



ISSN 1710-9442

**Legislative Assembly
of Ontario**

Second Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 40^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 10 December 2013

**Journal
des débats
(Hansard)**

Mardi 10 décembre 2013

**Standing Committee on
Justice Policy**

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Room 500, West Wing, Legislative Building
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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 10 December 2013

Mardi 10 décembre 2013

The committee met at 1502 in room 151.

MEMBERS' PRIVILEGES

MR. ANDREW MITCHELL

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice. Je voudrais accueillir notre prochain présentateur, M. Andy Mitchell.

Mr. Mitchell, you'll be, I believe, affirmed by our very 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. Andrew Mitchell: I do.

The Chair (Mr. Shafiq Qaadri): Mr. Mitchell, you have five minutes for your opening address, beginning now.

Mr. Andrew Mitchell: Thank you, Mr. Chair, Madam Clerk and esteemed members of the committee. Can everyone hear me, first off? I appreciate the invitation to appear here today and I hope that my testimony will be of some assistance to the committee as you put your recommendations together.

I understand that the broad mandate of this committee is to consider and report its observations and recommendations concerning the planning, tendering, commissioning, cancellation and ultimate relocation of the Oakville and Greenfield South gas plants. For the purposes of this committee, I think it's important that I spend some time outlining my relevant employment experience at Queen's Park between July 2010 and February 2013.

In July 2010, I left the senior policy position with the Honourable Jim Bradley in his capacity as Minister of Municipal Affairs and Housing and I accepted the position of senior policy adviser responsible for renewable energy with then-Minister of Energy Brad Duguid. I held this position until July 2011. During this period, I acted as the minister's policy adviser on renewable energy, focused specifically on the government's off-coal strategy, the feed-in tariff program and the green energy investment agreement.

As the senior policy adviser responsible for renewable energy, I had no involvement with TransCanada prior to

or post-cancellation of the Oakville generating station and I had no involvement in the decision to cancel Oakville. During this period, I was also not involved in any meetings or discussions related to the Greenfield South power facility.

For a brief period between July 2011 and the end of the provincial election in October 2011, I was the acting chief of staff to then-Minister Brad Duguid. During this period, our chief of staff had taken a leave of absence to work on the election campaign, and I was asked to remain in the office to ensure that the day-to-day operations of the ministry were being attended to. This practice was and, I imagine, remains a standard staffing arrangement at Queen's Park during a campaign period. For this four-month period, I would largely describe my work as being operational in nature, as the ministry was focused on internal administration and preparation for a new government. As a result, I was not involved in the campaign in any substantive manner.

During this period, I received two separate phone calls from the Ontario Liberal government team that ultimately led to an announcement not to proceed with the Greenfield South generating station. These phone calls were strictly informational in nature. I had no involvement in the decision to cancel Mississauga, and I provided informational briefings to the minister as I was informed of decisions.

Also during this period, Minister Duguid, along with three other ministers of cabinet, signed off on a process to move discussions with TransCanada into arbitration. This process included the Premier's office and was supported by Cabinet Office. I was also not involved in any substantive matter in this process.

Following the election in 2011 until March 2013, I acted as director of policy to Minister Bentley, but retained carriage of the renewable energy files in the office, and the vast majority of my time remained devoted to these files. Given previous experience with TransCanada and direction from the secretary of cabinet to screen certain political staff off of this file, there was limited involvement from the minister's office staff regarding negotiations between the ministry, the Ontario Power Authority and project proponents for both facilities.

I was not involved in the minister's preparation for the estimates committee on the gas plants issue, nor was I involved in document production.

In April 2013, I accepted the position of manager of government relations for TransCanada, where I work as a shared service between TransCanada PipeLines and TransCanada Energy. I had no interaction with TransCanada in any of my government roles. Before accepting employment with TransCanada, I went through a robust process with the Office of the Integrity Commissioner to clarify my obligations post-government employment. I have tabled the letter spelling out my obligations with the committee today, and I can say that I have worked within the four walls of that letter since commencement of my employment with TransCanada began.

Consistent with most political staff who transition from the public to the private sectors, I have a number of restrictions placed upon me that guide my interaction with government. Furthermore, my current employer has removed me from any internal work or discussions related to the settlement between TransCanada and the provincial government for a period of 12 months. I've also filed this documentation with the Clerk.

With that, I thank you for the opportunity and would be pleased to take any questions you may have.

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

To the PC side, to start: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Mitchell, for joining us today. I understand what you're saying here today and what you've given us in your opening statement. I haven't had a chance to look at the reports of the Integrity Commissioner or otherwise.

You claim to have no involvement in the discussions about Oakville, Mississauga or gas plant cancellations, although we will talk a little later about your involvement in requesting a signature of the then minister on a document that pertains very specifically to information being asked for with regard to this issue. You went from the Ministry of Energy—you were a senior policy adviser and then a director of policy. Is that not correct?

Mr. Andrew Mitchell: That's correct—two different ministers, yes.

Mr. John Yakabuski: That's a pretty senior position, is it not?

Mr. Andrew Mitchell: In a minister's office, yes—

Mr. John Yakabuski: And you want us to believe and you want the people to believe that you have no knowledge about what's going on in the minister's office or the Premier's office or the Liberal Party with regard to the decisions to cancel major power production plants and possibly relocate them, and all of the machinations that have gone on as a result of that—email dumps and email destruction, document destruction, all of that? You were a senior policy adviser and a director of policy, who then finds yourself employed by the very company that benefitted substantially, to the tune of about \$225 million, according to the auditor; the net benefits to TransCanada are about \$225 million, based on the decisions that were made and how the agreements were in favour of TransCanada. You want us at the committee to just

holus-bolus accept your story that you had no involvement in this whatsoever?

Mr. Andrew Mitchell: I'm happy to talk about both of my roles, both as senior policy adviser—and as I've described in my opening statement, that job pertained—obviously, there's a number of senior policy advisers in the minister's office.

1510

Mr. John Yakabuski: There aren't that many directors of policy, are there?

Mr. Andrew Mitchell: There's one.

Mr. John Yakabuski: There's one. That would be you.

Mr. Andrew Mitchell: With respect to my senior policy position, I was senior policy adviser on renewable energy. I had no involvement in any of the gas files in any manner whatsoever, in any capacity, as senior policy adviser to the minister on renewable energy.

Mr. John Yakabuski: When you had the conversation with Chris Morley with respect to getting—Chris Morley says, "Mitchell"—he called you by your last name—"you'll have to arrange to get his signature on it ASAP." This is August 5, 2011.

You sent back to him, "Yes, we will auto-pen. I'm going to read the letter to him now over the phone. Still waiting for supplementary letter," from Andrew Mitchell.

That was August 5, 2011. Were you senior policy adviser then or were you director of policy?

Mr. Andrew Mitchell: I don't know. Is there a copy of the document that I can see? I haven't seen it yet.

Mr. John Yakabuski: Oh, yes. Has the witness been given a copy of the documents? You can have these; I've got others.

Mr. Andrew Mitchell: Thanks. Can I just have a minute to review this?

Mr. John Yakabuski: Go right ahead.

Mr. Andrew Mitchell: So—

Mr. John Yakabuski: You were a senior policy adviser at that time?

Mr. Andrew Mitchell: No. Actually, at this time I would have been the acting chief of staff, so as I described in my opening—

Mr. John Yakabuski: Acting chief of staff? You didn't say anything about an acting chief of staff.

Mr. Andrew Mitchell: In my opening statement I maintained that I was the acting chief of staff to the Minister of Energy from July 2011 until October 2011.

Mr. John Yakabuski: Okay, so that's not on our background here from the legislative library.

Mr. Andrew Mitchell: Just quickly to sort of explain how that occurred, our chief of staff, Craig MacLennan, took a leave of absence at the time to work on the provincial election campaign.

Mr. John Yakabuski: Right. Craig MacLennan was definitely involved in the gas plants.

Mr. Andrew Mitchell: Craig has been here and testified to that account.

Mr. John Yakabuski: Are you telling us that as the acting chief of staff, you had no involvement?

Mr. Andrew Mitchell: I was the policy adviser on renewable energy. I accepted the opportunity as acting chief of staff. I've described that role—

Mr. John Yakabuski: That's a little broader responsibility.

Mr. Andrew Mitchell: Sure. I've described that role as operational in nature. Mind you, this is during a campaign. Typically during a campaign period, there's not a lot of policy development going on, by and large.

