



Standing Committee on Crown Corporations

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**STANDING COMMITTEE ON CROWN CORPORATIONS
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Channel Lake Petroleum Ltd.

The Chair: — If the committee members are ready we will commence the proceedings today.

Today, as committee members are aware, we have with us witnesses from the Crown Investments Corporation, Mr. John Wright and Mr. Michael Shaw. Gentlemen welcome to the committee. And I realize Mr. Wright that you've been to the Crown Corporations Committee several times, as we have been looking at the annual reports of CIC (Crown Investment Corporation). These proceedings are somewhat different. We have decided that we will allow all witnesses appearing before us the privilege of having an opening statement and also a closing statement

And our procedure is that we rotate by the parties in 30-minute blocks. I guess I would just test the committee members now. Did you wish to do it in 30-minute blocks or try for 45 minutes today?

Mr. Gantefer: — Forty-five.

The Chair: — Forty-five? All right. So we will rotate in 45-minute blocks of questioning, and I have to swear the witnesses in and read you a statement. Before I do that I do have a request, committee members, from Mr. Shaw and Mr. Wright. They would like to be able to testify simultaneously. I would ask the committee members if you wish to do that? Is that acceptable? Thank you.

Then what I will do is I will read to both of you, the statement by the Chair and then I will swear you both in. And I would assume that only one of you will be making an opening statement. Thank you.

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

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

A witness who testifies in any proceedings has the right not to have 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. Wright do you wish to swear or . . .

Mr. Wright: — I wish to swear.

The Chair: — 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. Wright: — I do so swear.

The Chair: — Thank you. Mr. Shaw? 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. Shaw: — I so swear.

The Chair: — Thank you. I understand that the Clerk has distributed copies of the opening statement from Mr. Wright. Mr. Wright would you please read it into the record now.

Mr. Wright: — Thank you very much, Madam Chair. Madam Chair, we welcome the opportunity to appear before your committee today and answer questions regarding the role of Crown Investments Corporation in the matters you are reviewing. By way of personal background, I was appointed president of Crown Investments Corporation in July of 1996. I have over 20 years of service with the Government of Saskatchewan in a number of positions, including Deputy Minister of the Department of Finance and President of SGI (Saskatchewan Government Insurance).

Mr. Shaw became vice-president of the Crown corporations division of CIC in July of 1997. He has 23 years of service with the Government of Saskatchewan in various positions, including Deputy Minister of Highways, and Environment and Resource Management, as well as the Chair of the Public Service Commission.

As members of this committee will be aware, Crown Investments Corporation is the holding company for Saskatchewan's commercial Crown corporations and public investments. CIC is responsible for monitoring and evaluating the performance of Crown corporation investments in achieving business, financial, and public policy objectives. It is the central agency through which Crowns are accountable to the Minister and to the legislature.

Our job is to keep an eye on the overall performance of Crown corporations and investments. We are responsible for the public enterprise sector as a whole. We are not involved in the day-to-day management of the Crowns.

The role of CIC in relation to its subsidiary Crowns is evolving as a result of changes which are being made in response to the findings of the Crown review. That very comprehensive review, conducted in 1996 and in 1997, involved an analysis of the business and financial situation of the major Crowns and investments, an economic modelling of the impact of public investment on the province, and a public discussion on the role of public enterprise.

The review found that Crown corporations can continue to be viable businesses and achieve public policy objectives provided changes are made to prepare them for competition and improve governance and accountability.

The government responded to the Crown review findings in June of last year with a publicly stated commitment to make the required changes. I want to briefly go through those improvements, which have already been made, and those that are being implemented.

They include: development of a clear description of the roles and responsibilities of board members; strengthening of boards with the appointment of new directors, many of which have industry experience; an extensive board training program provided by the University of Saskatchewan's College of Commerce; a process to provide regular evaluation of board members; new forums for policy setting and information exchange, including joint CIC board, Crown Chair, and Crown CEO (chief executive officer) planning sessions, monthly CIC meetings with board Chairs and human resources, and performance management networks.

In addition, a significant transaction policy which the Provincial Auditor's spring report called "an excellent guide for corporations to use for reporting significant transactions" to your committee; more information in annual reports and the addition of semi-annual financial statements which the Provincial Auditor acknowledged in his report as part of CIC's "solid improvements to its financial reporting."

And finally, the implementation of a balanced scorecard performance management approach which the Provincial Auditor recognized in his report as useful in achieving CIC's objective of balancing the Crown's business needs with meaningful accountability to the people of Saskatchewan.

We're also making changes to tighten up the governance of subsidiaries within Crown corporations. These changes include outside directors on subsidiary boards; a strong Crown board oversight role; ensuring appropriate risk management is in place; ensuring that information flows in a timely manner between subsidiary boards and Crown boards; frequent board meetings and follow-up mechanisms to ensure board directives are being carried out; clarifying the role of Crown board committees in relation to subsidiaries; and clarifying the approval process for the sale or disposition of Crown corporation subsidiaries.

CIC's goal is to be at the leading edge in the management of public enterprises. We will look closely at any recommendations your committee may have for further improvements to governance and accountability of Crown corporations as a result of its work on Channel Lake.

The SaskPower subsidiary that was to become Channel Lake Petroleum Ltd. first came to the attention of CIC in the spring of 1993 when the decision to purchase the Dynex assets came to the CIC board.

Over the several years of its operations, a number of SaskPower board and audit and finance committee documents in minute references concerning Channel Lake were filed with CIC in a routine manner. There were also written requests from CIC for financial statements in 1996. All of these documents and minutes have been provided to the committee.

The first time that Channel Lake came to our attention in the

form of a flag being raised about it was December 9, 1997 when I received a letter from the minister instructing CIC to carry out a thorough review of the acquisition, management, and sale of SaskPower's interest in Channel Lake Petroleum Ltd.

I directed Mr. Shaw to lead this review and he established a process which had three parts. First, an examination of the accounting, management, and governance issues by Deloitte & Touche. Second, an examination of the legal issues by Gerrand Rath Johnson. And third, a review of the Deloitte & Touche and Gerrand findings by CIC and their application to the governance model for Crown corporations.

The results of our review have now been before you for three months. The Deloitte & Touche and CIC reports were tabled in the legislature, and we waived solicitor-client privilege on the Gerrand report so that it could be provided to your committee.

In addition to the acquisition, management, and sale of Channel Lake Petroleum, your committee is looking to the resignation and severance of former SaskPower president, Mr. Jack Messer. I want to clarify my role and that of CIC in these events.

As you will know from the minutes and previous testimony, the CIC board met on March 3 and March 4, 1998 to consider the draft reports on Channel Lake, the Bogdasavich and Gerrand-Batters opinions on just cause, and the status of Mr. Messer.

CIC officials attended those meetings as we do all board meetings, except for those portions which are held in camera. It was clear in the discussion at these meetings that there was a loss of confidence in Mr. Messer by the board. Officials were not present when the decision was made at the December 4 meeting to seek Mr. Messer's resignation, so we know only what was recorded in the minute, which gave the following instructions to me, and I quote:

John Wright is to meet with John R. Messer and indicate to him that his resignation, unconditionally, was required by 6 p.m. Wednesday, March 4, 1998.

Further, John Wright was to indicate to Milt Fair, Vice-Chair of the SaskPower board of directors; we would acquire the services of an outside legal adviser, such as a retired judge, to work out any package that would be appropriate in terms of severance.

Upon receiving these instructions I phoned Mr. Messer's office to advise that he should await my arrival, and went directly there. I arrived at about 3:15 and informed Mr. Messer of my mandate, which was to request his unconditional resignation by 6 p.m. and inform him that he would be dismissed if he did not resign.

I also told Mr. Messer that I would be meeting with Mr. Fair to inform him of CIC's board decision. Mr. Messer indicated that Mr. Fair was nearby and we agreed that he should join us immediately.

While we were waiting for Mr. Fair, Mr. Messer expressed his disappointment that he was being asked to resign after all he had accomplished at SaskPower. He asked if he would be

entitled to severance and I indicated that if he resigned, it would be up to Mr. Fair with the help of independent counsel to determine if severance was payable, and if it was payable, how much.

Mr. Messer then asked if severance was deemed to be payable, how it would be determined. I responded that Mr. Fair and his counsel would be guided by The Crown Employment Contracts Act which provides for a maximum payable of about 18 months, similar to that provided to Mr. Stan Sojonky and Mr. Leo Larsen. I noted that I am not a lawyer and that Mr. Messer would need to consult with his own legal counsel in this regard. I did not in any way suggest or imply that Mr. Messer would be entitled to a severance package.

At about 4 p.m., Mr. Fair joined the meeting and I reiterated my mandate. Mr. Fair asked a number of questions about the process including how severance, if any, would be calculated and what the maximum entitlement could be. I responded in the same manner as I did to Mr. Messer.

He also inquired about the role of the SaskPower board, and I indicated that it would need to be convened to accept the resignation if that was the outcome of the process. He asked if CIC would be able to assist him in the preparation of recommendations for the SaskPower board, and I said we would do so at his request.

I returned to my office to await Mr. Messer's decision and received a phone call indicating that he would be resigning, followed by a letter of resignation. CIC had no involvement in the negotiations that ensued between Mr. Fair, Mr. Garden, and counsel for Mr. Messer.

In closing, I appreciate the opportunity to outline CIC's involvement in the events being reviewed by your committee and the measures we are taking to improve governance and accountability of Crown corporations and their subsidiaries. We are here to assist the committee in discovering what can be learned and what can be improved as a result of SaskPower's Channel Lake experience. We welcome your questions, Madam Chair.

The Chair: — Thank you very much, Mr. Wright. Mr. Gantefer, I will now recognize you till approximately 10:10.

Mr. Gantefer: — Thank you, Madam Chair. Good morning, Mr. Wright, and Mr. Shaw.

Mr. Wright, you indicate in your statement that you ... (inaudible) ... was appointed president of CIC of July 1996. Briefly, I would like to know when you acquired that role, what the briefing process is to make you aware of the matters that are going to be under your jurisdiction.

Mr. Wright: — Certainly. When I joined, I asked of my senior officials, of the vice-presidents and other executive directors, to be briefed on issues of pertinence to CIC both with respect to the Crown corporations and with respect to the extensive portfolio of investments that CIC has on the plate.

Mr. Gantefer: — Did those briefings include detailed briefings of the subsidiary Crowns?

Mr. Wright: — The subsidiary Crowns to the extent that we reference them as SaskTel, SaskPower, SGI, STC (Saskatchewan Transportation Company), and others. With respect to the other subsidiaries, no.

Mr. Gantefer: — In terms of SaskPower, did you meet with Jack Messer, for example, to be briefed by him on issues that he felt were relevant in terms of SaskPower's ongoing operations?

Mr. Wright: — Certainly not immediately. I believe that over the ensuing months, Mr. Messer and I, along with the other CEOs, had several dinners. We discussed issues of commonality. And with respect to each of the presidents, we had some brief discussions.

Mr. Gantefer: — Were you briefed on Channel Lake?

Mr. Wright: — No, I was not.

Mr. Gantefer: — At no time ... I think you mentioned in here that you first had flags raised ... but you said there was also issues that showed up before that in terms of Channel Lake in terms of financial statements and reports. When was the first time that you heard about Channel Lake?

Mr. Wright: — I believe that the first time I heard about it was in April of 1997, and that was with reference to a press release, I believe that was issued by SaskPower. I took note of that. The second time that I was more extensively aware was the afternoon of June 20, 1997, when I was briefed on the SPC (Saskatchewan Power Corporation) board meeting held earlier that day.

Mr. Gantefer: — So through the process where CIC was requesting that Channel Lake file financial statements and things of this nature, that was never drawn to your attention?

Mr. Wright: — The concept of tabling of the financial statements by subsidiary Crown corporations was raised, but specifically with respect to Channel Lake, no.

Mr. Gantefer: — There was no flagging of concern that Channel Lake was engaged in unauthorized arbitrage trading outside of the mandate that had been given to it by SaskPower?

Mr. Wright: — In retrospect I've asked my staff that; they have indicated that they were unaware that SaskPower, through Channel Lake, was engaging in arbitrage activities.

