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Tuesday 4 March 2014

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Mardi 4 mars 2014

**Standing Committee on
Justice Policy**

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Hansard Reporting and Interpretation Services
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Tuesday 4 March 2014

Mardi 4 mars 2014

The committee met at 1502 in room 151.

MEMBERS' PRIVILEGES

MR. PHILIP DONELSON

The Chair (Mr. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice. Je voudrais accueillir notre prochain présentateur, Philip Donelson, policy adviser of the office of the Minister of Energy, who will be affirmed by our able Clerk.

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

Mr. Philip Donelson: I do.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Donelson. I know you know the drill. You have a five-minute opening address. I'd also pass on greetings on behalf of the Clerk for the one-year anniversary of the justice policy committee and these hearings.

Your time begins now.

Mr. Philip Donelson: Thank you, Chair and honourable members. My name is Philip Donelson, and I'm a policy adviser to the Honourable Bob Chiarelli, Ontario's Minister of Energy. I'll make some brief comments about my time in government, and I'll be happy to respond to your questions to the best of my ability.

I've had the privilege of working for Minister Chiarelli since September 2012, when I joined his staff as legislative assistant and issues manager during the minister's time at the Ministries of Transportation and Infrastructure. When the minister was shuffled to the Ministry of Energy in February 2013, I remained at transportation and infrastructure for approximately one month to assist in the transitioning of the new office before rejoining Minister Chiarelli at the Ministry of Energy.

Prior to my time in Minister Chiarelli's office, I served in the office of MPP Leeanna Pendergast from 2009 to the summer of 2011 part-time while attending the University of Toronto.

My time with the Ministry of Energy has consisted of two roles: first, as a legislative assistant and issues manager; and, presently, as a policy adviser to the minister.

As a policy adviser, my files generally include regulatory issues in relation to our agencies and local distribu-

tion companies around the province, strategic planning for our energy agencies, and First Nations and Métis engagement.

I'm very proud of what we have accomplished over the past year under Minister Chiarelli's leadership, to bring a balanced, pragmatic and collaborative approach to energy policy in the province.

As my chief of staff testified before this committee, matters in relation to the 2010 and 2011 relocations of the Oakville and Mississauga gas plants, including the Auditor General's reports, have been handled by my chief of staff since Minister Chiarelli assumed office. My only work in relation to the issue was as legislative assistant, when I would brief the minister on issues in preparation for question period.

With regard to document disclosure requests from this committee, our office received two motions requiring us to perform searches for documents. Our office followed the directions provided by the Ministry of Energy, developed in collaboration with Cabinet Office, to search for and disclose all relevant records. In his appearance before the committee, my chief of staff outlined this process in further detail.

With that, I will do my best to answer any questions you may have related to my time at the ministry.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Donelson. To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much, Chair. I'll be splitting my time with my colleague Mr. Yakabuski.

Mr. Donelson, thanks for joining us here today at the gas plants committee. As you probably heard when we were off-record, this is the one-year anniversary of the committee. In many respects, we've uncovered a lot of information; in others, we're still digging. So we appreciate your attendance here today.

I'd like to just ask how you prepared for this interview prior to coming here. Did you work, for example, with your chief of staff, anybody in the Premier's office, and had you spoken at all, at any length, with your minister about this before appearing here today?

Mr. Philip Donelson: Sure. I prepared my own opening statement; I wrote it myself. In preparation for my appearance today, I reviewed previous testimony of my colleagues in the Ministry of Energy, and the minister's testimony. I spoke with some of the issues and communications staff in our office about how the committee works and what to expect from today.

Ms. Lisa MacLeod: Yes. Did you do any sort of preparation, almost a debate simulation or a simulation of the committee?

Mr. Philip Donelson: Nothing like that. It was just very high level.

Ms. Lisa MacLeod: You spent some time in the minister's office and then you left briefly. Is that correct? Is that what I heard? After Leeanna Pendergast's office, you—

Mr. Philip Donelson: No. I was doing my master's at the University of Toronto at that time, so I had left her office, I think, at the beginning of the summer in 2011. After I completed my degree, I came back to Queen's Park and joined Minister Chiarelli's office.

Ms. Lisa MacLeod: It says here that you left for a brief time, or is it just a role change that you had? It said: "Legislative assistant and issues manager, Government of Ontario, Office of the Minister of Energy," and then you became a policy adviser. So that would have been a promotion. Is that how, in your bio—

Mr. Philip Donelson: That's correct.

