



Standing Committee on Crown Corporations

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**STANDING COMMITTEE ON CROWN CORPORATIONS
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Saskatoon Southeast

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Lindy Kasperski
Regina Sherwood

Myron Kowalsky
Prince Albert Carlton

Andy Renaud
Carrot River Valley

Channel Lake Petroleum Ltd.

The Chair: — We'll start the meeting now. I have substitute forms for regular members who are unable to attend and there is now a quorum present.

I'll call the meeting of the Crown Corporations Committee to order. The agenda will be to consider the finalization of the committee's report on the Channel Lake circumstances. Is there anything else that members wish to add to the agenda?

Mr. Kowalsky: — Could you repeat that please, Madam Chair. I apologize for . . .

The Chair: — The agenda today will be to finalize or attempt to finalize the committee's report on the Channel Lake circumstances. That's agreed to? Okay.

Committee members will be aware that when we last met before the glorious summer, we did have television cameras present and there was an ability to have live recordings. I would like to suggest that since this committee's terms of reference do allow the media to be present, that we allow both the print and the electronic media to move around freely in the room so long as they're not disturbing any individual members, and that they will be allowed to take any shots that they wish during the proceedings. Is that agreeable? Thank you.

We have received several documents over the summer. And just for the record, I would note we did receive the closing statements from Lawrence Portigal, a statutory declaration from Lawrence Portigal, and a closing statement from Direct Energy Marketing Limited.

From Lawrence Portigal we received responses to undertakings made by him at the May 13 meeting. From KPMG we received various items of correspondence regarding requests for information from DEML (Direct Energy Marketing Limited), confirmation of price and so forth.

We also received the closing statement from Saskatchewan Power Corporation and the closing statement from Mr. John R. Messer, which I'm advised includes his responses to the questions put to him by Ms. Haverstock.

So those items have been tabled as regular documents for the committee.

In addition, we have received from the New Democratic Party caucus a draft committee report dated August 13; from the Saskatchewan Party caucus a report dated August 18 entitled: *Response of the Official Opposition to the NDP Report on Channel Lake*. Both those have been made public.

We also have from the Liberal caucus, the *Channel Lake Report* released by the Liberal Opposition dated August 19. That is not as yet a public document. And as well from the Saskatchewan Party caucus, a *Report of the Official Opposition to the Standing Committee on Crown Corporations* regarding Channel Lake. And again that one is not as yet a public document.

Could I have a motion from members to have those documents

tabled as well? Thank you, Ms. Hamilton. Is everyone in agreement? Thank you.

I understand that this morning the drafting committee met. I'm not sure who the members of the drafting committee are, but I gather that there was a formal meeting and Ms. Woods of the Clerk's office was present. And there has been prepared a draft report which in many ways represents a consolidation of the various reports that were released over the summer and the two that were not released.

So it seems to me that what we probably could most expeditiously do is move into consideration of the drafting committee report. Before we do that I would like to note that we do have present today observing the proceedings, Mr. Messer and Mr. Barrington-Foote, his legal counsel; as well as Mr. Wilson representing DEML; and Lawrence Portigal; and Mr. Don McKillop representing the provincial government. And as well I'd like to welcome back Mr. Ted Priel from an interesting summer and wish you a hale and hearty fall and winter and all the rest of it.

Mr. Shillington, were you . . . I noted on the notice that was sent out that you undertook to be the convenor of the drafting subcommittee. Did you end up being the Chair of that committee, and if so, could you report and indicate for the record who the members of the drafting committee are.

Mr. Shillington: — I'll deal with your last question, can I report. I'll report. The people assembled this morning were myself, the Hon. Doreen Hamilton, and Myron Kowalsky, Jack Hillson, and Rod Gantefer.

We went through the three interim reports which were filed. Each of the parties filed one for the committee. We, I think, agreed upon a process as much as anything. We agreed that . . . and Mr. Hillson may want to speak for himself because unfortunately he was not absent for the tail end of this . . . may be not present for the tail end of this.

We agreed to a process. We agreed that we would go through our report. I will deal with the facts in a moment and then vote on the recommendations and conclusions then we would go through the reports of the opposition and make any comments we want to, and then vote on the recommendations.

Thereafter what we would wind up with is a majority report. And I think each of the opposition parties will attach to that some reservations . . . (inaudible) . . . style.

Let me just say before I conclude that rather than . . . the committee sat for virtually two months and heard an enormous amount of evidence which was summarized in a report which the government members released and which consists of about 70 pages. Rather than go through that in detail, it was I think agreed by the members of the drafting committee that those facts would be taken to be agreed upon except where they specifically stated reservations. I would hope that the two opposition members of the drafting committee will speak for themselves on this.

It is my view that this committee had two functions, two

purposes, *raison d'être*, in broad. We were asked to find the facts of the case, and I think there's a fair measure of agreement on that. After having sat through that much testimony it would be a rare situation where there wouldn't be.

We were asked to recommend the steps that might be taken to . . . it would be appropriate on those facts. And each of us have done that as well.

So I would ask the opposition members to speak. But I think with respect to the facts, we are agreed that except where they state reservations, they agree with the facts as we outlined them in our document.

The conclusions, we had agreed that we would vote on one by one, and speak to each one by way of agreement or dissent.

I'd invite either two of my colleagues to comment if I've overlooked anything. I'm certain we have. And I'm looking for comments from the opposition as well.

Mr. Gantefer: — Thank you, Madam Chair. In general a comment — I concur with what Mr. Shillington indicated was the direction from the drafting committee this morning.

I will leave my comments in terms of the substance of the government's report until it's the appropriate time shortly, but I want to concur with the overview and the general direction that the drafting committee is recommending.

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

Mr. Hillson: — Not really, Madam Chair. It was my proposal that we vote individually on each recommendation because that's where future action presumably is being set out by this committee.

In terms of the statement of facts, the most thorough one of course being from the New Democratic Party I'm in agreement, except where specifically noted, that we concur in this statement of facts. And I would say that there are certainly places in the statement of facts where there may have been different emphasis or nuance . . . I don't think that we have direct contradiction. But it's in the conclusions and recommendations where we are in direct conflict with some of the positions taken in the New Democratic Party report.

The Chair: — So we will then be moving through a series of motions. So I ask people to attend to it and to be clear when the motions are made and when we're calling for the vote so that the *Hansard* record is very accurate. I would also note . . .

Mr. Shillington: — Can I interrupt and I'm sorry to do so. This morning we distributed to members of the drafting committee a statement of facts and the conclusions. And I wonder if this might not be an appropriate time to distribute that document so that everybody's working from it. I don't think that was done, was it?

The Chair: — In front of each member is a copy of the statement of facts. It's a white binder titled . . .

Mr. Shillington: — No, it's not in there. That's the first . . .

there's a redraft.

The Chair: — The changes have been made in the binder.

Mr. Shillington: — Oh, they have. You made the changes over the noon hour, did you?

The Chair: — We have extremely efficient staff in the Clerk's office. They worked very hard. And the reports are ready with highlights noted on them where various sections are being recommended to be deleted or where there are changes.

Mr. Shillington: — I guess that's because I took mine back. Mine does not have the changed version in it.

The Chair: — The members who were present this morning don't have the changes on their binders, but the other members do. So if you'll wait a moment you will get the changes.

Mr. Shillington: — I think then the five members who were here have the revised versions.

The Chair: — I certainly have the revised one.

Mr. Shillington: — So I don't think then there's any need. I think the matter's in hand.

The Chair: — If we can just be calm for a moment while a little bit of housekeeping occurs to make sure that everyone is working from the same document. I would also like to mention that when the report is finalized, the Clerk and I have been working on a few additional pro forma things that will need to be included in the report.

The first will be the acknowledgements. And I will assume that people will agree with the statement of acknowledgements of the people who have worked on it. There will also be a section included dealing with the composition of the committee as well as the staff to the committee, and will include a section on the order of reference and the method of operation.

Finally there will be sections included at the end listing the witnesses; the tabled documents; and the documents tabled originally by the government, those 1,100 documents that we ended up calling the CLP (Channel Lake Petroleum) series. I'm assuming that that is acceptable to all members to include those additional sections in the report.

Mr. Hillson: — Yes I think, Madam Chair, my understanding too is that our intention would be that as a result of this afternoon, there would be another section at the end of the report which would simply be a listing of all recommendations which are approved.

Mr. Shillington: — There was a further discussion that went on after 12 o'clock and what we were recommending to the committee, is a slight change in that. It's not the practice of the committee we were informed to have, sort of, minority reports. What we are recommending to the committee is that our report, the report filed by the government members, the facts, the first part of the report, the conclusions, all the conclusions which are voted positively on are part of the report, then the reports of the opposition parties become reservations. It's just not the practice

to have minority reports.

Moreover it struck us that three reports bound together is going to be a confusing document. And it struck us that the procedure which apparently the committee has followed in the past we're told by the Clerks is a better procedure, that is that your . . . the opposition reports become reservations.

Mr. Hillson: — Yes, but to the extent that there are some of our resolutions accepted — of course they didn't have majority. But I was just going to suggest though that I think that if we do have, you know, one chapter which is simply a listing of the approved recommendations, then that does ease of reference in terms of future action because here's just a complete listing of every recommendation that was adopted by the committee. And so on two or three pages you have a listing of all action this committee agrees should . . . could occur from here on.

Mr. Shillington: — Yes, I think that in fact will occur in the report.

Mr. Hillson: — Very good.

The Chair: — What I would suggest is we will include it as an appendix.

Mr. Hillson: — Approved recommendations.

The Chair: — Approved recommendations.

Mr. Hillson: — Very well, good.

The Chair: — That's agreed to by all committee members? Then if all committee members now have a copy of the revised report that represents the discussions that occurred amongst the drafting committee this morning, my suggestion is that we will ask Mr. Shillington to indicate where changes have been made and then we will open up the discussion.

Mr. Shillington: — The document that you have before you up to page 78, is the facts, and there are no changes in that.

The Chair: — I thought, Mr. Shillington, that on page 38 there are two, four, six paragraphs deleted.

Mr. Shillington: — All right. In the report which was filed in . . . which we released two or three months, a couple of months ago perhaps, there were a number of paragraphs . . . and I just need to find that old report actually. I need to be precise. Thank you.

On page 38 the third full paragraph which begins, "According to the 1982 *Saskatchewan Government Insurance Annual Report* . . .", the third, the fourth, the fifth, the sixth, the seventh, and the eighth were deleted. That's right. And the revised report then just has those out.

The Chair: — Is that agreed to by committee members? Thank you. Okay. So six paragraphs are deleted from that draft report on page 38.

If members will then turn to page 78, you will note that in the binder you have in front of you there are two pages 78. Just for

right now we'll call them 78(a) which begins, "Mr. Fair confirmed in his testimony . . .", and concludes, ". . . as the government understood them and tabled reports." And 78(b) which begins "On March 12, 1998 I attended a press conference . . .", and concludes with "Unambiguous" means that the". So those will right now be numbered 78(a) and (b).

Mr. Shillington: — Madam Chair, I think it would be a lot less confusing if we used the report which was just circulated rather than the old report.

The Chair: — Well, the report that was just circulated has two pages 78.

Mr. Shillington: — Also has the two 78. No, mine doesn't.

Ms. Woods: — No. I'll just clarify what happened. The binders were prepared prior to the meeting this morning so they had the original draft of the NDP (New Democratic Party) report. What we did over the noon hour is put the new version, which was only pages 78 to the end with the result — so that we wouldn't lose any text — there's actually two pages 78. There'll be some overlap but that'll be cleared up in the final report.

Mr. Shillington: — I see. All right. Okay.

Ms. Woods: — . . . No. If you've got one of the complete editions that we handed out this afternoon that isn't in the binder — like this version here — that would be, that's the final version that we have, like Mr. Osika's copy is. He'll have one page 78, and he'll also have the deletion already taken out on page 38.

The Chair: — All of these minor confusions of course will be cleared up when the report finally goes to the printer. And we have a very efficient and effective Clerk who will make sure there's no errors and no additional words slip in or are deleted. I just want to make sure though that all the committee members are aware of what we're working off.

Before we begin to go through the findings and conclusions one by one and vote on them, are there any statements or comments that any individual members wish to make? Either about the process or the content? Or do you think you'll have adequate time to get the songs out of your heart as we're dealing with the recommendations?

Mr. Shillington: — For my part I'm not sure that I need to make any comments at this point in time.

Mr. Gantefer: — Thank you, Madam Chairman. I direct this as a question I guess through you to other committee members, if this is the appropriate time now. The agreement that seemed to be here is that unless we make comment otherwise, that we concur with all of the items in the report. I think there is an appropriate time to make comments on things that we disagree with or don't concur with in the report, other than the recommendations that are going to be voted on because we'll have an opportunity through the voting process to do that.

But there were a number of conclusions in the government draft that are not being considered as recommendations. And certainly in the general outline of things, I think there are some

issues that we would like to make comment on. So if that's the appropriate time, or if this is the appropriate time, we're prepared to do that now.

And then as the recommendations in the numbering sequence that the drafting committee agreed on this morning, we go through that in terms of voting on the recommendations and can make specific comments on those recommendations as they're dealt with.

The Chair: — So we'll simply deal with the recommendations now that the drafting committee . . .

Mr. Shillington: — That should be the subject I think of a formal motion then, that we concur in those findings in the government report except for the ones which we've . . . I wonder if it wouldn't be simpler just to move them en masse. Move motions 1 to . . . move findings 1 to 8 and vote on them and then 9 is our first recommendation.

It seems to me somehow or other we have to have a motion adopting these as the facts. Or am I making this unnecessarily complicated?

The Chair: — No, the Clerk advises me we do have to have a motion to adopt the agreed upon facts.

Mr. Gantefer: — Would it be appropriate that the government move its draft report as the final report with the exception of those conclusions that will be voted on as recommendations? That would cover the whole report except for those items we are specifically agreeing to deal with later.

