



Standing Committee on Public Accounts

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**STANDING COMMITTEE ON PUBLIC ACCOUNTS
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Canora-Pelly

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Saskatoon Southeast

Rod Gantfoer
Melfort-Tisdale

Debbie Higgins
Moose Jaw Wakamow

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Kim Trew
Regina Coronation Park

Milton Wakefield
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Mark Wartman
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The committee met at 1:30 p.m.

The Chair: — Okay, I'll call the meeting to order, now being a little past 1:30. Welcome everybody again. We have some new people in the room this afternoon and I'd like to ask . . . before we ask John to maybe step forward to a chair, we have an item that we want to spend a little time on it. But I'd like John to introduce the people that are seated in the room so you know who they are.

John, I know you've been here and of course everyone knows you, but welcome and would you introduce the people that are with you.

Mr. Aitken: — Yes, I have with me from the Department of Finance two people who assisted the advisory committee in its deliberations last summer: Lori Taylor with Saskatchewan Finance and Lisa Healy also with Saskatchewan Finance.

The Chair: — Thank you, and no one else I believe has any additional people with them from the controller's office or from the auditor's office.

Ladies and gentlemen, we had a lot of deliberation yesterday regarding the request to discuss the SIGA (Saskatchewan Indian Gaming Authority) report, the auditor's report on volume no. 2. And there was a letter that was sent to the Minister of Justice requesting a response, and that response was requested for 1:30 today.

And indeed we received that response. And I do want to indicate that the report or the letter was faxed to the Clerk's office at about 10:42 this morning, and I contacted the Clerk's office at about 20 to 12 at which time I was told that the letter was being distributed to all members subsequent to that time. And I'm hoping that every member received their report on or around 11:45 to 12 o'clock.

The letter reads, and I quote from the letter — it's addressed to myself as Chair of the Standing Committee on Public Accounts:

Dear Mr. Krawetz: Thank you for your letter to the Hon. John Nilson, Acting Minister of Justice, dated November 21, 2000. He has asked me to reply on behalf of the Department of Justice.

The Provincial Auditor's report and the SIGA Special Audit by Ernst & Young are in the hands of Public Prosecutions in the Department of Justice. I can advise you that they have determined that a request will be sent to Commercial Crime at the RCMP for an investigation. Disclosure of specific instances and the names of parties involved could seriously jeopardize that investigation and could also jeopardize any future prosecution.

Justice takes the position that SLGA should not release the Ernst & Young report or comment on specific instances or names of individuals.

With respect to the Provincial Auditor's Report, while recognizing it as a public document, Justice is concerned that a detailed discussion of that report with respect to

specific instances and individuals could also jeopardize this police investigation and any possible prosecution.

It should also be borne in mind that any detailed public examination of individual circumstances could be very harmful to reputations of innocent people and it is better to await the results of the formal investigation before proceeding with such an examination.

Justice does not object to a discussion of matters dealing with broad issues of accounting practices, accountability standards, etc. We do recognize that it may be difficult to separate these issues from ones involving particular individuals or circumstances, but if this can be done then it would not be inappropriate to have such a discussion.

I trust this addresses the questions raised in your correspondence. Yours truly, John D. Whyte, Deputy Minister of Justice and Deputy Attorney General.

I read that into the record and my suggestion, if the members would agree with it, is that discussion of this letter be put to the agenda later on today rather than at the current time because we have Mr. Aitken present, who we invited to be present today for 1:30. And I think it's appropriate that we spend time discussing the item that we were on yesterday. And I would recommend that we spend the next almost two hours or a little better than two hours, and I'm suggesting that at 4 o'clock we would end our discussions on the report that Mr. Aitken was part of and that we would then return back to discussion of this letter if there is any discussion to be had. Is that permissible? Ms. Lorje.

Ms. Lorje: — Thank you, Mr. Chair. Well it seems to me that this letter . . . I agree that we should be showing Mr. Aitken courtesy and carrying on with our agenda as we had originally adopted it.

As I recall, the reason for this letter was an attempt to add an item to the agenda. That is clearly a matter that would be discussed under item number 4 of our agenda, detailed discussion of future agendas, being that item number 4. And so I don't see why we would set an artificial deadline of 4 o'clock today for having completed items 2 and 3.

So my suggestion is that we carry on today dealing with the matter at hand, which is a review of the auditor's report on a possible new auditors Act and the report from the Provincial Auditor Advisory Committee. And perhaps even tomorrow then we can get to item 4 on the agenda, the detailed discussion of future agendas.

The Chair: — The letter that I just read into the record, I did not interpret it and I did not want to place any interpretation on those words. And I'm suggesting because we have received this letter it is incumbent upon this group to spend some time discussing what it actually says and determining that.

And I think it's appropriate that we would do that today. I'm suggesting not at the current time because we have guests here. And I do suggest though that because it affects what we might do tomorrow, it is important that we discuss it. And I'm sticking with my initial recommendation that we spend from now till 2

o'clock discussing the item that's before us, and that at 4 o'clock we would spend some time discussing what this letter actually tells us to do. Any further discussion?

Ms. Lorje: — And again, I see no reason for us to discuss this letter at 4 o'clock when we can discuss it at the appropriate time on the agenda when we've finished discussing the issues at hand.

The Chair: — Any other comments on the proposed time? Yes, Mr. Kwiatkowski.

Mr. Kwiatkowski: — I just firmly believe that we as a result of some very, very involved discussion yesterday arrived at a consensus where, as a result of that, a letter was forwarded to the Department of Justice under your signature. A response was requested virtually immediately and they complied by 1:30 this afternoon. And for that I think we should be all grateful. And I think we should be able to follow through on that discussion this afternoon in order that we can conclude the issues that we wanted addressed through that correspondence.

The Chair: — Any further comments? Mr. Trew.

Mr. Trew: — It seems to me, Mr. Chairman, that yesterday we spend some considerable amount of this committee's time discussing agenda, discussing how we could get the advisory committee here in a timely fashion. Mr. Aitken very generously was able to make arrangements to be here this day. We have Miss Joorisity on deck for tomorrow at, as I understand it, some considerable inconvenience to herself.

I am at a total loss to understand, Mr. Chairman, why we would spend so much time yesterday setting up and agreeing to an agenda only to have the very first suggestion today being from the Chair that we throw out the work that we did yesterday. And I'm at a just . . . I cannot understand why we would do that when we have a very clear issue that needs to be addressed and is being addressed today and tomorrow.

And frankly I thought we were coming down the chute really well on that and I'm very — was, certainly — cautiously optimistic that we could further the agreement that we got yesterday, considerably further it, and that would then, Mr. Chairman, give us some time tomorrow, the item no. 4 on the agenda we agreed to, to deal with this letter in its due course.

It is incredibly difficult to accomplish anything in the Public Accounts Committee when we keep jerking around to whatever the issue of the moment is. It's gotten to the point . . . it's gone beyond ridiculous to sublime. It's no longer just the issue of the day; it's the issue of the hour. So I think we should stick with the agenda that we agreed to yesterday.

The Chair: — Thank you for your comments, but I object rather strenuously to your comments because number one, the letter you asked for as a group was to be received by us by 1:30 — which we did receive it. And I in no way suggested that we would discuss that letter now. In fact if you would read *Hansard* and my remarks that I made just a few minutes ago said, I believe in courtesy to Mr. Aitken we should spend at least the next two hours and 15 minutes discussing the item that is before us.

It was the request of this committee that we ask for an interpretation from Justice. We have received it, and I am suggesting that we do not discuss this report right now but that we spend time discussing it at 4 o'clock.

So I beg to differ by your comments that would suggest that I am trying to change the agenda by the hour because I did not do that, and I am now suggesting that we have the responsibility as a committee, that we have received a letter that we asked for and that . . . I'm suggesting that we discuss it at 4 o'clock.

And if there is anyone that is prepared to put that motion forward that we spend the next two hours discussing the agenda as there and that we discuss the letter at 4, I'd be willing to entertain that motion and you can determine the course of action. Is anyone prepared to put that forward in the way of a motion?

Mr. Kwiatkowski: — I move that, Mr. Chair:

That we consider the response from the Department of Justice at 4 p.m. this afternoon.

The Chair: — Okay, there is a motion and I ask you to fill it out. That would be an amendment to the agenda that allows us to discuss the letter from Justice at 4 o'clock. And I'll wait for that wording.

Ms. Lorje: — Well, I must say, Mr. Krawetz, that I'm very pleased to see you being so highly litigious because I'm assuming then that that will mean that you will follow not only the spirit but the intent of Mr. John Whyte's letter when we discuss this matter.

The Chair: — Sure.

Ms. Lorje: — I would hope that what we can do is deal with this. If you want to deal with everything by motions, we can do that, sir.

The Chair: — I cannot change the order without a motion and that's what has to be.

Ms. Lorje: — Exactly. Only you try to do it arbitrarily by saying let's discuss, let's hear from Mr. Aitken for two hours and then discuss an item that's not on our agenda for today at 4 o'clock. That was an arbitrary act.

You can go ahead. We can deal with it and discuss it at 4 o'clock. I just point out to you that if you want to get litigious, then read the whole of the letter and don't just pick on one small paragraph and try to see that as a big, giant steamroller.

The Chair: — I'm not picking on that one paragraph, Ms. Lorje. What I'm suggesting is the letter we asked for arrived at 1:30, and rather than discussing the letter at 1:30, which I think would be appropriate, I'm saying no, let's not discuss the letter at 1:30, let's wait, let's do what was before us right now. That's all I'm saying. And I was hoping that it would be by consensus, that we would agree that we're not . . . even though we asked for the letter at 1:30, which I read, I'm feeling that we shouldn't discuss it right now. That's all I have said. I've made no comment on any paragraph or any parts of the letter.

