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Wednesday 31 March 2004

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(Hansard)**

Mercredi 31 mars 2004

**Standing committee on
general government**

Notice of motion

**Comité permanent des
affaires gouvernementales**

Avis de motion

Chair: Jean-Marc Lalonde
Clerk: Tonia Grannum

Président : Jean-Marc Lalonde
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 31 March 2004

Mercredi 31 mars 2004

The committee met at 1534 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr Jean-Marc Lalonde): Good afternoon and welcome to the standing committee on general government. We are here this afternoon on a notice of motion to the committee from Marilyn Churley.

The first item on the agenda would be the report of the subcommittee.

Mr Jeff Leal (Peterborough): I am pleased to report, on behalf of the subcommittee, that the committee split the 30-minute allotted debate time under standing order 124 equally among the three caucuses and that each caucus may use their 10 minutes as they see fit.

The Chair: Any comments?

Ms Marilyn Churley (Toronto-Danforth): Only that we had a subcommittee meeting and I did agree to that.

Mr John R. Baird (Nepean-Carleton): I can just feel the love and agreement. All three political parties agreed, and I hope that's the beginning of a great working relationship for the good people of Ontario.

The Chair: Once again, each party will get 10 minutes. A party can take the 10 minutes all at once, or I could give a member the chance to speak on two occasions, as long as they don't use the whole 10 minutes. If the Progressive Conservative members want to use the 10 minutes—they have three members—a member cannot speak more than twice, but they could use the 10 minutes. Is that clear?

Ms Churley: Can I clarify? My colleague Mr Prue will be speaking as well. Because it's my motion, I will of course open, and then I would like to have another opportunity at the end to close.

The Chair: You will.

Ms Churley: That's good. Thank you.

The Chair: Is the motion on the subcommittee report carried? Carried.

I will give the mike to Ms Churley.

NOTICE OF MOTION

Consideration of the designated matter pursuant to standing order 124.

Ms Churley: The notice of motion to the general government committee is, "that the standing committee on general government convene to examine the propriety of actions taken, or not taken, by Finance Minister Greg

Sorbara, political staff in Mr Sorbara's office, senior ministry staff and various officials at the Ontario Securities Commission on matters related to the OSC investigation of Royal Group Technologies.

The Chair: We'll start the time now.

Ms Churley: I consider this matter before us today very serious. My experience in this Legislature over many years, both in government and in opposition, is that when a cabinet minister, and in this case a cabinet minister who is the finance minister, is caught up in the kinds of accusations that are swirling around him, the precedent has been that the minister, for far lesser sins or accusations, has stepped aside until investigations have been completed. That's been my experience here.

In this case, the Premier and the minister chose not to do that. They continue to say there has been no wrongdoing. We, as an NDP caucus, determined that the best course of action for all of us to get to the bottom of this very serious matter—instead of tying up the Legislature at this point and asking a lot of questions about it where we get the same answers anyway, not surprisingly—would be to take it out of that forum and into this committee. Of course, as you know, the general government committee oversees the finance minister and ministry. We put this forward as a constructive approach to deal with the many questions swirling around Mr Sorbara, the Minister of Finance, at this time.

As you know, both the Premier and the minister have been denying any wrongdoing and saying that Mr Sorbara is not part of any investigation. I would submit that if that is the case, allowing this legislative committee to examine all aspects that you will see before you, and I don't have time to read them all out—and all the questions that have come before the Legislature and indeed outside in the media, from my colleague Mr Prue, who is with us today.

Since I wrote this letter, it has come to our attention—the Conservative Party brought it up in the Legislature, and it was in the media—that the finance minister was removed from his responsibility after he was removed from the OSC, which we all knew about, after the information came to light. He's also been quietly removed from his duties overseeing the Toronto Stock Exchange and the Toronto Futures Exchange. That opens up the question even more, and there are a number of other questions I would add to the list.

This is an opportunity as well for all the members to exercise their right, as individual members, to start deal-

ing with the so-called democracy deficit that the Premier and the Liberal Party talked about in the election, and allow this committee to do its job and examine the issues before us and the questions I've put forward in this motion.

