



Standing Committee on Crown Corporations

Hansard Verbatim Report

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**STANDING COMMITTEE ON CROWN CORPORATIONS
1998**

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Saskatoon Southeast

Kim Trew, Vice-Chair
Regina Coronation Park

Bob Bjornerud
Saltcoats

Doreen Hamilton
Regina Wascana Plains

Ben Heppner
Rosthern

Lloyd Johnson
Shellbrook-Spiritwood

Lindy Kasperski
Regina Sherwood

Myron Kowalsky
Prince Albert Carlton

Glen McPherson
Wood River

Andy Renaud
Carrot River Valley

Channel Lake Petroleum Ltd.

The Chair: — Good morning, everyone. Welcome to a special meeting of the Crown Corporations Committee. This meeting has been called in order to review, amongst other things, the documents that have been tabled in the House regarding Channel Lake and pertinent matters arising from that. We will, in a few moments, get to setting the terms of reference.

I just want to make a couple of introductory statements to try to set the tone. I know that there's been a lot of emotion and extravagant language on all sides in the legislature about this. My goal this morning is to try to establish a tone so that we can get to work, roll up our shirtsleeves, and get the facts out on this matter.

I therefore intend that this will be an impartial, fair, frank, and open inquiry. And so I would ask the committee members' cooperation to make sure that all your questions are relevant, and I think most importantly, to ensure that all the witnesses are dealt with fairly and treated with respect.

We have certain things that we do in the legislature that perhaps may not be seen by the person on the street as being normal, polite behaviour. We are now in a committee, and I would ask that we bear in mind that we're going to be judged by the people on the street rather than by the standards that we've set up in the legislature.

So for me, it is going to be extremely important that we treat all our witnesses with courtesy, with dignity, and with respect. The principle of administrative fairness has to guide our deliberations and we have to make sure that we get all the relevant facts tabled before this committee so that we can make a report and a decision to the House.

I view my responsibility as ensuring that all questions that are put to the witnesses are relevant to the inquiry and to ensure that the information sought by the questions is necessary for the purposes of this inquiry. I intend, as much as I am personally capable, to be a neutral Chair, so if I'm out of line this will be a learning experience for me too; so please let me know. But I do want to be as neutral as possible to ensure that this is a impartial, fair, frank, and open inquiry.

It is my intention not to actively participate in the questioning of witnesses except as a special legal adviser may suggest to me that additional questions need to be put for clarification. But I think that all members of the committee are very capable of putting questions, so I don't anticipate that I will have to do any questioning.

We will get, in a moment, to the operating procedures. But I do want to state right at the outset, in order to reduce the impact of what is admittedly a lopsided government majority with seven government members and three opposition members — two from the official opposition and one from third party — what I'm going to be proposing to the members is that we have blocks of time set aside for committee members to do questioning based on your caucuses.

In other words, it has been standard procedure in this

committee, and regular members of the committee will be aware of this, that we've been rotating on 20-minute blocks per party. I'm going to be suggesting that we do that on 30-minute intervals so that there's adequate time to develop lines of questioning. But we'll talk about that later when we talk about procedures. I did, though, right at the outset want to indicate to you that I am proposing that we do this so that all members will have a fair opportunity for voice in this committee even though it is apparent, given the membership structure of this committee, that the vote is more heavily weighed in the government's favour.

This is, and I want to emphasize this to all members, this is a serious and important inquiry. We will be hearing evidence and we will be questioning witnesses in some considerable detail. I would assume that most of the witnesses will be coming with legal counsel. So I want to emphasize to all members that this is a much more serious matter than we generally ... The proceedings have to be conducted in a more serious manner than we generally do in our committees. We have been fairly informal to date.

Committee members are aware that substitutions are allowed in this committee, but I want to emphasize to you that we need to ensure continuity, and that is simply because we have to have fairness in the process. In other words, the same people who hear the evidence should be, at the end of the day, the ones who are making the decisions.

So I would like to caution all members to remain here to hear all the evidence, and I would ask you to provide a completed substitution form — if you're not a regular member of this committee — to provide a completed substitution form on a daily basis. But I expect that the members who are now present who have given me substitution forms are the ones who will be following this inquiry through to the end.

And I guess I would just name you now so that it is very clear to all members of the media just who it is that's likely going to be voting on this at the end. For the official opposition I understand that the members will be Mr. Gantefer and Mr. Bjornerud. For the Liberal Party I understand the member will be Mr. Hillson. For the government I understand the members will be my Vice-Chair, Kim Trew; Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, Mr. Thomson, and Mr. Kowalsky.

So again I ask that you arrange your agendas so that you will be able to attend, if not 100 per cent of these meetings, 99.9 per cent of these meetings. And again the reason is that we have to have fairness in the process. The people who hear the evidence are going to be the ones making the decision.

In terms of our order of business for today, I've already had some discussion with the broadcast people. I apologize to committee members that I was not able to arrange all the technical details right away so there may be some disruption in terms of having to move around microphones, but the media have indicated that they will be extremely cooperative. If there are any problems will you please approach me and let me know and then we'll deal with it as it arises.

We don't have a centralized audio feed available as yet, and we do not as yet have opportunities for a centralized video feed, but I hope that this morning we'll be able to deal with motions to establish a proper video *Hansard* of this.

I expect that what we'll do today is first of all establish our terms of reference, then establish our operating procedures, and then set our agenda. Is that appropriate? Is that agreed to by committee members to do that?

Mr. Tchorzewski: — Just for clarification on the . . . I know the arrangements for the media today, but are we going to arrange a feed for future days, is that what you're saying?

The Chair: — That's what I'm saying. That I expect that we will have a motion to authorize the . . . Broadcast services indicates that they do not have the technical capabilities of taking those cameras out of the Legislative Assembly and bringing them in here. So we will have to hire cameras, but that would be worked through broadcast services and it will be, in essence, a video *Hansard* done as . . . exactly the same as in the Assembly.

Mr. Tchorzewski: — Thank you.

The Chair: — And of course the media will be able to question witnesses in the hall outside after they've finished their presentations to the committee.

Before we start, I would like to advise the committee that I have asked for, and received, the possibility — and again this is subject to the committee's concurrence — the possibility of getting regular, good counsel, because there's likely going to be some technical points that will come about. I'm not a lawyer, I'm a psychologist, and some days I even wonder about that.

But I'm going to be asking that the committee would approve a motion that we would have a special adviser to this committee. We already do have Mr. Bob Cosman, who is a legal counsel to the legislature. And we have Ms. Margaret Woods who is, as well as the Clerk to this committee, also a lawyer. But I feel that in order to ensure that these proceedings are fair and frank, that we also would require a special adviser to the committee.

And I would like to introduce at this time, Mr. Ted Priel, who is a very distinguished lawyer from Saskatoon from the law firm of Priel Stevenson, who very graciously, late Sunday night, agreed to take on this commission if the committee members so wish. He would act as a special adviser to the committee and primarily be giving me advice. So I would ask committee members would approach me with the questions that you have and then I will consult with the legal adviser.

So that is my proposal for ensuring that we have adequate legal advice. I'm proposing that we, I'm proposing that we deal with . . . In order to facilitate this, both for the committee and for the House, there are two motions that we'll have to pass. The first motion would be:

That this committee report to the Assembly as follows:

Your committee, in examining the matter of the acquisition, management, and sale of Channel Lake

Petroleum company by SaskPower is pursuing a line of inquiry in which it has deemed necessary and advisable to have the services of an expert adviser and legal counsel.

Your committee recommends, therefore, that the Assembly authorize and empower the committee to engage the services of counsel and that it be deemed to have had such power and authority as and from March 30, 1998.

Are there any questions about that motion? Mr. Trew, are you moving that motion?

Mr. Trew: — You know, these are my exact words, Madam Chair. I'm astounded at how well you captured them. I so move.

The Chair: — This is why I like having you as Vice-Chair so much. Do any members of the committee have any questions about that motion? The question has been called. All those in favour please indicate. Hands down. Opposed? That passes unanimously.

I will then assume that Mr. Trew is likely going to be putting this motion:

That subject to authorization by the Assembly, this committee appoints Mr. Ted Priel, Q.C. as special adviser to the committee for the examination into the acquisition, sale, and management of Channel Lake Petroleum Ltd. by SaskPower and payments to Mr. Jack Messer when he ceased to serve as president of SaskPower.

Mr. Trew, do you move that motion?

Mr. Trew: — Madam Chair, I so move.

The Chair: — Are there questions?

Mr. Gantefer: — Thank you, Madam Chairman. You indicated in your opening remarks that we could access advice from the counsel as well through yourself. Would it preclude us asking questions directly to counsel or seeking advice as committee members directly from counsel?

The Chair: — No, it would not preclude that. I'm simply saying, I think that for at least initially for ease of procedure that you would come through me. The intent is not to cut off any committee member's access to counsel.

Mr. Gantefer: — Well I think there may be occasions where you might want to sit down and say, is this line of questioning appropriate or things of that nature, to get that kind of legal advice. Because as you indicated, most of us are not lawyers and would welcome that support. So with that understanding that that is available to all committee members, I think that that's important.

The Chair: — Thank you, Mr. Gantefer.

Hon. Mr. Shillington: — I'm sure Mr. Gantefer . . . I think I understand him, but I want to be sure I do, and I'm sure we can rely upon Mr. Priel's discretion and experience which is . . . He is a very eminent counsel. I'm not sure that . . . Are you

suggesting Mr. Priel would assist people in developing lines of questioning for the hearing? Perhaps you could clarify your comment.

Mr. Gantefer: — No, I'm more thinking, Mr. Shillington, that there may be some advice we need in terms of saying, we think that these would be an appropriate direction to go. Are there legal implications of us doing that? So that we have the benefit of legal counsel as all members of the committee, rather than a procedural kind of a thing necessarily. If the counsel is a counsel to all committee and all committee members, then in addition to being able to just pose a simple question through the Chair, I was requesting if we would be able to get the advice of counsel on matters other than that.

Hon. Mr. Shillington: — Yes, for my part and not having discussed it, I think I'd be prepared to rely on Mr. Priel's good judgement . . . (inaudible) . . . on what's appropriate. He's experienced in these matters.

The Chair: — I should inform committee members that I've spent some considerable time meeting with Mr. Priel and I think it is clear to me — and I will ask him after we pass the motion to address a few remarks to the committee — but I think it's clear that he sees his role as ensuring that this is a full, fair, frank, and open process. He will not be acting as political strategist for any party. Okay?

But certainly in questions of legal matters and ensuring that a line of questioning is legally appropriate, he would be available to all members of the committee. Does that clear up your question, Mr. Gantefer?

Then, Mr. Trew, you put your motion, do you?

Mr. Trew: — I move:

That Ted Priel be appointed as special adviser to the committee through the Chair.

The Chair: — Are committee members ready for the question? All those in favour, please indicate. Hands down. Opposed? That passes.

Mr. Priel, would you please make yourself known to the committee.

Mr. Priel: — Thank you, Madam Chair. I'll not take too much time. There's a couple of matters that I wanted to raise with you, and Mr. Gantefer picked up on the major issue and that is that I see my role as counsel, legal adviser, to the committee as a whole, not to any particular group. And I think that the Chair also picked up the fact that I wouldn't perceive my job to act as a political strategist for any of the groups.

I suppose there is . . . the Chair has made, I think, it very clear that it's her view that this should be a full, open, complete inquiry into the facts with respect to the terms of reference of the committee. As I see my role is to ensure that that indeed happens.