Motion reads, by Mr. Kwiatkowski:

That we consider the response from the Department of Justice at 4 p.m. this afternoon.

Any discussion? All those in favour?

Sorry, discussion, Mr. Wartman.

Mr. Wartman: — Yes, I do have a question and that is with regard to the work that we have in front of us and Mr. Aitken's guidance and advice in that work on these issues. And it seems to me that to presume that we'll be done that work by 4 o'clock, when we blocked into 5, is maybe a little more of a presumption than what we should be making. And I really would like to see us make the best use of his time and ours.

I know that this matter is also serious and that we need to deal with it during our meeting times, but I'm not convinced that doing it at 4 o'clock is maximizing our time to the best.

The Chair: — Thank you for those comments.

I understand that we may not finish by 4 o'clock and I believe that Ms. Joorisity will be here and Mr. Paton had contacted her and she agreed to be here tomorrow to continue the discussions. Because I'm in no way determining that we'll be finished by 4 o'clock. I'm just saying we have tomorrow also set aside with a member from that committee.

Mr. Wartman: — And what I'm saying in this is to me, the wisdom of stopping at 4 when that is our primary area of focus, just doesn't come through for me. I'm sorry.

The Chair: — Thank you. Any other comments?

All those in favour? Opposed? Abstentions? There's no abstentions. Okay. It's just carried by majority. It's carried by majority.

Mr. Aitken, would you move forward to the table with your staff. Thank you very much, Mr. Aitken, for being present and I guess I'll just refer to you as John.

Mr. Aitken: — Yes.

The Chair: — Great. We have had discussion of the two reports over a number of hours both, you know, before yesterday and yesterday. And there was felt a need by committee members, and we want to thank you for interrupting your schedule to be here and to help committee members understand the recommendations that have come forward in the report of the Provincial Auditor Advisory Committee and, of course, the special report by the Provincial Auditor and try to allow us to do our work.

And with that I think we want to move to maybe comparisons of reports. And I would ask Mr. Wendel if the chart that you have here, does Mr. Aitken have a copy of that or could a copy be provided to him?

Mr. Wendel: — I gave the Clerk all my copies.

The Chair: — You gave the Clerk all your copies. Greg, I was wondering if . . .

Mr. Aitken: — I've received a copy just now, yes.

The Chair: — You've received it? Terrific. Good, thank you. And that's what we want to do today. We want you and Mr. Wendel to assist our members in discussion of items both . . . all the recommendations put forward in each of the committee's reports.

I don't know if there's any chronological order that we want to begin with. I believe maybe . . . can we start at one and move forward?

Ms. Lorje: — Which report are we . . . (inaudible) . . . to work from?

The Chair: — Well I think we have to work with both because . . . I mean the report that is before us is this one. It's the auditor's report to our committee so maybe that's where we can start with and then see how it's cross-referenced to Mr. Aitken's committee and see what we can do.

Number one, the auditor's report indicates that . . . I'm not going to read each of these clauses. I think everybody has it before them. There are differences of opinion I think between the auditor's report and what is recommended in the advisory committee's report. And now I guess if I could ask for comments or questions?

Mr. Gantefoer: — Thank you, Mr. Chair. Mr. Chair, I think it's incumbent on this committee in process to deal with the Provincial Auditor's special report. That is the reason we're dealing with this is because there was a special report.

So I think that it is first of all incumbent on us to deal with the recommendations in that special report of the Provincial Auditor. And I believe Mr. Wendel, as in the one-page thing, itemized recommendations number one through fifteen that are listed in the Provincial Auditor's report, gives a comment on his interpretation of the position of the advisory committee and then gives a reference to the advisory committee's recommendation number for reference.

In addition to that, once I think we're completed with that I think there are issues that he's identified that are in the advisory committee's report that he also makes comment on, and that's on the multi-page report that we received yesterday. And then I think finally there may be some recommendations that this committee itself will choose to bring forward to focus this matter and to make our final recommendations in regard to what the Standing Committee on Public Accounts believes is the appropriate direction for the Department of Finance to amend the auditor's Act in proposed legislation to come before the House in the next session.

So I think that would be a logical way to proceed, and I think it would basically cover off the issues that are raised firstly out of the auditor's report. Any of the outstanding issues that aren't cross-referenced from the auditor's report in the advisory committee's report, I think we should deal with them as well.

And then finally there might actually be things that are initiated by this committee that would sort of be a process, I think, that would lead us to a number of recommendations, one of which we agreed to yesterday, that actually covers off some of the items in here.

So I think that'll get us through to a position where we will have a complete set of recommendations which can then form the basis of a report that the Clerk can begin preparing for presentation to the legislature when it resumes.

The Chair: — Any objection to that suggestion which is to take that sheet, as delivered yesterday by Mr. Wendel, which as indicated has the 15 recommendations in the auditor's report, and then looking at the cross-referencing?

And I guess I would suggest that you look at page 20. If we're going to go clause by clause, if you look at page 20 of the auditor's report — and that's pages 19 to 23 of the advisory committee's report — which summarize all of the recommendations in order, and if you would turn to page 23, because Mr. Wendel indicates that the recommendation number from the advisory committee is recommendation no. 30, and we can note then that in Mr. Wendel's comment he suggests that the advisory committee disagrees what is put forward in the auditor's report.

So discussion on that clause as you see it. Question?

Ms. Lorje: — I want to hear from Mr. Aitken. That's the purpose today is to hear from them, why they would disagree with the Provincial Auditor on this.

The Chair: — Okay, good.

Ms. Lorje: — And this clearly is a . . . It seems to me this is a professional issue here, so I want to hear from a professional chartered accountant on this.

Mr. Aitken: — Ms. Lorje, I will try . . . or Mr. Chair, I'll respond as best I can with my memory of what the discussion was at the table with the group of four. My memory may let me down, and I will call if I stray off the correct memory. I'll do my best, in other words.

My sense is that the committee looked at this particular section and said there's enough on the table around issues. This was a new . . . perhaps you would say a new concept around ethical standards, and a definition, an embodiment in a kind of declaration of intent of what the audit role . . . an ethical standard.

We felt that that was perhaps dealt with as a profession. We have a code of conduct which embraces certain ethical standards and duties and responsibilities around qualitative aspects which we felt, since the Act deals with the requirement that the Provincial Auditor be a chartered accountant, that you therefore get that aspect of ethical standards within the persona that you engage.

Ms. Lorje: — And, Mr. Aitken, how strongly did your committee feel about this?

Mr. Aitken: — There was no . . . perhaps I should say there was no dissent amongst the four that, yes, we felt that was dealt with in the professional standards, Chartered Accountants Act, 1986 if you like, and that therefore . . . and that any kind of definition . . . Since we, the group had not encountered a similar definition of principles, it quickly moved on to say, well let's look at the next item. So it was fairly quick.

Ms. Lorje: — And then if I may, directing my question to either the controller or to the Provincial Auditor, in other provincial Acts that have been opened up recently, and by recently I guess I would say within the last 10 years, are there other provincial Acts governing provincial auditors that do include objectives? Or do they not? Are we doing something unique here or is this something that is done all across Canada?

Mr. Paton: — Sorry, I have no knowledge of this type of a general statement in any other provincial auditor's Act. You might ask the Provincial Auditor if he's aware of any.

Mr. Wendel: — I'm not aware of any provisions. I haven't studied for that. But to put it into context of why it's in here, I think I said yesterday that this report is structured around a risk-based approach. We tried to point out all of the risks that would prevent you of obtaining relevant, reliable information and independent information from our office. And when we go to governing bodies, when we go to any organization, we say what risk do they face?

One of the first things they need to do is set out their objectives — what they're trying to achieve — what risk do they have to achieving those objectives, how are they going to know whether they've achieved them, and get a reliable report on performance and a reliable review of performance. So we've structured this whole report around trying to achieve that through The Provincial Auditor Act and working through this committee so there's a good accountability relationship.

And one of the things we're saying in here is we should have the objectives for the Provincial Auditor clearly set out so there's no misunderstanding of what you expect from the Provincial Auditor. And then we go into the other matters: the ethical standards, the performance indicators, the business and financial plan, an annual report of operations. And that's how it's structured.

Ms. Lorje: — I guess I just have some concern, Mr. Wendel, that we not get ourselves into a situation where we're recommending that an Act be drafted that fits the current model of reality that your office is using. I think we want to try to have a provincial auditor's Act that can be evolutionary.

And I'm a little concerned if we have an advisory committee saying, don't do this, that perhaps this means that . . . while I totally agree with you about the risk-based approach and everything, perhaps that's the flavour of the year and next year the accounting world will have a different approach. And we may be tying your hands by actually putting this objective in the Act and maybe you need to have that as an objective internally but it should ought not to be in the Act.

Mr. Wakefield: — Thank you, Mr. Chair. The only difference I can see here — or the main difference I see here — is that the

objective for the Provincial Auditor is either set by the Act or it's set by the Public Accounts Committee. And I think I would concur with Ms. Lorje that the flexibility, as time goes by, to allow the Public Accounts Committee to maybe to adjust the objective for the auditor has some merit. I think that's the basic objective.

And I understand from the Provincial Auditor's report to get it firm, set up, and in the Act, I guess I'm a little more uncomfortable with that thinking that the Public Accounts Committee maybe is the one that should dictate a change of objective if in fact there is one.

The Chair: — Any further questions or comments by either Mr. Aitken or Mr. Wendel or Mr. Paton?