Ms. Lisa MacLeod: So you've been uninterrupted with Minister Chiarelli during that period of time.

Mr. Philip Donelson: Yes. Just to clarify, I stayed at the Ministries of Transportation and Infrastructure for about a month after transition in February, just to assist in the transition.

Ms. Lisa MacLeod: Okay. Your current title is policy adviser, regulatory affairs and strategic policy.

Mr. Philip Donelson: That's correct.

Ms. Lisa MacLeod: So presumably, you would have handled the issues file during the early days of the gas plants review. Can you provide us with any insight into the ministry dealings with not only the gas plants at Mississauga and Oakville but how you would deal with the OPA and the Premier's office? Because those are some very heavy issues.

Mr. Philip Donelson: On the issue of the gas plants, as my chief of staff testified, he held carriage of this file for the ministry.

Ms. Lisa MacLeod: He, and solely he, looked after the gas plant file.

Mr. Philip Donelson: That's correct, yes.

Ms. Lisa MacLeod: And at no point in time, for example, would you have provided the minister with talking points or issues notes into the House as a result of responses to the questions that I or any of my colleagues would have asked?

Mr. Philip Donelson: In my role as legislative assistant, I would brief the minister before question period each day and work on his House book notes for all issues.

Ms. Lisa MacLeod: Would you consider this to be an issue, though, the gas plants?

Mr. Philip Donelson: Yes.

Ms. Lisa MacLeod: So you would have prepared House notes for the minister?

Mr. Philip Donelson: Yes, I would have.

Ms. Lisa MacLeod: When those House notes were prepared, were they vetted by anyone?

Mr. Philip Donelson: No.

Ms. Lisa MacLeod: No? So you just prepared them, and your chief of staff wouldn't look at them or, for example, somebody in the House leader's office or the Premier's office wouldn't look at them? There were no—

Mr. Philip Donelson: I mean, it's common practice for anybody in the role of legislative assistant to share House book notes with the Premier's office, for instance, but that's just purely information sharing.

Ms. Lisa MacLeod: At any time, would the House notes that you provided to the Minister of Energy have ended up in the Premier's House notes?

Mr. Philip Donelson: I wouldn't have any knowledge of that.

Ms. Lisa MacLeod: You wouldn't have any knowledge of that.

Mr. Philip Donelson: No.

Ms. Lisa MacLeod: At any point in time, for example, did her director of policy or anyone else in her office, whether it was an issues manager or her own chief of staff or deputy chief of staff, ever look at one of your House notes and ask for clarification on matters?

Mr. Philip Donelson: I don't have any specific recollection of that occurring. I couldn't say.

Ms. Lisa MacLeod: Can you let me know this: It's frequent in governments that issues managers get on the phone, perhaps once a day or a couple of times a week, to discuss major issues. I'm just wondering: At any time, did you ever participate on a government-wide call of issues managers from the various ministries and ministers' offices?

Mr. Philip Donelson: Yes.

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Ms. Lisa MacLeod: Who would typically spend time on those calls?

Mr. Philip Donelson: It's common for legislative assistants to have a conference call just to check in with one another.

Ms. Lisa MacLeod: At any time since you have become a member of the minister's staff, did you participate in any of those calls?

Mr. Philip Donelson: Yes, I did.

Ms. Lisa MacLeod: When would you have participated in them?

Mr. Philip Donelson: They occur regularly.

Ms. Lisa MacLeod: Daily or weekly?

Mr. Philip Donelson: Daily, yes.

Ms. Lisa MacLeod: So you would participate frequently?

Mr. Philip Donelson: Yes.

Ms. Lisa MacLeod: So this would be something you normally and naturally do. Who would lead those discussions? Someone from the Premier's office?

Mr. Philip Donelson: Typically, the issues staff in the Premier's office.

Ms. Lisa MacLeod: The issues person—can you tell me what that person's name is?

Mr. Philip Donelson: I believe the call was led—this was a while ago when I was doing this—by Bill Killorn.

Ms. Lisa MacLeod: Pardon me?

Mr. Philip Donelson: Bill Killorn.

Ms. Lisa MacLeod: Bill Thorn?

Mr. Philip Donelson: Bill Killorn.

Ms. Lisa MacLeod: How do you spell that?

Mr. Philip Donelson: I'd have to get back to you.

Mr. John Yakabuski: B-I-L-L.