Mr. Gantefer: — So that never did flow up to CIC?

Mr. Wright: — No it did not.

Mr. Gantefer: — Is that a concern?

Mr. Wright: — In retrospect, absolutely.

Mr. Gantefer: — Was there any direction or policy on CIC's part that would have required that that type of reporting indeed happened as a matter of course?

Mr. Wright: — I'm sorry, just for clarification that type of reporting with respect to ...

Mr. Gantefer: — You indicated that CIC did not know about these activities, and you indicated in retrospect that they perhaps should have. Is there a policy in place that indicates that that reporting should've been a matter of ongoing process?

Mr. Wright: — Well to the extent that in 1993 . . . when the purchase of the Dynex properties was made aware . . . I'm advised that there was a reference to the mandate that was provided to Channel Lake and that that mandate indicated that it would operate in a certain course, in a certain manner, to the extent that, as a result of subsequent events, that mandate changed.

It would have been my expectation, and it is my expectation, that Crown corporations would dutifully report to CIC at the management level, at a minimum, indicating that the mandate had changed from that that was originally articulated.

Mr. Gantefer: — In your statement, I believe on page 4, the word was that on the CIC board meeting March 3 and 4 that you indicated it was clear from the discussions that went on at that meeting that the board had a loss of confidence in Mr. Messer. Were you aware that the board in the past, SaskPower board specifically, had also engaged in a concern about Mr. Messer's employment, or continued employment?

Mr. Wright: — No, I was not aware of that.

Mr. Gantefer: — So you were not aware that in the past the SaskPower board had expressed concerns about Mr. Messer and were told by Mr. Anguish, who was then the SaskPower chairman, to solve the problem?

Mr. Wright: — I believe that what you may be referencing occurred in 1993 or 1994. At the time I was the deputy minister of Finance and my focus was solely on the well-being of the province from a fiscal position. I was not aware of any circumstances surrounding Mr. Messer or the SaskPower board in either 1993 or 1994.

Mr. Gantefer: — In terms of your briefings, that was never raised . . . is that there had been previous concerns about Mr. Messer?

Mr. Wright: — No it was not raised.

Mr. Gantefer: — You indicate that officials were routinely at meetings except those portions which were held in camera. At the portion that you were in attendance at . . . well I guess first of all, were you asked to leave for some part of the meeting?

Mr. Wright: — There were actually three board meetings on the days of March 3 and March 4. The board meeting of 7 a.m. approximately on March 3, to the best of my recollection there was no in camera meeting . . . to the extent that there was another meeting at approximately 5 o'clock on March 3.

There was period when Mr. Messer was present. I was there for a portion of it, a very short portion. And then officials were asked to leave so that Mr. Messer could speak privately to the board.

On March 4 at approximately 12 noon, 1 o'clockish, I just can't

remember, there was a rather extensive in camera meeting where all officials were excused.

Mr. Gantefer: — So the meeting that generated the motion that you quote in your opening statement, was that the meeting at 12 noon on the fourth?

Mr. Wright: — That is correct. It was at approximately 2:30, 2:45 when I received my instructions upon returning to the meeting.

Mr. Gantefer: — In terms of the discussion that went on, on the 7 a.m. meeting that you were in attendance, and there was no in camera session, was Mr. Messer in attendance at that meeting?

Mr. Wright: — No he was not.

Mr. Gantefer: — So the only meeting that he was asked to be in attendance on was on the third at 5 p.m.

Mr. Wright: — That is correct.

Mr. Gantefer: — The discussions in those meetings surrounded the Channel Lake issue exclusively?

Mr. Wright: — Yes. They were focused, all three meetings, on Channel Lake, the Deloitte & Touche report, the Gerrand report, the CIC report, and the issue of Mr. Messer's resignation. Or before March 4 the issue was focused in on where are we going vis-a-vis this issue. Legal opinions such as the Bogdasavich opinion was made available, was discussed. On the afternoon of the third Mr. Bogdasavich was also asked to attend the CIC board meeting in that evening, where there was a rather extensive discussion.

Mr. Gantefer: — Did Mr. Messer . . . was Mr. Messer given the opportunity to explain his position or defend his mandate?

Mr. Wright: — That is correct. On the meeting of March 3, the evening meeting.

Mr. Gantefer: — Was there discussion in his presence or at any of the other meetings about his resignation, outside of the one on the fourth which you were excluded from?

Mr. Wright: — Well there were discussions surrounding legal opinions that had been provided by Mr. Bogdasavich on the meeting of March 3, the 7 a.m. meeting. There was discussion, I shouldn't say obviously, but there was discussion that evening as well because Mr. Bogdasavich was asked to attend to present his views and his opinion. So indeed there was discussion at both of those meetings.

Mr. Gantefer: — Was there discussion about Mr. Messer's termination or resignation with Mr. Messer when he was in attendance?

Mr. Wright: — No there was not, to the best of my knowledge.

Mr. Gantefer: — There may have been in the in camera section which you would be unaware of.

Mr. Wright: — I'm not privy to what occurred during the in camera sessions.

Mr. Gantefer: — Mr. Messer clearly said and I think you're agreeing, that you came to his office and indicated that he would have to resign by 6 o'clock or he would be terminated with cause. Is that correct?

Mr. Wright: — Pursuant to my directions I indicated to Mr. Messer that he would be dismissed. And pursuant to a brief discussion I indicated that he would be dismissed with cause.

Mr. Gantefer: — Mr. Messer also testified that he was led to believe that he would be given a lucrative, I think were the words, severance package similar to other precedent-setting individuals if he chose to resign. And I believe in the statements that were attributed to you in the media you indicated some difference in that, and you indicate that in your opening statement.

Do you have any ability in reviewing the testimony of Mr. Messer to reconcile those two apparent differing positions?

Mr. Wright: — Yes I do. Madam Chair, if I can make reference to part of Mr. Messer's April 28 document of *Hansard* . . . Sorry, Madam Chair.

The Chair: — It's quite all right. Take your time, Mr. Wright, and answer us completely and fully as you are able.

Mr. Wright: — Certainly. Madam Chair, in his testimony of April 28, 1998, and in response to a question from Mr. Gantefer respecting "a lucrative severance package," I'd like to quote from Mr. Messer's testimony. Mr. Messer said:

I don't believe that he (with reference to myself, John Wright) was given the authority. He was given the authority to convey to Mr. Milt Fair as the Vice-Chair, that if I was to voluntarily resign, they would provide a fair and lucrative severance package . . . to, if that was the decision of the process, to something in the neighbourhood of Mr. Sojonky, who I think at that time was probably one of the more lucrative severance packages. But that clearly it would be a responsibility of Mr. Fair and whatever other facility he felt might be required in order to negotiate that.

Madam Chair, these are the words of Mr. Messer which clearly in my mind reinforce exactly what I said to Mr. Messer, that if that was the decision of the process, a severance package would be provided, but the process had to unfold.

Mr. Gantefer: — Thank you, Mr. Wright. Would it be your impression from Mr. Messer's testimony that he certainly believed that a severance of that similarity — recognizing that a process would have to be gone through but — in essence was a *fait accompli*?

Mr. Wright: — Well I can never speak for what was exactly in Mr. Messer's mind at that point in time. I believe in my statement I indicated that Mr. Messer indicated disappointment that he was being asked to resign after all he'd accomplished at SaskPower. Perhaps therefore in his mind he fully and firmly believed that he'd be entitled to a severance package. But I

don't know that to be the case. I don't know that to be the fact.

The fact of the matter is he was never offered a lucrative severance package, let alone any severance package by myself.

Mr. Gantefer: — It seemed in his testimony that he believed . . . he had expressed a desire that he be allowed to stay for some period of time that would allow, in his opinion, a transition from his responsibility to whoever was going to replace him, and that was not offered. And that he expected that if he was going to be asked to resign in three hours, he might have fought it with cause except that he had reason to believe he would be provided with this kind of a generous severance package. How would he come to that type of a conclusion?

Mr. Wright: — Well I don't think that those were his exact words. His testimony, as I recall, indicated that on March 4 at approximately 11 o'clock he phoned me and suggested that if he had several months, I believe the phrase was September, to get his affairs in order, to work on a succession plan for SaskPower, he would be prepared to resign without severance. I indicated to him during that conversation that in my belief that simply was not in the cards.

Mr. Gantefer: — And he had to make the choice between 3 o'clock and 6 o'clock, in three hours as you've indicated, if he was going to simply resign and take some vague chance on severance or to be fired with cause and to fight that?

Mr. Wright: — In fact, the situation unfolded a little bit differently. During my meeting with Mr. Fair and Jack Messer both of them indicated to me that 6 o'clock would be a very tight time line. Jack wanted to respond and have conversation with his spouse; he also indicated that he needed to contact legal counsel to seek advice.

I indicated to Mr. Messer and to Mr. Fair that I would give due consideration to this, but that I would appreciate at minimum receiving a phone call before 6 o'clock. Mr. Messer phoned at approximately 5:30 and indicated that he needed more time.

Severance, resignations, terminations, what have you, are very, very difficult circumstances no matter who you are — are on the receiving end or on the delivering end. I felt that it was warranted in this case, and I undertook it upon myself, to extend the time frame by which Mr. Messer could provide me his resignation to approximately 9 o'clock that evening.

In fact I received a phone call at about 8:30, perhaps it was 20 to 9 p.m., Mr. Messer indicated to me that he was faxing over to me the letter of resignation and I received it at about 20 to 9 p.m., quarter to 9 p.m. that evening.

So there was a further extension provided at my own initiative to ensure that Mr. Messer had the opportunity to talk with those close to him and legal counsel.

Mr. Gantefer: — Would he have discussed the possibility of his severance in that interval as well?

Mr. Wright: — I have no knowledge of that.

Mr. Gantefer: — Mr. Messer seemed to indicate that if he

had realized how the process would unfold he probably would not have resigned and would have fought the dismissal with cause. Was that discussed at anytime in the conversation before 6 o'clock?

Mr. Wright: — No, not at all. I believe that was a comment of his in hindsight, well after the resignation was delivered to myself.

Mr. Gantefer: — Was there any conversation between yourself and the minister responsible in terms of the resignation of Mr. Messer, or you clearly are only operating off the board resolution?

Mr. Wright: — The board resolution was delivered to me by the Chair of the board who also happens to be the Chair of SaskPower's board and who also happens to be my minister. He delivered, on behalf of the CIC board, the mandate. I accepted the mandate and moved forward to talk to Mr. Messer about it.

Mr. Gantefer: — Was there discussion that occurred in terms of this issue at that time and how it should be handled?

Mr. Wright: — At that time, no there was no discussion of that from the CIC board.

Mr. Gantefer: — From the minister?

Mr. Wright: — No there was not.

Mr. Gantefer: — So he simply walked into the office, gave you the memo and walked out?

Mr. Wright: — No, as I've indicated earlier at the March 4 board meeting, I believe it was held here in the Treasury Board room, room 318 of the legislature, that we were dismissed, ministers went into a in-camera session. I was subsequently called back into that meeting and delivered my mandate.

So my minister did not walk into my office and say here it is.

Mr. Gantefer: — So you walked back into the meeting, if you like, and then received the mandate at that time.

Mr. Wright: — That is correct.

Mr. Gantefer: — Was there any discussion in terms of you exercising that mandate?

Mr. Wright: — No there was not. There was a clear indication that this was my mandate and I was to execute my mandate immediately.

Mr. Gantefer: — There was no discussion about giving you latitude for any negotiation room?

Mr. Wright: — No there was not.

Mr. Gantefer: — Was this decision discussed subsequently after you had delivered your mandate and you had had the discussions with Mr. Messer at 3 o'clock or so. Did you give a report to the board or to the minister as to the outcome of your meeting with Mr. Messer?

Mr. Wright: — When I inevitably received Mr. Messer's resignation, as I indicated at approximately 20 to 9 p.m., quarter to 9 p.m., I then phoned my minister to advise him that the resignation was received.

Mr. Gantefer: — Was there any further discussion with the minister at that time in terms of expecting to hear from Mr. Fair about a severance package?

Mr. Wright: — I don't recall.