What I'd like to suggest — maybe it's something that will help the committee members and help myself — is for each of the recommendations, because we're dealing with the report, maybe we'll get both Mr. Aitken and Mr. Wendel to comment on, if there is some correlation between your report and the auditor's report and then if, Mr. Paton, if you have any input that would assist the members in an interpretation kind of thing.

Then we can have open questions after we've heard from all three people and then we know where we're going.

Mr. Gantefer: — Thank you, Mr. Chair. I had to search back in the Public Accounts corporate memory about the procedure that we generally used in terms of specific recommendations and we had drafted four types of reactions to a specific recommendation.

We can agree with the auditor's recommendation, and then we agree to concur with the auditor's recommendation and note compliance if that's the case. This isn't the case right now. So we can agree with the auditor's recommendation — this is more with departments — we can disagree with the auditor's recommendation, or we can make our own recommendation, basically is the way we follow it.

So I would suggest that . . . I think I share the feeling that others have expressed in terms of that I don't see the necessity of further entrenching these kinds of details into the Act because I think it goes too far of losing the flexibility that this committee needs to having a dynamic working relationship with the Provincial Auditor.

So I'd be prepared to move:

That we do not agree with this recommendation in the Provincial Auditor's report.

The Chair: — Are there discussions? Seeing none, all those in favour? Good.

Ms. Lorje: — Just a slight procedural thing. Mr. Gantefer is obviously the person with the greatest corporate memory in terms of Public Accounts so I'm wondering, Mr. Gantefer — with no disrespect to you, Mr. Krawetz — would it be your recommendation as we go through this that we have a motion on each and every recommendation?

Mr. Gantefer: — I think that that proves useful because the Clerk then is able to deal with it clearly. Our responsibility is to respond to the Provincial Auditor's report and I think we owe it to the Provincial Auditor's report that we do make decisions on each recommendation.

In addition to that then I think we should move recommendations or decisions in regard to the outstanding information that hasn't been dealt with in the auditor's report, that comes from the advisory committee.

And finally we can make motions of our own if we see fit, which will then become the full body of what would be a report to the legislature on our deliberations in regard to the proposed amendments to The Provincial Auditor Act.

Ms. Lorje: — So then as, I guess you're recommending, that as we move through this report we'll entertain motions, unless of course we come to something really sticky that we want to perhaps hold off for further discussion.

Mr. Gantefer: — Yes, or we can amend or whatever we see . . . I would see . . . I would hope that we could work our way through this whole process and at the end of tomorrow at least complete our recommendations in this regard. I mean we've got to move on.

Ms. Lorje: — Okay, well then let's do that.

The Chair: — Thank you. Let's move to recommendation no. 2 in the auditor's report, and it's there before you.

I'd ask, because the cross-referencing says that there's no comment by the advisory committee, I'd ask Mr. Wendel to maybe indicate what was intended by recommendation no. 2 in his report, first.

Mr. Wendel: — Recommendation 2 just pointed out a risk that the Act exclusively govern the Provincial Auditor and it does. We haven't recommended any change and they have no comment on it so there's no action needed by the committee.

Mr. Paton: — Well I would agree with Mr. Wendel. We concur with what he's saying here and we see the Act currently as in that status.

Mr. Wartman: — I'll move it.

The Chair: — You'll move the acceptance of recommendation no 2 in the auditor's report? Any question? All those in favour? Opposed? Carried.

Recommendation no. 3 on page 22 — and their cross-referencing is to recommendations 24 and 27 — and we'll have comments by probably, maybe, all three individuals. Mr. Wendel or Mr. Aitken? Let's start with you, Mr. Wendel, since it's this report that we're dealing with; and then Mr. Aitken can cross-reference his two sections.

Mr. Wendel: — The way this one is structured is we looked through the Public Account's Committee's mandate of the things that you're trying to do, and that's in the second column, which is the things you say that you're responsible to do —

you're holding the government accountable. And there's ten items listed there.

The current Provincial Auditor's Act covers five of those items, that we're required just to provide you specific information on these things. And there's five that aren't there. Now The Provincial Auditor Act is also very broad. It has general provisions. We can provide that information but we're not required to provide that to you.

So the five items that are listed on the far right are the ones that aren't currently in The Provincial Auditor Act. And I guess it's your decision as to whether you want them included specifically or allow the general provision to continue to discovering that issue, because we say in the third column we interpret the Act as sufficient to provide the standing committee with all the information they need. However if you wanted to be sure you get this information from us — because we have an option of giving it to you or not giving it to you — you can specify that we have to. Okay.

Mr. Aitken: — I think the committee's discussion on this section was that the Provincial Auditor's report wasn't suggesting a drastic change of approach and that in fact I think there was maybe some questioning when we met with the Provincial Auditor, that he didn't feel that some things that were essential that he be able to do he couldn't do because the legislation wasn't there to permit it.

And quite the contrary, I think the response we got generally from the Provincial Auditor was no, and therefore the intent of this section was in essence to codify existing practice. And the existing practice had devolved to the extent that one of two items or headings of his practices were not covered in the existing legislation and he wanted the legislation to catch up. And I think that's what the intent was.

There are certain sections, and I'm not sure I'm reading the correct piece at the bottom, but there was also some thought around the jurisdiction of the Provincial Auditor getting extended into areas that we as a group didn't . . . wanted to avoid the kind of discussion around transfer payments and jurisdiction going into that and the existing . . . the copy of the Provincial Auditor's report that I have. I'm not sure that this has been covered by this heading here.

The Act should provide the Provincial Auditor with authority to examine partnerships with other jurisdictions and other levels of government. And that was the last piece that I meant under that heading. Are we're dealing with that?

The Chair: — Do you have any comment on recommendations 24 and 27 in your report as to how they relate to this section 3 of the auditor's report?

Mr. Aitken: — Let me see if I can get to our recommendation 27. Yes, generally speaking the committee recommended no change to The Provincial Auditor Act with respect to the reporting and examination requirements. In other words there was general satisfaction that The Provincial Auditor Act permits the Provincial Auditor to conduct audits in the manner which he is. It's not inhibiting him from doing something that he feels he has to do.

The Chair: — Okay, and 27?

Mr. Aitken: — Yes, it was a point that I think Mr. Wakefield brought up in terms of dealing on a case-by-case basis with. The committee generally felt that if you put in a . . . the Public Accounts Committee in effect drives the objectives and can give a nudge that this is the area that we want you to concentrate on versus another.

And so we didn't want to tie the hands of the Public Accounts Committee by saying here is the mandate that shall be in legislation and kind of fence the field, rather let the Public Accounts Committee you know evolve and we would like you to leave room for that, best to leave it silent. That was a general preference.

The Chair: — Any comments, Mr. Paton?

Mr. Paton: — No, Mr. Chair. I have nothing to add.

The Chair: — Okay, thank you. Any further comments, Mr. Wendel, before we open for discussion?

Mr. Wendel: — We're not suggesting that the general provisions that we have that allow the flexibility will be taken away. All this is saying is, if you want to be sure you get information, like at least this information, okay, then put it in the Act. If you want to be sure you get it, okay?

That doesn't mean when you say take away the general provisions, it'll allow this to evolve into the other things. But if you want this information for sure, okay, then we have to provide it.

Mr. Aitken: — And just generally speaking, our committee, we're not particularly . . . and maybe it was . . . we're not particularly anxious to try and create general principles, ethical standards, define the objectives of the office, partly because we knew that that would be probably an enormous task and that it wasn't within our mandate to do that.

And so I think that was the motivation on the committee's part was we can't get into that, plus we don't believe that the Provincial Auditor is jumping at this thing: well please allow me to do something I want to do.

Ms. Lorje: — I have to say I tend to agree with Mr. Aitken on this matter. As we were talking the phrase, be careful what you ask for you may get it, sprung to mind. And I, for the life of me, I know that I would have a different definition of when government's use of public money has been efficient and economical than would my colleague from Prince Albert or whatever.

I don't want to get into having pre-defined efficiency in an Act. And it also seems to me we might be binding the hands of a new auditor if that auditor wants to go in a different direction. So I guess I would move . . .

The Chair: — You would speak in opposition to the recommendation.

Ms. Lorje: — I would speak in opposition, and if there are no

other speakers I would move that the . . .

The Chair: — I haven't had that opportunity to find out. Seeing none — of course.

Ms. Lorje: — Okay, thank you. I move:

That the committee disagrees with recommendation 3 of the Provincial Auditor's special report on his Act.

The Chair: — I'm just seeking clarification from . . . (inaudible) . . . If we disagree with the article then we're saying that status quo in the auditor's Act is what's there?

Ms. Lorje: — Yes.

The Chair: — Everyone understands that, okay? Any discussion?

Mr. Wakefield: — It's not very clear in the motion, Mr. Chair, if we disagree with that what are we disagreeing with?

Mr. Gantfoer: — We're disagreeing with the auditor's recommendation that these five clauses be included . . .

The Chair: — Exactly. And for clarification as I've indicated, it's that the auditor's Act as it currently reads would remain — that's our recommendation — that it would not be adjusted unless we decide to put in a new motion later on as Mr. Gantfoer has suggested. That's something else.

Question. All those in favour? Opposed? Carried.

Recommendation no. 4 on page 24 and cross-referencing to the advisory committee. It's believed to be recommendations 25, 26, and 27.

Mr. Wendel: — This risk relates to . . . we have four recommendations under this risk. The first one deals with bringing the objectives and the protocols that are set out in the task force for roles, responsibilities, and duties of auditors into The Provincial Auditor Act. And those protocols deal with how we would work with appointed auditors when they're auditing a government organization to make sure the work's done efficiently, effectively, and the Assembly's well served.

