Delaney:** Yes, okay. So there would not have been, as my colleague across the table has referred to, casual conversations between you and the Minister of Energy on the details of this agreement?

**Hon. Kathleen O. Wynne:** No, no.

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

**Hon. Kathleen O. Wynne:** The only casual conversations were what I think everyone in all of the parties

would have had, that there was a lot of consternation in the community about the siting of the gas plant.

**Mr. Bob Delaney:** Yes, that's true. I should know, I was—

**Hon. Kathleen O. Wynne:** I was going to say, you would know that.

**Mr. Bob Delaney:** Yes.

Well, since the last time you appeared, the Auditor General's report has been released, a report that you had requested even before you had been sworn in as the Premier, and it was, in fact, one of the very first issues that you took on as Premier. I think that we as a caucus and certainly you, yourself, recognized the importance of assuring that the public had all of the information that was available as well.

**Hon. Kathleen O. Wynne:** Actually, I raised the issue during the leadership campaign and said that it was my intention and my commitment that we would open up the process, that we would provide all the documentation and that we would get the information to the committee that was being asked about.

**Mr. Bob Delaney:** True. In fact, I can remember a few instances where I heard you say so.

The Information and Privacy Commissioner, since you were last here, released her report, which was during the summer, on document retention practices by the government—again, another item that, as Premier, you moved quickly to lead on. It is worth mentioning that the state of the art in technology has changed a lot in the 10 years since we've been the government, and a lot of those policies did, in fact, desperately need a re-write. You gave direction to all political staff on the need to be responsible and diligent on retaining documents pertaining to government business and ensured that new training processes were put in place.

The Information and Privacy Commissioner, in fact, said—and I'll use her words—“The Premier has been fully cooperative with me and my office. In fairness to Premier Wynne, you have my full cooperation, whatever you want from us.” She further said, “Any cooperation we needed was there.”

With regard to the open and transparent mandate that the government has implemented and, to my knowledge, certainly enforced, are there some comments you wish to make on that?

**Hon. Kathleen O. Wynne:** I just want to reinforce what you said. We made it our business to work closely with the Information and Privacy Commissioner. I wanted to make sure that her expectations were met in terms of our training of staff and the understanding of the rules that needed to be in place. As you have said, the technology has changed enormously in a very short period of time, and so the rules and protocols around the retention of information had to change.

She also said—this was in June—“I have commended Premier Kathleen Wynne's government's approach to dealing with this issue, referencing the staff training program she instituted and the memo circulated by her chief of staff.” For me, what was very important was that

this be across government, that my chief of staff work with the chiefs of staff in all of the offices, that there be a uniform understanding of how to deal with information and that there be training—that it wasn't just enough to send out a memo, but that people actually have training and they understand what was acceptable to keep and what they didn't need to keep.

**Mr. Bob Delaney:** Which, again, considering the evolution in the power of information systems and their ability to retain information, is reasonable over the span of the 10 years that we've been in government.

**Hon. Kathleen O. Wynne:** Yes.

**Mr. Bob Delaney:** You're now witness number 73. The committee has received about a quarter of a million documents, heard about 100 hours of testimony, not only from elected members but from energy experts, former political staffers, the former Premier twice, the current energy minister twice and the current Premier, you, twice. Our government has put forward two motions of note in this committee. On March 5, we put forward a motion to significantly expand the scope of the committee to deal not only with the production of documents, but the broader issues related to the siting process of energy infrastructure in Ontario and the relocation of gas plants. Then, afterwards, the government members put forth a motion requesting documents government-wide for an expanded time frame—although, I might add, the opposition did vote against both of those. Could you review with the committee why you proposed those and why you felt those were important?

**Hon. Kathleen O. Wynne:** As I said, before I came into this office, I thought it was very important that, as there continued to be questions about documents and information that hadn't been accessible, we make that information accessible, that we provide the answers to the questions that were being asked, and that it not be a technicality of the scope of the committee that would preclude those documents from being made available. That was why, when I came into this office, I wanted to open up the scope of the committee. I wanted to get the committee reinstated, first of all, get it up and running, and make sure that the scope of the committee would allow for the request for the documents and the questions that needed to be asked to be answered.

1540

I really felt that it was important that we get to the issues that were being asked about in the Legislature and that we have the opportunity, among all parties and the public, to look at the information and look at the decision-making process. I thought that that was important, and so that's why we moved in the way that we did. You've gone over the number of documents, you've gone over the number of witnesses, you've gone over the hours that have been spent on this, and I think that there is a lot more information than there was 10 months ago; there's a lot more information available. So I think we've done absolutely the right thing in terms of getting that information out and allowing us now, in the process of getting that information out, to change the rules around

information retention and to look at a new process for siting energy infrastructure. There's a lot of work that has been done in that time period as the committee has done its work.

**Mr. Bob Delaney:** Just to go backwards a little bit, earlier you were discussing back and forth with Mr. Bisson about a cabinet discussion. When Minister Chiarelli was here just a short time ago, he confirmed that there was no discussion in cabinet that took place with regard to the documents for the estimates committee. Is that your recollection as well?

**Hon. Kathleen O. Wynne:** Yes, that's my recollection and that was my answer to Mr. Bisson.

**Mr. Bob Delaney:** Okay. As well, I'd like to just sort of explore whether or not you felt, at the time, there was a three-party commitment to the actions that the government subsequently took. Almost every witness that has testified at this committee has confirmed that all three parties had committed to cancelling both power plants.

When Oakville mayor Rob Burton appeared before the committee, he told the committee, and I'll use his words, that he had “won promises from all parties to stop the proposed power plant.”

When my constituent Mayor Hazel McCallion from Mississauga was here, she told us, and I'll use her words, “I think all parties would have cancelled it.”

We've since obtained transcripts, campaign literature, robocall scripts, all of this highlighting the commitments made by both opposition parties. When former secretary of cabinet Shelly Jamieson visited the committee for the first time, she said that she was confident that the OPA had followed the public consultation process with the existing rules in place at the time. She also said, and I use Shelly Jamieson's words, that she was “completely convinced that the people of Mississauga and Oakville didn't want those gas plants in the end.”

**Hon. Kathleen O. Wynne:** To your first point: I completely agree with you that that was the common understanding of what was going on at the time, that all three parties were committing to moving, to relocating the gas plants, and so—

**Mr. Gilles Bisson:** Point of order.

**The Chair (Mr. Shafiq Qaadri):** Mr. Bisson, a point of order. Time is stopped.

**Mr. Gilles Bisson:** I would like the Clerk to make a copy of this particular press release from the last election where Andrea Horwath says that that's not the case. Can you please distribute that to the members?