Ms. Lisa MacLeod: B-I-L-L.

Mr. John Yakabuski: I'll help you with the first part.

Ms. Lisa MacLeod: You're not doing these anymore?

Mr. Philip Donelson: No.

Ms. Lisa MacLeod: Who in your office would be taking those calls?

Mr. Philip Donelson: I believe Matthew Whittington.

Ms. Lisa MacLeod: Matthew Woodington?

Mr. Philip Donelson: Whittington.

Ms. Lisa MacLeod: Whittington. When you were taking these calls, at any point in time, did you have to brief your colleagues on the gas plants issue as an issue that would be arising in question period later that day or that came up the day before?

Mr. Philip Donelson: I wouldn't characterize it as a briefing; I would just be sharing some high-level key messages. That would be for any issue that faces the Ministry of Energy.

Ms. Lisa MacLeod: Yes. Would you then send speaking points on the gas plants issue once it was addressed on an issues call by the government?

Mr. Philip Donelson: My role is to develop the key messages that go into the House book for the minister, so I would then take it to him for that day. Depending on what the issue is, I would chat with him about what's going on—

Ms. Lisa MacLeod: But you would definitely have spoken on an issues call with the Premier's office as well as other ministers' offices about the issue of the gas plants.

Mr. Philip Donelson: Yes, that's correct.

Ms. Lisa MacLeod: You would have. At any time, were you asked questions by the Premier's office or by other ministerial staff from a variety of different departments?

Mr. Philip Donelson: No. It's not a question-asking call.

Ms. Lisa MacLeod: Who would have been responsible for the gas plants issues within the Premier's office?

Mr. Philip Donelson: I wouldn't be able to speak to that. I'm not sure. I don't work in that office.

Ms. Lisa MacLeod: So at no time would somebody from the Premier's office contact you directly and say, "You're working on this House note. You talked about it on the issues team. I need a little bit more information to give to the Premier in order for her to respond" either (a) in the gas plant committee, when she has been invited to hearings; (b) in the Legislature, while she's answering questions from the opposition; or (c) responding to media requests or media availabilities? At no time was there any

collaboration between you or your office with the Premier's office?

Mr. Philip Donelson: What do you mean by "collaboration"?

Ms. Lisa MacLeod: Well, you know how these things work. Right? Typically, ministers try to provide policy cover to the Premier or the Prime Minister. They do that working in tandem with one another where the minister or ministry officials would be deemed the political expert within their file, and they would provide that information to the centre—as it's typically called in our lexicon—whether that's the Premier's office or the Prime Minister's office. I just would find it, with all due respect, very difficult to believe that those conversations never would have taken place between the Premier's office and the minister's office.

Mr. Philip Donelson: As I said, my chief of staff handled the gas plants file specifically. I would create the House book for the minister and update the notes as needed and was happy to share those with the Premier's office.

Ms. Lisa MacLeod: So you've shared your issues notes. Just one final question, and I'll give it over to my colleagues here. You would have obviously, as an issues analyst—now you're a senior policy adviser. You're somebody who spent a great deal of time with the minister on this matter: You've drafted House notes; you provided issue notes; and you would have been a liaison in many ways with the Premier's office or the centre, as it were. I'm wondering, when you moved over to the Ministry of Energy from infrastructure, were you ever given a briefing on what these gas plants issues were all about?

Mr. Philip Donelson: When I joined the Ministry of Energy—I believe it was in March 2013—I received a series of foundational briefings, one of which was on this particular issue. It was very sort of high level—just a timeline of the events that had occurred up until that point. So it was a very short briefing.

Ms. Lisa MacLeod: Who provided that briefing?

Mr. Philip Donelson: I don't recall specifically. It would have been ministry staff.

Ms. Lisa MacLeod: It was ministerial staff, not political staff?

Mr. Philip Donelson: No. It would have been Ministry of Energy staff.

Ms. Lisa MacLeod: Okay. So it was a bureaucratic briefing?

Mr. Philip Donelson: Yes.

Ms. Lisa MacLeod: Okay. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Mr. Donelson, for joining us here.

I'm going to focus on some of the stuff surrounding question period because you provided the minister with his House book. That would be his notes, his speaking notes, his notes for responses. But in the context of question period, many times opposition questions, either from us or the third party, would be directed to the Premier. So would you be involved in the Premier's responses,

briefing the Premier's office with possible responses to those questions in the House as well?

