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## **Standing Committee on Natural Resources**

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**EVIDENCE**

**Wednesday, January 16, 2008**

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**Chair**

**Mr. Leon Benoit**

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## Standing Committee on Natural Resources

Wednesday, January 16, 2008

• (1000)

[English]

**The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)):** Good morning, everyone. We're here today at meeting number nine of the Standing Committee on Natural Resources.

Today we're dealing with, pursuant to Standing Order 108(2), a study of nuclear safety issues, including safety issues at the Chalk River nuclear reactor. We have appearing as witnesses today the Honourable Gary Lunn, Minister of Natural Resources, and Cassie Doyle, the deputy minister.

Welcome, Minister. I'm looking forward to your presentation. Immediately following your presentation we'll go to questioning, starting with the official opposition.

Please go ahead, Mr. Minister.

**Mr. Omar Alhabra (Mississauga—Erindale, Lib.):** On a point of order, Chair, are we going to set a time for the minister's presentation?

**The Chair:** The minister will come with a presentation of a reasonable length.

The witness for the meeting this afternoon has requested—and we have granted—a 15-minute presentation, and I'm sure the minister's presentation will be right around the same time.

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

My presentation, I believe, is about 20 minutes, but I'd be happy to stay a few minutes longer if that's required.

I appreciate the opportunity to appear before you today as Minister of Natural Resources to set out the facts of the shutdown of the NRU reactor at Chalk River. As I will explain in greater detail, the extended shutdown of the reactor threatened a national and international health crisis. This reactor supplies more than 50 percent—

**The Chair:** Excuse me, Mr. Minister. We have a point of order here.

Madame DeBellefeuille.

[Translation]

**Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ):** The interpreter has indicated that she does not have the text. If she had it would allow her to provide a better translation. In addition, I could understand the minister better. Could he possibly provide a copy of the text to the interpreter?

[English]

**The Chair:** Okay. The minister is doing that now.

We'll go ahead with the presentation. Sorry for the interruption, Minister. Could you carry on, please?

**Hon. Gary Lunn:** I understand completely. Thank you very much.

This reactor supplies more than 50 percent of the world's medical isotopes, used in 25,000 medical procedures every day, and crucial in the diagnosis and treatment of serious illnesses such as cancer and heart disease. Without these isotopes, many patients faced delays in essential treatment. Experts we consulted confirmed that a continued shortage of these substances would have meant life or death for some patients.

The growing health crisis and the impasse between AECL and the nuclear regulator, the Canadian Nuclear Safety Commission, required that the government take all reasonable steps to find a resolution to this matter.

The president of the CNSC is the chief executive officer and is responsible for the supervision and the direction of the work of the members, officers, and employees of the commission. At issue was the president's failure to manage the work in order to bring the matter for hearing before the commission in an appropriately urgent fashion. The failure to consider fully, in a timely fashion, the serious consequences of the growing shortage of medical isotopes was of greatest concern to the government.

Our review of her submission, in response to my letter dated December 27, concludes that the manner in which the president exercised her executive role, in particular her lack of leadership during the extended shutdown of the NRU reactor at Chalk River, does not meet the very high standard of conduct the government and Canadians expect from public office holders who are responsible for the executive management of institutions charged with safeguarding the health and safety of all Canadians.

The Governor in Council has therefore reached the conclusion that the president no longer enjoys the confidence required of the president of the Canadian Nuclear Safety Commission. However, she remains a full-time member of the commission.

I intend today to outline in detail the steps I and my colleagues took to deal with this matter, culminating in the decision to introduce emergency legislation. Let me begin by providing you with a chronology of key events.

On Sunday, November 18, the NRU reactor at Chalk River was shut down as part of routine maintenance.

On Thursday, November 22, AECL sent a brief e-mail to my department and an official in my office noting the shutdown was being extended. Also on that day, during a regular working-level meeting between AECL, MDS Nordion, and an official from Natural Resources Canada, it was noted that the scheduled outage could possibly extend into December.

On Thursday, November 29, an official from the CNSC sent an e-mail to my department and to my office calling attention to a December 6 meeting of the Canadian Nuclear Safety Commission and attaching a report on the extended shutdown.

On Friday, November 30, Natural Resources Canada received details from AECL on the implications of what is described as a temporary shutdown of the medical isotope supply. In fact, in that e-mail AECL stated that they intended to restart the NRU by early December. Up until that day, there was no sense of urgency coming from either AECL or the Canadian Nuclear Safety Commission.

On the following Monday, December 3, my office was briefed on the licensing and its potential implications for the health and safety of Canadians. It was at this point I was informed. Over the balance of the week, NRCan officials and I were fully engaged in a profound effort to resolve the problem.

On Tuesday, December 4, my deputy minister and officials had a conference call with AECL to obtain more information and understand more fully the magnitude of the problem. We were informed that the shutdown could extend into January 2008.

My colleague, the Minister of Health, was also acting. On Wednesday, December 5, his department contacted nuclear medicine specialists across Canada to assess how best to manage the growing shortage of isotopes. He was in contact with close to 800 health care facilities across Canada, including nearly 250 nuclear medicine facilities, in order to determine the extent and the impact of the shortage. He wrote to his provincial and territorial counterparts to engage them in managing the available supplies as effectively as possible to identify areas of special need.

•(1005)

International contacts were made to assess the impact of the shutdown of production for other countries, and also to determine the availability of additional supplies of isotopes for Canada.

From the government's discussion with medical experts, it was obvious that the isotope shortage was potentially very serious. Dr. Chris O'Brien, president of the Ontario Association of Nuclear Medicine, said the situation reminded him of his time in Uganda, when he had to decide who would receive medical care and who would not, based on that day's shortages.

On Wednesday, December 5, given the growing seriousness of the issue, I called the president of the Canadian Nuclear Safety Commission to urge the commission to explore all possible options and to resolve the situation as quickly as possible. In my call with her, she offered no encouragement with regard to opportunities for addressing the growing crisis in a timely fashion. The president did

indicate that if AECL submitted a proper safety case, the CNSC would review the case and render a decision.

On Friday, December 7, AECL sent a letter to the president of the CNSC stating that it was in the public interest to re-establish urgently the supply of medical radioisotopes and seeking CNSC approval for the corporation's proposed one-pump solution based on its prepared safety case.

This letter stated, and I quote, "The safety analyses conducted by AECL indicate that it is both possible and prudent to return the NRU to service safely and expeditiously." At this point, I asked my department to engage independent experts to provide an assessment on this safety analysis.

On Saturday, December 8, in light of the increasing crisis in the health community, a reality that was captured on some front pages and at the top of newscasts across the country, I again contacted the president of the CNSC. At this time, I asked the president whether the commission could convene an expeditious hearing or panel to consider the merits of AECL's safety case, which AECL advised me was strong. The president responded that AECL's safety case was deficient and that considerably more information would need to be provided before a commission hearing could be convened.

During the same call, I also posed the question of whether the reactor would be safer, with one pump operating, than it had been before the outage. In response, the CNSC director general of nuclear cycle and facilities regulation, who was also on the call, indicated that the reactor would be no less safe than it had been before. The same official would later testify before Parliament that in fact the one-pump scenario would be safer than before.

On Monday, December 10, the Minister of Health and I sent letters to the president of the Canadian Nuclear Safety Commission and the executive vice-president of AECL expressing our deep concerns regarding the impacts on the health of Canadians. That night I was briefed by two nuclear experts who had been asked by NRCan to provide an independent assessment of the merits of AECL's safety case. I was advised that operating the reactor with one of the new seismically qualified pumps would make the NRU safer than it ever had been before.

On Tuesday, December 11, the government conveyed a directive to the CNSC. It directed the commission, in taking decisions on nuclear energy, to take into account the health of Canadians dependent on nuclear substances for medical purposes. As you know, later that day we introduced the emergency legislation. Immediately after Bill C-38 received royal assent, the NRU was put into start-up mode.

Let's summarize the facts that emerge from this chronology.

First, Canadians and indeed citizens of other countries faced a growing health crisis due to a shortage of isotopes. Independent medical experts were calling for urgent steps.

Second, operators of the reactor confirmed that they could restart isotope production with no loss of safety compared to the NRU's previous 50-year history. In fact, AECL said they could operate the reactor even more safely than before, with the one backup pump installed.

•(1010)

Third, independent nuclear experts engaged by my department agreed with the safety assessment. But that's not all. The CNSC's own staff, in their discussion with me and in testimony before Parliament, agreed the reactor could be operated just as safely as before it was shut down.

Fourth, the CNSC made plain in its communications with the government that it was not willing to address the crisis in a timely fashion, despite the fact that the statutory mandate of the CNSC is broad enough to take into account, in the regulation of the production, possession, or use of nuclear substances, the health of Canadians who for medical reasons depend on nuclear substances. The decision of the CNSC to extend the shutdown of the NRU reactor was made by AECL alone and was entirely voluntary on their part. As the record shows, however, this is at odds with the statement she made at the CNSC public hearings on December 6. At that time, the president indicated that if AECL had not made the decision it did, the commission would have ordered the NRU reactor to be shut down.

Finally, the president of the CNSC has said that AECL never submitted a complete safety case to support a licence amendment, and that this information was required before the CNSC could schedule a hearing on the matter.

The CNSC need not be a passive regulator. Its chief executive officer could mobilize the powers within its legislation to put the CNSC in a position to act proactively and expeditiously. When a crisis looms, a CEO has to put their organization in a position to respond.

Given the serious consequences to the health of Canadians, I would have been remiss in fulfilling my role as a minister of the crown had I not raised with the CNSC the growing health crisis. The numerous communications between me and the president were all made in an effort to urge the commission to consider all available evidence before it when balancing the array of risks, and to ask the commission to use its power to convene a meeting without delay.

Mr. Chairman, I would like to refer to another matter, the special examination report on AECL by the Auditor General, which is done every five years. I want to be very clear that there is nothing in this report to suggest that anyone would have had advance notice or would have anticipated that the NRU would be shut down and that we would have a shortage of medical isotopes. It is a good report. The information contained in it reflected the long-standing problems facing the corporation, the long-term neglect of the funding to meet those challenges going back over 15 years, and the need to take a strong and determined approach in tackling them.

Mr. Chairman, this is a situation that we inherited, but it is also a situation on which, I am proud to say, we have taken decisive action as a government dating back to June 2006. At that time, we announced more than a half a billion dollars over five years to begin the cleanup of the nuclear legacy liabilities at Chalk River. This past June, we announced that we would proceed with the long-term strategy to deal with nuclear waste in Canada as recommended by Canada's nuclear waste management organization.

Over \$45 million was provided in the last supplementary estimates to address the regulatory and health and safety needs at Chalk River. More recently, we have commenced a comprehensive review of AECL as I announced on November 29, 2007, on which we will report in the coming months. This event has underlined areas for improvement, and our government is acting. The vacancies on the board of directors and in the position of CEO of AECL have allowed the government to appoint a new chair and a new CEO and fill several other vacancies to ensure strong leadership.

I have written to both AECL and the CNSC to develop a new protocol to ensure that the Minister of Natural Resources is advised immediately of any situation that may affect the health and safety of Canadians. A communications protocol between NRCan, Health Canada, and AECL has already been developed. My department has also initiated a dialogue with MDS Nordion to ensure that they too are involved.

In conclusion, I would like to note that the employees of CNSC and AECL get up and go to work every day with professionalism and dedication to their work for the people of Canada. Our government appreciates their efforts and shares the goal of bettering the health and well-being of Canadians. It is the key objective that has motivated the Government of Canada's efforts throughout this unfortunate incident, and it will continue to guide our efforts into the future.

•(1015)

Mr. Chair, I should also note that I made reference to a number of e-mails dated November 22, November 29, and November 30, and to a number of other documents as well. I would be happy to table the documents I can at this time for the information of the committee.

I would be pleased to take your questions now.

Thank you very much.

**The Chair:** That information, Mr. Minister, is in the binders that are being distributed right now?

**Hon. Gary Lunn:** That is correct, and it is available in both languages.

**The Chair:** Okay. Thank you very much for your presentation.

We will now go directly to questions, starting with the official opposition.

Mr. Alghabra, you have seven minutes.

**Mr. Omar Alghabra:** Thank you, Mr. Chair.

If you would allow me, I'd like a 30-second warning before my time runs out.

**The Chair:** I'll try.

**Mr. Omar Alghabra:** Thank you.

Minister, congratulations, you have made history. The case that you've done today will be taught in the history of law books about blatant political interference and how a minister can cross the line of interfering with a quasi-judicial tribunal. If I were you, I wouldn't want to be part of that history. In fact, I think the Prime Minister fired the wrong person today.

Minister, do you accept the fact that the Canadian Nuclear Safety Commission in September 2006 issued a conditional licence on six upgrades?

**Hon. Gary Lunn:** First of all, let me just say, Mr. Chair, with respect to the comments on interference, in fact I do not contend that I interfered. This issue was so serious, we contacted both the AECL and the CNSC, and communicated with them at all times looking for solutions.

In my discussions with the CNSC on December 8, what I did in fact was to ask the president of the Canadian Nuclear Safety Commission if she could put this matter on an urgent basis before the commission. Obviously it's up to the commission to make that decision, but obviously there was a serious issue. Lives were at stake. At that point, as we led up to December 8, we were only losing diagnostic procedures, but it was clear that we would soon be losing urgent medical procedures that would ultimately cost lives.

Again, my position is that I only asked for the commission to hear the matter and if they could do that on an urgent basis.

• (1020)

**Mr. Omar Alhabra:** Do you accept the fact that the commission in September 2006 issued a conditional licence to AECL for that reactor?

**Hon. Gary Lunn:** They have a licence that's issued and renewed. There are a number of facts out there with respect to the licence.

**Mr. Omar Alhabra:** So do you accept the fact—

**Hon. Gary Lunn:** That part is in dispute, between AECL and the CNSC. AECL contends it wasn't part of their licence. Part of the documents I've tabled will show correspondence that demonstrates a number of communications between the two agencies.