**The Chair (Mr. Shafiq Qaadri):** Mr. Bisson, I would be absolutely delighted to do so, but that's not a point of order, and probably not worth the—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Please continue.

**Hon. Kathleen O. Wynne:** Well, if I can just pick up on that, I'm saying that it was the understanding, there was a general consensus—and I think the testimony of the mayors that you have just cited speaks to that understanding—that this was something that all three parties agreed needed to happen.

In terms of the community consultation, I think what's important about what you said is that the rules that were in place had been followed in terms of community consultation. That's why it's really important that we put new rules in place: that we put new rules in place for the involvement of—

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

**Hon. Kathleen O. Wynne:**—political staff, and that we put new rules in place in terms of engagement of community. That's what the IESO and OPA report on siting—there are 18 recommendations, and it really points to greater local voice and responsibility and enabling early and sustained engagement, which I don't think we had in place at the time. That's why we're moving to implement those recommendations.

**Mr. Bob Delaney:** Well, thank you very much. And Chair, I think, to follow up on Mr. Bisson's points, we will once again ask the NDP candidates to come forward, and I know we can depend on the co-operation of the party to ensure that this time their invitations will be accepted.

Chair, I think I'm done with my time for this round.

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

To the PC side. Ms. MacLeod.

**Ms. Lisa MacLeod:** Thanks very much, Chair. Welcome back to the committee, Premier. We appreciate your taking the time to join with us.

I wanted to start off with some of the facts that we all know and I think are generally accepted, and then I just have a quick question. We know that the cabinet knew the cost was well above \$40 million as early as 2011, and that comes from Serge Imbrogno, who attended this committee recently and said that cabinet would have known it was at least \$700 million by December 2011.

People who testified from the government for the cabinet said that your cabinet would have known the true cost of the cancellation. Again, that was Mr. Imbrogno, who I mentioned, who said that by December 2011, cabinet would have known that costs would have exceeded \$700 million. Colin Andersen has appeared before this committee twice and has said that that cost would have been known. Shelly Jamieson, who has twice appeared before this committee—she was a cabinet secretary, who told us the first time that it was buckets of costs but acknowledged it would have been well over \$40 million; as well as David Livingston, the previous Premier's chief of staff.

So I have to ask, on behalf of taxpayers, who's telling the truth: them or you?

**Hon. Kathleen O. Wynne:** Well, I've told you what I know. I've told you what my involvement in the process was. What I have said a number of times in the House and I said at the committee the last time I was here, every time I stood up in any venue to talk about a number associated with any of the gas plant relocations, I was using numbers that had been given to me by our officials, by our staff.

The reality is that the reason I asked for the Auditor General to look at both gas plant relocations was that

there was such uncertainty about numbers. There was no firm reporting of what the costs would be. I wanted us to have the analysis of the Auditor General on both of the gas plant relocations.

**Ms. Lisa MacLeod:** The problem with that, I think, is that you've got four credible people coming here—one who was a Liberal staff member, three who work as bureaucrats for us, who have no reason to mislead any committee or the Legislature—who effectively told us that cabinet did know what the costs were. The problem that exists now is not only did you acknowledge in September 2012 that the cost was \$40 million—you would have known for over a year by that point that it had been closer to \$700 million. We know now that it's \$1.1 billion.

**Hon. Kathleen O. Wynne:** Well—

**Ms. Lisa MacLeod:** No, no. Hold on just two seconds, because you appeared before this committee before, and I asked you, oh, approximately 40 times, “When would you have known it exceeded \$40 million?” and you stuck to that line. Then you appeared in the House, told us it was \$40 million, and then the auditor comes out and says, “No, no, wait. This was \$1.1 billion.” And now this is our first time and opportunity to have you before the committee, and your testimony from then as well as the facts that we know have some very glaring contradictions. I really think that speaks to your motivation, but also I think it speaks to the fact that you maybe haven't been effectively as open with this committee and the assembly as one would have hoped.

**Hon. Kathleen O. Wynne:** Well, again, I will repeat: I have been completely open with this committee. I have told this committee what I know. The cost to which you're referring was the sunk cost, which was the cost that was known. That was a concrete number that we knew. The original memorandum of understanding, which was posted on the website from the beginning, said that there would be, could be costs beyond the \$40 million, but the \$40 million—that was the number that we were given by our officials. That was the number that was known. But—

**Ms. Lisa MacLeod:** But those same officials have told us—

**Hon. Kathleen O. Wynne:** If you could just—sorry.

**Ms. Lisa MacLeod:** Sorry; I don't have a lot of time. I just wanted to say that those same officials have told us repeatedly that you knew it would have been in excess of \$40 million if you included the rate base.

1550

What I think has happened—and this is what I've asked both Bob Chiarelli and Dwight Duncan. Why did they stick with the \$40-million taxpayer tab when they knew we wanted to get to the entire true cost? I think that's what you guys were using in order to inform the public of one thing when you knew there was another truth to that.

**Hon. Kathleen O. Wynne:** You are attributing to me what you think I knew, and it's just not accurate. I've told you what I knew. I've told you that the \$40 million

was a number that was known. I've also said that there was broad knowledge that there were other costs that would accrue over time, but there wasn't any consistency in what those numbers would be. So when you say—

**Ms. Lisa MacLeod:** But Serge Imbrogno, the deputy minister—

**Hon. Kathleen O. Wynne:** Can I just—

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

**Ms. Lisa MacLeod:** When the deputy minister appeared before committee and said she would have known by December 2011 that the costs were in excess of \$700 million, why would you lowball it to \$33 million to \$40 million? It's incomprehensible to the average person out there who is wondering how you could sign a document to make TCE whole, give all of the negotiating rights over to a private company at the expense of the taxpayer and not know at all that this was going to cost what it did when we had credible witnesses. And it's not me or Mr. Bisson who is saying this; it is Serge Imbrogno, Colin Andersen, Shelly Jamieson, David Livingston, JoAnne Butler—you name it, that whole list of people. I guess if there's one thing I want out of today on behalf of the ratepayers and taxpayers, it's the truth.