Mr. Philip Donelson: No.

Mr. John Yakabuski: No.

Mr. Philip Donelson: I wasn't involved in the Premier's briefing—

Mr. John Yakabuski: No involvement in that. So where was the coordination between the two offices? Where was the clearinghouse? Who was the central figure who would ensure that the messaging was the same when the Premier was answering the question or when the Minister of Energy was answering the question?

Mr. Philip Donelson: As I said, I had my House book and shared that with the Premier's office. They would have seen the notes I had for the minister and what the minister was—

Mr. John Yakabuski: So you did have communication with the Premier's office on possible responses in question period?

Mr. Philip Donelson: Yes, but I would not be involved in briefing the Premier in any way.

Mr. John Yakabuski: No; I didn't mean it in a direct basis where you'd be sitting down with Kathleen Wynne. I didn't mean that. But there was constant communication as to how we were going to respond to this on a daily basis in the House as issues arose and as new information became available to us, for example, in the work of this committee. We found on this committee that many of the answers that were given in the House on one day were shown to be—and I'll say this charitably—inaccurate. The answers were wrong—factually wrong—from the point of view particularly of the cost issues. I specifically look, for example, at when the auditor's reports were coming out or when the speculation as to what the auditor was finding was coming out.

Where would this information have been gotten from? When you're giving the minister—were they just making it up? Were you making it up for them? Was this kind of a collaboration thing? When they were clinging to figures like \$40 million and stuff like that, where was that coming from?

Mr. Philip Donelson: Well, the ministry—the bureaucratic side of it, the public servants—create House book notes as well. They provide those to us, and we make changes as we see—or use that as background, I guess—

Mr. John Yakabuski: You make changes?

Mr. Philip Donelson: No. Actually, that's not the right way of saying it.

Mr. John Yakabuski: But you did say it. So you make changes. They could give you something that was factual, and you might change it to something that suited the message of the day. Is that what you're saying?

Mr. Philip Donelson: No, that's not what I'm saying.

Mr. John Yakabuski: What are you saying?

Mr. Philip Donelson: I meant formatting changes, larger font and that sort of thing.

Mr. John Yakabuski: Formatting changes?

Mr. Philip Donelson: Yes.

Mr. John Yakabuski: Okay.

Mr. Philip Donelson: As I said, I would have worked with the minister to—

Mr. John Yakabuski: Right. Okay. Well, that's interesting.

So when these questions would be presented to the Premier or the minister, and it was clear that the pressure was building—and we're going back a year that this committee's been going on, and the questions went on before that. I understand that you only came on board—when was it that you came on board, Mr. Donelson, the date? I've got years here, but I don't have a date.

Mr. Philip Donelson: To which office?

Mr. John Yakabuski: To the Minister of Energy.

Mr. Philip Donelson: That was March 2013.

Mr. John Yakabuski: So as soon as Mr. Chiarelli was appointed minister?

Mr. Philip Donelson: About a month later.

Mr. John Yakabuski: Right. Okay. Some of this stuff had taken place beforehand, but of course Minister Chiarelli was in the cabinet as well, so you would have been part of those conversations that staff from different ministers' offices have on a regular basis, as you said. I'm curious as to when the tenor changed within your offices as to how we were going to respond to this in the House. Was it after the auditor's report was tabled, or was there a meeting—because we know that the auditor's report had to be given to the minister or the Premier's office, most likely the minister as well, prior to it being tabled, so that they had a chance to review it. So you knew before the report was published that the numbers that you had been talking about all along, or your minister or the Premier had been talking about all along, were in fact not correct. When did the conversation take place that, "We have to start to formulate a new response, knowing that the auditor's report is going to throw cold water on what our story was all along"?

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Mr. Philip Donelson: I'm not really sure what you mean. I don't know that the tenor changed, as you said. If you could be more specific.

Mr. John Yakabuski: When the auditor was completing the report, the Premier's office and the minister would have received the report before we saw it, because they had the opportunity to respond to it. It's standard procedure for the auditor to let the government know what they're going to be producing. Many times there are actual ministerial responses, not so much in this one, but the facts were clear sometime at that point that there were going to be changes in what was going to be presented to the public. In your meetings with your different ministry staff, the minister himself, the people in the Premier's office that were also directing this, when did they say, "We're going to have to start to prepare new responses, because we know that the auditor's report is debunking what we have been saying all along"?