So again, that part is in dispute. That fact remains that officials from both—

**Mr. Omar Alhabra:** Sorry, Minister, but I have limited time here.

Did you receive the Auditor General's report in September?

**Hon. Gary Lunn:** Yes, I did actually receive the report in early October. In fact I welcomed the opportunity to have a briefing from the Auditor General on that report. We discussed at our meeting the importance of having that disclosed to the public.

This report was made in fact to AECL, and it was up to AECL to release that report. I'm very pleased they did. It was something that I believe they were intending to do all along. It did identify a number of problems, but at no time....

It's very important to note that nothing in this report could have led anyone to know about the potential, as I said in my opening statement, for the medical isotopes shortage. What this report identified was with respect to the—

**Mr. Omar Alhabra:** Minister, I have limited time. I understand your attempt to prevent me from asking all the questions I have, but I'm going to stop you every once in a while to ensure that I ask my questions.

You were well aware, though, that 50% of the isotopes production is dependent on that reactor, right?

**Hon. Gary Lunn:** Yes.

**Mr. Omar Alhabra:** Okay. So anything that goes on with that reactor is of great importance, whether it was last year or this year. Is that correct, that you would have known that?

**Hon. Gary Lunn:** Let me just respond. On the reactor, it was a regularly scheduled maintenance shutdown. They're very common. It's not uncommon for shutdowns to be extended. In fact, shutdowns in 2006 were extended up to ten days.

**Mr. Omar Alhabra:** Minister, you say that in the Auditor General's report there is no indication of the urgency. It has three major findings of serious deficiencies. Two out of the three major deficiencies revolve around the isotopes production. One has to do with the MAPLE reactors, the replacement reactors. The second one is about the existing reactor, given that it's 50 to 60 years old. It says:

AECL notes that some of these facilities are 50 to 60 years old and require upgrades and maintenance to meet health and safety standards, attract employees, and allow research and development to continue. The Corporation is currently having discussions with Natural Resources Canada about funding needed for CRL.

Also, on page 11 it says:

In June 2006, the Canadian Nuclear Safety Commission renewed AECL's licence for the NRU reactor and the Chalk River Laboratories until 2011. The licence requires the Corporation to take a number of actions during the licensed period.

So the Auditor General's report is quite clear about the ramifications, the situation the reactor is going through, and the pending problems that it is having.

**Hon. Gary Lunn:** Give me a minute to respond. First of all, let me just say on the record that the Auditor General did indicate a number of deficiencies with Chalk River, but at no point in the report did she indicate any issues with respect to the NRU reactor that would have led.... As I said earlier, we could not have concluded that.

**Mr. Omar Alhabra:** I just read you a quote about the NRU reactor.

**Hon. Gary Lunn:** Mr. Chair, may I finish, please?

**The Chair:** Mr. Alhabra, order please.

There are two things. Firstly, if you could, please ask your questions through the chair. Secondly, give the minister a reasonable amount of time to respond. I understand your concern about losing questioning time. At a certain point a courteous interruption will be allowed, but do give the minister a chance to give at least an appropriate response.

Go ahead, Mr. Minister.

•(1025)

**Hon. Gary Lunn:** First of all, she identified a number of issues, not unlike in her 2002 report, in which she again identified similar issues. We were aware of those, Mr. Chair. That is in fact why we have increased funding for the Chalk River laboratories in the amount of \$250 million in this past fiscal year alone. This is an unprecedented amount. It has never received this amount of money to address issues up there.

With respect to the MAPLE reactors, she did identify those. But I want to make it very clear, Mr. Chair, that these reactors have been under construction since 1996. They have had a number of cost overruns. There have been serious problems with them. These reactors have never operated. They were scheduled to operate many years ago, but they are now not scheduled to operate for at least another year, and possibly much longer. There are still a number of issues to resolving that. The previous government is fully aware of that, as they are the ones who began the construction of these reactors.

My point is that there is nothing in this report based upon which anyone could have anticipated a shutdown of the NRU. The MAPLE reactors, as I have said, are not even on schedule for coming on-line. That is what the Auditor General made reference to in her report.

She also made reference to other regulatory deficiencies that we were fully aware of at Chalk River. This organization has been neglected for up to 15 years and has not received funding. This is something we inherited, and we are putting the money in there at an unprecedented rate to resolve these issues, but they are not connected to the shutdown of the NRU in any way or to medical isotope production.

**The Chair:** Thank you, Mr. Minister.

Mr. Alghabra, your time is up.

We go now to Madame DeBellefeuille.

**Mr. Omar Alghabra:** That is not fair, Mr. Chair. I asked you for a 30-second warning. You let the minister talk until my time ran out. I would request at least a minute extension, because the minister has taken most of my time, and I asked for a 30-second warning. So I request that you give me an extension.

**The Chair:** Mr. Alghabra, it is up to each member to manage their time. You had seven and a half minutes. I am going to ask members to stick to the time. You can certainly ask one of your members in the second round if you could take some of his or her time. You could handle it that way.

Let's get on with the questioning.

**Mr. Omar Alghabra:** Let the record be clear that you are not being fair.

[*Translation*]

**Mrs. Claude DeBellefeuille:** Thank you, Mr. Chairman.

Good morning, Mr. Minister and Ms. Doyle.

When one looks at the file and the sequence of events, Mr. Chairman, one realizes that this matter is extremely complex. There was a fair bit of electronic correspondence and a number of meetings between your department, Atomic Energy of Canada

Limited (AECL), and the Canadian Nuclear Safety Commission (CNSC).

My first comment concerns your behaviour as minister, aimed at undermining the credibility of the CNSC. In my opinion, if Canada gave itself a quasi-judicial body to protect Canadians where nuclear safety is concerned, and made it an independent body, it was for the good reason that Canadians had to be protected from political interference with a tribunal with a very specific mandate. According to what one reads, the pressure you brought to bear on the president in order to have the reactor restarted may indeed be perceived as totally unacceptable interference. We understand that you may have been very torn in your position, but the commission has a very specific mandate.

Yours is different. Given that this reactor is the largest producer of medical isotopes in the world and produces 50 % of them, and in light of all the warnings you received, as Minister of Natural Resources, it is inconceivable that you did not concern yourself with what would happen in case of a shortage, Minister.

How can that be? How did we wind up without sufficient reserves to cope with such a breakdown? We could not have foreseen the breakdown, the prolonged shutdown, but as minister your responsibility was to ensure with AECL that we had sufficient reserves to cope in the eventuality of such an event.

The reactor has been operating for a long time with a single pump. It was conceivable that there would be a shutdown one day or another. How is it that you did not concern yourself with making sure that Canadians had a reserve of isotopes? How is it that you were not aware of this? Why was Minister Tony Clement notified so late of this matter?

I would ask you to be brief so that I have some time left to ask other questions, Minister.

•(1030)

[*English*]

**Hon. Gary Lunn:** Thank you very much.

First of all, let me address a number of the issues you've raised.

With respect to the independence of the Canadian Nuclear Safety Commission, I completely agree with that assertion.

In my interventions with the commission and my communications, at all times I held myself to the highest conduct and urged the president of the commission to put the matter before the commission to render a decision, which was within her statutory powers to do.

There was an urgency to this situation, we should make no mistake, as the events unfolded on December 3, once that urgency started to materialize.

The member has asked why we didn't do something about this to ensure that there was an adequate stock of isotopes or adequate inventories. It's important to note that the half-life of a radioisotope is only 66 hours. It's very short.

Obviously, as these events unfolded, we literally had to take action. When it became clear to me and the government—from the Canadian Nuclear Safety Commission experts, from the AECL experts and independent experts—that the reactor could be operated more safely than it ever had been before, then, yes, the events followed through and culminated in an act of Parliament, to which every party agreed.

I just want to conclude, Mr. Chair, that our position is that the president and CEO of the Canadian Nuclear Safety Commission did not exercise her responsibilities, her executive powers, in her position as CEO and president throughout this process.

[Translation]

**Mrs. Claude DeBellefeuille:** I don't share your opinion on that, Minister. The commission has a very specific mandate to fulfil. When one acts as you did one undermines the confidence people should have in a body whose purpose is to protect Canadians when it comes to nuclear safety. You raised doubts in people's minds.

In the future, will we be able to trust the commission? Will it fulfil its mandate to protect Canadians, as we have a right to expect? You have raised doubts in this matter.

As you know, as I told you several times and we have already debated this, I think that nuclear energy is not clean energy. But you promote it. What is going to happen with the tar sands and the installation of the nuclear reactor? All of this raises concerns.

Will the commission and its new president be looking out for the safety of Canadians where nuclear energy is concerned, or will they be at the service of a government and politicians who want the commission to act according to their own values and ideas? Whenever things do not suit it, will the government set aside the people and leaders who do not see eye to eye with them?

Everyone knows that the chill in the relationship between Ms. Keen and the Conservative government dates back to before the Chalk River crisis. Ms. Keen was reluctant to give the go-ahead to granting pre-authorizations for new CANDU reactors, a position which prevents or slows down marketing and investments in new generation.

As minister, when you know that you are dealing with a woman who is a straight arrow, who respects the law and her mandate, and there is nothing you can do because the law is the law, why hound the president rather than try to find an alternative that could have respected the commission's mandate? Why did you attack the executive rather than look for another approach, another course of action? This would have allowed you as minister to say that you believed in the commission and its mandate, but because there was an emergency situation, another solution had to be found.

[English]

**The Chair:** Madame DeBellefeuille, your time is up.

Minister, would you like to respond?

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

Let me say unequivocally on the record that I would have been remiss in my role as a minister of the crown if I did not act and if I did not take the actions on behalf of our government.

Mr. Chair, we contacted both AECL and the CNSC—actions followed by a cabinet directive, and then followed by an act of Parliament—when it became very clear that the president and CEO of the Canadian Nuclear Safety Commission at that point was not exercising her duties in that role to put this matter before the commission, which we believe she has the statutory powers to do. Only at that point did we bring a bill before Parliament and let Parliament decide who had an opportunity.

It was also clear, Mr. Chair, that had we not acted, people invariably would have died, since medical isotopes for serious cancer procedures were not available, and we could not let that happen. We had to act, and we did.

• (1035)

**The Chair:** Thank you very much, Mr. Minister.

Now, from the New Democratic Party, Ms. Bell. Go ahead, please, for seven minutes.

**Ms. Catherine Bell (Vancouver Island North, NDP):** Thank you, Mr. Chair.

I heard from the minister that he received the 2007 Auditor General's report. I just want to ask quickly if he received the 1996 and the 2002 Auditor General's special reports.

**Hon. Gary Lunn:** Yes, we have received those reports. In fact, Mr. Chair, those reports—both the 1996 and the 2002—had never been made public.

**Ms. Catherine Bell:** Thank you. I just wanted to know if you received them.

**Hon. Gary Lunn:** Just for your information, they hadn't been made public, if you haven't been able to see them. I understand that AECL has put them on its website in the last day or two and made them public, but they were not released prior to that.

**Ms. Catherine Bell:** Thank you, Mr. Minister.

You mentioned that this is a long-standing problem. I've asked for a full investigation into this. Do you agree that the issue needs a long, hard look by maybe Sheila Fraser or another eminent person?

Also, would you agree—and I think you probably will—that this would eliminate any conflict of interest we have seen here by the Liberal MPs who want to protect previous ministers, if there was any perceived conflict of interest by past ministers and maybe any conflict that you or your department may have had in this?

**Hon. Gary Lunn:** First of all, let me say that the Auditor General's report, even in 2002, outlined these problems. There's been a chronic shortage of funding for AECL going back over 15 years. It is a serious problem.

As I said earlier, we have increased our funding to a substantial level, but we also recognize that there needs to be change. That is why we have launched a complete review of AECL, including the MAPLE reactors and how they go forward, including Chalk River, and including the future of the corporation, by independent experts, as you're suggesting. Those experts will come back and provide advice to the government. So we are taking action on a go-forward basis to ensure that these issues can be resolved once and for all.



**Ms. Catherine Bell:** I'm asking for an independent investigation of all the things that led up to this point, not just of AECL.

**Hon. Gary Lunn:** With respect to the isotope shortage and this issue, I'm happy to table the documents today and answer all your questions, Mr. Chair.

**Ms. Catherine Bell:** When did you decide to fire Ms. Keen?

**Hon. Gary Lunn:** Mr. Chair, throughout the event our total focus was on resuming the production of isotopes and looking at inventories, wherever we could get access to them. At the conclusion of this, we looked at all of the information, the statutory powers, and where we thought we needed to look at things. At that point I wrote a letter to Ms. Keen on December 27. I wanted to have her input in fullness before we made any decision. Again, I sent that letter to Ms. Keen, and unfortunately it became public.

Once we received her reply and had an opportunity to examine her reply in fullness, only then did we make the decision that we did not believe she fulfilled her duties, her executive powers, as the president and CEO of the Canadian Nuclear Safety Commission, and we took the action we did. She has lost the confidence of the government with respect to her executive powers as president and CEO of the commission.

•(1040)

**Ms. Catherine Bell:** The question was fairly specific. When in fact did you decide to fire Ms. Keen?

**Hon. Gary Lunn:** I would say we came to that final conclusion yesterday.

**Ms. Catherine Bell:** Was your parliamentary secretary informed of this?

**Hon. Gary Lunn:** No.

**Ms. Catherine Bell:** Yet it seems that in the House of Commons, before we even got to the point of the debate on Bill C-38, the Prime Minister's comments led us to believe that he had lost confidence in Ms. Keen long before that.

I'm trying to ascertain the sequence of events and her commitment to nuclear safety and your directive to her to look at medical safety. Was that a shift in her responsibilities at the time, or was that something that was within her purview before?

**Hon. Gary Lunn:** We believe she had that authority in her mandate, although she maintained that she did not.

I want to emphasize this. As we went through the progression, right from December 3, of gathering the facts, and when I spoke with the former president and CEO of the CNSC on December 5, it was always focused on getting a solution, but it became very clear very quickly, even by her own officials and AECL independent experts, that in fact this was not about safety; this was a potential difference of opinion between the two agencies with respect to licensing. Clearly we could not put the lives of Canadians in jeopardy.