**Hon. Kathleen O. Wynne:** And I have told the truth. I have told the truth in the Legislature and I have told the truth here. Twice I have told you exactly what I knew. Every time I have stood and spoken about this issue, I have said exactly what I knew, and the reality is that there was a lot of uncertainty about the numbers. That's why I asked the Auditor General to look at both situations.

I can go through the chronology again if you would like, but I have told you numerous times now what I knew and why I took the action that I did, which was to open up this process so that you could get all the documents, which you have, in fact, got.

**Ms. Lisa MacLeod:** But we still don't know if you or Colin Andersen are telling the truth, because both of you can't be. That's the biggest problem.

Now, I just want to go back to your defense, because—

**Hon. Kathleen O. Wynne:** I don't think that's actually true. The reality is—

**Ms. Lisa MacLeod:** It is true. Colin Andersen said that everybody knew.

**Hon. Kathleen O. Wynne:** I don't have Colin Andersen's testimony in front of me, but I do know that there wasn't a lot of certainty about what the numbers were. I think that it's misconstruing the reality to say that one or the other is the truth. I think both were true. There was uncertainty. I had been given documentation on certain numbers. Those are the numbers I used. There was uncertainty. We needed to go into it further, which is why the Auditor General needed to do her analysis.

**Ms. Lisa MacLeod:** Where I do think there is certainty, though, Premier—and this came from Colin Andersen, Serge Imbrogno and others—is that everyone knew that it wasn't as low as \$40 million, but you con-

tinued to tell this assembly and this committee that it was.

I want to go to Shelly Jamieson's testimony, the most recent testimony, because I had asked her a question about force majeure and I had asked her a question about the pathways or the options that they would have brought to cabinet.

It was interesting; she said that there were three. She said that within those options was the most expensive path, and it was the path your government took, that led to making TCE whole and entering into an arbitration agreement, which eventually cost it a settlement of \$1.1 billion. You've said here at the committee—and I've written this down—that effectively you were defending the people and that avoiding litigation trumped everything else, if I've written that down correctly. But you signed off on a cabinet minute that you neither read nor understood, and within that you effectively gave TCE most of those negotiation rights. The problem with this is that we now know from the auditor's report and from Shelly Jamieson's testimony that the force majeure mechanism could have kicked in.

I'm going to read to you what the auditor said, and I'm sure you've read it before:

“That is, in determining the amount of damages, the arbitrator was explicitly disallowed from considering the possibility that TCE would not have been able to overcome Oakville's opposition to the plant (the force majeure provisions) and that the OPA's cancellation of the plant was not a discriminatory action and therefore should exempt it from including lost profits in the determination of damages. This arbitration framework clearly favoured TCE and gave it the upper hand in the negotiations for a project to replace the Oakville plant.”

That is the cabinet minute that you signed. Shelly Jamieson would have acknowledged in a cabinet meeting that there was a force majeure provision there that would have avoided us dealing with the location, because even the mayor of Oakville testified to this committee that the city was prepared to take the case down a time-consuming path to the Supreme Court of Canada.

At what point, as a member of the cabinet and as a campaign chair to the Liberal Party, did you look at that and say, “Okay, you know what? Avoiding litigation trumps everything else, despite the fact that we have a built-in clause that gets us out of this for next to nothing.”

**Hon. Kathleen O. Wynne:** Well, again, I've answered this question. I've said that my understanding, the information that I was given, was that to go down the path of litigation—I think you've seen the comments of Chris Breen, from TransCanada. He said, “We had ... the Ontario Superior Court and Divisional Court, and we would have taken this to whatever court was required” to get this through.

We understood that litigation was a very real possibility and that that was potentially the most damaging and most expensive option, so that is why we entered into a negotiation.

I've answered that question many times, and that is the reason that we went down this path. It's the reason that, as part of the cabinet, I signed that document.

**Ms. Lisa MacLeod:** Well, the question, I think, still remains. You signed a cabinet minute that eventually cost us \$1.1 billion. You knew as early as December 2011 that it would be far in excess of \$40 million, likely over \$700 million, according—

**Hon. Kathleen O. Wynne:** Okay, that is your—

**Ms. Lisa MacLeod:** No, it's not. No, it's not.

**Hon. Kathleen O. Wynne:** Sorry, Mr. Chair. That is your contention—

**Ms. Lisa MacLeod:** If you sat on this committee as long as I have, and you listened to the deputations, like I did, from Serge Imbrogno and others, then you'll build a timeline.

I go back to the point: Either he is telling the truth, or you are telling the truth, but one can't say it's in excess of \$700 million, the other can't say it's \$40 million, and you both be right.

**Hon. Kathleen O. Wynne:** I'm telling you that—

**Ms. Lisa MacLeod:** If that's the math that's running this province of Ontario, that's probably why the \$1.1-billion cancellation didn't make it into the LTEP.

**Hon. Kathleen O. Wynne:** Are you done? Can I answer?

There was uncertainty about the numbers. There was continued uncertainty about the numbers. I've answered that question a number of times.

In terms of the long-term energy plan, I know that you're very aware of the costs having been incorporated. The Minister of Energy spoke to that in the House today.

**The Chair (Mr. Shafiq Qadri):** Ms. MacLeod, just before you begin—Mr. Holyday, we are honoured to have you at the Liberals' side, but I would invite you to sit with your own party. Should there be any change, you need to actually get a slip from the Clerk for sitting on the Liberals' side.

Please continue, Ms. MacLeod.

*Interjections.*

**Mr. Rob Leone:** No, he can sit wherever he wants.

**The Chair (Mr. Shafiq Qadri):** No, he can't.

**Ms. Lisa MacLeod:** Is my clock stopped?

**The Chair (Mr. Shafiq Qadri):** Yes.

*Interjections.*

**Ms. Lisa MacLeod:** Sit right here, Doug, right beside me. You'll be in the shot. Thanks very much, Chair.

It still doesn't tell me, regardless of this, when you would have known that the costs would have exceeded \$40 million.

I guess she's just walking away.

**Hon. Kathleen O. Wynne:** I'm just getting some water. Sorry.

Again, I've answered that question a number of times. I've said that there was uncertainty about the number. There was uncertainty about the number up to the point where I asked the Auditor General to do an analysis of the costs. That's why that was done.

**Ms. Lisa MacLeod:** Okay, let's switch some gears. I guess I'm not going to get an answer from you on when you knew it was well in excess of \$40 million, so we'll let Serge Imbrogno's comment stand, that cabinet would have known in December 2011.

