



Standing Committee on Crown Corporations

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**STANDING COMMITTEE ON CROWN CORPORATIONS
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Saskatoon Southeast

Kim Trew, Vice-Chair
Regina Coronation Park

Bob Bjornerud
Saltcoats

Doreen Hamilton
Regina Wascana Plains

Ben Heppner
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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. I would like to open the proceedings for today now. You have before you an agenda that I circulated in the House yesterday. As committee members will recall, when we adjourned yesterday we had one outstanding motion with an amendment that we have to deal with before we move into hearing from our first witness. So I will now recognize speakers on that motion.

Mr. Heppner: — First of all I'd like to rise on a point of order dealing with the appointment of the legal counsel to the committee. The Saskatchewan Party wants to raise some very serious concerns about that.

We spent some time going over the events of yesterday and, Madam Chairperson, we started off by looking at your activities, the way you tried to manipulate this particular committee with the changing of the order of questioning, part through retribution, part of it was to reward your Liberal friends over there. We found that totally unacceptable. Then you continued to provide improper and unwanted comments.

And I think that indicates that this, by your intentions, is going to be whitewash. You, Madam Chairperson, selected Ted Priel as lawyer without substantive information. We weren't given any particular background on him and I think we need to know that.

Reviewing your operation yesterday, as you operated — and you're the one that picked this particular individual to be the counsel for this committee — we realize this is going to be a whitewash. The position that he has is very important because it will reflect on admissibility of evidence; it will reflect on admissibility of the people and materials to this particular committee.

So for that particular reason I think we need some more information on him. And to that end, Madam Chairperson, I have a number of questions that I would like to ask him just to ensure that we know exactly what we're getting and that the work that's going to be taking place here will be done decently and in order, and that the whitewash that is going to be coming, and has already been coming, at least will not be supported by him.

The first question I have for Ted Priel . . .

The Chair: — Mr. Heppner, before you proceed with questions, I do have Mr. Priel's CV (curriculum vitae) here so I would ask the Clerk to distribute it.

Mr. Heppner: — And why, Madam Chairperson, did you not distribute that when you appointed the person? I think I still have the floor.

The first question that, the first question . . .

The Chair: — I'm sorry, Mr. Heppner, I do have to entertain a point of order . . .

Mr. Heppner: — I have the point of order. It's on the floor and

it's mine and I will take it. The first question I have . . .

The Chair: — What is your point of order, Mr. Heppner?

Mr. Heppner: — The questioning of the legal counsel, and we have to get some background on him, which we will get through the questions that I'm going to ask, to ensure that we have impartiality. And so the first question . . .

The Chair: — Just a moment. I'll take your point of order under advisement. And Mr. Tchorzewski, what's your point of order?

Mr. Tchorzewski: — I would like to speak to the point of order. That is not a point of order, Madam Chair; there is an opportunity to raise this. There was an opportunity to raise this yesterday; it was not raised. In fact the committee voted unanimously — it's on record — for the appointment of the legal counsel.

But if the member for Rosthern wishes to raise some questions, we certainly don't have any objection. But I think he should do it according to the rules of any committee and right now the rules say that if there is an item of business that is on the agenda, or a motion, then we have to deal with the motion. There is a motion on the floor and I think we have to dispose of the motion. And then we can entertain, or the Chair can entertain the questions from the member opposite.

The Chair: — Thank you, Mr. Tchorzewski. On the point of order . . . Mr. Heppner, you did indicate it was a point of order?

Mr. Heppner: — Yes.

The Chair: — I've listened to Mr. Tchorzewski's comment on it and I've also taken advice from the Clerk and it is pointed out to me that you did have an opportunity yesterday to ask questions about Mr. Priel's qualifications. You did not, but by leave, we can return to that matter. So if you wanted to ask leave of the committee, I will take guidance from the committee and we can then return to the question of Mr. Priel's qualifications.

Mr. Heppner: — Okay. I request leave.

The Chair: — All right. Is leave granted?

Mr. Tchorzewski: — We're quite happy to grant leave but we think we should dispose of the procedural affairs of the committee and we should deal with the motion that is before us first, and then we're quite happy — in spite of the fact that no questions were raised yesterday and it would appear that we're now into some more political posturing as opposed to seriousness — we're prepared to grant leave after we dispose of the item before the committee.

Mr. Heppner: — Madam Chair, the information was withheld. The information was just handed out this morning, that you handed out yourself. We should have had that yesterday. So on the basis of that error on your part, I suggest that we deal with this issue first.

The Chair: — It would appear to me that Mr. Tchorzewski is indicating that he would be prepared to grant leave, and although I do not believe that the information was withheld, Mr. Heppner, it does seem to me that the matter of all committee members having a degree of comfort with the legal counsel, the special adviser to the committee, is an extremely important one. So I would suggest that perhaps if all members wish to grant leave that we could deal with this item. The question of reading into the record the qualifications and the questions that any hon. members may have about the legal counsel, should be our first item of business today.

So you are requesting leave to return to that item now at this time?

Mr. Heppner: — Yes, I am.

The Chair: — Thank you. All those in favour please indicate. Hands down. That motion is carried.

Will you proceed with your questions, Mr. Heppner.

Mr. Heppner: — Okay, thank you. First of all, I'd like to point out a correction in what you just said. That information wasn't given to us till this morning. I believe that's equivalent to having it withheld because we should have had it yesterday.

First question for Ted Priel then. We understand from talking to our contacts in the Saskatoon legal community that you are a supporter of the New Democratic Party. Is that correct?

Mr. Priel: — No.

Mr. Heppner: — You have no affiliation with the party?

Mr. Priel: — No.

Mr. Heppner: — No contributions that you ever made to the party?

Mr. Priel: — Yes, I did.

Mr. Heppner: — Okay. I'd like to have . . . follow that through. What sort of contributions did you make, as we need to know that?

Mr. Priel: — Over the years I made contributions to the New Democratic Party but I haven't for probably four or five years.

Mr. Heppner: — Okay.

Mr. Priel: — I haven't been a member of the New Democratic Party for probably four or five years.

Mr. Heppner: — So we do have then established your basic loyalty to the New Democratic Party.

Mr. Priel: — I've also made contributions to the Liberal Party.

Mr. Heppner: — Okay. That's understandable. Because . . .

Mr. Priel: — I haven't made contributions to your party because it hasn't been around very long.

Mr. Heppner: — Okay. Well we haven't seen any yet.

Has your legal firm done any work for the New Democratic government, department, Crown agency since it took power in '91?

Mr. Priel: — Probably.

Mr. Heppner: — Could you tell us what the nature of that was?

Mr. Priel: — No.

Hon. Mr. Shillington: — Madam Chairperson.

The Chair: — Yes, Mr. Shillington.

Hon. Mr. Shillington: — I'm a little disturbed by the line of questioning here, and I really would like a ruling from yourself as to whether . . .

Mr. Heppner: — Madam Chair, I believe I'm doing the questioning at this point.

Hon. Mr. Shillington: — I'm raising a point of order.

The Chair: — If on a point of order, Mr. Heppner, I'm sorry, I do have to hear from all committee members on their points of order. Would you state clearly, Mr. Shillington, what your point of order is.

Hon. Mr. Shillington: — I would ask for a ruling as to whether or not it's appropriate to be asking these sort of questions of witnesses, and it generally, I think we generally, have respected the privacy of witnesses which come before the committee, particularly those which serve as staff to the committee. I've never seen this line of questioning and I'm frankly disturbed by it. I'd like a ruling from yourself as to whether or not it's appropriate to be asking these sort of personal questions of witnesses.

The Chair: — Mr. Shillington, I would point out to you that Mr. Priel is clearly not a witness at this committee by . . .

Hon. Mr. Shillington: — Well, yes he is now. He is now.

The Chair: — He's . . .

Mr. Hillson: — He's a witness.

The Chair: — Well by virtue of us having decided to hire him as special adviser to the committee, and by that report having been assented to by the Assembly yesterday, he is now a staff person to this committee. But if committee members would just relax for a moment, I will consult with the Clerk of the Legislative Assembly and I will give you a definitive ruling on this.

Excuse me, I would ask for some order and some decorum, please. It is clear that Mr. Priel has been engaged by this committee and the motion has been approved by the Assembly to engage the legal services of Mr. Priel to this committee; therefore he is not a witness. Therefore, Mr. Heppner, you may

pursue your line of questioning but I would caution you, and ask you again to bear in mind that it is imperative that people be treated with dignity and respect before this committee. And so I ask that your questions be those that are reasonable and would be normally expected to be asked of an official of this Assembly.

Mr. Heppner: — Thank you, and speaking of normal expectations, I think when we talk about people such that are working in that particular position — and I think in what's happening today, it's the same as probably the Clerk — we expect someone to be totally non-political. We already know that this individual has donated to the party, NDP (New Democratic Party) party; has been a member of the NDP Party; and has had contracts from the NDP government.

So I think we're already establishing that there is a definite, strong leaning and commitment to the NDP, and if we see what happened yesterday, it starts to put into question the fairness of the rulings that will be made down the road.

Now we were interrupted by a member of the government side on that last question, and so I'm sorry, I didn't hear your answer when I asked the nature of the work that your law firm had done with the NDP government since it took power in 1991.

Mr. Priel: — I can't answer that, Mr. Heppner, and the reason I can't answer is that would breach solicitor-client privilege.

Mr. Heppner: — I believe the client in this case would be the government and they have agreed . . .

Mr. Priel: — I don't know who the client was. There are 11 lawyers in my law firm and I'm not aware of everything that they do. But I do know that there has been work that my firm has done for the . . . during this administration. There was work that my firm did for the provincial government during the last administration.

Mr. Heppner: — Madam Chair, I believe I'm correct — the solicitor-client relationship has been waived for the purpose of this committee?

The Chair: — No. Mr. Heppner, I will review again the letter that we received from Mr. Lingenfelter, but it is my understanding that solicitor-client privilege was waived for the purposes of this inquiry and the terms of reference which we clearly voted on yesterday.

Mr. Heppner: — We'll just continue, Madam Minister . . . or Madam Chairperson, while you look for that.

The Chair: — I will just indicate to you:

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.

Given the contents of that letter, it would be my opinion that the solicitor-client privilege is waived for the terms of reference of

this inquiry, not for any past work that Mr. Priel or any members of his law firm may or may not have done for the government.

Mr. Heppner: — Okay. Thank you.

Next question then. I believe you received an order in council, a patronage appointment to be police complaints investigator in '91 and that was signed by Roy Romanow himself. And I believe you were paid 6,000 annual retainer plus \$400 a day per meeting. I feel we should have been informed of that yesterday. Why did you not inform the committee of that involvement?

Mr. Priel: — I believe it's on my CV.

Mr. Heppner: — We didn't get that.

Mr. Priel: — Well I don't know whether you got it or not, sir, but I did that for a year.

Mr. Heppner: — Okay. Well, Madam Chair, I think that indicates . . .

Mr. Tchorzewski: — Madam Chair, just another point of order. I don't want to be difficult, but just in the interest of the working of the committee, is it not — since Mr. Priel is not a witness — is it appropriate for the questions to be directed through the Chair?

The Chair: — Yes. All right. Thank you. Point well taken, Mr. Tchorzewski. Mr. Heppner, direct your questions to me, please.

Mr. Heppner: — Thank you, Madam Chairperson. Madam Chair, I understand that Mr. Priel is primarily a matrimonial and labour lawyer. This case is business; it's big dollars, big money, and possibly criminal issues; and my question to you is when you chose him, why did you pick someone who's basically involved in those sorts of cases — matrimonial/labour lawyers — to investigate something which is very high finance?

The Chair: — Mr. Heppner, it is the job of the committee members to be questioning the witnesses. The legal counsel was chosen because of his knowledge of arbitration, his high esteem within the legal community, his availability, and his ability to be able to provide counsel on the general matter of how an inquiry such as this ought to proceed — with dignity and efficiency.

Mr. Heppner: — Can you give us some examples where he's worked in this sort of a committee with this sort of financial background and involvement that would qualify him for that when you made that selection?

The Chair: — Mr. Heppner, I don't believe that question is relevant. Would you move on to other questions, please.

Mr. Heppner: — It is very relevant. We're dealing with one of the biggest parts of Saskatchewan. The Crowns are the biggest single part in the Saskatchewan economy. And you're going to tell us, to the people of this particular province watching on camera right now, that that doesn't matter. I suggest you need to re-evaluate your position on that.

Next question I have. I would like to know, Madam Chairperson, who all was involved in the selecting of Mr. Priel besides yourself. You came in yesterday and said you had made that selection. Did you make that independently or did you consult with other individuals, and who?

The Chair: — Just a moment. Mr. Heppner, I'm hoping that I can answer your questions fairly quickly because I'm sensing within the public gathered here today, a desire to get on with the business at hand and to begin questioning of Mr. Messer. So I would like to say that Executive Council was involved in, Executive Council was involved in discussions with Gwenn Ronyk, the Clerk of the Legislative Assembly. There was a very short time frame available to choose legal counsel.

There was a list drawn up. Mr. Justice Ted Hughes was contacted. He was unavailable. Mr. Justice Halvorson was contacted. It is my understanding that he was prepared to come to serve as an adviser to this committee up until 5 o'clock Friday of last week, and at that point it was determined that he was unavailable.

So Ms. Ronyk then contacted Mr. Si Halyk, who was also unavailable, and contacted then Mr. Ted Priel, who was available. And the decision was made, because of his experience in inquiries and in examinations, that he would be the counsel that was recommended to this committee to act as special adviser.

I did bring it to the committee yesterday. Committee members had an opportunity to question Mr. Priel at that point. It was moved that we would accept him and that motion has now been moved in the Legislative Assembly and Mr. Priel is now the special adviser to this committee.

Mr. Heppner: — Well I suggest . . . you keep talking about experience. We've just gone through that part. The experience is not there; it's not there in this sort of work with this sort of financing, with these sorts of concerns. It's definitely not there at all.

And in the list of people that you talked . . . you consulted, involved Executive Council, yourself . . .

The Chair: — And the Clerk of the Assembly.

Mr. Heppner: — And why were the other two parties involved in this committee not questioned? There wasn't a single reference made, a single inquiry made to our office saying, how should we go about this process; do you have any ideas? None of that was done.

It was again, Madam Chairperson, one of your efforts to whitewash this thing, to push this thing through to the ends that you want it pushed through — not the people of this province, not the Saskatchewan Party, but the NDP Party. You were pushing that agenda and no other agenda whatsoever.

We've already discovered this morning, Madam Chairperson, in about 5, 10 minutes of questioning, that we have an individual here who's donated to the party, who's been a party member, who's had law contracts with his law firm with this government, who's had that particular appointment that we

talked about, has no experience in this area. It is strictly a patronage appointment, Madam Chairperson, made by your ideas, and we find that totally acceptable.