The last thing, well, the last two things I'd want to leave with you is to re-emphasize what the Chair said initially, and that is

that I think that all members of the committee should be here for all of the evidence. Because if in the final analysis you are going to produce a report that reflects the evidence that is given during the hearings of the committee, indeed you're going to have to be there to hear the evidence, to look the witness in the eye, rather than read the transcript.

The last thing I would strongly urge that you do is — I mean I realize that there are political realities to this process — but I strongly urge that what you do is to refrain from coming to any conclusions with respect to any of the facts until all of the evidence is in rather than jump in any particular direction at any one time. Wait until all the evidence is in before coming to any conclusions. Thank you, Madam Chair.

The Chair: — Thank you. Do any committee members have any questions of Mr. Priel? Thank you, Mr. Priel.

We have one more matter of business before we start the discussion about terms of reference, and that is the whole question of ensuring that we have television capabilities and audio feed capabilities in the committee. And I would suggest to committee members that if it's agreeable, what we will be doing is arranging for an audio feed and also arranging for television cameras to be here to be able to broadcast in a similar manner that they do in the House. In other words, with the camera focusing on the person speaking at the time and with all the media outlets, the commercial media outlets, then taking their feeds off that.

So I would . . . Yes?

Ms. Hamilton: — Madam Chair, would it be broadcast on the legislative channel then?

The Chair: — And that's the other thing — we would arrange to have this broadcast so that the public of Saskatchewan will be able to tune in and see the latest . . . I guess I won't put an adjective to it. Yes, to see all the developments in this extremely important matter.

Ms. Hamilton: — Thank you.

The Chair: — So I'm suggesting perhaps that Mr. Trew, being the mind-reader that he is, may wish to move the following motion:

That this committee report to the Assembly as follows:

That your committee recommends that the Assembly authorize the television broadcast and distribution of the proceedings of the Standing Committee on Crown Corporations on the legislative broadcast system during its hearings on the above inquiry at the direction of the committee.

Hon. Mr. Shillington: — This will take the form of a report.

The Chair: — That's right. We will be reporting to the House this afternoon.

Mr. Trew, do you move that motion?

Mr. Trew: — Madam Chair, I move this because of the interest that seems to have been displayed by a great many people in Saskatchewan. I think it's an important thing that this inquiry, if I can describe it that way, be not only seen to be open, but be seen, and open. So I so move.

Mr. Kowalsky: — Could you clarify, Madam Chair, your expectations of the independent media, independent TV, with respect to how this would be handled. Would they still be able to . . .

The Chair: — I'm facetiously asking, what independent media? I mean I'm assuming that . . .

Mr. Kowalsky: — The privately owned media, Madam. The commercial media.

The Chair: — It is my expectation that any television outlet, whether that is a cable company or any of the three major networks, being Global, CTV (Canadian Television Network), and CBC (Canadian Broadcasting Corporation), if they wish to get video clips of the proceedings in this committee, they will be able to get that in the customary manner that they already do through the Legislative Assembly. It will be exactly the same arrangements and proceedings as if it were in the Legislative Assembly. Is that clear?

Mr. Kowalsky: — Thank you.

The Chair: — I'm going to ask a slightly unusual question right now. I'm going to ask the members of the media present: is it clear what I'm proposing, and do you have any questions or any concerns?

Ms. Foster: — I have one question.

The Chair: — Could you approach the mike and identify yourself, please.

Ms. Foster: — I'm Alethea Foster with CBC television. In the legislature, one thing that we're not allowed to do is to take our own cameras in at all, to get any wide shots or whatever. I'm just wondering in this process, if we use all the clips, and once the committee is rolling from the feed, is it still possible to come at quarter to 9 and get people coming in, and shots before the meeting actually begins?

The Chair: — I would like to suggest to committee members that what we would agree to is that media can come in and get establishing shots at the start of the proceedings, but once we start our formal proceedings you would wait until we're finished and interview the witnesses in the hall outside.

Ms. Foster: — That's very good. Thanks.

The Chair: — Okay. Do committee members agree with that?

A Member: — Agreed.

The Chair: — Are there any other questions then, by any members of the media?

Again I would like to emphasize that they've been extremely

cooperative today and they are going to attempt to be minimally disruptive. But they do have a job of work to do as well. And it is quite frankly in everyone's interest that these proceedings be publicized as much as possible. So the cameras may move around a little today and the microphones may have to move around, but I think you will find that it will not cause inordinate disruption to you today.

I then would ask all committee members . . .

Mr. Hillson: — Yes, if I may, Madam Chair, I know that this committee could this morning waste a great deal of time and take up the balance of this week arguing about the witness list or document disclosure or time allocation for the various witnesses. I would prefer that we not do that but get into it. But I think in order for that to be done we need a clarification from the Chair that the witness list and the document disclosure is not closed; that the committee will consider those matters when and if they arise . . .

The Chair: — May I cut you off right there? I would prefer to deal with the question, the outstanding motion of televising of proceedings, first.

Mr. Hillson: — Oh, I'm sorry. I'm sorry, I've forgotten that we have a motion on the floor — my apologies.

The Chair: — I didn't think I would ever hear a lawyer break the rules. I expect that I do it all the time but . . . Okay. Do I hear the call for the question? Okay.

The motion has been put with respect to authorizing televising of the proceedings. All those committee members in favour please indicate. Hands down. Opposed? That passes.

Thank you very much. I will report these two motions to the — or three motions I guess — to the House.

I have one more motion that will have to go to the House, and I ask committee's guidance right now. This is with respect to the statement that I'm proposing to read to each witness. Technically it's under proceedings. Do you want to deal with terms of reference now and then deal with proceedings later? I'm getting conflicting advice.

Mr. Gantefer: — Madam Chair, I would propose that it would be important for us in my opinion that we look at the terms of reference, we establish what latitude and what breadth of documentation will be made available. Not that I'm suggesting that it in any way all has to be made available today or the next day, but I think it's important for all of us to understand what the range of documentation is that we can ask for and will be potentially made available or not made available.

And also then I think that after we've established that, I think that we've got to understand, and again, it may be because of my naivety, at not being a lawyer, is that, are the witnesses going to be asked to testify under oath and things of that nature?

So I think all of those issues are issues that we need to look at so that we have a comprehension of the overall direction and the overall mandate of this committee. Because you have to see

the whole picture of where you're going to be allowed to ask questions and what documentation will be made available in order to prepare properly for the questioning of witnesses.

So I think we have to do that all with respect to, you know, the other comments that were made, Madam Chair. So I'd appreciate that we move into potentially that whole issue.

The Chair: — And I appreciate that you want a holistic overview of this. I am looking though at seeing that we would deal with terms of reference first and establish the terms of reference, then establish the operating procedures, and then set the agenda.

I will say though right at the outset, I've already indicated that the suggestion I'm going to put to members of the committee is that we adopt a rotational 30-minute order of speaking. I'm also going to be suggesting that witnesses appear under oath.

I think you can safely assume, Mr. Gantefer, if we deal first of all with terms of reference, you can safely assume that either I or the legal counsel for the Legislative Assembly, the Clerk for the committee, or our special adviser have anticipated most of the questions that you will have with respect to procedural, administrative fairness, and we'll be giving suggestions for the committee to adopt with respect to those.

Again, the whole idea is to ensure that this inquiry is full, fair, and frank, and that the witnesses are treated with respect and dignity.

I would suggest then, in the absence of any other comments, that we will move into consideration of terms of reference for this inquiry.

I would like to advise committee members that I have just received a letter signed by the Hon. Dwain Lingenfelter which may answer some of your questions already with respect to the scope, in terms of the terms of reference. And the letter reads as follows:

Dear Ms. Lorje: I understand from your correspondence last week that you are planning to call a number of government lawyers to testify before your committee.

For your information, it is the government's intention to waive client-solicitor privilege, permitting our lawyers to answer all pertinent questions related to the acquisition, management and sale of Channel Lake Petroleum Limited by SaskPower, and the payment of severance to Mr. John R. Messer after he ceased to be CEO of SaskPower.

I will ask the Clerk to distribute copies to all members of the committee and any members of the media that want copies of that letter.

I think that that letter probably fairly indicates what I'm going to be suggesting be our terms of reference for this hearing. And I would propose this draft motion on the terms of reference. And for the record, it reads as follows:

The Crown Corporations Committee takes note of the fall 1997 report of the Provincial Auditor and the March 10,

1998 report to the legislature by the Hon. Dwain Lingenfelter, both addressing issues related to acquisition, management, and sale of Channel Lake Petroleum Ltd. by SaskPower.

The two reports justify further inquiry by a legislative committee in order to ensure that all pertinent facts are known and that appropriate steps are being taken in consequence. Based on the reports before us, the Crown Corporations Committee will therefore now undertake a full, open, orderly, and thorough review of the following matters: the acquisition, management, and sale of Channel Lake Petroleum Ltd. by SaskPower; and the payment of severance to Mr. John R. Messer when he ceased to serve as president and CEO (chief executive officer) of SaskPower.

Once the committee is satisfied that it has verified the facts to its satisfaction, the committee will do the following: (1) report any pertinent fact not already reported by the Provincial Auditor or the minister to the legislature; (2) report what steps should be taken to learn from and act on mistakes made; (3) report any opportunities the committee may believe exist to recover public funds through civil action, and if appropriate, recommend that the government undertake such civil action and; (4) in the event the committee believes it has uncovered evidence of criminal wrongdoing, the committee will refer that evidence to the appropriate authorities, a duty shared by all citizens.

I would ask for a motion to approve those terms of reference.

Mr. Trew: — I move:

The terms of reference as read into the record by the Chair.

The Chair: — Now just to be very clear, what I'm saying is that the scope of this special inquiry by the Crown Corporations Committee will be the acquisition, management, and sale of Channel Lake Petroleum; and, two, the payment of severance to Mr. John R. Messer when he ceased to serve as president and CEO of SaskPower.

It's my belief and understanding that those are the two items that have caused the most discussion in the House, and that by having our terms of reference be those two, that that should enable this committee to disclose all pertinent facts on this matter and to be able to report on a timely basis to the legislature.

I will now open the floor to discussion.

Mr. Gantefer: — Madam Chair, I wonder if . . . have you prepared other copies of this for members? It's a little difficult to try to get your head around all the ramifications of a verbal text.

The Chair: — Yes, what I'm going to do is I'm going to ask that an assistant go out and prepare the copies for all members. And I would suggest that we take a five-minute recess so that all the necessary photocopying can be done, and then we'll come back and deal with the questions by committee members.

Mr. Gantefer: — If I may, Madam Chair, would that also include the letter that you quoted from?

The Chair: — It would include the letter as well, yes.

Mr. Gantefer: — Thank you very much.

The Chair: — So we'll just have a five-minute recess while we do the necessary photocopying. I apologize to committee members. It's been a very busy couple of days.

The committee recessed for a period of time.

The Chair: — I'd like to call the committee back to order, please. I call the committee to order, please.

I understand that all committee members and members of the public and the media who requested now have copies of the letter from Dwain Lingenfelter and the proposed terms of reference. What we will do is begin discussion on that now.

The documents that you have before you with respect to the proposed terms of reference will, of necessity, have to be changed slightly because we will be calling witnesses to appear and they are under a compulsion, when they appear before this committee, to address us. But they do have . . . they are protected by parliamentary privilege.

So this is one of those legal fine points that I warned you about earlier and why it is imperative that we have a special adviser to the Chair. So I want to make absolutely certain that we do not exceed our legislative authority as a committee.