Mr. John Yakabuski: No, just cancellation of—

Mr. Andrew Mitchell: Well, this was a bit different. What I presume my emails are in regard to here are the minister making the ultimate decision to move the process for TransCanada into arbitration. I think you're familiar with this process. You've had a number of committee witnesses here before.

Again, I recall being in one meeting. Again, I was a senior policy adviser having no experience with this file whatsoever. Mr. Morley wanted to talk to my minister about an item. Ultimately, I think this is what this email is referring to, to get the minister's signature and comfort moving this process into arbitration. I would have arranged—I remember a meeting; it was 10 minutes in length. I didn't say anything. There was a decision to move that process into arbitration.

Mr. John Yakabuski: Your name comes up in the testimony of other witnesses here to the committee on a number of occasions. They obviously must have felt you had some involvement in the TransCanada issue and the power plant issue.

But I want to get to the broader picture here and I want the Chair to listen carefully. I hope I'm within the bounds. But I think you have to accept that there would be a certain scepticism in the minds of the public when someone elevates themselves through the Ministry of Energy—senior policy adviser, acting chief of staff, director of policy—and then goes on to secure employment with the very company that benefited dramatically, substantially, by the decisions that were made at the ministry of which you were a growing presence, of which you were an up-and-coming star. You were going up the ladder in a hurry.

Mr. Andrew Mitchell: Well, I was there for a number of years.

Mr. John Yakabuski: And the company benefits dramatically and, all of a sudden, you're now working for that company. Do you not think that someone might ask the questions: "I wonder, was there some kind of an agreement in place here? Was this a quid pro quo? Is this a trade-off? For we know that some stuff has hit the fan over at the Ministry of Energy now. There are some people who want to get the heck out while the getting's good, and we're going to give a few of them a soft landing because they've been good to us?" Is that not—

Mr. Andrew Mitchell: I understand the optics piece of that, and I can't control, optically, what people perceive. All I can control is the process by which I took ultimate employment with TransCanada. As I've described to you, I went through a very robust and lengthy

process with the Integrity Commissioner, and I think the very fact that at the end of the day she gave me a green light to proceed with TransCanada speaks volumes with respect to my involvement on the gas plant file while I was in the ministry. She felt comfortable with—

Mr. John Yakabuski: Has her report been tabled with the committee?

Mr. Andrew Mitchell: Has whose report been tabled with the committee?

Mr. John Yakabuski: The Integrity Commissioner's.

Mr. Andrew Mitchell: I filed today my post-employment letter from the Integrity Commissioner that lays out my post-employment restrictions and ultimately says—she would never say, "Proceed," but she says, "Here are your restrictions if you choose to take employment with TransCanada."

Mr. John Yakabuski: Oh, so she didn't give you the green light then. She just said, "These are your restrictions."

Mr. Andrew Mitchell: I don't think the Integrity Commissioner ever gives anyone the green light.

Mr. John Yakabuski: Well, you just said she gave you the green light.

Mr. Andrew Mitchell: She gave me a letter that would dictate my terms, and I followed the letter of restrictions—

Mr. John Yakabuski: That would dictate what your restrictions were, so she didn't give you a green light.

Mr. Andrew Mitchell: No, she never does.

Mr. John Yakabuski: She actually told you what the amber lights were.

Mr. Andrew Mitchell: She said to me, to repeat this, that she can't control optics and I can't control optics, but she felt confident enough that if I proceeded, these were my restrictions with respect to post-employment and dealing with the government going forward. I've lived within the letter of those restrictions since day one with TransCanada.

Mr. John Yakabuski: What are you doing with TransCanada now?

Mr. Andrew Mitchell: Government relations with TransCanada.

Mr. John Yakabuski: Government relations?

Mr. Andrew Mitchell: That's correct.

Mr. John Yakabuski: So do you have contact with people in the Ministry of Energy?

Mr. Andrew Mitchell: No, I don't.

Mr. John Yakabuski: You have no contact with the people in the Ministry of Energy?

Mr. Andrew Mitchell: No. As a consequence of the restrictions that are imposed upon me, I have not—

Mr. John Yakabuski: That's one of the restrictions.

Mr. Andrew Mitchell: Yes. I have not had contact with folks from the Ministry of Energy.

Mr. John Yakabuski: So it kind of ties it up nice and tidily, and everybody looks fairly well cleaned-up and protected, right?

Mr. Andrew Mitchell: Well, I think that's what restrictions ultimately should do, and that's what they've done.

Mr. John Yakabuski: Okay. I have some other questions. Do you?

Ms. Lisa MacLeod: I actually do. Do you have some more?

Mr. John Yakabuski: No, I'm good. My colleague Ms. MacLeod will—

Ms. Lisa MacLeod: Thanks very much. I do appreciate you coming in today. I did review your post-employment letter and I have reviewed some of the documentation with respect to the Integrity Commissioner. Of course, as my colleague points out, there's sort of an amber alert there. I wouldn't say "press go" or "green light" in terms of all of this.

I just want to draw your attention to a note that you sent to Kim Fryer-Ellis, who works at the Integrity Commissioner's office, on April 11 of this past year, which is very close to when, I think, originally, the Integrity Commissioner had said you would have a lobby ban for a year that would conclude on March 15, 2013. This would have been right after that. You contact them and say: "Consistent with my obligations as outlined in my post-employment letter (March 15th), I am seeking approval to connect with the Premier's office." That was with respect to the pipeline.

I'm wondering, at that point in time did you proceed to speak with the Premier's office regarding the pipeline? When you were in discussions about the pipeline, how did you keep that ethical cone or that cone of silence from the time that you spent in the government as well as the time that you're now spending at TransCanada, and how does that play with the gas plant and not just the pipeline that you were discussing? Did you ever follow through with that meeting?

Mr. Andrew Mitchell: Yes, I have. I've met with the Premier's office. I can also say that I've met with some of your colleagues in your party and I've also met with colleagues in the NDP caucus to discuss—

Ms. Lisa MacLeod: I'm not worried about the NDP or my caucus. We're not in government. We didn't cancel the gas plants.

Mr. Andrew Mitchell: Sure. I'm just explaining to you that I've met with a number of political parties on the Energy East project. The Energy East project is a significant project for TransCanada, and I have been here to discuss that with all parties.

Ms. Lisa MacLeod: At any time when you were meeting with the Premier's office or others, did the topic of the gas plants come up?

Mr. Andrew Mitchell: No, it did not.

Ms. Lisa MacLeod: I'd like to just go back to July 2012. This goes back to the Standing Committee on Estimates. When my colleague Rob Leone was putting forward a motion in the House, he and others—like Vic Fedeli and Michael Harris—were asking for documents, which ended up creating this committee, because they were withheld. I'm just wondering, given your insider

knowledge at the time, if you can provide us with any information on why the minister at the time, Mr. Bentley, decided to withhold the documents that were requested of him from the committee.

Interruption.

Mr. Andrew Mitchell: Sorry; you're all looking at the—

Ms. Lisa MacLeod: We have a screen here. What—

Mr. John Yakabuski: We're going to have a vote in four minutes and 30 seconds.

The Chair (Mr. Shafiq Qadri): All right. The time is stopped here. We are in suspended animation. We'll resume after the vote completes. We hope you'll vote the right way. Thank you.

The committee recessed from 1521 to 1545.

The Chair (Mr. Shafiq Qadri): I thank you for that vote of confidence, Mr. Yakabuski. I'd invite you to repeat that into the record when you do feel so.

Mr. Mitchell, your time begins. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. Again, I'd ask you: Why did the minister, Chris Bentley at the time, withhold the documents from the estimates committee?

Mr. Andrew Mitchell: Just to reiterate, as I said in my opening statement, I wasn't involved in the minister's preparation for the estimates committee. I would have been with respect to questions as they pertained to renewable energy, but nothing on gas plants.

Generally, I knew that there were some conflicting obligations. I think you've heard from a number of witnesses here how the minister was concerned, obviously, about confidential information that was in negotiations and not divulging that information at a point in time that would jeopardize those negotiations, also understanding that there were some responsibilities to ensure that that information was also provided to members of the House. I think it's just generally speaking to the two conflicting obligations that the minister had at the time.

Ms. Lisa MacLeod: Can I ask you a quick question about the minister's obligations? In your role as acting chief of staff and director of policy, you would have been involved in a daily tactics meeting in the morning, would you not?

Mr. Andrew Mitchell: No, actually. We didn't have daily meetings. We'd have a weekly meeting. It would be on a Friday.