So I'll be moving the following motion, and I will read it and then send it over to you:

That Mr. Ted Priel be immediately removed as legal counsel to the committee and be replaced with an out-of-province lawyer approved by members of the committee.

Mr. Tchorzewski: — Madam Chair . . .

The Chair: — Excuse me, Mr. Tchorzewski. Mr. Heppner, I am advised by the Clerk of the Legislative Assembly that you cannot move that motion now. That motion is not in order. You only have leave to ask questions. And as you are aware, we already have a motion before us, that being the adjourned debate, the motion by Mr. Trew, and the amendment by Mr. Gantefer. Your motion is not in order.

Do any other members of the committee have questions of Mr. Priel before we move on?

Mr. Hillson: — Yes, Madam Chair. I gather from what you have told us that actually Mr. Priel was the third choice after Mr. Justice Halvorson and Si Halyk, both of whom are certainly not known as NDP partisans. We have before us apparently a 30-year lawyer and former president of the Law Society of Saskatchewan.

I think there is a valid question to be asked here. And I would suggest that that question is to inquire of Mr. Priel as to whether, regardless of any personal feelings he may have, he believes that he is able to set aside those feelings to advise this committee with impartiality and integrity.

Mr. Priel: — Yes, sir.

The Chair: — And, Mr. Priel, could you state that louder for the record.

Mr. Priel: — Yes, sir.

The Chair: — Do you have any further questions, Mr. Hillson?

Mr. Hillson: — I just hope that what I am seeing this morning isn't simply a carefully orchestrated build-up to storming out of this committee, the stage has to be set to say that this committee has collapsed and can't possibly function in an effective manner. The build-up to that final storming-out is distasteful to watch.

If all we are seeing is a build-up to storming out of this room in an attempt to sabotage the committee, then I hope we get on with that very quickly and we don't have to be put through this quite distasteful display.

If the intention is to proceed with questioning, I hope that we will proceed with questioning. I see Jack Messer is again sitting in the gallery; he's ready to answer questions. I hope, I hope we will do that and that we will do that quickly.

I do think though that what is unfolding today is an indication that Public Accounts probably was the correct committee. Thank you.

The Chair: — Thank you, Mr. Hillson. I will now move to the government side and ask if you have any questions of Mr. Priel.

Mr. Tchorzewski: — Thank you, Madam Chair. I think the question by Mr. Hillson has been answered. It would have been my question because I think it's the appropriate question and the fair question. I have no doubt in my mind, with Mr. Priel's distinguished record in the work as a lawyer and in many of the other things as I see on this résumé, eminently qualify him for providing counsel on the proceedings of this legislature.

I remind committee members that lawyers, in their professional work, have clients from all kinds of areas and from all kinds of fields. That is an appropriate thing for any lawyer acting professionally to do. And to question a lawyer, in whatever capacity that lawyer may be here, on his or her ability to provide responsibilities and duties as a lawyer because they may have donated to a Liberal Party or a Saskatchewan Tory Party or a New Democratic Party, I think is irrelevant.

The fact of the matter is, Madam Chair, that Mr. Priel, in his record, shows us that he is professionally qualified. In the résumé it's indicated he's been a member of Law Society of Saskatchewan, Canadian Bar Association, but — and there's a whole list of important points in the résumé — but I think two points need to be put on the record. He's a member of the Arbitration Mediation Institute of Saskatchewan, and which I think is particularly relevant for the work in this kind of a committee, and he's a member of the Alberta Arbitration Mediation Society. He's been the president of the Saskatchewan law society, and I have no doubt, in 30 years has probably acted for thousands of clients who may have been affiliated with every political party in Saskatchewan. So I don't think that's relevant.

I think the committee should get on with this work. And I think that any member of this committee who wishes to hijack the committee and try to not make it work, by raising all kinds of issues like this, should consider whether that member ought to be . . . is contributing to the good working of what is . . . (inaudible interjection) . . . Do I have the floor?

The Chair: — You do have the floor, Mr. Tchorzewski. I would ask you to draw your remarks to a close.

Mr. Tchorzewski: — I'm wrapping up right now, Madam Chair. And I think every member of this committee should really consider whether we want this committee to work. I do, my colleagues do, and I hope that members on the opposite side of this table do as well. And I think we should get on with it.

The Chair: — Thank you, Mr. Tchorzewski. We will now then move to the regular agenda. We have before us a motion moved by Mr. Trew and amended by Mr. Gantefer. So I will open discussion on the amendment by Mr. Gantefer.

Mr. Gantefer: — Thank you, Madam Chairman. I think it . . . just following up on what was stated yesterday, I think it's important that the committee at the onset set the terms of

reference and how we're going to function, very carefully. Because it is very much going to set the tone for how we function throughout the coming weeks on this investigation.

And so I disagree with my hon. colleague from North Battleford, who just seems to want to get at the questions without having a proper terms of reference and a proper understanding of the nature of this global issue before we begin this all. And I am not nearly as confident as he seems to be that we're going to be able to make these adjustments as we go along, in a substantive way.

I believe that the people of Saskatchewan have clearly indicated to us through a number of vehicles, from the polls on this issue to conversations I'm sure each of us have had as members of the legislature and members of this committee, that they want to have . . . and really it's summed up in what the editorial in the *Leader-Post* said today, that voters are demanding a full accounting of this matter. And they go on to say that:

The NDP government must cooperate fully. That includes releasing legal documents pertaining to Channel Lake. And if requested, past and present senior government officials, including the premier, should appear before the committee and fully answer all questions.

We have heard from members opposite that that is their stated intention and I think it is important that this motion, which adds to the list that is before us the primary people that are of a very serious importance to the discussions and the investigation, should be added.

And so, Madam Chairman, I certainly ask all committee members to vote in favour of this amendment so that that list can be made as complete as possible in this initial instance.

The Chair: — Thank you, Mr. Gantefer.

Mr. Tchorzewski: — Madam Chair, my comments are going to be very brief because I am as desirous as I think most people on the committee that we get on with the important work that has been mandated to us by the Legislative Assembly to do.

I want to say very clearly at the outset, although it's on the record in *Hansard*, that the terms of reference for this committee were approved unanimously by all members of this committee after some discussion. Because it seemed at that time by all members — and I don't know why anybody would disagree today — that the terms of reference are certainly quite adequate and cover the issues that need to be considered in our deliberations.

I took the time last night, because of the discussion that took place here yesterday late in our proceedings, to examine the list of witnesses that were provided to this committee yesterday. And I looked at it again today. And the reason I did that is because I wanted to determine in my mind if they have the right people . . . if there are the right people on the list who should be able to provide the information and the facts surrounding the Channel Lake issue within the terms of reference that this committee approved yesterday.

It is clear that all of the key persons involved in decision

making, in the management, and other relevant questions that we need to consider, do appear on this list that was provided to us.

They include people like the former president and the chief executive officer of the Power Corporation; senior management for the Power Corporation; Mr. Portigal, and Mr. Drummond. Lawyers who provide opinions and waiver has been provided for solicitor-client privilege. The board of the Saskatchewan Power Corporation through the Chairs, who were Chairs at that period of time. Persons involved in determining if severance was or was not appropriate and if so, to what amount. And those who did an independent review of the Channel acquisition, management, and sale.

Madam Chair, those are all the kind of people that we need as a committee to hear from to determine the facts and put those facts to the light of day. That's our job. Those are the people I think who can do that for us.

Now if members of the committee have been and are still serious about getting the facts out, then we should get on to this as quickly as we can, and that should be as soon as we dispose of these motions.

I want to speak now to the calling of additional witnesses. We agreed yesterday in committee, and members of the opposition supported it, all of us did, that we would at the end of the initial call of witnesses, recall any witnesses who the evidence indicated we needed to examine again . . . (inaudible interjection) . . . If I may repeat it so that Mr. Heppner can hear.

We agreed that we would recall appropriate witnesses, depending on the evidence, which are required. And I think that's an appropriate procedure to follow. We also said, and the committee agreed, that if additional witnesses are needed to be called, based on the evidence, that they should also be called. And the committee at that time will make that determination.

Calling additional witnesses, Madam Chair, before all of the facts are determined will not serve a useful purpose until we know what the facts are. And we should not allow — and I say this not to get into political debate but a statement of fact of how the legislature operates — we should not allow the kinds of things that are appropriate and happen in the question period of the Legislative Assembly, to be carried over into this committee. That is not how a legislative committee is supposed to function.

All the questions that need to be asked of cabinet ministers in the legislature can be asked each and every day. And that opportunity is not taken away, because ministers can be answered in the legislature. And the same rules apply to ministers in the legislature as to witnesses here. If ministers do not answer the questions appropriately the legislature has a mechanism to deal with that.

And now, Madam Chair, I for one, and my colleagues, take this process very seriously. And that's why we have argued that this issue needs to be scrutinized and an inquiry carried out by a committee of the legislature. That's why we're here today, because the people of Saskatchewan expect no less.

If it is determined by the evidence given by witnesses who are on the list, and who we'll call, that additional witnesses, including the people that were listed in the motion presented yesterday, need to be called, this committee will call them and these people will appear. So I think what we're doing here right now is taking up time from the committee which would be better spent in asking the witnesses the questions that ought to be asked and determining what further witnesses we ought to be calling. And I am urging the committee therefore to act responsibly, defeat the amendment, approve the motion dealing with the agenda, and let's get on with our work.

The Chair: — I hear an indication from at least two parties in this process that they want to get on with the work but I do have a couple of members who've indicated they wish to speak first before I call for the vote on the proposed amendment by Mr. Gantefer.

So I will recognize Mr. Heppner and then Mr. Gantefer. I would ask both you gentlemen, please make your comments brief if you can. And again I want to caution all members of the committee it is imperative that we have these proceedings be conducted with respect and with decorum. So I would ask that we realize this is not question period in the legislature but rather this is a special hearing of the Crown Corporations Committee.

Mr. Heppner: — First of all, you're pontificating again, Madam Chairperson, but I'll defer to Mr. Gantefer for the comments.

Mr. Gantefer: — Thank you, Madam Chairman. Well we too are extremely serious about the full facts and truth of the matter surrounding Channel Lake and the severance payment to Mr. Jack Messer coming out into the light of day. That's why we all along have said it should be a full, independent public inquiry that isn't going to be dominated by an NDP Chairperson, an NDP counsel, and an NDP majority who are now sitting there very piously telling us, oh, if anything comes up that we feel is appropriate to look into, we will look into it.

And that's why the people of this province and this opposition is so very, very sceptical and so very, very worried that this is going to be nothing more than a very, very deliberate whitewashing of this affair, because we have no confidence that you are going to be as forthright as you claim to be. And in the final analysis, if indeed you look at the terms of reference and it says that it's to investigate all matters surrounding Channel Lake and the accountability of Mr. Jack Messer and the appropriateness of his severance package, then surely the whole issue of executive accountability is a critical issue here.

There is a critically important necessity to be interviewing these individuals that we've added as primary witnesses through our amendment to the motion that was proposed by yourself, Madam Chairman.

And so I just think it is ludicrous for the government members to suggest we, out of hand, defeat this and rely on the good graces of the majority NDP members that they are going to be willing to make these individuals and the documents that we expect from them to be brought forward at some later date. We think that this is absolutely inappropriate, and we are absolutely astonished that the government members opposite would even

consider voting against this amendment.

The Chair: — I have no further speakers. I will now put the amendment. All those in favour of the amendment by Mr. Gantefer please indicate. Mr. Hillson, Mr. Gantefer, Mr. Heppner.

All those opposed, please indicate. Mr. Trew . . . (inaudible interjection) . . . Excuse me. I am trying to take the vote.

A Member: — You don't want to hear a thing. You don't want to know anything. The very guy at the top of this whole organization of this province — you don't want to hear him. You don't want to hear.

The Chair: — Mr. Heppner, I am taking the vote right now. Will you please refrain from comments while I read into the record the persons voting against the amendment. All those opposed to the amendment, please indicate. Mr. Trew, Mr. Shillington, Mr. Tchorzewski, Mr. Thomson, and Mr. Kowalsky. Ms. Hamilton abstains.

That motion is defeated. We will now move to consideration of the main motion by Mr. Trew. Do I have any speakers?

Mr. Heppner: — The list as we have it now and what's left of the motion is an incomplete motion. It leaves out the key people that we need to see. It leaves out the key people in cabinet, it leaves out the key people responsible for the Crowns. It leaves out the very person that is at the head of all of that, which is the Premier, Roy Romanow, who needs to be here. And because that list is incomplete we'll have to vote against it.

The Chair: — Thank you, Mr. Heppner. Is there a call for the question? All those in favour of the main motion please indicate. Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, Mr. Thomson, Mr. Kowalsky.

All those opposed please indicate. Mr. Hillson, Mr. Gantefer, Mr. Heppner. That motion is carried.

We will now move to consideration of testimony from the witness, Mr. John Messer. If committee members will just give me a couple of moments please, I need to consult with the Clerk with respect to the question of the taking of the oath and I want to make sure that I do that properly right from the start.

So I will just have just about a five-minute break and then we will resume hearings of the committee with the taking of the testimony from Mr. John Messer. Thank you.

Mr. Gantefer: — We have some other motions to consider before we move to that stage, please.

The Chair: — Well, Mr. Gantefer, I've asked for a five-minute break. I would hope you would respect me in that, and then when we come back from the break I'll consider what you're saying.

Mr. Gantefer: — Thank you.

The committee recessed for a period of time.

The Chair: — Could all the hon. members please take their places. Before we resume our deliberations I would like to ask the cooperation of all people present in this room to first of all turn off your cell phones or put the ringers on mute if you could. I know that people probably want to maintain contact with the outside world but if you could try to it in an as unobtrusive a manner as possible it will help us in the conduct of the proceedings. And as well if we could keep the side bar conversations, both at the table and behind the table, to a minimum and definitely quiet, that would also help the committee.

Before we took a brief recess so that I could review the procedure for the administration of the oath, there was a request by Mr. Gantefer to put a few more motions, so I will now at this point recognize Mr. Gantefer . . . Oh, I'm sorry, the request came from Mr. Gantefer but it's Mr. Heppner who wishes to put the motion.

Mr. Heppner: — Okay, and I'll send that motion in that you said earlier on would be appropriate at this particular time, and I read it one more time:

That Mr. Ted Priel be immediately removed as legal counsel to the committee and replaced with an out-of-province lawyer approved by all members of the committee.

The Chair: — Thank you. Did you wish to speak to your motion, Mr. Heppner?

Mr. Heppner: — Very briefly. I think as I said earlier when we looked at the record and what's been happening, and we've already had it from the comment that we had from the government side, that it would be a political decision that involves the vote of this committee, will involve the vote at the legislature.