I'll just go with them one at a time rather than all four. So maybe just deal with that one.

Mr. Aitken: — Actually I'm just catching up with the . . . (inaudible) . . . Again we know that the deliberations of the committee were not long and contentious on this particular point. And in fact I think it was really that there was some awareness of the relationship between the private sector auditors and the Provincial Auditor or appointed auditors was one where a consensus had arisen and Mr. Baxter, who's on our committee, was involved in developing some protocols.

I think there was a general consensus: let's again leave that alone because the relationship appears to be evolving quite nicely without getting into it again.

Mr. Paton: — The only thing I'd like to add to that is I recall

George Baxter's comments specifically on this provision, and he said these guidelines that his group developed were intended as that. They were intended as guidelines. And as roles and responsibilities evolved, his hope was that these rules wouldn't be required.

And furthermore, he said that they certainly weren't drafted with the intention that they would be included in an Act; they were guidelines that he hoped people would just operate by in the future and they wouldn't have to be enshrined in legislation.

The Chair: — Thank you. Any questions of that first recommendation?

Mr. Gantfoer: — Mr. Chair, a question to Mr. Wendel. Is this, or are these I guess four things, four recommendations that followed . . . follow — are they designed to clarify the relationship between the Provincial Auditor's office and professional auditors who are engaged by other entities or agencies in, you know, Crown corporations, district health boards, etc.?

And if that's the case, are there not some professional criteria that are set out through the institute of chartered accountants or something or the auditors' association or some professional association that establishes a proper relationship of confidentiality in the other person's audit numbers and things of that nature that we don't have to enshrine in The Provincial Auditor Act?

You may detect that I think simpler is better, especially if there are other professional associations that have systems in place to establish those relationships.

Mr. Wendel: — I don't think the professional association would have practices that would deal with what we have in Saskatchewan where we are the primary auditor for the government and for the Legislative Assembly but we're in a reliant situation beyond what the professional standards deal with. Like, usually the professional standards deal with a reliant situation for auditing financial statements, okay, and there are some criteria for that. We have a much broader mandate.

So the professional standards wouldn't speak clearly to this. You can take guidance from them and help them formulate what we've got in the task force to help us get through this, but the professional standards wouldn't deal with this directly.

Mr. Gantfoer: — But I'm concerned that what I don't want to see happen is somehow that we set up the Act in such a way as that it elbows any other professional auditing firm for doing legitimate work for any government agency because you've sort of set this special relationship up and everybody else is sort of in a subservient role rather than a professional courtesy role.

Mr. Wendel: — This task force was a joint task that was set out by the president of the Crown Investments Corporation. It had representatives from our office, it had representatives from the private sector and from the university, which was Mr. Baxter, as they refer to who also prepared this report.

And that group said here's the best way to operate given the situation you have. They came to a consensus. It came to this

committee; this committee agreed with that. It went to the Treasury Board; they agreed with it. It went to CIC (Crown Investments Corporation of Saskatchewan); they agreed with it. And it seems to be working well, other than in a few cases.

Now sometimes there's confusion as to whether it should be used there or not. And I think all this would do is make sure there's less confusion if you decide you want to adopt this to prevent future confusion.

Mr. Gantefoer: — Could I direct the same kind of thrust of questions to Mr. Aitken?

Mr. Aitken: — Yes, Mr. Gantefoer. I generally concur with what the Provincial Auditor has just said in this sense that there are CIC, Canadian Institute of Chartered Accountants, has protocols in place around our practice manuals around whether you've got a reliance situation; one auditor is doing one thing, another auditor is doing the other, and they're all relying . . . that's codified and practiced and it's embodied in the general principles of the relationships between private sector auditors and the Provincial Auditor.

But I think Mr. Wendel's correct in saying, when you get into . . . that's a corporate environment and you're . . . it's typically that's where it's applied, typically in a corporate environment where there's a holding company and subsidiary which is not altogether transportable to the government auditing environment. And there are . . . the role of the Provincial Auditor is quite expanded from what is normally applied in a corporate environment.

I think the committee, you're right, when you open that up you open up maybe some old war wounds or . . . and there is a debate. But rather than getting into it we just said let's move on. The protocols are working. There wasn't a great deal of anxiety to encapsulate it in the standards. But it was really for . . . the motivation was let's just keep on going; it's working fine.

Mr. Gantefoer: — Thank you. And finally, to Mr. Paton. It sounds to me that as if there are protocols that are working. Is there any thought of referencing these protocols in some way and leave it at that because I think that what we want is something that has a flexibility to be adjusted and changed.

I get nervous when you put stuff right in legislation because it gets very difficult to change and I'm not sure that that's desirable. But if these protocols have somehow been agreed to, can we reference the fact that the relationship should follow protocols that have been agreed to or that are somehow . . .

Mr. Wartman: — So — sorry — this area, you mean reference them in the Act?

Mr. Gantefoer: — Maybe reference them in the Act without specifically . . . that allows them to . . . allows you to change the protocols without changing the Act.

Mr. Paton: — Mr. Chair, no, that wasn't really considered. I might have the concern, as a, I guess, as someone who assists in writing legislation, where you're referring to a report that has a set of rules for procedures that . . .

Mr. Gantefoer: — May change.

Mr. Paton: — . . . may be changed and go . . . you know, you lose control over what those are.

As I go back to what Mr. Baxter said, these were rules that were supposed to assist appointed auditors and the Provincial Auditor to work in a co-operative environment. The view generally, I think from most sides, is that that's working and you shouldn't need these rules.

And if we go back 10 years ago, we didn't need them. Things have improved; I know there were some problems in the past, but it's a much-improved situation. I think you risk when you put something in law that you no longer have control over.

The Chair: — Thank you. As indicated, we're dealing with what I think we're going to have to call, just for the purpose of referring to it, we'll call it 4(1), which is this first recommendation at the top of page 25.

Any further discussion or questions on that one? And we'll deal with these independently of each other even though they're all connected to the same section 4.

Ms. Lorje: — Well I would, as past chair of the Crown Corporations Committee and as a person who had to deal with this in quite a specific way, I want to, at this time, express my great appreciation to George Baxter for the wonderful work he did in calming down what could potentially have been a troubling situation. I think we have achieved a balance in this; we have maintained the importance and the respect for the Office of the Provincial Auditor and at the same time, clearly created conditions whereby the private auditing firms can get on with their very professional work for the Crowns.

So I was always very pleased to follow the recommendations of the 1994 *Report of the Task Force on Roles, Responsibilities and Duties of Auditors*, and I would suggest that the old adage — if it ain't broke, don't fix it — applies here.

The Chair: — Would we have . . . could we have a motion to either agree with 4(1) or disagree with the recommendation 4(1)?

Mr. Wakefield: — Just a question.

The Chair: — Still a question.

Mr. Wakefield: — For clarification if I could, Mr. Chair. Because the Provincial Auditor's role is an expanded role compared to the corporate role as you have indicated earlier, does the existing Act — if we don't make any changes — does that allow for, first of all, you to do the work needed? And also give us the flexibility to direct additional work from the Public Accounts Committee, if needed.

The Chair: — I'll ask Mr. Wendel, and maybe a comment from Mr. Aitken.

Mr. Wendel: — As we say in this report, we think the current Act gives us the authority to do the things we're doing. Whether it'll give us the authority to do the things that you may want in

the future, we'd have to look to the Act to see whether it does that.

One of the things we have in here is something new for you to consider — as to whether or not we can go into recipients of transfer payments, and that's the last item in here. You might want us to, okay, but we can't go there because we don't have the authority to go there.

As to whether we can do the things we need to do to the appointed auditors, the Act gives us a choice. We can either work with the appointed auditors or do the work ourselves. We have a choice. We just have to tell you that we . . . why we've decided to do the work ourselves. So we have that choice. And the task force does allow this to work efficiently, and the objectives that are in there and the conclusions if they were codified would make sure that that continued into the future, I guess.

Mr. Aitken: — I think we asked the same question of the Provincial Auditor as Mr. Wakefield just asked, and we concluded that the Provincial Auditor was not inhibited or had not experienced being inhibited from doing what you wanted to do. And that was our motivation for saying well, let's not define, entrench the field with words, and leave it open.

And again at the back of our minds was Provincial Auditor . . . Public Accounts Committee driving the bus in consultation with the Provincial Auditor as to how it evolves from here.

Mr. Paton: — No, I have no comment.

The Chair: — Thank you. Any further comments or questions? I would entertain a motion if someone has one.

Mr. Wakefield: — I'll make a motion.

The Chair: — That disagreement on the recommendation . . .

Mr. Wakefield: — We disagree with 4(1).

The Chair: — The motion before you is:

That we do not support the recommendation 4(1).

Any discussion? Question called for. All those in favour? Opposed? It's carried.

4(2) is the second one. Mr. Wendel. I'm sorry, okay. That recommendation is a very short one. I'll just indicate what it is. It is:

The Act shall make it clear the Provincial Auditor has the authority to audit all government agencies that are owned or that may be controlled by the government.

Mr. Wendel: — Thank you. We do at times have confusion as to our authority to exam certain government organizations and we're asking for clarification for companies established under The Business Corporations Act and companies under The Non-profit Corporations Act, 1995 to make sure that those that are controlled by the government are audited by us.

The Chair: — Mr. Aitken. No? Questions first? I'd prefer to have Mr. Aitken or Mr. Paton make comments.

Mr. Aitken: — Okay. This never happens at home where I get to speak first . . . (inaudible) . . . I bore people to death.

On this particular question there was some discussion by the committee. And what we were worried about here is a significant increase or potentially a significant increase in the mandate and the scope of the work of the Provincial Auditor, perhaps into unintended oddities.