Mr. Philip Donelson: I wasn't involved in such a conversation.

Mr. John Yakabuski: Never involved in such a conversation?

Mr. Philip Donelson: I don't recall any, no.

Mr. John Yakabuski: So who would be involved in that conversation?

Mr. Philip Donelson: I wouldn't be able to speculate. I'm sorry.

Mr. John Yakabuski: But you provide the issue notes for the minister. Was the auditor's report or the content of it, prior to its public release, ever mentioned to you? Were you aware of the contents before its public release?

Mr. Philip Donelson: My chief of staff, as I said, had carriage of this whole file. I was made aware of—I saw a copy of the auditor's report after it was final—

Mr. John Yakabuski: But not published?

Mr. Philip Donelson: —shortly before its release, to read through.

Mr. John Yakabuski: What do you consider “shortly,” Mr. Donelson? A month?

Mr. Philip Donelson: No, no. I believe it was within a day.

Mr. John Yakabuski: Within a day of it being publicly released is when you saw it?

Mr. Philip Donelson: Yes.

Mr. John Yakabuski: And when would your minister have seen it?

Mr. Philip Donelson: I don't know that he would have seen a copy of the report specifically. I believe he testified that he received a high-level briefing.

Mr. John Yakabuski: Interesting.

Did you have any questions, Lisa? I'm going to turn this over.

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

Ms. Lisa M. Thompson: Well, I find it very intriguing, Mr. Donelson, that we're going in circles here today, because as I heard you describe the situation, you're responsible for preparing the House notes and briefing notes for the minister.

Mr. Philip Donelson: That's correct.

Ms. Lisa M. Thompson: All the while, it sounds like it's very fluid. You're getting last-minute information from your chief of staff in order to brief the minister, and it's concerning that your minister hadn't even reviewed the Auditor General's report, because they were sharing numbers that—they were in a position of trust. I guess my question for you to kick off is, how do you feel the Ontario taxpayer should feel when they hear that there's very little preparation, that the minister doesn't even read the Auditor General's report? How do you think Ontario taxpayers should feel when this type of information is being disclosed?

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

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

Mr. Bob Delaney: That one has in fact crossed the line, making an assertion of something that likely never took place and asking the witness to speculate on something that he had no way of knowing about.

Ms. Lisa MacLeod: Same point of order, Chair.

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

Ms. Lisa MacLeod: While I do appreciate that he allowed me to go through my questioning, I think the questioning by my colleague is fair, given that it was indicated by the witness that he did not provide that material; the minister did not read the report.

The reality is, Chair, you cannot have it both ways, so a direct answer to a direct question would be most preferable, and if he's not prepared to provide that, then I think that the question my colleague is asking is fair.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. We're still debating the issue. We're coming down really on the side that the question is crossing the line, probably not really material. The witness is free to answer as he sees fit. It does seem to be a little bit on the speculative side. Please continue; a minute and a half left.

Ms. Lisa M. Thompson: You're allowed to answer.

Mr. Philip Donelson: That's all right.

Ms. Lisa M. Thompson: Interesting. No answer is an answer. I just need to put that on the record.

Ms. Lisa MacLeod: May I also put it on the record that our witness is here under oath. Could you reconfirm that, yes or no, Chair?

The Chair (Mr. Shafiq Qaadri): Mr. Donelson?

Ms. Lisa MacLeod: Our witness is under oath?

The Chair (Mr. Shafiq Qaadri): Yes, yes. He has affirmed.

Ms. Lisa MacLeod: Thank you.

You may want to proceed again.

Ms. Lisa M. Thompson: Okay. So again, your role is to prepare the House book—

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

Ms. Lisa M. Thompson: —to brief the minister. Who do you get your briefing from in order to brief the minister?

Mr. Philip Donelson: In that role, I would review the news clippings of the day, whatever was in the news, and share that with him, and perhaps make changes to—

Ms. Lisa M. Thompson: So ultimately, you've been responsible for some of the things that we've heard the minister share within the House, be it correct or not?

Mr. Philip Donelson: I simply prepare the House book notes, in that role, and update it based on news clippings of the day.

Ms. Lisa M. Thompson: Do you enjoy your position?

Mr. Philip Donelson: I'm not currently in that position anymore. I do very much—

Ms. Lisa M. Thompson: Did you enjoy that position?

Mr. Philip Donelson: —enjoy my position.

Ms. Lisa M. Thompson: Interesting. Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you to the PC side. Mr. Tabuns, your turn.