Government people, the NDP, intend to whitewash that and we need, in that kind of a situation which is already clearly stated by the government side, to have legal counsel that is impeccably independent. And even though he may feel that he can go ahead and provide independent counsel free of any other biases, I think it also has to be seen by that by the people of Saskatchewan, because they're watching right now, and I think that's as critical as any other statement that is out there.

The Chair: — Thank you, Mr. Heppner.

Mr. Hillson: — Madam Chair, I find it somewhat amusing that the demand is that we go out of the province. And also I suppose somewhat depressing that implicit in this motion is the belief that no lawyer in Saskatchewan is capable of acting with integrity.

However I also said amusing, and the reason I said amusing is because the reports that have been filed with us say that the government chose to go out of province to hire lawyers to do the Channel Lake deal, to one of the larger firms in Calgary.

The reports say that that guilt-edged firm in Calgary did not fulfil its retainer agreement; did not send copies of the deal, of the last draft of the deal, to the corporate solicitor for SaskPower.

And consequently, as I understand it, the fact that the trading losses were deducted a second time in the last draft was not caught, and the deal with signed.

You will recall, Madam Chair, that according to reports we have before us, the initial deal was that Channel Lake would be sold for 27 million less the trading losses, and that brought us to 21. And then at the last minute 21 became the gross price, and we simply deducted the trading losses all over again.

And this was done by some very prominent, high-priced lawyers in Calgary who, according to the reports filed with us, were under a retainer agreement requiring them to send copies of this agreement to corporate counsel in Saskatchewan. They didn't do this. Consequently the last minute switch was not found. The deal went through.

So I just don't share the enthusiasm of some of my colleagues that out-of-province lawyers will do it so much better and with so much more integrity than would be possible by in-province lawyers. And I happen to think that there are at least some lawyers in Saskatchewan who would be capable of advising us with impartiality, skill, and integrity.

I'd also like to say though that I think what has happened does underline that the suggestion of a steering committee is in order. And my earlier comments should certainly not be taken as indicating that I'm satisfied with the witness list before us. I am not. The witness list is inadequate. And to simply be informed that well, this is the lawyer, this is the witness list, is not helpful. There should be a steering committee in which things are vetted by the various parties participating in this procedure.

Having said that, well I certainly was not consulted on the matter of the selection of our committee counsel. I know Mr. Priel to be a man of integrity and I know that he will take his responsibilities seriously. And I find it distasteful and offensive that his integrity has been called into question this morning, and indeed I say the integrity of every single solitary lawyer in Saskatchewan, together with the apparent belief that lawyers in Calgary have more skill and more integrity than lawyers in Saskatchewan. Something I simply do not accept, and want that on the record that I don't accept that for one moment.

But I would ask, Madam Chair, to revisit the suggestion of a steering committee. I think that that suggestion also would hopefully get some of these issues out of this forum so they could be discussed before we come to committee in the morning. And then hopefully when we come to committee in the morning we could come ready to do our work rather than ready to sort of stage little games and plays designed to prove that this forum can't work, and we're sort of setting the stage to stomp out and say, I told you this would be a failure. I told you this wouldn't work. I told you there would be no integrity in this process, and now I've proven it so now I'm leaving. That's all that's going on here. Why not do it now rather than put us through a week or two of torture. Thank you.

The Chair: — Thank you, Mr. Hillson.

Mr. Tchorzewski: — Thank you, Madam Chair. My comments will be brief because once again I think it's in the public interest and in the interest of witnesses who are waiting and witnesses

who are yet to come, to get on with the work of the committee.

I find it somewhat ironic — maybe not ironic; there might be stronger words that one could put into it — that the official opposition had an opportunity to send this to a committee which the official opposition chairs. They refused to do that, and I think that's an important point to be emphasized.

Now we have another committee which is equally qualified to handle this inquiry, and the opposition seems to be, official opposition, seems to be trying to create a situation where this committee won't be able to do its work.

I assure you, Madam Chair, we intend to make it work. But I think that this is an exercise which exposes something very important, and that is, exposes that the official opposition really is not interested in an inquiry of any kind. They're interested in only the political . . . the politics of this thing, and that's understandable in political parties.

But even political parties sometimes have to rise above that when there's a very important issue that we have to consider other . . .

The Chair: — Excuse me, Mr. Tchorzewski. Mr. Heppner, please stop interrupting. Mr. Tchorzewski, I have allowed committee members a fair amount of latitude with respect to the motion but I would ask you that you would focus on and speak directly to the motion, that being:

That Mr. Ted Priel be immediately removed as legal counsel to the committee and replaced with an out-of-province lawyer approved by all members of the committee.

Mr. Tchorzewski: — I was just about to do that, Madam Chair. I want to also speak to something that has been mentioned here earlier about other legal firms. I think it is not appropriate for the committee to predetermine the reasons why things were done by any of the witnesses or the Power Corporation before we hear the witnesses.

Mr. Hillson speaks of a firm from Calgary. There may be reasons. There may not be reasons but I think it's . . . I'm not . . . I think it's not in our interest to predetermine reasons and that's why we need to call the witnesses. And let's get on with it. That's why we have appointed a perfectly qualified legal counsel to the committee who I don't need to comment further on. I've already put that on the record. And I think we should get on with it and defeat the motion, and get on with the work.

The Chair: — Thank you. Mr. Heppner, you had indicated . . .

Mr. Heppner: — Pass.

The Chair: — Okay.

Mr. Hillson: — I do have just one very brief one. The comments I made by the Calgary law firm are not my comments. I'm quoting what's in the report. The report said they didn't fulfil their retainer agreement. Those are not my words. Those are the words of both reports before us.

The Chair: — Thank you, Mr. Hillson. I will now put the motion. The motion reads:

That Mr. Ted Priel be immediately removed as legal counsel to the committee and replaced with an out-of-province lawyer approved by all members of the committee.

All those in favour please indicate. Mr. Heppner, Mr. Gantefer. All those opposed please indicate. Mr. Hillson, Mr. Trew, Ms. Hamilton, Mr. Shillington, Mr. Tchorzewski, Mr. Thomson, Mr. Kowalsky. That motion is defeated.

Do you have other motions, Mr. Gantefer?

Mr. Gantefer: — Yes I do. Firstly I would like to move a motion that I believe may be a simple oversight. In my possession is a copy of a letter addressed to yourself, Madam Chair, from the Provincial Auditor that is asking for clarification on the auditor's role and involvement with this committee. And I suggest it may well be an oversight in terms of having the Provincial Auditor instead as serving as an adviser to this committee, because I think it's very appropriate that he would serve as an adviser, because included in the terms of reference is the discussion of his 1997 fall report. And this whole matter has been moved to the Committee of Crown Corporations from the Public Accounts Committee, where, as you know, it is a routine involvement.

So I would like to move a motion:

That the Provincial Auditor be asked to attend the Crown Corporations Committee's deliberations as an adviser on all matters related to the current investigation on SaskPower and Channel Lake.

I so move, Madam Chair.

The Chair: — I have the motion. Do I have committee members who wish to speak to this motion?

Mr. Kowalsky: — Could you repeat the motion, Madam Chair?

The Chair: —

That the Provincial Auditor be asked to attend the Crown Corporations Committee's deliberations as an adviser on all matters related to the current investigation on SaskPower and Channel Lake.

Mr. Kowalsky: — Just for purposes of clarification, Madam Chair, I would need advice on what the meaning of what the role would be as an adviser. Would that mean that Mr. Auditor would sit at the table? Would it mean that Mr. Auditor would be answering to the . . . serving as an adviser to the Chair of the committee or to any member of this committee, for purpose of clarification?

The Chair: — Mr. Gantefer, would you clarify what you mean by an adviser please?

Mr. Gantefer: — If I could respond to that, yes indeed I mean

that the Provincial Auditor would sit at the table and who would be available to answer questions from committee members if we needed clarification or explanation of the financial implications of some of these issues, that he would then be available to us as an adviser to the whole committee. And I think that's much more of an appropriate role than simply as a witness, that he would be here as a member of course throughout our total deliberations.

The Chair: — If I may interject, and I do this with some caution, I would point out to the committee members that the Crown Corporations Committee is not the same as the Public Accounts Committee.

What we do have now is in essence a blended membership in this committee because we have some members from the Public Accounts Committee — Mr. Gantefer, Mr. Hillson, Mr. Tchorzewski, Mr. Thomson — and some members who are customarily members of the Crown Corporations Committee. So if the committee members will allow me, I would like to indicate what the role has been of the auditor to the Crown Corporations Committee in the past. Is that all right?

I will then . . . The auditor has traditionally come to the Crown Corporations Committee to comment upon the audited financial statements of the annual reports. He has not served as an adviser to the Crown Corporations Committee. He has not sat at the head table with the Chair and the other officials. He has traditionally sat over on the north side but has customarily come to all meetings and remained throughout the meetings.

But his role has been similar to the private auditing firms who also do attend the committee meetings and do answer questions put to them by the committee members and do make comment and suggestions if committee members ask it.

I would also point out to the committee members that we do have an approved motion with a list of witnesses. One of the witnesses that we have approved is the Provincial Auditor. I did ask the special adviser to the committee, Mr. Ted Priel, about this issue of the role of the Provincial Auditor and I would ask him now to make a comment.

Mr. Priel: — Well as I read your motion, the motion would have the Provincial Auditor attend this committee's deliberations to provide advice on financial matters. And I can understand that somewhere along the way the committee may need some advice on financial matters, so that there's some logic to your suggestion that the committee have some.

But for an individual to be a witness and to also take part in the deliberations with respect to the evidence that he contributed to as a witness, I think would be inappropriate.

The Chair: — Committee members have now heard from both the Chair and the special adviser to the committee on this matter. I'll put the question. All those in favour of the motion please indicate. I'm sorry, I didn't see any hands up.

Mr. Tchorzewski: — I was going to ask that question about the conflict between being a witness and an adviser, and I think legal counsel has pointed that out. Although I have no objection from the auditor being asked from time to time, I think we need

to be very cognizant of that. It puts officials and the committee in some difficulty. And it seems to me that the way it is proposed does not take away from the fact that we can get our work done but it's probably the better way — the way it was originally proposed.

The Chair: — And in fairness, I should also point out that I've had some discussion with the Provincial Auditor and he is also extremely concerned about his role because this could be seen as precedent establishing. The auditor is concerned about what happens when committee members ask questions of him and his answers are not on the record. So committee members may wish to consider that matter, and consider if you want to, for instance, ensure that all questions that are asked of him are always on the record.

Mr. Hillson: — Madam Chair, I think it has been agreed by everyone here that in effect this is a meeting of the Public Accounts Committee. I mean you yourself have said you have called this committee together for one and only one reason, namely that the official opposition refused to call Public Accounts into session. So even you are on record as saying this should be done in Public Accounts. So there is no dispute by anybody here around this table that this is properly Public Accounts.

In Public Accounts we have the Provincial Auditor sitting with us to give us technical advice. I would submit that technical advice in the area of the accounts and the audits is at least as important and valuable as technical advice in the legal area. And well, I would concur obviously that the auditor could not give us technical advice in areas to which he himself is testifying to and which he will be giving testimony on.

I don't think that precludes him from providing the normal support services to this committee that he supplies to the Public Accounts Committee. And as I say, I take it as common ground by everyone here that, in effect, this is the Public Accounts Committee by a different name. We should be in Public Accounts; we had to change the name in order to get the committee called. That's what you said, Madam Chair, and so I think this is something we need.

The Chair: — Do I have any further comments, Mr. Gantefer?

Mr. Gantefer: — I would just ... (inaudible) ... to the member opposite indicating he wants to go first.

The Chair: — Mr. Shillington, then Mr. Kowalsky has also indicated.

Hon. Mr. Shillington: — I think all members of the committee, we agree we'd be very foolish not to avail ourselves of Mr. Strelloff's advice and assistance where it is appropriate to receive it. This is a little unusual though.

Mr. Strelloff is an officer of the legislature; he's not just another ordinary witness. And when he appears as a witness, the members will have to be very circumspect in the line of questioning, just remembering he is a legislative officer. I can only repeat what I think counsel said so well, and that is that since he is a witness, and we've agreed upon that, his role as an

adviser will have to be treated accordingly. And I think the comments by counsel are appropriate and we should proceed in that fashion.

Mr. Kowalsky: — I pass on the motion.

Mr. Gantefer: — Yes, thank you, Madam Chairman. I don't want to belabour this but I am a little bit disturbed actually that we are calling the auditor as a witness rather than as an ongoing adviser to the committee. I think that the intent was so that we would be able to access the information that the Provincial Auditor had, and I think that talking to the comments made by the advisers, the solicitor adviser, that there is some conflict between being an adviser to the committee and at the same time being asked to be a witness.

I would certainly entertain a friendly amendment that would remove the Provincial Auditor from the witness list in order that he would then be able to be on this committee as a full-term adviser, if you like, because that would then allow committee members at any appropriate juncture in the discussion or deliberations to ask the advice and get the information that the Provincial Auditor would be prepared to give us as an officer of the legislature, and I think that that's a more appropriate relationship to have with the Provincial Auditor.

I'm a little uncomfortable about this committee calling him as a witness and not recognizing his proper responsibility of an officer of the legislature, in an impartial way, to provide the information that is requested by any committee members through the course of the deliberations. So I would entertain that amendment, which may clarify the dilemma.

Mr. Tchorzewski: — Madam Chair, I think Mr. Gantefer raises an interesting point, and there is some merit in what he says. But the fact that there are a number of people involved in making reports on the issue of Channel Lake, I think requires them to call them as witnesses. This is not in any way a reflection on the Provincial Auditor. In fact I think if anything it enhances the role of the auditor by providing an opportunity for the auditor to present his report here and speak to it. Which I think ... It is required that that be part of the record of the inquiry and it's an important part of the record of the inquiry. So I think the Provincial Auditor needs to be a witness like everybody else, on this particular issue.

Mr. Priel: — The only other comment that I have is to reiterate what I said before. I can understand the comments that — I'm not sure which of you gentlemen made — that the committee may need some assistance and explanation of the financial implications of all of this and that in the normal course of events you would go to the Provincial Auditor for that.

But so long as the Provincial Auditor is a witness, it puts him in an impossible position in terms of being a witness and being an adviser. Because at that point he would be before you saying, well didn't you hear me when I testified to this fact over here. And that puts him in a very difficult position — almost an impossible position.

But I think that that isn't the only solution. Perhaps you can get the advice from a source other than the Provincial Auditor or perhaps the evidence that the Provincial Auditor was to provide

can go in by consent. I don't know. That's something that the parties could speak about if there was, for example, a steering committee, because I think that that might be a reasonable approach also.

The Chair: — Well I'm in the committee's hands on this. The question's been called. All those in favour of the motion please indicate. Mr. Heppner, Mr. Gantefer, Mr. Hillson. All those opposed please indicate. Mr. Kowalsky, Mr. Thomson, Mr. Tchorzewski, Mr. Shillington, Ms. Hamilton, Mr. Trew.