So I'm going to right now, then, read into the record what the motion will be, subject of course to discussion, debate, and suggestions from committee members. If you will follow along with me and bear with me as I try to make sure that we do this extremely correctly.

The motion that Mr. Trew is moving is:

The committee interprets that its terms of reference are to undertake a full, open, orderly, and thorough review of the following matters:

The acquisition, management, and sale of Channel Lake Petroleum Ltd. by SaskPower; and the payment of severance to Mr. John R. Messer when he ceased to serve as president and CEO of SaskPower.

Once the committee is satisfied that it has verified the facts to its satisfaction, the committee will do the following:

Report any pertinent fact not already reported by the Provincial Auditor or the minister to the legislature; report what steps should be taken to learn from and act on mistakes made; report any opportunities the committee may believe exist to recover public funds through civil action; and, if appropriate, recommend that the government undertake such civil action; and in the event the committee believes it has uncovered evidence of criminal wrongdoing, the committee will report this to the House and request that the Department of Justice undertake what action it deems appropriate.

Is that clear from my reading? You will note that there are two

changes. The first is: the committee interprets that its terms of reference are as follows . . . And secondly, the other change down at the bottom deals with the possibility of uncovering evidence of criminal wrongdoing and I'm going to read it again. The wording will be:

In the event the committee believes it has uncovered evidence of criminal wrongdoing, the committee will report this to the House and request that the Department of Justice undertake what action it deems appropriate.

Is that clear?

Mr. Gantefer: — Madam Chair, since this seems to be a work in progress rather than a defined document that we have to deal with, may I raise a concern and a suggestion?

The Chair: — Yes you may.

Mr. Gantefer: — And it relates to the two sections that indicate that the committee, if it finds evidence of such, that it would recommend that civil or criminal actions be pursued. There's two sections of the terms of reference that refer to those areas.

I guess the concern I have is that the committee is made up of lay people, if you like, and I think there is some difficulty for us to determine if there are potentially the grounds for civil or criminal action to be taken. I view, from my understanding, Mr. Priel's support as being . . . as more of a technical adviser to the working of the committee and less of a person who is going to assist us to judge if indeed there would be potential civil or criminal wrongdoing; unless I'm wrong in that.

And my concern is — if my concern is valid, and I would like to understand that — would it be appropriate to suggest that the committee seek outside legal advice as to criminal or civil wrongdoing and that report then would be the basis on which the committee may choose to make those recommendations?

The Chair: — Mr. Gantefer, it is my opinion that we have engaged the services of an extremely esteemed and respected senior legal counsel in this province, and he will be providing us with not only technical advice but also advice with respect to any potential criminality or civil wrongdoing. So I do not believe that there is the need to engage outside counsel. I would though, at this point, just to make abundantly clear and to make sure that we all understand what the role of the special adviser to the committee is, I would ask Mr. Priel to comment.

Mr. Priel: — The Chair has it right that, as I view my role, it would go beyond just procedural issues and we'll deal with substantive issues if indeed the committee asks me to go in that direction.

The Chair: — Are there any other technical questions before we get into a discussion of the terms of reference to ensure that everybody has a complete understanding and agreement?

Mr. Hillson: — Yes, I have one technical question first regarding the letter from the Deputy Premier, and that is his use of the term "government lawyers." And I would like some indication from the Chair as to whether that means simply staff

lawyers or other lawyers who have been consulted.

Quite specifically, the reports we have before us of course, are all secondary material. No primary material is before this committee. And I would say that the committee works from primary sources and I see Mr. Priel nodding his head. The committee doesn't work from secondary sources.

But even more basic than that, the secondary sources, assuming they are honourable and correct and I have no reason to say they're not, we do have an indication of the contents of all primary reports with one exception. And the one exception is the legal opinion sought from Gerrard Rath and Johnson. We simply haven't the foggiest notion as to what was sought or what is in it.

And so is that covered by the waiver that the Deputy Premier has provided us with today or not? And if it is, as I say, it seems to me the committee will be most anxious to see that report. Because that is, as I say, the one primary source on which we don't have any idea whatsoever as to what is in that report. All of the other reports, while we are working from secondary sources, we have at least been given some indication as to what the primary document says.

The Chair: — Thank you, Mr. Hillson. I have a speaking order of Mr. Shillington and Mr. Tchorzewski. Before I recognize them though, I would say the purpose of this inquiry is to ensure that it is full, fair, frank, and open. But I read this letter from Mr. Lingenfelter as referring specifically to this inquiry and not as establishing a major precedent that could result in what I would consider to be a big chill with respect to solicitors' opinions for all of government.

But I think that you put a fair question dealing specifically with this inquiry, so I would ask Mr. Shillington if you have some comment on this?

Hon. Mr. Shillington: — Yes, what was intended — it is a fair question — what was intended was that we would cover lawyers engaged by the government and not necessarily lawyers in the employment of the government. I think what was envisioned was that where this privilege was that of the government — because the privilege is always that of the client — where the privilege was that of the government, the government would waive it, whether the lawyers be in the employment of the government and/or under contract by the government.

The Chair: — Mr. Tchorzewski, did you have anything to add?

Mr. Tchorzewski: — No, that was my point.

The Chair: — So does that satisfy your concern on that specific point, Mr. Hillson?

Mr. Hillson: — Yes.

The Chair: — Then I will then open the floor for discussion of the general terms of reference that I have proposed.

Mr. Gantefer: — Thank you, Madam Chair. One of the issues, and it was referred to by my colleague from North

Battleford, about a specific report, would this waiver of client-solicitor privilege also allow for the tabling of those written legal opinions? Or would that have to be specifically asked for in order to have those written legal opinions tabled that are part of the client-solicitor privilege that is being waived?

Hon. Mr. Shillington: — Waiver of the privilege isn't qualified; is unqualified, as you can see from the letter. It would be our expectation that we're going to call those lawyers. When those lawyers are called you can then ask for the opinions — get them from the lawyers.

The Chair: — Mr. Shillington, I realize that you're new to this committee . . .

Hon. Mr. Shillington: — I am new to this committee, but I should have addressed the Chair.

The Chair: — And it's a bit of an unusual thing that a cabinet minister should be present as a member of the committee, but I would suggest to you that you address your comments through the Chair and you wait until the Chair recognizes you.

Hon. Mr. Shillington: — I won't fail again.

A Member: — She's tough . . . (inaudible) . . . lawyers are out of order.

The Chair: — Mr. Gantefer, you did get an answer to your question?

Mr. Gantefer: — Thank you, yes.

The Chair: — Any other questions or comments about the terms of reference? The terms of reference are then satisfactory to everyone? Mr. Trew moves the motion; I hear the call for the question. All those in favour? Oh, excuse me, I have a speaker.

Mr. Hillson: — Is this on terms of reference now? Yes, I would respectfully move an amendment, and if I may read it into the record, Madam Chair. It reads as follows:

That the proposed terms of reference of this committee be broadened so as to include the relationship between SaskEnergy and SaskPower as it related to the sale of natural gas from SaskEnergy to SaskPower; and the core management activities of SaskPower and its other subsidiaries in so far as they related to Channel Lake Petroleum Ltd.

Madam Chair, this may be more of a clarification than a change, but as you know I have said throughout that one of the key issues in what appears to be the breakdown here was that we had two of our Crown corporations fighting with one another. And I think that is an issue that has to be examined. And while I've already said I don't want to get into a squabble about the witness list today — I think that would just delay proceedings — specifically, I think we do have to have some input from SaskEnergy to know what their involvement was. Or in the alternative, if they had no involvement, why they were cut out of the picture.

The Chair: — Thank you, Mr. Hillson. I would point out to you that I have already circulated to all members of the committee a proposed tentative list of initial witnesses that we would be calling, and I hope everyone heard my wording on that — a proposed tentative list of the initial witnesses we would be calling — and Mr. Ron Clark of SaskEnergy is on that list, so . . .

Mr. Hillson: — I've got a list that didn't have his name.

The Chair: — I have Mr. Clark called.

Mr. Tchorzewski: — I don't recall receiving anything this morning on a list.

The Chair: — No, we have not yet formally dealt with the list, but I did circulate a letter to all members of the committee, and Mr. Clark's name was listed as one of the potential witnesses.

Mr. Tchorzewski: — Today?

The Chair: — Last Wednesday in the House.

We are going to be dealing with . . . I guess I'll just state, we will be dealing with the question of agenda later, and I will just simply announce for the committee's information . . . if you'll just bear with me; I have an incredible amount of paper here — but I will find the piece of paper that indicates that I am suggesting that we call as a witness, SaskEnergy, in brackets, Mr. Ron Clark.

And I won't be difficult about that. If it's another official that you would be requiring from SaskEnergy, please advise me, but that we would call SaskEnergy as a witness on May 12 or 13. So I'm wondering if you would like to take that under consideration, Mr. Hillson, and see if you still feel that it is necessary to expand the terms of reference as you've indicated in your possible amendment. It's my belief that since we're talking about the acquisition, management, and sale of Channel Lake Petroleum, that the questions that you're raising with your possible amendment could probably be dealt with under that current term of reference.

Mr. Hillson: — If it is the ruling of the Chair that my amendment is already within the primary terms of reference that you have tendered before us, I will abide by that ruling, on that understanding.

The Chair: — I'm not going to make a ruling without you feeling comfortable that, from what I've said, that it will be included.

Mr. Hillson: — Okay.

The Chair: — Okay. Do I have any other members of the committee that want to comment on this? If so . . . Mr. Hillson, you're withdrawing your amendment?

Mr. Hillson: — Well, Madam Chair, I say I don't mean to be difficult but it's maybe more of a clarification than an amendment, but I would ask that it stand.

Mr. Tchorzewski: — Madam Chair, I think I understand the

concern by Mr. Hillson. And if it is as you say, because I don't have the most recent list of witnesses on the agenda and I don't think the committee does, but if it is, as you say, that the SaskEnergy representatives, Mr. Clark and/or others, will be present, then what Mr. Hillson is seeking will be addressed in the proposed agenda, and therefore I don't think we need to amend the terms of reference.

Mr. Gantefer: — One other point of clarification, if I could. And maybe it is clearly stated, but in the letter from Mr. Lingenfelter it says:

. . . call a number of government lawyers . . . (and) . . . it is (our) . . . intention to waive client-solicitor privilege, permitting our lawyers . . .

Does that include like Justice departmental lawyers and so through the departments? That's just for clarification.

The Chair: — I have also included on the list of possible witnesses, Mr. Bogdasavich, Justice department lawyer.

Mr. Gantefer: — So the clarification . . . I saw a head nodding, but just to . . .

The Chair: — No. Head nods aren't good enough. I'm going to ask for a government member to provide clarification. Mr. Shillington, did you wish to be recognized by the Chair?

Hon. Mr. Shillington: — Since you invite me, I'll accept your gracious invitation.

To answer your comment, it's our intention that this inquiry be as full as is reasonably possible, and that includes calling all the lawyers who can give relevant information which has . . . (inaudible) . . . value. And that includes certainly lawyers from the Department of Justice who can advise the committee on their view of the law.

The Chair: — That's adequate clarification for you, Mr. Gantefer? Okay.

Then we'll move back once more to the possible amendment from Mr. Hillson. Did you wish to withdraw it or do you want to put it . . .

Mr. Hillson: — I'd ask it go to a vote, Madam Chair. I don't think it has to be reread.

The Chair: — Mr. Hillson is asking that his amendment be put to a vote to add that to the terms of reference.