What I will ask now is—what's significant is we've had two major issues since you appeared before committee. The first one was the AG's report, which we've touched on and we'll go back to.

The second is, the OPP paid a little visit to your office a couple of weeks ago. I'm wondering, when the OPP arrived, did you or any of your staff hand over the 1,200 emails that were backed up on tapes—with your name on it?

**Hon. Kathleen O. Wynne:** I don't know anything about the OPP investigation. The OPP will proceed as it chooses in asking questions and investigating the former Premier's office. As you know, that is what the OPP has been asked to do, I believe, by your party, and I have no details about the OPP investigation.

1600

**Ms. Lisa MacLeod:** So when the OPP made arrangements to visit your office, you had no knowledge of that?

**Hon. Kathleen O. Wynne:** I had no knowledge of that.

**Ms. Lisa MacLeod:** Did you read it about it in the Ottawa Citizen?

**Hon. Kathleen O. Wynne:** I have no knowledge of the OPP investigation.

**Ms. Lisa MacLeod:** So when they visited—

**Hon. Kathleen O. Wynne:** I mean, I know that there is an investigation going on, but I don't know the details of it.

**Ms. Lisa MacLeod:** But they visited your office.

**Hon. Kathleen O. Wynne:** I don't know when they've been in my office.

**Ms. Lisa MacLeod:** If the OPP visited my office, I'd sort of know about it. So you didn't know that they showed up at your office on the second floor here?

**Hon. Kathleen O. Wynne:** I don't know when the OPP visited my office. I don't know anything about the investigation.

**Ms. Lisa MacLeod:** Did your staff indicate anything to you about the emails that included your name on them?

**Hon. Kathleen O. Wynne:** I don't know anything about the details of the OPP investigation; I really don't.

**Ms. Lisa MacLeod:** Okay. Well, that's interesting.

**Hon. Kathleen O. Wynne:** Because remember, it is an investigation of the previous Premier's office.

**Ms. Lisa MacLeod:** Right, but I guess there were 1,200 emails that were backed up with your name on them, so there were tapes. I'm just wondering—I'm saying to every member of this committee, if the OPP were to pay a little visit to your office, I'm sure your staff would tell you, and if your name appeared on 1,200 emails with respect to the cancellation of the—

**Hon. Kathleen O. Wynne:** My staff knows that we will co-operate fully with the OPP. I just don't know the

details of the OPP investigation. I've made it clear to them that we will accommodate their investigation into the previous Premier's office—I have made that very clear—but I don't know the details of their investigation.

**Ms. Lisa MacLeod:** If you're going to accommodate them but you don't know what they did in your office, how could you have accommodated that? Would your staff have accommodated that?

**Hon. Kathleen O. Wynne:** My staff would be working, yes. I don't know what the details of the investigation are. I don't know exactly the timing or exactly what they are looking at.

**Ms. Lisa MacLeod:** All right. Premier, I'm going to go back to the costs. During your last testimony, both Mr. Fedeli and I asked you a very simple question, one that you seem to have difficulty answering here today and at the time. Hopefully, by the end of today, we'll get that information.

You used the number that the AG has confirmed. You've said that you support her findings. You would have known, I guess—

**Hon. Kathleen O. Wynne:** I said I accepted her report.

**Ms. Lisa MacLeod:** You accept her report. But so many other people have claimed that you knew that it was a completely different number. I'm just wondering, at what point were you aware from the auditor—would you have received that report a week or two weeks in advance, and would you have known the true costs would have been \$1.1 billion?

**Hon. Kathleen O. Wynne:** I'm just trying to remember. I didn't get it a week or two weeks in advance; I think I got it maybe a day or so in advance.

The point is that the numbers were uncertain and continue to be uncertain. There's a different set of numbers and a different set of assumptions that the Auditor General used, so there are different numbers. In fact, if I recall correctly, the Auditor General has said that these are estimations of future costs, and there could be changes to those numbers again. I think it highlights how fraught with uncertainty projecting out 10, 15, 20 years can be. So I think it's important that we understand the complexity of doing that.

**Ms. Lisa MacLeod:** Do you think the costs could go higher?

**Hon. Kathleen O. Wynne:** I can't answer that. I don't know. I think the Auditor General has made it clear that there was uncertainty, and she has used a certain set of assumptions and she has made certain projections. I have accepted her report.

**Ms. Lisa MacLeod:** Do you acknowledge, then, that the cost likely won't go down, but if there are other costs or if there are any changes to the cost, it will go up?

**Hon. Kathleen O. Wynne:** I can't make that prediction.

**Ms. Lisa MacLeod:** Premier, I want to know one final thing: How did you prepare for committee today?

**Hon. Kathleen O. Wynne:** I was briefed by my staff.

**Ms. Lisa MacLeod:** Did you do something similar to debate preparation?

**Hon. Kathleen O. Wynne:** I do mock scrums all the time, so yes.

**Ms. Lisa MacLeod:** Who would have written your remarks today?

**Hon. Kathleen O. Wynne:** The way I write remarks is that my staff do drafts and I have input. We do a combined effort.

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

**Ms. Lisa MacLeod:** When you appeared before Steve Paikin, did you do preparatory work before that?

**Hon. Kathleen O. Wynne:** When I appeared on The Agenda?

**Ms. Lisa MacLeod:** Steve Paikin, yes. The Agenda.

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

**The Chair (Mr. Shafiq Qadri):** Mr. Delaney, point of order, which actually, our folks are just debating—

**Mr. Bob Delaney:** Yes. I'm not entirely sure that the Premier's interviews outside the scope of this committee are within the terms of reference of this committee.

**The Chair (Mr. Shafiq Qadri):** I accept that, Mr. Delaney. There seems to be an interest in the amount of practice that goes on on the government side. I think Ms. Thompson is on record with that.

We're not entirely sure of the relevance of this to the mandate. In any case, you have 45 seconds left.

**Ms. Lisa MacLeod:** Okay. Here's the relevancy. You appear before Steve Paikin, with crocodile tears, to say you've apologized, yet no one has really taken any responsibility. No one has been fired, no one has resigned. I just wanted to know if you had prepared for that audience that you would have with Steve Paikin and the rest of the province.

**Hon. Kathleen O. Wynne:** Well, it is my practice in my job to be prepared whenever I go into a meeting, whenever I go into a committee, whenever I go into the House, so I do prepare as I do my work, no matter what aspect of my work I'm doing.