Mr. Gantefer: — Turning to the general responsibilities of the Crown Investments Corporation, the clear line of authority I think you would agree flows up from subsidiary Crowns. Using Channel Lake as example where the authority would flow up to the Channel Lake board which receives its authority from the SaskPower board who in turn receives its authority from the CIC board, and ultimately the mandate comes from the cabinet and from the people of Saskatchewan . . . would be the clear line of authority. Would you agree with that general definition?

Mr. Wright: — Yes I would.

Mr. Gantefer: — I think you'd also agree that then the responsibility flows in a similar fashion perhaps in the other direction it goes . . . with the authority going in one direction, responsibility flows in the opposite direction. Is that probably fair?

Mr. Wright: — I think that there's a chain of command, and in any chain, it's only as strong as its weakest link. Information must flow both vertically and horizontally in all directions.

Mr. Gantefer: — In the exercise from your task review process, you indicated that there was a change of direction in terms of how the Crowns were going to be governed. But the Channel Lake experience largely, and I guess almost entirely, happened under the past or current governance structure. Is that correct?

Mr. Wright: — Yes, that's correct. During the last several years, both in the public and in the private sector, there's been extensive discussion about ways and means to improve accountability, responsibility, and overall governance in all corporations regardless if they are the public or the private sector. We recognize that as part of the Crown review.

We are advised, through the Crown review process by numerous of the major accounting firms and also numerous of the major investment banking firms, that we had to move forward and make adjustments such that we could balance the competitive nature of Crown corporations with their public accountability role. In a sense providing them with greater autonomy but at the same time trying to improve accountability.

We receive numerous recommendations from these individuals and institutions as well as from the public of Saskatchewan. And the whole goal of the Crown review was to articulate those, and I believe we did so in June of 1997, and then move forward on the implementation of those goals, those objectives.

To that end, Mr. Shaw was recruited by myself to come over to CIC, and that has been one of his major tasks. To implement,

improve, and strengthen governance practices.

And I believe, Madam Chair, that in my opening statement I went through several examples of the things that CIC, in conjunction with the Crowns, are trying to do to not only improve but strengthen again the role of the Crown corporations.

Mr. Gantefer: — In the exercise of Channel Lake Petroleum, it was indicated to us that there was a clear desire that this transaction occur before March 31. And it has been defined in various terms from a target date to an aggressive time line to an absolute pre-condition, almost — to any consideration — depending on who the witnesses have been in front of us.

Is there somewhere in the system a perception that if Crown subsidiaries can combine or consolidate their financial activities, that in essence that that is how the reporting requirements are in CIC or flowing up the system?

Mr. Wright: — I believe, Madam Chair, that in the CIC report which was tabled in the legislature — and perhaps Mr. Shaw can speak more eloquently to this point than I — that the March 31 date was clearly identified as you put it, Mr. Gantefer, as a target date, and that there was a clear desire to move to that date.

In general terms, when one is conducting a sale or a purchase, one can establish a target date — that that is the date by which it wants to be accomplished. I guess in our review, though, we thought that there was more to this. And I've had extensive discussions with my staff, the comptroller for CIC, my vice-president of finance, and others as to, would this alter the accounting treatment? And the answer that they provided to me is no. So it remains very much a mystery to myself what this March 31 date was. I don't know.

The Chair: — Mr. Gantefer, did you wish to direct a question as well to Mr. Shaw?

Mr. Gantefer: — If he cares to add . . . I just assumed that by directing the questions generically that . . .

Mr. Shaw: — I guess what I have to add is a summation of what I think this committee has heard from other witnesses but primarily the consultants at CIC hired to conduct interviews and to examine documents and to make reports. It was their clear impression, as I read their testimony in recent appearances before this committee, they confirmed that, that it was their clear understanding that the March 31 deadline was very significant. It was a target. Some viewed it as a drop-dead date — a firm target that could not be missed.

Others were less certain of its significance. But quite clearly it is the target date that drove the entire process. And quite clearly I believe in the testimony, Mr. Portigal assumed that that was the date on which he had to deliver an agreement and he worked towards that. Its significance in terms of accounting treatments, Mr. Wright has spoken to.

Mr. Gantefer: — There seemed to be the impression — not necessarily and certainly not from Ernst & Young as the auditors — that there would not be any difference in the way

the treatment was going to be handled. But there seemed to be the impression left by some of the SaskPower officials that there would be a rounding or blending, that potential increased share value would be somehow blended with the potential operating losses so that what was really reported was basically a net effect on the SaskPower board.

And while the Ernst & Young chartered accountants said that indeed, if you look very carefully at the reports, you could find that there were separate notations of this for the even a lot more than casual viewer. It would tend to become a consolidated, one-line figure, would that fair?

Mr. Wright: — If I may, Madam Chair, certainly in our review of the testimony of SaskPower officials or the testimony of Ernst & Young and others, we side very much with what Ernst & Young has said. Consequently, it's a mystery to us how SaskPower officials got that impression that they would be able to disguise the inevitable losses that would occur in Channel Lake through the sale process. I believe the accounting treatment is clear.

So I'd like to indicate that in my belief, their impression was wrong; that it wouldn't be the case that they would be able to blend them together or to disguise them.

Mr. Gantefer: — But you would agree that it clearly seems to have been their impression that they could.

Mr. Wright: — That seems to be the case.

Mr. Gantefer: — The individuals who testified in terms of the accountants, the legal counsel that were engaged, and the preparation of the transaction of the sale of Channel Lake, they viewed the target . . . You know, if CIC or if SaskPower management regarded March 31 as a drop-dead date — that seemed to be more where that was coming from — they certainly said it was very aggressive and that there was going to be a great deal of challenge in order for them to physically meet the legal requirements of documentation and negotiation in order to meet that date.

Was the fact that that date chosen a major result — where the communications process and your review — that things got missed?

Mr. Wright: — I agree with you very much, Madam Chair, that March 31 was a very aggressive date. Again though, the reasons why it was set and established are a mystery to CIC officials. Was that the result or was that the rationale of the reasons for errors in judgement being made and other factual matters? I can only speculate on that, and I think that would be properly put to the SaskPower officials once again.

Mr. Gantefer: — How does the responsibility of CIC work in terms of holding individuals responsible or accountable for their actions?

Mr. Wright: — The responsibility for individuals within any Crown corporation are pursuant to The Crown Corporations Act, I believe it's section 25, whereby the board of directors is responsible for all of the officers and individuals within the Crown. As a consequence, it's not CIC that holds, at the end of

day, the individuals responsible. It's the board of directors for the individual Crowns that are charged with that duty.

Mr. Gantefer: — So in the instance of CIC requiring Jack Messer's resignation, why would not the SaskPower board require Jack Messer's resignation, given the definition of the lines of authority you just described.

Mr. Wright: — Indeed that's in fact the case that the SaskPower board of directors did accept Mr. Messer's resignation on March 5; that is a requirement.

Mr. Gantefer: — But they didn't demand it.

Mr. Wright: — No, they did not demand it.

Mr. Gantefer: — CIC demanded it.

Mr. Wright: — That is correct.

Mr. Gantefer: — So I thought you just told me that you hold the board of directors accountable.

Mr. Wright: — That is correct. That is part of our job to monitor the performance of the corporations and to ensure that the board of directors are held ultimately accountable for the performance of those Crowns.

Mr. Gantefer: — Then why did you not ask the SaskPower board to demand Jack Messer's resignation?

Mr. Wright: — I believe that the decision was made by the CIC board that this would be the appropriate course, knowing in fact that the SaskPower board would have to ultimately be the ones that would accept his resignation. And they did so on March 5.

Mr. Gantefer: — But it seems to be in conflict with your definition of the role and responsibility that you just indicated to me that CIC has to those who are making the decisions. I think you said that you hold the boards responsible.

Mr. Wright: — That is correct. I don't see the inconsistency here. At the end of the day it is SaskPower Corporation board of directors that had to accept or reject, as the case may be, the resignation . . . of SaskPower . . . or of Mr. Messer. The board on March 5 in my belief had the full right, the full authority not to accept that resignation.

Mr. Gantefer: — But you took it, or CIC board took it upon themselves to demand the resignation or he would have been fired. If Jack Messer had chosen not to resign the CIC board demanded he be fired or indicated he would be.

Mr. Wright: — The CIC board, pursuant to section 6 of The Crown Corporations Act as you know, has the ability to issue directives to the SaskPower board. That is not commonplace. I'm not aware of any circumstance to date that directives have been issued. So on the one hand you have a situation whereby the CEO and all officers have the responsibility of the board. On the other hand you have a situation where CIC board of directors can issue directives to any of its board of directors of the Crown subsidiaries.

Mr. Gantefer: — Does the CIC board then have authority over . . . or did they under the old structure? I believe, I'm not sure where it's at in the transition as we speak. Where is the minister that's responsible in that structure for SaskPower at it in this exercise?

Mr. Wright: — I'm sorry I'm not sure I understand the nature of the question.

Mr. Gantefer: — Do you also have the responsibility to make sure that the minister responsible for SaskPower, for example, lives up to his or her obligations?

Mr. Wright: — Yes. In that regard we received a legal opinion from Mr. Bogdasavich of the Department of Justice to clarify if there was any conflict of interest in so far as the Chair of the CIC board is also the Chair of the SaskPower board. We were assured that there was not, and because the ministers are one and the same, at the March 4 board meeting of the Crown Investments board, I received direction, one could argue, from both the Chair of CIC and the Chair of the SaskPower board of directors.

Mr. Gantefer: — As I recall the press conference on . . . actually on this year's throne speech, the Premier said he was not aware of any minister that had demanded Messer's resignation. Clearly the CIC board had indeed demanded the resignation of Mr. Messer.

Mr. Wright: — I don't know the context in which the Premier articulated that. Perhaps he was stating that no minister of the Crown actually asked for Jack's resignation, which is in fact true. Again on March 4, I was mandated and I was the one that asked for Mr. Messer's resignation. So I'm not sure of the context in which the Premier was speaking.

Mr. Gantefer: — But the CIC board that directed you to do that is all ministers?

Mr. Wright: — That is correct.

Mr. Gantefer: — So then the ministers asked you to demand Mr. Messer's resignation. You were just carrying out their decision.

Mr. Wright: — The board of directors asked for me to execute Mr. Messer's resignation, that's correct.

Mr. Gantefer: — So if the minister didn't direct that Mr. Messer be fired, who did?

Mr. Wright: — No, the board of directors of Crown Investments Corporation clearly articulated and it was recorded in the board minutes that I was to go and execute certain duties with respect to Mr. Messer and his future employment to which I did do. CIC board clearly articulated my marching orders.

Mr. Gantefer: — So when the Premier said that no minister or ministers asked for Mr. Messer's resignation, that at the very least would be misleading?

Mr. Wright: — Strictly speaking, my interpretation not knowing the context in which it was given of course is that

that's correct: John Wright, myself, the president of CIC, asked for Mr. Messer's resignation. So strictly speaking, it was not the board of directors of CIC — it was myself.

I'm sorry, I just don't know the context in which the Premier was speaking. And I think the context may shed more light.

Mr. Gantefer: — Well, John Wright didn't take the initiative to fire Jack Messer or to ask for his resignation. John Wright, as the agent of the ministers through the CIC board, you were only acting as part of your responsibility as the CEO of CIC.

Mr. Wright: — That's correct.

Mr. Gantefer: — So John Wright, individual, is not part of the process here.

Mr. Wright: — Well clearly, I was part of the process because I was the one that met with Mr. Messer.

I'm not sure, Madam Chair, this is a little bit of apples and oranges perhaps. Again if I knew the context in which the Premier was speaking, perhaps I could shed light on this. But in that absence I'm sort of stuck.

Mr. Gantefer: — Thank you, Mr. Minister . . . or Mr. Wright.

Mr. Wright: — No, not Mr. Minister, no, please.

Mr. Gantefer: — I can appreciate your reluctance to accept that title.

Mr. Wright, if the CIC board clearly has the authority to direct all matters of subsidiary boards, what is the real benefit of the changes that you propose in terms of reorganization that would have prevented this kind of activity to occur without your knowledge?