**Ms. Catherine Bell:** Thank you.

One more quick question. If this committee were to find that you should be censured based on what your responsibility might be in this matter, and if the House were to pass the required motions asking you to tender your resignation, would you comply with that?

**Hon. Gary Lunn:** No. I serve at the pleasure of the Prime Minister, and I have his confidence.

**Ms. Catherine Bell:** Okay. So what do you see as your responsibility in this matter?

**Hon. Gary Lunn:** I take ultimate responsibility. I'm responsible for the actions at Natural Resources Canada. That is why we took the decisive action that we did and we put a bill before Parliament.

I had been advised that it's been many decades since a procedure like this was used where you brought witnesses on the floor of the House of Commons during debate. We took extraordinary measures once it became clear what we had to do. In fact we did that to ensure the health and safety of all Canadians.

**The Chair:** Thank you, Mr. Minister.

Ms. Bell, your time is up.

We now go to the government side for seven minutes. Mr. Anderson.

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Minister, for being here today.

I think we have two issues we're trying to deal with here. One is the risk management of the isotope issue, and the second one is the Auditor General's report. I notice that in the last couple of weeks the opposition members have been trying to tie the two together, although there is no direct connection there.

I'd like to talk first about the risk management issue. We really found ourselves in a situation five weeks ago where we had to make a decision on whether there was going to be isotope production or not. That was pretty much as clear as it could be. We could have chosen not to act, in which case we may still not have had isotope production today. Some of the indications were that it would be the end of January or later before that production would start. You mentioned earlier that there are 25,000 procedures per day, so we'd be in a very serious situation.

All parties in Parliament worked together and made the decision that they did not agree that the Canadian Nuclear Safety Commission position represented the health and safety interests of Canadians. Parliament made the move and made a choice that they were going to ask that the reactor be put back into production.

I would like you to explain a bit. What would the consequences have been of our not acting, of not doing anything at that point? Was there a real health risk?

•(1045)

**Hon. Gary Lunn:** At that point, when we actually put the bill before Parliament, the inventory of isotopes was down by over 65%. Up until that point, in the days leading up to it, we were briefed by officials that we were cancelling diagnostic procedures across the country, but we were literally days away from cancelling serious medical procedures, such as cancer treatments, the impact being that people would die. So this was very serious.

That is why we had to put this matter before Parliament with Bill C-38 to give us the authority that we could resume production when it became apparent that this was not a safety issue.

**Mr. David Anderson:** You talked a bit this morning about your phone calls to Ms. Keen. You've said that your primary reason for calling her was to ask her to reconvene the commission to try to find a solution, to work with AECL to reach a solution. Ms. Keen seems to have taken exception to those calls.

Could I ask the deputy minister, were you in on those phone calls?

**Ms. Cassie Doyle (Deputy Minister, Department of Natural Resources):** Mr. Chair, I was in attendance on the call, as were three other members of my executive team at NRCan.

**Mr. David Anderson:** Could you give your version of those calls? I'm just interested in how you felt the calls went. Did the minister treat Ms. Keen with respect and professional courtesy?

**Ms. Cassie Doyle:** Yes, the minister conducted himself in an entirely professional way.

He was obviously seized by the urgency of the situation, but he was canvassing Ms. Keen for information on the earliest possible date on which the commission could be convened to hear the case on the status of AECL's safety case, and information as well on the overall safety of the reactor—that is, before the shutdown and as well in the case that one pump might be reconnected.

**Mr. David Anderson:** And his primary request to her was in fact a request that she reconvene the commission in order to try to find a solution to this—is that correct?

**Ms. Cassie Doyle:** That is correct.

**Mr. David Anderson:** I would think that it's hardly interference to actually ask someone to do their job. I'd like to make that observation.

I'd like to turn to the AG report. Maybe we need a bit more clarity on that.

The content, as you mentioned, Mr. Minister, deals with three issues. It talks about the dedicated isotope facility, which is not the same as the NRU. It talks about the new generation of CANDU reactors and then it talks about the replacement of some of the facilities at Chalk River.

I went through the report. I could find nothing in the report that deals specifically with the present-day isotope production. I'm just wondering if that's an accurate reading of the report.

**Hon. Gary Lunn:** Yes, it is, and your assessment is absolutely correct. The MAPLE reactors, which she referenced in her report, are reactors that have never produced an isotope to this day and have not been in operation and are not expected to be in operation now, as a result of extensions and difficulties, for some time to come.

Again I want to stress that there are problems at Chalk River. This has been starved for over 15 years. There have been chronic problems with funding. It is something our government began to address this year by increasing the amount of funding by up to \$250 million.

It is also important to point out that it became clear, in dealing with all of the agencies involved throughout this situation, that in

fact this was about a licensing issue. At no point in the Auditor General's report does she ever identify any issues with respect to the licensing of the NRU. It is simply not there.

**Mr. David Anderson:** The opposition is apparently trying to heckle me on this question or something; I'm not sure.

They have spent quite a bit of time over the last couple of weeks trying to make a connection between the 2007 AG report and the Chalk River extended shutdown. Is there a connection?

**Hon. Gary Lunn:** There is absolutely none. There is absolutely no connection. Nobody could have anticipated the potential problems, that we would have to shut down the NRU or that there was a licensing issue or a licence discrepancy between ACL and the CNSC. That was not identified in the report. There is no connection.

**Mr. David Anderson:** In terms of a response to the AG report, you mentioned that the government has put money into trying to deal with this situation. Can you just explain once more what money the government has put into this? What has it done to respond to her concerns?

**Hon. Gary Lunn:** It's important to note that this was also identified in the 2002 Auditor General's report, which wasn't released but is released now. What we have done is put \$250 million this fiscal year alone into Chalk River to deal with everything from legacy liabilities to health and safety regulatory issues there. We have launched a review. We are taking action. We believe it's imperative that this finally happen after the neglect it has had.

• (1050)

**Mr. David Anderson:** It's fairly clear to everyone now that there is no connection between the report and the extended shutdown at Chalk River.

I am interested. Would you just go over the chronology again for us and indicate at what point it was that you felt we had a serious situation? Again, the opposition has been trying to say that we should have known earlier and acted earlier. From my understanding of the situation, the government acted very reasonably and quickly, as did Parliament. Could you tell us at what point you understood there was a real sense of urgency with this issue?

**Hon. Gary Lunn:** Thank you very much.

It's important to point out that scheduled maintenance shutdowns are common. They happen regularly. There was a scheduled maintenance shutdown in 2006, which was extended by ten days. These things do happen.

There was email correspondence with my office. There was mention at a meeting, Mr. Chair, but it didn't become clear until Monday. Even an email received on the afternoon of Friday, November 20, from ACL to Natural Resources Canada said they expected to resume operations in early December, that they were putting forward a one-pump solution, that there were discussions going on with the CNSC. So at that point in time, everybody expected that they would resume operations and that there would be no shortage, but obviously, as events unfolded after that Friday, on Monday it became clear that they were not going to be able to restore them, and in fact it could be as late as the middle of January or even longer before they would be able to restore them. Clearly, as I explained earlier, with the shelf life of the isotope being so short, this was a serious situation. So all hands were on deck at Natural Resources Canada. They were working around the clock, gathering the information, and we proceeded on that basis as we moved forward—

**The Chair:** Thank you, Mr. Minister. I had to interrupt. Mr. Anderson's time is more than finished.

We'll go to the second round now, to Monsieur St. Amand, for five minutes.

**Mr. Lloyd St. Amand (Brant, Lib.):** Thank you, Mr. Chair.

Minister, I have a couple of comments and then a series of questions, if I may.

You will know that pursuant to the Nuclear Safety and Control Act, section 20 specifically, the Canadian Nuclear Safety Commission is a court of record.

**Hon. Gary Lunn:** That's correct.

**Mr. Lloyd St. Amand:** You will recall telling Canadians from the floor of the House of Commons on December 10 that the commission is, in your phrasing, “absolutely independent of government”. You recall saying that?

**Hon. Gary Lunn:** Yes. I believe that.

**Mr. Lloyd St. Amand:** So we on this side—and, I dare say, any close observer of this—could and should conclude that this situation is commensurate with a minister of the crown telephoning a judge. Just to let you know, that's our—

**Hon. Gary Lunn:** I completely disagree with that statement.

**Mr. Lloyd St. Amand:** You can disagree, but that's our approach to the matter.

You're familiar, no doubt, Minister Lunn, with the document that outlines standards of conduct expected of ministers of the Harper government. I'm quoting here:

Ministers and their staff are also expected not to intervene, or appear to intervene, on behalf of anyone, including constituents, with quasi-judicial tribunals on any matter before them that requires a decision in their quasi-judicial capacity, unless otherwise authorized by law.

You've clearly indicated that on December 5 you initiated a telephone call with Ms. Keen, and that—

•(1055)

**Hon. Gary Lunn:** If I may respond, Mr. Chair—

**Mr. Lloyd St. Amand:** Well, you initiated a telephone call with Ms. Keen on December 5, on your own testimony. On December 8 you initiated a second telephone call to Ms. Keen.

I'm groping—truly groping, unsuccessfully—for any justification that would have allowed you to call Ms. Keen and intervene in this matter in such an extraordinary fashion.

I'm asking you to tell the committee, under what legislative authority did you take the extraordinary step of calling the independent regulator, Ms. Keen, on both December 5 and December 8? I see nothing in the legislation. I don't know if you were acting on advice from the Clerk of the Privy Council, advice from your deputy, or advice from the justice department, but it certainly appears to me that you have clearly violated the provisions of Mr. Harper's code of conduct for ministers.

**Hon. Gary Lunn:** Not at all, Mr. Chair. It's completely appropriate for any minister of the crown to approach an agency head to obtain factual information or to deal with an administrative matter. In fact, I had met with Ms. Keen on a number of occasions before this.

I want to make it absolutely clear that in my call on December 5, I was there to find out the facts. Obviously we had a situation. There was a sense of urgency that was unfolding. It was important that we as a government obtain all the information. Of course I'm going to call the head of the Canadian Nuclear Safety Commission. At the conclusion of that call, no question, I said to Ms. Keen, “I would like you to look at all possible options, and I'm doing the same with AECL, to explore all options and any way that you can assist to help resolve this matter that we believe is in the public interest of all Canadians.”

I want to stress that in the December 8 call, there were a number of people from both the Canadian Nuclear Safety Commission and Natural Resources Canada. It wasn't between just Ms. Keen and me. And in that call on December 8, at no point, not at any time, did I suggest to the commission what decision they should make. My only suggestion...and again, I asked her if there was any possible way, on an urgent basis, that this matter could be put before the commission. We believed it was in the public interest of Canadians, and that is what I asked Ms. Keen to do.

Again, we were assessing the facts. We were informed by AECL that they had a strong safety case, that the reactor could be run. We wanted the CNSC's opinion on that. Their technical people on that very call confirmed that in fact the reactor could be run safer than it ever has been before.

So that was the intention behind my calls, and it was completely appropriate. I would have been remiss in my duties as a minister of the crown had I not called. Then you could be questioning me today for not calling. I had an obligation to call on behalf of Canadians.

**Mr. Lloyd St. Amand:** Minister Lunn, on December 10 you, along with Minister Clement, penned a letter to Mr. Petrunik of the CANDU reactor division.

**Hon. Gary Lunn:** That's correct.

**Mr. Lloyd St. Amand:** Your phrasing: “We are writing to you to express our strong concern that AECL allowed the NRU at Chalk River to become out of compliance with its operating licence.”

So on December 10 the reactor was out of compliance with the operating licence. In effect, you were directing Ms. Keen to allow that reactor to be started up again, clearly in contravention of the licence.

**Hon. Gary Lunn:** Not at all, Mr. Chair. In fact, we wrote to both AECL and the CNSC. The facts were in dispute between the two agencies, so we wrote letters to both agencies. Again, in our progression to try to resolve this issue as the situation was becoming more urgent each day as it passed without the resumption of production of medical isotopes, we wrote to both agencies, again urging them to do everything they could to resolve this matter.

I want to point to the record, Mr. Chair, that in fact it was Parliament that took the final decision to allow the reactor to be restarted. It's not a decision that I could make. And it was supported by every single member. It was supported by all political parties in both houses in record time. They had an opportunity, an unlimited amount of time, to hear from witnesses from the Canadian Nuclear Safety Commission, AECL, independent experts, and myself and Minister Clement. We appeared before both houses. There was an unlimited amount of time before that decision was rendered. It was Parliament that made that decision.

**The Chair:** Thank you, Mr. Minister.

Your time is up, Mr. Alghabra.

We will now go to the Bloc Québécois. Madame DeBellefeuille.

•(1100)

[*Translation*]

**Mrs. Claude DeBellefeuille:** Thank you, Mr. Chairman.

Minister, you are holding the Canadian Nuclear Safety Commission responsible for the crisis, but it seems to me that you make no reference to the disorder at Atomic Energy Canada Limited and its poor organization. Not once in your statement did you mention that AECL had not been respecting the conditions of its licence for 17 months. And yet, it knew that. The nuclear reactor is no safer today than it was before, since it is still being operated with a single pump. So AECL is still not respecting the conditions of its licence.

As a minister, do you think it is normal to accept that situation and not publicly denounce AECL's poor handling of this matter?

You only focus on the president. We don't hear a word about AECL. You don't even mention the resignation of the director general who had announced his intention of leaving on November 29. That resignation only became effective on December 31. You focus the debate on the president of the Canadian Nuclear Safety Commission and completely ignore AECL's work, work that was completely disorganized in my opinion, even if I am not an expert.

When the president told the AECL that it was not in compliance with its licence, the organization decided to function with one pump and to propose some safety measures. The commissioner felt that the documents were not complete enough and asked it to do its homework. In the meantime, AECL changed its mind and decided to use two pumps. A few days later, it changed its mind again and decided to function with a single pump. Given the AECL's

behaviour, you should have held it responsible for the situation as well, and not just one individual, Ms. Keen, as it happens.