The motion is defeated. Do you have further motions, Mr. Gantefer.

Mr. Gantefer: — Yes I do, Madam Chair, if I may. I'll try to do these very quickly so that we can move forward.

I would like to move . . . and they relate primarily in the first instance to documents that I believe are absolutely critical that get moved forward onto the agenda so that we have them in our possession in order to be preparing for future testimony.

And the motion is:

That the Hon. Roy Romanow, Premier of Saskatchewan, present to the committee the following documents not later than April 7, 1998.

And I'll read them, Madam Chair, and I would be happy if that's sufficient, into the record.

1. List of all lawyers and law firms consulted by Premier Romanow and/or any member of the Executive Council staff regarding the purchase, operation, and sale of Channel Lake Petroleum.
2. List of all lawyers and law firms consulted by Premier Romanow and/or any member of the Executive Council staff regarding the termination of former SaskPower President Jack Messer.
3. List of all lawyers and law firms consulted by Premier Romanow and/or any member of the Executive Council staff regarding the payment of severance to former SaskPower President Jack Messer.
4. All legal opinions and reports prepared by the lawyers and law firms indicated in item 1, 2, and 3 above regarding the purchase, operation, and sale of Channel Lake Petroleum, the termination of Jack Messer as president of SaskPower, and the payment of severance to Jack Messer.
5. All briefing notes prepared for Premier Romanow by any lawyers and law firms identified in 1, 2, or 3 above, Executive Council staff, Crown Investments Corporation staff, SaskPower staff, and Channel Lake staff regarding the purchase, operation, and sale of Channel Lake Petroleum, the termination of Jack Messer as president of SaskPower, and the payment of severance to Jack Messer.
6. All memoranda and any other correspondence between Premier Romanow and any lawyers and law firms identified in 1, 2, and 3 above, Executive Council staff,

Crown Investments Corporation staff, SaskPower staff, or Channel Lake staff regarding the purchase, operation, and sale of Channel Lake Petroleum, the termination of Jack Messer as president of SaskPower, and the payment of severance to Jack Messer.

7. List all Saskatchewan Justice lawyers consulted by Premier Romanow and/or any other member of the Executive Council staff, Crown Investments Corporation staff, SaskPower staff, or Channel Lake staff regarding the purchase, operation, and sale of Channel Lake Petroleum, the termination of Jack Messer as president of SaskPower, and/or the payment of severance to Jack Messer.

8. All memoranda, briefing notes, legal opinions and reports provided by Premier Romanow and/or any member of the Executive Council staff, Crown Investments Corporation staff, SaskPower staff, or Channel Lake Petroleum staff by lawyers identified in 7 above regarding the purchase, operation, and sale of Channel Lake Petroleum, the termination of Jack Messer as president of SaskPower, and the payment of severance to Jack Messer.

9. All documentation provided by SaskPower and the Crown Investments Corporation identified on page 4 of the March 9 Deloitte & Touche report to CIC on the Channel Lake experience.

10. All SaskPower board minutes, Channel Lake board minutes, and the April SaskPower audit and finance committee board minutes, and documentation identified on page 20 of the March 9 Deloitte & Touche report to CIC regarding Channel Lake Petroleum; any other SaskPower or Channel Lake board minutes and documentation regarding any aspect of the purchase, operation, and sale of Channel Lake Petroleum; the performance of Jack Messer and/or Lawrence Portigal; the termination of Jack Messer and/or Lawrence Portigal; and the payment of severance to Jack Messer.

11. Copy of all three drafts of the Channel Lake sale agreement and all supporting documentation.

12. All memoranda and correspondence of any kind sent or received by Premier Roy Romanow and any member of Executive Council staff regarding the purchase, management, and sale of Channel Lake Petroleum by SaskPower, the termination of Jack Messer as SaskPower president and subsequent payment of severance to Jack Messer.

I so move, Madam Chairman.

The Chair: — Thank you, Mr. Gantefer. It's a fairly lengthy motion. I do appreciate that it is all written out.

And I would at this time indicate to members of the committee that Mr. Gantefer has very graciously provided me with copies not only of this motion, but of all motions that he intends to put this morning. With your permission, Mr. Gantefer, may I distribute all those motions so we can expedite matters?

Mr. Thomson: — Well I think we should read it again.

The Chair: — Mr. Thomson, that's a gratuitous comment not required.

Mr. Hillson: — Madam Chair, I think now we know where he got that eye from.

The Chair: — Mr. Hillson, that's also a gratuitous comment not required.

I would ask the Clerk to distribute then copies of the motion just read into the record, as well as all additional motions that Mr. Gantefer intends to put this morning.

Mr. Gantefer: — The last one, Madam Chair, is an addition.

The Chair: — Yes. And I would point out to the committee members, there is an addition on that. Just in case people didn't hear it, because it won't be on your written copy, I'm going to read it out again for the record:

12. All memoranda and correspondence of any kind sent or received by Premier Roy Romanow and any member of Executive Council staff regarding the purchase, management, and sale of Channel Lake Petroleum by SaskPower, the termination of Jack Messer as SaskPower president, subsequent payment of severance to Jack Messer.

So we have a motion before us. Mr. Gantefer, did you wish to speak briefly to your motion? Right. Do I have any requests from any members of the committee to speak to this?

Hon. Mr. Shillington: — Just a question of Mr. Gantefer through the Chair. We're dealing with the resolution which is on the top of the pile that was just distributed?

The Chair: — That's correct. It's the first one.

Hon. Mr. Shillington: — That's correct. Okay.

The Chair: — So if committee members would like to take a moment and review it.

Mr. Tchorzewski: — Madam Chair, I heard the motion, and some of this has been around for some time. My only comment is that I believe we dealt with this yesterday and the committee agreed on the process. We dealt with a motion, for example, dealing with ministers being compelled to provide information requested by the committee and they would not be able to use reasons such as grounds of commercial sensitivity or confidential agreements and so on.

We also by that, and in the discussions, agreed that we would be able to request of witnesses, since witnesses own the documentation before us, for any documentation the committee requires. Much of what Mr. Gantefer in his motion says can be requested of any minister. We have not decided that at some point in time we may not call the Premier. And I think when the witnesses appear, this is when we should be requesting this information.

And therefore, although the motion is not out of order, it's close to being out of order because of yesterday's decisions. And

once again I think we should dispose of this motion and get on with the work of the committee.

The Chair: — Again, at the risk of being accused of being impartial, I will point out that this is a question of timing. Mr. Gantefer's motion, I believe deals substantively with wanting the documents now rather than later. He would like the documents to be delivered by April 7. And that I think, is the issue that committee members should focus on and deliberate about.

Mr. Gantefer: — Yes, I think that's exactly it. I mean, number one, this morning you voted against the fact that we could call these additional witnesses and we're supposed to rely on your good graces. And now what we're saying is this information that would have been asked of these witnesses is important for us to have in our possession at this time or by a reasonable length of time. And that's why the date of April 7, so that the documents can be reviewed and so that the implications of the information in those documents can be used to prepare lines of questioning and to indeed make the case wherefore witnesses would be asked to testify.

It's just impossible to launch an effective line of questioning to witnesses if the information is put on the table five minutes before the meeting starts. And I think that this is something that all members of the committee would find as important documentation in order to prepare their lines of questioning to all witnesses.

The Chair: — Thank you very much, Mr. Gantefer.

Mr. Tchorzewski: — That's precisely why we have reserved the right to recall witnesses. I think we need to question the witnesses. We need to ask them to provide the documents. If there is any of the information that needs further questioning, we can recall and will recall the witnesses.

The Chair: — Thank you . . . (inaudible interjection) . . . I hear the question being put. All those in favour of the motion by Mr. Gantefer please indicate: Mr. Hillson, Mr. Gantefer, Mr. Heppner.

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

Your second motion now, Mr. . . . I guess this would be motion number three?

Mr. Gantefer: — Thank you, Madam Chairman, I will make this much briefer. I move:

That Hon. Dwain Lingenfelter, Deputy Premier of Saskatchewan, present to the committee the following documents no later than April 7, 1998.

And the documentation is listed. I so move.

The Chair: — Thank you very much. All right, we have a motion by Mr. Gantefer respecting a request to have the Hon. Dwain Lingenfelter table certain documents no later than April 7 for the purposes of preparation by the committee members.

Does any committee member wish to speak to this?

Mr. Priel: — Madam Chair, if I might just very briefly offer a comment to you as counsel. It seems to me as though if the process is going to proceed in a reasonable fashion and in a fashion that's going to produce the best results, the people that are asking the questions ought to have the documents ahead of time so that the questions can be prepared so that the thing flows reasonably.

I would hope that reasonable requests for documentation would be met with a positive response, provided the documents are relevant. And I think that relevancy has got to be the test of it.

Earlier I suggested that a steering committee — and I know that Mr. Hillson raised this a couple of times — might be a reasonable approach. It indeed might be because some of these issues could be sorted out perhaps through the steering committee. And if they weren't adequately sorted out in the steering committee, they could be dealt with at the table here. I leave that to you people, however, to deal with.

The Chair: — Thank you, Mr. Priel.

Hon. Mr. Shillington: — It seems inevitable we need to try and arrange some process for agreeing upon documents in advance. Mr. Priel's comments seem self-evident so that some documents you need ahead of time is going to be . . . to do the questioning. On the other hand this list at first blush seems to me to be in excess of what you'd need to prepare the documents, and we need a process by which we can agree upon the documents which we need ahead of time. A steering committee has been suggested that didn't appeal to you yesterday very much. So perhaps we might hear from you what process you think might be appropriate in trying to agree upon a list which should be reasonable.

The Chair: — Again I have a plethora of advisers and I appreciate them all. I'm getting conflicting advice here because there is a motion on the floor. But if committee members feel all right, I will allow a deviation from that so we can discuss, so we can move to a problem-solving mode to see if we can facilitate the committee member's legitimate requests for relevant information. So I will hear from Mr. Heppner.

Mr. Heppner: — Okay, first of all I think we need this information. The list does seem long. If we knew what was in all of those documents, we could have already eliminated which ones we needed and not needed. But I think knowing or having a fairly good idea where this committee is going to go and the questions that we're going to want to ask and the directions we want to go, we need those particular specific ones there, and there's nothing there that happens to be tedious or frivolous.

True, one or two of those may not actually have some information, but we don't know that so we need to have those. It is imperative that we have those well ahead of time. There's no way we can get those after the witness has been here and then keep going around in circles. And we'll be here until next Christmas and a lot later if we can't get those documents and prepare the questions and say we've put those sorts of things to rest.

On the matter of the steering committee when I brought that up originally yesterday, I think it's still a good idea. But I think we have to make sure that steering committee doesn't end up being a behind-closed-door meeting and is just a carry-on of the politics that happens in the House, happens in this committee, and then happens over there again. We've just done the same thing except then behind closed doors.

The Chair: — I appreciate your comment, Mr. Heppner.

Hon. Mr. Shillington: — Yes, we're partially conceding the point here, just trying to find a mechanism by which this can be done. It seems to me to be imminently sensible that a representative of each caucus together with the chairperson and the council, who I think can advise us with documents, are reasonable to request in advance and which ones might be obtained from the witnesses when they leave. It seems to me a steering committee is obviously needed. The list here is very extensive and some of these I would wonder why you need them in advance. It seems to me a steering committee is obviously needed here.

I say to members opposite, in the spirit of cooperation, if we want to make the committee work, if we want to make the committee work, I think we'll agree to a steering committee. If we want to try to make the committee dysfunctional as was done with Public Accounts, then a different procedure may appeal to you. But if you want to make the committee work, I think you'll agree to a steering committee.

The Chair: — Thank you.

Mr. Gantefer: — Yes, Madam Chairman. Thank you very much. I acknowledge that the list is extensive and comprehensive, and I have every confidence that on review of the documentation it may well turn out that the vast majority of the documents indeed do not have relevant information in them.

But the problem for any of us who are trying to get to the bottom of this whole issue is you can't know ahead of time which are the relative documents or not because you haven't had an opportunity to review and scrutinize them.

So by the very nature of this type of investigation, it is quite consistent with asking for a comprehensive list of documents that may indeed show a great deal of relevance and linkage to the issues that are before us and witnesses that are going to be called. I think that that would be very standard in any other legal investigation that a comprehensive list of documents would certainly be asked for and requested. And I think that what we're doing is nothing out of the ordinary in that nature.

If you could identify to us beforehand which documents have relevant information in it, well then we could shorten the list. But I think that's impossible to do and therefore the comprehensive nature of the list. And we certainly do not apologize for that. And rather than sit here and say, well this should go to a steering committee, just support the motion and then the documents will be on the table for the committee to review. I mean, then the issue is over.

The Chair: — You pointed out to me that if documents are broadly relevant, then for the purposes for a full, fair, frank,

open inquiry — which is what I stated yesterday is what I intend to conduct — if documents are broadly relevant, then they ought to be available to the committee members to review ahead of time.

So I will now call the vote. In the absence . . . I see there's one more member who wishes to speak on . . . two more members who wish to speak on this. I have given you a ruling so I would ask you to keep your comments brief and then we'll deal with the motion.

Mr. Tchorzewski: — I will. And once again, as my colleague indicated, we want to make this work as best as we can. And I think once we dispose of this motion I want to serve notice, whenever it's appropriate, we will be putting a motion that we structure a steering committee to make that determination so that those documents can be available ahead of time so that any members on any side of the table can do the appropriate preparation.

The Chair: — Thank you.

Mr. Heppner: — Very briefly. Government side of the House just said that they wanted a steering committee to have some special advice given to it as to which documents are relevant or not. That is a pure and simple whitewash. We all know it.

If you want to make this committee work, you present these documents, you pass this motion, and this committee will work. We'll work. We'll have all the information. There'll be no other hassles.

The Chair: — Thank you. Does anyone else wish to speak on this motion? I will now put the question on the motion by Mr. Gantefer:

That the Hon. Dwain Lingenfelter present to the committee the following documents no later than April 7, 1998.

Committee members have the list of them in hand, so I won't read them out.

All those in favour of the motion, please indicate. Mr. Heppner, Mr. Gantefer, Mr. Hillson.

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

A Member: — That's . . . (inaudible) . . . legal counsel.

Mr. Priel: — I think, Mr. Heppner, that I am counsel to the committee, not to any particular side.

Hon. Mr. Shillington: — I would move:

That a steering committee be established . . .

This is obviously . . . I'm obviously . . .

The Chair: — Excuse me. There's a fair amount of background noise in the room so . . . I know it's tempting to discuss the proceedings, but could we please observe them.

Hon. Mr. Shillington: — This is not the product of long thought as members will appreciate, so I'm open to friendly amendments:

That a steering committee be established consisting of a representative from each of the three parties: the chairperson, the co-chairperson, and counsel to the committee, to establish the list of documents witnesses will supply in advance in order that members may properly prepare for these hearings.