I believe Mr Sorbara, the finance minister, said publicly that he's willing to come forward and give his side of the story. This would be a good opportunity—in fact, a perfect opportunity—for him to come forward and not only clear the air around this matter, but also there are a number of alarming things that happened in this whole incident. It may be an opportunity for this committee to actually delve into some of the problems that exist and perhaps put forward some recommendations so that this kind of thing doesn't happen again.

1540

I submit to the committee that this is an important forum where we can have witnesses come forward, including the finance minister and all of the others involved, and get to the bottom of the incident. It is an opportunity for you, as committee members, to exercise your independence and support this motion today and allow us to move forward.

Thank you. That's all for now, Mr Chair.

The Chair: Now I'll move on to the Liberal Party, the government side.

Mr Leal: Thank you very much, Mr Chairman. We on this side do take Ms Churley's questions seriously. She has posed six questions to be answered this afternoon and I will respond to each of those six questions.

This first question has to do with vetting disclosure. Ms Churley's question is, "In the vetting process (personal transition disclosure) that is required for all potential cabinet ministers, did Mr Sorbara reveal all aspects of his relationship (including all shares and options) with Royal Group Technologies and its subsidiaries?"

Mr Sorbara already answered this question at a press conference before a cabinet meeting on Wednesday, March 3, 2004. A reporter asked, "Mr Sorbara, in the cabinet vetting procedure, before you were sworn into cabinet, did you ever disclose to those designates of the Premier that there might be some problems in corporate governance or problems that might potentially be embarrassing to the government?" Mr Sorbara responded, "No, absolutely not, because I wasn't aware of any."

Mr Sorbara went through the vetting process for cabinet and properly disclosed not only his relationship with RGT but also his relationship with a large number of other corporations, companies, charities etc.

Minister Sorbara was not made aware of OSC's investigation into RGT until December 22, 2003, more than two months after the vetting process and his subsequent swearing-in to cabinet.

The vetting process required of all potential cabinet ministers is a confidential one, as it should be with all governments of all political stripes.

Management trust: Ms Churley's question is, "Were all proper procedures followed in placing assets related to Royal Group in a 'blind,' management trust, as required

under the Members' Integrity Act? More specifically, why did it take until December 23, 2003, "two months after Mr Sorbara was sworn in as Minister of Finance—and one day after he was alerted by the OSC of their investigation into Royal Group—to establish the trust?"

Answer: The Integrity Commissioner is satisfied with Mr Sorbara's conduct: "No objection can be taken to your conduct as related to your financial disclosures and the statutorily required transfer of your assets to a management trust. Those assets included your shares in Royal."

The minister followed the proper procedures. A private disclosure statement was filed on December 3, 2003, and the minister met with the Integrity Commissioner to review the statement and to discuss the transfer of assets.

Potential conflict of interest: Ms Churley's question is, "Perhaps most importantly, was Mr Sorbara in a conflict of interest for the 66 days between the time he was informed by the OSC of the investigation on December 22, 2003, and the time he was relieved of his responsibilities from the OSC on February 26? More specifically, if there are securities-law-related restrictions on a finance minister's ability to inform the Premier of an OSC investigation that he has been informed of, what are they?"

The minister was correct to not publicly disclose OSC's investigation and to not remove himself, as finance minister, from OSC affairs. I'm quoting from the Integrity Commissioner: "In particular, it would have been wrong for you to have taken it upon yourself to disclose, or to cause the disclosure of the OSC/Royal investigation.... The information about the OSC investigation of Royal ... was confidential.... Removing yourself from OSC affairs would have resulted in frenzied speculation about the reason for your decision.... The fact that you did not contact this office ... does not in my view constitute a breach of the Members' Integrity Act, 1994, or give rise to some more broadly defined conflict of interest. Similarly, your decision not to advise the Premier ... does not constitute a breach of the conflict-of-interest provisions of the Members' Integrity Act, 1994."

The next question Ms Churley posed: Is it commonplace "for the chair of the Ontario Securities Commission to give a 'heads up' to the Minister of Finance of the day on an ongoing OSC investigation? More importantly, is this appropriate behaviour on the part of the OSC chair?"