[*English*]

**Hon. Gary Lunn:** Thank you very much.

First of all, the member made a statement that in fact restarting the reactor is not safe. I want to completely and categorically disagree with this statement. I think this is important to note. In fact, there are multiple shutdown safety systems on this reactor. This is the third safety shutdown system. There are other systems.

Prior to November 18 there were no pumps. The reactor operated for 50 years without this third safety system. There are still other safety shutdown systems. This was an additional safety—

[*Translation*]

**Mrs. Claude DeBellefeuille:** Excuse me, Minister, but do you agree with me that Atomic Energy Canada Limited should legalize the situation regarding the operation of the pumps and undertake the work it has neglected, so that it respects the conditions of its licence, and holds it legally, and can have it renewed?

Even if the reactor had been operated a certain way for 50 years, that was one of the seven conditions and the AECL did not respect it.

[*English*]

**Hon. Gary Lunn:** I was just getting to that. In fact there were no pumps hooked up prior to November 18, so this is something that was new. And it's in dispute whether in fact it was a condition of their licence. That was in dispute throughout this timeframe. AECL contends that it wasn't a condition of their licence. But it was clear—and it's clear from a number of the communications between the two agencies—that in fact the CNSC was fully aware, all the way through this timeframe, that on a number of occasions these pumps were not hooked to the emergency power supply.

I want to stress again that everybody, including the technical people at the Canadian Nuclear Safety Commission, confirmed that if you restarted the reactor, it would be safer than it was on November 18. That is an important point to make.

**The Chair:** Thank you, Mr. Minister.

You have 15 seconds for a very short question, if you would like, Madame DeBellefeuille.

[*Translation*]

**Mrs. Claude DeBellefeuille:** That's fine.

[*English*]

**The Chair:** Okay.

We will go now to the government side, to Mr. Allen for five minutes.

•(1105)

**Mr. Mike Allen (Tobique—Mactaquac, CPC):** Thank you very much, Mr. Chair.

Mr. Minister, thank you for being here today. I just want to follow up on a couple of points that have been made.

When you went through the chronology of events in your testimony, you talked about how this was building up, and media reports started tracking this on December 5, indicating a developing health crisis. You talked about a number of e-mails that were received, yet there was no indication in any of these e-mails or correspondence.

What was the quality of that information that was coming to you? What made you bridge the gap that you had to make this phone call to AECL to, as the opposition was saying, infringe on their autonomy? And what were those powers, in your opinion, that you thought the president could have used and did not?

**Hon. Gary Lunn:** First, let me say that right up until November 30, there were e-mails. There was an e-mail sent on November 29 by the Canadian Nuclear Safety Commission with an attached report that even had boxes ticked off to say that it wouldn't affect employees or the public.

It was clear to me—even as stated in an e-mail of November 30 from AECL, and of course there was more information provided in that e-mail—that they still believed they would be able to resume operations some time in early December.

The point I'm making is that I don't believe the CNSC or AECL even had a sense of urgency up to that point. That wasn't conveyed. They still believed they would be able to resume operations.

Obviously at some point between that Friday afternoon and the Monday when I was briefed, communications between the two agencies appeared that indicated that they would not be able to restart.

We had some discussions. Again, I was officially briefed by the department on Tuesday, December 4. As we started gathering the facts and information, it was clear there was an issue between the two agencies. In fact, I was told then that AECL believed they could restart more safely than before.

That is why I intervened and called the president and CEO of the commission to gather the facts. It was very important. And I was speaking to both agencies throughout this. Every time I called the president and CEO of the Canadian Nuclear Safety Commission, I also called the lead person at AECL up at Chalk River, Dr. Torgeson. I did that because it was important that we have all the information.

We believe it's very clear that the president and CEO of the Canadian Nuclear Safety Commission had the powers to act, had the powers to deal with this matter in her executive responsibilities in that role, and that she did not fulfill or carry out those duties appropriately, obviously.

**Mr. Mike Allen:** To interject, Minister, which actual concrete roles do you think she could have exercised? I didn't get a clear answer to that question.

**Hon. Gary Lunn:** Under the Canadian Nuclear Safety and Control Act, subparagraph 9(a)(i) states:

9. The objects of the Commission are

(i) [to] prevent unreasonable risk, to the environment and to the health and safety of persons, associated with that development, production...or use,

It was clear that she had the powers to deal with this matter. She had the powers to deal with this matter before AECL brought it to

her. And obviously there was a dispute between these two agencies. AECL presented a safety case to the president of the CNSC. They believed they had a strong safety case. We were advised by the president and CEO of the Canadian Nuclear Safety Commission that she did not believe they had a complete safety case.

Again, as we gathered this information, what I was encouraging the president to do was to put the matter before...so a decision could be rendered. However, it appeared obvious that that was not going to happen through the progression of our communication. Ultimately, bringing a bill before Parliament ended up being the only way.

Clearly, had we not acted, there is no question in my mind that people would die.

• (1110)

**Mr. Mike Allen:** Mr. Minister, I'd like to ask about NRCan's responsibilities in this. With a reactor supplying over 50% of the world's isotopes, you'd think the department would have some sense of urgency on this, and when you started getting correspondence on that you would realize there was a problem and—

**The Chair:** Mr. Allen, your time is up. A very quick question and a very short answer from the minister, please.

**Mr. Mike Allen:** Why wouldn't the department have, in their communication protocols, alerted you to this?

**Hon. Gary Lunn:** I'll let the deputy minister answer that question.

**Ms. Cassie Doyle:** Thank you, Mr. Chair.

During the period between November 22 and November 29 we had no certainty as to the duration of the shutdown. It was characterized as temporary, so it was seen at that time as not contributing to the kind of situation that we realized after November 30. That is the reason that information was not brought to the attention of the minister.

**The Chair:** Thank you very much.

We go now, for the third round, to Mr. McGuinty for five minutes. Go ahead, please, Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you, Mr. Chair.

Minister, thank you for joining us this morning.

I've listened very intently, very carefully to everything you've said, and I have to tell you it's quite a story. What you came here to present this morning is in fact quite a story.

Minister, let me quote Auditor General Sheila Fraser from several days ago, when she said about the situation, "I find it a very unfortunate situation. She"—referring to Ms. Keen—"has a very important role as an independent regulator. I think, like us in this audit office, she is deeply concerned about the independence of her organization as it comes to its ability to make these kinds of decisions. I guess I find it unfortunate that discussions over decisions have become personal."

Minister, let's take a look at what's been happening around this town in the last two years: Linda Keen; Marc Mayrand was blamed for the veil issue because of your government's pathetic legislation; Bill Corbett is being challenged in court because of your "in and out" scandal; Johanne G  linas was fired as environment commissioner; Jean-Pierre Kingsley, the former Elections Canada head, was driven out by your government; John Reid, hardly a shrinking violet, left as information commissioner; and Graham Fraser, the official languages commissioner, was undermined by the employment of Bernard Lord to do Mr. Fraser's job—all in the context of Prime Minister Harper saying, previous to the last election, that the people of Canada had nothing to fear, because the government would be held in check by Liberal appointees in the senior ranks of the public service and in independent, quasi-judicial tribunals in the courts.

Well, Minister, I guess the question now is should Canadians fear, should Canadians actually fear, the real agenda of the government now that the government is proceeding with what is reminiscent, in my view, of some of the developments in the 1940s and 1950s in the American Senate?

What's particularly egregious about this, Minister, is that these are individuals who head up commissions, boards, quasi-judicial tribunals—mostly independent actors who are specifically mandated by enabling legislation to do their jobs. These days, Minister, it seems that anybody who tries to do their job around this town loses it. These kinds of Republican tactics this town has never seen before. They're new to Canadians.

So let me ask you something here. Maybe I have another alternative narrative; maybe what you're really doing here today is covering up for Stephen Harper's intemperate remarks on the floor of the House of Commons by alleging that Linda Keen was some kind of Liberal hack doing the deeds and the doings of the Liberal Party of Canada; maybe those intemperate remarks got him in trouble. And now you, less than 24 hours after we met here with your colleagues, fire Linda Keen in the dark of night, while Canadians aren't watching, when yesterday your parliamentary secretary was at this committee fighting for your right for rebuttal, to respond to Linda Keen, because you did not trust what she was going to say.

What kind of conduct is this, Minister? What kind of government are you a part of if you are simply doing the bidding now of a PMO by fabricating a story about health concerns?

Minister, I have a couple of questions for you.

Exactly what part of the job did Ms. Keen fail to perform? Tell us exactly where she's in breach of her responsibilities, as circumscribed by the enabling legislation, as a nuclear safety regulator. Tell us exactly how you see the health and safety of Canadians actually in the mandate of that enabling legislation.

Then also tell us, please, can you point to a section of the act that states that it's the commission's responsibility to ensure that MDS Nordion can meet its sales demands? Can you tell us where there's a legal international obligation for Canada to supply medical isotopes to the United States and other nations?

Come on; every Canadian is watching you now. They see this story and they don't believe you. They don't believe your government. And we believe you're covering up for Prime Minister

Stephen Harper's unfortunate, intemperate, yet revealing remarks about a senior regulator in the government of Canada.

•(1115)

[*Translation*]

Tell us clearly, Minister, how exactly Ms. Keen did not perform her duties. Tell us how as "regulator" she is unable to continue to play her role within the Government of Canada.

[*English*]

**The Chair:** Mr. Minister, you have about half a minute to answer all those questions.

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

First of all, just briefly then, the facts are as they are, as I've outlined them. Clearly we had to act. This culminated in an act of Parliament. That was the only way we could ensure the safety of Canadians and in fact people would not die unnecessarily. It did not have to happen.

Every single party had an opportunity, had unlimited time, in the House of Commons and in the Senate, to question me, Minister Clement, both the Canadian Nuclear Safety Commission and AECL, and independent experts before they made the decision to support the resumption of the NRU reactor so that it could produce medical isotopes—which, I might add, the president and CEO continued to maintain could not happen.

With regard to Ms. Keen, our government believes she did not fulfill her role, her executive powers—

**Mr. David McGuinty:** How?

**Hon. Gary Lunn:** —as president and CEO of the Canadian Nuclear Safety Commission.

**Mr. David McGuinty:** Precisely how, Minister?

**The Chair:** Order, please, Mr. McGuinty. Give the minister a chance to respond. Your questioning time is up.

Go ahead, Mr. Lunn.

**Hon. Gary Lunn:** She did not fulfill her role. She had the statutory authority to deal with the matter in an expeditious and urgent manner, and she also had the authority in her management role to put the matter before the commission, Mr. Chair.

Again, we stand behind this decision. We believe we took decisive action, as we needed to, to ensure the health and safety of Canadians.

**The Chair:** Thank you very much, Mr. Minister.

Now to Mr. Trost, for five minutes, please.

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Thank you, Mr. Chair.

Before I ask the minister a couple of my questions on the Auditor General's reports, I should put it on the record here that the entirety of Parliament took this measure to get this reactor going. A senior member of the NDP, at the end of the debate, said this was one of Parliament's finest hours. And I agree with him. There are members from other opposition parties that are on the record saying they supported this legislation, Bill C-38. I think we need to remember that it wasn't you who made this decision; we made this, the people who are questioning you today.

The other thing is I couldn't let my colleague's comment about fabricating health concerns go by. Considering the letters from the Canadian Medical Association, the various doctors with backgrounds in nuclear medicine and cancer specialties, considering the concerns they put on the public record to the CNSC and to the entirety of the country, I don't think those gentlemen were fabricating health concerns. They are professional medical people with many years of training. I don't think we, as committee members, should criticize their judgment or their character in anything that we do. I think this was very clearly a major health concern.

The question I have to your critics would be what would they have done in your shoes? I think they need to answer that.

Now, Mr. Minister, I'd like to go back a little bit to the Auditor General's reports of 2002 and 2007. My understanding is that in 2002 the natural resources minister at that time did not meet with the Auditor General to discuss her report. You did in 2007.

Was your practice unique? Why did you think it was important? Do you have any idea why previous ministers refused to meet with the Auditor General concerning her reports?

**Hon. Gary Lunn:** I can't answer on their actions. The previous two reports... I think it's important to note that these reports are done on all crown agencies. The Auditor General does a review once every five years. This is something she's required to do. The 1997 and the 2002 reports haven't been released, but the 2002 report identified a number of issues with respect to Chalk River, with respect to AECL, with respect to lack of funding. I was aware of those in the very early days when I took office. I was briefed by my department in some of our discussions of issues we needed to deal with, and we believe we have taken decisive action.

When the Auditor General wrote the 2007 report, I was briefed in early October. This was a report to AECL. I welcomed that report and I looked forward to its release.

• (1120)

**Mr. Bradley Trost:** Mr. Minister, I understand that.

Now, in the report the Auditor General said, and I quote from the front page of the report:

We did not do a technical assessment of the safety and security of the Corporation's nuclear research facilities or waste management practices, as they are monitored by the Canadian Nuclear Safety Commission

So nothing in the 2002 or 2007 report had anything to do with technical safety. The CNSC is the only body that reports to you on those sorts of issues. Is that correct?

**Hon. Gary Lunn:** That's correct.

**Mr. Bradley Trost:** So there was nothing anywhere in these that had anything to do with the seven safety upgrade issues and the dispute about the one—nothing at all?

**Hon. Gary Lunn:** That is absolutely correct.

**Mr. Bradley Trost:** Okay.

Now, Mr. Minister, your government has put together some supplementary estimates. There was a \$520 million five-year plan to deal with health, safety, and environmental priorities.

Does any of that money have to do with safety upgrades? Would that be a judgment call of AECL? Are there specific concerns in that area that have not been looked at from other reports in other times, in other places?