The Chair: — The Clerk is advising me that what might be most parsimonious is if we had a motion to adopt the government's report from General Record Of SaskPower to item number 2, What Happened, which has 46 different subevents, so that we would adopt down to where Findings And Conclusions come, which is item no. 3. in the government's draft report on page 79 or, as the case may be, 78b.

Mr. Shillington: — Would you say that again.

The Chair: — We would have a motion to adopt the statement.

Mr. Shillington: — Okay, I'm with you. I will so move and get this process going.

The Chair: — Mr. Gantefer, any comment or are you voting on it?

Mr. Gantefer: — Then I would like to speak to the motion.

The Chair: — Okay, all right. We have a motion before us to adopt as an agreed-upon statement of facts the government's draft report, pages 1 through to 79, up to but not including Findings And Conclusions.

Hon. Ms. Hamilton: — Madam Chair, I think the intent of the member was to say that also in the Findings and Conclusions, there were a number of items that were numbered that we had agreed were conclusions without recommendation and they would where they find a difficulty, vocalize that in our motion

now. And then we would move to the second part and that's deal with all the recommendations.

Mr. Shillington: — I have a motion which I think will capture this and get us going. I move:

That we adopt the report which we have before us including the Findings and Conclusions except numbers (9), (I'm going to name several and then I'm going to say at the end which will be voted on separately) (13), (33), (35), (38), (46), (48), (49), (51), (68), (69), (70), (71), (72), (73), (74), (75), (76), (77), (81) and those will be voted on separately. Otherwise we agree to adopt the balance of the report.

That'll get us going.

The Chair: — With the already agreed to deletions on page 38. That is a motion. Is that clearly understood? Mr. Gantefer, are you speaking to the motion?

Mr. Gantefer: — I'd like to speak to the motion then, Madam Chair, if I may. Thank you.

First of all, Madam Chair, I would like to express our concern about how the process of these final reports was tabled. Certainly it was our understanding of the consensus, indeed a unanimous consent, that the way the process was going to happen in terms of draft reports, is that the drafting committee was going to be the group that was going to receive the draft reports and to see if accommodations could be made in terms of a consensus or what level of consensus could be achieved in releasing that draft report and presenting it to this committee.

As was indicated in August, the government saw fit to break that consensus and things took a turn in a negative way over the summer, which I think once again reiterates our position all along that this whole process should have done by an independent public inquiry who I think would have had the ability to deal with this in a better way and a more professional way than this committee has ended up doing.

I also am concerned about the fact that this process has continued, in terms of this morning when the drafting committee met, we received the first opportunity to look at again another revision of this draft and to have to consider the reasons and rationales why there were further modifications.

And it I think it accentuates our point that this process, in terms of how this final report or how we've come to today's events, was indeed flawed. And I think that from our point of view we'd have to go on the record as taking a great deal of umbrage with the fact that this process was allowed to happen.

As well, I think what we have to do this afternoon, is in a general sense, say on the record we accept that in many instances the government's draft report in terms of the dissertation of events is reasonably complete and reasonably accurate. And other than those items that it is my responsibility to try and outline as best I can at this moment, we agree with the decision that this becomes accepted as the factual base upon this committee's report.

And if I could, I think it'd be easier if I can try to draft my comments and point out to various sections where we do take some exception, and what level that exception is so committee members are able to follow it.

And our first exception particularly starts on page 2. In the final paragraph it says, the paragraph beginning, "In our view the root cause of events that led to the inquiry . . ." I think that the general feeling that the root cause of how things went off the rails in terms of Channel Lake, it seems to be some tension between the changing role of Crown corporations in a world of competition and a world of deregulation as compared to a role of controlled monopoly were somehow what led to this fiasco in our province's history. And I think that while that tension does exist, I don't think for a moment — nor does our caucus believe — that that's the root cause.

The root cause, in our opinion, stems from something much more fundamental. It stems from the fact that our Crowns have continued to be places where, despite the verbalized good intentions of this government, it continues to be a place where patronage becomes the order of the day rather than the exception. The root cause stems from the fact that senior politicians, indeed right up to the Premier, do not find it unacceptable to take exception and to interfere with decisions that the Crown boards are attempting to make. And certainly that occurred.

It is not immune as well from the fact that when things go wrong that steps are taken to try to cut the losses and to move away from a position of accepting responsibility and owning up to errors of judgment. And at the end of the day it seems to be that as long as you're willing to potentially consider the fact that you say you're sorry, that you will receive your reward in terms of generous severances.

I think that when you talk about the interference process, the first place where we would take exception to some of the evaluation is on page 11 of the CEO (chief executive officer) evaluation, where quite clearly on the recitation of the facts in that section it was pretty clear that in the evaluation of Mr. Messer's tenure that the board of the day was finding some very, very serious problems with Mr. Messer's continued role as the CEO of the corporation. And serious enough in fact that we had learned that Mr. Anguish temporarily adjourned the meeting and went to the Premier for direction.

And at the end of the day the Premier directed that ways should be found in order to find an accommodation that would result in Mr. Messer being allowed to continue.

I don't think that you have to be a great rocket scientist to be a part, as a board appointed by the government, largely answerable to the government, and to the largess of that appointment, to understand that the Premier had made a very clear and deliberate statement about what he wanted to have happen in those events. And to indicate that there is a simple clash of personalities and that this was just sort of some fatherly advice to the board and to the minister responsible is simply asking the public to believe far too much of a stretch in terms of political interference.

Throughout the area there is certainly a very clear dissertation

of the responsibilities of Mr. Christensen and Mr. Kram and a pretty clear litany of errors that were made or oversights. And that there was, on page 27, where we say that Mr. Christensen was ultimately one of the people involved, I think that it has to be said that throughout this whole exercise that very clearly the third person that was involved in this was Mr. Messer himself. Mr. Messer was indeed the CEO responsible. Mr. Kram and Mr. Christensen were always operating under his direct authority and control.

And I think that any implication that Mr. Messer's responsibility was diminished by implying that Mr. Christensen, Mr. Kram, or indeed Mr. Portugal were the guys that were somehow allowing this to happen is unfair in terms of an attempt to diminish Mr. Messer's responsibility as it ultimately should have been.

On page 31 the question seems to be asked about who was responsible, that there's some confusion as to what the loss of money really was. And I think that clearly at the end of the exercise again the people that were in charge of Channel Lake were the people responsible and they clearly understood what was going on.

On page 36 again it mentions that Mr. Kram and Mr. Christensen, when preparing topic summaries, talking around the issue of the net amounts and things of that nature, again I think it's important to put on the record that at the end of the day Mr. Messer as well understood what was going on.

On page 37 we talk about the board of directors and in particular the audit and finance committee and the role and responsibility of Mr. Mintz as the Chair of that committee. Mr. Mintz clearly in his mind understood what figure was on the table. In fact he made a very curious quote; "Only an idiot could figure that it would be taken any differently."

Mr. Mintz clearly was willing to accept a very cursory type of explanation, and in his role and responsibility both as a professional in the accounting business and as the Chair of the audit and finance committee did not at all take any of his responsibilities seriously in order to ascertain if the 20.8 was net of losses or indeed a gross figure as it turned out ultimately to be.

On page 51 through the exercise talking about the section that goes through a great deal of, up to that point, of events leading up to April, the final line on the section 34 where it says Mr. Messer was extremely unwise to entrust Mr. Portugal with these negotiations. That may be that he was unwise, and it may also may be, and all of these indications of Mr. Portugal's involvement, that he failed to do his duty completely, he failed in his responsibility to the owners of the corporation, and that action should clearly be taken. And of course that is not something that . . . that we clearly indicate.

As well on page 53 we see issues which talk about the potential conflict of interest that Mr. Portugal had put himself into, and again talks about the audit and finance committee and the fact that we believe that Mr. Mintz and that committee bear a lot more responsibility.

On page 67, an issue that I think has to be taken with the whole

comment about the market value of the assets of Channel Lake. The position in the government report is that it's very difficult to prove loss and therefore that the recourse of civil action is diminished because there was no real and substantial loss. Well certainly from our point of view the whole question of the value in asset of the 10-year gas supply contract was clearly not added in as a part of the assets of Channel Lake. In testimony we heard it was stated that if this 10-year gas supply contract was a condition of the sale, then clearly the cash value of that agreement should be included in the cash appraisal of the company, and it never was done. We had testimony that it could be done, but it wasn't done.

So when you exclude that you can potentially make the case of the argument about what the assets of Channel Lake may be and argue that there was no real loss. But if the 10-year gas supply contract was a contract that was competed for and awarded independently of the Channel Lake sale transaction, then the argument would have validity. Clearly it was not. It was clearly a condition of the sale.

And certainly the 10-year gas supply contract, which fluctuates with the market, would have a very substantial effect on the net appraised value of the corporation based on the appraisal methodology being a multiple of the potential cash generated in any given period of time.

On page 67 as well, it seems to be pretty clear that one of the overriding examples is that the sale was rushed because of the desire to avoid public disclosure by being able to report this whole mess as one line in the general SaskPower report. And I think it's important that in any of these issues we keep that fully and strongly in front of us.

On page 68 it's talked about the briefing material to Mr. Lingenfelter from Mr. Christensen. And I think in substance that we certainly agree that this material that was given to Mr. Lingenfelter was deficient. We don't believe that this material was given to the minister in isolation of an understanding of what was in that material by Mr. Messer. We simply find it difficult to understand that something of this substance would be excluded from a review by the CEO of the corporation.

In terms of the general areas of the report, when we go into the conclusion sections not mentioned and listed by way of recommendations that we will discuss later, there are some further minimal comments that we'd like to make.

On conclusion no. (55) on page 84 of my copy, the comment is made that the sums actually lost during the Channel Lake event seemed to be modest. I think that definition of modesty varies from culture to culture and individual to individual, but certainly for us a five-plus million dollar loss is not modest. It is substantial and we want to be noted as taking exception to that.

We also find it interesting in paragraphs (60) through (65) essentially, that there is a fairly substantial quoting of constitutional law and experts. And we believe that those conclusions make a very compelling argument for why Eldon Lautermilch should have resigned as the minister responsible — should have. And we continue to believe that his resignation for the responsibility that he had is very clear.

In paragraph (66) it indicates that ministers Anguish, Lautermilch, and Lingenfelter acted responsibly. We do not believe that that's the case in Minister Lautermilch. We however do agree that Minister Anguish and Lingenfelter did act responsibly and so we can agree with that component of that argument.

And finally on paragraph (82) on page 88, we again think that these three paragraphs, (82) through (83) I guess — final comment in paragraph (84) is redundant — again makes the argument about why this committee is not in a position . . . does not have the ability, the expertise, to make a determination about criminal activity or potential criminal activity.

The only people we believe that are in a position, that have the expertise and the wisdom and knowledge to make that kind of direction, are indeed the police. And we believe that rather than assuming that since we haven't found enough reason, that there are certainly comments and made in here — paragraph (83) — like inexplicable and suspicious, that would be the kind of thing that the police are the only people that are professional enough to make that type of a decision.

And so, Madam Chair, with those comments we have put on the record those components of the government's report that we take exception to. Thank you very much.

The Chair: — Thank you, Mr. Gantefer. I will not at this point ask for a response from the government members. I will ask Mr. Hillson if he wanted to also read into the record those portions of the government's report with which your party takes exception.

Mr. Hillson: — Yes, Madam Chair. As I've already indicated, it's not so much a question of finding myself in direct conflict with statements and conclusions made in the report so much as the emphasis and what they have chosen to underline or what they've chosen to ignore are different than, you know, what another person writing it would do. But I don't find any of the conclusions particularly in direct conflict with my thinking except where it will appear in the Liberal report.

I would say, however, that I was struck that on page 84 the sums lost by Channel Lake are described as modest so we still see a mindset here that would minimize what has happened.

We also see on page 86 the phrase, the ministers acted responsibly and carried out their responsibilities appropriately. The government says it accepts ministerial responsibility and yet it goes on to argue that if the minister is inadequately or incorrectly informed, then he therefore is absolved because he hasn't received full information; and apparently there's no other consequences that flow from inadequate information being given to the minister and in turn turned over to the legislature. So I have to say, well where does that leave ministerial responsibility in that scenario?

The other puzzling thing to me is that while the government discounts any possibility of actions to try and recover the monies lost, they make no reference at all to the evidence brought out by one of their members. Andrew Thomson, in questioning Mr. Portugal, did receive evidence that Stampeder Exploration had been prepared to pay half a million dollars

more than the next best offer.

Now that communication was made by Stampeder at a time when we thought we had on the table an offer of \$20.8 million net. Of course as it turns out, we ended up with an offer of \$20.8 million gross. And so the question, has there been loss? It seems to me there may very well be an answer here in the evidence which the NDP got out in their questioning but they make no reference to in their report, namely that there was an offer apparently substantially better than the one received, I guess close to \$6 million better.

And I'm puzzled at why the NDP would not include that in their summary when it was information that they had gotten out through their questioning. And instead they fall back on the earlier statements by Sask Justice that there is no loss. And my question is, would Sask Justice have said there was no loss if they had that evidence before them. And I think that's something we have to know.

I'm not in favour, Madam Chair, of prolonging this by frivolous lawsuits which can go nowhere. And so my recommendations are directed to Saskatchewan Justice looking again at some of these issues to tell us whether recovery is a real possibility. And that is why I guess I have some difference of opinion with my colleague, Mr. Gantefer, in that I'm not sure that launching an action to recover the severance pay from Mr. Messer would accomplish anything for the taxpayers of this province.

However my general comment is that I guess in the intervening months since we last met, we have been somewhat overtaken by events. I think the people of Saskatchewan are now much more concerned about issues such as power service over the coming winter.