**Ms. Lisa MacLeod:** Thanks, Premier.

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. MacLeod. To the NDP side. Monsieur Bisson.

**Mr. Gilles Bisson:** Welcome back to another round of questioning, Premier. I just want to wrap up the first part of the questioning and move on to something else. Essentially, the auditor refutes what you said when you were testifying to this committee prior to the auditor's report. You come here and you say under testimony, "Well, in fact, you know, what I did in signing that cabinet document didn't lead to higher costs." You're saying at committee today in fact that we saved money because we didn't have to litigate; that was essentially your assertion.

The auditor says in fact that's not the case. What led to the higher cost of settlement was the fact that you took away the protections that the OPA had in the contract by signing that arbitration agreement. Do you still maintain that your decision to sign that document in fact led to higher costs of settlement?

**Hon. Kathleen O. Wynne:** I don't think anyone knows what the costs could have been if there had been litigation, so it's impossible for me to answer that question.

**Mr. Gilles Bisson:** Could I ask you this question?

**Hon. Kathleen O. Wynne:** I signed that document as part of a cabinet that believed in good faith that we were doing our best to avoid litigation, which was in the best interests of the people of Ontario.

**Mr. Gilles Bisson:** Okay. But could I ask you this question? Your assertion is that you were trying to protect yourself from being sued, in other words, being litigated, and that would in fact cost more money should you go that way and the arbitrator says no. Is it possible that litigation could have led to a lower settlement cost than the \$650 million on Oakville?

**Hon. Kathleen O. Wynne:** Neither you nor I can know that, and I have answered this question a number of times.

**Mr. Gilles Bisson:** No, but is it possible? The question is, is it possible, if you had litigated, that the cost of settlement would have been lower?

**Hon. Kathleen O. Wynne:** I can't answer that question.

**Mr. Gilles Bisson:** Is it possible?

**Hon. Kathleen O. Wynne:** I cannot answer that question. We have gone over this ground many times.

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

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

**Mr. Bob Delaney:** Chair, I don't wish to intercede in my colleague's questioning, but he keeps asking the same question, and what the witness is saying is that it has been asked and answered.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney. He is quite welcome to spend the time as he wishes.

But, Mr. Bisson, to your point, you cannot force a witness to answer a hypothetical. You may pose it, but they can answer as they see fit. Please, your time continues.

**Mr. Gilles Bisson:** Well, I'm posing, and I'm wondering if she's going to answer as she sees fit.

The question is, if your assertion is that you signed the arbitration agreement because the cost of litigation would be higher, is it possible that signing that arbitration agreement—by allowing the litigation to go forward, pardon me—could have led to a lower settlement? Yes or no?

**Hon. Kathleen O. Wynne:** You may not like this answer, but we cannot answer that question. We don't know. I cannot predict what might have happened.

**Mr. Gilles Bisson:** All right. Well, clearly the auditor is of the view that by your signing that arbitration agreement it did lead to the higher-price settlement, so that's that.

Earlier in my questioning, I was asking you questions at which point—and my colleague also asked the same question in regard to your role around the deletion of emails and the deletion of documents and all of those hard drives and all of those—what do they call them again? Exchange—what were the drives?

**The Chair (Mr. Shafiq Qadri):** USB keys?

**Mr. Peter Tabuns:** Exchange servers?

**Mr. Gilles Bisson:** The exchange servers were deleted and the mirrored servers were deleted, and you're saying

that had nothing to do with you. Is that still the case, that you had no idea that there was an attempt on the part of people in the Premier's office, in the government, to delete documents that could have been damaging to the government in this investigation?

**Hon. Kathleen O. Wynne:** That's absolutely true. That's absolutely true that I had no knowledge of that and have changed the protocols, and that was the gambit that we were just on about the Information and Privacy Commissioner. She has noted the work that we have done to change the process and the protocols.

**Mr. Gilles Bisson:** She gave you a great report, that's for sure.

Anyway, the point is that you're saying you're the new sheriff in town. You've cleaned up Dodge and things are doing better.

**1610**

I have here an RFP dated Tuesday, October 22, 2013—at that time, as far I remember, you were the Premier. It's a request for proposal that reads as follows: "Scope of work: The ministry requires a ... computing device disk data erasure solution intended to completely clean 'wipe' server disks and disk storage arrays, including mirrored drives and related computer devices." If you're trying to clean up Dodge, why are you buying software that is going to allow you to more easily delete emails and documents in future?

**Hon. Kathleen O. Wynne:** I have no idea where that document comes from. I have no idea of the context—

**Mr. Gilles Bisson:** Let me send you a copy.

**Hon. Kathleen O. Wynne:** I have no idea the context in which that document was written or to what it pertains. I would have to get information for you on that. I have no idea what that document is referring to.

**Mr. Gilles Bisson:** But the point is, you come before this committee, you say, "I signed the arbitration agreement because I was convinced that it was going to lower the settlement cost," and the auditor comes here and says completely the opposite—that in fact, it didn't lead to a lessening of the settlement costs; it led to an increase of the settlement costs. You then say, "I'm the new sheriff in Dodge and as sheriff I'm going to clean up this place. There's going to be a new sheriff who's going to make sure that all of this is not happening again." Why are you buying software that's going to allow you to make sure that you can completely wipe server disks, storage arrays, including mirrored drives and related computer devices? Why?

**Hon. Kathleen O. Wynne:** Mr. Bisson, I'm not an IT expert, but I—

**Mr. Gilles Bisson:** Are you the Premier?

**Hon. Kathleen O. Wynne:** I am the Premier. I am the Premier—

**Mr. Gilles Bisson:** So then the question is—

**Hon. Kathleen O. Wynne:** —but I don't know whether this has to do with a specific ministry, a specific set of documents. I have no idea what this piece of technology is being purchased for. So I cannot comment—

**Mr. Gilles Bisson:** Fair enough.

**Hon. Kathleen O. Wynne:** I cannot comment on the relevance of this piece of paper—

**Mr. Gilles Bisson:** Fair enough.

**Mr. Bob Delaney:** Point of order.

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

**Mr. Bob Delaney:** Chair, thank you. This is a document that's dated the 20th of November, 2013, which is a request for proposal. It's tabled from the corporate services branch, infrastructure technology service. Not only is this document out of the scope of the committee's inquiry, but it has nothing to do with what we're here to talk about.