**Hon. Gary Lunn:** Thank you very much.

In the last fiscal year, 2007-2008, there was \$103.7 million in the original estimates, plus an additional \$108 million in the supplementary A estimates. A total of \$323 million last year alone went to AECL, and \$250 million of this was dedicated to the Chalk River laboratories. At no point in time—

**Mr. Bradley Trost:** So \$250 million in upgrades specifically for this area—infrastructure, safety, etc.

**Hon. Gary Lunn:** Yes. That's correct.

There were a number of issues that were dealt with, everything from legacy liabilities to regulatory health and safety issues, and there was additional money for the new ACR-1000, for the development of that technology, as well as other funds. It's really important to note that at no point were there ever any funding issues with respect to doing upgrades or any work on the NRU reactor.

**Mr. Bradley Trost:** This is not at all a funding question whatsoever.

**Hon. Gary Lunn:** The situation surrounding the isotopes has absolutely nothing to do with funding. That is true.

**The Chair:** Thank you very much, Mr. Trost and Mr. Minister.

We now go to Mr. Alhabra from the Liberal Party.

**Mr. Omar Alhabra:** Thank you, Chair.

Minister, it's clear that you are working really hard to cover for AECL senior management, because they fall under your jurisdiction and you know you're ultimately responsible.

The more you highlight the urgency of the medical isotope, the more you clearly highlight your incompetence in not knowing what has happened over the last year and a half. And you admitted that the NRU had 50% of the international and domestic markets. You should have known about this. This was within your ministerial jurisdiction.

We now have the Auditor General's report. In the cover letter it says:

...it is our view that this report contains information that should be brought to the attention of the Minister of Natural Resources.

Minister, we have a quote from you, from November 22, in front of our committee:

The NRU reactor there produces medical isotopes. There are some health and safety issues there that have been overlooked for some time. They require some funds to meet those regulations, and as a government we have to provide the resources to do that. They've been ignored for a long time.... Obviously they meet minimum safety standards, but they need to become compliant with other health and safety standards, and we have to address that.

We have Mr. Burns, who was appointed by you and who is a former Alliance fundraiser, saying he briefed you on this matter on November 22. He says he also submitted his resignation on November 29 in frustration because of your inaction. We also know that you left AECL without a CEO for at least a year.

There were ample opportunities for you, Minister, to act within 18 months to prevent this problem from happening. Your plea of ignorance is not an excuse. You should have known, Minister; this was within your ministerial jurisdiction. It's even worse if you knew and didn't do anything, because it's negligence.

Minister, how can you explain, knowing how serious the production of isotopes was? How can you claim that you didn't know until November 4, even though you had such ample opportunity to do something about it? We have much evidence to tell us that you knew about it or you were briefed on it.

• (1125)

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

Let me address a number of assertions that are completely false.

First of all, number one, I was not briefed on November 22 at all. In fact, the department received a brief e-mail—it was four lines long—advising that the scheduled maintenance shutdown would be extended, possibly into December.

With respect to the point that there was no CEO, this is not true, Mr. Chair. In fact, the CEO had retired, and during the interim, until we appointed a new CEO, there was an acting CEO in place.

Mr. Chair, with respect to Mr. Burns' retirement, Mr. Burns conducted himself in an able manner. In fact, he had indicated his intentions to me, I believe, in early November—that his intentions were to retire. Again, there was no connection.

With respect to the Auditor General's report identifying...and as my testimony before committee shows, it is absolutely true that there are issues at Chalk River. There are health and safety and regulatory concerns at Chalk River, and they have been identified for some time. That is why we have more than doubled the amount of funding to AECL for Chalk River to begin dealing with these issues, which have been neglected for literally over a decade. We are putting these funds in to have these.

I want to stress that at no point—at no point—were any of these issues surrounding the NRU reactor or any shortage of funds. There is no way that any of this is connected at all.

I appreciate that the member, for his own reasons, is trying to make the connections, but they are simply not true.

**The Chair:** You have about a minute, Mr. Alhabra.

**Mr. Omar Alhabra:** Thank you, Mr. Chair.

Minister, again I think your plea of ignorance is not acceptable here. The interesting part is you're blaming an independent quasi-judicial body over whom you have no authority, but you have yet to do anything with AECL because you know that if you put the blame on AECL senior management, you are accepting responsibility yourself.

By the way, I had two calls from two separate employees of AECL. They told me the morale at AECL is low. They told me that the government has been neglecting serious issues at AECL.

Minister, you need to accept that responsibility. When you talk about holding people to account, why don't you start with yourself first? Why don't you accept responsibility that your inaction has forced Parliament to intervene? Your inaction to resolve this issue has forced Parliament to pass a law. If you had acted sooner, we wouldn't have had a shortage of isotopes and we would have been still in compliance with the nuclear safety regulator on the standard that is accepted. And let me tell you, if there is a regulator that I expect to adhere to the letter of the law, it is the Canadian Nuclear Safety Commission.

Minister, your inaction has put us in this position. It's unfortunate that you blame someone else for your failures.

**Hon. Gary Lunn:** Mr. Chairman, let me respond.

• (1130)

**The Chair:** Mr. Minister, go ahead.

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

Let me respond firstly by saying it was precisely the action of our government that potentially prevented people from dying from an unnecessary shortage of radioisotopes that never had to happen. It never had to happen.

Nobody in my department or myself could ever have anticipated or forecasted or known that we were going to be in a situation in early December where there would be this dispute between AECL and CNSC, and we took the action we did. I believe we took the absolute correct approach in all of our decisions until it culminated in an act before Parliament. That was the only way to resolve this matter.

I believe and our government believes that the former president and CEO of the Canadian Nuclear Safety Commission did not fulfill her executive responsibilities in that position, and therefore we have acted as we move forward to bring in new leadership, as we have done with AECL.

**The Chair:** Thank you, Mr. Minister.

To the government side again. Ms. Gallant, five minutes.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Thank you, Mr. Chairman.



Minister, the reason the NRU could not be restarted in December before both levels of Parliament unanimously voted to restart it and the reason that the lives of hundreds of vulnerable Canadians were put into jeopardy was purely regulatory in nature? It had nothing to do with any mechanical failure, any safety incident—it was purely regulatory?

**Hon. Gary Lunn:** It was a dispute with respect to the licence between the two agencies. That became very clear as the facts unfolded. There was no question about that.

But it is also very clear, as before Parliament, that all agencies—the Canadian Nuclear Safety Commission, AECL—and independent experts testified that in fact this new third shutdown system would be.... If we resumed operations in the state it was at, it would be able to operate safer than it ever has been before in its 50-year issue. It was described to me by many people in the industry that this was a licensing issue, not a safety issue.

**Mrs. Cheryl Gallant:** And on that issue, Minister, in the letter from you and the Minister of Health to Mr. Petrunik you state that Chalk River was out of compliance. Who told you it was out of compliance?

**Hon. Gary Lunn:** That was the position of the Canadian Nuclear Safety Commission, as we tried to gather the facts on December 5 and December 8. Of course AECL maintained a different position.

As we moved forward looking for solutions, our focus to this entire timeframe was looking for solutions to ensure an adequate supply of medical isotopes. Both myself and the Minister of Health wrote both agencies directly, again asking them to focus on a solution and resolve this matter.

**Mrs. Cheryl Gallant:** In terms of lessons learned, are you satisfied with the warnings you received? And if not, have you taken steps to improve the communication procedures between AECL and the CNSC?

**Hon. Gary Lunn:** That's a great question. It's clear, even reading the e-mail of November 30, that there was no sense of urgency from either the Canadian Nuclear Safety Commission or AECL. Everyone, even late in the afternoon on Friday, November 30, believed that they would be resuming operations shortly, in early December, to resume isotope production.

Having said that, with the situation that unfolded, I have since written to both the Canadian Nuclear Safety Commission and AECL and asked them to notify me immediately whenever there is an unscheduled shortage, for whatever reasons, beyond a regularly scheduled maintenance outage, so we can stay on top of it.

So yes, we have made those changes.

**Mrs. Cheryl Gallant:** What are your regrets concerning this whole incident, or do you have any?

**Hon. Gary Lunn:** You have to deal with what you have to deal with. Obviously, we believe that this didn't need to happen. That was clear. That's why we brought a bill before Parliament, because all the evidence presented to us from all agencies independently suggested that we could resume isotope production in a safe manner. So that was the situation we had.

I suppose if there is a single biggest regret, it is the regret for the Canadian people and for patients who showed up at clinics across

Canada for a diagnostic procedure. These are people with serious illnesses, and in the time of their greatest need, when they showed up to have these treatments, because of a discrepancy between these two agencies, they were unable to receive these treatments. This would be the single biggest regret, that we did end up with a shortage. Although we managed to contain it, it's obvious this should never have happened.

• (1135)

**Mrs. Cheryl Gallant:** Thank you.

Do you have anything else to add?

**Hon. Gary Lunn:** No, thank you.

**The Chair:** Thank you, Ms. Gallant and Mr. Minister.

We go now to the official opposition and Monsieur Proulx.

[*Translation*]

**Mr. Marcel Proulx (Hull—Aylmer, Lib.):** Thank you, Mr. Chairman.

Thank you, Minister, for appearing before us this morning.

Minister, you told us earlier that you had asked Ms. Keen if she had some way of preventing problems, whereas in reality, you threatened her with dismissal for having failed in her duty, and criticized her for not having caved in to your ministerial directive in this matter.

The commission is a quasi-judicial body and is thus independent. Your Prime Minister has indeed set the rules: a minister has no orders to give to that organization. What is at issue here is the independence of administrative tribunals.

Mr. Minister, I would like to hear some brief answers from you to some brief questions.

You sent a letter to Ms. Keen dated December 27, 2007. You are entirely free to work on the day after Boxing Day, but I still find this a tad strange. When did you draft this letter dated December 27?

[*English*]

**Hon. Gary Lunn:** It started in the days before Christmas. The officials and I—

[*Translation*]

**Mr. Marcel Proulx:** Precisely, I would like to know who helped you draft that letter, Mr. Minister.

[*English*]

**Hon. Gary Lunn:** I had support from my officials and staff from my office, but I stand behind everything I wrote in that letter. It was my letter.

[*Translation*]

**Mr. Marcel Proulx:** Who within the Prime Minister's Office approved that letter, Minister?

[*English*]

**Hon. Gary Lunn:** I can say I wrote the letter with the support of my office and my officials. I stand behind everything in that letter.

[Translation]

**Mr. Marcel Proulx:** That is not the issue, Mr. Chairman.

I asked the minister who within the Prime Minister's Office had approved that letter.

[English]

**Hon. Gary Lunn:** There would have been support. My deputy minister can possibly answer that. She would have received support from other agencies, but if we can direct that to her, the support she would have received in providing assistance to me to write that letter—

[Translation]

**Mr. Marcel Proulx:** Mr. Chairman, the minister is avoiding replying to my question.

The question is simple: who in the Prime Minister's Office approved this letter?

[English]

Who in the Prime Minister's Office approved this letter, Mr. Minister?

**Hon. Gary Lunn:** Again, this was my letter, under my signature. I'm sure there was communication between the departments, and the deputy could answer that. I have no doubt that the Prime Minister probably read the letter himself. I don't know that. I never had any conversations with him or with anybody in his office with respect to this letter.

Mr. Chair, I can say this letter was under my signature. I wrote this letter with the support of my officials and my staff, and I believe it was the appropriate course of action.

[Translation]

**Mr. Marcel Proulx:** Mr. Chairman, the minister answered the question. I would like to ask him one last one.

The letter was leaked to the media. Who was behind that?

[English]

**The Chair:** Monsieur Proulx, please give the minister a chance to answer.

**Mr. Marcel Proulx:** He had already answered, Mr. Chair.

[Translation]

Minister, your letter of December 27 was leaked to the media. Who leaked it?

[English]

**Hon. Gary Lunn:** Again, I have no idea who could have leaked it. I'm assured that it did not come from my office. That was an unfortunate incident. I understand that the RCMP and the Privacy Commissioner have been called in, which I support, of course.

This was a protected letter. It was a confidential letter. It was stated right on the letter. It was never intended to be disclosed in this way.

I can assure you that it was no one from my office who would have leaked this letter.

[Translation]

**Mr. Marcel Proulx:** So, in summary, you don't know who was behind the leak of this letter and to your knowledge, the letter was not approved by the Prime Minister's Office. Is that correct?

[English]

**Hon. Gary Lunn:** No. What I said is I signed the letter and I'm responsible.

Again, let me turn the microphone, if I may, over to the deputy. She could answer the support they would have received providing support for—

**Mr. Marcel Proulx:** Mr. Chair, I apologize, but I don't need that. My question was in regard to the Prime Minister's Office.

I'm short on time. I respect the deputy minister, but my question was to the minister. I would like to ask him a final question.

● (1140)

**The Chair:** Mr. Proulx, the deputy minister will have a chance to respond. Thank you.

**Mr. Marcel Proulx:** Why, Mr. Chair? What's she going to answer? I've already got an answer from the minister. You are running my clock now, Mr. Chair.

**The Chair:** Mr. Proulx, it is at the discretion of the minister to decide how to answer—or who will answer, in this case.

Go ahead, please.

**Ms. Cassie Doyle:** Thank you, Mr. Chair.

I would just add that the appointment of the chair and president of CNSC is a senior appointment. We certainly received input from the justice department and PCO on the crafting of that letter.

**Mr. Marcel Proulx:** Mrs. Doyle, who approved the letter at PMO?

**Ms. Cassie Doyle:** I have no knowledge of who—

**Mr. Marcel Proulx:** Who approved it in PCO then?

**Ms. Cassie Doyle:** The head of senior personnel in PCO.

**Mr. Marcel Proulx:** Who might that be?

**Ms. Cassie Doyle:** Patricia Hassard.

**Mr. Marcel Proulx:** Thank you.

[Translation]

Minister, in this matter, the Canadian Nuclear Safety Commission did its work by demanding that the reactor, which had been shut down for routine maintenance, not be restarted before the work was done. If a guilty party had to be found, one would have to look in the direction of Atomic Energy Canada, whose president, who was one of your supporters and was appointed by your government, did in fact resign at the end of the year.