I so move.

The Chair: — You have before you a motion establishing a five-member committee — one staff person and the Chair, plus three others . . . three other members.

Hon. Mr. Shillington: — If I can just speak to it. I hadn't actually intended that the counsel would be a member of the steering committee, but an adviser to the steering committee. And I think this motion is not in that sense perhaps perfectly worded.

The Chair: — Would you like to redraft it then, Mr. Shillington, before we start debating?

Hon. Mr. Shillington: —

That a steering committee be established consisting of a representative from each of the three parties: the chairperson, the co-chairperson, who with the assistance of counsel will establish . . .

The Chair: — Mr. Shillington, I . . .

Hon. Mr. Shillington: — My calligraphy is . . .

The Chair: — I wasn't even going to comment on that. You're a lawyer, not a doctor. It's fairly legible.

Hon. Mr. Shillington: — Well I appreciate that.

The Chair: — I would ask you though to indicate, if you've thought this through, to indicate to the Chair and to the other members of the committee what you envision the role of the Chair as being. Committee members will note that I have not been voting on motions, and I do feel that my function in my considered attempt, though not totally successful attempt, to be non-partisan, that my function is to be impartial and to act solely as a tie-breaker if that's required.

So I would like to know what you envision the role of the Chair being with respect to this steering committee.

Hon. Mr. Shillington: — Well I had envisioned you'd part of the steering committee. I don't know how the steering committee would function in your absence, quite frankly. So I had envisioned you'd be part of the steering committee. I would hope the steering committee would be able to operate on some sort of a basis of consensus. I would hope it's not just a further forum for wrangling.

Again the basic question is whether members of the committee

want this thing to function. It is obviously possible to I think render it dysfunctional. I am hoping the steering committee will meet, will be able to agree upon a list of documents. We're going to have the recommendation of counsel as to what's appropriate. And I would hope it would work without being deadlocked. If the committee's gridlocked then we may not have accomplished very much.

But I'm moving the motion in the assumption that members will be able to cooperate and agree upon a list.

The Chair: — And does your motion . . . are you intent on having . . . As I read it, you are asking for two members from the New Democratic Party, one from the Liberals, and one from the Saskatchewan Party. I thought from the nature of the earlier discussion that the desire was to have a representative from each party.

Hon. Mr. Shillington: — Well it struck me as appropriate that the Co-Chair be present.

The Chair: — Pardon me?

Hon. Mr. Shillington: — It struck me as appropriate that the Co-Chair be present for the hearings. And I didn't . . . (inaudible) . . . in the motion whether or not the committee would operate by majority vote or by consensus. I just had hoped the thing would work. If it's going to be a further forum for the sort of, I think, very stale discussions we've had here this morning, then it's not going to work very well. But I had hoped that . . . (inaudible interjection) . . . I have the floor, Madam Chairman. I would hope the committee would work in a spirit of consensus and cooperation.

The Chair: — Well again, in the spirit of consensus and cooperation — I will recognize you in a moment, Mr. Gantefer — I would suggest, and this is again the Chair trying to get these proceedings on the go, it would be easier for me if there were only one representative from each political party forming the steering committee to discuss with the Chair, with the legal counsel as adviser, and the Clerk providing administrative assistance. And that simply is my point of view that it should be one representative from each political party, not an imbalance. If you wish to make a friendly amendment, I certainly would accept that.

Mr. Gantefer has a friendly amendment that he wishes to make.

Mr. Gantefer: — I think in the spirit of what has been discussed, there certainly is a great deal of nervousness that the way the motion is worded that what we would do is move from a government dominated committee to a government dominated steering committee. And I would like to suggest a way around this because I think the point of the involvement of the Chair and Vice-Chair to sit on that committee is a valid one. And I would suggest an amendment that would read something as follows:

That voting on the steering committee be restricted to the three party representatives.

That would then allow for the chairman to participate in the

discussion and the planning, which I think is appropriate, and with the assistance of the Vice-Chair, but when it comes to the actual voting, it be done by the three party representatives as indicated in your committee format.

I understand from your motion, and correct me if I'm wrong, that this committee as proposed would be a committee of five individuals — three party representatives, the Chair and Vice-Chair, which again is a concern. If all five vote, again it is a government-controlled majority. My amendment would solve that in that all five individuals would still participate in the discussions and the deliberations as appropriate, but if it comes to a vote then the three party representatives would cast those three votes.

The Chair: — I'd like to ask Mr. Priel to comment on this.

Mr. Priel: — What I would see as my role in this committee, if indeed you establish it, is to give you some advice on the relevancy of these documents. And if they are broadly relevant . . . I mean a document in a lawsuit, documents may be required to be disclosed, and in the final analysis may not make it into evidence as being relevant at a trial. But none the less they ought to be disclosed because they are broadly relevant.

The Chair: — So we have before us a friendly amendment that would establish the committee membership at five, but basically leave the three parties able to decide things without the participation in actual votes of the Chair and Vice-Chair. Steering committees do traditionally function by consensus rather than votes. But I hear your amendment, Mr. Gantefer, and if you feel comfortable with a five-person committee and you feel that that motion will manage it, I accept your amendment and I would ask if any members of the larger committee have any comments before I put the motion.

Hon. Mr. Shillington: — I think on that basis we can agree to it. As I think this thing through, the steering committee in effect brings back a recommendation to the committee. That's really its function. And on that basis I guess it would have to operate by consensus or it wouldn't be very effective. On that basis, I think it's . . . on that basis, I think we could agree to it.

The Chair: — And again at the risk of making unnecessary comments, I hope all committee members realize that I will be functioning in that steering committee in an impartial role as well.

I have an amendment by Mr. Gantefer:

That voting on the steering committee be restricted to the three party representatives.

All those in favour, please indicate. That's passed unanimously.

I will now put the motion by Mr. Shillington on the establishment of a steering committee as amended. All those in favour, please indicate. Down. That's passed unanimously.

Mr. Gantefer, in light of the fact that we've now established a steering committee, would you review your outstanding motions and see if it's necessary to put them or if we could now move to hearing testimony from Mr. Messer.

Mr. Gantefer: — Madam Chairman, I think the majority of them indeed could be referred to the steering committee. I think though, there are two motions that I would like to move, particularly because we are going to move to the testimony of Mr. Messer, is that the motion regarding Mr. Messer himself:

That Mr. Jack Messer, former President of SaskPower, present to the Committee the following documents:

And the list is relatively short at this stage.

But if you think that it is appropriate to refer that to the steering committee, if that will be convened in the very near future, I am prepared to leave that to the steering committee.

The Chair: — It will be convened at the earliest opportunity, today or tomorrow. I would suggest that it's probably not fair to Mr. Messer because we obviously didn't ask him to come with documents today.

Mr. Gantefer: — Madam Chair, I am prepared to leave that decision making with the steering committee as recently constituted.

The Chair: — Thank you very much. We will then move to hearing testimony from Mr. Messer.

Hon. Mr. Shillington: — Did you intend to call a coffee break or something this morning?

The Chair: — I am going to have a five-minute break, but I only want it to be five minutes because we have to ensure that Mr. Messer has an adequate time to testify before the committee today. If there isn't a full hour for him to testify, I would suggest it would be unfair and we should simply adjourn right now. So I ask people's cooperation — be back here in five minutes, and no later.

The committee recessed for a period of time.

The Chair: — Proceed with the taking of testimony from the first witness. I'm going to remind committee members again that we will rotate the speaking order. Thirty minutes from each side, starting with the opposition party, then moving to the Liberal Party, then to the government party.

The hour of adjournment is meant to be 12 o'clock. That will mean that the government will not be able to question Mr. Messer today. Before I proceed with that, I would like some assurance that all committee members are agreeable to that. Otherwise I will entertain a motion to extend the hour of sitting of this committee to quarter to 1.

Mr. Tchorzewski: — Just follow the procedure.

The Chair: — We'll follow the procedure. We will adjourn around ... it will be slightly after 12 noon, with the committee's concurrence.

I will then proceed with reading the statement to the witness so that he is aware of the full implications of testifying before this committee, and then I will administer the oath.

Mr. Messer:

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 a 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 any 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.

Mr. Messer, did you wish to swear or to affirm?

Mr. Messer: — I'll swear.

The Chair: — Put that in your right hand. Do you swear that the evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Messer: — I do.

The Chair: — Thank you.

Committee members will be aware that we have adopted a procedure that allows a witness to make a brief opening statement. Before I ask you to make your opening statement, Mr. Messer, will you please introduce yourself and any persons accompanying you at the table. And will you please be aware that the committee has decided that it is the witness only that answers questions, and not any advisers that you may have present with you.

Mr. Messer: — Thank you very much, Madam Chairperson. I'll introduce counsel, Mr. Michael Milani, and I'll let him introduce his associate.

Mr. Milani: — Thank you, Mr. Messer. Madam Chair, my name is Michael Milani. I'm a partner with the McDougall Ready law firm in Regina. I'm here today with my associate, Ms. Erin Kleisinger.

The Chair: — Thank you. Mr. Messer, will you proceed with your opening statement.

Mr. Messer: — Thank you.

The Chair: — Excuse me, we do have copies of that here.

Mr. Messer: — Yes, you do.

The Chair: — I will ask the Clerk to distribute it.

Mr. Messer: — Madam Chairperson, members of the committee. I'm here today to do my level best to answer the questions you have concerning all matters surrounding the operation and sale of Channel Lake Petroleum. I thank you for the opportunity to do so in a public forum.

No one more than I regrets that fact that Channel Lake Petroleum, a subsidiary of SaskPower, sustained trading losses in 1996 and 1997 when certain natural gas suppliers went bankrupt.

No one more than I regrets that when Channel Lake Petroleum was later sold, the proceeds accruing to SaskPower were less than the originally approved by the board of directors, even though it was more than the \$20.3 million appraised value for those properties.

As I have searched my mind and the record of events, I continue to believe that I took all the appropriate steps to try and protect the interests of SaskPower and its customers in all matters related to Channel Lake. Still, these unfortunate circumstances occurred on my watch as SaskPower's president. In that capacity, I accept ultimate responsibility for the business performance of the corporation even if the day-to-day responsibility for these matters had been delegated to the appropriate SaskPower executive and representatives.

Members of the committee, it was my privilege to serve the people of Saskatchewan for nearly seven years as the president of SaskPower. And it was indeed my honour to work with some of the most dedicated professionals that I have ever met. From the newest employee to the 25- and 30-year veterans, I worked with professionals dedicated to meeting the power needs of Saskatchewan residents at the most competitive price possible and in an environmentally sustainable way. The employees of SaskPower believe in their company, and they love this province.

While in the coming days you will be reviewing the actions of SaskPower, and it is your right and it is your responsibility to do so, I simply ask you and all the people of Saskatchewan to put these matters in perspective. Yes, there were trading losses at Channel Lake. Yes, the final price for Channel Lake was less than the originally approved price by the board of directors even though it was more than the 20.3 million appraised value.

But the SaskPower executives and employees who have accepted their share of the criticism for these 1996-97 problems are the same executives and employees whose hard work and professionalism helped SaskPower earn more than a quarter of a billion dollars in profits in those two years — record years in the history of SaskPower. And they are the same people whose hard work and professionalism helped SaskPower pay down more than a quarter of a billion dollars in its long-term debt over those same two years.

Members of the committee, over the next five years, SaskPower's debt reduction will constitute 25 per cent of the province's overall debt reduction. The same SaskPower

executives and employees recently planned, negotiated, and delivered a major increase in SaskPower's generating capacity, the meridian co-generation project, which will provide new power at competitive prices while better protecting the environment.

And these same people recently completed a partnership agreement with the Saskatchewan Environment and Resource Management which will see the installation of electrostatic precipitators at the Boundary Dam power station providing for a safer, cleaner, environment.

While we must review the decisions and actions at Channel Lake and SaskPower in order to conclude what, if anything, went wrong, we should never forget that overall SaskPower has been, and remains, an excellent company of dedicated professionals who serve the province superbly.

I thank you for this opportunity to read this statement and your interest. I am now at your disposal.

The Chair: — Thank you, Mr. Messer. I will now proceed with questioning. Mr. Gantefer, I assume you're the lead questioner for the Saskatchewan Party. Will you question the witness please until approximately 10 to 12.

Mr. Gantefer: — Thank you, Madam Chairman. Good morning, Mr. Messer. I appreciate the fact that you've been in attendance for the last day and a half while we sorted out some very important procedural matters that I think are important to sort out before we get into the actual investigation. And I really do appreciate your patience in that exercise.

I'm wondering, after being in attendance for the last day or two I understand that your original position is that you felt that an independent public inquiry was the best methodology to reach the information that's required in this whole investigation, and I wonder if your opinion is still the same as that. And if it is, would you comment on your opinion as to who you think may resist that position and why?

Mr. Messer: — Madam Chairperson, I guess my opinion is something that I have the opportunity to register, which I have done. It is up to the Government of Saskatchewan and this committee as to whether or not the process that you have chosen will facilitate bringing this to closure and in a truthful and honest way. And my participation is to facilitate to the extent that I can to achieve that.

Mr. Gantefer: — Thank you. One of the important issues that have surrounded the whole issue around Channel Lake is also the issue of the appropriateness of the severance package that you were awarded subsequent to your dismissal from SaskPower. Given the outstanding question and the great amount of concern that is in the public's eye about the appropriateness of that severance package, would you be in agreement to place the cash portion of that severance package in trust pending the outcome of this Crown Corporations investigation and any subsequent decisions that come out of that investigation?

Mr. Messer: — Madam Chairperson, I responded some time ago to a query at a press conference that I held indicating that

my preference would have been a full independent public inquiry, and the question was whether or not, if that was the case, would I put the severance that I had received into a trust. And I believe my answer was that I would take it under advisement.

I think that the process that I find myself involved with here is not one to facilitate a negotiation or an action on myself in respect of severance or anything else, but simply to respond to the questions that the members of the committee provide to me in order to facilitate, as I said earlier, a conclusive end decision to this whole process.

Mr. Gantefer: — So I take it that, given the nature of this inquiry, you would not be prepared to put your severance . . . the financial portion of your severance package in trust?

Mr. Messer: — I would not.

Mr. Gantefer: — In regard to your role in the purchase and the operation . . . or the sale of Channel Lake Petroleum, other than your severance package, was there any other financial benefit that you or any company controlled by you received through this whole Channel Lake project?

Mr. Messer: — None whatsoever.

Mr. Gantefer: — Mr. Messer, as the president of SaskPower one of your key responsibilities would be to report the major activities of the company to the minister responsible. Would you agree that would be true?

Mr. Messer: — I would agree that to be correct.