Just by way of an example, I'm on the Board of the Regina Symphony. I could contemplate a series of events where the Regina Symphony Orchestra could be judged to be controlled by the government. By operation of law if the financial position got to such a stage where that kind of scenario, maybe not intended at the start, but now therefore there is clearly in government an intention right from the get go: is this a government organization, or is it a volunteer organization, or what is it? And we just write into this particular wording "or that may be controlled by the government". Some of the more witty groups felt we were all controlled by the government, therefore the . . . but we'll leave that one alone.

The point was the intention . . . the words may be much more inclusive than even the Provincial Auditor intended.

Mr. Paton: — The only comment I might add on this one is that this is partly a bit of a definitional issue as to what is owned or controlled by government and I think there will always be some debate. And in the past the Provincial Auditor has brought those issues to this committee for discussion and there has been numerous discussions and legal opinions as to whether or not it was within the mandate of the auditor to review these issues.

I believe that this is the committee that helps assist and decide whether or not those issues or those entities should be subject to audit. And trying to define that in legislation may be difficult.

The Chair: — Thank you.

Mr. Kwiatkowski: — Well I think Mr. Paton has hit the nail on the head in the sense that it mostly revolves around a matter of definition here. I would be very, very concerned if the definition included third-party funded organizations — municipalities, school divisions, those kinds of things. There are huge issues of local governance and autonomy around that. I think that that has to be addressed, and perhaps before I continue you could address that.

Mr. Wendel: — Those will be addressed as item 3 and 4.

The Chair: — I was just . . . I think you're talking about item no. 3, 4(3).

Mr. Wendel: — Item 3, 4 will be, yes.

Mr. Kwiatkowski: — I'm sorry. I'm sorry.

Mr. Wendel: — So I'm just talking about organizations like northern enterprise fund, which is a non-profit entity being set up by SaskPower where the membership shares got held by

directors of SaskPower.

Mr. Kwiatkowski: — Okay, I'm sorry.

Mr. Wendel: — They were administering a government grant program. There was arguments as to whether or not we could audit that.

There was other places where two or three government organizations would get together, form a company to do something and we wouldn't be allowed to examine that. They'd claim they weren't subject to audit by our office. Those are the kind of things, so we brought those to the attention of this committee in the past. But if we had a clearer definition, those kind of things would be audited by our office on those kind of transactions.

I understand your concern with the others and we'll have to talk about those. Those are new things that we were talking about. If you want us to look at those, we'll look at the transfer payments and the third party things.

The Chair: — Any further questions on 4(2)?

And I note, Mr. Aitken that your recommendation 25 I think just basically says that the standing committee remain, that that body that would deal on a case-by-case basis with those kinds of situations, correct?

Mr. Aitken: — Yes.

The Chair: — Okay. Any further clarification on 4(2)? Not? Someone would like to move a resolution?

Ms. Higgins: — I wouldn't screw with 4(2).

The Chair: — Okay. Motion that we do not support 4(2). Any further discussion? All those in favour? Opposed? Carried. Opposed? Carried by majority.

4(3), we've already initiated discussion on that one. If you'd like to . . .

Mr. Wendel: — I think you can take 3 and 4 together then.

The Chair: — Okay.

Mr. Wendel: — It seems like I heard some comments from Mr. Kwiatkowski and they go to . . . this is a policy thing and I guess the question is do you want to go into something new here? Do you want us to do this kind of work? We put it up for your discussion. You decide if you want information from us on these kind of things. That's . . .

The Chair: — Mr. Aitken, do you have any further comments to . . . I believe now we're talking about 3 and 4 even though we'll deal with them individually.

Mr. Aitken: — Yes. We talked about this in . . . I think in mind we had federal-provincial joint programs. And again, the clarification that we got, perhaps with Mr. Paton's assistance and experience was, each of these agreements can be struck . . . they have it at different times and it's not always thought of at

the time an agreement is struck, as to who's going to audit it. So I think there is a kind of an ongoing issue between the Provincial Auditor and let's say the Attorney General as to who's going to audit this federal-provincial agreement.

And there are presumably other kinds of instances where there are partnerships struck between different layers of government, and there's a kind of jurisdictional issue at play here. I think what mister . . . The committee was led by the Department of Finance guidance that we should do a better job of making sure that each time there's an agreement struck, the audit provisions should be anticipated and addressed.

The Chair: — And that's why . . .

Mr. Aitken: — Except for that we didn't feel as though this was a legislative piece but rather a policy, operational issue.

The Chair: — Right. And in your recommendation 26 then, you're suggesting partnerships . . . that when partnerships are established, that audit provisions be put in place as a result of the partnerships agreement?

Mr. Aitken: — And again, not so much a partnership agreement but it could well be a federal-provincial funding kind of a scenario which creates an entity and who's going to audit that entity because it's being owned by the feds and the province.

Mr. Paton: — Well, I would just concur with what Mr. Aitken said, in that this is something that should be built into all interprovincial agreements or federal-provincial agreements to ensure that adequate audit provisions are provided for.

The Chair: — Ms. Lorje, I saw your hand up, and I was just wanting comments from the three gentlemen before I recognized you.

Ms. Lorje: — No, I agree with what Mr. Paton and Mr. Aitken are saying. And I note the caution that Mr. Kwiatkowski is giving us. I just think this is a potential political minefield, to have the auditor auditing other levels of government.

Clearly we need to ensure that public money is wisely spent and properly accounted for. And government needs to always be vigilant about making sure that the proper accounting procedures are built into agreements. But to try to holus-bolus, predefine what that agreement might be; I think this would be falling in legislation.

The Chair: — Resolution? Is anyone prepared to move a resolution on 4(3)?

Mr. Gantefoer: — May I ask a question, Mr. Chair? On either 3 or 4, would this be in anyway diluting our ability to audit third party agencies? And I think of the current disagreement that occurs between the provincial government and the FSIN (Federation of Saskatchewan Indian Nations), for example, about jurisdiction and authority to audit joint projects.

Would either of these provisions speak to that issue or is that covered somewhere else?

Mr. Wendel: — Well one of the problems that we had with getting into First Nations' fund — we're still having problems — is that they claim a jurisdictional issue, that the First Nations are Saskatchewan Indian nations, that we don't have jurisdiction to examine that.

I think it was also a jurisdictional issue, which related to the Saskatchewan Indian Gaming Authority that while . . . but that we were able to get there eventually. So whether this would go, whether this applies to that, I guess probably. Again, we say we have the authority but it's challenged.

Mr. Gantfoer: — But then if it doesn't speak directly to it, it could be challenged equally well and it would have ramifications for a lot of other agencies.

Ms. Lorje: — A question of Mr. Paton that follows through on Mr. Gantfoer's because I appreciate that we're all very mindful of the SIGA situation right now. And I don't want us to get into drafting an Act based on current circumstances. We've got to keep in mind broader principles.

I would like to know, Mr. Paton, in your thinking about drafting of a new provincial auditor's Act. Is it your intention to transfer section 16 of the current Act to the new Act? Section 16 for members' edification, basically does allow a public inquiry process that the auditor could implement either by virtue of a motion of the Assembly or by virtue of a motion of this committee. It says basically:

Where:

(a) the Legislative Assembly or the Standing Committee of the Legislative Assembly on Public Accounts:

(i) requests the Provincial Auditor to perform a special assignment; and

(ii) causes the Provincial Auditor to be provided with the funding . . .

And then it goes on to say that they can do these special things.

So that if for instance the auditor had not been able to gain access to SIGA's . . . yes, because the First Nations . . . because SIGA took the position that they had no authority, this committee could have ordered that. So is it the intention to transfer section 16 into a new Act?

The Chair: — Ms. Lorje, before Mr. Paton answers that question, could you indicate which document you are reading from?

Ms. Lorje: — Oh, oh, I'm on a totally different document from 1994. As I said as chair of Crown Corporations Committee, I found George Baxter's special report of 1994 to be very useful. So I brought it along with me and included in that report is the auditor's Act.

So the document I'm reading from basically is the auditor's Act.

The Chair: — Okay, thank you. Mr. Paton.

Mr. Paton: — Yes, Mr. Chair, I believe that reference that's being made is to section 16 of The Provincial Auditor Act by special assignments. And that provision will continue forward. So it will be included in the new Act as being drafted.

The other comment I might want to provide to the committee and Mr. Wendel may want to correct me, but on the question of FSIN I believe the auditor thought he had — or pardon me, the First Nations Fund — he had full authority to audit . . . (inaudible) . . . And the problem that's being encountered here is one of perhaps non-compliance with that situation. But I don't think you believe that you need additional authority to look at First Nations. Is that correct?

Mr. Wendel: — Yes, we think we have complete authority to look at it. However others don't agree and that's what this is talking about. There may be confusion here and to the courts . . .

The Chair: — Any further questions? Clause 4(3).

Mr. Wakefield: — I guess the concern that I have is that we maybe want to try to isolate the uncertainty here but without overstepping our bounds into other areas that could be a real minefield such as what Mr. Kwiatkowski referred to earlier.

I'm not just sure where we stand if we accept or reject this. That's a bit of a conundrum for me. And I can't think quickly enough to put an amendment even, or a change, a different . . . But I think maybe toward the end we may be able to put a motion forward to address that, once we think our way through that a bit further. I'm not sure. That's a concern.

Ms. Lorje: — It seems to me if this committee is satisfied and ensures that section 16 of the current Provincial Auditor Act is going to be carried forward, that that likely does address our concerns and we probably don't have to get too terribly creative legislatively.