Mr. Trew: — Thank you. I'm going to urge committee members to vote down my friend from North Battleford's amendment because when we put together the motion respecting the terms of reference it says:

Crown Corporations Committee will therefore now undertake a full, open, orderly, and thorough review of the following matters: the acquisition, management, and sale of Channel Lake . . .

All of which, as I read the amendment proposed by Mr. Hillson,

is covered off in there. So I'm simply urging, as a matter of procedure, that we defeat the amendment because those questions are clearly in order by the main motion.

The Chair: — Is there anyone else who wishes to speak on this? I don't want us to get bogged down in fighting over little technicalities. I do want to make sure that it's as . . . that committee members feel comfortable with the terms of reference.

So the question has been called. All those in favour of the amendment, please indicate. Mr. Gantefer, Mr. Bjornerud, and Mr. Hillson.

All those opposed please indicate. Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, Mr. Kowalsky.

The motion . . . the amendment is defeated.

All right. We now have a call for the question on the main motion, being the terms of reference. Again, the terms of reference will be the acquisition, management, and sale of Channel Lake Petroleum and the question of severance payment to Mr. John R. Messer at the time that he was . . . when he ceased being CEO and president of SaskPower.

All those in favour of those terms of reference please indicate. Hands down. Opposed?

For the record then, those in favour were: Mr. Gantefer, Mr. Bjornerud, Mr. Hillson, Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, and Mr. Kowalsky. That motion is approved. Again I want to thank everybody for your cooperation in this.

Now we have to deal with . . . We have to establish some operating procedures and I hope that I have anticipated the questions and concerns the committee members might have. And I would encourage you to interrupt me at any point and to ask for clarification. And I would encourage you to be very creative in terms of thinking how this process . . . how we can ensure that this process is full, fair, frank, and open, and thorough.

Mr. Tchorzewski: — Madam Chair, may I suggest that if . . . Are you dealing with the agenda now?

The Chair: — No, I'm dealing with the operating procedures.

Mr. Tchorzewski: — Okay, sorry, fine.

The Chair: — Okay. After we do that, then we'll deal with the agenda, Mr. Tchorzewski.

I've already mentioned the question of substitutions to committee members. Again I want to emphasize we have to ensure continuity for fairness of process.

On the question of additional witnesses and sessions, I realize we haven't yet gone over the agenda but when I circulate the proposed agenda and order of witnesses, I hope that committee members will understand that if we need extra time with a witness, we'll discuss adding extra sessions as needed, that we

will reserve the right to recall witnesses if necessary, and we will also consider the issue of additional witnesses as the events and the facts unfold.

So I am not, with the proposed agenda, closing off the possibility of additional witnesses. The witnesses that I have on the proposed agenda have been called specifically so that we can get the facts of this matter out to the public, and then if there are additional witnesses that may be required — if committee members are not satisfied that all the pertinent and relevant facts have been disclosed — then we will call additional witnesses. Is that clear?

Mr. Gantefer: — Could I suggest two motions that would deal, I think, in substance with what you're suggesting, for consideration and may focus the decisions very clearly? Would that be appropriate, Madam Chair?

The Chair: — Certainly.

Mr. Gantefer: — The first motion is . . . I'll read it and we can circulate it. It's not very complicated. It's:

That all witnesses be required to continue testifying as long as any member of the committee has questions and that the committee not move on to subsequent witnesses until all members of the committee are satisfied that their questions have been answered.

Which would deal with the length of time members have a witness in place, and as long as any committee members have questions to pose to the witnesses, that the witness would be asked to continue testifying. Not in one subsequent meeting, but I mean before you move on to other agenda items.

The Chair: — Well I mean technically it's impossible. This committee cannot meet while the legislature is in session. The legislature assumes ascendancy.

Mr. Gantefer: — No, I appreciate that. I guess for clarification, I would mean within the time allocation for a committee meeting.

So that if we are interviewing witness A and we do not complete our questions for witness A on the given day, that that witness would stay over until the next scheduled committee meeting, and that would continue in that fashion until all members of the committee are satisfied that their questions have been answered, rather than skipping all over the place. Because we have made an agenda that says witness A is today, and tomorrow is witness B; we may have only completed 25 per cent of witness A's questions and then we're forced to do the recall process. And I think it would lose a lot of continuity.

Mr. Priel: — Mr. Gantefer, if I may?

The Chair: — Here's another lawyer wants to do it. In this instance I will recognize him — Mr. Priel.

Mr. Priel: — Thank you. There may come a point in time where a witness will be only available on a particular day, so that you may get half through one witness on one day and have to compartmentalize the evidence in your mind and go on to the

next one so that you can accommodate the witness. And I think that that would be a reasonable thing to do.

One would think that the Chair would be reasonable in allowing the members to question witnesses, but your motion would almost indicate that the member could continue to question the witness on any topic whatsoever, until he or she are tired.

Mr. Gantefer: — Madam Chair, if I may, with that clarification I'll withdraw this motion. I think I was trying to make a point that we try to build wherever possible, recognizing schedules and time that witnesses are not sort of hodgepodge scheduled for . . .

The Chair: — No, again I will emphasize we want to treat all witnesses with respect, courtesy, and dignity, and we want this to be a thorough airing. So I hope you can understand that what I intend to do as a Chair is to ensure that all committee members are able to put relevant and pertinent questions in a timely, orderly fashion.

Mr. Gantefer: — Thank you, Madam Chairman, and I appreciate that. The other question in regard to the witnesses and how they would get on the agenda then — and I think that having a clarification on the record is certainly sufficient in terms of the direction that this committee is going — it's my understanding that in the past, witnesses are called by a majority decision of the committee. Would that practice be waived so that if minority members of the committee would ask to have a certain witness present themselves for questioning, that that possibility would be permitted?

The Chair: — It would seem to me since this is an extremely serious matter that we are investigating, that what might be wise at least initially is if you would approach the Chair and our special adviser to discuss with us the relevancy and the saliency of any particular witness. It's not my intention to cut off the members or not to allow them to be able to call witnesses.

Of course committee proceedings are such that it is always a majority vote, but I would think that probably the majority would be guided by the wisdom and advice from the Chair.

Mr. Gantefer: — I appreciate your comments, Madam Chair, but I think I would like to have a little stronger assurance than that by way of a motion then. And I would like the committee to consider the following motion in that event:

That for the purpose of this investigation, the Chair will call all witnesses and documents requested by any member of the committee, and that the practice of calling witnesses by a majority decision of the committee be waived.

Mr. Tchorzewski: — I'd like to speak to that, but before I do, because I didn't get an opportunity earlier, on the earlier motion by Mr. Gantefer, I think for the record I want to point out that his suggestion is a very good one, about the committee being able to examine a witness until it is completed, recognizing what Mr. Priel has said, that sometimes it may not be able to be done in two, three, four consecutive days because of commitment by the witness. And I think that's the appropriate way for us to operate as a committee.

On the second point dealing with the motion which Mr. Gantefer has presented, I think that the committee needs to function as the committee functions. The committee needs to decide its procedures, and that's what we're doing, and I think we're doing that very well today. But it also needs to decide on the issue of witnesses being called.

That is not to say that it's in the interests of the committee not to call witnesses when it is appropriate to hear them. And if any member of the committee requests that a certain witness be called, providing it is within the terms of reference and the witness can be shown to have something useful to present to the committee . . . (inaudible) . . . on their examination, dealing with the topic before us, then I do not see why the committee would refuse to call such a witness.

But I don't think it's appropriate for us to be amending the rules of the committee, knowing that we are all prepared to be reasonable and open about this. I don't think it's appropriate for us to be amending the rules of the committee in order to accommodate that. It will be accommodated without amending the rules, I suspect.

Ms. Hamilton: — Well I think too that, I think what my colleague is saying is that if there's a witness that the members want called, they would put that name forward to the Chair in the open committee; that that would be referred to the Chair and our adviser as to the relevancy and the saliency of the information. There would be a recommendation from the Chair. And we are in a full and open arena here so that we're not going to want in any way to obstruct someone coming forward that has relevant information.

But if someone brings forward that they think someone heard something from the A&W and should come in to talk to us about what they heard over coffee, that may not be as relevant, and we would be guided by the information provided and then have to in good wisdom make our decision on that.

The Chair: — Before we go any further I would ask Mr. Priel to perhaps address a few remarks on this issue so that . . . again, with the exception of Mr. Shillington and Mr. Hillson, the rest of us are not lawyers, and the rest of us I would hope have not had much experience or do not have much familiarity with rules of evidence and calling of witnesses and so forth.

So I think that our legal counsel, our special adviser, would be the person that we should hear from at this point on this particular matter.

Mr. Priel: — Madam Chair, I would think that your committee would probably want to hear from any witness who can give relevant evidence. Obviously you wouldn't want to hear from 10 witnesses who would testify about the same relevant issue. But presumably if a witness has relevant evidence, you would want to hear from him or her.

And what you would . . . If one looks at the remarks of the Chair and the remarks of some of the government members of the committee in terms of the commitment to an open, full, and complete inquiry, one would think that if one uses relevance as the test, your problem would be solved.

Mr. Gantefer: — In a perfect world, yes. But I deal with the real world, and I also deal with the reality as that we would not be having any desire to ask someone to testify that we had heard over coffee at the A&W; we take this much more seriously than that.

But we also need to have the methodology so that there cannot be a judgmental call made that we strongly disagree with that precludes us from bringing a witness. I understand the way it is right now — we have to rely on the good graces of the majority. And under the seriousness of this I think that minority positions, which is our job in opposition, have to have the assurance beyond, you know, the good wishes in the real world of government members.

And I assure you that we would be held to the severest of scrutiny if we were contemplating asking trivialized witnesses to attend before this committee and would, I think, bear very harsh judgement by the population if we did that. So it's not our intent to use this as some obstructionist methodology for the committee, but to assure ourselves that we're not going to get into a political haggle about the appropriateness of witnesses.

The Chair: — Again, I want to emphasize that I intend to conduct these proceedings as Chair in a neutral manner. And I realize that the government has a majority of votes on this, but I intend to give in essence, once we establish our rules of procedure, the majority of voice to collective opposition members.

Mr. Gantefer: — We appreciate that.

The Chair: — So I would hope that, Mr. Gantefer, you would reconsider your motion and understand that it is my intention to allow us to have as many witnesses called as can provide relevant and pertinent facts to this matter. And that I would ask you to consider perhaps holding your motion in abeyance and seeing if we can get the kinds of witnesses called that you require. We will have the possibility of calling additional witnesses down the line. But it's your call whether you want to put the motion or not.

Mr. Gantefer: — I appreciate all the expressions of goodwill and good faith and I take them at absolute face value. If indeed all of that is true, then there should be no problem supporting the motion. Because it definitely does not fly in conflict with the state of good intentions.

A Member: — Question.

The Chair: — The question has been called. Could you read your motion again, Mr. Gantefer?

Mr. Gantefer: — I passed it forward.

The Chair: — Okay, then I will read it for the record.

That for the purposes of this investigation the Chair will call all witnesses and documents requested by any member of the committee, and that for the purposes of this investigation, the Chair will call all witnesses and documents requested by any member of the committee, and that the practice of calling witnesses by majority

decision of the committee be waived.

If that motion is affirmed, we would have to report this to the House, since this is a major change in terms of the Crown Corporations Committee procedures.

I will call the question now. All those in favour please indicate — Mr. Gantefer, Mr. Bjornerud, Mr. Hillson. Thank you. All those opposed please indicate — let's see if I can get it right this time — Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, and Mr. Kowalsky. That motion is defeated.