Mr. Wright: — Well I think that the changes that have been proposed, have been implemented and are currently under way, significantly enhance the overall governance structure of the Crown corporations. Again I'm going to ask Mr. Shaw to articulate this better.

But we are members of the Conference Board governance committees and we are trying to articulate best practices within that. And that goes a heck of a long way, I think, to improving the overall situation.

But again, Madam Chair, perhaps Mr. Shaw could shed further light.

Mr. Shaw: — Madam Chair, I think I'd answer this way: that the Crown review which was completed in June or July of last year really should be viewed as a watershed piece of work with respect to governance of Crown corporations.

And as my colleague has noted, there has been basically a revolution in the thinking around corporate governance both in the private sector and in the Crown corporation or public sector over the last five years. And it's been the subject of a great deal of research by public policy agencies, institutes, academics, and practitioners themselves, such as the Conference Board of

Canada which has just recently, I think in January of '98, published a report on new governance practices. And it refers to what's happened in the past three years as a quantum leap in governance.

So there's been a fairly fundamental change, particularly from the point of view of the role that boards of directors should take on with respect to guiding the direction and the performance of their institutions.

And I think it's fair to say that we've moved from a period where — I don't want to use derogatory terms here — but where boards were much more passive in terms of their roles and responsibilities to one where they are now much more active.

And the Crown review and the way it has established the individual roles and responsibilities as between cabinet and CIC board, CIC management, Crown boards, Crown management recognizes this improvement in government, generally, in business.

I might also say that a lot of leading work has been done in this area by the business school at the University of Western Ontario. And we have benefited greatly from their work as well as work by many other individuals.

So I would tend to say that what we have in place now is at the leading edge of best practice; if not best practice, then very good practice.

And if I just might elaborate one more point, we have just completed a very extensive training program of all of the Crown corporation boards that was begun in February of this year and just completed last month. A very extensive six modules, over a day and a half each, conducted by the business advisory services of the College of Commerce at the U of S (University of Saskatchewan), highly credible agency and individuals.

And I think that we now have confirmation that we have a very sound governance framework in place. And I can tell you that the participants highly . . . very well attended all of the sessions and highly appreciated by the directors of the Crown boards.

So we've made very significant progress in the last year, and I think it's very important to draw a line between what was in place in terms of practice and process and structure prior to summer of last year and what is in place now, and is being put into place.

Mr. Gantefer: — It's been the testimony of witnesses that when Channel Lake got into the gas trading, the arbitrage activities, it had moved beyond the original mandate given to it by SaskPower's board of directors to guarantee supply and stabilize price. And it's been shown that as this trading activity grew, it was clearly always operating outside of the mandate. And there was retroactive, if you like, mandating that was occurring.

So clearly these activities were outside of the governance lines of authority. And when they got cleared up, they got cleared up at the Channel Lake board side, which were clearly . . . the

individuals on that board were management people from SaskPower. So really there was not any change in the original mandate from the boards of directors on SaskPower. It was done in an internal operational sense to cover the tracks or mandate the authority, or whatever you want to call it, but it got to be fairly significant in terms of the hundred million dollar level that potentially was put at risk. And granted it wasn't all lost, but it was placed at risk outside the mandate of SaskPower.

How does the board's fiduciary responsibilities start flowing into this exercise for SaskPower, and then subsequently I guess to CIC, has the overall authority and responsibility, as we agreed the lines flow. Here you have a subsidiary that, I think, we could agree was operating beyond its mandate which would take it beyond the lines of authority that would be given to it. Would you agree that that's indeed what happened?

Mr. Wright: — Yes, I believe, Madam Chair, that in the CIC report again that was tabled in the legislature, we articulated that we believed that the activities in arbitrage that were being undertaken by Channel Lake were outside of the mandate that had been provided to them by the SaskPower board of directors. Again, Mr. Gantefer, you raise a very important point.

Two factors here: one, the chain of command. I mentioned earlier that that chain is only as strong as its weakest link, and I believe that's up to the members of this committee to determine where those weakest links were. The second thing on this is, unfortunately, we just simply, at CIC, did not know that they were engaging in arbitrage.

The final thing that I'd add on this though is part of my opening statement — it was part of CIC's opening statement — we indicated that we were trying to tighten up and we will tighten up the government's subsidiaries. And I specifically mentioned ensuring appropriate risk management is in place.

So we believe that through our changes, through the training and other things that we're undertaking in conjunction with the boards, there will be an evolution of management and of governance to ensure that this does not occur again.

The Chair: — Mr. Gantefer, I'm sorry. Can you start to wrap up please? Thank you.

Mr. Gantefer: — Where does the board's fiduciary responsibility play into this activity?

Mr. Wright: — I'm not sure, I'm really not sure where it fits in. The board has a fiduciary responsibility to the organization, to the structure. Both the Channel Lake board has a fiduciary responsibility to it. And it would seem to me, although I don't profess to be a lawyer or an expert in this area, but it would seem to me that the fiduciary responsibilities begin with the Channel Lake board. That they should have, pursuant to the Ernst & Young management letters, the observations of the Provincial Auditor, they should have put in place appropriate risk management strategies. They did not.

Now is that in violation of fiduciary duties? I think it's in violation of good management and good governance. Perhaps I can leave it at that.

Mr. Gantefer: — Given the fact that their mandating of this activity was also always retroactive, basically the management group from SaskPower were the board of directors who had to know what Mr. Portugal was going, does not the fiduciary responsibility . . . is it not a lot stronger and a lot more at risk if you like than it may be further up the chain of authority where it would diminish with distance?

Mr. Wright: — I can agree with that observation. I think that the focal point there was with the Channel Lake board. It's not only approving it in hindsight, from my vantage point it's putting in place proper risk management strategies that are really required, and they just weren't there.

Mr. Gantefer: — Was there not also a fiduciary responsibility on the SaskPower board to see to it that the mandate that they gave to Channel Lake was indeed carried out?

Mr. Wright: — Well my understanding, Madam Chair, is that they were unaware that the Channel Lake board or Channel Lake management was engaging in these activities to the extent that they were unaware. The information has to flow, as I mentioned earlier, both up and both down. So how do you correct something that you're not fully aware of, I guess is the issue.

Mr. Gantefer: — Thank you.

The Chair: — Thank you, Mr. Gantefer. I believe it is now . . . it's appropriate now to take a 15-minute break. So we will recess until 10:30 at which point Mr. Hillson will lead the questioning.

The committee recessed for a period of time.

The Chair: — We're back from the break. Mr. Hillson, will you begin with your questioning of the CIC officials please, till approximately 11:15.

Mr. Hillson: — Thank you, Madam Chair, and good morning gentlemen. Now I think you've already answered this, Mr. Wright, but I want to put it to you one more time so that's no confusion at all. As you are aware, on page 797 of the *Hansard* of this committee on April 28, Mr. Messer testified that you conveyed to him that:

If I undertook to resign voluntarily there would be a very lucrative severance package to the extent that it would be as good as anything that may have been available previously.

Now I take it, you are flatly denying that any such conversation occurred.

Mr. Wright: — Indeed I am, Madam Chair. As I said in my opening comments, I did not in any way suggest or imply that Mr. Messer would be entitled to a severance package. Further, Madam Chair, I did reference a quote from Mr. Messer pertaining to his April 28 testimony where he indicated in summary, and in short: I don't believe that he — meaning John Wright — was given the authority to provide a severance package.

Mr. Hillson: — Now you've discussed that there are already a number of changes to the governance of the Crown corporations to make them more accountable. However, subsidiaries, as I understand it, are still not governed by the same restrictions as The Power Corporation Act. Is that correct?

Mr. Wright: — That is correct for the most part. Many of the subsidiaries of what we in CIC refer to as subsidiary Crowns are in fact governed by The Business Corporations Act.

In my opening statement, I did comment that we have several suggested changes under way, which includes putting directors, outside directors, on the subsidiary boards, a strong Crown board oversight role, ensuring appropriate risk management is in place, and so on, Madam Chair.

Mr. Hillson: — Do you believe that this is sound public policy, that the subsidiaries of Crown corporations are not subject to the same restrictions as the parent Crown corporation?

Mr. Wright: — Well in that regard, Madam Chair, what we have undertaken — and perhaps I can get Mr. Shaw again to elaborate on this — is a rather extensive discussion with each of our subsidiary Crowns, SaskTel, SaskPower and so on, to review this whole issue, not only from a governance side of the equation, but also from the mandates and the focus and the function of the subsidiary Crowns.

So Mike has been working very, very hard with many of the CEOs and CFOs (chief financial officer) of each of the Crowns to come to an understanding and a new structure pertaining to them. So, Madam Chair, if I may, and Mr. Hillson, if I may, perhaps Mike can elaborate.

Mr. Shaw: — Yes, Madam Chair, we have undertaken a review of governance of subsidiary entities as a result of our reports on Channel Lake and we view it as the most important undertaking that we have coming out of our review. It's almost completed now. We've involved senior executives in all the Crown corporations in a consultation process trying to arrive at a set of principles and guidelines which will be put into place and all of the Crown corporations will use in terms of setting up and managing subsidiary Crown corporations in the future.

I think what we are going to come to is not a single model, which will try to be applied to all of the various situations that we might have. I think we're going to end up with a set of principles and a set of standard practices which inform those principles. And generally speaking there are a couple of significant principles that we're going to be following.

One is that the Crowns and their subsidiaries are answerable to the government and to the legislature and to the public. We believe that Crown business is public business and that there needs to be openness and transparency in their behaviour. Decisions need to be taken by the level of governance which is most capable of making an informed decision. And we expect that the governance process will be providing timely information.

So that's a set of four principles around which we're going to be recommending a policy which includes principles and practice to the CIC board very shortly and I think is going to be

putting subsidiaries on the same footing as Crown corporations with respect to accountability.

Mr. Hillson: — So that will be a policy to have the subsidiaries on the same footing as the principal Crown corporation.

Mr. Wright: — That is correct. Now there are certain circumstances, Madam Chair, that we've come up against and run into that we've had to explore quite extensively with the Department of Justice. I know I've gotten at least two, I believe perhaps three, legal opinions on certain aspects of the subsidiary Crown corporations and issues pertaining to the fall 1997 Provincial Auditor's report — OCs (order in council) and the requirement for OCs and so on.

So we're attempting to resolve those both within the limitations of existing legislation and if necessary, legislative changes that could be forthcoming next spring to clarify the situation.

Mr. Hillson: — However this still won't be written into the law though.

Mr. Wright: — Well certain aspects may in fact be written into the law because as I indicated, Madam Chair, we are looking at legislative changes if they're required to do that.

Otherwise certainly it will be a policy of CIC, is our expectations, and certainly we'd be more than prepared to come to this Crown Corporations Committee to discuss that policy. And if further refinements are required, from your perspective and the members of this committee's perspective, we'd be certainly willing to give that full consideration for implementation.

Mr. Hillson: — Now one of the policies that was instituted by Crown Investments was that subsidiaries should file their financial statements with the legislature although that is not a legal requirement.

Mr. Wright: — That is correct.

Mr. Hillson: — And for think two or three years, memos were written to SaskPower saying that it was your view that financial statements for Channel Lake ought to be filed with the legislature.

Mr. Wright: — Yes, Madam Chair. In this regard, just by way of background, I believe CIC has taken the leadership role in tabling subsidiary reports. In fact I believe it was in 1993 that CIC tabled its subsidiary reports which includes the very large Crown Investments Corporation III, Industrial Interests Inc., as I recall.

In response to the auditor's report I believe of 1995, in March of 1996, March 26 I believe, and then with a follow-up memorandum May 8, 1996, we indicated to each of the subsidiary Crown corporations that we wanted them to table their financial statements for 1995.

Now the memorandums of March 25 from Mr. David Dombowsky, then acting president, which is in your Channel Lake documents — I'm sorry, I don't know the reference number — and I believe of May 8, which was again from either

Mr. Dombowsky or from Ms. Patti Beatch, the CFO (chief financial officer) of CIC, requested both times that SaskPower table its 1995 annual reports.