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

**Hon. Kathleen O. Wynne:** Can I just—

**The Chair (Mr. Shafiq Qadri):** In a moment, Premier. There are several issues. First of all, the point of order is not well-taken. Time has stopped for my PC colleagues. The issue is that recommendations that emanate from this committee with reference to whether it's email servers or siting of gas plants are material. Nevertheless, I think it is—I'll then return the floor to you, Mr. Bisson—

**Mr. Gilles Bisson:** I asked the question and you're saying you don't know what this is all about. I'll accept your answer, but if you—

**Hon. Kathleen O. Wynne:** But can I just finish that?

**Mr. Gilles Bisson:** Yes, go ahead.

**Hon. Kathleen O. Wynne:** To assume that somehow the potential purchase of this piece of technology, this piece of software, if that's what it is, has anything to do with the issues that we're talking about or other pieces of information that should be retained, that must be retained as part of our new protocol—that is a leap that I just don't think is logical.

**Mr. Gilles Bisson:** Well, you could argue that or you could argue the opposite. The fact is, this government deleted a whole bunch of information that would have been central to what this committee had to do. They knowingly did that, knowing what the result was, and then we see this RFP. You might be right. There might be something else going on, but you've got to admit that it does look kind of weird, doesn't it?

**Hon. Kathleen O. Wynne:** Again, I have no idea of the context of this RFP.

**Mr. Gilles Bisson:** I'm going to give you again this one document. I'll save the time; I'll give it to you directly. This is a CBC interview during the period of the election. Can you read into the record—

**Mr. Bob Delaney:** Chair?

**Mr. Shafiq Qadri:** Mr. Delaney, point of order.

**Mr. Bob Delaney:** Mr. Bisson is welcome to read into the record anything he wants to, but he cannot ask the witness to read anything into the record that is not her own testimony.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney. I believe the point is well-taken. I would also just remind colleagues that any documents that are to be

shared with the witness are (a) to be distributed by the Clerk and (b) to be distributed to all members of the committee simultaneously.

**Mr. Gilles Bisson:** So my question is, do you want to read it?

**Hon. Kathleen O. Wynne:** No, I have read it, and I go back to my position that there was a broad consensus among the community members and all parties that cancelling the gas plants was what needed to happen.

**Mr. Gilles Bisson:** That's your assertion. Let me just read—this is from an interview during the election: The Canadian Press, 2011 election. It says:

“Last-minute promises like that, people have to decide whether they're credible or they're not,” she said in Niagara Falls.” That's Andrea Horwath. “Now Mr. Hudak's making the same claim, we don't know what that's going to cost. I think what both these guys need to do is be really upfront ... about what the cost of cancelling these deals is going to be.”

Clearly, we were of the position that you don't cancel contracts and rip them up in the middle of an election without knowing what the cost is. So, just for the record, I wanted to put that in, because you had made an assertion earlier.

I just want to come back—

**Hon. Kathleen O. Wynne:** And I stand by my assertion that it was a consensus that the gas plant should be cancelled.

**Mr. Gilles Bisson:** Fair enough. The record proves otherwise.

I want to go back to the question of cabinet's knowledge and the knowledge of the caucus when it came to the withholding of the documents. We've had a number of cabinet ministers now tell us that there was discussion at cabinet, and those discussions were related to the strategies or the discussions around why it is that they're not releasing the documents to the estimates committee.

I'm going to ask you again, under oath, were you aware of any discussion at cabinet or in caucus that related to the non-release of documents requested by the estimates committee on May 16, 2012?

**Hon. Kathleen O. Wynne:** As I've said, I do not recall any discussion specifically about the release of documents to estimates. And as I've said before, you have all of the documentation, you have all of the cabinet minutes, that show what discussions took place.

**Mr. Gilles Bisson:** So I'm to believe, from what you're telling me, that either you don't remember those discussions or they never took place.

**Hon. Kathleen O. Wynne:** I've said I don't recall specific discussions about documentation and the estimates committee.

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

**Mr. Gilles Bisson:** Cabinet, I have to believe—because I've been on cabinet committees—discusses issues that are relevant to the government of the day. I find it very hard to believe, on an issue as big as not releasing documents requested by the committee, that there was no discussion at cabinet.

So I ask you again, were you aware of any discussions at cabinet in regard to the non-release of documents?

**Hon. Kathleen O. Wynne:** I've answered this question at least four times. I think you have my answer.

**Mr. Gilles Bisson:** Okay, that's fine. Thank you very much.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Bisson. To the government side. Mr. Delaney, 10 minutes.

**Mr. Bob Delaney:** Thank you very much, Chair. I must commend some of the staff for being able to very quickly find an explanation for the document that Mr. Bisson dropped in. He dropped a copy of a request for proposal to enable the Ministry of Government Services information technology branch to procure an automated software tool to securely overwrite internal server and desktop storage devices, which means hard drives. It is a standard security practice regarding old servers and desktops before they're disposed of, and does not have anything to do with records that must be retained by law.

**Mr. John Yakabuski:** And you're an expert on this?

**Mr. Bob Delaney:** As a matter of fact, yes, I will claim a little bit of expertise on this topic. Thank you very much.

There was a question raised earlier regarding a remark made when Deputy Minister Serge Imbrogno was before the committee, referring to an estimate of \$700 million. The \$700 million that they referred to was what the deputy minister speculated the costs could have been if—if—the matter had gone to arbitration. Those costs were never confirmed, and that was before the Auditor General's reports were released.

If members wish, particularly the PC members, we are pleased to recirculate a document already given to the committee some time ago which confirms that the OPA costs were estimated to be between \$33 million and \$138 million at that time, with many numbers that were going around, and I believe the final figure was \$40 million. I'll give this document to the Clerk, although members already have it.

**Hon. Kathleen O. Wynne:** That confirms my statement that the numbers were unclear and there was movement.

**Mr. Bob Delaney:** Indeed. Mr. Bisson's comments, I think, are a little mysterious for me.

Here's a quote from Andrea Horwath in Hansard, October 18, 2010: "New Democrats actually have thought for a long time that that plant"—referring to Oakville—"should never have been built and we've said so."

In the same year, 2010, the member for Toronto-Danforth said, on December 2, in Hansard: "I'm glad the people of Oakville hired Erin Brockovich and did all the things that they did in order to have this killed."

1620

The leader of the NDP said on March 3, 2010, "Gas plants should only be a last resort and should be built away from densely populated areas." And we have many other examples of quotes from the NDP, before and during the writ period, that said very clearly that they took the position that the Oakville plant was, in fact, not needed and should not be built.