Mr. Gantefer: — Mr. Messer, as we look through both the Deloitte Touche and the CIC (Crown Investments Corporation of Saskatchewan) report that were tabled by Minister Lingenfelter when he made the announcement in regard to this, the authors of the report seemed to point very directly at you as an incompetent manager who withheld important information from the SaskPower board of directors and the minister.

The reports say that you failed to adequately report to the SaskPower board and to the minister responsible for SaskPower on many occasions, and it seems to be placing a very pointed finger at you as failing to live up to your responsibility that we just agreed would be one of your key ones.

Would you agree with the findings in those reports?

Mr. Messer: — I do not.

Mr. Gantefer: — Would you care to elaborate on how that the reports have been misleading people, if you like, in regard to the appropriateness of your reporting.

Mr. Messer: — I think I gave my answer in respect of that, and I believe that these proceedings as they unfold will substantiate the correctness of my answer.

Mr. Gantefer: — Thank you.

Mr. Messer, were you briefed by SaskPower officials and/or

lawyers within the last 14 days in preparation for your appearance before this committee?

Mr. Messer: — I've had discussion with both SaskPower Corporation officials and legal counsel, yes.

Mr. Gantefer: — What were the nature of those discussions?

Mr. Messer: — The circumstances that we might expect to unfold through such an inquiry as we find ourselves in at this point in time.

Mr. Gantefer: — Do you feel it was appropriate that SaskPower officials and lawyers be briefing you in terms of your testimony before this committee?

Mr. Messer: — I see nothing wrong with that. I believe that my purpose of testifying here is to the extent I can facilitate information as to the decisions that I made as the president and chief executive officer of SaskPower during the course of this whole undertaking up until the time of my resignation.

Mr. Gantefer: — Thank you. Madam Chair, if I may, in our time allotment, would it be appropriate for my colleague as well to be able to ask questions interspersedly if that would be permitted. I would rather if we could just do that rather than seek permission in each individual circumstance.

The Chair: — You don't have to. Once I recognize an individual political party, they have the floor for the full 30 minutes. All members of the legislature have voice in this hearing. It's only established members of the committee that have vote.

So you may use your time allocation however you see fit as long as all witnesses are treated with dignity and respect.

Mr. Gantefer: — Thank you, Madam Chair.

Mr. Heppner: — Thank you. Mr. Messer, we've just been discussing to some extent your preparation for this particular situation and the advice that you've sought. Yesterday your legal advice I believe identified himself as a SaskPower representative and my question is today: who is paying his time here?

Mr. Messer: — I think the simple answer to your question is that SaskPower and myself are being represented by the same counsel because our cause and mission here is the same.

Mr. Heppner: — So in other words you're telling the people of Saskatchewan that the taxpayers of this province are paying for your legal advice here today.

Mr. Messer: — Well I'm telling you that SaskPower and myself are being represented by the same counsel, being paid for by SaskPower.

Mr. Heppner: — Which is the taxpayer and the citizens. Thank you. Back to you.

Mr. Gantefer: — Thank you. I would like to go back to the establishment of the fuel supply task force in 1992. And can

you inform the committee as to the rationale of establishing that fuel supply task force in 1992.

Mr. Messer: — The corporation was frustrated in respect of its circumstances in the provision of natural gas to itself. We are a unattractive customer because climate and other circumstances dictate the use of our gas. The arrangements that existed at that time were most unsatisfactory to the corporation. There was a decision to form an internal task force to look at this very bothersome problem, not only one of security but one of cost.

And I could go into greater detail if they so desired. But ultimately at the end of the deliberations of this task force, it was recommended that the solution might largely be addressed by the acquisition of properties.

Mr. Gantefer: — In both the Deloitte Touche report and the CIC report, according to those reports, SaskPower hired Lawrence Portigal to head this fuel supply task force. Portigal recommended the establishment of a subsidiary to supply gas to SaskPower. Evidently eventually the SaskPower board agreed and Channel Lake Petroleum was established in 1993 by renaming another SaskPower subsidiary Many Islands Pipe Lines and rolling the Dynex assets into it.

According to the reports, the Dynex assets were purchased from the Bank of Montreal for \$25 million. Was there any value in the existing assets of Many Islands Pipe Lines, and if so, what was the value of these assets at the time?

Mr. Messer: — I believe, and I'm not absolutely certain of this, but I believe there was no value to the Many Islands Pipe Lines and the Channel Lake company that we used to name this. It was simply a shell company that had no assets and at the acquisition . . . or after the acquisition of Dynex, we simply used that shell company to facilitate the purchase. So the only value was the 25 million that we bought from Dynex.

Mr. Gantefer: — From the Bank of Montreal, in receivership.

Mr. Messer: — That's correct.

Mr. Gantefer: — Being in receivership in the general course of events, receivership generally does . . . or gets a bargain on the purchase of assets from the receiver. Was there actually assets in excess of the \$25 million that were paid in terms of the hard assets that were received from the Bank of Montreal?

Mr. Messer: — I don't know the detail. Obviously we undertook independent appraisals of the property and then undertook a negotiating process to acquire those assets which were quite extensive. All I can say is that we got value for money expended.

Mr. Gantefer: — When the Channel Lake Petroleum company was established, what was the mandate given to Channel Lake Petroleum by the SaskPower board of directors?

Mr. Messer: — It was quite significant. I don't think that there were any precise restrictions in respect of what a mandate might be. Certainly it was to facilitate addressing the problem that the corporation had had in regard to its supply and cost and availability of gas.

It was also to provide — and this was very important and if you looked at the recommendations from the task force — information and knowledge in regard to the gas industry. We were looking at ourselves as being a significantly larger, ever increasing consumer of gas and this was an important lack of information that we had.

One of the reasons we found ourselves in this position is that there had been a break up of the old SaskPower where the electric and gas divisions were all under one umbrella. That was severed away and most of the gas people were no longer with us, and we'd lost some of that experience and we were indeed in a different environment.

It was also to facilitate a profit-making entity that generated profits from business that were not normal to SaskPower. And it was indeed that reason that we facilitated it as a wholly-owned subsidiary of SaskPower.

It was also with some foresight that we did that so that if we got into difficulties, the only liabilities that might be incurred by that subsidiary would be the subsidiary and not the parent company, SaskPower. So we wanted to protect, to the extent that we can if we got into difficulties, and we did, but not to the extent that it was in any way going to liquidate the assets of Channel Lake.

Mr. Gantefer: — In the whole issue of the concern about supply, recognizing that you've identified SaskPower as a difficult customer, I think because of the unique circumstances of your requirements, why was it the choice that you made to go into this wholly-owned subsidiary as opposed to being able to deal with the sister Crown corporations in terms of SaskEnergy?

Mr. Messer: — We had some, quite frankly, historic problems with SaskEnergy. I believe members may recall that there was a deliberate decision made by the former government to privatize SaskEnergy. The company was set up in that SaskPower was a cash cow for it. We were paying higher than industry standards for storage. We were paying higher transportation costs. We were paying higher charges for virtually all of the services that we were receiving from them.

We had also had transferred to us about a \$250 million debt that had no business logic behind it. There was some animosity, to say the least, between the managers of SaskPower and SaskEnergy. And I think because of some of that . . . as well as even though that existed when we made the decision to get into the ownership of gas properties, there was an inquiry of SaskEnergy as to whether they should more appropriately buy the properties and undertake, to the extent that we might be able to work out a relationship, those properties. We were informed that they did not want to and it was not their business to be getting into the acquisition of gas properties.

So I think the short answer is, even though we had some problems because of inherited circumstance, we approached SaskEnergy at that time to address with them if it was more appropriate for them to buy the property and they declined to do so. So we bought the property ourselves.

Mr. Gantefer: — It seems a little strange to me, Mr. Messer,

that you would accept that there was no ability to reconcile the differences that you've outlined between SaskPower and SaskEnergy given the fact that when these transactions were occurring, a government that you were very much comfortable with was in place and that Executive Council and ministers were ministers of the same government that sat on not only your board of directors of SaskPower, but also on the board of directors of SaskEnergy.

It would strike me that it's a pretty lame excuse in saying we couldn't do anything about the attitude of SaskEnergy, given the fact that Executive Council really was the person that had ultimate responsibility to say, work together folks. How is that leading to irreconcilable differences, given the fact that the real control of these corporations should be vested in the government of the day.

Mr. Messer: — I think that, unless I'm wrong here, I don't believe I said we couldn't work them out. I said that we were having some problems and this was only one of a series of solutions that were ultimately agreed to through ongoing negotiation. I mean you're correct, the same Chair of the two corporations, the same minister chaired both corporations, so there was certainly significant knowledge in respect to what was going on. And by and large all of these major decisions were made at the board level.

In regard to some of the differences that I said that we had, we ultimately negotiated solution to. One should not assume that with the purchase of Channel Lake we severed all of our business with SaskEnergy. That was not the case by a far shot. We still have significant business relationship with SaskEnergy and I'm pleased to say that it is much improved over what it was during those early days of transition of government.

Mr. Gantefer: — Mr. Messer, you indicate that the same minister was sitting at the board of directors of SaskPower and SaskEnergy at the time. Would you care to identify which minister that would have been at that time?

Mr. Messer: — I'm going by memory here. The chairmanship of the boards changed right at or about the time of the acquisition of Channel Lake. It would have been either Mr. Lingenfelter or Mr. Calvert. And it may have well been that both ministers were there for part of it and that the actual transfer or acquisition of Channel Lake took place under Mr. Calvert, but I'm not absolutely positive of that.

Mr. Gantefer: — And I would assume, although I think for the record it's important to identify, that you communicated with these ministers the difficulties that SaskPower perceived they were having with SaskEnergy, and that either of the ministers, depending on that time line, were fully aware of the difficulties and fully supported the fact that SaskPower took the direction to go into the Channel Lake investment rather than solving the difficulties between the two corporations.

Mr. Messer: — Well the difficulties were ongoing and were by and large resolved because of the efforts of the two parties to facilitate resolution. I mean I cannot speak for ministers here, nor will I try, but I do believe that their view was that they are the Chair and the supervisors of the policies of the companies and that the day-to-day activities of those companies are the

responsibilities of the managers — both of SaskPower and SaskEnergy. In the case of working out these problems, the Crown Investment Corporation were facilitative as well. And I do not see the ministers directly involving themselves because they felt, at least I felt, that that wasn't their responsibility. Ours was to manage the companies within the policy guidelines that they provided us and I believe that we undertook to do that and are still doing it.

Mr. Gantefer: — Mr. Messer, you indicated earlier one of the key mandates that you saw yourself having is to communicate all of these issues to the ministers responsible. And did you communicate all of these issues to the ministers responsible to the time and were they made fully aware by yourself of all of the issues surrounding this difficulty? And did they authorize and approve the decisions that you were making to move towards the Channel Lake decision rather than finding another solution with SaskEnergy?

Mr. Messer: — Well I guess I want to be careful in respect to what your interpretation of all of these issues might be and what mine are. I mean I was not a reporting mechanism to the minister on all of the matters on the day-to-day business of the corporation. I provided to him, like any president or CEO (chief executive officer) would to a chairman of a corporation, only the major circumstances that he or she may feel is of importance to the chairperson. And I think I did that diligently and regularly.

I remind you again that this process was one that was ultimately the conclusion of a committee that was formed internally by SaskPower, fully knowledgeable of the board of directors of SaskPower, chaired by the minister, and all of the decisions that unfolded from that process were matters that the board was fully abreast of, and in the final result, agreed to by way of acquisition.

So I guess the answer to your question is, yes the minister was fully informed of the process, right up to and including the purchase of the Dynex properties.

Mr. Gantefer: — Would that information be transmitted to the minister by yourself and would it be verbally and/or by memorandum or what facility would have been used to transport that information to the minister?

Mr. Messer: — I think it could have been by all mechanisms. It was, by and large, my policy with all of the ministers to have regular meetings with them. Sometimes there would be written material. Sometimes there would be simply verbal material.

But certainly the minister was made available and was present to deal with all of the matters that were dealt with by the board of directors, and these were the major decisions of the corporation. And the decisions around Dynex, Channel Lake, as far as major decisions were certainly knowledgeable to the minister.

Mr. Gantefer: — The mandate, as indicated in the reports for Channel Lake, was the security of supply and predictability of price were the two issues that we understand were in the primary mandate of Channel Lake to its role with SaskPower. According to the report, we had the approval of the acquisition

of the Dynex properties and the establish of Channel Lake Petroleum in April 1993.

The CIC board also approved the acquisition in April 1993 and the provincial cabinet approved it in May 1993. But the deal to close the purchase of Dynex was not closed until 1994. The Channel Lake board was not appointed until October 1994 and did not hold its first meeting until February 1995.

When did the Channel Lake Petroleum begin its gas trading program? And was Lawrence Portigal in charge of the gas trading activity?

Mr. Messer: — I think that I would have to go back to records to find out precisely when Mr. Portigal got into arbitrage of gas. It's a matter of record. The time framing of actual acquisition of the properties was a result of it being in receivership and that there were significant matters that extended over a period of time before things were finally cleaned up.

But during the interim I was given the power as chief executive officer and CEO of SaskPower to act on behalf of the parent company in administering the business of Channel Lake until more conclusive ending had come to the acquisition and a board had been appointed.

Mr. Gantefer: — So did you operate the subsidiary, if you like, Channel Lake, until such time as Lawrence Portigal was hired, and when was he hired to begin work in this regard?

Mr. Messer: — No. I was the only officer of the corporation. Lawrence Portigal not only facilitated the acquisition but also, on receipt of that acquisition, assumed the responsibility of managing the company.

Mr. Gantefer: — So then the gas trading activities were done under Lawrence Portigal's management of the property?

Mr. Messer: — And with the direction and authorization of the Channel Lake board of directors.

Mr. Gantefer: — Was the minister a part of knowing what the Channel Lake board of directors were doing and authorizing? Or was he one step removed as being the minister in charge of the SaskPower board?

Mr. Messer: — No. I would not think so. There were resolutions passed at the SaskPower board which facilitated the empowerment to Channel Lake to undertake to carry out the businesses that it ultimately undertook.

Mr. Gantefer: — In that period of time, because there was a delay in the establishment of the board from when Mr. Portigal was hired and when the board was established, what was the reporting structure from Mr. Portigal?

Mr. Messer: — The reporting structure was to myself and to some extent the gas supply force . . . gas fuelling force within SaskPower, and from myself to the board of directors of SaskPower.

Mr. Gantefer: — Where did the authorization come from for

Mr. Portigal to go into the unauthorized trading in gas arbitrage and incurring those losses? Was approval given by the minister and the SaskPower board before that happened, or was Mr. Portigal moving into areas of activity that were not originally mandated?

Mr. Messer: — I have some difficulty with you in respect of your reference to unauthorized trading activities.

Mr. Gantefer: — The unauthorized gas arbitrage and things of that nature, which had nothing to do with the primary mandate, as I understand it, from Channel Lake, which was the regularity of supply and consistency of price.