You'll note that in the second memorandum of May 8, we had resolved one of the issues pertaining to certain of one of the subsidiaries of SaskPower where a tabling requirement wasn't necessary. Subsequent to May 8, I am led to believe by my officials that Ms. Beatch and the controller of CIC had subsequent discussions with both SaskTel and SaskPower regarding the subsidiary reports. There was an issue of reformatting of the statements.

The 1995 financial reports for the subsidiaries were in a format that was prepared for management's purposes. It included extensive discussions of contracts, of commercial issues, and so on, and suppliers. They were not in the form or the format that should be properly tabled before the legislature. There is a cost to having them reformatted and there is a cost to auditing, because a new audit would be required pursuant to that format.

In addition, because we are now into either late May or early June, they were becoming, in my words, stale dated. As a consequence, both for SaskTel International and for I believe it's three of the subsidiaries of SaskPower, it was agreed that CIC will consider these "a work in progress" and that tabling for 1995 would not be required. But clearly for 1996 it would be required.

And I'm pleased to report that actually in November of 1997 we had tabled, pursuant to requirements, the Channel Lake financial reports for 1996. They were not, I understand, provided to the committee members — I can't speak to why that was not the case — but then were subsequently provided to the House in March of this year.

Mr. Hillson: — Okay, yes. When the document's filed with us there are two requests that the Channel Lake financial statements for 1995 be filed, and we just don't have any response in the document as to what became of that.

Mr. Wright: — And that's more than fair enough, Madam Chair. The response was a verbal discussion, as I understand it, between my officials and officials of SaskPower, and I should also point out SaskTel, because SaskTel International was not tabled. And it was agreed that they wouldn't go forward for 1995.

Mr. Hillson: — I think it's also clear from the testimony you've already given us that you were not at all advised or informed in May, June of last year that the Channel Lake sale had run into significant difficulties.

Mr. Wright: — No, I believe — and I'll stand corrected, Madam Chair — that I had indicated that on June 20 in the afternoon I was advised of the discussions that occurred at the SaskPower board meeting by the then acting secretary, corporate secretary to the board.

If I may elaborate on that. The corporate secretary in fact gave me a phone call and asked me if he and I could have a short meeting to discuss what occurred at the board meeting earlier in the day. He indicated to me that the board was surprised to see a

revised purchase price for the asset sale, that there was discussion around this, that there was quite large discussions focused in on Mr. Messer about the nature of the change.

I asked the corporate secretary, well, what steps were taken? I was informed and advised that Mr. Messer took appropriate steps in the form of internal audit being requested to provide a report and independent legal counsel, outside legal counsel, also being requested to provide a report.

I was advised Mr. Messer spoke to both of these issues, that while there was continued concern by the board of directors, that it appeared that they were going to and subsequently did of course, ratify the deal on the basis of the recommendation by Mr. Messer.

I indicated to the corporate secretary, please keep me apprised if there are other flags that are coming up. But because the board had ratified the sale, I considered at that point in time the case closed and noting that Mr. Messer, in my opinion, did take the appropriate steps.

Mr. Hillson: — So June 22, when the corporate secretary discussed with you that there had been changes to the agreement from the earlier understanding, did that include telling you that we had sold the company for 5.2 million less than what had been initially believed and approved?

Mr. Wright: — I don't recollect clearly if there was an indication of exactly 5.2 million. I do recollect that there was a change in the price that was indicated and it was a lower price. And I'd also point out it was June 22, I believe. I believe it was June 20.

Mr. Hillson: — The same day as the board meeting.

Mr. Wright: — In the afternoon, that's right.

Mr. Hillson: — I'm sorry, I thought I heard you say June 20. So it was the same day . . .

Mr. Wright: — I did say June 20.

Mr. Hillson: — June 22. It was the same day as the board meeting that the corporate secretary talked to you.

Mr. Wright: — That's correct. I believe that to be the case.

Mr. Hillson: — And you were told that the company was sold for less than we'd initially believed but you don't recall how much less.

Mr. Wright: — That's correct.

Mr. Hillson: — And were you informed of the role of Mr. Portugal?

Mr. Wright: — No, I was not. I was completely unaware of Mr. Portugal's activities with respect to Channel Lake until Mr. Shaw, at my direction, began the investigation and the review in December 1997.

The Chair: — Excuse me, Mr. Hillson, I wonder, for the

record, Mr. Wright, could you indicate who the corporate secretary is that you discussed this matter with.

Mr. Wright: — Certainly. We were in a situation of change within Crown Investments Corporation and we had an acting corporate secretary, Mr. Scott Goddard.

Mr. Hillson: — Did you in turn report to the minister at all after June 20?

Mr. Wright: — No I did not.

Mr. Hillson: — So you didn't have any discussions with the minister concerning the Channel Lake sale prior to December '97?

Mr. Wright: — Prior to December 9, 1997 I had no discussions with my minister that I'm aware of.

Mr. Hillson: — Now of course you've told us already that you see no particular magic in a March 31 closing date in terms of reporting requirements.

Mr. Wright: — I believe, Madam Chair, I indicated that it was a mystery to me of the significance of the March 31 date from an accounting framework.

Mr. Hillson: — However, and this may be somewhat outside your purview, but in the case of another sale, the NST sale of the cable company in Chicago, that too we don't seem to find anything in the annual reports that discloses what happened with that sale, do we?

Mr. Wright: — Oh dear, Madam Chair, respectfully, I'm very uncertain about that. I don't know. I came to speak of Channel Lake today and I'd have to review notes and the annual statements of NST.

Mr. Hillson: — Okay, fair enough. But can you tell us then . . . you say there are new controls in place to ensure better reporting. What new procedures are now in place so that when an asset such as NST or Channel Lake is sold, that there will be full disclosure as to the activities and the final sale of that asset?

Mr. Wright: — As I indicated in my opening statement, Madam Chair, that we are working in conjunction with the Crowns to implement these. Some of them already have been implemented and we will be implementing the others. With respect to the sale, clearly the last point that I made was to clarify the approval process for the sale or disposition of Crown corporation subsidiaries. And we're working very hard on that right now to set in place not only process but also policies as it pertains to that issue.

Mr. Hillson: — But can you be more specific as to what sort of reporting changes you anticipate, or Mr. Shaw.

Mr. Shaw: — I don't have the policy proposal in front of me. What I do think we're going to be putting into place is a set of — I don't want to use the word requirements; I'll call it a policy — a set of expectations that the Crown boards will be directly involved in, in establishing diversification strategy within which subsidiaries can properly fit. That they're involved in

making decisions on the strategy and the business plans of those subsidiaries. That they are in control of ensuring that if there is a board structure set up, that the individuals who are appointed to the board are well trained and qualified. That there are annual performance measures and targets in place to ensure that the strategy which has been decided upon is being followed, and that there are adequate reporting mechanisms from the management of the subsidiary back to the Crown so that there can be proper performance management.

So there's a package of general improvements, most of which are the responsibility of the Crown boards to put into place to ensure sound governance of the operations of the subsidiaries.

Mr. Hillson: — Now in your letter to the Deputy Premier, dated December 16, it seems to me that you are saying there that — that's CLP 5/9 — that approval for the sale of Channel Lake took place on the June 20 board meeting. Is that your view, sir?

Mr. Wright: — That is correct.

Mr. Hillson: — So in your view, could the sale have been avoided and set aside prior to the June 20 approval?

Mr. Wright: — I'm sorry, Madam Chair, I didn't hear the question. I apologize.

Mr. Hillson: — In your view then, prior to the June 20 approval, could the sale have been avoided and set aside?

Mr. Wright: — Oh I don't think I'm qualified to speak to that, Madam Chair. I've reviewed the same documentation as members of the committee have. I'm not a lawyer, and I haven't reviewed them extensively.

Mr. Hillson: — But in any event, your view is that approval for the sale occurred on June 20 and not previously?

Mr. Wright: — That is correct.

Mr. Hillson: — Had you been consulted prior to the June 20 meeting as to your view as to whether we should continue with the sale, notwithstanding the fact it was for significantly less than we had understood it was to be for?

Mr. Wright: — Madam Chair, as I indicated previously, my two recollections of the Channel Lake experience prior to December 9 were in April when I believe I received a press release, and then again on June 20. So I was never consulted by anybody.

Mr. Hillson: — In terms of the proper lines of authority did you find it strange that you were not consulted in late May, early June, when SaskPower found out what had in fact happened over the sale? Do you find it strange you weren't consulted as to what should be the next appropriate step?

Mr. Wright: — Both yes and no, Madam Chair. On the yes side, it is strange. Proper governance, proper delivery, would suggest that the senior management of SaskPower or of Channel Lake, as the case may be, would contact me and advise me.

Strange? No, simply because SaskPower had a unique way of moving through issues such as purchase of sales, management of its item.

So on the one side, yes, and that's why we're making these changes — to make sure that that does not occur again; and on the other side, no, because of the uniqueness of SaskPower's management style.

Mr. Hillson: — So are you saying that in your view this wouldn't have . . . that you would have been brought into the loop had this been one of the other Crown corporations?

Mr. Wright: — Yes.

Mr. Hillson: — And in your words, it is unique with SaskPower that you would be kept in the dark about a situation such as this.

Mr. Wright: — I don't think it would be unique for SaskPower to keep me in the dark. From time to time one could argue that they kept me in the dark on an ongoing basis. Perhaps that's a harsh statement though.

I think there are many good things that went on in SaskPower. Some excellent management in terms of the assets. I think senior management over there deserves to be commended for the direction it's taken, the improvements that they've made. But from time to time, there was a strained relationship as between SaskPower and not only CIC; perhaps others as well.

Mr. Hillson: — So you are saying that there was a lack of willingness to keep you fully informed as to circumstances at SaskPower, in your view?

Mr. Wright: — I think the facts bear that out, Madam Chair.

Mr. Hillson: — And I trust you would agree with me that you can't really properly perform your duties and your functions unless you do receive full information.

Mr. Wright: — As I indicated, the chain of command works both vertically and horizontally on the basis of information provided. When there is a weak link where that breaks down, the situation overall breaks down and the chain is broken itself. So the long and the short is yes, I expected proper information flows. In my view, they were not received.

Mr. Hillson: — And to where do you fix the blame for not receiving proper flow of information?

Mr. Wright: — Well I think, Madam Chair, that that's what this committee has been tasked to do, is to determine who is responsible and why they may be responsible for the circumstances, and to provide CIC and others with recommendations such that this doesn't occur again.

Mr. Hillson: — Let me ask it in a different way then. Who would have been responsible within SaskPower for keeping you informed?

Mr. Wright: — Senior management of SaskPower.

Mr. Hillson: — And who would that be?

Mr. Wright: — Senior management I believe is seven vice-presidents, or six as the case may be, plus the president of the corporation.

Mr. Hillson: — So are you saying that the vice-presidents too would have direct contact with you or would they be expected to go through the president for contact with you?

Mr. Wright: — My contact was predominantly with Mr. Messer. From time to time, I have had contact with my vice-presidents. Mr. Messer tended to run a very tight ship in that regard, that it was CEO to CEO, and VP or vice-president to vice-president.

Mr. Hillson: — So basically your contact with SaskPower would be through Mr. Messer.

Mr. Wright: — Predominantly.

Mr. Hillson: — Now in your letter to the Deputy Premier dated December 16 you state:

I do not have any information to suggest that Mr. Portigal acted in any way other than to serve the interests of SaskPower.

Mr. Wright: — That is correct.

Mr. Hillson: — Do you stand by that statement today?

Mr. Wright: — I stand by that at that time on December 16, 1997 I wrote a memorandum to the minister responsible and those were the facts as I understood them to be the case at that point in time. I point out that in order to produce this memorandum, we of course contacted SaskPower and SaskPower officials. And off the basis of the information received from them, I crafted this, and clearly my signature's down below.

Mr. Hillson: — Yes. I'm not questioning that, but I say would you make a same statement today, sir?

Mr. Wright: — Likely not.

Mr. Hillson: — Now an investigation into the sale of Channel Lake was commenced then in December of 1997.

Mr. Wright: — That is correct.

Mr. Hillson: — That was when it was first ordered. But shortly after the investigation was commenced, Mr. Messer was added to the board of SaskPower for the first time.