And I think they have increasing questions as a result of this committee as a result of some other events that have happened more recently as to the management of our Crown corporations. Whether SaskPower in particular has been maintaining its infrastructure, whether it has been upgrading power generation capacity to address increased demand, and whether it has given priority to the needs of Saskatchewan consumers or whether its primary interest and focus has been in involving itself in foreign adventures.

But with those comments, I say that I do not find a lot in the report that I'm in direct conflict in except where it will come out when we move into recommendations and vote on the specific recommendations.

The Chair: — Thank you. Before I recognize Mr. Shillington, we have an independent member present. Mr. Goohsen, did you have anything that you wanted to say about this recommendation.

Mr. Goohsen: — Not at this time, Madam Chair.

The Chair: — Thank you. Mr. Shillington, if you wish to respond, and then we'll move to voting on the motion.

Mr. Shillington: — Mine is not so much a response as a comment. Members opposite have quite properly taken the report and said we agree with it, except — and they list the

things they . . . and that's quite proper. And there's no need for me to go through the comments one by one and refute them.

I do want to make a couple of comments though. First a general comment, that I can say this as someone who is leaving the scene. I think the process that we went through over these many weeks brings credit to the members who sat on the committee. I think the committee began with operating under quite a cloud, and I think gained credibility as time went on.

I think the committee worked well together, and I think that is a credit to the members who sat on the committee. And I want to congratulate members who sat on the committee. And I think the process rebounded to the credit of the legislature as well. I think it was an indication that the legislative processes can work, and members can do their job.

I only have a few comments to make. One is with respect to Crown corporations and political interference. On the surface nobody could disagree with the comments members made opposite, they're against political interference.

It is very easy to state in life what you're against. We're against sin and we're against poverty and hunger and all the other ills. It is much more difficult to state what you're for. What is the proper relationship of the Crowns, which are owned by the taxpayer, to the cabinet and to the legislature? What is the proper reporting relationship? What degree of direction by cabinet and by the members among the legislature is appropriate? I think had members opposite put on the record a positive statement, this is what we think the appropriate relationship is, I think they would have added very materially to the public record because that's a subject which just concerned us all.

Their simple comments that they were against political interference I think add little to public understanding of this matter. And I just say that, that we're all against political interference. Defining the appropriate relationship between Crowns which need a degree of independence and their representatives in the legislature in cabinet is much more difficult.

I want to make a comment about the three officials who were central to this: Mr. Messer, Mr. Kram, and Mr. Christensen. I just urge members opposite, and I urge all members, and I urge the public to take a balanced view of this matter. As our report states, there were serious errors of judgment involved in the handling of Channel Lake for which all three have paid the ultimate price — their employment.

But I urge all members to take a balanced view of the matter. Mr. Messer's severance . . . and I comment not on the severance of Mr. Kram and Mr. Christensen because I'm not sure it's been finalized but on their performance, on the performance of the latter. It is fair to take a more balanced view and to look at the entire picture.

During this period of time SaskPower, as a Crown corporation, provided uninterrupted service at a very reasonable cost and produced a healthy profit for the Provincial Treasurer which went to assist in providing programs. In addition, and this is not seen, but in addition all of the Crown corporations are preparing

for the day when their monopoly ends. It is a tide which is sweeping the North American continent, whether we like it or not it seems to be coming.

SaskTel, and I think in due course this will be acknowledged. SaskPower has been as successful in adapting to the new environment as virtually any utility in Canada. And so I just say, with respect to the officials, they've been vilified in these proceedings. It has been difficult for them. I don't deny the serious errors of judgment but it's fair that their performance, their right to severance be judged on the totality of their performance.

With respect to the question of the substantive . . . whether or not there was a \$5 million loss, the views of the members opposite are interesting but there isn't any evidence for it. The only evidence before the committee is that the contract did not have a . . . the value attributed by the members opposite.

The only evidence before the committee is that because SaskPower was not required, for a variety of reasons including . . . but important among those reasons, because SaskPower was not required to purchase any given amount of electricity, you can't ascribe a value to the contract. And it was stated by two experts and contradicted by none, that this 10-year supply contract was commercially viable and made good commercial sense. And the continuing efforts of members opposite, to ascribe a \$5 million contract, a \$5 million value to it, is an interesting argument but there's no evidence of it.

Mr. Hillson did mention the Stampeder offer and I'm going to deal very briefly with that. It was an offer. They're all subject to due diligence. And a bald offer made at the beginning isn't evidence of any damages. An offer which is not subject to any qualification might be — I only say might be — but an offer made which is subject to all sorts of qualifications, including due diligence, isn't evidence of any damages.

The evidence which came before this committee is that there is no substantive loss. SaskPower got for their gas fields the value minus the trading losses. And so the taxpayer got what they were worth. There's just no precedent for this particular case, because what is at issue is the fact that the officials thought they were going to get a substantial bonus in addition to what the gas fields were worth.

DEML, when their witnesses were here, were scornful of that notion and said, why would we. And there was no answer to that. But that's what this has all been about. This has never been about a loss that they sustained on the gas fields. They got their value out of it. This has all been about an additional bonus which the officials for some reason thought they were going to get.

And so I say to members opposite, there is no evidence before the committee that there was any substantive loss. Any evidence has all been to the contrary.

And that, Madam Chair . . . as I said my comments were going to be brief and not contentious.

The Chair: — I believe they were contentious, Mr. Shillington.

Mr. Shillington: — You do, do you?

The Chair: — Perhaps at the end of your political career you've lost that fine bit of judgment that would allow you to understand they were indeed contentious. At least I'm assuming so since Mr. Boyd wishes to speak.

Mr. Boyd: — Thank you, Madam Chair, for pre-judging what my comments might be here this afternoon. Mr. Shillington certainly raises some issues that need to be addressed, I think.

Certainly there is concern about the public record, and members of this committee and members of the legislature, and indeed all the people in Saskatchewan I think have some concerns about your version of what should go into the public record.

We certainly have concerns about what goes into the public record and into the final report. I think the concerns that my colleague, Mr. Gantefer has raised are very good and valid concerns about what are the statement of facts here, what did indeed transpire.

I'll sit back a little bit in awe when I see Mr. Anguish . . . or pardon me, Mr. Shillington and some of his other colleagues go into these statements where we're not going to get into the debate and then go on to get into debate as deep as you can possibly get.

You've made a very long career of doing that, and a distinguished career of doing that, and your political advice and political acumen is going to be greatly missed, I think, by your political party. Your ability I think to stickhandle the facts makes Wayne Gretzky look like a very average, house-league player.

And I think some of the concerns that you . . . or some of things that you've said have to be addressed. The question of what you are for, I think is valid. I think we put, laid out in our report, a number of very positive recommendations about what should take place here as a result of this fiasco, right from the very beginning. I think that it is valid to say that you just simply shouldn't criticize. And while we certainly are critical of the process, we have laid out I think recommendations that are positive that need to be addressed by this administration.

The process from the very beginning I think was set out, was a pretty good process — not that bad in terms of the political heat that was surrounding the issue at the time. However, even though the process was put forward fairly . . . a fairly good process was put forward, I think the NDP committee members and the Chair set out to deliberately subvert that good intentioned process right from the very outset.

And, if you are for that, it would be interesting for you to make comment on that because we're not for that and I don't think the public of Saskatchewan are for that. I don't think the public of Saskatchewan are for a political cover-up, which is in everybody's view I think in Saskatchewan, perhaps other than a few people sitting on the opposite side of this table. They believe that that's what's taken place here. They believe that this is a huge screw up that's cost the taxpayers of this province a great deal of money, and any amount of stickhandling isn't going to change that statement of fact I don't think.

Mr. Anguish realized that he was in a very difficult position. The board of SaskPower, the people that were appointed by this administration, lost confidence in its CEO, lost confidence in his ability to manage the affairs of that company. Mr. Anguish, realizing that that was going to be an extremely difficult problem for himself if he were to carry out that wish, immediately moved to stop the proceedings and go get advice. And he got it all right. He went to the Premier of this province and the Premier basically I think said to him, Mr. Messer's the fellow that brought us to this dance and we're going to dance with him until I say differently.

And upon reflection, Mr. Messer then, or pardon me, Mr. Anguish then realized that the direction from his boss was very clear. And he went back to the board of directors of SaskPower and reminded them of how they got to where they were. And at that point the decision was made that Mr. Messer would remain. Mr. Messer should have been fired after this the whole thing or prior to this whole thing. Screw up after screw up after screw up as detailed in this report indicates that those should have been grounds for it.

CIC (Crown Investments Corporation of Saskatchewan) was even prepared to accept that as an option. As I understand it, the case was very simple. CIC, Mr. Wright, went to Mr. Messer and said to him, you got two choices. Either you wrap her up today or we're going to fire you. So it doesn't appear to me to be such that they sort of pretty much accepted either/or — either you go or we fire you. So the whole issue of severance then didn't seem to be much of a concern to CIC. They were prepared to pay it or they were prepared to fight it in court. Take your choice, Jack. That was pretty much the options that were laid out.

Mr. Lautermilch's involvement in this whole situation was that under his watch and under Jack Messer's watch this whole thing was allowed to unfold. The minister should have taken responsibility for it and stepped down. Didn't do it. The Premier hasn't asked him to do it. I guess the public will be asked to judge accordingly.

Our concern in this whole thing is that there is some degree of accountability taken. At this point there is no accountability. You people will put forward your report, your version of the statement of facts. It will become part of the public record and essentially be buried at that point. The public I don't think wants that kind of loss of accountability that the government seems to be trying to put forward.

Mr. Gantefer's recommendations in terms of, or pardon me, his objections to the statement of fact I think should become part of the report. They should not just become part of this deliberation here this afternoon. They should become part of the actual report so that the people will know in the future that there were objections to the NDP's version of the statement of facts. We believe that that is extremely important. Most people in Saskatchewan, in fact I would venture to say almost all people in Saskatchewan, will not know what went on here this afternoon, Madam Chair. But the report will become public and the report then makes up the historical record of what indeed transpired here.

And that is the reason why we believe that Mr. Gantefer's

objections to the statements of facts . . . to the statement of facts is very important. And we believe that they should become part of the report. Not just the report of what went on here this afternoon, but the actual report at the end of the day.

So I guess in conclusion, we would like to see our and Mr. Gantefer's objections to the statement of facts become part of that report in some fashion. And we are prepared to draft that part of our objection to the statement of facts because we do not accept all of the facts as presented by the government's report. Thank you.

The Chair: — Thank you, Mr. Boyd. Mr. Tchorzewski, did you wish to add?

Mr. Tchorzewski: — Not at this time, Madam Chair.

The Chair: — Is there anyone else who wishes to speak at this point? If not we will now vote on the motion:

That the committee adopt the government's draft report dated October 14, 1998; except the following recommendations contained in the Findings And Conclusions section, paragraphs (9), (13), (33), (35), (38), (46), (48), (49), (51), (68) to (77), and (81), all of which will be voted on separately.

Moved by Mr. Shillington. All those in favour please indicate.

Mr. Gantefer: — Madam Chair, if I could, I would like to move an amendment that would simply state that the motion as suggested with the objections noted by the official opposition. So that the concerns that Mr. Boyd had about them being part of the report find a vehicle for being included in the report and not simply the transcript of the proceedings.

The Chair: — Just one moment, then, please. Mr. Gantefer, I certainly was not, and most appropriately was not present at the drafting committee meeting this morning. But as I heard the report from Mr. Shillington and the comments that you made and Mr. Hillson made, it seems to me that these will be . . . the things that you just said now, objecting to the government's statement of fact, will be included in the oppositions' reservations to the report. So they will form a part of the report. So I don't believe your amendment is necessary. They will be there, and Mr. Boyd's concerns will be satisfied.

Mr. Gantefer: — With that understood . . .

The Chair: — All right, then I have read the motion and I'm now going to call the vote. All those in favour of Mr. Shillington's motion please indicate — Mr. Trew, Mr. Shillington, Ms. Hamilton, Mr. Kowalsky, Mr. Tchorzewski, and Ms. Stanger. Those opposed, please indicate. I will then assume from that that we are having two unofficial abstentions . . . or three unofficial abstentions on that. The motion is carried.

We will then move to the findings and conclusions, the various paragraphs, which have already been enumerated, and they will form recommendations in the report. So would committee members please turn to page 79 of the report, finding no. (9) which will become recommendation 1.

Mr. Shillington, will you help me through this? I think what the drafting committee probably intended to do was, as I read these out and number them as recommendations, that a member of the drafting committee would move them . . . (inaudible interjection) . . . Okay, do you think you could move recommendation 1, being finding no. (9) there.

Mr. Shillington: — I move recommendation no. 9. I guess it's the way it's done.

The Chair: — No. 1.

Mr. Shillington: — No. 1, we're starting at. Okay. I move recommendation no. 1, being no. (9) in the report . . . (inaudible interjection) . . . Okay, I move recommendation no. 1:

(9) Mr. Michael Hurst was negligent in not supplying copies of all drafts of the sale agreement to Mr. Kram, as required by his letter of engagement. It would be appropriate for this fact to be borne in mind should Mr. Hurst be considered for future retention as a lawyer by any arm of government or the crown sector.

The Chair: — Any comments?

Mr. Gantefer: — Thank you, Madam Chair. Very briefly, it's not that we take exception to this motion specifically, but as indicated in our resolution which will be labelled I believe R31, we believe that this doesn't go far enough. And so while we have no specific exemption or exception to this motion, we believe it doesn't go far enough and would ask members to consider supporting our resolution no. 31.

The Chair: — Okay, thank you. The motion is before the committee. All those in favour of the motion, please indicate.

In the interests of brevity, I think I will simply read into the record those who oppose the motion. Is that satisfactory? Okay. All those opposed to the motion, please indicate. Mr. Gantefer, did you wish to vote on this motion?