Mr. Peter Tabuns: Mr. Donelson, thank you for being here today. I assume you're familiar with the Archives and Recordkeeping Act?

Mr. Philip Donelson: I am indeed.

Mr. Peter Tabuns: And you maintain your records in your current position in accord with the act?

Mr. Philip Donelson: I do.

Mr. Peter Tabuns: When you worked for the government prior to February 2013, did you keep your records in accord with the Archives and Recordkeeping Act?

Mr. Philip Donelson: I believe so, yes.

Mr. Peter Tabuns: I'm sorry?

Mr. Philip Donelson: Yes.

Mr. Peter Tabuns: You did. So when you left your previous positions with infrastructure and transportation, you turned over your records to the archivist?

Mr. Philip Donelson: When I left, I transitioned, in the sense that I left all relevant documents with the person who was taking my job. I sat down with them and discussed what the job was, what the issues facing the ministry were. I shared my House book and relevant documents.

Mr. Peter Tabuns: You were aware at that time of the existence of the ARA, the Archives and Recordkeeping Act?

Mr. Philip Donelson: I'm not sure that I was. We received training on that act, I believe it was in the spring of this year, and so I was made fully aware at that point.

Mr. Peter Tabuns: Before you were made fully aware of the act, though, in your common practice as a political staffer, you preserved your emails, you preserved relevant records?

Mr. Philip Donelson: Yes. I never made a habit of deleting emails or that sort of thing.

Mr. Peter Tabuns: And was that the practice of the people who you worked with?

Mr. Philip Donelson: I wouldn't be able to comment on their practices. I'm not sure.

Mr. Peter Tabuns: Okay. I have no further questions. I appreciate your being forthcoming.

Mr. Philip Donelson: Thank you.

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

Mr. Bob Delaney: Mr. Donelson, welcome. You're witness number 81 on our one-year anniversary.

Just a quick recap: I think this is a question you already answered from one of my colleagues. You began working at the minister's office, at energy, in March 2013. Correct?

Mr. Philip Donelson: That's correct.

Mr. Bob Delaney: The estimates motion that requests correspondence related to the gas plants captured documents up to December 2011. Based on when you began working at the Ministry of Energy, it would also be correct that that first estimates motion would not have captured any of your documents.

Mr. Philip Donelson: That's correct.

Mr. Bob Delaney: You might remember that on March 5, 2013, the government members of the committee moved a motion directing a government-wide search of all documents relating to the relocations of both gas plants. That motion would have required all government ministries, ministers' offices, Cabinet Office, Premier's

office and the OPA to conduct a search of their records. You would recall that, I think.

You didn't work at all with the Ministry of Energy prior to the leadership race in 2012-13?

Mr. Philip Donelson: That's correct.

Mr. Bob Delaney: So relevant correspondence with your name on it would have been captured within that March 5 document request motion and turned over to this committee. Right?

1530

Mr. Philip Donelson: I believe so.

Mr. Bob Delaney: A couple of questions—I'm going to follow my colleague Mr. Tabuns. Were you ever directed by any of your chiefs of staff or other colleagues to delete things?

Mr. Philip Donelson: No.

Mr. Bob Delaney: When former Premier McGuinty testified at committee, he agreed that there had been a lack of adequate training for staff in this area of records management, which stands to reason: The technology in between the time the government was elected and the present has progressed in leaps and bounds in ways not even imaginable at the time the government was formed in the fall of 2003.

In former Premier McGuinty's response to the Information and Privacy Commissioner's report, he stated, "I agree with the commissioner that despite some efforts, we did not devote adequate resources and attention to ensuring all government staff in all ministries and in the Premier's office were fully informed of their responsibilities. This inadequate training made it difficult for staff government-wide to both understand their responsibilities regarding the preservation of public records and to exercise sound judgment in determining which records must be kept as public records and which can be eliminated." Would you agree with the former Premier that there was, at that time, a lack of formal training in how to properly manage records?

Mr. Philip Donelson: Yes, I would agree with that.

Mr. Bob Delaney: Okay. So I'm sure, then, that being said, that it was apparent to staff that they were not required to keep every single record. Right? Okay.

