

QP BRIEFING

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ARTICLES

1). IN BRIEF: BERNIE SANDERS, SULPHUR DIOXIDE, POT SHOP REAL ESTATE, THE NDP FAIR HYDRO PLAN PLAN AND ANOTHER COUNCILLOR JOINS THE FRAY

By: Jessica Smith Cross

Premier Kathleen Wynne and U.S. Senator Bernie Sanders are scheduled to visit three Toronto hospitals this weekend as part of his Cross-Country Healthcare.

Patients at Women's College Hospital, Mount Sinai Hospital and the Perter Munk Cardiac Centre should be on the lookout for a bespectacled socialist coming their way on Saturday.

On Sunday, the premier will introduce Sanders before he gives a speech titled "What the U.S. Can Learn From Canadian Health Care" at the University of Toronto.

Environment Minister Chris Ballard announced Friday that the province has opened a consultation process on a new sulphur dioxide air standard. According to the regulatory post, a phase-in period of five years is proposed and the ministry is asking for feedback on whether to apply the standards only in southern Ontario.

"Every Ontario resident deserves to breathe clean air in a prosperous and fair economy. We hear the anxieties and concerns of residents living in the Sarnia area about the impacts of industrial pollution on their health and that is why we are taking action," Ballard said in a statement. "Today, we have posted for consultation a new sulphur dioxide air standard to protect people's health. As part of our proposal to clarify modelling requirements for facilities, petroleum facilities must model emissions during start-up and shut-down operations and during acid-gas flaring. We are also committed to taking more action in the coming weeks on the cumulative effects in heavily industrialized areas of the province."

The announcement comes after bad press about the air quality in Chemical Valley and a scathing report from Ontario's Environmental Commissioner.

The LCBO is on the hunt for good spots to set up its marijuana stores, the government announced Friday.

Our government retailer of various vices is reaching out to municipalities for help identifying prospective locations that are not located in close proximity to schools. Consultations will be held before spots are selected, according to a government news release.

The goal is 150 standalone stores by 2020, but only 40 on Cannabis Day next year. Those who can't pop by the as-yet unacronymed stores can order their marijuana online.

Meanwhile, the Ontario NDP has a plan to deal with the Fair Hydro Plan, should it form government in 2018.

Energy critic Peter Tabuns tells QP Briefing that the party would discontinue to the Liberal government's Fair Hydro Plan, as it has been set out.

"We wouldn't continue this scheme to keep things off the books, to make it look good for the Wynne Liberals. We would end that borrowing by OPG. If we borrow money, we would borrow it on the provincial books, and that would eliminate a \$4 billion cost," said Tabuns. "We know that accumulating this large debt is a problem, our interest would be having a transition period over a year, year-and-a-half to move out of that system and put in place the cost savings that we've talked about on the hydro plan we put forward earlier this year."

Meanwhile, PCs have said that if they win, they plan to keep the plan in place until they can take more costs out of the system.

The Liberals announced that three-term Toronto city councillor Chin Lee will run for the party in the 2018 election. The announcement will create a head-to-head matchup of politicians with long city council records as Lee will run in the new Scarborough North riding against PC MPP Raymond Cho.

Scarborough in east Toronto has been a stronghold for the Grits since the party gained power in 2003—Cho represented a breakthrough for the PCs when he was able to pick up a Scarborough seat in a 2016 byelection.

Lee, a soft-spoken centrist, was first elected to the municipal seat in Scarborough-Rouge River in 2006, when he succeeded former councillor (and former MPP) Bas Balkissoon. He has been passionate about property tax reform, and has both supported and opposed the proposed Sheppard LRT line, more recently expressing his opposition on the grounds that the community doesn't want it.

2). *HUTTON: IN DEFENCE OF LAURA MILLER*

By: Deb Hutton

No – it's not April Fools' Day. But it may be Freaky Friday because this column is in defence of Dalton McGuinty's former deputy chief of staff Laura Miller.

Now, before I earn the disgust of every Ontario conservative alive, let me be clear about what I'm defending; I believe it is wrong that Ms. Miller is personally responsible for paying her legal fees in the breach of trust trial. This is not a defence of her alleged actions. But it is a strong vote of support for the notion that if you require legal advice as a result of performing your job, then your employer should foot the bill for that service.

To her credit, Miller herself has not made an issue of the fact that the government has refused to provide her with support. Instead, in late 2015, Miller's supporters set up a FundRazr account to help defray the cost of her legal bills. At last check, just over \$80,000 has been raised. (To be wholly accurate, the government offered to pay for a maximum of five hours of legal advice, which is a mere drop in the bucket of the hours her lawyer will undoubtedly accrue).

The politically convenient position to take on this issue is to say that Miller was not doing her job effectively and therefore her employer (taxpayers) shouldn't be on the hook for her legal bills. In other words, she's guilty as charged.

Others might argue that, since Miller was political staff, it should be the Liberal Party of Ontario, not the taxpayers who pay the bills. But that's not how our system works. Political aides who work for a premier or cabinet minister are part of the government of Ontario, not their respective parties.