Mr. Gantefer: — Madam Chair, we would want to vote in support of our motion 31 which is on the similar topic and therefore we're abstaining on this one.

The Chair: — Okay, thank you. The record will show then that the motion was carried with one exception. We'll move to finding no. (13) which will become recommendation no. 2. Mr. Shillington, will you move it as a motion and read it into the record please?

Mr. Shillington: — It would be appropriate . . . I move:

It would be appropriate for these facts to be borne in mind should Mr. Portugal be considered for a role of any kind in any future transaction, involving any arm of government or the crown sector.

The Chair: — Comments?

Mr. Gantefer: — Yes, Madam Chair. We again have no objection to the thought in this motion, however we believe a motion that'll be introduced from our recommendations, motion

R32, is more appropriate in the way it would proceed and therefore we will abstain from this vote.

The Chair: — Thank you. All those in favour of the motion, please indicate. That motion is passed with one abstention.

Recommendation 3 will be finding no. (33) on page 81, Mr. Shillington.

Mr. Shillington: — I move that we accept the finding which reads as follows:

We note that the Executive Director of the Civil Law Division of the Department of Justice, Mr. Darryl Bogdasavich, Q.C., was unambiguously clear in his legal opinion that at law, Mr. Messer was due approximately 18 months salary in lieu of notice if terminated. Mr. Fair and the solicitor he consulted arrived at essentially the same conclusion. Ms. Batters demurred. Faced with the conflicting legal opinions, in our view it is generally appropriate for government to base legal decisions on the advice of the Department of Justice. Having reviewed the evidence, we see no compelling reason to recommend that Mr. Fair's decision be revisited.

The Chair: — Comments?

Mr. Gantefer: — Thank you, Madam Chair. We would disagree with this motion. And indeed as the comments of my colleague Mr. Boyd indicated, it seemed when Mr. Messer was given the ultimatum, that even CIC was willing to fire him with cause. That was certainly the threat that hung over his head. And therefore on that basis we would disagree, and we also would want to support our motion labelled R30. But we will be disagreeing with this.

The Chair: — All those in favour of the motion, please indicate. Thank you. Opposed? Mr. Boyd and Mr. Gantefer, with Mr. Hillson abstaining.

We'll move to recommendation 4, being finding no. (35) on page 82.

Mr. Shillington: — I move that the following statement be accepted . . . the following finding be accepted, that:

Mr. Wright testified that CIC is implementing a substantial new training program for members of Boards of Directors and key Board committees. We also note that the membership of Boards of Directors is undergoing renewal. We have additional recommendations to make below regarding crown governance.

Mr. Gantefer: — Thank you, Madam Chair. There's a number of these motions related to improved accountability of the Crowns and the governing body, CIC, that we are in agreement of, but we want to also make note that we will be proposing in our recommendation what we think is a superior system of board accountability that should be considered. So we'll be supporting this.

The Chair: — Thank you. All those in favour, please indicate. The record will show all committee members were in favour.

Our recommendation 5 will be finding no. (38). Mr. Shillington, please move it.

Mr. Shillington: — Thank you. Moved that we accept the following finding:

As noted above, Mr. Wright testified that CIC is implementing a substantial new training program for the members of Boards of Directors and key Board committees. We also note that the membership of Boards of Directors is undergoing renewal. We have additional recommendations on crown governance to make below.

Mr. Hillson: — How does this differ from recommendation 4?

Mr. Shillington: — Well I'm not sure why that's . . . Let me just look at it for a moment. Perhaps it's one that we could simply pass over. Let me just . . .

Hon. Ms. Hamilton: — No. (35) would deal with the recommendations of audit and finance committee of SaskPower and how the committee operates, and no. (38) would deal with the operation of the board of directors.

Mr. Shillington: — Yes. I guess it's the headings more than the committee . . . more than the . . . I think . . . Yes, Doreen Hamilton's right. I think it's the headings more than the wording.

Mr. Hillson: — Well if I can suggest we back up. I think one of the unfortunate things is that the NDP report wasn't really written in terms of recommendations.

I think that in order for this to have any meaning, there has to be a recommendation that members of the audit and finance committee receive adequate training and the new training program be instituted, and then that has some meaning. And then the same could be said of boards of directors in (38).

But as we've passed it, of course it actually . . . we're actually repeating it and frankly neither means very much.

Mr. Shillington: — Yes, I think it could be tidied up by combining the two, and I think we could do that. I think we could combine (35) and (38) into one. And so maybe what I'll do to tidy up the record, Madam Clerk, I'll . . . Oh I'd have to rescind the last one I guess, wouldn't I?

Well perhaps . . . Let's do that. I move that we . . . it'll be a double-barrelled motion, that we rescind the last motion and that we move with respect to the audit and finance committee and other key committees and the board of directors that:

Mr. Wright's comments be accepted, that CIC is implementing a new training program for key members of the Boards of Directors and key Board committees. We also note that membership of the Boards of Directors is undergoing renewal. We have additional recommendations to make later.

The Chair: — Mr. Shillington, I'm going to suggest that if things proceed reasonably smoothly as I think they might as we move through these recommendations, that when we finish with

government's recommendations we'll have a short break. So I will suggest that instead of rescinding the motion dealing with finding (35) and trying to draft something on the fly for (38), that during the break the government members actually draft a proper motion. And we can deal with findings (35) and (38) at that point.

Mr. Shillington: — Yes. I think I'm prepared to do that if you think so but I thought I'd just covered it when I said both with respect to finance and audit committee and the board of the directors, then we move it. I think I've already done it.

The Chair: — Well I'm very mindful that this is for the public record and that we have a Clerk who wants to make absolutely certain that there are no slip-ups in terms of what is on the official record. So usually when I chair these meetings I ask for any motion to be written.

Mr. Boyd: — Knowing your track record, Ned, I think it's a good idea.

Mr. Shillington: — So do I. I was ready to concede.

The Chair: — My suggestion is . . .

Mr. Shillington: — It is accepted.

The Chair: — Okay. We will move then to what will be now recommendation no. 6, which is finding (46) on page 83.

Mr. Shillington: — I move that the following finding be accepted that the:

CIC officials should have acted earlier. Although the information provided was gravely deficient, Crown Investments Corporation was in possession of sufficient information after the June 20 meeting of the Board of the Directors to know that serious issues had arisen around Channel Lake. CIC should have recommended that the SaskPower Board order an independent review of the issues that had arisen — or undertaken such a review itself if the Board failed to do so.

The Chair: — That's been moved.

Mr. Hillson: — Yes. I guess I'd appreciate some further comment from the government members who you know have said that the ministers acted reasonably and discharged responsibilities appropriately, in that obviously one of the board members there on June 20 who failed to have an independent review was the minister and Mr. Lautermilch.

So I don't know how the government connects those two statements. It's also has to be said that the same minister was present in the House when the Deputy Premier gave out information on the SaskPower . . . on the sale of Channel Lake which was not correct in all details and nothing happened there. He didn't tell the Deputy Premier well there's more to the story than what came out in the legislature.

So I don't how you connect saying that the board should have had an independent review, and that there were serious issues here that should have been addressed, but the minister who was

on the board acted reasonably and appropriately.

Mr. Shillington: — Well I'd like to just comment very briefly. It's my remembrance of the evidence which we heard that the officials not only did not act on it, they never brought it to the CIC board of directors either. The information such as it was remained with the officials.

Mr. Lautermilch's role and testimony I think stands for itself. It's a matter about which we disagree. He admitted that he might have been more critical of some of the information he was given and wasn't. And I think that matter as I say stands for . . . that issue kind of stands on its own. But the CIC officials did not bring it . . . as I recall the evidence; they did not bring this to the CIC board of directors. Thus it remained . . . the information remained at the officials level.

The Chair: — All those in favour of the motion please indicate. The record will show that was agreed to unanimously.

Move to finding (48) please, which is recommendation 7.

Mr. Shillington: — Moved:

That the President and CEO of Crown Investments Corporation (or a senior CIC Vice-President) should be appointed to the Board of Directors of SaskTel, SaskPower, SaskEnergy, Saskatchewan Government Insurance, and STC.

The Chair: — Comments? All those in favour please indicate. Let the record show that that was unanimous.

Recommendation 8, finding (49).

Mr. Shillington: — Moved that:

The President and CEO of CIC (and the other officers of CIC) should assume a greater role in ensuring that the Minister responsible for the crown sector and the Board of CIC are fully and appropriately briefed on issues; for ensuring that the Boards of Directors of these crowns are provided with the information and resources they require to do their jobs; and for ensuring that management faithfully implements board policy.

The Chair: — Comments? All those in favour please indicate. That's passed unanimously.

Finding (59), recommendation 9.

Mr. Shillington: — Moved:

That the President and CEO of CIC, the corporate secretary of the Boards of each of these Crowns . . .

I'm sorry, that's not worded properly. Moved that:

To assist the President and the CEO of CIC, the corporate secretary of the Boards of each of these Crowns should be an officer or employee of the Crown Investments Corporation. A specific individual should be assigned to each Crown by CIC. This individual should be assigned

not only to record Board proceedings, but to analyze and understand the business decisions before the Board, and the manner in which the Board policy is implemented.

The Chair: — Comments? All those in favour please indicate. That's passed unanimously.

Move to finding (68).

Mr. Shillington: — Moved:

As a key principle which speaks to the core of the Channel Lake issue: it is not appropriate for a Crown corporation to seek to do, through a subsidiary, what it is not permitted to do itself. In our view the public interest is better served by the occasional missed commercial opportunity, than by the occasional Channel Lake.

The Chair: — That will be recommendation 10. Comments?

Mr. Gantefoer: — Yes, Madam Chair. I believe that in our discussion as a drafting committee it was agreed that this would be deferred to the wording in our resolution no. 7, which will be recommendation no. 35.

Mr. Shillington: — Yes, I think that's correct.

Mr. Hillson: — Yes, in one form or another, this particular recommendation came in all three parties' reports, and I think we had agreed that Mr. Gantefoer's would be adopted.

The Chair: — That would be page 6 of the Saskatchewan Party report.

Mr. Shillington: — I think we deal with the sequence for the moment. I will just simply move that this be deferred.

The Chair: — Okay, so we are deferring the specific wording on recommendation 10. Is that agreed? Agreed.

Recommendation 11, being finding (69).

Mr. Shillington: — Moved that:

Each crown corporation should prepare a strategic plan founded upon the shareholders' objective for that crown corporation, and which includes specific reference to the role for investment, expansion and divestment, and diversification initiatives.

The Chair: — Comments? All those in favour please indicate. That's passed unanimously.

Recommendation 12, finding (70).

Mr. Shillington: — Moved that:

Building on current practice, annual approved business plans should be prepared for all controlled subsidiaries, which include performance expectations, resource allocation, and capital/operating budgets. These business plans should be approved and regularly monitored by the Board of Directors of the parent Crown Corporation.

The Chair: — Comments? All those in favour please indicate. That's passed unanimously.

I think recommendation 13, finding (71) has a little bit of wrinkle attached to it as well. Do you suggest we defer consideration of recommendation 13, Mr. Gantefer?

Mr. Shillington: — I think we . . . just a moment on it if we could.

The Chair: — Okay.

Mr. Gantefer: — Madam Chairman, my understanding was is that there may be a recommendation coming out of the Public Accounts Committee that deals with this issue and if it does we were . . .

Mr. Shillington: — Exactly the same thing.

Mr. Gantefer: — Exactly.

Mr. Shillington: — What we actually need is a copy which I guess the Clerk has.

The Chair: — All of this is done in the spirit of following through in the Crown Corporations 1994 report to the House that we should avoid overlap and duplication amongst the two committees. Right?

Mr. Shillington: — All right. Perhaps I will just move it as it . . . I think I'll move it as it stands now. I'll move that:

Subsidiaries should only be created and divested after clear, complete, timely prior approval by the Crown Board and the CIC board.

The Chair: — Comments.

Mr. Gantefer: — Can I ask, Madam Chair, to update the committee in terms of what the Public Accounts Committee has considered, if it has, or recommended?

The Chair: — I think the Clerk . . .

Mr. Shillington: — The motion which I saw . . . I'm not sure it's the right one because it seems to me we dealt directly with this, however we do not have a copy. That is not the one I remember dealing with quite frankly. That's a different motion on a slightly different subject. Directly then . . . all right then what I'm told . . . they didn't deal with it directly — we may have discussed it without voting on it.

Mr. Hillson: — Yes, I'd like to move an amendment to add a phrase at the end " . . . and order in council."

The other two, the Crown board and CIC board are not necessarily open to public. It seems to me establishing a subsidiary and selling it, there should be a public record of that and there wouldn't necessarily be by the CIC board. The only way there would be a public record would be through OC (order in council) and so I'm recommending that change to add OC to the motion.

The Chair: — I have an amendment to it . . . speaking to the amendment, Mr. Shillington.

Mr. Shillington: — Only to say that we will accept the amendment.

The Chair: — All those in favour of the amendment, please indicate. That's passed unanimously. All those in favour of the amended recommendation please indicate. Again passed unanimously.

We're now on recommendation 14, being finding (72).

Mr. Shillington: — Move that:

Subsidiaries should be required to report significant transactions in a clear, unambiguous, and timely fashion to their parent Crown Boards. Fundamental transactions involving substantial amounts of money should be reported to CIC board and to Cabinet in a clear, unambiguous, and timely fashion — and are subject to the significant transaction rules of the Legislature's Crown Corporations Committee.

The Chair: — Comments? There being none, all those in favour please indicate. That's passed unanimously.

Recommendation 15, finding (73).

Mr. Shillington: —

The Boards of both parent Crown corporations of subsidiaries should meet regularly and in logical order, in step with key committees. Meetings should be held properly, face-to-face, when dealing with substantive matters.

The Chair: — Comments?