I think Mr. Del Duca has a few questions.

**The Chair (Mr. Shafiq Qadri):** Mr. Del Duca?

**Mr. Steven Del Duca:** Premier, I wanted to move towards a brief discussion with our remaining time regarding how our government has been proactive with respect to the siting process. As many here would know, part of our committee's mandate is to consider the cancellation and relocation of the Mississauga and Oakville gas plants, but also to make recommendations regarding the tendering, planning and commissioning process.

On May 6, 2013, the Minister of Energy directed the OPA and the IESO to develop joint recommendations for a new integrated regional energy planning process that would focus on improving how energy infrastructure projects are sited in Ontario. From what I understand, feedback was received from over 1,200 Ontarians, including First Nations, Métis, municipalities and communities, and the IESO and the OPA reported back to the Minister of Energy on August 1 with 18 recommendations that our government committed to accepting and implementing.

I'm wondering if you could tell the committee today, do you agree that the OPA and IESO recommendations provide for the community-specific feedback that takes the concerns of individual communities into account?

**Hon. Kathleen O. Wynne:** Yes, I do, and I think you can see the impact of the recommendations from the IESO and OPA report on our long-term energy plan. The core recommendations—I'll just go over them quickly.

The first one is to strengthen processes for early and sustained engagement with local governments and the public. The second one is to provide local governments and communities with a greater voice and responsibility in planning and siting. The third is to support inter-ministerial coordination, and I think that's an important aspect of good engagement with the community, because we need to have that across-government approach.

The other recommendations—I will only speak to the first one, but I think it's a significant one, and that is the fostering of ongoing relationships with First Nations and Métis, and recognizing the duty to consult. It's the engagement of all of the communities of interest—it's the local community and it's the aboriginal people who might have an interest—and to do that in a way that is real, that is sustained. I think that had we done that in both these cases, we would not be having this discussion today.

**Mr. Steven Del Duca:** Terrific. Thank you. Just a couple of questions left from my perspective. We have talked previously—Mr. Delaney did mention the expanded scope of this committee. We've heard now over a hundred hours of testimony from over 70 witnesses, and have received nearly a quarter of a million documents to date. I'm wondering if there's anything else you'd like to add, providing any more information at all, or anything else you'd like to say to the members of the committee today.

**Hon. Kathleen O. Wynne:** No. I think it would be valuable at some point to hear the committee's report, to

hear the analysis of the information that the committee has gone through, and what the committee sees as the way forward. I think that the work that was done and is written up in the IESO and OPA report is very important work, but it would be interesting to know if there were more recommendations that might come forward from the committee, because there has been a very unprecedentedly open process in terms of the availability of documentation in the last 10 months, so I look forward to the committee's deliberations.

**Mr. Steven Del Duca:** That's it for me, Mr. Chair. Thank you very much, Premier, for being here again today.

**Hon. Kathleen O. Wynne:** Thanks a lot.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Del Duca. To the PC side. Ms. MacLeod?

**Ms. Lisa MacLeod:** Thanks very much, Chair. Thanks again very much, Premier. You had said something in my previous questioning of you, and I need some clarification. I asked if you accept the AG's finding, and you corrected me to say, "I accepted the AG's report." I'm wondering, does that—

**Hon. Kathleen O. Wynne:** I accept her findings. I accept her report.

**Ms. Lisa MacLeod:** You accept them both?

**Hon. Kathleen O. Wynne:** Yes.

**Ms. Lisa MacLeod:** Okay. That's important for me, because I didn't know if you were questioning that.

**Hon. Kathleen O. Wynne:** No.

**Ms. Lisa MacLeod:** All right. I want to get to—

*Interjection.*

**Ms. Lisa MacLeod:** My colleague mentions that there are MPPs in your caucus who have appeared before here who have questioned it, so that's why we asked, but I appreciate that.

Okay. I just would like to go back to the testimony that we previously had with respect to the force majeure measures, as well as the cabinet minutes that you signed. You signed off on a decision that has put us on the hook for \$1.1 billion. You stated that you signed off on the document with no knowledge of the costs associated, as a result of your decision.

I guess the question that I have is, how could you have signed off on such an expensive decision without knowing what the true cost would be? We've talked about what you knew and when you knew it; if we're to believe the claim that you didn't know, why did you sign it, and why didn't you ask questions?

**Hon. Kathleen O. Wynne:** Well, no one knew what the costs would be. Whether we had gone into a negotiation or whether we had gone down the path and there had been litigation, I don't think anyone at the time could have said precisely what the costs were going to be. So, as I've said a number of times, our belief was that entering into a negotiation in order to avoid litigation was the responsible thing to do. The way to have avoided this would have been to have had a different process in place in the first place, but given where we were, the advice we were getting was that avoiding litigation was the responsible thing to do.

**Ms. Lisa MacLeod:** The only problem with that, and I mentioned it in the last exchange that you and I had, is that so many impartial players came to the table. Bureaucrats, people who aren't members of the Liberal government or members of the Liberal Party came before us.

Serge Imbrogno was pretty clear; I was here. He said that you would have known in December 2011 that it would have exceeded \$700 million, so the next question then becomes this: If you and a few of your other cabinet colleagues at the time could sign off on a document to avoid litigation that would end up costing us \$1.1 billion, how many more cabinet minutes have you signed that could potentially put risk to the taxpayer and the ratepayer?

**Hon. Kathleen O. Wynne:** Well, again, I'm not going to be able to answer that hypothetical question. At every juncture, we have done and I have done what I believed was in the best interests of the people of Ontario. Litigation was not the path that we believed we should go down.

Do I wish that we had made different decisions earlier about siting these gas plants? Absolutely. Do I wish that there'd been a different process in place? Absolutely. That's why we're putting a new process in place. As I say, I wish that we had had a different process in place in siting both of these gas plants.

**Ms. Lisa MacLeod:** Do you regret signing that cabinet minute?

**Hon. Kathleen O. Wynne:** I wish that we had had a different process in place. I regret that we didn't have a better way of engaging the community, a better protocol around making these decisions, in the first place. At each juncture, I did what I believed was the responsible thing to do.

**Ms. Lisa MacLeod:** But I don't think a responsible politician would have signed off on a blank cheque, which is effectively what you did to make TCE whole.