Ms. Lisa MacLeod: Can I just get you to run through how you operate in the office? I know how a minister's office works. I worked in one; my husband is deputy chief of staff to a federal minister. I'm used to: wake up the morning, do a tactics call, know what's in the media, understand where that may fit in with all of the department heads; it would encourage scheduling debate: it would talk about any potential issues that would have to arise. Are you telling me that that didn't happen on a daily basis in the Ministry of Energy?

Mr. Andrew Mitchell: Again, while I was acting chief of staff, it was during an election, so I was the only one in the office. I was accompanied by one other person, so there were no staff. Everyone else—

Ms. Lisa MacLeod: Did you work on the campaign?

Mr. Andrew Mitchell: No, I did not work on the campaign, as I indicated in my statement.

During my role as director of policy as well, we didn't have daily meetings. I think communications staff would have met in the mornings as a normal sort of course or routine, but I wouldn't have been involved in those meetings.

Ms. Lisa MacLeod: How many people would have worked in the Minister of Energy's office, then and now?

Mr. Andrew Mitchell: I don't know how many now.

Ms. Lisa MacLeod: How many staff did you have when you were there as director of policy?

Mr. Andrew Mitchell: Typically, there were probably three or four policy folks.

Ms. Lisa MacLeod: So three or four policy folks, but then there's—

Mr. Andrew Mitchell: There's a director of policy, typically; there's a chief of staff; there are three or four communications staff; there's administration staff—

Ms. Lisa MacLeod: So you're telling me, Mr. Mitchell, that you were the only person left in the Ministry of Energy, in the minister's office, during an election?

Mr. Andrew Mitchell: I was the only political staff left during the election, yes. Again, as I described in my opening statement—

Ms. Lisa MacLeod: How many political staff would normally be in a minister's office, nine to 10?

Mr. Andrew Mitchell: Approximately, yes—roughly a dozen.

Ms. Lisa MacLeod: So eight or nine people were off working on the campaign on the taxpayer's dime?

Mr. Andrew Mitchell: They all took leaves of absence. That's the general practice for ministers' office staff. I stayed in the office and, as I described in my opening statement, my work was sort of operational in nature. You try to keep the ministry doing day-to-day operational stuff. Typically, there's not a lot of policy being generated because there's a campaign.

Ms. Lisa MacLeod: Except in this case, there was.

Mr. Andrew Mitchell: There was one instance, and I've described to you my role in that process.

Ms. Lisa MacLeod: So the Ministry of Energy wasn't involved whatsoever during the election, is what you're telling me, in terms of this decision by the Premier's office to cancel the gas plant?

Mr. Andrew Mitchell: Not to my understanding. Again, I've described my role in that process. I received two phone calls from the Liberal campaign team and I've outlined that process.

Ms. Lisa MacLeod: And who did you speak to with the Liberal campaign team?

Mr. Andrew Mitchell: I recall that it was Sean Mullin who I had two conversations with.

Ms. Lisa MacLeod: Sean Moulton?

Mr. Andrew Mitchell: Sean Mullin.

Ms. Lisa MacLeod: Sean Mullin. And that was the person who spoke to you on both occasions?

Mr. Andrew Mitchell: To my recollection, yes.

Ms. Lisa MacLeod: At any time when you were talking, did you not speak to the minister at the time?

Mr. Andrew Mitchell: As I described in my opening statement, I received two phone calls during the campaign period when I was in the minister's office. Everyone else was working on the campaign. I received one phone call early in the campaign. To my recollection, that was Sean Mullin. He described to me a potential announcement about the cancellation of the Mississauga gas plant. As I've said to you before, I was the senior policy adviser on renewable energy, so this would have been new information for me. I wouldn't have known much about it. It would have been a factual, very informational meeting. I would have then—

Ms. Lisa MacLeod: I'm just having a rough time with this, because I know—I've worked on several campaigns, some national. I've run in three provincial campaigns, and I just find it very difficult to believe that there would not have been a briefing note sent to the campaign from the department in charge.

1550

I'll give you an example, because, again, my husband does do this job federally. I know that, during a campaign, when issues come up for his minister, as deputy policy director and chief of staff, they provide information to the central campaign. I just find it really difficult to believe that, in the province of Ontario, our largest province, we'd be so woefully and inadequately served with public policy advice going to the central campaign, or that the central campaign would completely override a minister's office.

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

Ms. Lisa MacLeod: It's also astonishing to me that there were no staff left in the office, with the exception of one person. I think that's quite challenging. Again, I ask you: I want you to explain to us what the minister would have made the decision on. Why would he refuse to provide us with documentation? And then I haven't even gotten into the deletion of emails, so I just find the whole scenario that you're painting here very far-fetched.

Mr. Andrew Mitchell: Okay. Is there a question? Sorry.

Ms. Lisa MacLeod: Yes. The question is, why withhold the documentation?

Mr. Andrew Mitchell: Again, I've described to you my role in estimates committee, and—

Ms. Lisa MacLeod: I don't really think you have—

Mr. Andrew Mitchell: —I think there has been lots of testimony before this committee—

Ms. Lisa MacLeod: —and the other thing is, I don't really understand why you haven't—

Mr. Andrew Mitchell: —with respect to the minister's ultimate decision as to why documents were withheld for a period of time.

Ms. Lisa MacLeod: We're getting nowhere here.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. MacLeod. To Mr. Natyshak of the NDP.

Mr. Taras Natyshak: Thank you very much, Chair. Mr. Mitchell, thank you for being here.

Mr. Andrew Mitchell: No problem.

Mr. Taras Natyshak: I've got seven questions for you.

Mr. Andrew Mitchell: Okay.

Mr. Taras Natyshak: Number one is the decision to move TransCanada into an arbitrated settlement: Did you provide any counsel on that issue whatsoever?

Mr. Andrew Mitchell: I did not. As I described, I accepted the role of acting chief of staff in July. I think the decision to move the discussions, I guess you would call them, with TransCanada into an arbitrated process happened in July, so for me I would have had no basis or background in the file.

It was a 10-minute meeting. There may have been a number of meetings leading up to this meeting—I'm not sure, and I don't want to speak out of turn—but I was involved in a 10-minute meeting with the minister and Chris Morley. I said nothing in the meeting.

Ultimately, I think, in that meeting, there was a decision to move that into arbitration. Then, subsequent to that, it was a walk-around item, so there was quorum with three other cabinet ministers. Then, my understanding is—again, not involved in any of this process—that it would have been returned back to cabinet at a later date.

Mr. Taras Natyshak: So that's essentially when you became aware of the fact that the file was going to head into a negotiated settlement?

Mr. Andrew Mitchell: That's my first—yes.

Mr. Taras Natyshak: Were there any terms discussed? Did you remember any types of guesstimates as to where this would lead the government in terms of costs?

Mr. Andrew Mitchell: There was, again, to my recollection, no discussion of costs in this meeting. Again, to be honest, this would have been a language that was a bit foreign to me in terms of how I had no background in any of the gas generation issues in the province. I was dealing exclusively with the feed-in tariff program and the Green Energy Investment Agreement, and I continued to do that, by and large, as director of policy.

Mr. Taras Natyshak: You are currently the manager of government relations with TransCanada.

Mr. Andrew Mitchell: That's correct.

Mr. Taras Natyshak: When were you hired there?

Mr. Andrew Mitchell: I think my first interaction with TransCanada would have been sometime in December of this year, and I would have had—

Mr. Taras Natyshak: Sorry, December of this year?

Mr. Andrew Mitchell: December, so they would have contacted me to inquire about an opportunity in an interview.

Mr. Taras Natyshak: So how long have you been hired with TransCanada for?

Mr. Andrew Mitchell: I've been there since April 2013.

Mr. Taras Natyshak: We are in December of this year.

Mr. Andrew Mitchell: Sorry, last December. I apologize.

Mr. Taras Natyshak: Okay. Sorry.

Mr. Peter Tabuns: I wondered.

Mr. Taras Natyshak: Of 2012?

Mr. Andrew Mitchell: Yes, 2012.

Mr. Taras Natyshak: And you would have been hired officially—

Mr. Andrew Mitchell: A couple of months later. I went through a rigorous interview process with them, and then I think my first day was sometime in April 2013.

Mr. Taras Natyshak: Was it a position that was vacated? Was it a position with TransCanada that was a vacant position? Had it been posted on an employment site anywhere?

Mr. Andrew Mitchell: I'm not sure if—

Mr. Taras Natyshak: Did you apply for it, or did they sort of headhunt you?