As you're aware, the government has taken a number of initiatives to improve the system and to ensure that staff are better trained in record-keeping and in document retention practices. I'm just going to review a couple of things here. The Archives and Recordkeeping Act explains that transitory records are not required to be kept, and the Common Records Series defines those transitory records as "records of temporary usefulness in any format or medium, created or received by a public body in carrying out its activities, having no ongoing value beyond an immediate and minor transaction or the preparation of a subsequent record." According to the act, there are many types of records that would fall into this transitory category; for example, duplicates, records of short-term value, intermediate records and draft documents. In fact, Archives Ontario even has a fact sheet which now forms a part of this committee's permanent

record, and it's entitled *The Fine Art of Destruction: Weeding Out Transitory Records*.

First of all, did you participate in the mandatory staff training?

Mr. Philip Donelson: Yes, I did.

Mr. Bob Delaney: Do you have a better understanding of your requirements on what to keep and what to toss?

Mr. Philip Donelson: Yes. The training was robust. I found it very useful.

Mr. Bob Delaney: Okay. A little bit, then, about your experience with the Minister of Energy and the series of initiatives that the ministry has rolled out since you started to work there—

Ms. Lisa MacLeod: Point of order, Chair.

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

Ms. Lisa MacLeod: I'm not sure how this is relevant. If the member opposite won't allow us to question on the long-term energy act, I hardly see how it is relevant for the witness's position, observations or opinions on any of the other initiatives that have been rolled out by the Liberals in the Ministry of Energy.

Mr. Bob Delaney: I don't mind my colleague questioning the relevance of a question—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. I appreciate your—

Mr. Bob Delaney: —but I haven't asked one yet.

The Chair (Mr. Shafiq Qaadri): Just a moment, Mr. Delaney.

We appreciate your concerns. It seems to escape the notice of all members of the staff and the Chair—

Ms. Lisa MacLeod: I know, because it was so riveting; that's why.

The Chair (Mr. Shafiq Qaadri): I'd invite you to just continue and please confine your remarks to the mandate. Thank you.

Mr. Bob Delaney: Well, thank you, Chair, but as I just said, I have not asked a question off track yet.

The figures that the minister would refer to were supplied to the ministry by the Ontario Power Authority. Correct?

Mr. Philip Donelson: That's correct; yes.

Mr. Bob Delaney: So it would then be inaccurate to say that the figures that you would have put into any of your briefing notes originated in the Ministry of Energy. In fact, in every case, the ministry was relying upon information supplied to it and verified by the Ontario Power Authority. Correct?

Mr. Philip Donelson: Yes, that's correct.

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

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Delaney. Ms. MacLeod—to the PC side.

Ms. Lisa MacLeod: Did you know that it was illegal to delete emails in an attempt to cover up the truth?

Mr. Philip Donelson: I don't know what you mean.

Ms. Lisa MacLeod: It's fairly clear. It's illegal to delete emails to cover up the truth. Did you know that?

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod, the language is a little bit excessive, but go ahead.

Ms. Lisa MacLeod: Okay. Our legal adviser had said it was fine.

The Chair (Mr. Shafiq Qaadri): Well, I can get my legal adviser to talk to your legal adviser—

Ms. Lisa MacLeod: Okay. That's fine, but I just put it forward.

The Chair (Mr. Shafiq Qaadri): Fair enough.

Ms. Lisa MacLeod: Did you know that?

Mr. Philip Donelson: I don't really know what you're referring to. I'm sorry.

Ms. Lisa MacLeod: This whole committee is about it. The whole committee is about deleted emails and gas plants, cancellations and cover-ups and billion-dollar fees, all that sort of thing. Did you ever know that it was illegal to delete emails in government to cover up a scandal? Did you know that? There's an OPP—

The Chair (Mr. Shafiq Qaadri): I appreciate you're just expanding the question, essentially with the same nuggets, but go ahead.

Mr. Philip Donelson: I'm not sure what you're referring to specifically. Do you have an example? I don't know what you mean.

Ms. Lisa MacLeod: Well, we have an OPP investigation right now on this issue. You didn't know that?

Mr. Philip Donelson: I'm aware of that investigation through media reports, but I have had no—

Ms. Lisa MacLeod: So did you know that it was illegal to delete emails?

Mr. Bob Delaney: Chair, on this one, I do have to interrupt on a point of order.

The Chair (Mr. Shafiq Qaadri): Mr. Delaney, point of order. Time is stopped, by the way.