I could then move on to some other matters. With respect to the time of sitting of this committee, it's been customary that we've had our meetings lasting two hours from 9 to 11. My suggestion is that for the purposes of this inquiry, in order to ensure that both the witnesses and the political parties have the opportunity to get the facts out and so that the parties have the opportunity to fully develop a line of questioning, that we would meet from 9 until 12 — three hours. I think that that's reasonable.

Is that agreed to? We don't need a motion on that. Agreed. Okay.

And also I'm suggesting, so that you can prepare your calendars appropriately, that you would block out Tuesdays and Wednesday mornings from 9 to 12 from now until probably at least June 15. Okay?

And I apologize for the inconvenience that this may cause the different caucuses and so forth, but I think that if we're going to get this inquiry done, we've got to simply carry on with it.

The question of testimony under oath has been raised with me.

Mr. Trew: — Madam Chair, if I might, a three-hour stretch, are we going to ... is there any contemplation of a 10- or a 15-minute health break?

The Chair: — Thank you, Mr. Trew. I do have that written down here. I would suggest that at an appropriate point in the proceedings, which will likely occur round about 10:30 every morning, that we would have a break for about 10 minutes.

I'm also going to suggest that once we get all these proceedings and agenda under way, that we'll call a slight break before we call our first witness today. Okay? So is that agreeable as well?

Mr. Gantefer: — Understood that that time comes out of the government question time?

The Chair: — Mr. Gantefer, I appreciate your quick wit and your adroit ability to seize advantage, but absolutely not. Okay.

Before I move then into times for questioning, I want to deal with the question of testimony under oath. It is my opinion, and I have consulted with a lot of legal minds on this, it is my opinion that it is imperative that all witnesses be aware that they have a responsibility to tell the whole truth.

So I am suggesting to committee members that with the exception of sitting MLAs (Member of the Legislative Assembly) since it is understood that all members are hon.

members, with the exception of sitting MLAs, we will administer an oath to all witnesses who come so that they understand what their parliamentary protections are. As MLAs, as hon. members, we already understand that.

I'm going to suggest that before committees ... before witnesses start that they will take an oath and I will read a statement by the Chair to all witnesses. And the statement would read as follows:

Witnesses should be aware that when appearing before a legislative committee your testimony is entitled to have the protection of parliamentary privilege. The evidence you provide to this committee cannot be used against you as the subject of a civil action.

In addition, I wish to advise you that you are protected by section 13 of the Canadian Charter of Rights and Freedoms which provides that:

A witness who testifies in any proceedings has the right not to have incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

A witness must answer all questions put by the committee. You are advised that you may be recalled to appear again before this committee at a later date if the committee so decides. You are reminded to please address all comments through the Chair. Thank you.

It is my proposal that I would first administer the oath either on the Bible or affirmed as the witness would wish, and then read this statement to each witness. I can have copies made and circulate this to the committee members if you wish. It's a fairly standard one. I think that members of the Public Accounts Committee will be aware that it's fairly similar to what's already used in Public Accounts.

Do any members of the committee have any questions about this procedure.

Mr. Gantefer: — As I understand it, you're going to administer an oath and then read this statement. Is that right? Because it's my understanding that we just read the statement ...

The Chair: — Maybe it should be the other way around.

Mr. Gantefer: — When witnesses come before committees. Is this different? Again I'm not a lawyer, so I just want to understand. Is this a standard oath then that you know that would ... as we would expect an oath before a legal proceeding?

Mr. Priel: — Yes. The oath is set by the legislation, and that the form of the oath or affirmation is a very short one sentence.

Mr. Gantefer: — So the oath is separate from the statement.

The Chair: — The oath would be separate from the statement.

Mr. Gantefer: — . Okay. That's what I was trying to tie together. Thank you.

The Chair: — I would read the statement first so that all witnesses are aware of what exactly is being required of them when they testify before a legislative committee, because it's a fairly enormous thing. Then I would administer the oath. The oath would read as follows:

You do solemnly, sincerely, and truly affirm and declare that the evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth.

Witnesses may affirm or they may swear on the Bible. Is that clear — the procedure I'm proposing? And that's agreed to?

I will ask our administrative assistant to circulate a copy of the oath and also a copy of the statement so that all of you have it for your records. And if any members of the media want a copy as well, it will be available for you.

Therefore I would then ask Mr. Trew in his usual mind-reading style to move a motion that might read something similar to the following:

That the Standing Committee on Crown Corporations adopt the proposed statement by the Chair regarding testimony of witnesses appearing before the committee.

Mr. Trew: — Madam Chair, I so move. And I thank the committee for their past benevolence on former motions and I anticipate the same benevolence on this one.

The Chair: — The question has been called. All those in favour please indicate. Hands down. Opposed? I believe that all members voted on that. Did you vote on that, Mr. Gantefer? Yes, thank you. That motion was passed without objections.

I want to rush along a little so that we can have a quick break and then also begin testimony from Mr. Messer. We've already dealt with the issue of client-solicitor privilege. I've mentioned membership in the committee. Now the question of how we will conduct the questioning of the witnesses is something that I ask you to give some attention to.

This is what I'm proposing. It is a slight variation on the standard procedures that this committee has been using. Again, I want to emphasize it is my opinion that every member of the legislature, in this legislature, has voice before this committee. Only the members who have actually signed a substitution form or have been named in the House by a motion are members and have vote in this committee. All right. But all members may attend and may sit at the table if they wish.

I think, though, in order to ensure fairness and to ensure adequate voice for all parties, what I'm proposing is that we would have questioning occur in roughly 30-minute blocks. That's not to say that any party has to use up their whole 30 minutes, but that you would have 30 minutes. And if you're into a specific line of questioning that will be coming to a logical conclusion, I won't be cutting you off at 30 minutes, but I will be attempting as much as possible to stick to that time frame.

I'm proposing that we have 30-minute blocks of time in the following order: we would deal, first of all, with 30 minutes of questions of the witness, questions and answers from the witness by the third party; then we will move with 30 minutes from the opposition; then we will move 30 minutes from the government members.

And then since I have had a request from at least one independent member — and it is my opinion that they have voice at this committee — I would suggest that the independent members will be allowed per witness, not per round of questioning but per witness, 15 minutes in total to put questions to the witness.

So we would then continue that rotational round there with the third party, the opposition, the government. And the independents would be recognized after the government but they may use their 15-minute block of time when they choose. It may be during the first round of questioning, during the second round of questioning, or what.

Is that a clear procedure? Mr. Bjornerud.

Mr. Bjornerud: — Madam Chair, we are changing procedure from what we have normally done in Crown Corporations . . .

The Chair: — Yes.

Mr. Bjornerud: — We were recognized as the official opposition, then the third party, and then the government members. Is there a reason why we are changing that right now?

The Chair: — Well I've changed it from 20 minutes to 30 minutes . . .

Mr. Bjornerud: — No. I'm sorry . . .

The Chair: — So that we've got adequate time. And I'm suggesting that we change it to allow the third party to ask questions first because, quite frankly, I believe throughout this whole piece the third party has always been most willing to come to either the Public Accounts Committee or the Crown Corporations Committee. And I just feel in the interests of fairness that once we get the procedures on the go that I would like to recognize the third party, then the opposition, then the government.

Mr. Bjornerud: — Well, Madam Chair, I think that's a very weak excuse and we're all of a sudden changing rotation here. And I think this is one of the worries we had coming in here and now you're bringing some life to that.

I think we should be sticking with the procedures we normally have gone through that the official opposition questions first, third party, and government side. I think I want our protest on the record here that we definitely do not agree with this procedure.

The Chair: — Yes, fine. I appreciate your protest, and again I expected that I would be challenged on this. I'm trying to be fair and to facilitate the proceedings. I would hear from any other members on this.

Mr. Heppner: — Okay, the background, the fact that it happens to be here, happens to be very political as you're very aware of. This particular committee was supposed to be working as fair as possible. The Chair has at present changed the normal format of this for no other reason, as the Chair just stated, because of some of the political history that brought us to this point. And I find that totally unacceptable and biased.

The Chair: — I appreciate that, Mr. Heppner. Are there any other comments from any members of the committee?

Mr. Bjornerud: — Madam Chair, I would like to move a motion that . . . to what was stated that order being of questioning that the official opposition be number one for half an hour, the third party second, and the government members third for half an hour.

The Chair: — That motion has been put forward by Mr. Bjornerud. All those in favour please indicate. Oh, I'm sorry, I have some questions first?

A Member: — Could he repeat the motion?

The Chair: — Would you repeat the motion, Mr. Bjornerud? And I need it in writing.

Mr. Bjornerud: — We're just in the process of doing that.

The Chair: — Yes, I understand that.

Mr. Bjornerud: —

That the official opposition be number one in the order of questioning for the 30-minute time limit, the third party second, and the government members third in that order, as we have done in the past, and independents 15 minutes per witness.

The Chair: — Right. Okay. The motion has been put by Mr. Bjornerud. All those in favour please indicate. Mr. Gantefer, Mr. Bjornerud.

All those opposed please indicate: Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, Mr. Kowalsky.

Mr. Hillson, are you voting?

Mr. Hillson: — No, Madam Chair, I haven't made any such condition on being here this morning and I think it would be inappropriate for me to take a position.

The Chair: — Thank you, Mr. Hillson. The motion is defeated.

So we are now back to my suggestion on how we would handle the questioning of witnesses. I would suggest to committee members that the order of questioning is going to not be such a relevant issue. What is going to be important is the questions that the committee members put. And since you've already heard from Mr. Priel that you should avoid reaching conclusions until all the evidence has been put, I think that very quickly after we get these proceedings under way, it's not going to be a major issue.

Mr. Heppner: — I'd just like to voice an objection. The Chair is constantly giving their particular opinion throughout this process and I suggest that's not what an unbiased Chair is all about.

The Chair: — Thank you, Mr. Heppner. I take your caution.

I've already indicated that we will have the right to recall witnesses and the order and the timing of witnesses. The only other issue I think, and I could be forgetting something, the only other issue is the question of not only calling witnesses but calling documents before the committee.

This is a fairly complicated matter, and so I would suggest in order to give me some time to consult with the Clerk and the special adviser to the committee and to draft a proposed amendment or proposed motion for committee's consideration, that we take a 10-minute break. So I'll call a 10-minute recess. We'll reconvene at 5 after 11.

The committee recessed for a period of time.

The Chair: — Committee to order, please. And in one moment, Mr. Bjornerud, I'll recognize you. I asked for the break for the purpose of discussing with our special adviser and the Clerk, the whole question of documents. As well I availed myself of the opportunity during the break to consider the remarks made by Mr. Bjornerud and Mr. Heppner and to consult with the member from the third party and members of government. And also to consult with the Clerk about a procedural motion.

It is my intention to Chair this in an impartial and fair way. I had thought that what would be fair, given that the third party only has one representative on the committee and had indicated a willingness right from the beginning to have this matter come to a legislative committee, that what would be fair would be to call the third party first. However after thinking it over, it seems to me that that would be procedurally incorrect.

So I am going to suggest to committee members that what we do is deal with questioning in the following order. The order of questions will be official opposition, third party, government members, then the independent members if they choose to have their 15-minute block during that round. So we will be rotating official opposition, third party, government members.

The reason I'm stating it like that and making it a ruling from the Chair is because we've already had one motion that was negated. We cannot withdraw that, technically, but we could do a notwithstanding motion. I want committee members to understand this is a work in progress, this one is. And I do thank you, Mr. Heppner, for drawing to my attention the fact that I was perhaps not being entirely impartial and fair in my earlier remarks. And I thank you, Ms. Woods, for finding a procedural motion for me.