Mr. Andrew Mitchell: I was contacted about it. I'm not sure if the actual position was posted. I didn't apply through an application process, but I was contacted and I went in for an interview.

Mr. Taras Natyshak: How many GR people do they have at TransCanada?

Mr. Andrew Mitchell: We've got a director who does all of our national stuff, and his name is Chris Breen—he's attended and provided testimony here before—and myself in Ontario. We've got folks in British Columbia. Some are in the Prairies, and in Quebec and New Brunswick as well.

Mr. Taras Natyshak: Within your experience and dealings with the Green Energy Act and that file, have you ever been involved in a negotiated settlement or an arbitrated closure agreement within any aspects of the Green Energy Act, any power purchase agreements that have gone awry that you've had to cancel—

Mr. Andrew Mitchell: No.

Mr. Taras Natyshak: Nothing like that?

Mr. Andrew Mitchell: I mean, I'm certainly not a contractual expert; I'm not a lawyer. I understood the provisions under a general PPA for—

Mr. Taras Natyshak: But to your knowledge, you've never actively been involved in a negotiated settlement?

Mr. Andrew Mitchell: No.

Mr. Taras Natyshak: I'll pass it over to my colleague Mr. Tabuns.

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

Mr. Peter Tabuns: From July 2011 to October 2011, you were acting chief of staff?

Mr. Andrew Mitchell: Yes, I was the acting chief of staff during that period.

Mr. Peter Tabuns: That was Minister Duguid?

Mr. Andrew Mitchell: That was Minister Duguid at the time.

Mr. Peter Tabuns: When you came on in July 2011, were you briefed about Eastern Power developers in Mississauga?

Mr. Andrew Mitchell: I was not.

Mr. Peter Tabuns: Did you get briefed as you went into the term?

Mr. Andrew Mitchell: No, I was not briefed on any files.

Mr. Peter Tabuns: As acting chief of staff, can you tell me what your primary duties were?

Mr. Andrew Mitchell: Very operational in nature. This was during a campaign. Again, it's really an opportunity to ensure that the agencies, like the Ontario Power Authority, IESO and OPG, are operating under a bit of a blackout period—so there shouldn't be any announcements during that time because of the campaign. Typically, you'd have a phone call with those agencies in the morning and in terms of—I've described my involvement in the campaign as not being particularly substantive. I would have provided some advice, perhaps, about an event or something that was involved in the campaign, but that would have been pretty limited.

Mr. Peter Tabuns: Any particular event that comes to mind that you were asked—

Mr. Andrew Mitchell: No, nothing comes to mind.

Mr. Peter Tabuns: You said you received two calls during the campaign period—

Mr. Andrew Mitchell: That's correct.

Mr. Peter Tabuns: —about Eastern Power developers?

Mr. Andrew Mitchell: At the time, I wouldn't be familiar with who the proponents were with these gas plants so it was—

Mr. Peter Tabuns: Well, then, about the Mississauga plant.

Mr. Andrew Mitchell: About the Mississauga plant, correct.

Mr. Peter Tabuns: One caller was Sean Mullin?

Mr. Andrew Mitchell: I believe both phone calls were from Sean.

Mr. Peter Tabuns: So the first was about potential closure?

Mr. Andrew Mitchell: The first, as I said, early in the campaign, was a conversation about a potential announcement about, yes, an ultimate cancellation, and I presume, at that time, relocation of the facility, but it was a very brief conversation—as I've described, sort of informational in nature.

Mr. Peter Tabuns: Why was he calling you?

Mr. Andrew Mitchell: I think he was calling to provide a potential heads-up and also to provide my minister with a heads-up. Following that phone call, I would have connected with my minister and said to him, "I just got off the phone with a member of the campaign team. There may be an announcement in the coming days around this gas facility, and I'm just providing you with that information."

Mr. Peter Tabuns: And the second call?

Mr. Andrew Mitchell: The second call would have been late in the campaign. I think this is all quite consistent, as well, with what Minister Duguid said when he was testifying here. I can't recall a specific date, unfortunately. The second call would have been Sean again, to my recollection, and he would have said, "The Premier has made a decision about cancellation of the gas facility

in Mississauga and there will be an event"—I think the event was the next day—"so I'd like to talk to your minister about orchestrating that event and getting prepared for that."

Again, I would have connected the minister. I'm not sure I was involved in the subsequent conversation between the minister and the campaign team.

Mr. Peter Tabuns: When they called to tell you that there would be an event the next day, approximately, announcing that the Liberals were not going to go forward with this plant, that they were going to cancel it, did they talk to you about any ramifications in terms of cost, legal problems etc.?

Mr. Andrew Mitchell: There was no discussion, and I wasn't asked for counsel on any of those topics.

Mr. Peter Tabuns: You called the minister in both cases?

Mr. Andrew Mitchell: I believe I did. Again, I can't recall whether or not I then connected him with campaign or if he just connected himself. But I certainly would have contacted the minister and provided him with the information that was provided to me.

Mr. Peter Tabuns: What was his response?

Mr. Andrew Mitchell: I think at the time—and I think this is, again, consistent with what the minister said at committee—he was a bit concerned about that decision, and he said that, I think, at committee. The subsequent phone call—the second one, right near the tail end of the campaign—I think he, in his conversation with the campaign team, again expressed some concerns, but ultimately the Premier was making this decision and he was prepared to support the decision of the Premier.

1600

Mr. Peter Tabuns: And did the minister express his concerns to you when you phoned him?

Mr. Andrew Mitchell: He didn't, no. He just said, "Let's get on the phone with the campaign and go from there."

Mr. Peter Tabuns: So you were first made aware about the Mississauga plant being an issue when you got called by Sean Mullin during the campaign.

Mr. Andrew Mitchell: That's correct.

Mr. Peter Tabuns: When in July 2007 did you start as acting chief of staff?

Mr. Andrew Mitchell: I don't have a date. I'm sorry.

Mr. Peter Tabuns: Could I ask you, was it approximately the middle of July, the end of July—

Mr. Andrew Mitchell: Again, I don't have a recollection. I just remember it being July.

Mr. Peter Tabuns: Okay, but it was before the writ was dropped?

Mr. Andrew Mitchell: Pardon me?

Mr. Peter Tabuns: It was before the writ dropped?

Mr. Andrew Mitchell: Yes, it was before the writ was dropped.

Mr. Peter Tabuns: And at the point that you became acting chief of staff, were almost all the other political staff out of the minister's office?

Mr. Andrew Mitchell: Yes.

Mr. Peter Tabuns: So by August, it was you running the ship.

Mr. Andrew Mitchell: Again, I would describe it as, for lack of better terminology, a bit of a vacant ship. I was the only political staffer there, and I was dealing exclusively with the OPS at that time, just for administrative, procedural stuff.

Mr. Peter Tabuns: Okay. Were you ever briefed on the Archives and Recordkeeping Act, and your responsibilities for keeping your emails?

Mr. Andrew Mitchell: I was not.

Mr. Peter Tabuns: Were you aware of anyone who was ever briefed on it?

Mr. Andrew Mitchell: I was not.

Mr. Peter Tabuns: What was your practice with regard to keeping your emails and records?

Mr. Andrew Mitchell: I think my general practice as an employee of the crown was consistent with—I would delete transitional emails, and other emails of substance to do my job, I would file. I generally had a practice whereby I would file electronic copies on my Outlook, and I would save those files.

When I left my employment with the government of Ontario, whatever was on my computer was on my computer. Again, by and large, those files would have related to my job as renewable energy policy adviser and then director of policy, whereby I maintained most of that role on the feed-in tariff program.

We did a substantive review of the feed-in tariff program just after the election; we completed that in March. I recall my first conversation with the minister upon accepting the job as director was him saying to me, “This is going to be your focus over the next five or six months,” and that’s exclusively what I spent my time doing.

Mr. Peter Tabuns: When you left, did you actually turn any records over to the Archives of Ontario?

Mr. Andrew Mitchell: I did not, consistent, I think, with how the previous Premier and the Information and Privacy Commissioner have testified here. They acknowledged that generally political staff were not brought up to speed on their obligations under the Archives and Recordkeeping Act. I didn’t fully understand my responsibilities therein, so at the end of my employment I did not provide any documentation to the archivist.

Mr. Peter Tabuns: When you left, you left your hard drive, you deleted what you considered transitory emails and you left what you considered substantive emails.