Why did you let the situation deteriorate by allowing Atomic Energy Canada to operate the plant for a number of months without insisting that the work required by the commission be carried out?

[English]

**Hon. Gary Lunn:** Well, Mr. Chair, it's been disclosed that there was a dispute between the two agencies. In fact, a number of documents have come forward that show that both agencies were fully aware that in fact it was in its current configuration and it was allowed to continue.

The reality that we faced in early December, again going back to the testimony of all the experts, was that this could operate safely, in fact safer than before, and that it was unnecessary to put the lives of Canadians in jeopardy. Obviously, the connection of this third backup power system is ongoing and will be completed. I understand it's ahead of schedule.

Those were the facts that were presented to us, and we had to deal with them as a government, and we did for the benefit of all Canadians to ensure their health and safety.

**The Chair:** Thank you very much, Mr. Minister.

We go now to the Bloc Québécois, Madame DeBellefeuille.

[Translation]

**Mrs. Claude DeBellefeuille:** Thank you, Mr. Chairman.

Mr. Minister, I would like you to reply with yes or no.

As we speak, is Atomic Energy Canada Limited operating the NRU reactor in accordance with its licence?

[English]

**Hon. Gary Lunn:** Yes.

[Translation]

**Mrs. Claude DeBellefeuille:** So you are in agreement with Atomic Energy Canada Limited, which questions the conditions set by the Canadian Nuclear Safety Commission in order to renew its licence. That is at the heart of the issue.

[English]

**Hon. Gary Lunn:** You're absolutely right—dispute. There is a dispute between the two agencies. Parliament passed an act that allowed them to operate in the current configuration, with only one of the two pumps hooked up to the new emergency power backup system. In that case, yes, they are in compliance. To resolve the dispute between the two agencies to allow them to operate is why we passed Bill C-38.

[Translation]

**Mrs. Claude DeBellefeuille:** Minister, I apologize for interrupting you.

I simply want to tell you that we parliamentarians supported the bill not because we felt that the Canadian Nuclear Safety Commission had not done its work properly, but because we were torn between two options. We chose the lesser of the two evils. I would like you to stop bolstering your statements by referring to the vote that was held in Parliament. When we learned that people would be dying, it became very difficult to oppose the bill. But at no time did we have any doubt about Ms. Keen's work or her competence. I simply wanted to express that to you.

You say that, as we speak, the reactor is being operated in compliance with the licence, an opinion which does not seem to be

shared by the Canadian Nuclear Safety Commission. However, the commission is the body with the expertise to judge whether or not a reactor is being operated safely. It has the expertise and the mandate in this regard. You consulted all kinds of other experts. Be that as it may, the expert mandated by law to assess the situation considers that this reactor is not being operated according to the conditions of the licence. You have to admit that that is somewhat surprising.

You fired Ms. Keen. Why did you do so last night rather than waiting for the results of the investigations which were ordered, either by the health minister, Atomic Energy Canada or Ms. Keen herself, concerning the performance of her commission's staff? Why did you act so hastily, in a manner I deem cavalier and rude, before Ms. Keen even had the opportunity to appear this morning, as president?

• (1145)

[English]

**Hon. Gary Lunn:** In fact, it was just the opposite, Mr. Chair. When we dealt with this matter, as the committee is aware, we wanted to get all the information before we made a decision. That is why I wrote Ms. Keen on December 27, advising her that we were considering this but that we would like to have all of her input and an opportunity for her to correspond directly, which in fact she did.

Only after receiving all of that information did we begin the evaluation. At one point the government believed that Ms. Keen had not fulfilled her executive responsibilities as president and CEO, and that we had not needed to get to this position.

It's important that the government have confidence that she could fill her mandate. We did not believe that she had the confidence of the government. It's incumbent upon us to make a decision to that effect. That is what, in fact, we did.

I advised my deputy minister early yesterday of the decision we were making. That decision was carried out by senior personnel with regard to the timing and the process that they follow. That's not something that I would do. That would be done by senior personnel in the Privy Council Office.

[Translation]

**Mrs. Claude DeBellefeuille:** Minister, I must interrupt you. I am practically out of time.

The impression I get from your testimony, after two hours, is that your department was lax on numerous occasions and that Atomic Energy Canada was disorganized, but you were too timid to denounce this publicly. As for the management of this crisis, one gets the impression that you did indeed try to save lives, but that you were also trying to save your own skin and that of your party.

[English]

**Hon. Gary Lunn:** Not at all. In fact I believe we acted in a very expeditious manner from December 3 until, I believe, December 12, when Parliament passed Bill C-38 in nine days. I believe that. And if you look at the chronology of events and the actions we took trying to resolve this matter, it should never have had to come to Parliament. The powers were within the office of the president and CEO of the Canadian Nuclear Safety Commission to resolve this. The former president and CEO of the commission chose not to exercise those powers. That is why we have taken the course of action that we have. We have a duty as the Government of Canada to act, and that is in fact exactly what we did.

As the member said earlier in testimony, it was difficult to oppose this bill. I agree. This was an important piece of legislation. All parties supported it for the right reasons.

We were left with no choice but to put this bill before Parliament, because it became clear that had we not, the former president of the commission would not exercise her executive powers, and lives were at stake. That is why we have taken the action that we have.

**The Chair:** Thank you, Mr. Minister.

Madame DeBellefeuille, your time is more than up.

We will go now to Ms. Bell for five minutes.

**Ms. Catherine Bell:** Thank you, Mr. Chair.

As the minister has said over and over again, everyone in Parliament supported Bill C-38, but not necessarily for the reasons he puts forward. It was not that we didn't have confidence in the safety commission. We had to weigh the issues and come up with a plan that respected both the need for medical isotopes and the overriding need for nuclear safety. I want to stress that nuclear safety, in our view, is paramount in this as well.

Mr. Minister, you have said that it was a condition of the licence that was under dispute. Would that be to have the backup generators?

• (1150)

**Hon. Gary Lunn:** What happened, Mr. Chair, if I might explain, was that there are two backup systems, and this was a third backup system.

**Ms. Catherine Bell:** That's under dispute.

**Hon. Gary Lunn:** Whether in fact it was part of the licence. There were two pumps. The backup system was being maintained. It could operate with one of the pumps that had 100% design capacity. In other words, if it actually got to the point where you needed the third backup system, one of the pumps would be able to handle 100% of the capacity. It is important to stress that they didn't even have one pump prior to November 18.

**Ms. Catherine Bell:** I just want to know who is disputing this.

**Hon. Gary Lunn:** AECL has maintained that they have documentation and correspondence between CNSC and AECL on numerous occasions right from 2005 all the way through to—

**Ms. Catherine Bell:** Who decides the conditions of licensing?

**Hon. Gary Lunn:** If I can just finish, they have correspondence all the way through suggesting that both agencies were fully aware

that this pump was not hooked up, and they continued to allow them to operate.

**Ms. Catherine Bell:** Who decides the conditions of licensing?

**Hon. Gary Lunn:** That would be done by the Canadian Nuclear Safety Commission.

**Ms. Catherine Bell:** When was the change made? This was a condition of licensing that you said was under dispute. It was something new, I understood. When was that put in place?

**Hon. Gary Lunn:** From late 2005 right through 2006 and 2007 there were discussions with respect to this pump.

**Ms. Catherine Bell:** That is a lot earlier than I had suspected. So AECL knew back in 2005 that they needed to comply with this extra licence requirement, and yet in 2007 they still hadn't complied?

**Hon. Gary Lunn:** Both agencies were aware that the emergency power supply was not hooked up to pump 104 and pump 105, and they accepted that position, obviously, because they were allowed to continue to operate. That is going back to June 2005. Both agencies were aware of that and obviously accepted that position, because they allowed them to continue to operate and continue to renew their licence.

**Ms. Catherine Bell:** In July 2007, according to AECL, the Canadian Nuclear Safety Commission knew of the licence violation, which of course they would have if it had gone back to 2005.

**Hon. Gary Lunn:** Yes.

**Ms. Catherine Bell:** Were you aware of that as well?

**Hon. Gary Lunn:** No, I would not have been aware of —

**Ms. Catherine Bell:** Why not?

**Hon. Gary Lunn:** Again, I would not have been briefed. That was never brought to my attention by either the CNSC or AECL.

**Ms. Catherine Bell:** Wouldn't a violation of a licence agreement put in jeopardy any ability for AECL to continue operation? If any operation is in violation of its licences there is the potential to be shut down for long periods of time.

**Hon. Gary Lunn:** If there were a licence violation and if there were a reactor that was shut down, it absolutely would be brought to my attention, but this was not brought to my attention.

**Ms. Catherine Bell:** It's not a question of "if".

**Hon. Gary Lunn:** That's obviously in dispute, Ms. Bell.

**Ms. Catherine Bell:** There are smoking regulations in facilities that owners of those facilities dispute, but they are law, and if they don't comply, they can be shut down. Wouldn't it follow that since nuclear safety is so important, if AECL at Chalk River were in violation of its licensing agreement it could potentially be shut down?

**Hon. Gary Lunn:** Again—

**Ms. Catherine Bell:** And you were not even aware of it.

**Hon. Gary Lunn:**—I can only express the facts to you. In fact, the Canadian Nuclear Safety Commission allowed AECL to continue to operate, in the configuration it was, right up until November 18. At that point in time there were discussions, and that's where the problem ensued.

In fact, AECL now is completing that last upgrade of the connection of the emergency power supply system to those two pumps.

• (1155)

**Ms. Catherine Bell:** You have mentioned that your government has put billions of dollars into improved facilities, yet the only steps you say you have taken to improve relationships.... And we've seen, from the AG's report, systemic long-term problems with relationships between AECL, the CNSC, and also Natural Resources. Now we're hearing that there was no mechanism to report to the minister, or there was no reporting to the minister of a serious violation of a licensing agreement.

What steps are you taking here, if any? To me, it should be an immediate step to improve those reporting mechanisms and the relationships.

**Hon. Gary Lunn:** Again, I've written letters to both the Canadian Nuclear Safety Commission and AECL. In the event of a shutdown of any reactor in Canada that is beyond a normal maintenance shutdown, I'm to be advised immediately.

**The Chair:** Ms. Bell, your time is up.

We will now go to Mr. Anderson for five minutes.

**Mr. David Anderson:** Thank you, Mr. Chair.

Mr. Minister, we've talked a little bit this morning about AECL and the AG's report. I'm just wondering, why did you launch a review of AECL several months ago?

**Hon. Gary Lunn:** It became clear as we moved forward and as I looked at the situation that there were a number of issues that we needed to resolve. There were unresolved issues surrounding the MAPLE reactor. These projects began in the mid-1990s. Construction began in 1996 and was supposed to be completed in 1998. There have been multiple delays. They are well over budget. There are still technical issues.

So that needs to be resolved, and there are commercial issues that need to be resolved with AECL. Our government felt it prudent that we engage independent experts to report back to us on the entire state of AECL—its commercial operations, its operations at Chalk River—and report back to our government so that we could have a hard look at all of that information and that advice and plan a path forward.

Clearly this was long overdue. I would submit that what we have been able to do in the last two years in office is move this agency forward. That is in fact what we are looking to do with this review. I will be happy to report that in the coming months, once we receive that advice and once the government has made a decision.

I will also state that we are looking for the broadest advice we can get. We have not limited the options. All the options are on the table. Then we will examine that and design a path forward on what are the best options for Canadians.

**Mr. David Anderson:** I want to change the subject a bit.

Mr. McGuinty said earlier that this entire issue is based on fabricated health concerns. I just want to point out that his own deputy leader in the House of Commons, on December 7, talked about the fact that "...medical tests are either being delayed or cancelled because of a shortage of isotopes. The Canadian Association of Nuclear Medicine estimates that 50,000 Canadians a month will experience delays in their medical tests." He talked about a "national medical crisis". He also said, in his second question, that "This situation is endangering the lives of millions of Canadians."

This morning you mentioned that up to 25,000 treatments per day depend on these isotopes. Brian Day, in his letter, said that 30,000 patients a week in Canada and up to 400,000 patients a week in the United States depend on these isotopes.

I am just wondering if you can tell me if you think that you and the deputy leader of the Liberals and the Canadian Medical Association and the Canadian nuclear medical profession are being realistic in your assessment, or is Mr. McGuinty?

**Hon. Gary Lunn:** Listen, we had no choice but to act. That's what governments must do.

As the situation unfolded, we took the appropriate steps at the appropriate times by gathering the information, by working with and encouraging both agencies to try to find solutions, and by encouraging the former president and CEO of the Canadian Nuclear Safety Commission to put this matter before the commission so that a decision could be rendered.

Again, when it became abundantly clear that this reactor could operate safer than before, and that this was not a safety issue, our government was in no position.... No way were we going to let the lives of Canadians be put at risk. We had to take action, and we did. Those were the circumstances.

That's what governments must do. They must act.

• (1200)

**Mr. David Anderson:** Mr. Trost has a question, I think, to wrap up.

**The Chair:** You have about a minute left, Mr. Trost.

**Mr. Bradley Trost:** Thank you, Mr. Chair.

I just want to put on the record here a couple of things, because we're getting the impression from some members of the committee that once you're appointed to the CNSC, you're in a little crystal box, and you can't be touched. I want to mention two things in the act.

Number one, under subsection 19(1) there are directives:

The Governor in Council may, by order, issue to the Commission directives of general application on broad policy matters with respect to the objects of the Commission.

Also, section 12(4) says:

...the President shall make such reports to the Minister as the Minister may require concerning the general administration and management....

I wonder, Mr. Minister, if you could very briefly comment. It appears from this legislation that CNSC does have continuing, ongoing interaction with you. Could you comment on what that interaction has been in the past under previous ministers, and under you in normal circumstances?

**Hon. Gary Lunn:** Again, I've had no issues in the past.

I will say that it's important for a minister of the crown. They have interaction with their agency heads, including regulators, on administrative matters.