When Shelly Jamieson appeared before this committee, she laid out a number of options to cabinet to say, "These were your options." This has been, of course, reinforced by the auditor's report that said there were force majeure provisions. The mayor of Oakville said that there would have been a lengthy battle at the Supreme Court, meaning the force majeure provisions would have prevented us from paying those exorbitant fees as ratepayers and taxpayers—

**Hon. Kathleen O. Wynne:** I don't think that that's a natural conclusion to what you're saying, but anyway—

**Ms. Lisa MacLeod:** Well, I do, and I think the problem here now is not just the money anymore, and it's not just what some would consider a cover-up. The question now becomes whether or not we can trust you. The problem is, when you come before this committee and say, despite all of us knowing that the OPP was in your office—you deny any knowledge of that. You came to this committee several times—

**Hon. Kathleen O. Wynne:** Sorry, I did not deny knowledge of an investigation into the former Premier's office. I understand there's an investigation. I don't know the details of that investigation, because I don't direct the

police. The police will do what they do. You have asked them—the Conservatives have asked them to investigate the former Premier's office. That is happening, but I do not know the details of their investigation.

**Ms. Lisa MacLeod:** Okay, but the problem is that they did appear at your office. You tell this committee that you don't know the details, but they were in your office. You told this committee it was only a \$40-million price tag, then we find out it's a \$1.1-billion price tag. You go on TV to profess to Steve Paikin that you're sorry and you regret everything, but then we learn that you had to practise before you did that.

We're now talking about signing off on a document that you don't understand, or didn't understand what the repercussions were. This now becomes a matter of trust, beyond cover-up, beyond the amount of money that it has cost the people of the province. That becomes a very significant issue for the entire public.

**Hon. Kathleen O. Wynne:** I have no idea how other politicians do their job. I know that when I'm going to do an important interview or appear before a committee or go into the Legislature to answer important questions posed by the opposition, I take some time to read documents, talk with my staff and understand the issues. That's how I practise.

**Ms. Lisa MacLeod:** Okay.

**Hon. Kathleen O. Wynne:** When I am aware that the opposition has asked the OPP to do an investigation, I am aware of that, but I don't know the details of the investigation. When I am confronted as a politician, as a member of cabinet, with a decision that I believe is in the best interests of the people of the province, to avoid litigation, then I sign a document that takes us down that path.

**Ms. Lisa MacLeod:** But you signed the document without—

**Hon. Kathleen O. Wynne:** I have at every juncture acted in good faith, in what I have believed to be in the best interests of the people of this province. I will continue to behave in that way, and I will continue to read documents and prepare for important meetings before I go into them.

**Ms. Lisa MacLeod:** Okay, but the problem is that, in this case, you didn't prepare. In this case, you didn't get briefed. In this case, you didn't find out what the true costs were, or you are not telling us the truth. You can't have it both ways. You can't say, "I'm going to prepare for Steve Paikin," and you're going to understand that you don't want litigation, and then not know that there is a risk for the taxpayer when you sign over those documents and hand over the negotiating rights.

**Hon. Kathleen O. Wynne:** I didn't say that.

**Ms. Lisa MacLeod:** That is exactly what you said.

**Hon. Kathleen O. Wynne:** I didn't say that I didn't know there was a risk.

**Ms. Lisa MacLeod:** That is exactly what you did.

**Hon. Kathleen O. Wynne:** No. Excuse me. I didn't say that I didn't know there was a risk. There was a risk. There were risks associated with relocating these gas plants. There was a risk of litigation, and there was a risk of higher costs. Of course we knew that, but the decision that we made was that the risk of litigation was the greater risk, so we went down a different path. When I say that I acted in good faith as part of cabinet, that is exactly the truth, and I will continue to act in good faith.

**Ms. Lisa MacLeod:** Your answers aren't consistent, and your answers—

**Hon. Kathleen O. Wynne:** Well, you may not like my answers, but they are.

**Ms. Lisa MacLeod:** No. Premier, that's another story. The problem is, when you're looking at this, you're looking at people's testimony, you're reading people's Hansard, you're living this committee every day, you're in the House and you're asking the questions, on one day we get one answer from you and on another day we get another. Then, of course, we have other deputants who are impartial, who come to us and contradict your story-line. By the way, you've contradicted yourself today. That is the issue.

If you're telling us in this committee that you didn't get the proper briefing materials, that you weren't told what the true costs could be, and yet at the same time you're telling us that you acted in the best faith, that you were preparing for Steve Paikin, you have your staff, you've got all those documents and you're always prepared, why weren't you prepared when you signed that document to know what the true costs were for the taxpayers and ratepayers of this province?

**Hon. Kathleen O. Wynne:** Because that cost was not knowable. No one knew what that cost was going to be. It was impossible to know what that exact cost was going to be, and you are well aware of that. I have said that, and that has been said consistently by people in front of this committee. There was no way to know the exact cost.

**Ms. Lisa MacLeod:** Are you done?

**Hon. Kathleen O. Wynne:** Absolutely.

**Ms. Lisa MacLeod:** No questions.

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. MacLeod, and thank you, Premier, for your presence, patience and endurance. We look forward to your next visit with us, should there be any. You are respectfully dismissed.

If there is no further business before the committee—seeing none, the committee is adjourned.

*The committee adjourned at 1634.*

# CONTENTS

Tuesday 3 December 2013

|                              |         |
|------------------------------|---------|
| Members' privileges .....    | JP-1171 |
| Hon. Kathleen O. Wynne ..... | JP-1171 |

## STANDING COMMITTEE ON JUSTICE POLICY

### Chair / Président

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

### Vice-Chair / Vice-Président

Mr. Phil McNeely (Ottawa–Orléans L)

Ms. Teresa Armstrong (London–Fanshawe ND)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Steven Del Duca (Vaughan L)

Mr. Frank Klees (Newmarket–Aurora PC)

Mr. Jack MacLaren (Carleton–Mississippi Mills PC)

Mr. Phil McNeely (Ottawa–Orléans L)

Mr. Rob E. Milligan (Northumberland–Quinte West PC)

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Mr. Jonah Schein (Davenport ND)

### Substitutions / Membres remplaçants

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

Ms. Lisa MacLeod (Nepean–Carleton PC)

Mr. Peter Tabuns (Toronto–Danforth ND)

Ms. Lisa Thompson (Huron–Bruce PC)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

### Clerk / Greffière

Ms. Tamara Pomanski

### Staff / Personnel

Mr. Jeff Parker, research officer,  
Research Services

Mr. Peter Sibenik, Table Research Clerk,  
Table Research