In Miller's case, I suspect it's simply a matter of the current premier not wanting to spend political capital defending a member of her predecessor's team. Nor, seemingly, was the premier willing to dip into party coffers for someone involved in an issue that has been a thorn in the premier's side since she took office.

Contrast this with the other Ontario political scandal that had, until earlier this week, also been playing out in the courts. Premier Kathleen Wynne's former deputy chief of staff has had her bills paid for by the Liberal Party of Ontario in her successful defence in the trial related to the Sudbury byelection. This would seem appropriate, given the fact that Pat Sorbara was acting in her capacity as an Ontario Liberal party adviser, not for the government, when she was charged.

But if the premier believes Sorbara's bills should be covered by her employer, then why shouldn't Miller's? Regardless of what you think about the quality or motivation of either of their actions, both Miller and Sorbara were doing a job they were hired to do when they faced charges as a result of those actions.

Taxpayer-funded legal bills have been controversial in Ontario for years. Take the example of former MPP and cabinet minister, now MP, Tony Clement when he launched a libel lawsuit against McGuinty, who was then the Liberal leader, in 2000. At the time, premier Mike Harris said that the government would cover Clement's legal bills as the defamation had occurred

while, and because, he was doing his job. While many disagreed and Harris faced some political backlash, it was the right decision.

Many years ago, former MPP and house speaker Al McLean was accused of sexual harassment by a former employee. At the time, I was outraged that the taxpayers would be footing the bill for his legal defence. (In the end, McLean chose to reimburse the taxpayers for a portion of the costs associated with the suit).

In retrospect, I realize I had personally decided that McLean was guilty and therefore unworthy of financial support. But, as Harris pointed out to me at the time, what if an accusation arose against an MPP whom I believed was innocent? Would I feel that individual should personally face financial ruin because someone might have a political axe to grind or that there were unintended consequences to their actions? My answer was a clear no.

My perspective on this issue was further reinforced by my own personal experience as a former political adviser subpoenaed to testify at the public inquiry into the events at Ipperwash Park. My legal bills, and those of all others who similarly testified, were paid for by the government.

Unfortunately, premier Ernie Eves took a different approach, more in tune with the current premier's position when he refused to cover the legal fees for a defamation lawsuit his predecessor launched against The Globe and Mail. His decision, in my view, was politically expedient and wrong. (That matter was subsequently settled).

Whether you're a member of the civil service, an MPP, a cabinet minister or a political aide, I believe you shouldn't be on the financial hook for any legal actions that arise as a direct result of doing your job.

Too many politicians are weak on this issue. I understand why, but it doesn't make it right. And with new election financing rules in place, the ability of political parties to pick up legal tabs as a more publicly palatable way to deal with this in the future will be lessened.

And for all those who think I'm way off base, keep in mind that it could happen to you if you are fortunate enough to work at Queen's Park. Political aides know that politics sometimes means you can be thrown under the bus at any point for the sake of the greater political good, even if you've done your job well. But that shouldn't be compounded by the prospect of expensive legal bills.

I may not like what Miller and her colleague David Livingston are alleged to have done. But it's not up to me. The courts will decide their guilt or innocence. But until such time as that verdict is rendered, their legal bills should be paid for by the taxpayers who technically employed them. As taxpayers, we may dislike the notion, but some things are the "cost of doing business" in a democracy.

Wynne should have insisted that Miller and Livingston's legal bills were covered. And her failure to do so should worry every political staff within her government.

3). *WITH PARTIAL IMMUNITY IN HAND, PETER FAIST TESTIFIES AT GAS PLANTS TRIAL ABOUT 'CLEANING' GOVERNMENT COMPUTERS*

By: David Hains

Testifying under a partial immunity agreement, the partner of Dalton McGuinty's former deputy chief of staff told a downtown Toronto courtroom Friday that his common-law spouse hired him to "clean" 20 government computers.

Peter Faist, an IT consultant, told the court his partner Laura Miller asked him who could "clean the personal data off the [computers] in the office."

"Laura asked me if I knew anyone who could do this type of work," he testified. "I said I could do it myself."

Miller and former McGuinty chief of staff David Livingston face three charges each related to deleting computer records in connection with the politically contentious gas plants cancellations in Oakville and Mississauga prior to the 2011 election. They have pleaded not guilty to all charges.

While Faist was familiar with the technical side of deleting computer records, he claimed that despite his long-term live-in relationship with Miller, he had little awareness of the structure in Ontario's cabinet office and premier's office. When asked what his partner's job was at the time, he could not identify that Miller was the deputy chief of staff, the second-highest ranking political staffer in McGuinty's office. He vaguely recalled that Livingston, his partner's boss whom he had met a few times, was the chief of staff.

The Crown offered Faist an investigative assistance agreement in October 2014. The agreement was that what he shared in his statement at the time could not be used against him. Faist continues to be Miller's common-law partner.