Mr. Hillson: — Yes, I think we were somewhat taken aback at the number of serious issues that were dealt with by a brief, telephone conference call. And I think we accept that in the business world sometimes getting together people on short notice is only possible through a conference call. But that seems to have been more or less the extent of Channel Lake's Board's meetings.

And so I am pleased with this recommendation. Being on a board of directors for which the members are paid recompense, when they're dealing with serious issues, when at all possible, there should be a face-to-face meeting where there is a chance to sit around the table and discuss it and receive the information and vote on it, as opposed to receiving a telephone call saying, well we've got an offer here to sell. Everything's fine; do you agree? Yes I agree; end of call.

So I'm pleased with this recommendation.

Mr. Shillington: — The difficulty with the telephone meetings, it is very difficult to properly handle paper. It's difficult to distribute and deal with it.

The Chair: — Further comments?

Mr. Tchorzewski: — Madam Chair, I don't object to the motion, but I think for the record it needs to be said, and it needs to be recorded, that there are times in a commercial operation when decisions have to be made, like almost immediately. And as long as it's recognized by this committee and the legislature that in order for a Crown — commercial Crown — to function, you may not sometimes be able to have a face-to-face meeting because of the element of time when the decision has to be made. And although that's not in here, I wanted to state that so that it is clearly on the record.

The Chair: — I believe Mr. Hillson also stated it, so we now have it from two parties. If we want to have the third party state that.

Mr. Gantefer: — We're in agreement. We're ready to vote.

The Chair: — Recognize reality as well. Thank you. All those in favour of that motion? That passes unanimously.

We're now on recommendation 16, which is finding (74).

Mr. Shillington: — Move that:

CIC should prepare and table a report before this committee on its efforts to implement an appropriate training program for the Directors of Crown Corporations — and suggest further improvements for our review.

Mr. Hillson: — Madam Chair, it's the same motion again.

Mr. Shillington: — I'm not sure what you . . . you think this is a repeat?

The Chair: — The change is that this would come to this Crown Corporations Committee.

Mr. Shillington: — I think the thrust of this committee is that the CIC officials, after clearing it with their board, should bring back to this Crown Corporations Committee a report — this committee — a report on its program for an appropriate training for directors. I don't think the other one dealt with a return to this committee.

Mr. Hillson: — Okay.

Mr. Shillington: — Pardon the grammar.

The Chair: — All those in favour please indicate. That passes unanimously. Recommendation 17, finding (75).

Mr. Shillington: — Moved:

Management information and monitoring systems should be carefully reviewed by CIC, consistent with the needs of commercial enterprises engaged in increasingly competitive markets. Clear, unambiguous, and timely monthly performance reports should be provided to Crown boards. Clear, unambiguous, and timely quarterly performance reports should be provided to the Board of CIC.

The Chair: — Comments? All those in favour please indicate.

That passes unanimously. Recommendation 18, finding (76).

Mr. Shillington: — Moved that:

CIC should coordinate regular and appropriate executive management reviews in Crowns and their subsidiaries. Appropriate action should be taken to respond to management which is deficient in meeting its responsibilities.

The Chair: — Comments. All those in favour? That passes unanimously. Recommendation 19, finding (77).

Mr. Shillington: — Moved:

Because the Government of Saskatchewan is a single interest, it is inappropriate for officers of Crowns or subsidiaries to use public funds to retain outside consultants or attorneys for the purpose of undermining, frustrating, or delaying direction properly given to them by CIC or the Government.

The Chair: — Comments? All those in favour, please indicate. That passes.

And finally recommendation 20 which would be finding (81).

Mr. Shillington: — Moved that:

As outlined in several opinions rendered by the Civil Law division of the Department of Justice, three factors (the likely difficulty in proving . . . damages; the contributory negligence of SaskPower officials; and the decision taken by the SaskPower Board on June 20, 1997) make it highly unlikely that the public interest would be served by launching civil actions against any of the parties involved in these events. We have heard no evidence . . . (which) suggests this is not . . . true today. We therefore do not recommend that civil action be launched. We do not, of course, preclude civil action if further information comes to light justifying it.

Mr. Gantefer: — Thank you, Madam Chair. As indicated in the remarks that I made previously, we fundamentally disagree with this observation and recommendation based on our reading of the evidence that was given before this committee. And in a number of our recommendations we indeed will be recommending the very opposite to this and consequently we disagree with this motion.

The Chair: — Thank you. All those in favour of the recommendation, please indicate. Opposed? Mr. Hillson, Mr. Gantefer, and Mr. Boyd. The item passes.

Ladies and gentlemen, I would propose we take a break until 4 o'clock, at which point we will consider the draft reports by the Liberal Party and the Saskatchewan Party in reverse order and the reservations and recommendations flowing from them. Thank you.

The committee recessed for a period of time.

The Chair: — Getting back to order, please. It's my intention

to adjourn today at 5 o'clock. I would also like to inform committee members that the drafting committee has recommended that the full committee meet again tomorrow at 3 o'clock to conclude our deliberations. So, therefore, I am now giving you all notice that there will be a meeting of the Crown Corporations Committee tomorrow at 3 o'clock in this room.

We now will be moving to the opposition draft reports. It's been suggested to me . . .

Mr. Shillington: — Madam Chair, . . . (inaudible) . . . the resolution, is that hanging?

The Chair: — Oh, yes. Yes. Before we move to the opposition reports we have the findings (35) and (38). Did you wish to rescind the motion?

Mr. Shillington: — Yes. Well, I think . . . I was advised by the Clerk just to withdraw the thing and move the following:

Move that CIC implement a substantial new training program for the members of the Board of Directors.

And now I'm going to just add a change if I can find that recommendation. It can be shortened and simplified actually.

Move that CIC implement a substantial new training program for the members of the Board of Directors and key board committees.

The Chair: — That motion would replace the motion that he has withdrawn with respect to finding (35). Any comments? All those in favour please indicate. That passes unanimously.

Now we'll move to the Saskatchewan Party report and then the Liberal report. I'm a little concerned about housekeeping and I want to make sure that this report, when it's finally printed, is going to make sense. And so it would be my suggestion that we would ask the Clerk to ensure that both any of the findings that are in the draft reports that we want to keep remain there — for instance, the findings (9) through (81) that we just finished dealing with. But that we will have a separate section with the recommendations so that the recommendations all stand alone and are worded appropriately so that they can stand alone. And also that before the report is printed I will review it with the Clerk, and I will circulate copies to representatives from each political party for review so that we can ensure that the report actually reflects the sum and substance of our deliberations. Is that acceptable? Okay.

Okay. Now what I would suggest with respect to the opposition parties' reports is that we — and again, this is only a suggestion — that we vote on each recommendation in the opposition report separately. And for those that are agreed to, we decide where they should be included in the main body of the report, and decide also what, if any, of the discussion should be included in the main body of the report.

And then, secondly, once we've dealt with each of the recommendations, then we can consider a motion to include the remainder as a reservation to the main report. And I'm saying that very specifically. I took note of what Mr. Boyd was saying about wanting to ensure that a certain commentary was

included. I don't know if all that he was wanting included, Mr. Gantefer, is actually in your report right now. And so I want the Saskatchewan Party certainly to have the opportunity to go through your report and make any changes so that you have on record all the reservations that you wanted.

Mr. Gantefer: — Thank you, Madam Chair.

The Chair: — So is that agreed to, that we'll deal with the recommendations in the opposition reports and . . . okay. Then, Mr. Gantefer, you will be leading us through on this one.

Mr. Gantefer: — Thank you, Madam Chair. I believe we're dealing with recommendation no. 29, official opposition recommendation no. 1. I move that . . .

The Chair: — That's recommendation 21, isn't it?

Mr. Gantefer: — I'm only using from our committee's numbering.

The Chair: — Right. I'm sorry. I gather that you dealt with the Liberal report first.

Mr. Shillington: — Excuse me. We dealt with . . . The Saskatchewan report, any conclusions we adopt from their reports should follow ours and precede the Liberal report. But it would be less confusing if we dealt with the Liberal report first because that's the order in which we dealt with in the drafting committee.

Mr. Gantefer: — That's fine.

The Chair: — If that's agreeable to committee members, we'll do it that way. But we will make sure that the final printed report reflects the agreements that all three parties have arrived at.

Mr. Hillson then, will you lead us through your report and the recommendations that flow from it, please. Recommendation 21.

Mr. Hillson: — Yes. Thank you, Madam Chair. I am concerned to say that I don't want to recommend that lawsuits be commenced, causing further cost to the province, unless they are in fact well-founded.

However I note that Sask Justice gave their recommendation that there was no civil remedy here on the base of the information they had last summer in July, I believe, of 1997. I think there has been some information come forward which may well cause Sask Justice to have another look at some of these issues and may well establish that loss was suffered. And indeed loss was suffered by the people of Saskatchewan and by the corporation.

But rather than recommending that there be lawsuits immediately instituted, what I'm instead moving here is that Saskatchewan Justice again review their earlier recommendation with the testimony we heard at the inquiry with a view to whether there is a possibility of civil recovery for Saskatchewan.

Recommendation no. 1:

The Committee should recommend that Saskatchewan Justice review the possibility of a claim against the professional negligence insurance of (Michael) Hurst.

I so move recommendation 21.

The Chair: — Comments?

Mr. Gantefer: — Thank you, Madam Chair. Although we do not disagree with this recommendation, again we do not feel it goes far enough and it is dealt in more detail and more specifically in our recommendation no. 31, so we'll be abstaining from this vote.

The Chair: — Thank you.

Mr. Shillington: — I appreciate Mr. Hillson's comment that this is a temperate recommendation and simply asks Sask Justice to review it. However, Sask Justice were before the committee last May; their recommendations were up to date as of that time. They came fairly late in the proceedings. There has been nothing new since then. In our view the matter of any claim has been exhaustively canvassed and no claim can be brought forward for the reasons already mentioned. There was no substantive loss. The matter was confirmed by the SaskPower board of directors on June 20, and there's a question of contributory negligence by the officials at SaskPower. For those reasons we'll be voting against it.

The Chair: — All those in favour of the recommendation please indicate? Thank you. Those opposed please indicate? That being all the government members with the exception of the Chair who is not voting, and the abstention of Mr. Gantefer is noted.

Mr. Hillson: — Recommendation (22):

The Committee recommends that the Government of Saskatchewan and its Crown Corporations should not, barring exceptional circumstances, seek legal representation from outside the province.

Madam Chair, I do not so much view this as an attempt to help our lawyers, as it seems to me when services are available in the province, surely we would want those services to be sought in the province from people who will ultimately be paying taxes to the province of Saskatchewan rather than paying taxes to Ontario or Alberta or wherever.

I don't view legal services on any different footing but it seems to me that our government should be seeking services from within the province and say from taxpayers to the province, and it should not be going outside the province except where there are compelling reasons for so doing. I agree that there are exceptions.

This motion acknowledges there are exceptions, but in general let's obtain services from our own taxpayers.

The Chair: — Okay. Comments?

Mr. Shillington: — We are going to be voting against this although this was a very marginal call because it's hard to argue, at the surface it's hard to argue with this. Any administration, ours or any other, will use Saskatchewan representation first.

But there are good and valid reasons why one goes outside the province. Sometimes you need someone who's not in any way involved. You want someone who's independent, seen to be independent. Sometimes the advice from outside the province is more aptly obtained from outside the province and this was one of those cases where it was contemplated the transaction would close in Calgary and thus you want someone who is there and who's thoroughly familiar with Calgary, with Alberta law and practice.

So while I don't take strong objection to the resolution, it doesn't seem to us to effect any change in existing policy and therefore we're going to vote against it. As I say it was a marginal call.

The Chair: — Thank you. All those in favour of the recommendation please indicate. Mr. Hillson and Mr. Gantefer. Those opposed? The government members. That motion is negated.

Mr. Hillson: — Recommendation (23):

Saskatchewan Justice be asked to review the Channel Lake file with the view to instituting civil action against Lawrence Portigal.

Madam Chair, again I'm not recommending that action be commenced. I'm recommending that Saskatchewan Justice again review the file.

In view of the information gathered from the inquiry, I would respectfully submit that the NDP, who have used the words devious, misleading, suspicious, and a number of other epithets to describe Mr. Portigal's behaviour, will be hard pressed to explain why we shouldn't even look at the possibility as to whether there's any possibility of recovery here for the people of Saskatchewan. Those are their words, not mine.

Mr. Gantefer: — Thank you, Madam Chair. We're again not substantially in disagreement with this recommendation but believe it doesn't go far enough. We will be asking the committee to support our recommendation, R32, which deals with this issue and therefore I'll abstain in this particular vote.

Mr. Shillington: — I don't feel myself hard pressed to respond to this as Mr. Hillson suggested I would be, and I will be very brief because I'm really restating what I said with respect to, earlier with Mr. Hurst . . . there was no substantive . . . with respect to any claim. This, as well as with Mr. Hurst, there was no substantive loss; there's contributory negligence by the officials, and there was a confirmation of the arrangement on June 20 by the board of directors.

The board I think were told at the time — as I recall it — were told at the time if they passed the motion, they were forgoing the right to sue. So they did it knowingly. And we think there's no action notwithstanding the fact that we were very critical and

remain very critical of Mr. Portugal's . . . of the quality of Mr. Portugal's services to us. We believe there's no action lies . . .

The Chair: — Thank you. All those in favour of the recommendation, please indicate — Mr. Hillson. Those opposed please indicate — the five government members present; and Mr. Gantefer abstaining.

Mr. Hillson: — Recommendation 24:

The Crown Corporations and Government of Saskatchewan develop conflict of interest guidelines for senior employees both during their years of service and upon leaving the public service.

The Chair: — The motion is put. Any comments?