Also, it's very clear that given the statutory powers of the president and CEO of the Canadian Nuclear Safety Commission, they don't have to be a passive regulator. They could have called the commission themselves without having any material for them. They didn't have to wait for AECL even to present a safety case that they believed this was in the public interest. She could have amended the licence of her own accord. These powers are within the executive powers of that office.

So, Mr. Chair, again, I will only conclude by saying that there was absolutely no interference with respect to her decision or authority, but the Government of Canada has clearly lost confidence in her ability to exercise her executive powers in the role as president and CEO of the Canadian Nuclear Safety Commission.

**The Chair:** Thank you, Mr. Minister.

Thank you, Mr. Trost.

We have a point of order from Mr. Alhabra.

**Mr. Omar Alhabra:** Mr. Chair, before we wrap up, I just had an indication that you have some information about this afternoon's meeting, and I'd like us to know about it before we wrap up so we can decide what we're going to do.

**The Chair:** I certainly will. We're finished with the questioning of the minister now, then?

**Mr. Omar Alhabra:** If you have time, we have more questions, but I thought you might wrap up. If not, we have more questions.

**The Chair:** For the committee's information, I do have some information I want to give them once we're through questioning the minister. It does pertain to this afternoon's meeting, and I think it is important that the committee hear it. I certainly won't adjourn the meeting until we've done that.

The minister did agree at the start of the meeting to extend for a while if members wanted.

**Mr. Omar Alhabra:** The reason I'm asking that we get the news first is that we might invite the minister to come back later this afternoon. So I just want to hear from you first what the information is.

**The Chair:** Thank you, Mr. Alhabra.

Mr. Anderson.

**Mr. David Anderson:** Mr. Chair, the minister has been good enough to be here for two hours. He's willing to stay for a few more minutes. If the opposition has anything that's seizing their attention, I think they should follow through with that when we come to the end of the meeting. The motion yesterday suggested he should be here from ten till twelve. He has been very generous with his time and

done that, so I think we should move on, unless there's something they're absolutely seized with.

**The Chair:** I certainly won't get into the issue of future committee business with the minister at the table. So we will finish with the minister and then go on to give the information about this afternoon's meeting.

Are there any other questions for the minister? He's agreed to stay if there are. If there are not, we'll wrap that part of the meeting up.

Mr. McGuinty.

**Mr. David McGuinty:** Mr. Chair, just on this point of order, it's very material what will happen this afternoon, because it has a direct bearing on what kinds of questions we may want to put to the minister, who has kindly agreed already to extend his stay, and we welcome his stay. I think it would be very important for all committee members. I'm sure the government members would want to hear if there are any material changes to this afternoon's plans and that would have a direct bearing on the questions that all members of Parliament, I am sure, would want to put to the minister.

● (1205)

**The Chair:** Thank you, Mr. McGuinty.

Madame DeBellefeuille.

[*Translation*]

**Mrs. Claude DeBellefeuille:** I would like to ask the minister one last question.

[*English*]

**The Chair:** Madame DeBellefeuille, I thought you were speaking on the point of order. So we will continue with that.

I'd like to get an indication as to whether there are more questions for the minister at this time. He has agreed to...

There are? Okay.

**Mr. Omar Alhabra:** Mr. Chair, my point of order is relevant to the fact that if we have new information, it will be material to the line of questions that we will be asking the minister. That's why we're saying that we need to understand what new information you have before we decide what types of questions we want to ask the minister, and perhaps extend another invitation to the minister.

I'm asking if you could please share with us the information you have so that we can decide what we're going to do next, because it's relevant.

**The Chair:** Again, as I've said, I'm not going to get into business like that with the minister at the table. I have never before seen that done, and I don't think it's appropriate.

We do have a list of speakers.

Is this on the point of order, Ms. Bell?

**Ms. Catherine Bell:** No, I have a question.

**The Chair:** Then we'll go, on the point of order, to Mr. Trost.

**Mr. Bradley Trost:** Thank you, Mr. Chair.

I just want to say on this point of order that yesterday we had some votes, we had some motions. We on the government side were proposing to have the minister come back after Ms. Keen. We made all these offers. The opposition ran over the government on the vote when we were trying to compromise, have him come second, etc.

You guys voted for this. You should actually have the integrity to stand behind what you voted for yesterday and live with it instead of trying to change something every few minutes.

He is prepared to stay another 20 or 30 minutes, whatever it is. Let's get these questions done. We can grab our lunch very quickly here.

You should live with the votes you guys made yesterday instead of trying to change your mind every few minutes. I realize that's the history of the Liberal Party, but at least someone should be consistent.

**The Chair:** Thank you.

Mr. Anderson, on the point of order.

**Mr. David Anderson:** I think the minister's schedule is limited. He has offered to stay for a few minutes. If the opposition is running out of energy on their questions, as it seems they are, that's not our problem. He is willing to stay here and answer the questions. He has been very good this morning.

Let's finish off the questioning and let's decide what we're doing with the rest of our day.

**The Chair:** If we could, let's get back as soon as possible to the remaining questions for the minister.

Mr. St. Amand.

**Mr. Lloyd St. Amand:** Thank you.

With respect, Mr. Chair, you have an obligation to the members of this committee to let us know, as soon as you become aware, what the status is of the meeting this afternoon. I'm asking you directly, yes or no, do you anticipate that Linda Keen will be here at one o'clock to present before us?

**The Chair:** Mr. St. Amand, it seems that it is the will of the committee to do this with the minister here. It's very odd, very unusual. I don't think it's appropriate. But if that's what the committee wants to do, I will read an e-mail that we received about an hour ago. It was sent to the clerk. The e-mail reads as follows:

Given the significant change in circumstances, including the termination of Linda Keen as President and CEO as of 10 pm last evening, it is not possible in these circumstances for Ms. Linda Keen to be present this afternoon as she had previously agreed to yesterday. As such, she was prepared to come as President until last evening.

As she is no longer in that role, she must reassess her ability to make her comments and answer the questions.

Ms. Keen hopes that she will be given an opportunity to address these issues before the Committee at some future date.

This is signed by Mr. Jason Cameron. His position isn't stated here. He is from the CNSC. I don't know if someone here knows what his position is. It isn't stated on the e-mail.

**Mrs. Cheryl Gallant:** On a point of clarification, Mr. Chairman, when we—

**The Chair:** Just a minute, Ms. Gallant, please.

Mr. Cameron is the director general of strategic planning for the CNSC in the regulatory affairs branch. That's who he is.

I also want to say that Ms. Keen had sent an e-mail to the clerk at roughly 9 o'clock this morning indicating that she would be coming, and in fact asking if she would be allowed to come in through the back door so that she wouldn't have to face the media. That was agreed to. We were going to proceed like that.

So the change from 9 o'clock until 10:45 is kind of an interesting thing, but it's something we have to deal with.

Yes, Mr. Proulx.

•(1210)

**Mr. Marcel Proulx:** So for all we know, Ms. Keen might be here this afternoon, Mr. Chair.

**The Chair:** She has indicated in this more recent e-mail—or Mr. Cameron has—that she will not be here.

Ms. Gallant.

**Mrs. Cheryl Gallant:** Mr. Chairman, is it not incumbent upon a witness to come to committee when they're called?

**The Chair:** It becomes incumbent if the committee takes further action.

**Mrs. Cheryl Gallant:** She had agreed up until nine this morning, and now she's not coming?

**The Chair:** That is correct.

Of course, I can't answer for that. That's the situation we're facing here now. I will say let's not get into—

**Mr. Marcel Proulx:** She hasn't said that, Mr. Chair. Somebody else said that for her. In response to her question, I wish you would answer that it was not she who decided she wasn't coming.

**The Chair:** Mr. Proulx, this e-mail is from her office. She is still a member of the board, and we have to assume that it's a legitimate e-mail sent to the clerk. I don't know how else you approach this.

We have the minister at the table here. Let's get back to the questioning of the minister if there are further questions. Otherwise, let's have the courtesy to dismiss the minister and the deputy minister, and if you want to have a further discussion on this, we can do that.

Mr. McGuinty.

**Mr. David McGuinty:** Mr. Chair, I suggest we continue with questions for the minister, who has graciously accepted to stay.

I think one of the ways of dealing with the e-mail you have received from another officer is to find out through the clerk whether the officer who sent you the e-mail is authorized to speak for Linda Keen.

**The Chair:** Mr. McGuinty, it is this individual and these people who have been coordinating this all along. So what's changed? If they had the authority to speak on behalf of Ms. Keen then, then why not now?

**Mr. David McGuinty:** What's changed, Mr. Chair, is that you told us you received an e-mail from Linda Keen at nine this morning, personally saying she would show up here at one o'clock. An hour or two later you told us there's a third party who sent another e-mail from the CNSC. Therefore, I am asking, just as a matter of clarification, whether that person speaking is authorized to speak on Linda Keen's behalf.

It would be one thing to receive a letter from counsel advising his or her client not to attend. That's one thing. It's an entirely different matter when we get an e-mail following hard on the heels of a first e-mail from the individual who's been convened, saying that she's not coming.

**The Chair:** The e-mail this morning was from the same people, Mr. McGuinty.

Let's get on to the questioning of the minister, to continue.

Mr. St. Amand.

**Mr. Lloyd St. Amand:** Thank you, Mr. Chair.

Minister Lunn, it's been a very eventful 12 or 24 hours for Ms. Keen. When was the fact of her firing conveyed to Ms. Keen?

**Hon. Gary Lunn:** Again, that's not something that I would do. I want to stress that she remains a full-time member of the commission, and she's been removed in her position as CEO and president, as you correctly pointed out.

That decision was conveyed yesterday morning by me to the officials, and they would have carried that out. I was notified that it was done in the evening. But there's a process involved. Maybe the deputy could add more to that.

**Ms. Cassie Doyle:** Mr. Chair, it's important to note that Linda Keen, in her role as chair and president, is a Governor in Council appointment. So the decision was made by the minister early yesterday morning, and I understand that it took the balance of the day to have the GIC processed and that Ms. Keen was advised last evening.

**Mr. Lloyd St. Amand:** So Ms. Keen was advised sometime yesterday that, although yet a member of the commission, she was being fired from her position as president of the commission.

How was it actually conveyed to her—by telephone, e-mail, letter?

**The Chair:** On a point of order, Mr. Anderson.

**Mr. David Anderson:** Just to clarify what Mr. St. Amand is saying, didn't one of the e-mails suggest that she received news at ten o'clock last night? I think that was one of the ones you read.

**The Chair:** No.

**Hon. Gary Lunn:** Mr. Chair, maybe I could answer this. Again, I don't know the information. We'd be happy to provide that and get back to the committee. Again, this was a decision that was carried out by personnel in government. They're not even in my department, so I'm not aware of how it was done. But we would be happy, if we find out, to provide that back to the committee at a later date.

•(1215)

**The Chair:** Mr. St. Amand, was your question regarding the time that Ms. Keen received the information? It actually says in this e-mail that it was at ten o'clock last evening.

**Mr. Lloyd St. Amand:** There's no "if" about it, Minister Lunn. You will obviously find out. You will know how it was conveyed to her and when, and you will provide that to the committee.

**Hon. Gary Lunn:** I just said that, yes.

**Mr. Lloyd St. Amand:** You will provide a copy of the letter to the committee.

**Hon. Gary Lunn:** Again, I'm not sure what we are allowed to provide. We will take your request and have a look at it. I'm not sure what is protected and what is not. This was a process that was carried out by senior personnel in government.

**Mr. Lloyd St. Amand:** The decision itself, though, to fire Ms. Keen was your decision as of yesterday morning.

**Hon. Gary Lunn:** It was a recommendation I would have made that would have gone to the GIC and through that process. On my recommendation it would then have been carried out.

**Mr. Lloyd St. Amand:** And the involvement of the office of the Prime Minister with respect to that decision was what?

**Hon. Gary Lunn:** He would have been made aware of it as well. There is no question.

**Mr. Lloyd St. Amand:** He personally or his office?

**Hon. Gary Lunn:** Again, I have no doubt that he would have been made aware personally. These are serious decisions, and there is no way they would be made without him being aware of these. Again, it would be my recommendation, and there is no question that the Prime Minister would be made aware of this.

**Mr. Lloyd St. Amand:** I take it you would have conversed directly or personally with the Prime Minister?

**Hon. Gary Lunn:** No, I have not.

**Mr. Lloyd St. Amand:** You haven't.

**Hon. Gary Lunn:** No, not this week, not after this decision was made, not personally, no.

**Mr. Lloyd St. Amand:** In your December 27 letter to Ms. Keen you made some very serious defamatory allegations with respect to her. I'm asking you if you can provide a single instance of personal misconduct on her part or an example of where she failed to meet expected performance standards.

**Hon. Gary Lunn:** We believe, on reviewing her response and all the information before us, that she did not fulfil her executive responsibilities as CEO and president of the Canadian Nuclear Safety Commission. In fact, it is the position of this government that that position is at pleasure.

**Mr. Lloyd St. Amand:** I'll leave my remaining time for Mr. McGuinty.

**The Chair:** Mr. McGuinty, go ahead, please. You have about three minutes.

**Mr. David McGuinty:** Thank you, Mr. Chair.



Following on the comments made by Ms. Doyle about the GIC, in a previous life I used to be a GIC appointee. I know a little something about the rules of discharging GIC responsibilities and removing GIC appointees.

I want to point to a letter that you were sent directly by Linda Keen on January 8, eight days ago. Here are some of the operative paragraphs she has quoted to you. She said basically that your comments concerning the NRU reactor are examples of improper interference with both the institutional independence of the CNSC and with the administration of justice. She says the independence of quasi-judicial bodies like the CNSC have a fundamental element of independence, and that includes the security of tenure for members.