Mr. Wright: — That is correct.

Mr. Hillson: — Can you tell us why that would have occurred?

Mr. Wright: — There was a policy change as a result of the Crown review. During the Crown review, we reviewed the governance practices of many private sector and other public sector Crown corporations. It was determined that for good

governance that the CEO or the president should in all cases be added to the board of directors of our subsidiary Crowns.

There was a generic application there for the CEO of SaskTel, the CEO of SGI, the CEO of Energy and so on. Mr. Messer was part of that.

Mr. Hillson: — Now you've already told us that the gas trading arbitrage activities were in your view outside the mandate of SaskPower.

Mr. Wright: — That is correct, Madam Chair.

Mr. Hillson: — And by the way, are you using those two terms interchangeably or do you understand them to be different things?

Mr. Wright: — I'm sorry which two terms?

Mr. Hillson: — Gas trading and arbitrage.

Mr. Wright: — They are two different terms.

Mr. Hillson: — Okay. Could you just briefly explain for us, because it seems if different witnesses had different understanding of futures gas trading and arbitrage, I'd like you to explain what your understanding of those two terms are.

Mr. Wright: — Well clearly, futures gas trading is not arbitrage. Arbitrage is the simultaneous of purchase and sell as between two markets of a commodity or an item. It bears no market risk yet may bear a credit rating risk.

Mr. Hillson: — Because you're dealing with a static price, is that why you're saying there's no market risk?

Mr. Wright: — There's no market risk because it's a simultaneous transaction executed as if I picked up the phone here and said, buy/sell — an immediate transaction. There is no market risk. There is credit rating risk which was subsequently proved to be the case in the instance of Channel Lake.

Mr. Hillson: — Now if you say that in your view the arbitrage activities were outside the mandate of SaskPower, what was done to control or curtail them?

Mr. Wright: — Well I think that that would be the question to ask to the SaskPower officials and the board of directors of Channel Lake, as well as senior management of Channel Lake.

I can only go from the record and I believe that in — and I'll stand corrected on the year — July 1995, Mr. Portugal brought forth a policy, a risk management policy, that was not approved. I believe it was referenced again in December 1995 — again I may have the year wrong.

But it would seem to me by the record — and I again would have to review the record — that management and the board of directors did not implement proper risk management strategies, risk management policies, but approved retroactively the gas activities.

Mr. Hillson: — I'm sorry. What I meant, Mr. Wright, is what

was done on the CIC level to ensure that proper policies were in place and that SaskPower was operating within its mandate?

Mr. Wright: — Sure. We were unaware, we were not informed that Channel Lake was engaging in these activities. If we had of been aware and if we had of been informed, I assure you that I would have taken steps to, one, review the mandate of Channel Lake; and two, to ensure at a minimum that there were proper risk management strategies. But unfortunately we did not know.

Mr. Hillson: — So this is another area in which you simply weren't informed as to what was going on.

Mr. Wright: — That is correct.

Mr. Hillson: — And you've already indicated what you would do if you had been informed, so this is another area in which you couldn't perform your duties as president of CIC because you didn't know what was going on in one of the Crown corporations.

Mr. Wright: — In this subsidiary of the subsidiary Crown, that's correct.

Mr. Hillson: — And you described that too as a unique situation to SaskPower as opposed to our other Crown corporations?

Mr. Wright: — Well I do know that there are proper risk management strategies in place in . . .

Mr. Hillson: — No, I'm sorry, sir. I meant not the risk management, but the fact that you weren't informed.

Mr. Wright: — Well again, I tend to be well informed of the activities in the other Crowns. In the case of SaskPower, I simply was not in this circumstance aware of that.

Mr. Hillson: — Who would have been responsible for keeping you informed?

Mr. Wright: — Again as I had indicated, I had a dialogue on an ongoing basis with Mr. Messer, the president and CEO. I would have expected Mr. Messer to apprise me of the situation.

Mr. Hillson: — So you've now discussed two situations in which you say you should have been informed and were not. And are you saying that was part of an ongoing pattern between CIC and SaskPower during the period of time that Mr. Messer was president?

Mr. Wright: — Well again, Madam Chair, SaskPower tended to have an inward focus. There were tensions from time to time, I believe, with some of my predecessors in CIC, as between SaskPower and CIC.

If I can give you an example of what I'll call the unique management style there: there are a variety of documents that were exchanged in the period, I believe, January predominantly, as between CIC and SaskPower.

The Chair: — Excuse me, Mr. Wright, January of what year?

Mr. Wright: — I'm sorry, January 1998, as this review was underway. And I could reference, for example, CLP 5/53, CLP 5/54, CLP 5/56, CLP 5/57, CLP 5/58, CLP 5/59, CLP 5/60, CLP 5/61, CLP 5/24, and I believe it's CLP 5/25.

These documents articulate the ongoing, at the time, dispute as between SaskPower and CIC with respect to the solicitor-client privilege and the ability to waive that. Mr. Gerrand, who was commissioned by Mr. Shaw to undertake this review, had an ongoing dispute and dialogue with SaskPower. SaskPower tended to, as I indicate, operate quite uniquely resulting in an inward focus at the time. So this was part of the norm.

I should mention some of those documents as well, the latter two that I referenced, were Mr. Messer sending CIC the bills for costs incurred by, I believe, it was his board members in providing witness to Mr. Gerrand and Deloitte & Touche. Of course we refused those.

So I think that those are indicative of again this unique structure and this unique relationship.

Mr. Hillson: — Perhaps Mr. Shaw should answer this. Are you saying that there appeared to be a reluctance on the part of SaskPower to cooperate with the Gerrand and Deloitte & Touche investigations?

Mr. Shaw: — No I wouldn't characterize it as, Madam Chair, as a reluctance. I would characterize it as an attempt to, as seen from my perspective, an attempt to — control might be too strong a word — but direct and probably perhaps put some boundaries around the review.

I understood their point of view that they felt they needed to understand what the information was going to be used for that would be collected and to what purposes it would be put and wanted to ensure that they had some ability to influence that.

My view was that I was under instructions from the minister responsible for CIC to conduct a thorough review and I was not going to be bound by any controls or conditions with respect to the use of the information. So there was a period of time where we had a lively debate on those points, subsequently resolved, and the review went forward.

Mr. Hillson: — I assume when you say debate, you're referring to Mr. Messer.

Mr. Shaw: — Yes. And other SaskPower officials.

Mr. Hillson: — And what are these boundaries? Could you explain some of the more significant ones? The boundaries that they were attempting to place on the investigation or of the use of the information there from.

Mr. Shaw: — I'd have to refer to the documentation but basically they were going to agree to waive solicitor-client privilege on a partial basis for the purposes of the collection, review, and making the report. And that they wanted to have further discussions about continuing in the waiver or renewing the waiver based on what would happen after the reports were completed.

There's also a discussion about confidentiality agreements that they proposed the Deloitte & Touche firm be asked to sign. From my perspective . . . from their point of view they would — and knowing the culture — they would view that as being simply good management and good governance. From my point of view, I found it to be not very helpful in getting on with the report.

Mr. Hillson: — Yes, I think Mr. Wright's already made reference to CLP 56, and you're right, Mr. Shaw, is a reference to solicitor-client privilege and confidentiality agreements. And I trust the two of you would agree that if solicitor-client privilege and confidentiality clauses were to be rigorously enforced, no real examination of the Channel Lake sale could ever have occurred.

Mr. Shaw: — Well my point was that I was not going to be bound by any boundaries with respect to the review and that was the end of that. And it took us awhile to work that out and we did.

Mr. Hillson: — So Mr. Messer was reluctant to accept that view?

Mr. Shaw: — Mr. Messer had a firm view, as he does on most things, and pressed it forward. And at the end I said we simply have to get past this and get going, and we did.

Mr. Hillson: — Now I want to go back to a point that we've been talking about reporting to you as president of CIC, Mr. Wright. Who is responsible for keeping the minister informed? Is it the various heads of the Crown corporations or does the information channel through yourself as head of CIC?

Mr. Wright: — The responsibility lies with the CEO of each of the Crown corporations to inform and fully inform their minister of all circumstances within their purview.

Mr. Hillson: — So the heads of the various Crowns report directly to the minister and not through yourself.

Mr. Wright: — They report directly to their board of directors. They do not report directly to me.

Mr. Hillson: — But who then is responsible for making sure that the minister is properly informed?

Mr. Wright: — The president and CEO of each of the Crown corporations.

Mr. Hillson: — So what is your relationship with the minister then in terms of the flow of information?

Mr. Wright: — I am responsible to my board of directors which is the Crown Investments board. I am responsible to the Chair of that board who is also my minister. It is my job to keep him informed of the activities of CIC and issues that may arise that have relevance to CIC.

Mr. Hillson: — But you're saying if it is a SaskTel or SaskPower issue, that would be reported to the board and then from there to the minister?

Mr. Wright: — The board includes up to, even today, the minister, so one would expect that would be natural, the minister being at the board and being a board member.

Mr. Hillson: — Yes. I'm sort of . . . of course up until this point the minister is at the board.

Mr. Wright: — Absolutely.

Mr. Hillson: — What will be the provision then when the minister is removed from the board?

Mr. Wright: — Well one of the many things that we're working with is what I call the Vice-Chair's, at this point in time, forum where, I indicated in my opening remarks, that what we're doing is establishing a network whereby CIC officials — Mr. Shaw and I predominantly — along with the corporate secretaries, meet once a month with the Chairs of . . . at this point in time, I'm sorry, the Vice-Chairs of each of the Crowns.

In addition, what we're doing through Mr. Shaw's good work and that of his staff is, if I may from my opening statement: new forms for policy setting and information exchange including joint CIC board, Crown Chair, and Crown CEO planning sessions; monthly CIC meetings with board Chairs and human resources and performance management networks.

We're moving to significantly strengthen the dialogue not only what I'll call to the centre, but also the dialogue that must occur as between and betwixt each of the Crowns.

Mr. Hillson: — And so then after you have those monthly meetings, who then will report on to the minister as to activities in the Crowns?

Mr. Wright: — Well if the minister is not attending these monthly meetings, it will be my responsibility to report to my board, and by the very nature of itself, through to my minister.

Mr. Hillson: — So I think that that's conclusive. So what you're saying then is that up until now, the minister has been on the various boards and would have heard through the CEO reporting to the board. The new model would be that you would be collecting the information and that you would be in charge of making sure the minister is informed.

Mr. Wright: — To the extent that . . . to the extent that he is unavailable — he or she as the case may be — unavailable to meet with the various Chairs or the soon to be Chairs of the boards, it will be my job to make sure that my minister and my board is kept fully informed at all times.

The Chair: — Thank you, Mr. Hillson. We'll move now to the New Democratic Party, Ms. Hamilton, till approximately 5 to 12.

Ms. Hamilton: — Thank you, Madam Chair. I know there's been a lot of questioning. I don't feel I'll take all that time. Good morning, gentlemen.

Mr. Wright, the Crown Investments Corporation prepared the report dated March 10, 1998 to its minister, a copy of which has

been filed with this committee. I believe your statement says that CIC had the benefit of the Deloitte Touche report and the Gerrand report when CIC's report was prepared. Is that correct?

Mr. Wright: — Madam Chair, if I may ask Mr. Shaw to respond to that.

Mr. Shaw: — Yes, Madam Chair, we had the benefit of a report from the law firm of Gerrand Rath Johnson on legal issues, and we had the benefit of a report from the Deloitte Touche accounting firm, management accounting firm, on the issue of governance and management. So that the basis of facts that we reported on were collected and formed through that approach.

Ms. Hamilton: — So when you formed your conclusions then in that report, the recommendations on governance by Deloitte & Touche were generally incorporated then?

Mr. Shaw: — Yes they were.

Ms. Hamilton: — Is it your view that when new governance model, the new governance model worked on under the Crown review process was compared against the Channel Lake experience, the new model would hold up?

Mr. Shaw: — If the new model had been in place I do not expect that we would have had a Channel Lake.

Ms. Hamilton: — A lot has been mentioned about the adjustments that are being made. I note a number of them with keen interest. And I think that not only ourselves but probably the public aren't aware of the many, many hours of work you've done on looking at incorporating and working on some of these changes.