While Faist conceded he wiped the computers at Miller's request — he said he prefers the term "cleaned" — he characterized the deletion of personal records as "benign" and in an email encouraged staffers to back up their files on a USB drive.

Asked by Crown prosecutor Tom Lemon if he made any effort to de-select files on the computers, so as to only delete personal and not work-related files, Faist said, "I don't recall specifically."

Prosecutor Sarah Egan argued in the Crown's opening trial remarks that the deletions were not benign at all, but came from a premeditated desire of the co-defendants to obfuscate records in contravention of their public duty to maintain them.

Faist said he could not recall what he was paid for the work, or when he discussed payment. But records show he was paid \$11,017.50 for the work by the Liberal Caucus Service Bureau to wipe the government computers, labelled as invoice No. 20 to the client. He was not a government employee or approved contractor, and did not have clearance to access the files. Additionally, the premier's office has its own IT office that typically handles routine requests.

Under questioning by the Crown, Faist said he remembers seeing a pop-up security warning about who was and was not supposed to have access to the computers, but said "I probably wouldn't have read it, to be honest."

Faist deleted the files after Livingston's junior aide Wendy Wai received extraordinary password clearance from top civil servants. Multiple witnesses have testified that Wai's skill level with computers was low.

Given the lack of documents produced by Minister of Energy Chris Bentley in response to a request for gas plants information, the province's top civil servants were concerned the government might not have been in compliance with an order from parliament. In the words of former top civil servant Peter Wallace, who testified last week, the claim that there were no relevant records to satisfy the request "lacked credibility."

In this context, the civil service was reluctant to grant the password request made by Livingston, but could not cite a precedent to deny it. Following a Jan. 30, 2013 meeting with five top civil servants, including Wallace and cabinet office lawyer William Bromm, they decided to grant the access but reiterated the record-keeping responsibilities to Livingston in a two-page email, and in a five- to 10-minute phone call.

In cross-examination that began late Friday afternoon, Miller's defence counsel, Scott Hutcheson, asked Faist about his memory. "Do you have trouble remembering dates?" the attorney asked. Faist said that was true, and added with a laugh that it has been the source of some conflict in his and Miller's relationship, like when he can't recall how long they have been seeing each other. At another point in his testimony, Hutcheson quizzed him on the last names of two women named Deborah that were mentioned earlier in the morning; Faist could not immediately recall them.

Hutcheson also sought to draw parallels between the security-intensive IT work Faist did for the Liberal caucus and other clients, like the Ontario Provincial Police and Ontario Lottery and Gaming, to suggest their standards and procedures were comparable, and nothing seemed out of the ordinary.

The cross-examination of Faist will continue Monday.

4). POLL: PCs MAINTAIN LEAD, WHILE HALF OF VOTERS SAY THEY CAN'T DESCRIBE THE GAS PLANTS TRIAL

By: Jessica Smith Cross

A poll by Forum Research sheds some light on just how deeply the gas plants email trial has penetrated Ontario's political consciousness, finding half of Ontario voters say they couldn't confidently describe why two former senior Liberal staffers are on trial.

The poll, provided exclusively to QP Briefing, shows the trial of former McGuinty staffers Laura Miller and David Livingston, each charged with breach of trust, mischief in relation to data and misuse of a computer system, is a mystery to many. Miller and Livingston have pleaded not guilty to all charges.

In a poll of 946 Ontario voters, Forum asked: "If a friend asked you to explain why these former staff are on trial, how confidently would you be able to answer?"

Only 23 per cent of responded "completely confident." Another 26 per cent were "somewhat confident," 23 per cent were "not very confident," and 28 per cent where "not at all confident."

In general, men tended to be more confident, women less so: 59 per cent of men said they're either "completely" or "somewhat" confident, while 41 per cent they were "not very" or "not at all." Women, on the other hand, were split 38 - 62 on the issue. Self-identified Progressive Conservative supporters were more confident (60 - 40) than supporters of the Liberal party (36 - 64), the NDP (45 - 55) and the Green Party (51 - 49).

"The public's understanding of the gas plants trial is evenly divided," said Lorne Bozinoff, president of Forum Research, in a press release. "Interest is clearly divided along partisan lines, with Progressive Conservative Supporters saying they are particularly well-informed, and Liberals saying the opposite."

Forum also found Ontario Progressive Conservatives are maintaining a healthy lead in the province, with 45 per cent of decided and leaning voters supporting the Tories, 24 per cent supporting the Liberals, 22 per cent supporting the NDP, 7 per cent supporting the Greens and 2 per cent choosing another party.

The poll was in the field on Oct. 24 and 25, right on the heels of a judge's decision to acquit two Liberal political operatives in the Sudbury bribery trial.

"The PCs continue to hold a big lead across the province," Bozinoff said. "Despite the positive outcome for the Liberals in Sudbury, it hasn't yet changed any minds, and as the election creeps closer and closer, it seems like the PCs are going to need a major stumble to give the Liberals a chance at re-election."

Forum says results based on the total sample are considered accurate within a margin of error of +/- 3 per cent, 19 times out of 20.