So in order to ensure that we can have a speaking order with the official opposition, then the third party, then the government members, and a procedure for dealing with the possibility of questioning by the independent members, we can move the following motion. And I'm sure Mr. Trew, being clairvoyant, is going to be more than pleased to move this motion:

Notwithstanding its previous motion, this committee will revert to its usual practice in the order of questioning of witnesses.

Mr. Trew: — Madam Chairman, I move this motion.

The Chair: — Any questions or comments about the motion?

Mr. Bjornerud: — Thank you for reconsidering, Madam Chairman, but I guess our concern is maybe coming to light of what we have had. We've been asking for a public and independent inquiry all the way through this process and I believe what you've shown us here today is that our concerns were, you know, they were real.

I could believe what you were trying to do here was reward the third party for supporting the government through this process. In two and a half years on Crown Corporations we had a procedure where the official opposition always questioned first, and it's amazed me why you would vary from that right now.

I think what it really does is it shows the bias of the Chair and the government members, and this is one of our great concerns and I would hope it would end here. If you're honestly trying to have an open and an accountable inquiry, it won't happen if we continue to go that way.

So I thank you for reconsidering but I do believe some of the damage has already been done.

The Chair: — Well, I'll accept the tongue-lashing, Mr. Bjornerud.

Mr. Bjornerud: — Thank you.

The Chair: — It was not an intention to reward anyone. It was my intention to be fair, but given that Mr. Hillson chose to abstain from the motion, it seemed to me that my ill-considered attempt to be fair was really not . . . was doing some damage to the tone that I wish to establish, which is one of impartiality in this inquiry. So I accept your tongue-lashing and I hope that we can get on with voting on this notwithstanding motion.

Mr. Tchorzewski: — Thank you, Madam Chair. I think the committee, speaking for myself, appreciates your determination to be fair and make sure that everybody has an opportunity to do the questioning. And I think your earlier proposal, we accept, was given in that light and I don't think anybody should question that.

But on the other hand, procedure is there and I think in order that the committee can operate as effectively as it can and credibly as it can and be seen to operate credibly, I commend you for reconsidering. And we believe that this approach which you are now proposing is the appropriate one and we should be able to get on with the kind of spirit that we began earlier this morning.

The Chair: — Thank you, Mr. Tchorzewski. And again, I would urge members to be giving me guidance on this as the procedure unfolds. Somebody earlier made the remark that this was a work in progress. If you feel that we're going down the wrong road at a certain point, and that I'm being a little

pigheaded in my rulings, would you please ask for a recess and we can discuss this.

Mr. Bjornerud: — You can count on it, Madam Chair.

The Chair: — Thank you. Thank you. I appreciate everyone's assistance in this matter. So I now have a motion from Mr. Trew:

Notwithstanding the previous motion, this committee will revert to its usual practice in the order of questioning of witnesses.

When we vote on that, will we also please understand that since we had not had a usual practice with respect to the voice by independents, that we will still be able to use the procedure I've outlined for allowing independents to put questions to witnesses.

A Member: — Agreed.

The Chair: — So we're not going to get into a lot of technical little stuff here. Okay. All those in favour of this motion please indicate. I have Mr. Gantefer, Mr. Bjornerud, Mr. Hillson, Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, and Mr. Kowalsky. That motion is affirmed.

Just a couple of other items that we have to deal with. The question, first of all, of how we will be proceeding with the questioning of the witnesses. I want to again emphasize to committee members that as politicians we have a certain understanding of the cut and thrust of political debate. and we have a certain level of tolerance with respect to that cut and thrust of debate. But in this inquiry it is going to be absolutely essential that all committee members and all MLAs who choose to avail themselves of the opportunity to question witnesses, understand that they must be treated with dignity, with respect, and with procedural fairness.

So it is my suggestion, in order to facilitate that, we will allow — but not insist on — but we allow every witness that appears before this committee to make an opening statement. I'm not suggesting we put any time limits on it. They will be guided by what they see as the tolerance of the committee members for statements, and also by the contents that they would wish to state for the record. They will be allowed to make an opening statement, and at the conclusion, when the committee has decided that they have finished with the witness, they will be allowed to make a closing statement as well.

Does anyone have any comments about that proposal? Okay. That will now then become our standard operating procedure for the purposes of these committee hearings.

Secondly, the question of counsel for witnesses. Committee members will note that I've already changed the seating order in a slight way. I asked this morning that the auditors for SaskPower and the Provincial Auditor not sit at the table, as is customary, and I did ask that the legal counsel for the Legislative Assembly join us here at the table as well.

So I'm going to keep that seating arrangement. Any MLAs who come into the room who wish to be at the table may join us at

the table. I would suggest the government members would be on the south side, and any opposition members — Liberals, Saskatchewan Party, or independents — would be seated on the north side.

I will have the witnesses seated on the west side — just checking my directional sense here — and they may have their counsel seated at the table beside them so that they have the opportunity to give advice to the witnesses, but I will be asking that it's the witnesses that speak, not their counsel. So the counsel will not speak directly to this committee. Is that an agreed upon procedure?

A Member: — Agreed.

The Chair: — Finally then . . . and again I would ask if any members have any other procedural suggestions, please bring them up after I outline what I'm proposing that we do with respect to documents.

When standing committees are created at the start of a new legislature, the Assembly passes a motion defining the general powers that those standing committees have. They're set out in an order of the Assembly and that order reads in part:

That the said standing committees be severally empowered to examine and inquire into all such matters and things as may be referred to them by this Assembly and to report from time to time their observations thereon, with power to send for persons, papers, and records, and to examine witnesses under oath.

That was moved in . . . it's part of the *Journals* for the legislature dated February 29, 1996. So that does give the committee the power to call for documents. I would suggest that what you do is let me know in advance as we're calling witnesses, what documents you feel are going to be relevant and you're going to be needing to pursue your line of questioning, and then I will inform the witnesses to bring those documents.

Mr. Gantefer: — Thank you, Madam Chair. A question at this stage. I understand that the committee can ask for documents. Do the members of Executive Council have the right to refuse, or of the Crowns, the right to refuse documents using commercial sensitivity or confidential agreements for the purpose of this investigation? Can they refuse that request for the supply of documents?

The Chair: — I have allowed them to do that in the past, but again I would ask to hear from a member of the government, and perhaps even a member from the Executive Council, since we do have a member here.

Mr. Gantefer: — Madam Chair, then perhaps to facilitate this I'd like to move a motion, and the motion states:

That ministers be compelled to provide all requested documents and not be allowed to refuse to provide information on the grounds of commercial sensitivity or confidential agreements for the purpose of this investigation.

The Chair: — I take it, Mr. Gantefer, in your motion the

assumption is implicit that this is all relevant documents.

Mr. Gantefer: — Yes.

The Chair: — Thank you.

Mr. Gantefer: — And only in terms of this investigation, so it's not implied that it's precedent setting in anyway.

The Chair: — That's exactly what I'm questioning. Do any members from the government side have any comments on this motion?

Hon. Mr. Shillington: — A question. Could we get the Clerk to read it or the Chair to read it again for me?

The Chair: — Yes. It seems on the face of it to be reasonable and to be adding to the full, frank, fair nature of this inquiry:

That ministers be compelled to provide all requested documents and not be allowed to refuse to provide information on the grounds of commercial sensitivity or confidential agreements for the purpose of this investigation.

Mr. Shillington, did you want to see this?

Hon. Mr. Shillington: — No, that's satisfactory. It's my understanding as a new boy on the committee that the usual practice is that the witnesses have to provide whatever is requested without exception, but that the committee uses its discretion in whether or not to order commercially sensitive documents. So it seems to me your motion, as I read it, is superfluous. And perhaps I could get a clarification from the Chair, but it's my understanding that those rules don't apply. What the committee asks for the witnesses have to provide, without exception. But the committee uses its discretion in not impairing the ability of a Crown corporation to function in a commercial sphere.

The Chair: — Well, but Mr. Gantefer is exactly right. This committee has in the past allowed representatives from the Crown corporations or their ministers to refuse to provide certain documents on the basis of executive privilege, solicitor-client privilege, or the claims that the release of the information would harm commercial competitiveness of a Crown corporation.

So I believe Mr. Gantefer's motion is to forestall that but at the same time to ensure that only relevant documents are requested by the committee. And I'm sure that his motion would foresee a procedure whereby he would be consulting with the Chair and special adviser on that.

Mr. Gantefer: — Madam Chair, I recall earlier today that we had the request for, if any member of the committee asked for witnesses or documents brought forward, and that motion was not allowed. So that the decision that stands is that the committee as a whole will make the determination as to what documents are requested and what witnesses are requested.

My motion now states, if the committee makes that determination, that those documents be delivered and that the

competitive situation or privilege is not exercised. So that it still . . . Because of the fact that the committee has voted against my motion to allow any member of the committee to request documents or witnesses and has continued the practice of the committee itself to ask for those documents and witnesses, that once that happens then this motion would preclude exercising those escape clauses.

Hon. Mr. Shillington: — Madam Chair, could I see a copy of the motion? I don't want to spend a lot of time on this because I think we're in essential agreement.

The Chair: — I think we are as well, but we have to make sure that we know exactly what is encompassed in this motion and that it is an enabling motion.

Hon. Mr. Shillington: — Madam Chair . . .

The Chair: — I'm just . . . Sorry, engaging in several conversations at once and getting some advice on this. And basically the advice I'm receiving is that the committee now has the unrestricted right to receive documents and to request documents, but that we would be dealing with it on a case-by-case basis, those documents on a case-by-case basis, and that if a person — and that would include a member of Executive Council — or an organization declines to provide a requested document, the committee does have a recourse, and that is to report the matter to the House. The House then could in turn issue an order demanding the production of the document.

So I think we're going to achieve exactly what Mr. Gantefer wants to achieve. The question is whether or not we need a motion. And I would ask Mr. Shillington to make some comment on that.

Hon. Mr. Shillington: — Well that was my point. I say to the member from Melfort-Tisdale, that was my point. That was, that our existing procedure covers your concern. What you stated in your comments, at least what I thought I heard you state in your comments, was the minister should be compelled to provide all documents requested by the committee and not be allowed to refuse information on the grounds of commercial sensitivity.

That's not exactly . . . Your motion's not quite that clear. I don't object to the . . . I don't think we object to the motion as such, provided it says that. And I think if you'd accept a friendly amendment, I think if you'd accept a friendly amendment so that it read, ministers be compelled to provide all documents requested by the committee, I don't think we'd have any problem with it. It doesn't say that. You've got your participle before the noun.

The Chair: — Mr. Heppner, while Mr. Gantefer is consulting, would you like to comment?

Mr. Heppner: — Yes, there's just a little line I'd like to read here out of what I believe is the procedures . . . dealing with the committee's operating procedures. And it says that ministers be allowed to refuse to provide information on the grounds of commercial sensitivity and confidential agreements. And I think that starts to set the stage of the fact that we may not get a lot of

information that we need.

So we've got that possibility there. We've got this committee who politically may refuse it. Then sure, if we don't get the information, it goes to the House, and there it becomes a very political thing and this committee has then suddenly become short-circuited because of all those kinds of situations. And I think we need to deal with it and create a situation right now that we say that if those things are needed, they come here.

Hon. Mr. Shillington: — I guess I'd ask . . .