Mr. Andrew Mitchell: Yes. I deleted transitory emails on a daily basis. If you’ll indulge me, maybe I can just read into the record Peter Wallace’s testimony before this committee, if you’ll give me a second, because I think it speaks to his personal experience with transitory records. He said the following when he was here at committee:

“From the perspective of my office and our daily email practice, a fair amount of what is provided to us, a fair amount of my routine correspondence, is essentially trivial updates or momentary information exchanges that

would not be of interest to anybody in the future trying to, for policy purposes, for historic research purposes, understand the basis of current decision-making—it would be irrelevant.”

Consistent, I think, with his general practice, I would follow the same practice.

Mr. Peter Tabuns: I’ll just note: I don’t have Mr. Wallace’s transcript with me, but he did also express to this committee that political staff did have a sense of what was important and what wasn’t, and that he was very disturbed about the large-scale deletion of emails.

Mr. Andrew Mitchell: Sure, and I would concur with that. I think I understood as a general practice what was important and what wasn’t. What was important for my work, I filed on my computer and saved, and whatever was in my electronic records in my Outlook—that’s how I filed, because I was not taught otherwise. Whatever was in that Outlook file was there.

Mr. Peter Tabuns: And when you left, did you say to the then-chief of staff or anyone else, “My hard drive has my records”?

Mr. Andrew Mitchell: I did not, no.

Mr. Peter Tabuns: Okay. I have no further questions.

The Chair (Mr. Shafiq Qadri): Thank you. The NDP yields its time, then? Mr. Natyshak?

All right. To the government side: Mr. Delaney.

Mr. Bob Delaney: Thank you very much, Chair. Good afternoon, Mr. Mitchell. It’s been a while since we’ve seen you.

Just to fill in a few things about your work history at Queen’s Park, when did you start working here at Queen’s Park?

Mr. Andrew Mitchell: I started in 2003. I went through a number of iterations with government. I worked for a number of MPPs from eastern Ontario. I left Queen’s Park for a while, went out west, returned, and started employment with Minister Bradley. He was the Minister of Transportation at the time; then he was the Minister of Municipal Affairs.

Then, as I’ve described in my opening statement, I took an opportunity to work with Minister Duguid at energy. I was his senior policy adviser on renewable energy. I was subsequently director of policy, after the election, for Minister Bentley.

Mr. Bob Delaney: Could you just fill in a few of the blanks on, when you left after 2003, how long you were out west, and just recap when you came back?

Mr. Andrew Mitchell: Yes, sure. I should say that before I left, I actually worked for Minister Colle briefly, in citizenship and immigration. I went out west, did a master’s degree, worked for the Olympics for about a year or two, and then returned in 2007, I think, or 2008.

Mr. Bob Delaney: This is a really simple, closed-ended question: Were you involved at all in the actual decision-making process when the Oakville and Mississauga gas plants were cancelled?

Mr. Andrew Mitchell: No.

Mr. Bob Delaney: Perfect. Thank you. So, with respect to those two, you were purely focused on the renewable files, as you have previously said. Right?

Mr. Andrew Mitchell: Yes. Just to reiterate, again, my opening statement with respect to Oakville, as senior policy adviser on renewable energy I would have had no day-to-day interaction at all with the gas file or with gas generation in the province. Obviously, that's when the decision on Oakville was made, during that time. Then I've described to you my role as acting chief of staff when the decision was made to cancel Mississauga.

Mr. Bob Delaney: Okay. A few months ago, the committee passed a motion for documents from the Ministry of Energy that asked for documents from January 1, 2012, to August 2013. Were you aware of that motion?

Mr. Andrew Mitchell: I wasn't.

Mr. Bob Delaney: Okay. Would your name have been captured in some of the documents that were responsive to the search?

Mr. Andrew Mitchell: I'm not sure.

Mr. Bob Delaney: Okay. You were talking a little bit to Mr. Tabuns about some of your document retention practices. Let's just go through that.

During your time at the Ministry of Energy, would any documents that may have been related to the files on those two gas plants have been appropriately retained?

Mr. Andrew Mitchell: Sorry. Can you repeat the question?

Mr. Bob Delaney: During your time at the Ministry of Energy, would documents that even may have been related to the Mississauga and Oakville plants have been appropriately retained?

Mr. Andrew Mitchell: If I had documents to that effect, I'm sure I would have filed them, as I described to Mr. Tabuns, in my Outlook. Again, I think I've described that I was not substantively involved in the file, so I don't think I would have had any records to that effect. But if I did, presumably I would have filed them.

Mr. Bob Delaney: Okay. To talk about, I think, the genesis of why we're here, which is the Standing Committee on Estimates, which asked for documents from the Ministry of Energy, did you have any role in preparing the minister for the estimates committee at the time?

Mr. Andrew Mitchell: No. As I've described to the folks here today, I would have been involved in preparing the minister for—typically, there's sort of a Q&A session associated with estimates, so I would have been involved in preparing him on the renewable energy stuff, along with OPS staff. I would not have been involved in preparing the minister for anything that's under the purview and the mandate of this committee here today.

Mr. Bob Delaney: Right. Did you have any role with respect to production of documents for the estimates committee?

Mr. Andrew Mitchell: I did not.

Mr. Bob Delaney: Okay. When Deputy Minister Serge Imbrogno from energy appeared before the committee, he talked about a lot of the time and resources that went into searching for, identifying and compiling documents

that were responsive to the estimates committee motion. He said, "We basically shut the ministry down for that search period ... a lot of the time and effort was spent with policy legal staff going through and determining what is responsive and what is non-responsive."

1610

He went on to say it "took a lot of time and effort, but the ministry basically worked 24/7, and that was the priority for the ministry." Were you there at that time?

Mr. Andrew Mitchell: I was in the minister's office, yes.

Mr. Bob Delaney: Does that sound like an accurate description of what went on when preparing for the estimates motion?

Mr. Andrew Mitchell: Yes. It's a significant ordeal for any ministry when you're preparing a minister for estimates, so I know there was a lot of work that went into his preparation. But I think your question was with respect to document disclosure?

Mr. Bob Delaney: Yes. Just whether it's—

Mr. Andrew Mitchell: Again, while not being involved in the process, it looked like folks in the OPS were extremely busy trying to coordinate that with the Ontario Power Authority.

Mr. Bob Delaney: Okay. During the time some of this was going on during the 2011 election, were you paying attention to the policies and commitments of all three parties?

Mr. Andrew Mitchell: In a general way, of course. I think I followed—obviously, I was in the minister's office at the time, and I would have followed the campaign, as anyone would who was interested in politics.

Mr. Bob Delaney: When Oakville Mayor Burton appeared before the committee, one of the things he said is that he had, and I'll use his words, "won promises from all parties to stop the proposed power plant." Certainly, when Mayor McCallion was here, she said, and I'll use her words, "I think all parties would have cancelled it."

In your role, would you have been aware that all three parties had promised to either cancel or relocate the Mississauga and Oakville plants?

Mr. Andrew Mitchell: So I think, just generally watching the election and being interested, I would have understood that—again, my understanding was there was a general acceptance from all three parties that there should be cancellation of the facilities on the basis of some concerns with local communities.

Mr. Bob Delaney: Were you involved in any of the discussions that determined the sunk costs for Mississauga or Oakville?

Mr. Andrew Mitchell: I was not.

Mr. Bob Delaney: Okay. Were you aware of any discussions to limit or to minimize how the message would be communicated to the public?

Mr. Andrew Mitchell: I was not involved in any of the communications associated with those decisions.

Mr. Bob Delaney: Did anyone provide you with any information on other communications or costing?

Mr. Andrew Mitchell: No.

Mr. Bob Delaney: Let's see. Were you ever directed by any of your former chiefs of staff to either delete any emails or documents?

Mr. Andrew Mitchell: I was not.

Mr. Bob Delaney: Okay. The former Premier said that there was a lack of formal training with respect to how to properly manage records. The formal training notwithstanding, do you feel that the practices that you kept during that period conformed to the standards?

Mr. Andrew Mitchell: I still have not been trained in terms of staff requirements under the Archives and Recordkeeping Act, so I can't compare what my general practice is with those of what's required. But on the basis of substantive information, I've described my process, I think, to folks here, so I would typically try and save files that were relevant for my work. For files that were transitory in nature, I would typically delete them.

Mr. Bob Delaney: A few questions, then, about some of your experience in the energy field and some of the changes that you saw during your tenure: From your experience in working with the government and, perhaps if it's applicable, your private sector experience, do you see any major differences in Ontario's energy system today?