Mr. Shillington: — You will be happy to know, Madam Chair, that I raise my hand to say we'll support this. It is one thing to state yourself in favour of conflict of interest guidelines; they're devilishly difficult to draw. However, this case does point out the need for them. And so we think we could do worse than to ask the appropriate officials to begin the chore of trying to draft conflict of interest guidelines.

The Chair: — Thank you. All those in favour, please indicate. That motion passes unanimously.

Mr. Hillson: — Recommendation 25:

Legislation governing Crown Corporations should be amended to make clear that all subsidiaries have the same reporting procedures and are subject to the same restrictions as their parent companies.

And I will defer this recommendation because this is the one I think that appeared in all three parties and we have agreed to adopt the wording of Mr. Gantefer, so we'll defer that.

Recommendation 26:

The Crowns must develop policies which assure the Legislature that information will be delivered accurately and promptly.

I so move.

Mr. Shillington: — We will be supporting this. Some members of this committee also sat on Public Accounts. We sat last week, took a number of steps to attempt to ensure that the line departments deliver information which is accurate and prompt. And we're certainly supportive here. So we'll be voting in favour of this.

The Chair: — All those in favour, please indicate. That passes unanimously.

Mr. Hillson: — Recommendation 27:

It should be standard practice for committees of the Legislature to review reports within one year of their release.

Madam Chair, I don't know if it's . . . the propriety of us passing a motion which is directed in part to against the other committee of Public Accounts as well. But I am concerned that reports have been dealt with sometimes years later, and that alone has made our committees impotent.

I understand that Saskatchewan is considered to have one of the weaker committee systems in the parliamentary system of Canada. And it seems to me was that one of the reasons for us being considered to have a weak system is that years and years afterward . . . after the fact . . . that we may be dealing with some of these issues when they have ceased to have any meaning.

If this had stayed in Public Accounts and been dealt with in the normal course of events, it probably would have come up sometime in 1999, that the Public Accounts would have actually dealt with the Channel Lake situation. And you know it seems to me that in order to give meaning to the preceding resolution we should have it standard policy, and hopefully Public Accounts will agree with us and also agree to have standard policy, that they will deal with reports within one year.

The Chair: — Mr. Hillson, if I may as Chair of the Crown Corporations Committee, I would like to point out that this committee — and you, I understand, you are a new member to it — but this committee has been labouring very diligently since 1994 to ensure that we do get the annual reports reviewed and reported to the legislature within a year. If circumstances had been normal this year, the Crown Corporations Committee would have held meetings during the session and would have dealt with all of the 1997 annual reports.

It's my intention as soon as the Channel Lake circumstances are concluded and we report on that, that we will begin immediate work to be reviewing the 1997 reports. The Crown Corporations Committee certainly is up to date in its work.

I would also point out that when we reported to the House changing our terms of reference in 1994, we did indicate that we had some significant concern with the overlap that there was with the Public Accounts Committee. And this Chair certainly has been working to try to ensure as much as possible, both in terms of the auditor's reports and the appropriate business of the Public Accounts Committee and the Crown Corporations Committee, that we avoid overlap and duplication.

So I don't disagree with your recommendation, but I do point out that it is the opinion of this particular Chair that the Crown Corporations Committee has already been following that for some considerable time. Any other comments?

Mr. Shillington: — I sit on the Public Accounts and can make some comments with that as a background.

We completed a week of hearings. Not all the reports we dealt with had been tabled in the legislature within the last year. And so part of this is I think aptly directed to the Public Accounts Committee. I think all members of the committee would agree that the report should be dealt with promptly. And we will this year deal with this year's reports within less than six months of the time of receiving the auditor's report, which we need to deal with the reports.

We will have dealt with all matters, all the reports. So I think Public Accounts is caught up, but we were not in the past. And I think all committees should keep this in mind and to meet this as a minimum.

The Chair: — Any other comments? All those in favour of the motion please indicate. Thank you. Any opposed? That passes unanimously.

Mr. Hillson: — Recommendation 28:

Political Interference must be removed from the Crown Corporations. Patronage must be removed from appointments to Crown Corporation management and Board positions.

I so move.

Mr. Shillington: — This one is a little awkward in the sense that if we vote against it, it sounds as if we're in favour of political interference. And I may say . . . I won't say; I won't get into the activities of the former administration which we replaced. The political . . . Here I go back to my comment that it helps not at all to state what you're against. These are pejorative terms. Political interference is bad; patronage is bad.

It would be useful if the opposition members had stated what they think the appropriate relationship is for the Crown corporations, which the public own, and which are answerable to them through the members of the legislature and the cabinet which are in turn answerable to the legislature.

That has proved to be a difficult relationship. The state is not done here. And we're going to vote against this because we don't think it frankly adds much to the public understanding and much to the public record to simply state we're against political interference.

If the members opposite had been able to state something in positive terms, that might have been more useful.

Mr. Gantefer: — Thank you, Madam Chair. I have great pleasure to be able to rise to the challenge of the member opposite that we should state something in positive. Our resolution no. 38 is indeed a positive affirmation of a process that we believe would depoliticize the appointment of Crown boards and so, therefore, because we certainly do support this motion and will support it but also will be proposing a concrete idea as to take it forward in resolution no. 38.

Mr. Kowalsky: — Just to add the comment that removing patronage by itself certainly is not going to solve problems of the Crown corporations, and what we're looking at is that we need a certain expertise in the Crowns and that is the positive suggestion I think that is coming from government, and also point out that the first couple of resolutions that we have passed earlier, dealing for example with board training and the board reporting systems, will largely alleviate the issues that I think we're trying to address here.

The important issue is, to me, to be able to get people in there, into the Crown corps who understand dealings of the . . . in those particular fields and that's a direction I'd like to see the

government move in.

The Chair: — Okay, we'll now deal with the motion. Mr. Hillson, you want to carry on . . .

Mr. Hillson: — Yes, Madam Chair, in regards to Mr. Shillington's comments, I think that's maybe addressed by the preceding paragraph and so I'm going to ask that that be added to the motion so the motion would now read:

Appointments to . . . (Crown corporations) must be made on some rational criteria. A proper non-political process must be put in place to ensure that Board appointments have proper qualifications.

And then carry on with the rest of the motion. If you want something in a positive sense, it's there. The government has a legitimate expectation as the owner of the corporations but when the party card becomes the overriding principle of appointment to the board or senior management, then we're not getting the expertise that Mr. Kowalsky's referred to. So if you want to put it in a positive sense, as Mr. Shillington says, I think it's there and I ask for that amendment to add the preceding paragraph then to the motion.

The Chair: — Thank you. All those in favour of the motion, please indicate. Mr. Hillson, Mr. Gantefer . . . or the amendment, I'm sorry. We'll deal with the . . . We can because our proceedings are relatively informal.

Mr. Hillson: — Just the amended motion then.

The Chair: — It's simply an amended motion as read by Mr. Hillson. All those in favour, please indicate, Mr. Boyd, Mr. Gantefer, Mr. Hillson. Opposed, please indicate. The government members with the exception of the Chair. That motion is negated.

Committee members, we do have to decide on the placement of the recommendations within the main body of the report and I would like to know whether or not the drafting committee wants to meet this evening to decide on the placement of the recommendations or if you wish to leave it to the discretion of the Clerk and the Chair to put them in the appropriate logical order.

Mr. Shillington: — I'm quite happy with the discretion of the Clerk. I think she was part of our discussions this morning, knows what our thinking is.

The Chair: — Okay. All right. Again the attempt is to make this a readable, legible, comprehensible, and comprehensive document.

Okay, Mr. Gantefer, we will now move to consideration of the draft report from the Saskatchewan Party. Will you lead us through the various recommendations?

Mr. Gantefer: — Thank you, Madam Chair. Recommendation no. 29, our recommendation no. 1, I'll read into the record. I move that:

Eldon Lautermilch should immediately accept

responsibility for the Channel Lake debacle and resign from cabinet. If Mr. Lautermilch does not resign from Cabinet, the Premier should immediately remove him.

The articles and the arguments about this have been made in my comments and through the testimony we've heard and indeed by some of the observations of the government about the appropriateness of ministers taking responsibility, and I think that this resolution directs acceptance of that responsibility clearly.

The Chair: — Comments?

Mr. Shillington: — I'll be equally brief and succinct. Our reports, some of the findings of our report set out the reasons why we think resignation is not appropriate in this circumstances. I don't think any great good comes from restating them all. And I think we should simply, with those comments, perhaps proceed with the vote.

The Chair: — Okay. All those in favour of the motion, please indicate. Hillson, Boyd, and Gantefer. Those opposed, please indicate. Trew, Shillington, Hamilton, Kowalsky, Tchorzewski, and Stanger.

Next recommendation, Mr. Gantefer.

Mr. Gantefer: — Thank you, Madam Chair. Our recommendation no. 30, our no. 2, I move that:

The SaskPower Board of Directors should immediately initiate legal action to recover the \$300,000 severance package paid to Jack Messer on the grounds that he was fired with cause and therefore no severance is necessary.

Again, Madam Chair, we went through many of the arguments about why this is the appropriate direction to take and I do not think any public good would be served by getting into another debate about the direction of, or the validity of, each of those individual arguments. We believe that this is appropriate public policy action that needs to be taken on behalf of the people of the province.

Mr. Shillington: — I can be equally succinct. We have stated. . . In our opening comments we have stated our position I think clearly enough and I'm prepared to simply rely on those opening comments.

The Chair: — All those in favour of the recommendation, please indicate. Mr. Boyd and Mr. Gantefer.

All those opposed, please indicate. The government members are in opposition. Mr. Hillson is abstaining. The motion is negated.

And I forgot to read for the record that the motion with respect to Mr. Lautermilch is also negated.

Mr. Gantefer: — Thank you, Madam Chair. Recommendation no. 31, our motion no. 3. I move that:

SaskPower should immediately launch a \$5.2 million civil action against Milner Fenerty for professional negligence

because of the firm's failure to provide copies of all drafts of the Channel Lake sale agreement to SaskPower legal Counsel according to the retainer agreement between Milner Fenerty and SaskPower.

I think the testimony that we heard clearly indicated and was admitted to the fact that this firm failed in their task in a substantial nature. And we believe that in the interests of the shareholders of the Crown corporation, the people of Saskatchewan, that this action should be taken.

Mr. Shillington: — And I think we rely on our comments which have been made repeatedly actually, that no action lies against any of the parties involved.

The Chair: — Okay. All those in favour of the motion . . . oh, Mr. Hillson.

Mr. Hillson: — My concern is here that I'm troubled by the NDP making the comments they have and then say that the whole thing should be dropped and buried.

On the other hand, without some indication from Saskatchewan Justice that there is a reasonable prospect of success, it seems to me that, you know, we might get an adrenalin rush from suing Jack Messer or Michael Hurst but whether it accomplishes anything more than that and the loss of more taxpayers' money remains a very big question. And I don't think it should be undertaken unless, say, we receive some indication that there is a prospect of recovery here. And that's why I say that I believe there has been new information that Saskatchewan Justice should be asked to review and to indicate to us if they believe recovery can be made. And frankly, I'm puzzled both by the NDP making comments they have, and then saying they don't even want to ask Saskatchewan Justice if we do have a possibly of recovery. And I'm also puzzled by the Saskatchewan Party who say, well, let's just sue everybody, and whether or not we have a chance of getting anything out of this or not.

Mr. Shillington: — I can just respond to that. A couple of comments. Mr. Bogdasavich who is a senior respected member of the bar had all of the facts. He could not have been more clear or definitive in his comments when he was before us. We see no value in putting the overworked officials of the department to the work of yet one more review, without anything new.

The Chair: — All those in favour of the motion please indicate. Mr. Boyd and Mr. Gantefer. Those opposed please indicate. The government members. And Mr. Hillson abstaining.

Mr. Gantefer: — Thank you, Madam Chair. Recommendation no. 32, our recommendation no. 4. I move that:

The SaskPower Board of Directors should immediately launch legal action against Lawrence Portigal for Breach of Trust and Conflict of Interest in the sale of Channel Lake Petroleum.

Again without belabouring all the discussions and arguments that were presented to this committee — not only today but in

the past — we believe that this is appropriate, responsible action that's in the interests of Saskatchewan taxpayers. This exercise . . . we seem to be so willing in the event that there are legal differences of opinion that we seek to have a further legal opinion occur. Somewhere in this exercise there has to be someone standing up and saying that the interests of Saskatchewan shareholders, the people of this province have been violated in the whole proceedings, and someone has to have the courage to say that we owe it to these people to seek legal recourse in a grievance that has been done to them. So we believe that this is an important recommendation — again, in the interest of Saskatchewan people.

The Chair: — All those in favour of the recommendation please indicate. Mr. Boyd and Mr. Gantefer. Those opposed please indicate. The government members again. And again Mr. Hillson is abstaining. That motion is negated.

Mr. Gantefer: — Recommendation 33, our recommendation 5. I move:

Given these circumstances, the SaskPower Board of Directors has a fiduciary responsibility to protect the shareholders' interests by immediately launching civil action to void SaskPower's 10 year gas supply contract with DEML and overturn the sale of Channel Lake Petroleum resulting in the return of the Channel Lake assets to the Province of Saskatchewan.

Again, for the reasons and comments made by myself and by my colleagues previously throughout these hearings, we believe that this is an appropriate action in the interests of Saskatchewan taxpayers.

Mr. Hillson: — This causes me some difficulty because I have a lot of sympathy with some of the motion behind it and the sentiments behind it. However, we did have evidence that if SaskPower was under any misapprehension or misleading information prior to June 20, that on June 20 unfortunately we were in the position that SaskPower had the full story. The minister and the board knew exactly what had happened. They knew exactly what they were getting or not getting, and they chose at that time to ratify the sale.

And from a standpoint of launching legal action that puts us in a very weak position that we have to accept that, and that means that our comments then have to be directed at the board, the minister, that decided to ratify the sale even after the whole story finally came out.