The Chair: — After the Chair, Mr. Shillington?

Hon. Mr. Shillington: — Yes, Madam Chair. I guess I would ask Mr. Gantefer be amended by striking the word "requested" in the first line, and adding after the word "documents" the phrase "requested by the committee."

Mr. Gantefer: — Madam Chair, as long as that, that it clearly deals with this current procedure that allows the ministers to use an escape clause, if you like, to avoid this current procedure. What I'm suggesting has to be done here is that the procedure be changed so that it does not allow the minister to exercise the refusal to supply documents on the basis of commercial sensitivity or confidential agreements.

The Chair: — I think we're all going to arrive at a mutual understanding that allows exactly that, Mr. Gantefer.

I'm just going to pause for a couple of moments while we get an amendment drafted and then finally we will have, I hope, finished with all the procedural things. While we're waiting for an amendment to be drafted, does anyone have any suggestions or comments about things that I may have forgotten in terms of the procedure?

Mr. Gantefer: — I'm assuming, Madam Chair, that we still have an opportunity to talk about witness lists and things of that nature?

The Chair: — Yes. We're going to do that under the setting of the agenda.

Mr. Gantefer: — Thank you. I have one more if you're . . . while we're waiting for this one that may be appropriate at this time. I don't know exactly where to put it but I think given the nature of this whole investigation, that I would like to propose the following motion:

That the committee ask Jack Messer to . . .

Mr. Tchorzewski: — There's nothing wrong with that but we do have a motion moved here. We can only follow one at a time.

Mr. Gantefer: — Okay.

Hon. Mr. Shillington: — Madam Chair, I think I'm ready with the sub-amendment:

That the motion moved by Mr. Gantefer be amended by striking the word "requested" in the first line, and adding after the word "documents" the phrase "requested by the committee."

So that it reads: the ministers be compelled to provide all documents requested by the committee and not be allowed to refuse information on the grounds of commercial sensitivity or confidential agreements for the purpose of the investigation.

The Chair: — Any questions from any committee members? If not I'll put the amendment, if I can read it:

That the motion moved by Mr. Gantefer be amended by striking the word "requested" in the first line, and by adding after the word "documents" the phrase "requested by the committee."

All those in favour of the amendment please indicate. Thank you. Opposed? I have no one opposing it. That motion is passed.

I will now put the main motion. I'll consider it as read. All those in favour of the motion by Mr. Gantefer, please indicate. Hands down. Opposed? Everyone is in favour of a motion by Mr. Gantefer. There we go. Mr. Gantefer, you had one more procedural question.

Mr. Gantefer: — Thank you, Madam Chair. I would like to move that the committee ask Jack Messer to place his severance payment in trust pending the completion of the committee's investigation and the subsequent civil and criminal review.

The Chair: — I'm not certain that that actually fits with requests to operating procedures, Mr. Gantefer, and . . .

Mr. Gantefer: — That's why I said I wasn't sure where it fit.

The Chair: — Yes. And I can certainly understand what you're getting at in that I . . . It would be my suggestion that what we might want to do is hold that motion in abeyance until such time as we begin . . . as we swear in Mr. Messer and begin questioning of him.

Mr. Gantefer: — Thank you, Madam Chair. I'm quite satisfied to live with that direction.

The Chair: — So if we could defer consideration of that, we will then move to consideration of the agenda.

I'll ask the Clerk to distribute copies of a proposed agenda. I have only three copies of this left, so are there any members of the media that would require a copy of this or can you wait until we've finalized it as a motion? Okay, thank you.

I want to give all members an opportunity to read this proposed agenda. I'm going to emphasize again it is a proposed agenda and I already do have to notify you of at least one change right now. I would ask you on your copies to change the witness called for April 14 and 15. Mr. Priel has advised me that he's had discussions with legal counsel for Mr. Portugal. Mr. Portugal is not available on April 14 and 15; however he is most willing to appear before the committee. And he indicates to me that he

is available on April 21.

So I would suggest that what we do is change the order so we will call Mr. Gary Drummond for April 14 and possibly 15, if that's required, and that we would call Mr. Lawrence Portugal on April 21. Again understanding that we reserve the right to recall witnesses and we reserve the right to ask witnesses to appear before us longer than we have.

We're not going to be able to stick rigidly to this schedule; I can tell that already. But what I'm proposing is just a broad, rough outline of the witnesses that we would call. What I have done is structured it so that the principals in this investigation will be called first of all, and so that we can get the facts of the matter out, right up front.

So what I want to do is get the facts out as quickly as possible and deal with the documents that have already been referred from the House to the committee. And you will note on June 8 I've indicated that we would be doing a recall of witnesses, if we have any clean-up that we have to do, and at that point we will review the need to call additional witnesses. So there may be witnesses that would have to be added. And I'm suggesting that what we do is try to get the principals out of the way first, and the facts out of the way.

I also have just been advised — this is very much a work in progress, people — Mr. Drummond apparently is also not available on April 14 or 15. So my suggestion is, since we have had certain documents referred from the House, namely the question of the CIC (Crown Investments Corporation of Saskatchewan) report and the Deloitte Touche report and we also have the Provincial Auditor's opinion, that what we might do, while we are waiting to hear from Mr. Portugal and Mr. Drummond, is that you would authorize me to call for those, April 14, 15 time slot.

Again I want to emphasize I would like to have Mr. Portugal and Mr. Drummond appearing as early as possible in this committee, but that I will arrange to have either the CIC officials or, if they're available, Deloitte Touche or the Provincial Auditor fill in that time slot.

Mr. Gantefer, then Mr. Hillson.

Mr. Gantefer: — Thank you, Madam Chair. From past experience in the other standing committee, I recognize the difficulty of establishing agenda so far ahead with specific witnesses on specific dates, because it's already been outlined that there are conflicts and potential unavailabilities that occur.

I wonder if it would be appropriate, rather than to do the motion as it sets out with specific dates — and I beg the indulgence of the committee because I'm not totally familiar with your procedures here — if we could agree on who the witnesses are first of all and then have some smaller body with the, you know, Chair, Vice-Chair, whatever, that is an appropriate body, to then come once the list is there in its relative entirety.

And I appreciate near the end of your agenda you had an opportunity for . . . the opportunity to call additional witnesses. But if we would have the substantive witnesses approved firstly, and then establish some methodology for trying to

arrange the actual order and methodology, perhaps with our legal counsel, etc., may work better than trying to move something like this that could fall apart almost instantly and becomes irrelevant.

The Chair: — I appreciate that, Mr. Gantefer. I think that's a good suggestion. I want to hear . . . first of all though, I have an indication on the speaking list that Mr. Hillson wants to comment and then Mr. Tchorzewski.

Mr. Hillson: — Well, Madam Chair, it's already been conceded of course that these are nothing more than time estimates; that each witness will take whatever time he or she takes. We've already lost the first day. So there's one day of Mr. Messer's evidence gone.

So I think Mr. Gantefer's point that these time estimates don't really have much value already is well taken.

In terms of April 14 and 15, my earlier comments were that I think we should be interested in the primary witnesses, not the secondary. What are the primary sources? Well as I understand it, Ernst & Young are primary sources and Milner Fenerty is a primary source. Milner Fenerty actually did the sale agreement as opposed to offer an opinion a month or two later as to whether or not proper procedures were followed.

Deloitte Touche, on the hand, is simply a secondary source. They were simply asked to review in December '97 what had happened.

So it seems to me that if we have got April 14 and 15, it would be appropriate to move up Ernst & Young and Milner Fenerty. They're the ones that ought to be moved up, and that that is the proper order.

The Chair: — Thank you, Mr. Hillson.

Mr. Tchorzewski: — I think I'm in general agreement with the comments already been made. It seems to me from what you have presented that these are sort of what . . . as you say, like the key witnesses which will provide us an opportunity to get all of the facts, which I think this committee needs to do first and foremost. Let's find out what the facts are and then if we need to recall witnesses because we've heard some things, we can do that. Or if we need to call additional witnesses based on the facts presented to us in testimony, then we can do that as well.

I agree also that maybe to determine a specific order, although this seems to make some sense, we should leave it to you, the Chair, the Vice-Chair, with the help of the staff to contact people, keeping in mind suggestions like Mr. Hillson has made as to the availability of these witnesses which we're going to call, and leave it there to be determined in consultation with the legal counsel.

The Chair: — Thank you, Mr. Tchorzewski.

Mr. Heppner: — I believe there's a steering committee that's basically available to work on this. If not, we should set one up that has one from each of the parties represented and have those people get together with yourself and work through that.

The Chair: — Okay. So these are some of the creative operating procedures that we knew we would get to. Okay.

I thank all committee members. This has been most helpful. The purpose that I had in setting the agenda was, I thought that there was some desire by committee members to know who was going to appear, what, and in what order.

But perhaps what we could do — and I would ask everyone to listen carefully so that this may become a motion, and this is only a suggestion on my part — that what we would do is have a motion indicating that we would be calling as witnesses, but not . . . that this list is not to be considered an exclusive list, but that we would be calling the following witnesses: Mr. John R. Messer; SaskPower officials, including Mr. Staudt, Mr. Christensen, Mr. Kram, Mr. Lawrence Portigal, Mr. Gary Drummond; the Provincial Auditor; Deloitte Touche; CIC officials, Mr. John Wright and Mr. Michael Shaw; Ernst & Young; Milner Fenerty Law Firm appropriate officials; SaskPower board and audit and finance committee, including Mr. Doug Anguish, Mr. Eldon Lautermilch, and Mr. Don Mintz; SaskEnergy, Mr. Ron Clark; Saskatchewan Department of Justice, civil law division, Mr. Daryl Bogdasavitch; a representative from the Gerrand Rath Johnson Law Firm; Mr. Milt Fair, SaskPower board Vice-Chair; and representatives from the MacPherson, Leslie & Tyerman Law Firm, including Mr. Rob Garden and any associates.

And that the order would be determined by the Chair in consultation with committee members, with the understanding that we would be calling the principal witnesses first, subject to their availability.

Is that what we would be wanting to vote on? If you would just then give me half a second while we get that written down so that's there's no misunderstanding.

Mr. Gantefer: — Madam Chair, I have some other names that I would like included. Would it be appropriate to add them as an amendment to this motion, or to move them as separate motions?

The Chair: — I think as separate motions. What my intent was was to get out the principal witnesses that we would be calling. And I also want to draw your attention to the fact that I have indicated that there clearly will be an opportunity to review the need to call additional witnesses. So you can put that as a motion now or you could hold it in abeyance as the facts unfold. That's your choice.

Mr. Gantefer: — Some of these people would be principal witnesses and I would want them considered by the process, in the order, as well. They are not secondary witnesses to the list that is already given.

The Chair: — Would it be satisfactory, Mr. Gantefer, if you could discuss that with me and with the special adviser.

Mr. Gantefer: — No. I would prefer to make the motion while the discussion of who these principal witnesses are . . . because there are documents as well that would be requested. That's why I asked, should this be done as an amendment to add to the list that you are preparing, in terms of amendments,

so that they be included as consideration of principal witnesses.

Hon. Mr. Shillington: — I wonder if I might make a suggestion. I thought Ben had a good suggestion actually — a little steering committee, one of each. Why don't you feed those suggestions into the steering committee. If that process proves unsatisfactory, you could move your motion at another meeting, but it's hard to react to here in the space of 10 minutes that's left.