One area you did touch on, and one adjustment you mention, is to examine strategies to improve the effectiveness of decision making under crisis situations. What sort of strategies are you seeing introduced?

Mr. Shaw: — I haven't done as much work on that particular issue to date as some other issues. That particular objective falls under the general umbrella of risk management and it is the responsibility of each board to ensure that there's an appropriate risk management strategy in place for its operations.

And that will include, among other things, understanding what decision-making process needs to be in place to deal with urgent and emergent issues — ones which do not normally occur and ones for which the normal decision-making process wouldn't serve very well.

So that's a general statement about the identification of a problem that the boards of directors have learned about, and have learned about in terms of techniques through their training that has just been completed. So I expect that over the next period of time all the boards, if they do not have appropriate risk management strategies in place, will be examining that issue and adopting an appropriate strategy.

Mr. Wright: — If I may just add to that ever so briefly. When we speak of risk management, that's not just financial risk. It's

legal risk, it's environment risk, it's human resource risk. We use the phrase risk management as an overall umbrella commentary, and so it's very important that crises which arise from time to time, be they in the legal side or environmental or human resource, are addressed adequately.

Ms. Hamilton: — You have other areas that you oversee that happening all the time then, so you would know what to look for. And you're looking at those and putting them into practice for each of the areas — not only the boards, but the subsidiaries.

Mr. Wright: — That's correct. At CIC we have a great deal of experience because we are joint ventures with many companies. We're using the best practices from those boards of directors that we sit and serve on. We're adapting that, moving it forward to the individual Crown corporations; and that there is clear application as I've indicated on my statement, to subsidiary Crowns of the subsidiary Crowns.

Ms. Hamilton: — I believe it was one of the women testifying that said that the Crowns and their subsidiaries are within the public purview, and you've restated that as far as accountability; and that therefore there are other measures that have to be taken to account when we're talking about risk. And you say environment, as well as legal issues and human resource issues. I'd imagine now the consideration of when operating in other countries, what the atmosphere is like and what the risks are in operation in those areas as well.

Mr. Wright: — Absolutely. As part of the Crown review we did issue processes and policies as it pertains to international investments. We are fine-tuning and refining those. And at some point in time we hope to come back to this committee with the new policies and procedures in place for international investments.

Ms. Hamilton: — Mr. Wright, in your assessment, were the difficulties experienced at Channel Lake due more to human error and lack of judgement, or were they matters of governance?

Mr. Wright: — Well I think that Deloitte & Touche made the observation that there were processes, there was good governance practices in place, and that it wasn't necessarily the fault of the process. Rather that perhaps it was the fault of individuals, human error and so on.

Ms. Hamilton: — In the case of Channel Lake the audit committee of SaskPower was to form part of the reporting process between the subsidiary and the parent company. In your review of Channel Lake, was the structure effective, and if not, what structure might be better considered?

Mr. Wright: — Well I think one of the items that we want to make sure occurs is that in a subsidiary it is just not management that sits on that board of directors; that there should be a proper blend at minimum of management, outside directors perhaps, and directors from the parent corporation.

I think that that would have served to tie things together more appropriately. And I think that that's the way to go.

Ms. Hamilton: — The flow of information from the board of directors of Channel Lake and the audit committee to the SaskPower board, do you feel there's a better mechanism, or that the mechanism was in place and maybe just not followed as stringently as it should have been.

Mr. Wright: — Well the mechanism was in place. Perhaps it wasn't followed as carefully as it should have been. Again we hope that our recommendations, by having more than just management on a corporation, will ensure the proper flow of information on an ongoing basis.

Ms. Hamilton: — Does that form part of the information that you're preparing for board members and managers and so on?

Mr. Wright: — Absolutely. In fact I believe that this was part of the management training exercise that we undertook with the University of Saskatchewan College of Commerce. I'd point out that the college did just a tremendous, bang-up job. All of the members of the boards were very, very pleased with the outcome of that.

And in fact, Madam Chair, I would extend to you and members of the committee, perhaps if you'd like at some point, CIC could arrange to have the College of Commerce come in and talk about good governance, good management, and basic principles. It's a tremendous course.

The Chair: — Mr. Wright, thank you for that. This is a special hearing to deal with Channel Lake. I will be convening regular meetings of the Crown Corporations Committee in due course. And since I expect that you'll probably be one of the first Crowns that we call, you may wish to repeat that offer at that point.

Mr. Wright: — I look forward to the opportunity, Madam Chair.

The Chair: — Thank you.

Ms. Hamilton: — In your report it is indicated a clear allocation of responsibilities and delineation of limits of authority must exist between senior management and the board. In the Deloitte Touche report it was stated that SaskPower board was not as fully informed as they could have been at certain key times. Do you share the view that senior management fell down in their role and in their responsibilities to the SaskPower board?

Mr. Shaw: — I think the Deloitte Touche report points out, and I agree with their observation, that there could have been improvement both from the perspective of the board of directors in terms of requiring that information be made available to them on a timely and regular basis.

Also there is a responsibility on the part of management to ensure that they are providing timely and accurate information. So that there is a two-way responsibility there, and I think there was deficiencies from both perspectives.

Ms. Hamilton: — Do you have ideas, I would imagine, from the workshop that was mentioned and from some of the work that you've done. You've quoted a number of now very current

information that's coming on stream. Do you have any ideas on how this might be avoided in future situations then?

Mr. Shaw: — Well we have to draw a line between what happened prior to July '97 and what has happened after. If the governance framework that we want to see in place now was in place then, it would look something like this. The mandate of the board would have been made clear. The board would, instead of appointing Mr. Messer as the sole representative of the shareholder, and appointing the audit and finance committee to generally oversee the board's interests in the Channel Lake operations, there would have been a different structure put in place.

The board would have been clearly interested in receiving itself, a copy of the strategies and business plans that the Channel Lake management and board wish to put into place. They would have set up a set of targets and performance measures that would guide the operations of the subsidiary. They would have put into place regular reporting on a timely basis, and generally would have provided more oversight to the operations of Channel Lake than they did.

But that is the new model of governance which is now in place and it wasn't generally available either in this Crown corporation or many other Crown corporations at that time. So that leads me to the conclusion that if the new model was in place now, we wouldn't have had a Channel Lake.

Ms. Hamilton: — Mr. Wright, and Mr. Shaw, you have reviewed the evidence given by the various witnesses who have appeared before our committee. Is there anything in particular you might wish to comment on in light of your original review which we haven't touched on here this morning?

Mr. Wright: — Well from my perspective, Madam Chair, I think that the conclusions, the observations, of both Deloitte Touche and the CIC report as well as the Gerrand report, remain as valid today as they were when they were originally tabled back in March of this year. I'm not sure, Mike.

Mr. Shaw: — I agree with that. I think the . . . my sense is, that work has been a great assistance to the committee. The testimony from the principals of those reports has been that there's nothing that they have heard in the testimony that would have them basically change the basic and fundamental conclusions they came to, and recommendations. So that I think the work was sound and remains sound today.

Ms. Hamilton: — Thank you, Madam Chair. That's all the questions I have.

The Chair: — Are there any other questions from any members of the New Democratic Party.

Mr. Tchorzewski: — No, Madam Chair.

The Chair: — Mr. Goohsen, as an independent member, you do have the privilege of addressing 15 minutes of questions. Did you wish to question either Mr. Shaw or Mr. Wright?

Mr. Goohsen: — Yes, I have a couple of questions. It may not take 15 minutes though.

The Chair: — Go ahead.

Mr. Goohsen: — But you can time me just in case I get carried away.

Gentlemen, welcome. I actually just was trying to follow the conversation and testimony that you've been giving and try to analyse it a bit so I can get a clear perspective in my own mind as to what has happened.

You mentioned earlier today that you weren't aware of the arbitrage process that was going on, is that correct?

Mr. Wright: — That is correct, Madam Chair.

Mr. Goohsen: — Had you have known, would you have recommended that they continue or that they stop or that they place some limits on the amount of monies that could have been put at risk?

Mr. Wright: — Madam Chair, I would have taken two steps. The first step is to see if the arbitrage activities were consistent with the mandate provided to Channel Lake. In my belief, they were not. We would have had to review that to ensure that this would be a sound business practice; that it was something that was required of the corporation.

And secondly, if it was the outcome that arbitrage was to continue, which I'm very uncertain that would be the outcome, but if it was, clearly, appropriate financial risk management, capital management, and other management practices and policies and procedures must be in place.

Mr. Goohsen: — I don't know if others would agree, but I would consider you to be probably one of the better, if not the best, financial analysts in our province, so I appreciate your answer on that because . . .

A Member: — I'll second that.

Mr. Goohsen: — I'm concurred with. So that is a compliment to you. And that is of course one of the reasons why I'm amazed that you weren't included in the process, because you would think that going into such a highly speculative venture, the people in Channel Lake and involved with it would have sought out the best expertise that they could have had.

Do you have any opinions as to why they didn't seek better financial advice?

Mr. Wright: — The only opinion I can offer, Madam Chair, is that again SaskPower had an inward focus. SaskPower relied and believed in the strength of its employees, its senior management, and focused on that. To go outside and to step outside to seek the advice of others was a rare event in many circumstances.

That being said, though, I do again want to emphasize that I have a great deal of respect and faith for the senior management at SaskPower, and that they have undertaken and done many, many good things for this province and for that corporation. But again, many corporations need to look outside instead of being so inwardly focused.

Mr. Goohsen: — I would wonder, having seen how the processes work in our democratic systems and the precedence that is established in our democratic system, what your views are on what should be done in the view of the interest of public perception in terms of a political fall-out.

Do you think that ministers should resign as a result of these types of catastrophes to show that the buck does stop in a democratic process with the ministry?

Mr. Wright: — I think we've already had one resignation already, Madam Chair, which was the president and CEO. I concur with that decision that was made by the CIC board, as difficult as it was.

With respect to any further measures, I again emphasize that it's my belief that that's the role and the responsibility of the members of this committee to come to conclusions and recommendations.

Mr. Goohsen: — Do you feel that people that were on the boards should be disciplined in any way?

Mr. Wright: — Well certainly there has been a change in the structure of the boards and many new board members added. To the extent should they be disciplined, the new board members, clearly not.

With respect to the others, I think again that's an observation that I leave in your court, Madam Chair, to decide and to deliberate upon.

Mr. Goohsen: — Should members of the board that are appointed to the board, should they be trained to understand what their job is and how they should do their job? Or do you think that they are chosen with enough personal expertise to be able to handle these jobs.

Mr. Wright: — Should they be trained? Absolutely. Have they been trained? Absolutely. But this is a new event.

One of the items coming out of the Crown review was that members of the boards of directors at that time clearly did not receive proper training. Again, I come back to the University of Saskatchewan and the College of Commerce and the excellent work that they've done there.

So I think training is very important. Not only from a global scale, but also training from not so much on governance but policies, procedures, internal operations of each of the Crowns. And I expect the CEOs and their staffs of each of the Crowns to make sure that members of the board of directors are fully and properly informed, and put on and provide training sessions for them.

Mr. Goohsen: — So I think I hear you saying then that subsidiaries that are set up by Crowns should definitely not be operated as independent entities because they can escape then the vigilance of those people that have the training already within those structures.

Mr. Wright: — No, my references were actually to the Crown corporations themselves. With respect to the subsidiaries, I

would expect the same level of care, training, information being provided, quality individuals being appointed.

And as I indicated with reference to an earlier question, cross-fertilization of board members is very important; that they cannot be dominated by management and that perhaps outside directors, if they have particular expertise to lend to the subsidiary Crowns, should also be added to the boards.

Mr. Goohsen: — When attorneys become attorneys, they are members of an organization, the law society, and they're required of course to carry insurance and that sort of thing. Other people in our society are required to be bonded.

Should people who are board members and senior management of these corporations be insured or bonded? Or perhaps they already are.

Mr. Wright: — Indeed they already are, Madam Chair. There's a process of indemnification and there's also specific directors' liability insurance that's provided, I believe, to each of the members of the board of directors of our various Crowns.