She says that courts throughout Canada have given voice to this important principle, which provides that tribunal members cannot be capriciously removed from the office because of decisions made by them in the discharge of their duties. She says that because of that, permanent members of the commission hold office during good behaviour and may only be removed for cause. She is also saying to you that she was advised that a permanent member cannot be removed from the office of president without cause. She says your letter does not contain a single allegation of personal misconduct on her part or even any allegation that her actions fell below expected performance standards. Then she goes on to say that in the seven years since she was first appointed, no allegation has ever been made that she failed to execute the duties of her office. Moreover, she says she has chaired both the international convention on nuclear safety and the heads of administrative tribunals forum, and this points to the support and respect she has earned from her peers and colleagues all over the world.

I ask you again, following up on my colleague's question, can you give Canadian people who are watching, Minister, the specifics under the law? Why have you decided to fire Linda Keen? What are you relying on now, when she clearly has you in a corner, hasn't she?

• (1220)

**Hon. Gary Lunn:** No. In fact, Mr. Chair, the former president and CEO of the Canadian Nuclear Safety Commission has lost the confidence of the government in fulfilling her executive responsibilities in that role. We believe it was incumbent upon us to make the change, on reviewing the facts and on reviewing her response. In fact, we have made that decision.

The government's position is that the designation as president is in fact held at pleasure.

Thank you, Mr. Chair.

**The Chair:** Mr. McGuinty, go ahead.

**Mr. David McGuinty:** I know that my colleague Mr. Alghabra has a question, but I'm going to ask again for the record, what evidence specifically are you prepared to table in this committee for Canadians to justify your decision to fire Linda Keen?

**Hon. Gary Lunn:** Mr. Chair, we believe, and the evidence is there, that she did not execute her executive responsibilities in her role as president and CEO of the Canadian Nuclear Safety Commission regarding the events surrounding the medical isotopes issue, and in fact our government has acted accordingly.

**The Chair:** I will go to Madame DeBellefeuille, but before I do that, I would like to say that the clerk has received an e-mail from Mr. Cameron. He just called to say that the statement I read was authorized by Ms. Keen. So you have your answer to that.

Mr. Anderson, on a point of order.

**Mr. David Anderson:** I think the committee should understand that the minister has matters to attend to at 12:30, so he can't stay forever. I just wanted to make that point.

**The Chair:** We'll have two short questions here, and then we'll allow the minister to go. He has commitments at 12:30. It is very generous of him to have extended for that amount of time.

Madame DeBellefeuille.

[*Translation*]

**Mrs. Claude DeBellefeuille:** Thank you, Mr. Chairman.

Minister, you told me earlier that the reactor was currently being operated in compliance with the conditions of its licence. Can you confirm that?

[*English*]

**Hon. Gary Lunn:** Yes.

[*Translation*]

**Mrs. Claude DeBellefeuille:** Last November 19, after a routine periodic maintenance operation, when Atomic Energy Canada reported to the Canadian Nuclear Safety Commission, discrepancies were noted between the licence conditions and the physical state of the facility. On November 22, AECL voluntarily shut down the reactor for a prolonged period. This was not in response to an order or a request from the president of the commission, but AECL informed her that it wanted to shut down the reactor for an extended period.

My question, Minister, will seem quite simple. If it was complying with the conditions of its licence and realized in its discussions with the commission that there was an issue, why did the AECL decide to extend the shutdown since according to that body, it was respecting the conditions of its licence? At that time, it had the possibility and the authority to restart its reactor without the permission of the commission. Why did it decide to prolong the shutdown of its reactor?

[*English*]

**Hon. Gary Lunn:** In fact, Mr. Chair, the discussions were ongoing even prior to November 19. In fact, it was earlier in November and other points in time when there was communication with respect to the item that was in disagreement between the two agencies.

I'm advised it became clear to AECL in their discussions—and their discussions were daily to try to resolve this issue—that they did not have the permission of the CNSC to restart. In fact it was confirmed by the former president and CEO of the Canadian Nuclear Safety Commission on December 6 that had they restarted, she would have shut them down. In fact, she did make that statement.

It was clear in their discussions with the Canadian Nuclear Safety Commission that they did not have permission to restart, so they elected—obviously they didn't have permission—to continue to engage in a dialogue proposing different solutions, working with the commission to try to prevent the situation they ended up in.

• (1225)

**The Chair:** Thank you, Madame DeBellefeuille.

We have two more people who would like to ask questions. We have to shorten the period of time. We will allow the minister to leave at 12:30. He has other business.

Mr. Alhabra, go ahead for two or three minutes.

**Mr. Omar Alhabra:** Thank you, Mr. Chair.

Minister, you're high on fulfilling executive responsibility. Who have you fired at AECL?

**Hon. Gary Lunn:** No one, Mr. Chair.

**Mr. Omar Alhabra:** Don't you think AECL senior management is ultimately responsible for the performance of the NRU reactor?

**Hon. Gary Lunn:** Mr. Chair, again we have an ongoing review of AECL. The CEO who we just appointed earlier this month is in fact doing that review, and we will wait for that review.

Thank you.

**Mr. Omar Alhabra:** Minister, you said you tried very hard to make the distinction that this was a licensing issue, not a safety issue. Do you agree that the purpose or the job of the commission is actually to issue a licence based on safety considerations?

**Hon. Gary Lunn:** Yes. In fact, the Canadian Nuclear Safety Commission has the complete jurisdiction and authority to issue the licence to all operators in Canada with respect to nuclear.

**Mr. Omar Alhabra:** Based on safety considerations. That's their job. The licence is based on safety.

**Hon. Gary Lunn:** That's correct.

**Mr. Omar Alhabra:** All right. So there's no distinction here.

Second, you mentioned that there's a dispute, there's a difference of opinion between AECL and the commission. Do you agree that the commission is the arbitrator of nuclear safety issues?

**Hon. Gary Lunn:** Oh, there's no question. The dispute, though, arises where in fact there actually was a licence condition. That's the dispute, where in fact.... Listen, there was a dispute between the two agencies. That is clear. Everybody is fully aware of that.

Again, when it came to the issue of where I had to become involved, our entire focus was to ensure, number one, that we wouldn't do anything at all that would compromise safety in any way, shape, or form, but that, as the facts presented themselves by all parties, we could resume medical isotopes production. It was unnecessary to put at risk the health of literally thousands of Canadians—

**Mr. Omar Alhabra:** Sorry, Minister, I have a question.

**Hon. Gary Lunn:** —who could potentially die. We had to take that action.

**Mr. Omar Alhabra:** You asked me to manage my time, Mr. Chair, so I'm trying to manage my time.

Do you agree, about the two independent witnesses you brought, that one of them was a former AECL employee and the other one a vice-president of a Conservative riding association?

**Hon. Gary Lunn:** Yes, I do acknowledge that after the fact. I can only tell you that at the time, I asked the deputy minister to find me two independent experts who could provide us advice on this. We wanted independent advice. Obviously we were receiving information from both agencies. That information was not known at the time.

These experts were found by the department. Maybe I could defer to the deputy to respond.

**Mr. Omar Alhabra:** Would you agree that after finding that information—

**The Chair:** Mr. Alhabra, you asked an important question. I do think the deputy minister should be allowed a little bit of time to respond.

**Ms. Cassie Doyle:** Mr. Chair, I was asked by the minister to identify two independent nuclear safety experts on very short notice. It was my responsibility to identify those two. We found the two individuals through the department and through our contacts in the department. We had absolutely no knowledge of any partisan background of either of those individuals.

**The Chair:** Thank you, Deputy Minister.

Mr. Alhabra, one more question.

**Mr. Omar Alhabra:** Thank you, Mr. Chair.

So now that we know the background of these two individuals, you agree that they are not independent, or at least can be seen as not being independent?

**Hon. Gary Lunn:** No, I would disagree with that. Because one person belongs to a party or not, I don't think.... I mean, there are people who belong to other parties; it doesn't make them not independent. These—

**Mr. Omar Alhabra:** Isn't that what you accused Ms. Keen of being—a partisan Liberal?

**Hon. Gary Lunn:** Please let me finish.

Mr. Chair, these two independent experts confirmed—I want to stress that, “confirmed”—what the experts at AECL and the Canadian Nuclear Safety Commission testified before Parliament.

I think it's important to note—

**Mr. Omar Alhabra:** Didn't you accuse Ms. Keen of being a Liberal partisan?

**Hon. Gary Lunn:** —that there is no dispute in the evidence.

**The Chair:** Mr. Alhabra, your time for questioning is finished. Allow the minister to answer.

**Hon. Gary Lunn:** There is no dispute from any of the agencies that in fact the reactor could resume operations and operate safer than ever before. And that was the advice we received from these independent experts.

Thank you, Mr. Chair.

• (1230)

**The Chair:** Thank you very much, Mr. Minister.

Mr. Proulx, a short questioning period.

[*Translation*]

**Mr. Marcel Proulx:** Thank you, Mr. Chairman. I will be very brief.

Minister, I would like you to confirm some information I obtained from the AECL.

Is it true that it was to your advantage to get rid of Ms. Keen, who continued to insist on doing her work properly, a fact which was causing delays and problems with regard to the privatization of AECL?

[*English*]

**Hon. Gary Lunn:** No, this decision was based solely on the actions that surrounded the shortage of isotopes, and the information made before us, and in our belief that she was unable to fulfill her duties or executive responsibilities as the president and CEO of the commission throughout this incident.

Again, we didn't make that decision until after we had, in the entire fullness of time, an opportunity to review her submission that she had made back to me. Only then was the decision made.

[*Translation*]

**Mr. Marcel Proulx:** Thank you.

Thank you, Mr. Chairman.

[*English*]

**The Chair:** Thank you.

Thank you very much, Mr. Minister, for accommodating this committee on such short notice. It's very much appreciated and shows your commitment to taking your job very responsibly.

**Mr. Omar Alhabra:** A point of order—

**The Chair:** And thank you, Deputy Minister, for your help here today as well.

You can go ahead and leave the table. We may have other business.

**Hon. Gary Lunn:** Thank you very much, Mr. Chair.

I would like to thank all the committee members for taking the time to come here before the committee. I appreciate the opportunity to put all the facts and records on the table.

Again, I want to thank all the committee members for returning to Ottawa on the break time, when they're supposed to be out there with their constituents.

Thank you very much, and I look forward to seeing you in the House when it resumes.

**The Chair:** Thank you very much, Mr. Minister.

Mr. Alhabra, on a point of order.

**Mr. Omar Alhabra:** I just want to remind the committee that we've agreed that after we hear our witnesses, we will decide on what other witnesses we're going to need, and that we might be inviting the minister back again, as we've said.

**The Chair:** Absolutely. He has made himself readily available, and the committee certainly can decide to make that request.

There may be no need to suspend. Is there any other business that the committee wants to deal with right now?

What do we do with the meeting this afternoon? We have to decide that.

Ms. Bell.

**Ms. Catherine Bell:** Thank you, Mr. Chair.

I had a couple more questions for the minister that I didn't get to ask. One of them was on her capacity in coming to see us as president of the Nuclear Safety Commission. It is now my understanding that she will not be here at one o'clock. Of course she won't be here at any time as president, because she is no longer in that role. Will we now have to reissue the invitation to Ms. Keen in the capacity she is in on the board?

**The Chair:** The clerk made it clear that the invitation is for her. That invitation stands, and the committee can decide how to deal with it from here.

Mr. Alhabra.

**Mr. Omar Alhabra:** Mr. Chair, I suggest, since we already plan to be here at one o'clock, that the committee meet at one and discuss future business.

**An hon. member:** Could we make it 1:30?

**Mr. Omar Alhabra:** Or we could make it 1:30.

**The Chair:** You've heard the request.

Mr. Anderson.

**Mr. David Anderson:** We're here already. Let's decide what we're going to do. Why would we leave and come back and possibly decide that we're not going to be meeting? We can decide in the next five minutes what we're doing this afternoon. There are no witnesses. What would we spend two hours here talking about?

**Mr. Omar Alhabra:** We need to discuss what the future could be.

**Mr. David Anderson:** Then let's have the discussion.

**The Chair:** Excuse me, Mr. Alhabra.

You've heard the suggestion that we have that discussion now.

Do you have any input on that, Madame DeBellefeuille?

[*Translation*]

**Mrs. Claude DeBellefeuille:** I understand the impatience of the members of the Conservative Party. However, I suggest that we nevertheless take a few minutes to eat.

Mr. Chairman, could the clerk phone AECL this afternoon to call a witness? I do indeed have a lot of questions for AECL. We could take advantage of the fact that everyone is present to clear up a few issues left pending following the minister's replies with regard to AECL.

• (1235)

[English]

**The Chair:** Of course the committee can invite whomever they wish to invite.

Is there any other business of the committee before we adjourn this meeting?

Again, we have to decide what to do with this afternoon's meeting. We've had a suggestion and a counter-suggestion. Is the committee ready to deal with future business right now?

Monsieur Proulx.

**Mr. Marcel Proulx:** Mr. Chair, may I make a suggestion? It's not because of my travel arrangements, because I'd have no credibility in this, but we had planned on sitting from one o'clock to three. So I think we should come back after lunch, but let's limit the time so that we don't run until five or six o'clock. I understand people have travel arrangements that have been made.

If we summon people from Atomic Energy Canada, my understanding is that it takes two and a half hours. Let's meet back here at 1:30, Mr. Chair, and we can discuss this.

**The Chair:** Monsieur Proulx, we do have food here for committee members and for House of Commons staff working with the committee.

Mr. Anderson.

**Mr. David Anderson:** My suggestion is that if we're going to break, why don't we meet in 15 or 20 minutes, at one o'clock or whatever? We'll have something to eat and then come back.

**The Chair:** We'll come back at one o'clock. It was a scheduled meeting time. That meeting can't occur, but I'm sure all members have blocked off that time, or at least part of it.

Ms. Bell, you can have one final comment before we adjourn this meeting.

**Ms. Catherine Bell:** I'm sorry, can you clarify what you just said?

**The Chair:** We'll come back at one o'clock and discuss future business.

**Ms. Catherine Bell:** Okay, then I'll leave it until then.

**The Chair:** Thank you, Ms. Bell.

The meeting is adjourned.

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