Mr. Gantefer: — Well the only problem — I'm sorry, Madam Chair — the only problem is is that you have made a list, and I'm not disagreeing with the names on the list, but they're not complete in our opinion. So that if we have to add the names that we want for consideration at a later date, it somehow takes away from the initial motion and becomes an add-on, rather than part and parcel of the initial consideration.

The Chair: — I appreciate what you're saying, Mr. Gantefer. The concern I have is that all relevant witnesses to this inquiry will be called, and I'm not in a position to determine who all those relevant witnesses are at this point. I also though don't want to see us get into a position of having your amendment lose on a technicality or anything. Yes, Mr. Hillson, help me out on this.

Mr. Hillson: — I think we are going, and where I'm going, is that we could argue about the witness list and the documents to be disclosed for months and never get to anything. And so while I don't disagree in principle with what Mr. Gantefer is asking, it strikes me that really the far preferable procedure is that we have a primary witness here. Let's start; let's get on with it. Whatever documents, whatever witnesses are required to do our job, those will come up in due course.

But I realized from the outset that we could actually have several weeks of argument here as to what are the potential witnesses, what are the potential documents, and we'll never get onto anything. So I would encourage Mr. Gantefer to hold his motion in abeyance. That is not to say you know, that I won't support any applications that may be brought forward by other members. I suspect, you know, my bias will be to support any motions, but let's start our work and what comes up, comes up, what is necessary is necessary, and let's deal with those in place.

But now I mean, quite frankly, I just give one example. I'm not picking on the woman, but there's a lady from North Battleford who at one point was on the SaskPower board. So I saw on one person's list of witnesses that we had to have her, even though she's at all necessary or not. If it turns out in the course of our work she's an essential witness, then I will support her being called, but to simply now argue over whether or not anyone who has passed through the SaskPower building is an essential witness, it's just guaranteeing that we're setting ourselves up for failure.

The Chair: — Thank you, Mr. Hillson. I appreciate that comment and I appreciate your years of experience as a lawyer on this and I mean that most genuinely. I am not, in my comment, putting down lawyers.

I think again committee members have to understand we have

to be guided in terms of calling of witnesses by the relevancy and pertinency of those witnesses and that's why I've been suggesting all along that we have discussions and consultation with our special adviser.

What I would like to suggest as a way out of this to satisfy . . . I think we're all headed down the same road here, and I don't want the message to be given to anyone that we're trying to cut off the questioning of any principal witnesses. What we have to be doing is determining who those principal witnesses are.

What I would like to suggest is that we pass the motion that I've already indicated with a certain group of people defined already as principal witnesses, and . . . (inaudible interjection) . . . but not exhaustive, and that we then, after we deal with that, have a separate motion which would read:

That a steering committee with representatives from all parties be established to review the possibility of adding primary witnesses to the agreed-upon list and that it report back to the committee at the earliest possible date.

Mr. Gantefer: — Thank you, Madam Chairman. I've listened very attentively to the comments made and I am not in any way trying to be obstructionist, but I cannot accept that the definition of principal witness has been already set by the wording in your proposed motion. And therefore I would like to move some amendments for inclusion in the original motion so that they are considered at the same time. And I think it's an appropriate position to do that, if I may, at this time to move this as amendments to the motion.

The Chair: — Well you can always move any amendments you wish. I'm not saying that I have defined an exhaustive list of principal witnesses. What I am saying is that the hour is drawing late; I think if we have a representative from all three parties meet with me and the special adviser today, that we can draw up a comprehensive list but not an exhaustive list of principal witnesses.

In the meantime we could at least vote on these principal witnesses so that they can be informed that roughly on the timetable I had previously indicated, they will be called before this committee.

Mr. Gantefer: — Madam Chair, in the interest of time, I had fairly exhaustive motions with documents that I want. I will forego those detailed motions, but I would like to move an amendment that includes the names that I want on the list, and I would therefore move:

That the following names be added as amendments . . .

The Chair: — Mr. Gantefer, could you move the motion that the steering committee be established and that it includes consideration of these witnesses?

Mr. Gantefer: — No, no, no. I want this to be part of the original motion that I understand is being considered.

The Chair: — Okay.

Mr. Kowalsky: — Is there a motion on the floor now?

The Chair: — Yes, there is a motion on the floor.

Mr. Gantefer: — The motion, as I understand it, on the floor lists the people on the agenda as being those individuals to be called by the committee. And I would like to . . . I would like to make an amendment that includes the following names: the Hon. Roy Romanow, Premier of Saskatchewan; the Hon. Dwain Lingenfelter, Deputy Premier of Saskatchewan; the Hon. Keith Goulet, former member of the SaskPower board; Mr. Doug Anguish, I believe was named; Mr. Eldon Lautermilch, already named; Mr. John Nilson, Minister of Justice; Mr. Berny Wiens, former minister responsible for CIC; Mr. Lorne Calvert, former minister responsible for SaskPower.

I have, in addition, a list of further witnesses that I am prepared to add at a future date. But the names that I have listed, I would like to include as an amendment to the motion that's in front of the floor at this time.

A Member: — As principal witnesses?

Mr. Gantefer: — As principal witnesses.

The Chair: — As principal witnesses, all right. I want to deal with this properly and orderly. Mr. Trew, could you make your motion regarding principal witnesses.

Mr. Trew: — I move:

That this committee agrees to the following individuals or organizations as witnesses . . .

The Chair: — As already read.

Mr. Trew: — As already read into the record, yes. Thank you.

And further, that it is agreed that this list is not exclusive; second, that the order of witnesses will be determined by the Chair in consultation with representatives of the opposition parties; and third, that priority of scheduling will be given to the principal witnesses.

I so move.

The Chair: — I have that motion and I now have the amendment by Mr. Gantefer. We will deal with comments on the amendment.

Mr. Kowalsky: — Thank you very much. I think government members on this side have made it quite clear that it is not our intention to regard this first list that has been proposed as exhaustive and that we will likely be wanting to add witnesses or recall witnesses at a later time.

I also think that the Chair has identified what are known as or what I would regard as primary witnesses — that is the people who are directly connected with the scene. I take notice of the question especially mentioned by . . . the comments especially made by Mr. Hillson on this. So I do believe that we will be in a much better position to judge which witnesses we want to call once we've heard from these primary witnesses, that is: Mistern Messer, Staudt, Christensen, Kram, Portigal, Drummond, and possibly two or three others that are here.

So without making . . . delineating, keeping in mind that our intent is to be able to call any witnesses at any time, at this time I do not . . . I believe it's a bit premature.

Mr. Hillson: — Madam Chair, my concern is that a motion at this point to call the Premier and other key cabinet ministers will simply be defeated and I think that would be highly unfortunate. I think what has to happen is we start work. If it becomes clear that the Premier, the Deputy Premier, and others, are key witnesses, then we must fight tooth and nail to see that that happens.

But I'm concerned at this time that I'm worried that what's going to happen is that this motion will be defeated. That would be the wrong course. I suggest that the appropriate course is that if we table this motion, it can be brought back at any time that it appears to be the proper course, and therefore I am going to move at this time that the motion be tabled.

The Chair: — Okay. A tabling motion is non-debatable. I have a motion to table the amendment.

This is definitely a work in progress here. I have just received advice from the Clerk that in this committee — in legislative committees — tabling motions are not allowed. An adjournment motion would be considered.

Before we do that though, perhaps we want to think this one through. I think there is merit in what Mr. Hillson was saying and . . . (inaudible interjection) . . . Just a second, Mr. Heppner.

I don't wish to be establishing a list of principal witnesses right now that is considered as exhaustive. So I think I will hear from Mr. Heppner and then Mr. Shillington and then we will — since the hour is now 12 o'clock — we'll entertain a motion for adjournment.

Mr. Heppner: — Number one, the Chair is totally out of line on making a comment on Mr. Hillson's point of view. That's point number one.

Number two. These lists are primary witnesses. We're dealing with a family of Crown corporations. If the ministers responsible and the Premier are not primary people in that organization, something is very askew over here. And we have to have those. They have to be number one. They are the primary people.

If the Premier of the province isn't aware of what's going on, then maybe the questions that were asked in the House the other day are very adequate, that he just doesn't remember. But I think he does remember. I think he knows everything that went on with this whole situation. I think these ministers know everything that went on with this whole situation. And if they didn't they need to be held accountable for the fact they were ignorant in what was going on.

And for Mr. Hillson to say that that can be added on later on as somebody that is a housewife in his community, on the same level as he was talking about because it had a part on SaskPower, one of the Crown corporations, is totally invalid. These people have to be here and I would strongly urge everyone to make sure that they are here. They are here as

primary witnesses. We're dealing with the Crown corporations. There's no one more responsible than a minister and the Premier.

The Chair: — Thank you, Mr. Heppner. I just want to point out that housewives in any community play an extremely valuable and valued role in this country.

Hon. Mr. Shillington: — To hear from Mr. Romanow and Mr. Lingenfelter before we've heard the primary evidence is simply going to move question period from the legislature down here. I know my friends opposite don't want to turn this into a political forum, but if I were less charitable I might suspect that that's what they were doing.

Mr. Romanow has said in the Assembly — I've heard him say in the Assembly — he and all his ministers will be here if they can add to the work of the committee. I think he has some . . . I think he has expressed . . . I think the question remains, the question remains to whether or not they'll be able to supply any facts. If it's a question of debating the political impact of those facts, I'm not sure the Crown Corporations Committee is a place to do it — perhaps the Assembly — perhaps it is.

I'm uncomfortable with defeating the motion because that suggests that they will not come, and is contrary to what's been said in the Assembly and it's certainly contrary to our position. They'll be here if they're needed. I'm also uncomfortable with passing it because I don't think they have primary evidence. The people with the primary evidence are on the list. I would have been quite comfortable with tabling it but I guess that's not in order.

Would a motion to adjourn consideration of this motion be in order? I don't know whether that's appropriate or not, but perhaps if the members opposite find that offensive . . .

The Chair: — I would point out to all committee members that we've already had one example this morning of a procedure that I was suggesting and indeed some . . . the majority of members did support the Chair in that procedure. We then called an adjournment and I was able to consult and ensure that a cooler head than mine should prevail on this. And there was wisdom in having that adjournment. I don't want to get any of us — at this point, even before we've called our first witness — to get dug into intractable positions.

So it is now 12:05. We did agree that we would meet from 9 until 12. I think that if any hon. member gave me a motion to adjourn, that we would then have an opportunity to deal with this issue tomorrow morning at 9 o'clock before we call our first witness, and I have already indicated that Mr. Messer will be the first witness.

Mr. Hillson: — Well, Madam Chair, I'm afraid I don't qualify as one of those cooler heads. What strikes me is that we've had Mr. Messer sitting here all morning; we could have made a start with him. We chose instead to get bogged down in procedural arguments which have unfortunately led us nowhere and resolved nothing but could carry on for weeks if we want them to.

So I'm not the cool head to be advising the Chair right now

because it just strikes me that all we've done this morning is waste further opportunity to start our work. I hope that however, all heads will be cooler tomorrow; that Mr. Messer will be back with us and our work will begin; and after our work has begun, we will pursue the witnesses and documents that need to be called, rather than say that we will get bogged down in procedural wranglings and procedural wranglings will take the place of the real work of this committee.

Madam Chair, I move we adjourn till tomorrow morning at 9 a.m.

The Chair: — Thank you. I have a motion to adjourn with the two . . . with the motion and the tabling . . . or the amendment still outstanding as a matter on the committee's orders. All those in favour of adjournment please indicate. Thank you. Opposed. This meeting is adjourned.

The committee adjourned at 12:07 p.m.