We can note our concerns because obviously we do want the Provincial Auditor to be able to do what he is doing. And I think that by noting the concern, that that highlights that it is an issue for this committee. I think though that section 16 of this current Act does give him sufficient authority now.

Mr. Wakefield: — Didn't Mr. Wendel just say that that is not the interpretation by some, which virtually disqualified them or tended to disqualify them from that?

You commented earlier that the interpretation of the present Act as quoted under section, I think 16(a), 16, was interpreted differently by other people, which caused some confusion in your ability to audit certain funds such as the . . . Oh I forget the name of that fund you were referring to.

Mr. Wendel: — First Nations fund. Just to clarify and to go back. Our authority to audit comes from section 11 of The Provincial Auditor Act. That's the whole authority. And that determines what we can examine, who we're going to examine based on the definitions that are in the Act, and how we're going to examine.

And what sometimes gets confusing is in the definitions part as

to who's subject to an audit by us. Under section 2 there's some definitions of who is subject to an audit by our office. And the confusion then comes around; well what is a Crown agency? Does it include a non-for-profit corporation that's got member shares instead of these shares that you have in a private corporation like voting shares, common shares? That was never addressed when the Act was written back in '83 because we didn't have any experience with anything like that — not-for-profit shares.

The other things were, well does an organization still remain a government organization when they decide to take what's in a Crown corporation and put part of their function in a business corporation by setting it up as a business corporation? Does it remain subject to an audit by our office? Again that wasn't contemplated when the Act was written.

So those are . . . Like if you wanted to do some housekeeping, those were a few things that could have been corrected in there.

And then there's these new things that are coming up on more intergovernmental things. And what Terry is saying is, well maybe the best way to handle that is to put the provisions for the Provincial Auditor to be able to look at that right in the agreements. Well that would be a way of handling that.

There are other cases where there may be some other jurisdictional things that I talked about briefly, like the First Nations fund. I'm not sure what I could put in a definition that would deal with your concerns, Mr. Kwiatkowski, and your concerns; but it also then remains a concern for you then, that there maybe people say, well you don't have jurisdiction to look at that, this is a jurisdictional issue. So that's just to put some clarification around your . . . a context around your question.

The Chair: — Okay. Be specific, we're dealing with 4(3), which refers to partnerships and other levels of government, okay. Is there anyone prepared to move a resolution regarding 4(3)?

Mr. Gantefoer: — Thank you, Mr. Chair. I understand the concerns and I think they're ongoing. I really do think that we should note that if we're making agreements that are interjurisdictional in the future, as Mr. Paton indicated, that part of that agreement clearly articulates the authority under this agreement of the Provincial Auditor, if we have that concern, to have the right and full right of complete access to information as indicated.

I am concerned that the way this would read is too broad and would draw in all kinds of potential agencies that are not intended to be drawn in. And I'm satisfied that, with the note in our verbatim and in our discussions of the commitment to make sure that in any future agreements that this provision is there, that I would move that we disagree with item 4(3).

The Chair: — Any discussion?

Ms. Lorje: — Perhaps, just for total clarification — and that we agree with recommendation 26 of the provincial audit advisory committee.

The Chair: — Those will come after because 26 . . .

Ms. Lorje: — I think 26 fits the spirit of what Mr. Gantefoer is suggesting, that we want to make sure that we get the proper auditing procedures in place.

The Chair: — Yes.

Ms. Lorje: — Yes, and we don't want to let anybody off the hook on this one.

The Chair: — No. Thank you.

Ms. Lorje: — Thank you.

The Chair: — Any discussion? Question: all those in favour? Opposed? Carried.

4(4), which is related. I think we've had the discussion on that from everyone, unless someone wishes to make an additional comment or a question from any of the members.

Ms. Lorje: — Well the only additional comment is that we have to . . . we need solid assurance that the special powers provided under section 16 of the current auditor's Act are carried forward into a new Act.

Mr. Paton: — They will.

Mr. Gantefoer: — I think, Mr. Chair, if I could comment. I think that it's maybe well that we should note some of these things now. For example, our desire to support recommendation 26; our desire to make note that this committee wants to note on record that the current section 16 of the current auditor's Act is brought forward. And I think if maybe the Clerk can keep track for us of these things . . .

The Chair: — The Clerk has indicated that he's noted that already about 26 . . .

Mr. Gantefoer: — When we get to the special recommendations or when we deal with the recommendations of the advisory committee — no. 26 — we want to make sure that we note that. And if there are special recommendations, like making note of section 16, we can do it at that time. But just so that we don't forget.

The Chair: — Okay. Thank you. A motion then on 4(4)?

Mr. Stewart: — I am prepared to move:

That we disagree with 4(4).

The Chair: — Motion to disagree with 4(4). Any discussion? All those in favour? Opposed? Carried.

Recommendation no. 5, and cross-referenced, as indicated, as no. 30.

We have one recommendation:

The Act should clearly set out the ethical values the Assembly wants the Provincial Auditor to have for the conduct of public business.

We have talked about that one in no. 1. Are there further comments from Mr. Wendel or Mr. Aitken or Mr. Paton?

Mr. Wendel: — No, I don't have one.

The Chair: — Okay, nothing further. Any questions from any of the members? I would entertain a motion.

Mr. Wartman: — I move:

That we disagree with recommendation no. 5.

The Chair: — Yes, good, thank you. Any further discussion? All those in favour of disagreeing with recommendation 5? Opposed? Carried.

Recommendation no. 6 and correlation is with recommendation no. 1:

The Act should require the Standing Committee on Public Accounts to select and recommend to the Assembly a person for appointment as Provincial Auditor.

Comments from Mr. Wendel?

Mr. Wendel: — I think we've discussed this.

Ms. Lorje: — Mr. Chair, we've already done this.

The Chair: — Yes, okay, because of discussion . . .

Ms. Lorje: — Just yesterday, ad infinitum. And this is . . . I mean this is really the big crux of the thing. We're removing the power of the Minister of Finance to arbitrarily appoint the . . .

The Chair: — Ms. Lorje, I would ask for a motion.

Ms. Lorje: — So I will move:

That we agree with recommendation no. 6 . . .

The Chair: — Just one moment, Ms. Lorje, I'm sorry. Mr. Paton has a comment.

Mr. Paton: — Mr. Chairman, when you discussed it yesterday, you discussed it in light of the advisory committee's recommendation. If you read the Provincial Auditor's recommendation, it has more than one facet to it. So there's additional items, I believe, if you look at it in its completeness.

The Chair: — Are you suggesting that the recommendation no. 1 . . .

Mr. Paton: — Can you just give me a minute please?

The Chair: — Okay, sure. Sorry, Mr. Paton.

Mr. Aitken: — Mr. Chair . . . (inaudible) . . . I recall this discussion the first time we come back as a committee and reported to Public Accounts about the process for having a new Provincial Auditor. And the thought that's in the committee's report is that you may wish to delegate into the audit committee that we have recommended, delegate certain of the facets of

engaging a new Provincial Auditor. I think that was the main difference, that the Provincial Auditor's report does not contemplate this audit committee that we have suggested, therefore there is some difference in the process anticipated by the Provincial Auditor and our group, our committee.

Mr. Paton: — Mr. Chairman, the only reference I was going to make was I believe the auditor's recommendation no. 6 relates to two items that the committee dealt with yesterday: recommendation no. 1, that talks about the appointment but I think it also talks about the salary, which is no. 21. So you have to deal with those independently because I think you came to separate conclusions on those yesterday.

Mr. Wendel: — Just for clarification, that's on the second list that we didn't use. We point out an item there, on the second list, where you've made it . . . the advisory committee's made a recommendation that we haven't made.

Mr. Paton: — Yes. I'm reading from the auditor's report, page 27, where they talk about the salary definition and so on. So it goes further than just the appointment process. On page 27 that recommendation talks to salary as well.

The Chair: — And I think from our agreement yesterday, if I might with the members, we have determined I think a process that we will be resolving by way of a motion later on today if we have that opportunity, or tomorrow. So I think that covers it.

Ms. Lorje: — And also, I think we're getting into what happens often in conventions where you debate the whereas rather than the final clause. My motion that we agree with The Provincial Auditor Act has to do with the final clause. Because the other items that are brought under the second column — why the Act should address the risk — we're dealing with on a separate basis.

So I'm going to still be bold here and move:

That we agree with the auditor's recommendation that the Act should require the Standing Committee on Public Accounts to select and recommend to the Assembly a person for appointment as Provincial Auditor.

I'll move that, Mr. Chair.

The Chair: — Thank you. I didn't recognize that as a bold move. I thought we were dealing with the recommendations, each and every one. Any further discussion of recommendation no. 6?

Question? All those in favour? Opposed? Carried.

And might I suggest that we take a break right now. Mr. Wartman, was that what you were going to suggest? Let's break for seven minutes and reconvene at 3:10, please.

The committee recessed for a period of time.

The Chair: — Let's reconvene. And we'll move directly into recommendation no. 7 from the auditor's report found on page 29, and basically a two-part situation where there is some consensus with the advisory committee and then on part of it

there is not. So if you would cross-reference yourself to nos. 4, for the first half and then nos. 18 and 19 to the second part.

Mr. Wendel, if you would begin.

Mr. Wendel: — Well the first half deals with having this committee provide the resources for our office to consider our business and financial plan and make the recommendation for the estimates for the office. And in that respect the advisory committee agrees with us.

Mr. Wakefield: — I would move:

That we agree with recommendation 7, I'll call it part (a) and part (1).

The Chair: — Right. Well there is . . . okay. Because there isn't a second part, right, I don't know that we would have anything to agree to or disagree. If we create something new as a result of the recommendations put forward in 18 and 19 that would be later on, because right now there is no second one. It just says no change.