Mr. Messer: — Well I again do not understand the reference to unauthorized trading of Channel Lake in gas trading.

Mr. Gantefer: — That's what it says in the report, in the Deloitte Touche report, that the trading that was initiated by Mr. Portigal was unauthorized and went beyond the mandate that was given to Channel Lake.

Mr. Messer: — Well I think that then the report needs to have some clarification. And I don't know what specifically that you are relating to there in the report, but I do know that there was a resolution passed by the board of directors of SaskPower that it did not want to get into this kind of transaction. But subsequently you will see that there were resolutions of the board that facilitated Channel Lake getting into it.

And as I said earlier, one of the reasons for setting up Channel Lake as a wholly owned subsidiary was so that it would undertake businesses as a wholly owned subsidiary that were not attractive to the parent company, SaskPower. And I think when one reviews the decision-making process and the minutes of the two boards, you will see that there is a consistency in respect of what the intentions of the parent was vis-a-vis Channel Lake as a subsidiary operation.

Mr. Gantefer: — The original purpose of Channel Lake, according to the report, was the security of supply and the predictability of price for SaskPower. The trading that was initiated by Lawrence Portigal went beyond that mandate into arbitrage and buying and selling gas for profit motive purposes, which the report indicates was beyond the mandate of the . . . that was established by the board of directors of Channel Lake and authorized by SaskPower board. Is that not correct?

Mr. Messer: — The purpose of Channel Lake was to go beyond the narrow definition that you give. It was to also get into businesses that might be profit oriented for the corporation, that the corporation itself felt it would not be able to properly do, and so there was always a profit motivation within the terms of reference for Channel Lake. And it was within that terms of reference that over a period of time we evolved into gas trading.

Mr. Gantefer: — Were those terms of reference clearly established before the trading occurred, or were they done retroactively in order to legitimize the activities that were unilaterally initiated by Mr. Portigal?

Mr. Messer: — It was done in a concurrent fashion.

Mr. Gantefer: — Concurrent being he does the trading and then SaskPower gives the authorization, or SaskPower gives the authorization before the trading has occurred?

Mr. Messer: — The authorization was given in broad terms and then Channel Lake board of directors and management facilitated by getting into trading and putting into place policies to facilitate those and attain a level of comfort in respect to the business being carried out.

Mr. Gantefer: — Did the minister responsible . . . was the minister responsible a part of the decision to authorize the trading before it happened or a part of the decision to make sure that the lines of authority were established after the trading occurred?

Mr. Messer: — I would assume the minister was knowledgeable in respect to the passing of the minutes of the parent company, SaskPower, giving this power.

Mr. Gantefer: — Can it be demonstrated, by the minutes of the parent company that you refer to, that those minutes clearly indicated the approval for the trading before the first trading activities actually occurred? Would it be possible to document that by those documents being tabled and the dates being appropriately registered so that it clearly identifies that the trading was authorized prior to its activity?

Mr. Messer: — I don't believe that — and I guess one would have to check a matter of the records of the minute, the preciseness of it — but I do not believe that there was a precise minute that dealt exclusively with trading losses. It was to allow the company to operate as a business that might facilitate ventures that would ultimately return profits to the parent.

And it's a matter of record over the lifetime of the corporation through the reporting of Channel Lake, that we're in this venture, and it was initially generating profitable returns to the company. So the minute was I believe, broader in context in respect of getting into other businesses as an operative company in Alberta.

Mr. Gantefer: — So that there was a great deal of loose interpretation in terms of the mandate that was established and that there was no clear identification of the authorization of the arbitrage trading in the minutes before this all occurred?

Mr. Messer: — Well I think it's a matter of . . . I guess it's nice to go back with hindsight and say we could have been precise in respect of every venture that Channel Lake got into, but I don't think that that was the way it was intended, nor is it the way business is run.

There was this confidence and a latitude provided by the parent to the subsidiary to get into the business, and we got into the business. And as a period of time evolved, we were in the arbitrage gas trading business, which we felt was profitable and also facilitated the whole purpose of Channel Lake as it related to the parent company.

The Chair: — Mr. Gantefer, I would remind you that technically your 30 minutes has elapsed so could you draw your questioning to a close. Thank you.

Mr. Gantefer: — Two questions to conclude this issue. Ernst & Young attached a management letter in its 1994 audit of Channel Lake Petroleum. In that letter "the auditor identified an active gas trading program" — that's a quote — and recommended Channel Lake's board of directors develop and approve formal policies and procedures to govern these trading activities. What action did the Channel Lake board take in response to the '94 management letter?

Mr. Messer: — We undertook to facilitate that; did have draft trading policies in place; I believe even hired an expert consultant to help facilitate us. But to be absolutely truthful and blunt with you, we never got the policies developed in a final sense for final acceptance but it was something that was concurrent with the business that we were carrying on.

Mr. Gantefer: — When did you advise the SaskPower board of directors of the 1994 management letter?

Mr. Messer: — I can't recall. I mean there would be a normalized process that this would be forwarded to the minister and to the board, but I can't precisely say at this time.

Mr. Gantefer: — Thank you, Madam Chair.

The Chair: — Thank you, Mr. Gantefer. Before I proceed to have the Liberal Party put their questions, Mr. Messer, you and your counsel may of course take a break if you wish for a couple of minutes. And I would ask all committee members though to remain in the room.

Mr. Messer: — We have no problem in proceeding.

The Chair: — Thank you. Mr. Hillson, will you proceed with questioning. I'm assuming that we will adjourn around about the hour of 20 after 12.

Mr. Hillson: — Thank you, Madam Chair. Mr. Messer then, just for the record, you at all material times were president and chief executive officer of SaskPower and the director of Channel Lake.

Mr. Messer: — I believe that to be correct.

Mr. Hillson: — Now your duties, as I understand it, would be to ensure that all board decisions are properly carried out; that would be part of your duties?

Mr. Messer: — That would be.

Mr. Hillson: — Your duties would also include supervising all staff, including Lawrence Portigal?

Mr. Messer: — Yes, take that to be correct.

Mr. Hillson: — And your duties would also include making sure that there is a timely and proper flow of information so that the minister is at all times properly informed and in turn the minister can properly inform the House?

Mr. Messer: — That is correct. As well as the board of directors.

Mr. Hillson: — Now I think you've already confirmed to us that one of the main reasons why Channel Lake was established in the first place was because there was ongoing squabbling within our dysfunctional family of Crown corporations, and I would ask you therefore, if this ongoing squabbling also explains why SaskEnergy was not informed of the decision to sell Channel Lake and invited to tender on the sale of Channel Lake?

Mr. Messer: Well I don't . . . As the president and CEO of SaskPower, our relationship, as I saw it, with SaskEnergy was not squabbling with a dysfunctional company . . .

Mr. Hillson: — I'm sorry, I thought that's what you already told Mr. Gantefer. That's why it was set up, is because you were squabbling with SaskEnergy.

Mr. Messer: — I don't want to get into the use of words here, but squabble is a word that I very seldom use and I'd be surprised if I used it in my testimony with Mr. Gantefer. I said we had operational problems between the two of us and we were working those out, and I think the records will show, on review, that by and large those differences were worked out. But at a concurrent time we had a committee that was addressing not only those problems but growing problems within SaskPower that we felt we had to address in a different way.

And the conclusion of that was to get into the business, and it was only part of what continues to be a long-term association with SaskEnergy. They are very much a supplier of gas and a storage of gas for us so that we still — and I think this has to be clear for the record — have a significant working relationship. Channel Lake was an ancillary to that which provided us with other needed circumstance to properly operate the company.

Mr. Hillson: — You didn't answer the question though as to whether your ongoing "differences of opinion" with SaskEnergy were the reason that you did not inform SaskEnergy of the decision to sell Channel Lake?

Mr. Messer: — I think perhaps it might be unfortunate that SaskEnergy was not notified of the sale. The ultimate purchaser of the company was introduced to me by a former board member of SaskEnergy, not that I would say that they should perhaps know. I also — and I'd use this as no defence . . . but the chairperson that chaired SaskPower was the same Chair that chaired SaskEnergy. It's not as though that there was a deliberateness to keep it away.

I was not directly, as president or CEO, involved in the sale of this property, as I said. I delegated what I felt was due diligence. Once we made the decision to sell, I appointed two senior executive members. I appointed by in-house legal counsel, Mr. Portugal, who had all of the credentials in respect to being able to represent the company, as well as hiring, I note, an out-of-province law firm to facilitate it. If you want to go into that I'd be more than happy to answer, but I assumed . . .

Mr. Hillson: — Well I was hoping you'd answer the question.

Mr. Messer: — I would assume . . .

Mr. Hillson: — But I've already given up on that. I do have another question then, sir. I have here an escrow agreement . . .

The Chair: — Mr. Hillson, the witnesses should be allowed to answer the questions. So before you go to another question, Mr. Messer, did you wish to complete . . .

Mr. Hillson: — But he has to be clear what the question was; he wasn't addressing the question. We were not talking about the lawyers in Calgary.

The Chair: — Mr. Hillson, he still should be allowed to finish his answer.

Mr. Messer: — The answer is no.

Mr. Hillson: — The Calgary lawyers are not part of the answer, Madam Chair. I was merely pointing that out. I'm sure Mr. Priel will totally agree with me that the Calgary lawyers were not part of the answer. I was asking him about why SaskEnergy was cut out of the loop.

Mr. Messer: — And the answer, I believe, to your question is no.

Mr. Hillson: — Very well. I have here an escrow agreement I'd ask you to kindly review and confirm. It's dated April 3, 1997. It's only five pages long. It seems to be quite simple. I'd ask you to confirm that that is the agreement on the sale of Channel Lake. And I note that it's quite simple, and it says that the remaining purchase price is 18.3 million after the deposit, less the price adjustment, which I think it's common ground is the trading losses.

The Chair: — Mr. Hillson, just one moment. Mr. Messer, since you are being asked to comment on documents, the committee will require those documents.

Mr. Hillson: — I intend to file it, Madam Chair. I'm certainly not trying to keep anything from the committee. I'm not the one who has refused to produce documents. My intention is to get this to be identified, and then file it with the committee.

The Chair: — I wasn't suggesting that, Mr. Hillson. I simply want to make sure that we receive the documents.

Mr. Hillson: — And I'm telling you that's my intention. As soon as the witness identifies it, I intend to file it with the committee.

Is that correct, sir? Is that the document?

Mr. Messer: — Well it's a photocopy of an escrow agreement dated April 3, as you have indicated.

Mr. Hillson: — And is that the correct document, sir?

Mr. Messer: — I don't understand what you mean by the correct document.

Mr. Hillson: — Is that the agreement between the parties? Have you seen that before? Is that the sale of Channel Lake, dealing with the closing of the sale of Channel Lake?

Mr. Messer: — Well this is an escrow agreement talking about a purchase agreement which I do not see here.

Mr. Hillson: — Yes. Okay. Are you saying that that escrow agreement I presented to you means nothing to you? Are you able to identify it or are you not, sir?

Mr. Messer: — Well to the best of my knowledge, it's a copy of it.

Mr. Hillson: — Yes. Okay. What are the signatures at the end of that agreement, sir. Whose signatures appear on the last page?

Mr. Messer: — On the last page, I'm trying to . . . There is a . . . Are you talking about Direct Energy — Burnet, Duckworth, Palmer — or SaskPower Corporation?

Mr. Hillson: — First, SaskPower.

Mr. Messer: — To the extent that I can make out here, I believe it's . . . it may be Richard Patrick. And below that, an assistant secretary is I would assume a witness, which I do not . . . I cannot identify the signature.

Mr. Hillson: — Do you believe that that is a correct copy of the escrow agreement for the closing of the sale of Channel Lake?

Mr. Messer: — Well I have no reason to believe otherwise.

Mr. Hillson: — I'd ask that be filed.

The Chair: — I'll receive that as exhibit no. 1.

Mr. Hillson: — So I guess what surprised me when I first saw that, sir, it's quite clear that at a glance, that the trading losses are to be reduced from the balance of the purchase price of 18.3 million. Would you concur with that?

Mr. Messer: — I don't think I'm in a position to comment on the agreement. I was not integral to this.

Mr. Hillson: — So are you saying you haven't seen that document before, sir?

Mr. Messer: — I can't recall with preciseness whether I have reviewed this document before.

Mr. Hillson: — It would be your . . . it would have been within your duties though to make sure that the closing of the sale was done in accordance with the resolutions of the board. Is that not correct, sir?

Mr. Messer: — That's correct. Then I undertook to facilitate by setting in place a number of people to facilitate that being in fact carried out.

Mr. Hillson: — Well I think that, I think the document speaks for itself so I agree with you. I needn't ask you questions about it. It's now filed and I think everyone can see at a glance what we sold the company for and it wouldn't take any lawyer or anybody else too long to figure it out from that document.

At any rate, sir, I understand that you were added to the board of Saskatchewan Power in December of 1997. Is that correct?

Mr. Messer: — Pardon me?

Mr. Hillson: — You were added to the board of Saskatchewan Power in December of 1997.

Mr. Messer: — Yes, correct.

Mr. Hillson: — That was actually the first time you had been on the board, sir?

Mr. Messer: — That's correct.

Mr. Hillson: — I also understand that you were locked out of your office on March 4.

Mr. Messer: — Of when?

Mr. Hillson: — March 4, 1998.

Mr. Messer: — That is not correct.

Mr. Hillson: — Were you locked out of your office, sir?

Mr. Messer: — I have never been locked out of my office.

Mr. Hillson: — So that did not happen.

Mr. Messer: — That did not happen.

Mr. Hillson: — Okay. Now why were you added to the board in December of 1997?

Mr. Messer: — There is an undertaking on behalf of the shareholder to change and to establish a somewhat different relationship between the government shareholder and the Crowns. And one of those is to appoint the presidents and CEOs of those corporations as directors of the board.

Mr. Hillson: — Were you at that time sitting on any other boards?

Mr. Messer: — I sit on no other Crown corporation board.

Mr. Hillson: — What about a private company, sir?

Mr. Messer: — Yes.

Mr. Hillson: — Would you tell us what other corporations whose boards you sit on?

Mr. Messer: — I sit on Pacalta, which is an oil and gas company in Calgary. Its operations are exclusively in Ecuador, nothing in Canada. And I sit on a FT Capital Corporation in Toronto.

Mr. Hillson: — Are those the only corporations, sir?

Mr. Messer: — Outside of corporations that are wholly owned by myself.

Mr. Hillson: — And could you please put those on the record for us, sir.

Mr. Messer: — Florentine Enterprises, New Market Inc. There might be another one which just doesn't come to mind now.

Mr. Hillson: — And if there are other boards in which you hold office, would you be good enough to undertake to advise this committee of those.

Mr. Messer: — I will so do.

Mr. Hillson: — Thank you, sir. Now I understand that you of course had a contract as CEO of SaskPower.