Of course, in the March motion, it's clear that the SaskPower board approved an agreement very different from what in fact was signed. And therefore the March meeting of the board would be no defence to cancelling the agreement. And if we had left it at that we could have launched proceedings, as I understand it, to cancel the agreement because the board had never authorized that particular agreement, it authorized something very, very different.

But on June 20, the board had the full information. And having the full information they chose to ratify. So there can't be any suggestion that there was deception on June 20. There can't be any suggestion that there was incomplete or false information

under which the board was acting on June 20. That argument may exist before, but that argument went out the window on June 20 when the board decided to go ahead in any event.

I think that was a very disappointing decision that the board took on June 20, but nonetheless they did it and we as the people of Saskatchewan are stuck with it. And I think — say — that that puts us in a very, very weak legal position.

The other thing I have to say, that while it may have left some of us scratching our heads, the fact is the only evidence we had before this committee was that the 10-year gas supply contract was within the range. I think it was described as the upper end of the range of a commercial contract, fairly rich but within the range.

So on the basis of what we heard within this committee, it would be difficult for a committee member to say that the 10-year gas supply contract is unconscionable. We didn't have any evidence to that effect.

The Chair: — Thank you. Any further comments? All those in favour of the recommendation please indicate. Mr. Gantefer and Mr. Boyd. Those opposed please indicate. Again, the government members and Mr. Hillson. And the Chair abstaining.

Mr. Gantefer: — Recommendation number 34, our recommendation no. 6. I move that:

The Committee should refer the complete Channel Lake file to the RCMP Criminal Investigations Unit for review.

As we've indicated throughout the course of these proceedings, we believe that there are sufficient matters of doubt that have been raised in terms of the propriety of actions taken by people and we believe it's beyond the scope or the expertise of this committee to make judgments in terms of . . . if these would or should result in any further action. And therefore we believe, and have said repeatedly in the past, that the appropriate jurisdiction to handle this are the provincial police.

And we believe that this recommendation addresses that issue.

Mr. Shillington: — Yes, I want to address this one because I think there's an important principle here. Every citizen has the responsibility to report to the authorities any illegal activity which they observe or believe they observe. And the lawful authorities will act on it or not act on it as is appropriate.

I invite members however to keep in mind who they are and where they are. We're not an ordinary citizen. This is a committee of the Saskatchewan legislature. While I have no authority to speak for the RCMP (Royal Canadian Mounted Police), my guess would be that if the Crown Corporations Committee asked the RCMP to investigate, they would very, very likely do so.

Police investigation into your activity is no joke. It is a dreadful thing to live under. For a lengthy period of time you are suspect . . . an unfortunate number of citizens assume you are guilty. Your activities are constantly in turmoil. And we should not ask the . . . In my view we should not ask the RCMP to investigate

it unless we have evidence of criminal activity.

I'd be interested in hearing of evidence of criminal activity. I didn't hear any. We sat through a numbing amount of testimony. I didn't hear any evidence of criminal activity — not any. None of the written documents we got suggested that. None of the legal opinions suggested that. And in my view members should not ask for a RCMP investigation unless there are grounds to do so because you're not in the position of an ordinary citizen. You speak with the . . . at least a delegated authority of the legislature of this province. And so I am opposed to this; and I feel rather strongly about it actually.

The Chair: — Thank you.

Mr. Trew: — Thank you, Madam Chair. I want to join in these comments of opposition to this. Having contacted the RCMP when in opposition over a matter that involved the then government, a matter that involved a quarter of a million dollars, a matter that frankly I sought some advice, was advised to contact the RCMP, see if they're interested. I contacted the RCMP, indicated to them I had a copy of the invoice of the said matter, and was told quite frankly that there is no law against paying too much or too little for property for a good or service — no law against it, no criminal wrongdoing.

It chagrined me then and I can tell you it chagrins me today to know what went on then. But clearly there was . . . I had no evidence; I had zero evidence. I had what I think many people would describe perhaps a smoking gun, but I had zero evidence of criminal wrongdoing. If I had no evidence then, there certainly isn't anything now.

I mean having sat through these Channel Lake hearings, the one thing that has struck me is there has been poor choices made along the way by various people. Some of those people have paid an incredibly high price for that. It's a misadventure — and I don't mean to downplay this whole Channel Lake affair — it's a misadventure. But I have found in all that I've heard, I've heard zero evidence — zero evidence — of criminal wrongdoing. So I'm simply not able to support this motion.

Mr. Hillson: — As I recall Mr. Gerrand was forthright that there was no evidence of conspiracy to commit fraud. He was not as definitive on the issue of whether there may have been breach of trust. My concern following Mr. Shillington's comments is to whether a request that this be reviewed, is that taken as a conclusion that there is criminal activity? Or is it taken as simply a request that a review is in order? I would be uncomfortable with the former.

The Chair: — Thank you.

Mr. Boyd: — Following Mr. Trew's comments, I haven't the foggiest idea what he was alleging at the time or what he says he was aware of at the time. And perhaps he might want to elaborate on that a little bit so we can gain some understanding as to what the heck he was talking about. But in this situation, I think it is clear that a committee such as this one should not be setting itself up as judge and jury but should be simply asking the question of the RCMP, is there sufficient grounds to look at a criminal investigation. Should this committee be concerned about the possibility of it? Yes, I think the answers clear to that.

I think there is a responsibility of committee members and all of the public here in Saskatchewan when they have concerns in this area to take it to the proper authorities.

That's simply what this motion is asking for, is to have this situation referred to — the complete file of Channel Lake — referred to the RCMP for investigation and for a review. There is no intent to suggest that we are pointing our finger at anyone. We are simply saying that the RCMP should be in a position to review this whole matter and to determine for themselves whether there is grounds to proceed in any kind of a criminal action. And I think it's incumbent upon this committee to move in that fashion.

There is all kinds of suspicion by a lot of people about a lot of different things that's happened here. And it is not for this committee to decide one way or another whether there was or not. You can suggest all you want, Mr. Shillington and Mr. Trew, about there not being evidence. I don't know that you people are a judge, I have not seen that happen yet here in Saskatchewan; neither are we. But there are people who can make those kinds of determinations about investigations that are more appropriately in a position to do that than we are and that's the ones that should be doing the investigation or a review.

The Chair: — I'll call the question now. All those in favour of the motion please indicate. Mr. Hillson, Mr. Gantefer, Mr. Boyd. Those opposed please indicate. Mr. Trew, Shillington, Hamilton, Kowalsky, Tchorzewski, and Stanger The motion is negated.

The next recommendation, Mr. Gantefer.

Mr. Gantefer: — Thank you, Madam Chair. Recommendation 35, our recommendation 7, I would move that:

Legislation should be amended immediately to ensure that subsidiaries of crown corporations are subject to the same financial reporting requirements and are open to the same Freedom of Information access as the parent crown corporations.

I believe that since this was a recommendation that all three caucuses agreed with that I will limit my comments to the moving of the motion.

The Chair: — Okay. All those in favour please indicate. That's passed unanimously. Your next recommendation. I don't think you need give the number, Mr. Gantefer, because it's going to be all changed anyway.

Mr. Gantefer: — Okay, thank you. Madam Chair, I move that:

Don Mintz, a highly political NDP patronage appointment to the SaskPower Board and chair of the Audit and Finance Committee, should accept responsibility for the Committee's utter failure in monitoring and reporting on the operation of Channel Lake Petroleum and resign from the SaskPower board immediately. If Mintz does not resign, the Minister Responsible for the Crown . . .

(Corporations) Corporation should remove him from the SaskPower Board.

I think that clearly in the discussion of the facts, that it was a clear indication that Mr. Mintz was particularly cavalier with his responsibilities in regard to the audit and finance committee of the SaskPower board. That he had utter disdain of his responsibilities to monitor and be aware of what was going on in the wholly-owned subsidiary, Channel Lake. He recognized and he stated before the committee that he saw that as of no consequence and therefore we believe that this action is appropriate and responsible.

Mr. Shillington: — I'll be very brief here. This is one of those areas that in my view are a little murky. I don't know that Mr. Mintz would claim to have done a superlative job of monitoring the operation of Channel Lake.

The difficulty that I have with the motion is monitoring a subsidiary is away outside the ambit of any audit or finance committee I've ever seen. And it may well be that Mr. Mintz and his committee didn't do a good job of this because they didn't particularly feel that trying to manage a subsidiary is any part of an audit and finance committee's responsibility. It normally isn't. The audit and finance committee . . . the name I think describes the work of the committee. Monitoring subsidiaries isn't one of them.

So we're voting against this, not without commenting on the comments made against Mr. Mintz. I think it suffices to say that the responsibility was away outside the ambit of the committee. That may be the source of the problem and that's probably not fair to visit that entirely on Mr. Mintz.

Mr. Hillson: — Well I note that the resolution that Mr. Gantefer has moved used the term "his failure in monitoring and reporting." I don't find the word management there. Mr. Shillington doesn't seem to be addressing the motion. True, a member of the board doesn't manage the corporation but as Chair of the audit and finance committee he was supposed to be monitoring and reporting; and as I heard the evidence, I didn't hear anything that told me that that in fact was taking place on any great scale.

So I think the evidence we heard suggested that the audit and finance committee was not doing very much to keep track. And in view of his professional background, no, I think that one was entitled to expect something more than the indications we heard.

The Chair: — Thank you. All those in favour of the motion please indicate. Boyd, Gantefer, and Hillson. Those opposed please indicate. The government members. The motion is negative.

Your next recommendation?

Mr. Gantefer: — Thank you, Madam Chair. In light of the fact that members have commented on the fact that various board members on Crown corporations may or may not have significant expertise in the field of the board that they're appointed to, that's not the case in the situation with Mr. Mintz and it's magnified by the fact that he's an experienced chartered

accountant. And therefore I move that:

The SaskPower Board of Directors should report the conduct of Mr. Mintz as Chair of the board's Audit and Finance Committee to the Professional Conduct Committee of the Institute of Chartered Accountants of Saskatchewan for review and potential disciplinary action.

The Chair: — Thank you. All those in favour of that motion please indicate. Mr. Hillson . . . I'm sorry. Mr. Boyd and Mr. Gantefer. Those opposed please indicate. The remainder of the committee, including Mr. Hillson who's holding on this one.

Your recommendation 10 now.

Mr. Gantefer: — Thank you, Madam Chair. I would like to move:

In order to establish some accountability in the process of appointing crown boards of directors, all potential board appointees should be approved by the Standing Committee on Crown Corporations through confirmation hearings. All members of the Committee would be able to nominate persons for crown board positions. An open application process should also be established through which qualified Saskatchewan residents have an opportunity to apply for board positions. Members of the Committee would have the opportunity to question nominees with respect to their experience and its relevance to the operation of the crown corporation. Nominees would be approved by the Committee through majority vote.

Madam Chairman, we've talked about the concept in a philosophical sense of eliminating patronage as one issue but we've also talked about the fact that it's important that people have the appropriate life skills and experience that will make them valuable contributors to the functioning of the board of directors that they're asked to serve on. We believe that this process would go a long way in making boards of directors accountable, and that they would be challenged not only on their political background, which is much less relevant than their expertise and their ability to contribute their experiences to the functioning of the board.

The Chair: — Any comments?

Mr. Shillington: — I shall be quite brief here except to say that this is not a new idea nor is it necessarily a bad idea. It's been around for some time. It is standard practice in the U.S. (United States) federal government for quite a number of appointments in the diplomatic service, the federal courts . . . I take that back, the Supreme Court of the U.S. and a number of the cabinet appointments to be approved by committees of the Senate I believe.

It, in my view, it has not resulted in a particularly high standard of appointment. I'm not saying it's necessarily bad but I don't think it's done much for the process. And I don't think, looking back on all this and trying to learn something from it, whether or not these people were partisan appointments, I am not sure that was the source of the problem. It seems to me the problem was twofold. I am not sure they completely understood what the responsibility of a director is and if they did, I am not entirely

sure they understood the electric . . . of SPC (Saskatchewan Power Corporation) and the electric industry well enough to discharge that responsibility.

I do not think that appointments approved by the Crown corporations are going to solve those two problems. Those two problems, I believe — and this comment maybe some of you may take as self-serving — but I think those problems are being resolved. We're asking the CIC officials to come back in with a description of how they are going to do a better job of training directors and I presume it will be looked at it in the spring when the session meets.

There has been . . . since this all occurred, we've had the review of the Crown corporations and an attempt by government to appoint people to these boards who a) understand their role, and b) understand the industry and SPC. So I think in part at least this problem has been resolved. I do not think the solution offered would resolve the problem that occurred at SPC. So I'm recommending we vote against it.

Mr. Boyd: — While it may be as the minister, the former minister points out, an American proposal or an American way of handling these kinds of things, when it suits your purposes it's acceptable; when it doesn't suit your purposes, it isn't acceptable. We've had a very recent example here in Saskatchewan of where a committee has looked at and confirmed a person into probably the most politically sensitive position in all of Saskatchewan. That's the Chief Electoral Officer.

You were happy with that process. Happy with the process of allowing all parties to make recommendations, bring forward questions and concerns about who was going to be the next Chief Electoral Officer here in Saskatchewan, the person who is supposed to be and I think is the most unbiased observer of the election process ensuring that it is fair, ensuring that we have the highest degree of democracy here in Saskatchewan.

When it's that person it's different for some reason. Does it suit your purposes any differently for them than these people? I don't think so.

I think the committee that was put in place to confirm the Chief Electoral Officer worked extremely well. And your party members at the time spoke very highly of the process of how it worked and how it shows that parties can come together in a very unbiased, unpolitical fashion to come out with a recommendation that all of the people of Saskatchewan can support, and I think did.

But when it strikes a little more at your heart in terms of political appointees, somehow or another it's different. Well I don't think it's different in the views of Saskatchewan people. I think Saskatchewan people supported that process and they would support this type of process as well. I think you do get high quality candidates because people don't step forward unless they are, under those circumstances, I don't think.