There was nothing improper about the telephone call from the minister and he did not know the nature of the investigation. As the Ontario Securities Commission has explained, it is normal Ontario Securities Commission practice "for the OSC to contact the Ministry of Finance about matters on which the ministry might be asked to comment." What the investigation was about was not discussed.

Ms Churley's next question: "The OSC and Mr Sorbara have made it clear that they assumed that Royal Group would issue a public release of the investigation within days of a December 22, 2003, OSC letter to Royal Group informing the company of the investigation. When the company refused to issue such a release, why didn't

the OSC order the company to do so or go public itself? Aren't there provisions of the Ontario Securities Act that would allow the OSC to do so?"

As the Integrity Commissioner has said, "It was for the OSC or Royal (and to a degree the TSX) to determine when the existence of the OSC investigation would be disclosed."

The Integrity Commissioner also stated that the issue is irrelevant: "I do not think the reason Royal chose not to disclose the OSC's investigation ... is important."

If the member has any questions about why the Ontario Securities Commission did not choose to disclose, they should be directed to the Ontario Securities Commission.

I conclude, Mr Chairman, by responding to those six questions that have been posed by Ms Churley on this particular matter.

The Chair: Thank you, Mr Leal.

Mr Baird: On a point of order, Mr Chair: Could I just ask my colleague, are you responding on behalf of the government or is this just your own personal preparation?

Mr Leal: I'm responding as an independent member of this committee charged with the responsibility to answer six very serious questions.

Mr Baird: Who charged you with that responsibility?

Mr Leal: I take it upon myself as a member of this committee to—

Mr Baird: Thank you.

The Chair: Thank you. Now it's the opposition members' side.

Mr Robert W. Runciman (Leeds-Grenville): Mr Chairman, we would like to take our time as continuous 10 minutes and share it among myself and Mr Baird.

I want to start off by complimenting the member for Toronto-Danforth for bringing this important motion forward and indicate our support for it.

I, like Mr Baird, am disturbed—I guess that is the polite way of saying it—with respect to Mr Leal reading a prepared statement here today, which is obviously the view of the Premier's Office. I don't think it's too far a reach to conclude that that's what we're hearing today.

In my view that's disturbing, because this Liberal government was supposed to bring a new day for democracy in Ontario. I was hopeful, I have to tell you, knowing Dalton McGuinty for many years and knowing the time he served in opposition on committees of the House, and also knowing Dwight Duncan served on the legislative assembly committee that drafted a report calling for more independence with respect to the operation of committees and a stronger role for government and opposition MPPs in the business of the House and the business of standing committees of the House—of course, what we're seeing here today is a further indication that in many respects that appears to be hollow rhetoric.

If one takes a look at the Liberal campaign document—I'll just read a few comments, page 1, democratic reform, "MPPs used to be respected representatives of people. Now they are bit players manipulated to doing the bidding of the Premier." This is from Dalton

McGuinty. "It doesn't have to be this way ... Nothing inspires me more than the opportunity to combat the cynicism that far too many people feel about Ontario politics." Dalton McGuinty: "Join me in making the Ontario government your government."

On page 7 of that same election platform: "Your MPP should be free to represent your views, not just parrot the views of his or her party. We will make sure all non-Cabinet MPPs are free to criticize,... with the exception of explicit campaign promises."

1550

Well, this is an explicit campaign promise that you're reneging on, and we saw that very clearly with the chief whip of the government, Mr Levac, admitting publicly that he was being taken to the woodshed for questioning the operation of a government agency. I think that should concern all of you as individual members. You ran on this platform; you obviously believed in it—I hope you believed in it—when you ran.

Here is another commitment from Mr McGuinty, one that you should be standing behind here today: "We will give more independence and power to legislative committees." Here again, what you're doing is parroting the position of the Premier's office. You say that we've had an opportunity to fully discuss this issue. We've asked at least 20 questions now in the Legislature about this matter, trying to get to the bottom of this issue. There's clearly been orchestrated stonewalling on the part of the government ministers in the House, and we're seeing that stonewalling carried on here today. That is truly disappointing and disillusioning, certainly for the people of Ontario who believed this document and believed that this government was going to be different.