Mr. Goohsen: — So if a judgement were to find that some management or board members were responsible due to their actions for liability, they in fact would not likely pay that out of their own pocket. They would be covered by an insurance program?

Mr. Wright: — I'm not an expert on the nature of the indemnification that is provided to that, or on the insurance liability. I would be more than prepared to seek out that information and provide it to this board though.

Mr. Goohsen: — It has crossed my mind that perhaps the mistakes also carry some heavier responsibility to replace some of the lost monies that have accrued — I guess indirectly in the long-term haul towards the taxpayer — and that some of that may be recoverable through the insurance process and likely that's why it's put into place and people are charged premiums. So I would ask you to give some consideration to following up on that.

Mr. Wright: — I'd be pleased to report back to your committee if that's the desire of the committee.

Mr. Goohsen: — That concludes my questions, Madam Chair.

The Chair: — Thank you. I would ask the committee if they want Mr. Wright to follow up on Mr. Goohsen's question in more complete detail, and if they do, Mr. Wright, I would advise you that I would expect that you would table 15 copies of your response with the Clerk. And of course we would expect that it would be timely.

Mr. Wright: — Absolutely.

The Chair: — Did the committee want Mr. Wright to follow up on that question? I have agreement there.

Mr. Wright: — We will.

The Chair: — Thank you. Mr. Gantfoer, do you have

questions now to put?

Mr. Gantefer: — Yes, Madam Chair, if I could, following up from a few things that I didn't get to in the first section if I may. Mr. Wright, when we left off our discussion this morning, we were talking about fiduciary responsibility primarily at the Channel Lake level and I think we were in agreement that there is a significant amount of responsibility there.

Moving up to the SaskPower board, how do you see their fiduciary responsibility in terms of the requirement through their finance and audit committee to monitor the affairs of their subsidiary, in this case Channel Lake?

Mr. Wright: — Madam Chair, if I could ask Mr. Shaw to respond to that?

Mr. Shaw: — Yes, Madam Chair. Mr. Gantefer, as I was responding to a question by Ms. Hamilton, when the SaskPower board resolved to create, buy the assets and create Channel Lake, they gave it a mandate and also resolved to appoint Mr. Messer as the sole representative of the shareholder — meaning that in this case the SaskPower board — so that gave him significant authority.

It also tasked — there's a bureaucratic word — gave the audit and finance committee responsibility for general oversight. But in my view, it did not clearly identify what the audit and finance committee's duties and responsibilities were in this case. And I don't have any evidence that the audit and finance committee proceeded to develop its own clear identification of its roles and responsibilities in terms of oversight on behalf of the SaskPower board of the Channel Lake operations.

So I guess that's a long-winded introduction to a question that ... an answer. And I think that the fiduciary duty rests primarily with the management and the board of Channel Lake and not so much with SaskPower who had clearly put into place a mechanism that it thought would satisfy in terms of good governance. My view and the view of the Deloitte & Touche consultants is that that model was flawed and significant improvements could have been made.

But my view is the SaskPower board is not in and of itself, guilty of not doing its fiduciary duty but it's probably guilty of not putting into place best practice with respect to governance.

Mr. Gantefer: — The finance and audit committee of the board is made up of board members, is it not?

Mr. Shaw: — It is.

Mr. Gantefer: — So does that not then at least put some responsibility or fiduciary responsibility on the members of the finance and audit committee then to undertake the mandate that had been given to them to exercise general oversight?

Mr. Shaw: — I agree that the audit and finance committee had responsibilities. I would have to seek advice from those who have a better understanding of what fiduciary responsibility means in practice and in law and in corporate law to give you a good answer to that question.

Mr. Gantefer: — But certainly it is potentially an issue.

Mr. Shaw: — It's potentially an issue. Yet in my uninformed opinion.

Mr. Gantefer: — Thank you. In terms of ministerial responsibility there is the, still currently, the structure where another member of the board is the minister. Is there a special responsibility over and above the responsibility, the fiduciary responsibility, as a member of the board for the minister in terms of ministerial accountability?

Mr. Wright: — Well as I pointed out earlier, Madam Chair, there is a chain of command and that chain is only as strong as its weakest link. In this case, again it's up to this committee to determine where those weak links were. So it's within that context that I think the committee has to decide whether or not there is ministerial responsibility and if so, to what extent.

Mr. Gantefer: — So it would be your feeling that it's a role of this ... responsibility to allocate that responsibility then.

Mr. Wright: — Well I believe it's the role of this committee to review the circumstances surrounding both Channel Lake and the resignation and severance of Mr. Messer pursuant to your terms of reference.

Mr. Gantefer: — In terms of ... I think we've covered what this responsibility was in terms of the ongoing operation and the resulting losses and things of that nature through the sale of the contract.

It was indicated to us in testimony that after, and again I appreciate that we're supposed to allocate who had the responsibility for getting into the mess, but there was testimony that there was a good opinion that if SaskPower had acted to stop the final closure of the agreement ... that there were opportunities to do that.

How does a fiduciary responsibility then ... I mean up until now we're saying well he didn't know, the information process didn't work. But there certainly was a time where they knew what was going on, they knew what had happened and there was clearly, in testimony received, some opportunity to take action at that time to recover all or part of the exercise of this ... or the results of this process. Where would their fiduciary responsibility lie in that instant?

Mr. Wright: — Well, Madam Chair, I say with a smile, neither Mr. Shaw or I are lawyers, thank goodness. And I believe that the testimony provided previously was by legal counsel with specific legal insight on the opinion that perhaps there could have been. I can't pass judgement on that. I'm not qualified to do so. And therefore where you're leading in the question, without knowing the basis and the firmness and the foundation of the legal opinions, it's difficult to answer the question as to whether or not there was fiduciary responsibilities moving up the ladder.

Mr. Gantefer: — Is it your ... Perhaps Mr. Shaw may comment. If that — the issue of fiduciary responsibility being potentially an issue — became more valid or more important when the decision to accept the contract or accept the result

occurred. At that time the SaskPower board would seemingly have been in pretty full knowledge of what had happened and agreed that they would accept the results of the botched deal.

Mr. Shaw: — Well here's my personal view on that having been part of advising, as a public servant, many boards of many kinds. The board can only act based on the quality of information it's given.

My understanding of this file is that they understood from Mr. Messer that a deal had been signed for less than the board had resolved in the first instance. He had carried out investigations, as he should do. He had received opinions from an internal auditor that there was no negligence on behalf of his officials or Mr. Portugal. He had received approximately the same kind of opinion from outside legal counsel. He had been advised by a draft opinion from Milner Fenerty that there was less than 50 per cent chance of successful litigation. And that basically in Mr. Messer's view, the corporation got fair value for the assets.

And lastly, that if the board did not ratify the deal after the fact, that they might be subject to litigation themselves. That was the extent, in my view, of the information that the board had made available to it.

There's nothing that I have seen in the record that shows that there was a full and complete presentation by management of all of the options that might be available, an assessment of all of those options, so that the board was placed in a fair position in making an informed decision. My view was the board was presented with a situation where it was told and was lead to believe it had no options.

So how that translates, Mr. Gantefer, Madam Chair, into whether or not the board was exercising its fiduciary duty when it made the second resolution, I'm uncertain. I know that the quality of the information that the board had was grossly inadequate.

Mr. Gantefer: — In the training that you are undertaking now for new board members, is there a component in there, in that training, on the issue of fiduciary responsibility of board members?

Mr. Shaw: — I can't say for certain. I had attended myself the first and last sessions. I was otherwise engaged in Channel Lake work in between. And I can't tell you for certain whether or not there was a session on that.

I do recall a session from a legal consultant on the role and responsibility of board members, and it may well have covered the area of fiduciary responsibility and how that is described in The Crown Corporations Act and in the various Acts and statutes that govern the Crown corporations. It may well have been, but I can't say for certain.

Mr. Gantefer: — In your finding information on directors' liability — maybe you can tell me without finding that information — but, if not, I would be pleased to just receive it in terms of that information, is there a requirement . . . one of the legal firms indicated that a requirement of their insurance is that they serve notice of a potential liability. Can you tell me on the directors' insurance if you are aware if that requirement is

there as well?

Mr. Wright: — I'm sorry, Madam Chair, I can't, but I will endeavour to find the answers to that question and include it with our report to you on indemnification and directors' liability.

Mr. Gantefer: — Thank you, Madam Chair.

The Chair: — Thank you, Mr. Gantefer.

Mr. Hillson: — I have two questions, yes. First of all in view of your testimony this morning that, as you say, the information to the board was grossly inadequate and that CIC in turn was simply not informed of significant information regarding SaskPower and Channel Lake, is it your view that severance was owed to Mr. Messer?

Mr. Wright: — We consulted with and received two legal opinions with respect to the issue of severance. One from Mr. Darryl Bogdasavich in the Department of Justice. I believe before your committee he explained that he had reviewed over 1,500 cases in his 23 years of work. We also received an opinion from Mr. Gerrand and Ms. Batters which was taken to our board.

And in the final analysis I want to emphasize again, that Mr. Milt Fair in conjunction with his legal counsel, Rob Garden, was to determine the issue — if there was severance, and if it was owing, how much. I'm led to believe, given the events, that Mr. Garden determined that severance was in fact payable, and the quantum I just can't recall.

Mr. Hillson: — What about yourself, though, do you have any views on the situation?

Mr. Wright: — I have 20 years of experience in government. I've seen a lot of resignations, terminations, dismissals. In the case of Mr. Messer, it was a case of loss of confidence by the board of directors in his ability to continue in his capacity as president. And it was related to issues of process. I've never seen a circumstance or an issue where dismissal with cause for process has in fact occurred. The long and the short of it is, in my opinion, severance — and again I'm not a lawyer — but in my opinion severance was payable.

Mr. Hillson: — And the last question, you made reference to some sparring between CIC and SaskPower over the manner in which the investigations would be conducted by Mr. Gerrand and Deloitte Touche. And you made reference to document 5/55. And I believe in that, Mr. Gerrand says that if Mr. Messer's view prevails as to how they conduct their work that it would be incapable of acting in any formal fashion to report to Crown Investments Corporation. His view was that he really couldn't . . . he couldn't do his job if Mr. Messer's view was to prevail.

Mr. Wright: — I'm sorry, Madam Chair. I don't actually think I made reference to 5/55. But noting that, maybe Mr. Shaw can shed some light . . .

Mr. Shaw: — Mr. Gerrand's view, as I understood it, was that to accept that the conditional waiver would bind the CIC

board's hands with respect to the information it had received; he came to that view. I accepted that view and said that we could not accept any boundaries. Mr. Gerrand's view also was that if those were the conditions under which he was going to operate, he would rather not participate. And so he had a fairly strong view about this.

Mr. Hillson: — That he really just couldn't do his job under those terms of reference.

Mr. Shaw: — I think his view is more accurately summarized as, he didn't think a review conducted under those circumstances would be appropriate. And as to himself, he would rather not be involved in a review if it was carried out under those circumstances. I effectively . . . essentially I could find myself another lawyer. So we didn't have to do that.

Mr. Hillson: — Thank you. No further questions.

The Chair: — Thank you, Mr. Hillson. Do members of the government side have any further questions?

A Member: — Nothing.

The Chair: — It would appear that there are no further questions of either Mr. Wright or Mr. Shaw. Gentlemen, did you wish to make a closing statement at this time, or do you wish to reserve and provide a possible written closing statement?

Mr. Wright: — I don't believe that we're going to provide a written closing statement. I just, on behalf of Mr. Shaw, myself, and my colleagues at CIC, we certainly wish you well in your deliberations. They're very difficult.

And I sincerely hope that neither Mr. Shaw nor I ever appear before this committee again under these circumstances. It's our job to make sure that that doesn't happen ever again.

Thank you, Madam Chair. Thank you members of the committee.

The Chair: — Thank you both. You are excused.

I would now ask if any members of the committee have any procedural items that they wish to discuss. No procedural items. Thank you.

I would then require since it's not quite noon, I'll require a motion for adjournment and we will . . . (inaudible interjection) . . . Okay, I have a motion of adjournment. That's agreed. Thank you. The committee stands adjourned.

The committee adjourned at 11:52 a.m.