Mr. Bob Delaney: When we had Chris Morley in here testifying, Mr. Morley testified pursuant to the Common Records Series and described in detail what types of emails must in fact be deleted and what types of documents that are transitory in nature must in fact be deleted, and as such, to ask a question that suggests that it is illegal to delete emails ignores the fact that there are certain types of correspondence and documents that must be deleted.

As such, the witness's reluctance to answer a question that can be interpreted any number of ways is quite understandable. I think the question has to be restated such that it is within the bounds of the committee's mandate.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Delaney. I will allow the question to stand. However, I guess in view of attempting to get an appropriate answer, Ms. MacLeod, perhaps you might just focus your question; for example, if you're attempting to extract from the witness his knowledge of the record archive act, please just be a little bit more specific as opposed to a general comment. Please proceed.

Ms. Lisa MacLeod: Okay. The question stands. Can you answer that?

Mr. Philip Donelson: As I was stating before, I think all staff received significant training on the Archives and Recordkeeping Act, and that was in the spring of this year, I believe. So I'm aware of the act.

Ms. Lisa MacLeod: So before that, did you ever delete any emails with respect to the cancelled gas plants?

Mr. Philip Donelson: No. I wouldn't have had any emails—

Ms. Lisa MacLeod: Could you provide this committee with all of your emails dating as far back as your entering into the minister's office in 2013?

Mr. Philip Donelson: I wouldn't have had any—sorry. Can you repeat the question?

Ms. Lisa MacLeod: Can you provide us with any of your emails with respect to the gas plants and the cancellation of gas plants dating back as far as 2013 when you arrived in the minister's office?

Mr. Philip Donelson: I believe there have been motions and I in fact have already.

Ms. Lisa MacLeod: Have you provided those to the committee?

Mr. Philip Donelson: I believe so, yes.

Ms. Lisa MacLeod: You have provided these to the committee?

Mr. Bob Delaney: Chair, again, the many motions—

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

Mr. Bob Delaney: —for document production made by both the PC and the NDP sides have in fact been fully complied with. If this staff member or any other had responsive documents, they too would have been captured in all of that information. It is in fact, and has been for some time, in the members' possession, and if they wish to search for any or all of Mr. Donelson's documents and correspondence, all they've got to do, as it's electronically searchable, is simply run a query.

The Chair (Mr. Shafiq Qadri): Thank you. Presumably, Ms. MacLeod, those emails have been captured with the various document dumps that are coming our way. If you're asking if there were—

Ms. Lisa MacLeod: That are coming our way?

The Chair (Mr. Shafiq Qadri): All right. I appreciate your nailing me on the present tense there, but in any case, the point being simply that documents have been provided and presumably those have—

Ms. Lisa MacLeod: And they're coming to us. Okay. My colleague has some further questions.

Mr. John Yakabuski: I just actually have one more question. So you've confirmed that you never deleted any

emails with respect to the gas plant cancellation or relocation? You personally have not deleted any emails or records with respect to that issue?

Mr. Philip Donelson: Yes. I don't believe I have, yes.

Mr. John Yakabuski: You don't believe you have or you haven't?

Mr. Philip Donelson: I don't believe I have.

Mr. John Yakabuski: Can you speak up?

Mr. Philip Donelson: I don't believe I have. I don't make a habit of deleting emails.

Mr. John Yakabuski: Okay. Thank you. Were you at any time or are you now involved in the ongoing OPP investigation into the scandal?

Mr. Philip Donelson: I have no knowledge of that investigation.

Mr. John Yakabuski: You have no knowledge of the investigation whatsoever. You have not been questioned or—

Mr. Philip Donelson: No. The only knowledge I have is through media reports.

Mr. John Yakabuski: Right. What about any of your colleagues in your office? Are you aware of any of them being questioned by the OPP?

Mr. Philip Donelson: I have no knowledge of that.

Mr. John Yakabuski: No knowledge of that. Okay. Thank you very much.

The Chair (Mr. Shafiq Qadri): The PC side cedes it's time?

Interjection.

The Chair (Mr. Shafiq Qadri): Thank you. To the NDP: Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair, but I have no further questions. My thanks to the witness.

Mr. Philip Donelson: Thank you.

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

Mr. Bob Delaney: Mr. Donelson, is there anything else that you either want to clarify, state or amend the record on?

Mr. Philip Donelson: No. I just thank the committee for its work on siting, and hope it continues.

Mr. Bob Delaney: We thank you very much for your time to come and see us today. Chair, that's all we have.

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

Committee is now adjourned.

The committee adjourned at 1541.

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