We tried to work with the government, in terms of the programming motion that we agreed to in the fall to try and make this place work differently. It hasn't happened, and clearly it's not going to happen. Remember years ago, Mr Chair, Prime Minister Trudeau said about MPs: "They're nobodies when they leave the Hill. They're nobodies." That's how he described them. Well, in effect what's happening here is, we don't have to leave Queen's Park to be nobodies. The action we're seeing here on this issue makes sure that we're all nobodies in trying to do our job and in representing our various ridings and the issues and the people of our ridings. We should all be ashamed.

This is really the first test of all of you sitting across there, as government members, to stand up and be counted and support a platform that you ran on. This is your test, and we'll see how you perform under a little bit of pressure from the Premier's office. This is an important issue. It deserves a full airing by this committee, in full public view. Mr Baird?

Mr Baird: How much time do we have, Mr Chair?

The Chair: You still have five minutes.

Mr Baird: Thanks. I find this to be an incredibly serious issue. I'll confess to the other members of the committee that I did not request Mr Sorbara's resignation the first day this broke; I refused to. I wanted to get his

side of the story. Many were quick to jump on him, but I did not. In fact, it took the better part of 48 hours before I even responded, because I was concerned and I did want to be fair.

One of our responsibilities as legislators is to hold the government of the day accountable. I just got some background about procedures in the House of Commons, and I thought I'd just read a quote: "The right to seek information from the ministry of the day and the right to hold that ministry accountable are recognized as two of the fundamental principles of parliamentary government." That's what we're here for, and I want to support the resolution by the member for Toronto-Danforth.

I don't think this is exclusively a partisan issue. We're not the only ones who have expressed concerns. We have more than 12 daily newspapers—daily newspapers—in the province of Ontario which have said that Mr Sorbara should resign. Those aren't organs of the Conservative Party. They're respected publications like the Toronto Star, the North Bay Nugget, the Windsor Star and the Toronto Sun, representing a wide geographic and philosophical orientation, who have expressed concern, not just on the actions of Mr Sorbara and Mr McGuinty's response, but on what this means for the standards that you set.

We didn't have any hearings when the Bob Runciman affair came up, because he resigned. We didn't have any hearings with Mr Sampson, because he stepped down. We didn't have any hearings with Mr Wilson, because he stepped down, did a proper investigation, went forth.

I take exception with the member for Peterborough, whom on a personal level I respect. In the vetting process—we know that at the shareholders' meeting of this company last year, significant irregularities were discussed, as well as concerns about other potential irregularities, such as the sale of millions and millions of dollars of product from the Royal Group to another company in St Kitts, controlled by one of the big shareholders.

Those would have been some of the things you would have responded to in a cabinet vetting process. During the cabinet vetting process, to be on the safe side, I reported I got a speeding ticket when I was a teenager. I wouldn't want to see that, I agree with the member for Peterborough, but I'd like the Integrity Commissioner to look at that privately, and I'd like Mr McGuinty to tell us whether he's satisfied with what was reported.

The other issues which were brought up—we know that for 66 days we didn't know that the minister was under investigation. There is an opinion letter; it's not a decision, it's an opinion letter from the conflict commissioner based on the information, and only based on the information, that Mr Sorbara provided him. He didn't tell him that he had brought forward a number of orders in council that he personally signed going to cabinet, with respect to the Ontario Securities Commission. He didn't tell him that he, his office and his ministry had participated in the appointment of the vice-chair of the Ontario Securities Commission. He didn't mention that in his letter. I think it would be kind of important to mention that in the letter.

As well, he didn't make any attempt to deal with one of the most disturbing factors of all this. I've got to presume that when the RCMP is launching a criminal probe, as is the OSC, as is the Canada Revenue Agency—they don't investigate a filing cabinet—they investigate the company and those who directed it. The Premier can't say, none of us can say, whether Mr Sorbara's personal actions are not the subject of an investigation.