So what I'll deal with is . . .

Mr. Gantefoer: — You never know, we can disagree that there should be no change or we can agree that there be no change.

The Chair: — Good point, okay. I stand corrected, thank you.

Mr. Wakefield has moved that there be agreement on 7(1) we'll refer to it since we've called the others sub (1), (2), (3), and (4). Discussion?

Ms. Lorje: — I have really mixed feelings about this one. And to be brutally frank, I haven't resolved in my own mind what is the best thing to do. But right now, am I not correct that the Provincial Auditor's budget is dealt with by the Board of Internal Economy?

Mr. Wendel: — That's correct.

Ms. Lorje: — We are asking ourselves to take on a whole lot more responsibilities and duties as a Public Accounts Committee. We're going to be very intimately involved in the hiring of the auditor and so forth.

I really quite frankly have not resolved in my own mind if we also want to act as a budget review committee as well. It may be that this committee is taking on way too much work and we might leave it to Internal Economy to look at it.

The Chair: — Mr. Wendel has indicated what his position is and I guess the committee concurred with this. Do you have any comments to Ms. Lorje?

Mr. Aitken: — To respond to Ms. Lorje's comment. And perhaps yes, we the committee, review committee, actually had intended that the duties and responsibilities of Public Accounts Committee would increase. And that that is part of the motivation for also the creation of this audit committee role is it kind of goes with the territory.

Because we saw and anticipated your comment, your reaction to this, which is geez, look at all these things that we've now to do, because it makes sense from an independence . . . There's a whole bunch of reasons why we are putting these responsibilities, taking it from the Board of Internal Economy bringing it here because it bolsters and reassures that the role of the auditor is independent. And that was why that responsibility we thought should go here. Attendant with that is the thought that, from a resources perspective, you probably do deal with this subsidiary audit committee. You need help in that regard.

The Chair: — Any further discussion of the resolution?

Mr. Gantefoer: — Thank you, Mr. Chair. I think that I, as much as I'm reluctant to heap extra work on ourselves, I think that the reality is that we're the appropriate committee that has to deal with the work of the Provincial Auditor.

The Board of Internal Economy really does have no way of understanding what the functions of the Provincial Auditor have been other than by some general report and this committee has an ongoing working relationship with the Provincial Auditor. And I think that it is appropriate that these resources provided for the Provincial Auditor should be on our recommendation. And I think that that properly builds the relationship between the Provincial Auditor's office and the Standing Committee on Public Accounts.

I don't think there's a better committee in the Assembly to deal with it and someone clearly has to. And although I'm reluctant to heap extra work on ourselves, I think it is indeed appropriate.

Mr. Paton: — Mr. Chair, I'd just like to confirm Mr. Gantefoer's comments. That's the type of discussion we went through when we were looking at what the government was going to propose for recommendations.

Currently there is no independent committee charged with that responsibility. The Board of Internal Economy has been doing it but not formally. It's just been a practice that's been adopted probably over the last four or five years. I believe they've had some difficulty in coming to terms with the operations of the office and the demands that are made on the Provincial Auditor's office and it was this committee that we thought was more familiar with those demands.

The Chair: — Thank you.

Mr. Wendel: — We think this is the appropriate committee. That's why we recommended it. We also talk about the need for resources at the end of our recommendations in number 15. The committees need some help to do this.

The Chair: — Any further questions? Motion is on the floor that for 7(1) that we concur with the recommendation. All those in favour? Opposed? Carried.

Mr. Kowalsky: — Mr. Chair, I just want to ask a question if I might. When we pass a motion like this, when would this become effective? That is for this next budget round, what would happen here?

The Chair: — The recommendations will be made I think

through Mr. Paton's office for changes to the auditor's Act and that will go through the process of the legislative draft committee and when the next session deals with it then subsequent to its passing.

Mr. Kowalsky: — Thank you.

The Chair: — Thank you.

Mr. Kowalsky: — And a supplementary question. The recommendation here would be that this go through the audit, the Public Accounts Committee, instead of the Board of Internal Economy but it would still be referred to the Estimates Committee in the end through the legislature. Would that be correct?

The Chair: — It has to be. That's the . . . The other thing, Mr. Kowalsky, I failed to mention is that the Public Accounts Committee will make its recommendations through a report on the auditor's revisions to the auditor's Act. And that report will be in the Legislative Assembly. So it will be, as we discussed yesterday, sort of a joint thing that the comptroller's office will see our report is and will either change legislation accordingly or . . . but we must, through our obligations, make a report to the Assembly.

Sub (2). And as I indicated, that one just says no change recommended but it's something that we can I guess agree to do something different. And I'll ask Mr. Wendel for sort of an explanation about that; and I think then Mr. Aitken, if you would comment on your 18 and 19 and how you see this fitting in.

Mr. Wendel: — Okay. This part here deals with our authority to charge audit fees, to use those fees to pay for our expenses. It deals with the authority to keep an unspent appropriation at the end of the fiscal year and to use those assets to do work in the future. And all of that authority was given to us in 1983.

Before 1983 we were subject to the controls under The Financial Administration Act that dealt with the lapsing of appropriations, the way we had to use our money, and any revenue we generated would go to the General Revenue Fund.

In '83 we were given complete independence from the executive government and the controls under The Financial Administration Act and the authority to carry out our work in the best way possible.

Now, we used those assets to do . . . we keep back about one month's worth of salary expenses. We try and have a surplus, if you like, of that much on hand to manage our business effectively.

And that allows us to do audits that come up that aren't planned for when we do our business and financial plan. Things just come up during the year and last year we had the Saskatchewan Liquor and Gaming Authority work. We had work at the Workers' Compensation Board that wasn't planned. The year before that I believe it was at SaskPower. We had another organization and before that we had a lot of extra work at the university. So it gives us the money to do those kind of things — to keep those assets.

The second thing it allows us to do is, we're not a salary leader so we don't budget for general salary increases in our budget when we present it to the Board of Internal Economy because we don't know what the government has in mind for any general salary increases. They might grant a 2 per cent general salary increase next July but we have no money in our budget for that. So this allows us to give our people those kind of raises. We have that kind of money held back in abeyance in our surplus.

And we're recommending no change to the Act, to continue to leave us with that independence.

Mr. Aitken: — I was listening to Mr. Wendel's response actively there because I think the committee had some sympathy for the Provincial Auditor trying to retain his autonomy so that he's not perceived to be under the control of the government of the day in conducting his work. And certainly the financial arrangements can have the appearance of the capacity to have that kind of issue — can have that impression. In other words, impressions count in determining his autonomy.

So with that guiding principle we felt that nevertheless there can be a moment where the Provincial Auditor requires funding by special warrant and he has to come to somebody in government to get the money.

So we in our recommendations said, we believe that the Provincial Auditor's office should be able to raise funds on an emergency basis to conduct whatever inquiry is necessary by way of special warrant. Having granted the special warrant status by definition, that means that the Provincial Auditor office under certain circumstances is not autonomous. It has to come to . . . it's dependent on government.

So from a symmetry perspective, we also then concluded that he did not . . . that surplus funds that are around, shouldn't be . . . should not be retained. So sorry, this is a long-winded response but it all goes together in the sense of the financial arrangements of The Provincial Auditor Act are important because they dictate . . . they have an impact on the perception of independence.

But similarly, if you're going to grant a special warrant status, that also suggests that you should have a provision that says, fees earned should not be retained by the Provincial Auditor's office but should come back into the fund because that's where the special warrant money comes from.

Sorry, it was a long-winded response but it's a sensitive area and it's not quite black and white. But we think it's important that a clear foundation be made and also that as you move forward, no doubt the Public Accounts Committee and the provincial audit . . . the audit committee, these are matters that can be developed further. But we recognize that there are some significant issues in play here.

Mr. Paton: — Yes, Mr. Chair, I concur generally with what Mr. Aitken said in terms of the changes to be made to sections . . . or as recommended by the advisory committee's number 18 and 19 which is cross-referenced on this page here.

There's two other items that should be noted that I believe tie directly to this, and that's the advisory committee's recommendations no. 5 and 6. Recommendation 5 recommends that the estimates of the Provincial Auditor include a provision for unseen expenses especially as they relate as a need to conduct special audits.

So this is different than what Mr. Wendel was proposing. Under the current provision, some extra amount is carried forward and it's stated to be approximately one-twelfths annual appropriation that gets carried forward annually to cover unforeseen items such as special audits or unusual costs that may not be anticipated.

I think what the advisory committee was recommending here is that yes indeed the auditor should have that type of flexibility. However it should be up to this committee, the people that approve his budget, to determine the extent of that flexibility. Currently it's at, as Mr. Wendel says, they carry forward approximately one-twelfth. That's the amount that this committee could agree with or they could deem that for whatever reason it should be more if there's something being anticipated.

In conjunction with that is the ability of this committee to approve special warrants should that amount be deemed to be inappropriate. And that's recommendation 6.

So it's kind of a whole package. The budget comes to this committee for approval. There is a provision within that budget for unseen expenditures or unusual amounts and, should that still be inappropriate, this committee would be the ones that would approve additional funding above and beyond.

And it's important to know that it's the committee here that would be doing that, it's not government. But at the same time the committee is in control of those items.

The Chair: — Okay, Mr. Wendel, anything further before we begin questions?

Mr. Wendel: — The committee remains in control of our spending and the amount of money we have in surplus when it approves our budget each year. So there would be no difference in the amount of control the committee would have over our spending.

When we bring forward our budget we show what our anticipated revenues are, and they're minor; they're maybe \$100,000. Most of that is people want secondment to government organizations, because our people aren't part of the Public Service Commission. They go and work there and they remain our employees. We send them a bill, they send us the money. We use that to pay their salaries. So our revenues aren't a lot. They're itemized in our business and financial plan. I can bring that in.