It worked then. It can continue to work. We support the process and we'll continue to support it right through to the next election. And I'm pleased to see that you don't because I think it'll be at your political peril.

The Chair: — Thank you, Mr. Boyd.

Mr. Hillson: — Yes. I do think that this is frankly a more practical resolution than the one I brought forward to saying that we have to get political interference and political patronage out of board appointments and management positions. And this is a practical way of trying to accomplish that.

This would not bar people with political backgrounds. After all as I said it would have to be vetted by this committee. Well the committee has a government majority so presumably having a background in the New Democratic Party would not be any bar to passing this committee.

However in that sort of process, in that sort of process they would also have to demonstrate other qualifications, commitments, and background for serving on a board of this sort for running a major corporation. What do they bring to the table? And the people of Saskatchewan would I think be understanding as they are of many other appointments, say judicial appointments or whatever where you know, yes the person may have a political background but he or she also has many other qualifications which have recommended him or her to the position.

So this is not an attempt to say that people with a political background are excluded. It's an attempt to say that there has to be something else than a party card. And by making it open and public, I think that would do it. And why the government finds that offensive I don't know when after all they still control the majority of the membership on that committee that would finally vote yea or nay.

It strikes me that the only reason for voting against this motion would be if in fact you are in favour of political interference and patronage which seems to be what the government members put themselves on record as being a few minutes ago.

The Chair: — All right. All those in favour of the motion please indicate. Mr. Hillson, Mr. Gantefer, Mr. Boyd. Those opposed please indicate. Mr. Trew, Mr. Shillington, Ms. Hamilton, Mr. Tchorzewski, and Ms. Stanger.

Mr. Gantefer is it your intention to put recommendation 11 at this point?

Mr. Gantefer: — Yes.

The Chair: — All right. I would . . . since that is a challenge to the Chair I will ask the Vice-Chair to assume the Chair.

Mr. Gantefer: — Thank you, Mr. Vice-Chair. I indicated a great deal of concern about how this process has been allowed to go off the rails this summer.

The Vice-Chair: — Mr. Gantefer, would you move your motion.

Mr. Gantefer: — Thank you.

The Vice-Chair: — And then we'll enter the discussion.

Mr. Gantefer: — Thank you. I will move that:

NDP Committee Chair Pat Lorje should accept responsibility for serious NDP misconduct in prematurely releasing the draft Report on Channel Lake in a transparent attempt to protect NDP cabinet ministers and NDP patronage appointments. Ms. Lorje should resign as Chairperson effective immediately.

The Vice-Chair: — I thank you for reading that motion. Not surprising to any members of this committee, when I saw this I did a little bit of research. Simply put, the motion as it is worded is out of order — a challenge to the Chair is. And I'll refer you to Beauchesne's *Parliamentary Rules & Forms 6th Edition*, Order and Decorum, rule 820(2), and I'll read that:

A committee has no authority to punish one of its members or other persons for an alleged offence committed against it. Only the House can decide that an offence has been committed.

Having made that ruling, in the spirit of co-operation and trying to be helpful to the opposition in what you want, if it is your desire to pursue this what we need is a motion of censure directed to the Legislative Assembly, that this committee would deal with the motion of referral to the Legislative Assembly.

Mr. Gantefer: — Thank you, Mr. Deputy Chair. In which case then I would ask that the motion be reworded in such a way so that it would be considered a motion of referral . . . or motion of censure to be referred or to comply with . . .

The Vice-Chair: — Because of the seriousness . . . Well, the simple way of dealing with this is we have it in writing before we proceed any further. I'm going to ask the Clerk to attempt that. Until we have a properly worded motion that the opposition will move, we'll simply pause in our deliberations.

Mr. Gantefer: — Thank you, Mr. Chair. And thank you to the Clerk for the assistance and the appropriate wording. I move that:

This committee recommend to the Assembly that the actions of the Chair, in regard to the premature release of the government draft report on Channel Lake, be censured.

The Vice-Chair: — We have the motion moved by Mr. Gantefer. Will committee members take the motion as read?

Mr. Gantefer: — Thank you very much, Mr. Deputy Chair. As I indicated in the beginning of the moving of this original motion, I indicated our grave concern about the way this process moved in direct opposition to what was a unanimous report as to how this committee should proceed.

It's clearly the expectation of the committee that the Chair of the committee should in all matters strive and to implement the recommendations and the direction of the committee, that the Chair cannot act outside of the expressed direction of the committee. And in this instance that clearly was allowed to happen.

I think that this is unfortunate but it certainly has created all kinds of difficulties and put into some question the reliability and the authority of this whole process and its report. And so

therefore, Mr. Chairman, committee members, I believe that this motion is entirely in order and should be supported.

Mr. Shillington: — I'm going to make some comments, and I appreciate the motion is narrowly worded. And if I may stick within the motion but my comments might skirt the edges of it.

I've never seen a committee Chair — vilify is too strong a verb — never seen a committee Chair subject to criticism that this Chair was nor of the abuse — I don't think abuse is too strong a term — much of which was completely outside the rules of the Assembly. It is the . . . the Chair of this committee has the same protection that the Speaker of the Assembly has. Attempts to draw that to the attention of offending members who continued to break the rules got us nowhere. And so we decided to soldier on without giving the Chair the protection which the rules say that he or she should have.

I think that was the right decision, in that I think in the attempt to censure the members who were offending the rules would have been misunderstood, and at the end of the day, as I'm going to say in a moment, I think the committee worked well.

However, a victim may have been the Chair. Our failure in the process, we did not defend the Chair and members of this committee did not defend the Chair, and the Chair may have been a victim accordingly because the Chair was entitled to that protection from the members of the Assembly.

Let me just say with respect to the . . . generally with respect to the job done by the Chair, while sometimes a little colourful, I think the Chair did an excellent job chairing one of the most difficult things I have ever seen.

I think proof of the pudding is in the eating. This committee grew in credibility and stature as the weeks went on. That would not have happened had we not had a competent Chair. I think the Chair can take some pride in the job done . . . can take a good deal of pride in the job done.

With respect to the narrow issue of releasing the report, the Chair was not involved in that. I took that decision and I'll take responsibility for it. It may have been that when we decided that the government should draft . . . the committee and the opposition members should react to it, which I think what was . . . the decision was taken. We may have agreed to a flawed process.

There was no way that we could prevent the leaking of that report and a time when the opposition was choosing and the present company of the media accepted. But I wouldn't want the media to become too self-righteous about this because had any member opposite wanted to leak the report, my guess is they might have found some members of the media would have been gleefully complicit in that. Given the fact that we wrote it there was no way to prevent its release. No way to prevent it leaking. And so we decided to release it. And I am not sure . . . I think the process had some value.

At any rate, without getting into that, I can dispose of this motion with the comment that the Chair had nothing to do with the release of the report. I took the decision. I do not know that I discussed it with any other members of that committee. I took

it and I'll take the responsibility for it.

The Vice-Chair — Thank you Mr. Shillington.

Mr. Hillson: — Yes, Mr. Vice-Chair. I have been extremely critical of the way the NDP draft report was released. I said that the NDP initially said it wanted a legislative committee to set aside partisan differences and do the job. However at the last minute government members abandoned this strategy in favour of presenting the opposition and the public with a "draft report" which precluded any meaningful exchange between the parties. The NDP claimed to want an open inquiry and a bipartisan report but by releasing the draft report independent of the committee and independent of the legislature, this was an act of bad faith and the NDP then effectively scuttled the committee and sabotaged the committee it had set up.

I continue to be extremely critical of the way the draft report was released. However it was my understanding, as Mr. Shillington confirmed, that the Chair was not involved in that and found out about it when we did, through the media, that the NDP had done that. And therefore it would be unfair to vote a censure of this Chair, for a decision that she personally was not involved in. So while I am very critical of the decision, it seems to me it sabotaged the committee. It also seems to me that it went against the final motion of this committee when on June 29 we voted that to set up a drafting committee and for the drafting committee to get together and go to work. That drafting committee of course never met. It finally came together at my suggestion earlier this morning. The first time it ever met. It was indeed bad faith that the attempt to work together to come up with a joint report was scuttled by the NDP at the last minute.

I still don't understand it, and I don't approve of it, however I will be voting against this motion because I say my understanding is just what Mr. Shillington has told us, that this Chair was not involved in that decision and therefore it would be unfair to put this on her head.

The Vice-Chair: — Thank you, Mr. Hillson.

Mr. Tchorzewski: — Thank you, Mr. Chair. I see this as an unfortunate and a really regrettable motion and I say that because historically I know that these kinds of motions are usually brought forward by opposition members and I don't exempt anybody from that because I have sat there myself, although I have never at any time contemplated trying to attack an individual in the way that this Chair has been attacked — and I will use that word as Mr. Shillington has said.

Usually this kind of a motion is taken by those who, unable to find an issue of substance which they can defend with evidence, you attack an individual, and I really find that very regrettable. The Chair did not release any report, as Mr. Shillington has indicated. I think everybody knows that around this table. The draft report, even though it was released, did not preclude the opposition from being able to write something else or have a different opinion. In fact we just went through some of that here today.

I think that, Mr. Chairman, this Chair did an exemplary job in one of the most difficult situations that I have seen any Chair

operate in 25 years as a member of this House. And all members on both sides at times were not helpful in that process to the Chair. And in spite of that, I think this committee functioned well and achieved a great deal. And I think to a large extent that's a tribute to the Chair. So I don't accept the allegations which have been made and I will not support the resolution or the motion that's before us.

There are those in this committee who actually went out of their way to attempt to make sure this committee could not work. We know that. There were accusations made of individuals without any evidence in the hallway in front of cameras. We know that. But throughout all of this, this Chair kept this committee together. This Chair made it work. And I think that we can do no less than to defeat this motion and in that way express our appreciation for the tremendous work that the Chair of this committee did.

The Vice-Chair: — Thank you, Mr. Tchorzewski.

Mr. Boyd: — Thank you, Mr. Vice-Chair. Mr. Shillington's admission comes as somewhat of a surprise to us, that he acted unilaterally in authorizing the report by the NDP to be brought to the public's attention as it was. We certainly weren't of that view that that was the way the process was going to work, and we were of the view that the Chair had responsibility ensuring that it didn't.

Now obviously the Chair can't be held accountable for actions that the Chair has not been involved in, and we accept Mr. Shillington's admission. How he will reconcile that with his membership on this committee will be up to him. That is certainly one issue and a very important issue, and is what the substance of the motion heads towards.

While the Chair's comments have been characterized as colourful, others might characterize them as very, very offensive, and I think we all can think of examples of that. But in light of the . . . again in light of Mr. Shillington's admission of subverting the process that was set out, of which he agreed to the process — even though now he's arguing that it was flawed process, it seemed fine at the time — we accept that the Chair had no involvement in that.

And I think perhaps Mr. Gantefer will have further comment.

The Vice-Chair: — Thank you, Mr. Boyd.

Mr. Gantefer: — Thank you. Indeed, Mr. Chairman, in light of the statements that were put on the record about the responsibility and where it lied, I would like to withdraw that motion.

The Vice-Chair: — Thank you, Mr. Gantefer. The motion has been withdrawn and it is with some pleasure I turn the Chair back to Ms. Lorje.

The Chair: — Thank you very much. I'm sorry that we've gone past the hour of 5. Committee members will be aware that we will be meeting again tomorrow at 3 to finalize this report. Before we do though, while I appreciate that the motion was withdrawn, I still do want to make a few comments.

And I would like to point out to committee members that I have abstained from all votes . . . I have attempted to maintain my independence. I consider myself a market social democrat, and I have worked in this legislature to make sure that the entrepreneurial spirit and the co-operative spirit of Saskatchewan people can flourish.

This whole process has been extremely difficult, as members have indicated, but I think that we have established a few good things. We did ensure committee members took my recommendation that we should have equal time from all three political parties to put questions. I ensured that the government did not use its vast majority to ramrod things through. I do believe if we continue to follow these kinds of processes that opposition members are well served and the legislature is well served in this.

We did have the opportunity to take the high road throughout this whole process. All of us, everyone of us, failed to a certain extent. And yet I think all of us, everyone of us, succeeded to a certain extent. And I hope that when we look at this process at the end of the day, we'll look at the successes and look at the things that we either learnt or could have learnt for the implications for public policy.

I would like to remind committee members that three men's careers with SaskPower have been ended, at least one man's career has been compromised. At the end of the day hopefully we have a report that the people of Saskatchewan will understand has been thoroughly investigated and is as fair and unbiased as can possibly be, whether you agree with that or not. I do hope though you will agree that you have all had ample opportunity to express your opinions on this matter, coming from your own particular unique experiences, backgrounds, and ideology.

Again I would emphasize what we have to do as a committee is to look at the lessons that we can learn and the implications they have for public policy. It is my hope at the end of the day, when this process is finished, that we have not totally sapped the spirit of creativity and risk-taking within the Crown sector side, because as we move into the next century we are going to have to have Crowns that are nimble and are able to respond to the outer forces outside this province and indeed the forces within this province. So I hope that what can happen is that we do end up with something that does still allow a healthy and vibrant Crown sector to exist in this province.

I guess just in closing I would like to point out that it was not until October 9 that a committee member asked for a meeting of the drafting committee. And I do thank you, Mr. Hillson for asking for that committee to meet. I told you how to go about doing it. It has been properly convened. The drafting committee did meet this morning. I think the process is back on track. It was a difficult and hard summer I'm sure for everyone. Summer is over, the snow is back on the ground again. So maybe we're back to normal again.

Could I have a motion to adjourn until tomorrow? Mr. Tchorzewski, thank you. Committee is adjourned until tomorrow.

The committee adjourned at 5:40 p.m.