We should ask. We should go to the RCMP. I don't think as politicians that would be unacceptable. We should be able to go to Mr Justice Coulter Osborne, a judge, and say, "This is so important, this is so serious. It's about ethical standards. Just for the sake of honesty and transparency, we've got to know. Can you make the inquiries on our behalf?" Frankly, if an opposition member brings something forward against Mr Sorbara with the Integrity Commissioner, he'll have to look into it.

This is I think probably the most serious question of a minister's judgment. Ministers have been brought down for their constituency offices sending a letter about a parking ticket. They've been brought down for their personal spending. They've been brought down for a silly comment they might have made. They were brought down under our government—three ministers who did nothing wrong and were not tangibly related to anything that had gone wrong—just on the basis that you wouldn't want the thought that a minister could be under investigation.

The Chair: You have 10 seconds left.

Mr Baird: I'm just encouraging all members to support the resolution. Let's just ask these questions. If there's nothing wrong, there's nothing to hide.

The Chair: Now I'll go to the NDP side.

Mr Michael Prue (Beaches-East York): I want to start off by saying that I level no aspersions, absolutely none, against Mr Sorbara. I don't know, you don't know, what actually went on.

I'm asking the Liberal members opposite to look at what is happening to the Legislature and what is likely to happen to the budget in about six weeks' time. Every day there are three or four or five questions asked in question period on this issue. This is not going to go away. If you don't deal with it here, it will be dealt with every day in the Legislature. That is not, in my view, the place that this should take place.

It is up to this committee to seize, I think, a very real opportunity; that is, an opportunity for the committee to look at this issue dispassionately, an opportunity for us to look at it with cool heads, to ask appropriate questions, to call people before them and interview them, much as other parliamentary committees have done in this Legislature and in the House of Commons in Ottawa.

We can see what's happening with the ongoing investigation in Ottawa. What has happened is, those who have perhaps transgressed are being found out, but those who are innocent are also being found out.

I would hope, on a personal level at least, for Mr Sorbara, that he is cleared by this committee. He is an

honourable man. I would hope that you do the right thing and allow him to be cleared. If you do the opposite—and I listened with some trepidation, although respect, to Mr Leal—it will appear to the public, it will appear to the newspapers that the committee is attempting to shield him, to hide the facts and not let the public get to the bottom. I am afraid that that is the message that's going to be given.

1600

I take this party at its word. You have said that you want to improve this Legislature and the governance of this Legislature. Mr Bryant, the Attorney General, will be travelling the province, trying to show ways to improve the Legislature and the powers of the MPPs. How much do you think the public is going to believe that, how much do you think people are going to make deputations, if your action is to hide the very powers that he is suggesting or to deny the very powers he is suggesting that you get? In my view, you are doing Mr Sorbara a disservice, this Legislature a disservice and the people of Ontario a disservice unless you allow this motion to pass.

Ms Churley: I just want to wrap up. I guess I'm pretty disappointed, because I think the member for Peterborough made a slip of the tongue just as—

The Chair: Ms Churley, you have about a minute and 45 seconds.

Ms Churley: Thank you.

Clerk of the Committee (Ms Tonia Grannum): And there's still time—

Ms Churley: Oh, the Tories still—I'm sorry.

Interjection: The Liberals.

The Chair: The government still has four and a half minutes.

Ms Churley: Can I wait so I can wrap up, then?

The Chair: Yes.

Ms Churley: OK. I'm sorry. My mistake.

The Chair: Government side. There are four and a half minutes left.

Mr Leal: I take this issue certainly very seriously. In public life, there's only one thing you really have. When you come into this business, you have your integrity; when you leave this business, you must retain your integrity. That's all you really have from public life.

Back in the 1980s, I had the privilege of being a special assistant to the late Honourable John Eakins, who was tourism minister and the member for Haliburton-Victoria. That was the first occasion when I got to meet Mr Sorbara, because he was a member of the Peterson cabinet.

Mr Sorbara has always demonstrated to me on all occasions the highest degree of integrity in public life, and on this issue there's no question about his integrity.

The Integrity Commissioner, Coulter Osborne, is an officer of the Ontario Legislature. Unlike the situation that exists in Ottawa today, where Howard Wilson, who's the Ethics Counsellor, only reports to the Prime Minister, the Integrity Commissioner here in Ontario reports to the Ontario Legislature, as an officer of the

Ontario Legislature. He has provided an opinion, a very important opinion, on Mr Sorbara's—

Mr Baird: Based on the information provided.