Mr. Andrew Mitchell: Over the course of what period?

Mr. Bob Delaney: Over, say, the last 10 years.

Mr. Andrew Mitchell: I think there have been substantial investments: building new transmission capacity in the province as well as new generation. That really started in 2003, so we've gone through a marked period of investment in energy infrastructure in the province. That's a clear signal of investment, for sure.

Mr. Bob Delaney: Do you have any thoughts on improving the process of locating energy infrastructure?

Mr. Andrew Mitchell: I generally don't, and I know there have been significant changes recently from the government of Ontario. There have been some changes in the way energy infrastructure is being sited, so I think that's a step in the right direction. I worked almost exclusively on the feed-in tariff program, and there were some concerns about how energy is being sited in the province. I think there has been some movement in the right direction there in terms of the new regime of siting for energy infrastructure.

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

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Delaney. We'll now move to the PC side: Ms. MacLeod? No further questions? To the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: I've got just a couple of questions that come out of Mr. Delaney's—

The Chair (Mr. Shafiq Qadri): How many questions, Mr. Natyshak? Is it the same seven?

Mr. Taras Natyshak: I think there are about three or four, Chair, if I may. How much time do I have? Ten minutes?

Mr. Bob Delaney: You've got 10.

Mr. Taras Natyshak: Thank you. Mr. Delaney asked you if you had been monitoring all parties during the 2011 election in regard to the cancellation of the Oakville gas plant and you had indicated that you were.

Mr. Andrew Mitchell: In a general sense. I wouldn't say I was monitoring the parties, so if I—

Mr. Taras Natyshak: I wrote down that you had indicated that you thought there was a general acceptance between all parties that they had all committed to—are you quite certain about that?

Mr. Andrew Mitchell: No, I'm not certain, and my understanding was, again, that there were some concerns identified from all the parties, the local MPPs, or the candidates, for that matter. But again, I may be incorrect, so you may—

Mr. Taras Natyshak: You wouldn't know specifically what party policy was or what the leaders were saying specifically about the Oakville plants?

Mr. Andrew Mitchell: At the time, no. I can't recall.

Mr. Taras Natyshak: Well, just for your information, I will let you know that our leader, Andrea Horwath, had not committed to cancelling the Oakville plant because we had no idea what the number would be. We certainly could not commit to cancelling any type of a contract without fully knowing the costs. And speaking of costs, I'm wondering, have you followed this committee for a while?

Mr. Andrew Mitchell: A little bit.

Mr. Taras Natyshak: A little bit.

Mr. Andrew Mitchell: Yes.

Mr. Taras Natyshak: Mr. Delaney, at one point, characterized the costs, which we know are quite enormous, of cancelling the Oakville and Mississauga gas plants as akin to the moon landing, ostensibly to bring a government boldly where it has never gone before. Would you concur with Mr. Delaney's assessment of what the costs were going to be?

Mr. Andrew Mitchell: As I've described to you, I've watched this committee when I've gotten the opportunity to do so. I don't think I've got much to add in terms of further discussion on the costs and the quantum of costs. You've got expert testimony here from folks from the Ontario Power Authority. You've got two reports now from two Auditors General. From that perspective, I don't think I've got much further to add to the cost conversation.

Mr. Taras Natyshak: I appreciate that, and I understand that you're limited in terms of what your knowledge would be when it comes to the specific guesstimate of what the cost would be. But I think Mr. Delaney, in one part, was correct in the fact that the costs have turned out to be astronomical. Of course, that's why we're here today. But I appreciate your testimony.

Mr. Tabuns, do you have any questions?

Mr. Peter Tabuns: I do indeed. You left in February 2013?

Mr. Andrew Mitchell: Yes. It was sort of in around that general time period.

Mr. Peter Tabuns: Our notes say February 2013, director of policy, Ministry of Energy. You didn't move on to another position?

Mr. Andrew Mitchell: No. I did not in government, no.

Mr. Peter Tabuns: Who was the chief of staff in the minister's office?

Mr. Andrew Mitchell: Chris Cheung was the chief of staff at that point in time.

Mr. Peter Tabuns: And was he relatively new?

Mr. Andrew Mitchell: New as a chief of staff?

Mr. Peter Tabuns: Yes.

Mr. Andrew Mitchell: Yes, that would have been his first job as a chief of staff in government.

Mr. Peter Tabuns: When did he start?

Mr. Andrew Mitchell: As chief of staff?

Mr. Peter Tabuns: Yes.

Mr. Andrew Mitchell: That summer, so some time—when Craig MacLennan departed, that's when Chris Cheung would have become the chief of staff. Chris Cheung was a long-standing policy adviser to Minister Bentley, so he was with him at the Ministry of the Attorney General and subsequently with him at energy as a senior policy adviser on a number of files, and then he would have assumed the position of chief of staff.

Mr. Peter Tabuns: You were working for Minister Bentley in May 2012, May of last year.

Mr. Andrew Mitchell: Yes.

Mr. Peter Tabuns: So you would have been aware that there was an intense debate going on in the estimates committee and a demand for records?

Mr. Andrew Mitchell: I was aware of the debate at estimates, yes.

Mr. Peter Tabuns: Then you were aware of the provision of documents in the fall of 2012, in September 2012?

Mr. Andrew Mitchell: The disclosure of documents to estimates?

Mr. Peter Tabuns: Yes.

Mr. Andrew Mitchell: Yes, I was aware of that process.

1620

Mr. Peter Tabuns: And I assume you were aware of the controversy over whether or not all of the documents had been released or not.

Mr. Andrew Mitchell: I was aware of that controversy, yes.

Mr. Peter Tabuns: And in the aftermath of that, were you or other members of the minister's staff talked to about the need to preserve records at all?

Mr. Andrew Mitchell: No, we were not. No.

Mr. Peter Tabuns: Were you ever told to delete records?

Mr. Andrew Mitchell: I was not.

Mr. Peter Tabuns: So when you left, there was no one who checked with you as to whether or not you had files to turn over to the Archives of Ontario?

Mr. Andrew Mitchell: No, and my understanding was—I think, if you read into the letter of the law, the

archivist would approach a minister's office and have that discussion, but I'm not sure. I haven't read the act. I still haven't; I'm no longer staff here.

I understand there have been some positive developments on that front. The new Premier has put some training requirements in place. I think that's a step in the right direction.

Mr. Peter Tabuns: Okay. I have no further questions.

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

Mr. Bob Delaney: I believe we're done as well.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Delaney, and thanks to you, Mr. Mitchell, for your presence and testimony. You are respectfully dismissed.

Mr. Andrew Mitchell: Thank you.

COMMITTEE BUSINESS

The Chair (Mr. Shafiq Qaadri): We have some motions, I believe, before the committee.

Mr. Peter Tabuns: If I may move the motion?

The Chair (Mr. Shafiq Qaadri): Go ahead, Mr. Tabuns. The floor is yours.

Mr. Peter Tabuns: Thank you, Chair. I move that the Standing Committee on Justice Policy meet on the following days for the purpose of report writing pursuant to its mandate:

—Tuesday, January 21, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

—Tuesday, January 28, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

—Tuesday, February 4, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

—Tuesday, February 11, from 9 a.m. to noon and 1 p.m. to 4 p.m.; and

That report writing shall be held in closed session; and That one staff person from each political party be present during report writing; and

That the committee report its findings and recommendation to the House no later than Monday, February 24.

If I may speak to that motion?

The Chair (Mr. Shafiq Qaadri): You may, Mr. Tabuns. I'd just like you to confirm: You are referring to the year 2014, I presume?

Mr. Peter Tabuns: I am, indeed. Thank you, Mr. Chair, for that clarification.

Mr. John Yakabuski: It's always good to know the year.

Mr. Peter Tabuns: It's always best, yes. A 2015 or 2016 date would have very different import, I have no doubt.

As you are aware, Chair, this committee doesn't sit when the House isn't sitting unless a decision is made by the committee is actually sit. We've gone through a few intersession opportunities; I want to make sure that we do in fact sit when the Legislature is not in session. I suggest these times, and I suggest that we turn our minds to report writing. It's consistent with the direction set by the Legislature. We've heard from quite a few witnesses, and

we've received quite a few documents. I have no doubt that we will receive more documents and, frankly, in the terms of this motion, we are not prohibited from calling other witnesses. If we find it necessary as a committee, we may determine that there are points of clarification that need to be made, but I would say that, at this point, we do in fact have to get on with our work. I think it's to the advantage of all concerned to actually sift through the evidence and come forward with a report for the Legislature's consideration.