Mr. Messer: — As per the government policy, yes.

Mr. Hillson: — And I understand that that contract included a mechanism for determination of severance, in the event of termination.

Mr. Messer: — If that's what the contract says. I'm not specifically aware of it, to tell you the truth.

Mr. Hillson: — You're not specifically aware of whether or not your contract said what was to happen if you lost your job?

Mr. Messer: — I think that there is a . . . I know that there is a policy in respect of all government contracts.

Mr. Hillson: — If I told you that your contract provided for you to receive two days for every day of service, from the date of your commencement up to and including 1996, and five days for every year of service thereafter, would you agree with that statement, sir?

Mr. Messer: — I don't have the agreement in front of me.

Mr. Hillson: — I can understand why there might be some little details that would elude the memory, but those are the things that tend to stick with one.

Mr. Messer: — I have no recollection of it.

Mr. Hillson: — No recollection of whether severance was included in your contract of employment?

Mr. Messer: — Not as you describe it to me and I do . . .

Mr. Hillson: — Do you have that contract with you today?

Mr. Messer: — No I do not.

Mr. Hillson: — Do you undertake to bring it with you tomorrow? At the next hearing and next meeting of this committee?

Mr. Messer: — If I have such a contract in my possession I'll bring one forward.

Mr. Hillson: — May I ask then the government — I realize that Mr. Messer is no longer an employee of SaskPower — if he is unable to produce it will the government undertake to produce

it?

I think the Vice-Chair of the committee should be able to give that undertaking.

Mr. Tchorzewski: — Madam Chair, contracts of chief executive officers of Crown corporations are available through the Office of Executive Council.

The Chair: — So you're making the undertaking to make that document available if Mr. Messer is unable to provide it?

Mr. Tchorzewski: — I guess so.

The Chair: — Thank you.

Mr. Hillson: — Madam Chair, unfortunate . . . that information is simply not correct. We tried to get a copy of the contract of freedom of information and were denied. So I'm asking if that undertaking will be given, but he's not correct that it's available. We did ask for it and were denied.

Mr. Tchorzewski: — If there is such a contract I'm surprised it's not available, and if it's not available it should be made available.

The Chair: — Thank you.

Mr. Hillson: — Thank you. Now as I indicated yesterday when you were present, sir, we are mostly working at this point in time from what I call second-hand information. We're dealing with the work of other individuals who have looked at the primary documents and given us their interpretation of them, and I'm sure they've done that in good faith.

However there is one document that has been referred to continuously that there is no information given whatsoever as to what it contains, and that's the legal opinion of Gerrand Rath & Johnson. And I would ask you sir if you have seen that.

Mr. Messer: — Yes I have.

Mr. Hillson: — Can you tell us if that document covers the issue of potential civil and criminal liability?

Mr. Messer: — I believe that it deals with civil. I cannot say that it dealt with any criminal liability.

Mr. Hillson: — Okay, and when you say civil liability, civil liability on the part of whom? I should say potential civil liability on the part of whom?

Mr. Messer: — Some of those that were representing the corporation in negotiating the Channel sale on both sides.

Mr. Hillson: — Do you have that opinion with you this morning, sir?

Mr. Messer: — I do not.

Mr. Hillson: — Do you have it available to you?

Mr. Messer: — My understanding is that these documents are

documents that were provided to me as the president and CEO of SaskPower and they're in their domain, not mine.

Mr. Hillson: — I appreciate that, thank you. Will the government undertake to provide us with that opinion?

Hon. Mr. Shillington: — I'd prefer . . . He's engaged right now so I'll wait till our counsel is . . . Well no, I want to hear what Crown's going to say on it.

Mr. Hillson: — Before the committee counsel . . . before the committee counsel responds, I do wish it put on the record that I had taken the position . . . Some people accuse me of being extremely naïve of saying that I was prepared to come to this committee in spite of the fact we did not have the normal legal disclosure which Mr. Priel knows occurs in every single criminal and civil trial in this province. I didn't have that.

I said I was prepared to come on the basis that as events unfolded, these documents would be forthcoming. Some people have accused me of being naïve to come at all knowing that any other lawyer in this province, including Mr. Priel, would have had these documents months in advance.

We are now here. I did say I would come. We're now into the procedure. I'm asking for this document and I would appreciate hearing what the counsel has to say, if I am correct in asking for it now, knowing that in any other trial he would have had it months ago.

The Chair: — Thank you, Mr. Hillson. Would you just give me a moment please to consult with counsel.

Mr. Hillson, you're calling into question some extremely important matters and issues relating to the receiving of evidence by this committee. And just so that there is no mistake, I'm asking Mr. Priel to comment directly on your request.

Mr. Hillson: — Thank you.

Mr. Priel: — While you were putting your . . . or making your position, Mr. Hillson . . . (inaudible) . . . counsel, I was trying to listen to that and counsel for CIC at the same time. But he tells me that his preference would have been to have the opinion come forward at the time that Mr. Gerrand testifies.

I take it from that that no one from CIC, from SaskPower, is raising any privilege issue. The government members of this committee have indicated, and we have a letter to that, that the government is prepared to waive whatever solicitor-client privilege there may be there. I would think that you would be entitled to have that document now so that you can put any questions to this witness or any other witness that may come ahead of Mr. Gerrand.

Mr. Hillson: — Thank you, sir.

Mr. Priel: — I'm not sure that . . . The Chair raised with me an issue and sometimes it's hard to figure out which of the two hats you people are wearing at any particular time. And the people on the opposite side of the table are members of the committee, but they're also government MLAs (Member of the

Legislative Assembly). So that, I mean, I'm not sure that they can necessarily talk for the government, but maybe they can.

Hon. Mr. Shillington: — No, we don't speak for the government. We are here as members. However, that was the comment that I wanted to elicit from counsel. And having heard it, we're prepared to provide the opinions that Mr. Messer does not, which I think was what was requested.

Mr. Hillson: — Pardon me?

Hon. Mr. Shillington: — We are prepared to table the document requested if Mr. Messer does not, which I think was what you asked of us, is it not? I may have missed your request. I thought you had asked us to . . .

Mr. Hillson: — Mr. Messer, as I understand, is just simply saying, I don't have it. So he can't . . . So that's why I'm asking you.

Hon. Mr. Shillington: — Then we'll supply it.

Mr. Hillson: — Thank you very much. That satisfies me, Madam Chair.

Now, Mr. Messer, you are aware, sir, that there have been a number of questions surrounding earlier attempts to have you dismissed as president of SaskPower. And there have been references, you know, in the House to two previous attempts to have you removed as president of SaskPower. What can you tell us about that? Do you concur that that did occur?

Mr. Messer: — I think that I've had some disagreements in respect of the management and operation of the company with the shareholder and some directors, but I am not of the view, as the media has reported, that there were focused and deliberate attempts to remove me from the position that I held.

And in fact I believe there are records available at the end of every year when an executive summary is done, that I have had very high support and am held in high regard by the board of directors as managing the company in its best interests, so that they've been exemplary.

Mr. Hillson: — To your knowledge, did Doug Anguish or Eldon Lautermilch ever request your removal?

Mr. Messer: — I don't know what you mean by the question. Request to whom? I mean if they've requested, it may be beyond my knowledge.

Mr. Hillson: — I'm asking about your knowledge. I think the question is pretty simple. Madam Chair.

The Chair: — A question has been put to you, Mr. Messer. Will you answer it, please.

Mr. Messer: — I'd like some clarification as, do I know whether or not there was a deliberate undertaking by either of them to remove me from the position of CEO of SaskPower?

Mr. Hillson: — That's the question.

Mr. Messer: — I know of rumours of that but I have no direct knowledge of that.

Mr. Hillson: — Did the Premier intervene to prevent that from occurring?

Mr. Messer: — I have no knowledge of the Premier intervening to protect me in respect to the position that I held with SaskPower.

Mr. Hillson: — Were there any motions by either the CIC board or the SaskPower board to have you removed as president?

Mr. Messer: — I do not know of any motions that were so moved by either board.

Mr. Hillson: — Now on page 11 of the Deloitte Touche report . . . My apologies, the CIC report, the Crown Investments Corporation report submitted to the Hon. Dwain Lingenfelter, March 10, 1998. It quotes you in that report as having informed the board and the minister that in a report entitled a topic summary, that there was no negligence on the part of SaskPower officials or Portigal. Would you tell us if that astounding conclusion was in fact contained in your report?

Mr. Messer: — I did report to the board that, in my view, based on the evidence that I had and the opinions of outside counsel that there was no negligence. And I based that on the, as I said, evidence that was available to me. There may have been some deliberateness in respect of carrying out the instructions differently than was initially conveyed. I did not, in my mind, see that as negligence.

Mr. Hillson: — So you're saying that this rather simple five page escrow agreement, were it really jumps out at you that what the purchase price is, that you are saying you don't think there was negligence involved there?

Mr. Messer: — I did not see the escrow agreement at the time of its date as April 3. There is a matter of record here for communiqués from Mr. Portigal to myself, dated April 1, 2, 3, and 4, giving me significant ongoing information in respect to the sale transaction. And nowhere in those documents did I see any change from what we had assumed the second agreement was, and that was \$20.8 million net after trading losses had been deducted.

Mr. Hillson: — And now this topic summary in which you conclude there is no negligence on the part of SaskPower officials or Mr. Portigal, are you in a position to table with us a copy of that topic summary?

Mr. Messer: — No I do not have those topic summaries. They're in the possession of the corporation.

Mr. Hillson: — Would those topic summaries please be filed with this committee? Will the government members undertake that they will be produced? We have a member of Executive Council with us this morning, and notwithstanding his protestations, I think he is in a position to speak for Executive Council.

The Chair: — One moment, Mr. Shillington.

Hon. Mr. Shillington: — Yes.

The Chair: — Mr. Hillson, in light of the fact that we're now at the adjournment hour, and we have established a steering committee and I intend to call that steering committee with the agreement of all the members by 5 o'clock tonight, I would suggest that those documents could be properly considered by the steering committee. So you've now had 30 minutes to put your questions. I think that we'll now adjourn.

Before we adjourn though I have a couple of announcements. Did you want to challenge . . . did you want to make a comment on . . .

Mr. Hillson: — Yes, I had two comments. First of all I have, as you know, prepared a motion on witnesses that I think have to be added to the witness list. I'm prepared to have this motion referred to the steering committee.

However, in regards to the present application before this committee, this is part and parcel of my questioning of Mr. Messer. These are his words; it's part of the examination of him. I was told when we get into committees all relevant documents will be produced. I don't know why a steering committee has to consider whether, whether this clearly relevant document will be produced.

The Chair: — For me right now, Mr. Hillson, the question is really the hour of adjournment time, and so I'm going to ask that we will now adjourn. Before we do, I want to make a couple of announcements.

For members of the public watching today, you will be aware that this is going to turn into an extremely complex matter. You may wish to review the *Hansard*. The *Hansard* is available on the Internet. The Internet address is www.legassembly.sask.ca. — all one word — www.legassembly.sask.ca. You will find it under the committees' button, and then you go to the Crown Corporations Committee link, and that site contains the notices, the *Hansard* minutes, and reports.

My second . . . Yes, Mr. Shillington?

Hon. Mr. Shillington: — I want to make the comment before you adjourned. I thought you were finished . . .

The Chair: — No I'm not finished; would you let me finish.

Hon. Mr. Shillington: — I got that impression, actually. When you've finished I have a comment for you at your . . . without being called . . .

The Chair: — Would members of the committee please allow me to continue my announcements. Thank you.

Second announcement. The Crown Corporations Committee had scheduled an April 2 meeting — that meeting would have been tomorrow. I am cancelling that meeting. I understand the Public Accounts Committee is meeting on the same day. And so that meeting will be cancelled. I had canvassed committee members on that previously.

Third, with respect to the upcoming Christian holiday of Easter, it is my understanding that the legislature will not be sitting on April 13 and I understand it probably will not be sitting on April 14. I had already received an indication from the solicitor representing Mr. Portugal that he was unavailable that day and the solicitor representing Mr. Drummond had indicated he was unavailable.

So I ask committee members to consider whether or not we want to meet on April 14 or 15. I think the steering committee can probably bring a recommendation to the next meeting of this committee. The next meeting will be April 7 at 9 a.m.

And finally again for the members of the public, we have arranged for a video *Hansard* of the proceedings. We've had some technical difficulties and equipment availability difficulties, getting television cameras — they're coming in from out of province. They will be available on April 7.

These proceedings will be broadcast on the usual legislative broadcast channels; for Regina, that's cable 2 and in Saskatoon, it's cable 69. I don't have the rest of the province.

And now, Mr. Shillington, I will recognize . . . (inaudible interjection) . . . Oh, yes, Mr. Tchorzewski?

Mr. Tchorzewski: — Just a suggestion. I hope the steering committee will consider since we are not going to sit on that particular Tuesday after Easter, I'm told, would it be useful for the steering committee to consider asking the Public Accounts Committee not to meet on the Thursday of that day so that we could still meet on the Wednesday and the Thursday and get two days in?

Just pass that on to the steering committee for its consideration.

Hon. Mr. Shillington: — I was going to comment on the procedure which Mr. Hillson had adopted. Rather than ask a member of Executive Council to produce them, I wonder if a better procedure wouldn't be for the committee to ask SaskPower to produce the documents. If such a suggestion had been made, I think we would have voted in favour of it and SaskPower would have no option but to produce the documents.

I think that's a better procedure than the one which has been adopted. I think the correct procedure is to suggest that the committee request the documents. We'd have voted in favour of that and SPC (Saskatchewan Power Corporation) would have had to produce it.

The difficulty I have in responding is I have no knowledge of what SPC has.

The Chair: — I would ask Mr. Priel to comment on this as well.

Mr. Priel: — I'm hoping that what your steering committee will produce is a raft of documents that someone here can put into binders for all of us. It will be tabbed and everyone will be able to be on the same page when documents are being looked at. And it will be ever so much easier and it will be much more efficient. You won't have to go through what Mr. Hillson went through this morning in terms of identifying documents. They'll

all be before the committee.

And I think that if the steering committee works properly, that's what will happen. There may be some documents about which there will be a dispute and it may be that this committee will have to end up dealing with them. But I'm hoping that the documents that Mr. Hillson is looking for today, he'll have in advance of the next time we meet so that he'll be able to do his preparation.

The Chair: — Thank you, Mr. Priel. Mr. Messer, just in closing, I would remind you that Mr. Gantefer had prepared a motion that does . . . It was not put to the committee but it did refer specifically to documents that he had asked you to present to the committee. Mr. Hillson has also requested a certain document. So I would ask you to take that under consideration and find your copies of those documents.

I also would like to thank all members of the committee and the witness for your cooperation. And this meeting now stands adjourned until April 7 at 9 a.m.

The committee adjourned at 12:28 p.m.