Mr Leal: The Integrity Commissioner has provided to all members of the Legislature an opinion on the activities surrounding this particular issue. He has concluded that indeed Mr Sorbara's actions did not create a conflict of interest. I, as one member of this committee, stand by the opinion that's been provided by Justice Coulter Osborne. If indeed members opposite want to pursue this matter, they have every opportunity to write letters to the Integrity Commissioner based on the issues that they want to raise. For that matter, just because questions are asked in the Ontario Legislature, that doesn't mean—just because there's smoke, it doesn't mean there's a fire. The Premier has answered all these questions, in my view, in a very forthright manner.

I hear my friends opposite talking about integrity. I look at this committee in the spirit of non-partisanship, but let me tell you, if indeed they keep this line up, we can start delving into the activities of OPG; we can delve into the activities of Hydro One. I would like to get some explanations as to why that particular organization was not subject to freedom of information.

But to conclude, on behalf of myself, I want to reiterate that Coulter Osborne has provided an opinion on this matter. He's declared Mr Sorbara free of any conflict of interest, and I believe, from this perspective, the matter is closed.

The Chair: Thank you, Mr Leal. We still have a minute left for the government side. Yes, Mr Rinaldi?

Mr Lou Rinaldi (Northumberland): If there's time, I just want to add to Mr Leal's comments.

I guess, being new in this process, I'm a bit disappointed. I respected Ms Churley's bringing this motion forward. It certainly had some merit. I really, though, I guess, have an objection to Mr Runciman, whom I don't know personally, but through my municipal portion of the government I had a lot of respect for him. To be here and be lectured, not to talk about what we're supposed to be here talking about—I'm really disappointed, bringing back the same old rhetoric.

We have a process in place—

Mr Baird: That's not rhetoric; that's your campaign promise.

Mr Rinaldi: And we're sticking by our campaign promise.

Interjections.

The Chair: Order, please.

Mr Rinaldi: There's an investigation going on. I think the Premier and Mr Sorbara made it very, very clear that if something comes up—I believe we still live in a society where you're not guilty until you're proven guilty. Let the process go along. I'm not so sure why we're wasting time today.

The Chair: The time has just expired on the government side. Ms Churley, you still have a minute and 45 seconds.

Ms Churley: The member for Peterborough, Mr Leal, made a slip of the tongue in the same way the government House leader did when he was first asked if he would support this committee reviewing the matter. He said no, they had more important things to do. The next day he came back and said that it was a slip of the tongue. Today the member for Peterborough, when asked a question about whom he was speaking on behalf of, said that he was “charged with” this matter and then tried to cover his tracks. It’s very clear what’s happening here. In fact, the member for Peterborough has been charged with, on behalf of the government, giving the government line today. Of course, you’ve read out the government line, as we’ve heard many times before. I was expecting to hear from the members—

Interjection.

Ms Churley: Excuse me. Both the—

Interjection.

Ms Churley: John.

The Chair: Would you let Ms Churley explain, please.

Ms Churley: I’m just trying to say that even Mr Sorbara said he would be willing to come forward. This is not just about the Integrity Commissioner and the narrow bit of information that he was given by the government itself. This place is about far more than that

narrow view of whatever information is provided to the Integrity Commissioner. It’s about far more than that. There’s far more to integrity and there are far more questions that aren’t answered, and we’re learning more every day. This is not going to go away. If you deny this opportunity today for the committee to examine it, in fact you’re making it worse for the finance minister, because it will not go away.

The Chair: Thank you very much. We have taken the whole 30 minutes. Each party has taken their 10 minutes’ time, and now it requires that we go to a vote on the motion.

Mr Jerry J. Ouellette (Oshawa): Recorded vote.

Ayes

Churley, Ouellette, Runciman.

Nays

Dhillon, Leal, Parsons, Rinaldi, Van Bommel, Wynne.

The Chair: I declare the motion defeated.

This will adjourn our session.

The committee adjourned at 1608.

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