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

Ms. Lisa MacLeod: While I appreciate the intent of my hard-working colleague Mr. Tabuns, I have two concerns with this. The first is that not one of the members on our committee side are from Toronto, and it does make it much more difficult when scheduling. The second is that both myself and Mr. Yakabuski are out of the country for some of these dates.

I also find that it's far too prescriptive. I think it's too definitive. With that mind, I would just like to put forward an amendment.

I move that the following sections be deleted:

"I move that the Standing Committee on Justice Policy meet on the following days for the purpose of report writing pursuant to its mandate:

"—Tuesday, January 21, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

"—Tuesday, January 28, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

"—Tuesday, February 4, from 9 a.m. to noon and 1 p.m. to 4 p.m.;

"—Tuesday, February 11, from 9 a.m. to noon and 1 p.m. to 4 p.m.;"

And:

"and that the committee report its findings and recommendations to the House no later than Monday, February 24."

And be replaced with:

"I move that the Standing Committee on Justice Policy meet on witness days allotted to the NDP, for the purpose of report writing, starting the first week when the House resumes."

And:

"and that the committee report its findings and recommendations to the House once the committee has reached unanimous consent."

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. We'll certainly entertain that amendment. I think we'll need to recess in order to process.

Mr. Peter Tabuns: Yes. In fact, I was going to ask for that, and for a written copy of the amended motion.

The Chair (Mr. Shafiq Qaadri): Yes, absolutely. Okay. So we're in recess for five, 10 minutes.

The committee recessed from 1625 to 1636.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. The committee is back in session. We now have amendments to the main motion proposed by Mr. Tabuns, and the floor is open for discussion either way.

Ms. Lisa MacLeod: I just need to make an amendment to the amendment.

The Chair (Mr. Shafiq Qaadri): Yes?

Ms. Lisa MacLeod: I previously said at the very end of my amendment, "and that the committee report its findings and recommendations to the House once the committee has reached unanimous consent." I would like to amend that to say, "has reached a majority." Oh, sorry. I'm reading the wrong draft—"has reached a decision of the committee."

The Chair (Mr. Shafiq Qaadri): "Has reached a decision."

Mr. Bob Delaney: In other words, once the committee has reached a decision, period.

The Chair (Mr. Shafiq Qaadri): All right. So we have the amendment to the amendment to the motion now before us. Is there any discussion, debate or finer elements of wordsmithing required before we vote on that amendment to the amendment to the motion?

Mr. Peter Tabuns: If I can have clarity, Chair—and I think we all agree—you are taking the last line of my motion, which says that the committee will report its findings to the House on Monday, February 24, and replacing it. What you've said is, "and that the committee report its findings and recommendations to the House once the committee has reached a decision."

Ms. Lisa MacLeod: Yes.

Mr. Peter Tabuns: I am agreeable to that amendment.

The Chair (Mr. Shafiq Qaadri): Fair enough. So can we vote on this amendment to the amendment to the motion? Mr. Delaney, comments?

Mr. Bob Delaney: We have in the process of this discussed our freedom as a committee to call additional witnesses. Can I just ensure that we're clear on what the witness rotation would be, how much time and how many witnesses per day? In other words, we're used to a particular rotation here. Although we have said that during this process we can call additional witnesses, which is fine, I just want to clarify: Are we using the same protocol that we have right now?

Ms. Lisa MacLeod: Yes.

Mr. Peter Tabuns: Well, we're actually dealing with a separate amendment. We can deal with that question. The first is the amendment by the PCs to change the last line of my motion. I'd suggest we deal with one amendment at a time.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of this amendment, as read by Ms. MacLeod—the amendment to the amendment?

Mr. Bob Delaney: Again, just for clarity, are we voting on the part that says "I move that the Standing Committee on Justice Policy meet on witness days allotted to the NDP for the purposes of report writing"?

The Chair (Mr. Shafiq Qaadri): No. We are not voting on the date issue. We're voting only on that last line change.

Mr. Bob Delaney: In other words, there are two amendments to the motion.

The Chair (Mr. Shafiq Qaadri): Correct.

Mr. John Yakabuski: There's an amendment to the amendment to the amendment.

The Chair (Mr. Shafiq Qaadri): Correct.

Mr. Bob Delaney: Okay. So the first thing we're voting on is the replacement of "unanimous consent" with the words "a decision."

The Chair (Mr. Shafiq Qaadri): Exactly.

Mr. Bob Delaney: Fine. Now I understand what we're asked to vote on. Okay.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of this amendment to the amendment to the motion? That is now carried.

We now go to the amendment to the motion.

Mr. Peter Tabuns: Sorry, we've just agreed to this amendment to the motion?

Mr. Bob Delaney: The amendment to the amendment.

The Chair (Mr. Shafiq Qaadri): Yes, so the new version reads as follows. The very last line of this document is now rendered as, "has reached a decision of the committee." Correct? All right. That is now executed.

Now we have the amendment, which is the material that follows "and be replaced with."

Mr. Peter Tabuns: And that replaces the line "and that the committee report its findings and recommendation to the House no later than Monday, February 24." That's now out. So you have an additional line, which is, "I move that the Standing Committee on Justice Policy meet on witness days allotted to the NDP, for the purpose of report writing, starting the first week when the House resumes," which means that when the House resumes, the Thursday slot will continue to be a report-writing slot. Correct?

Mr. John Yakabuski: Whatever day was allotted to the NDP—

The Chair (Mr. Shafiq Qaadri): Yes.

Ms. Lisa MacLeod: You're cool with that?

Mr. Peter Tabuns: Yes. Move it forward.

The Chair (Mr. Shafiq Qaadri): Fair enough. Those in favour of this amendment? Those opposed? That amendment carries.

Shall the motion, as double-amended, carry? Yes, Mr. Tabuns.

Mr. Peter Tabuns: So all my text is then preserved down to and including "that one staff person from each political party be present during report writing; and."

The Clerk of the Committee (Ms. Tamara Poman-ski): "And that report writing shall be held in closed session." So you have that as well.

Mr. Peter Tabuns: Yes. So you have—

The Chair (Mr. Shafiq Qaadri): Regrettably, but that is the reduction, yes—not the redaction but the reduction.

Mr. Peter Tabuns: So everything is intact from "I move" down to "report writing; and," and then the two other sections are added on.

Mr. John Yakabuski: No. The dates are gone. We removed that in the amendment.

The Chair (Mr. Shafiq Qaadri): Yes, the dates are gone.

Mr. Peter Tabuns: No. The only thing that's removed in the amendment is the date for a final report.

Mr. John Yakabuski: No. We deleted the first part: "I move that the following sections be deleted," and that included—it started with the dates; they're gone.

The Chair (Mr. Shafiq Qaadri): The dates are now gone. We've already voted on that.

Mr. Peter Tabuns: Pardon?

The Chair (Mr. Shafiq Qaadri): The dates are now gone, so just to be clear—

Mr. Peter Tabuns: No, Mr. Chair. We were going up the document. We agreed that—

Interjection.

Mr. Peter Tabuns: "I move that the following sections be deleted": There was no vote on that.

Ms. Lisa MacLeod: Yes.

Mr. John Yakabuski: That was the amendment

Mr. Peter Tabuns: No. We had a vote on "That the committee report its findings and recommendations to the House once the committee has reached a decision."

Mr. John Yakabuski: That was the amendment to the amendment.

Mr. Peter Tabuns: Yes. That was amended, and that part was adopted. And then the second part, "I move that the Standing Committee on Justice Policy meet" to write reports at the time that NDP witnesses would be heard—

The Chair (Mr. Shafiq Qaadri): Just to be clear, Mr. Tabuns, I think that's obviously the intent of the underlying phrase there, "and be replaced with," meaning all of the above is now replaced with that, which is now in the record.

Mr. Peter Tabuns: No. Mr. Chair, that motion—I had agreed to wording additional to what was here, not the cancellation of all that was above.

Mr. John Yakabuski: Well, that's what the motion was.

The Chair (Mr. Shafiq Qaadri): That's what the motion was.

Mr. Peter Tabuns: While I agreed to amendments, I'm not going to agree to deletion of meeting dates to write the report.

Mr. John Yakabuski: We already voted on it, Peter. You voted to a motion that said, "I move that all these sections be deleted." It started with that.

Mr. Peter Tabuns: No, I don't move that those sections be deleted. I didn't support it.

Mr. John Yakabuski: You didn't—we moved it.

Mr. Peter Tabuns: Yes, but I didn't support that.

Mr. John Yakabuski: We already voted, did we not? Did we not vote on the amendment? Chair, have we not—

The Chair (Mr. Shafiq Qaadri): Mr. Yakabuski is correct. This issue is, at least legalistically, formally dealt with, because the votes are now over. But in the spirit of making sure that everyone is voting with the proper understanding, I am willing to, I suppose, go back and undo those votes with unanimous consent.

Mr. John Yakabuski: No.

The Chair (Mr. Shafiq Qaadri): I do not have unanimous consent, Mr. Tabuns.

Just to be clear, your motion, as it is now double-amended, stands that you are proposing that the justice policy committee meets, and the only issue is the dates above, the January 21, 28, February 4 and 11, that's gone. It is now reduced to meeting on the witness days, after the House resumes, the time allotted for the NDP, and with that additional sentence correction amendment by Ms. MacLeod. That is now the motion that is before this committee.

Mr. Peter Tabuns: Five-minute recess.

The Chair (Mr. Shafiq Qaadri): A five-minute recess.

The committee recessed from 1644 to 1653.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. The committee is back in session. Just for the record, our Clerk has handed out the motion which has essentially passed so far by the committee, as amended, with all the various texts removed. It's now before the floor. Comments? Mr. Tabuns?

Mr. Peter Tabuns: I would urge the movers to withdraw this. If they don't, I'll vote against it. After that—

The Chair (Mr. Shafiq Qaadri): That would be self-reflexive, Mr. Tabuns, as you were the mover, but in any case—

Mr. Peter Tabuns: Not of a motion that takes us nowhere, Mr. Chair. One can amend a motion to death, and the knife has been put into this one. I am going to, after this motion has been disposed of one way or the other, move that this committee reconvene Thursday morning at 9 a.m. for consideration of its schedule in the new year.

The Chair (Mr. Shafiq Qaadri): Fair enough. Just to let you know, there are no witnesses scheduled, so—

Mr. John Yakabuski: First, I would move that the motion, as amended, be withdrawn, period. Let's start with that.

The Chair (Mr. Shafiq Qaadri): Mr. Tabuns actually has a motion before us. Are we agreeable to meet Thursday at 9 a.m.?

Mr. John Yakabuski: Let's withdraw the motion first.

Mr. Bob Delaney: At the moment, what's on the table is the motion, as amended.

The Chair (Mr. Shafiq Qaadri): Correct.

Mr. Peter Tabuns: If you withdraw your motion, we'll recall the motion.

Mr. John Yakabuski: It's not our motion. It's your motion.

Mr. Peter Tabuns: Well, if I have that control, I'm happy to withdraw the motion.

Ms. Lisa MacLeod: Why don't you withdraw the motion—

Mr. John Yakabuski: Move to withdraw it.

The Chair (Mr. Shafiq Qaadri): Mr. Tabuns needs unanimous consent in order to withdraw this. Do we have unanimous consent?

The Clerk of the Committee (Ms. Tamara Poman-ski): His original motion. Your original motion, right? You want a clean slate.

Mr. Peter Tabuns: My original motion got amended to this—

The Clerk of the Committee (Ms. Tamara Poman-ski): Right, but you want a clean slate.

Mr. Peter Tabuns:—so my original motion no longer exists.

The Chair (Mr. Shafiq Qaadri): Do we have unanimous consent?

Mr. Bob Delaney: What is it that we're asking for unanimous consent to do?

Mr. John Yakabuski: We want to go back to where we were before we started this discussion.

Mr. Steven Del Duca: Like, in January?

Mr. John Yakabuski: No, no. That way, we can talk on Thursday at committee about what is a reasonable schedule, so that we can actually do something that we all think will be reasonable for all of us.

The Chair (Mr. Shafiq Qaadri): So I take it we do not have unanimous consent.

Mr. Phil McNeely: No.

Ms. Lisa MacLeod: Phil didn't say yes; he said no, we don't.

Mr. Bob Delaney: Apparently, regardless of what I said, we're voting on the motion.

Laughter.

Ms. Lisa MacLeod: Just a heads-up.

The Chair (Mr. Shafiq Qaadri): All right. So are we moving to vote on this thing? All right. Actually, we don't have to vote. It's already—

The Clerk of the Committee (Ms. Tamara Poman-ski): No, we do. We have to move the motion, as amended.

The Chair (Mr. Shafiq Qaadri): Didn't we already accept that?

The Clerk of the Committee (Ms. Tamara Poman-ski): No, not the main motion. We did the amendment to the amendment, and then the amendment.

The Chair (Mr. Shafiq Qaadri): All right. Fine. Whoever the orphaned author of this was, would they care to reread it in order for us to vote on it?

Mr. Peter Tabuns: I ain't reading this.

Ms. Lisa MacLeod: All right. I move that the Standing Committee on Justice Policy meet on witness days allotted to the NDP for the purpose of report writing, starting the first week when the House resumes; and

That the committee report its findings and recommendations to the House once the committee has reached its decision.

Mr. John Yakabuski: That's not the motion. This is the motion, but we do not want to vote for this motion.

Ms. Lisa MacLeod: Okay. This is the new motion—

Mr. John Yakabuski: And it's not our motion.

Ms. Lisa MacLeod:—and it's not our motion.

The Clerk of the Committee (Ms. Tamara Poman-ski): No, no, it's at the end. This is what the amendment would look like.

Mr. John Yakabuski: We understand that, but it is not achieving what we had hoped for. As you said, it would end up being where I suspected it would end up, which is not where we want to end up.

Ms. Lisa MacLeod: Okay. Then I will move the motion, as amended: That the Standing Committee on Justice Policy meet on witness days allotted to the NDP for the purpose of report writing, starting the first week when the House resumes; and

That the report writing shall be held in closed session; and

That one staff person from each political party be present during report writing; and

That the committee report its findings and recommendations to the House once the committee has reached a decision of the committee; and

That the motion now be put to a vote.

Mr. Bob Delaney: Is that what you wanted?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qadri): All right. If there are no comments—or if there are, I'll take them now. Otherwise, we're voting on this motion.

Mr. Peter Tabuns: Recorded vote.

Nays

MacLeod, Milligan, Natyshak, Tabuns, Yakabuski.

The Chair (Mr. Shafiq Qadri): I guess the motion is defeated.

Mr. Peter Tabuns: Mr. Chair, I move that this committee reconvene at 9 a.m. on Thursday of this week to consider committee business, in particular regarding meeting times over the next period.

The Chair (Mr. Shafiq Qadri): Is that agreeable to members of the committee? Agreed.

Is there any further business before this committee?

Mr. John Yakabuski: That was 9 o'clock?

The Chair (Mr. Shafiq Qadri): Yes, 9 a.m. on Thursday.

Ms. Lisa MacLeod: Can we change our subcommittee, then, to 8 o'clock or 8:30 on Thursday, so that we can actually deal with the subcommittee?

The Chair (Mr. Shafiq Qadri): Usually we do the subcommittee right after.

Ms. Lisa MacLeod: It's good to have a subcommittee now, but why can't we just do one subcommittee? I don't think we're in a position at the moment, given the discussion we've just had, to talk about dates.

Mr. Peter Tabuns: If I may speak, Mr. Chair, my assumption is that everyone will be talking to everyone over the next few days, and by the time we get here at 9 a.m. on Thursday—

The Chair (Mr. Shafiq Qadri): We've usually done subcommittees when we have the 9-till-10:30 window on Thursdays. It should be enough time.

Mr. Bob Delaney: Yes, we've got more than enough time to do this.

The Chair (Mr. Shafiq Qadri): It's no witnesses, just subcommittee.

All right, so 9 a.m. Thursday.

The Clerk of the Committee (Ms. Tamara Poman-ski): It's the full committee, though, on Thursday at 9 a.m.

Mr. Peter Tabuns: A full committee meeting.

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

The Chair (Mr. Shafiq Qadri): The full committee.

Interjections.

The Chair (Mr. Shafiq Qadri): Is that agreeable? All right. If there's no further business before this committee, we are adjourned until Thursday at 9 a.m.

The committee adjourned at 1700.

CONTENTS

Tuesday 10 December 2013

Members' privileges.....	JP-1205
Mr. Andrew Mitchell	JP-1205
Committee business.....	JP-1215

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