We show what our surplus is at the beginning of the year. We show what our planned surplus is at the end of the year. You can either reduce the amount of money you're planning to give us, if you think if our surplus is too high. All we're saying is, we've operated for 17 years like this. We've been fully accountable for it; and I'm not sure why we'd want to take a

backward step in independence. That's our position on that.

Mr. Wartman: — . . . backward step, Mr. Wendel?

Mr. Wendel: — We have that independence from The Financial Administration Act, 1993 at the moment. If you take that away and you subject us to those controls, that's a backward step.

Mr. Paton: — Mr. Chair, if I might just speak to that directly. Where this has come from is actually a disagreement in the application of The Financial Administration Act, 1993. Some of the things . . . I agree with Mr. Wendel that the carry forward of the appropriation, the retention of revenues that have been raised, is a practice that has been in place for a number of years.

We actually, the Department of Finance and our advisors, do not agree with that position. So our first step would be to recommend you accept the recommendations of the advisory committee.

The second thing that I would say is, is if you don't accept those recommendations, I would urge you to specifically provide for these items within The Provincial Auditor Act. We believe that The Financial Administration Act, 1993 is very broad and very strong in the requirement to deposit revenues to the credit of the General Revenue Fund and allow it to be appropriated by the Legislative Assembly.

When that is not the case, entities specifically have that authority within their legislation. We believe that authority doesn't exist in the Provincial Auditor's legislation. So to summarize, either go with the committee, advisory committee's recommendation and provide for the required flexibility through the budget controlled by this committee, or specifically provide for those authorities. And as I say, our first choice is what the advisory committee stated but we would also be happy with providing specific authority so that there isn't confusion.

Mr. Kowalsky: — My question is: what is the process that is used by other bodies under . . . within the legislature; for example, the Clerk's office, the Speaker's office, the Office of the Ombudsman? Are they required to submit, and is it recommended that they're required to submit, any unspent money that . . . any money that might be sent back to the revenue fund?

And also with departments, are departments required to do that or are they able to carry over surplus funding?

The Chair: — Mr. Paton, do you want to comment on behalf of all those groups?

Mr. Paton: — Well my understanding is all officers of the Legislative Assembly do not have the authority to retain funds. And what's being proposed here would be similar for the Provincial Auditor as it is for all other offices of the Legislative Assembly.

Secondly for departments, their appropriations do not carry forward. An appropriation for the Department of Finance — if I'm authorized to spend \$10 million during the year and I only spend 9, that \$1 million will lapse and I'm not allowed to carry

it forward into the next year.

Mr. Gantefoer: — Thank you, Mr. Chair. I don't know who this question should be directed to, but perhaps Mr. Paton. Under recommendation 6, it recommends that the legislature allow the Provincial Auditor to request a special warrant funding which should be provided on the recommendation of the Standing Committee on Public Accounts.

Now does it envisage that if Public Accounts approves a special warrant, that that funding then is automatic or does it have to go to Treasury Board? Does it have to go to the Finance minister? Or is there any impediment between that recommendation and the allocation of those funds?

Mr. Paton: — Mr. Chair, if I can just read one section out of the proposed legislation:

On receipt of a recommendation of the Public Accounts Committee pursuant to section 3 (and that relates to the special warrant funding), the Minister of Finance shall recommend to the Lieutenant Governor in Council that a special warrant be issued authorizing the expense in the amount recommended by the Public Accounts Committee.

Mr. Gantefoer: — By that wording I interpret that to mean it's automatic; that there's no discretionary power . . .

Mr. Paton: — The minister "shall recommend to the Lieutenant Governor in Council".

Mr. Gantefoer: — Okay, then to Mr. Wendel, that if recommendation 5 . . . And is there provision to envisage the wording of no. 5 that provides for the unforeseen expense allocation within the Provincial Auditor's budget?

Mr. Paton: — No, Mr. Chairman. Again that is not something that would be in the Act. That would be . . . This is a recommendation to your committee, when you're approving the budget, to determine that an appropriate amount has been set aside for unseen items. So it's this committee that would include an unforeseen amount within the auditor's original budget.

Mr. Gantefoer: — So it w be in the current year and if that unforeseen expense was not incurred, then the balance would go back to the General Revenue Fund? Is that correct?

Mr. Paton: — That is correct.

Mr. Gantefoer: — So there would be a provision for it through the operation of the April 1, March 31 current fiscal year?

Mr. Paton: — That's correct.

Mr. Gantefoer: — Okay. Given the report that we've heard from Mr. Paton, direct to Mr. Wendel, it would strike me that this potentially gives the Provincial Auditor's office actually additional potential resources to conduct special investigations because you have the recourse to make the case to the provincial Standing Committee on Public Accounts for special warrants, firstly; but secondly, that there is the ability to provide for these unforeseen events.

And if that argument, in terms of your budget as it currently exists, when your budget is determined, would amount to one-twelfth of your operational costs or something of that nature, that if that case is currently made in the allocation of your budget to the Board of Internal Economy, that says well that's an appropriate amount and your operating budget is adjusted accordingly. I'm not quite sure why you find this such a step backwards.

Mr. Wendel: — Dealing first with the special warrant provision, that goes back to recommendation no. 1, which is . . . (inaudible) . . . well certainly; it goes back to recommendation no. 1.

Mr. Gantefoer: — One on your . . .

Mr. Wendel: — Or no. 7. Seven, part 1. I'm sorry. Seven, part 1. Sorry. Seven, part 1 . . .

Mr. Gantefoer: — Okay.

Mr. Wendel: — . . . where we said this committee should recommend the resources for the Provincial Auditor. That could be the annual appropriation or any special warrant.

So if we're coming forward for special warrant, we'll have to give you a new business and financial plan saying well, here's what's changed, here's why we need more money, can you support it or not. Okay. That's a . . .

Mr. Gantefoer: — Yes.

Mr. Wendel: — And we'd give you a new business and financial plan. So that just goes back to the first sub, first bullet. So special warrants . . . no, that would be covered under that.

Mr. Gantefoer: — But it's important to recognize that as an individual item in the legislation with the shell provision so that the minister couldn't mess with that.

Mr. Wendel: — Well I haven't dealt with any details here. We're just talking concepts.

Mr. Gantefoer: — Okay.

Mr. Wendel: — We will be drafting something to send to the minister when we're all done here to say here's what we think should be in the Bill. Okay. And we hope the minister would consider that when they're going through it. Here's an existing Act, here's what this committee said about our recommendations. And we'll send that on and the minister can consider them, accept them, or reject them, whatever the minister decides.

We would then . . . we'd wait till the Bill came down and we will write a special report to the House on what we think of the Bill, and then you'll get a chance to debate that. I mean, that's how the system works.

But just going back to this, at the moment we have the authority to operate without these controls. We're not operating outside the law. We got legal advice to that again. Mr. Neill will speak to that.

I don't think there's any confusion at all. You're going to have complete control of our office and I'm not certain why you would want to change that. Like I haven't kind of heard a good reason. And I don't think we're . . . I don't think we'll be more independent by having an unforeseen appropriation.

Mr. Gantfoer: — But you shouldn't be less either.

Mr. Wendel: — Well we may be. We're not subject to the financial administration. So I wouldn't want to see something that would make us subject to The Provincial Auditor Act . . . or The Financial Administration Act, 1993, I'm sorry. So I'd just be very cautious on that.

Like, we have the authority to do our job. We've had it for many, many years and we've been fully accountable for that authority. Right. So any change to this, I don't understand what the purpose would be, other than . . .

The Chair: — No. Just a moment. Mr. Paton first.

Mr. Paton: — Mr. Chair, I think that the fundamental issue here is whether or not the Provincial Auditor's office is subject to The Financial Administration Act, 1993. I understand he has a legal opinion that supports that and I'm not going to debate the merits of the opinion. I'm not into that. We have opinions that would state that he is subject to The Financial Administration Act, 1993.

So similar to a situation we had yesterday, there is confusion here. And the recommendations of the committee that basically lays out the rules of how the Public Accounts Committee will interact with the Provincial Auditor's office would clarify that; also to provide him with those authorities that he believes he has, specifically, would also resolve that. Either one of those would address the concerns we have.

But there's a fundamental difference as to whether or not he is subject to The Financial Administration Act, 1993 and, as I say, we believe that the auditor's office is subject to that Act.

The Chair: — Mr. Paton. Sorry, Mr. Aitken.

Mr. Aitken: — I'm the one that talks funny, right.

Mr. Wendel asked, you know . . . like, we're trying to get a good reason for why we would make the suggestion.

The good reason that I believe that was in the thinking of the advisory committee was we envisaged a scenario where you had gone to Public Accounts or received your budget funding on the basis of what you anticipated was a normal year. And then in the midst of that year there was a project that came up where you had to conduct a review that was significantly different from anything that you previously encountered, which frankly one can contemplate from time to time that kind of thing could happen. All of a sudden your budget is short and you want to do some things and get some resources and bring some experts in, or whatever, to spend some money.

And then frankly that's what this provision around special warrants allows you to do. And it's not just . . . You don't have a government blocking you. But rather you have a committee as

. . . an all-party committee providing you easy access because time may be of the essence. And that was the point that was in our thinking was: how do you get that funding quickly so that you can conduct a proper review?

The Chair: — Thank you.

Mr. Wendel: — I don't think we have any concern with the special warrant provisions, John. We've already dealt with that. If we need more money than what we have, we will certainly come back to this committee and ask for money through a special warrant.

Now as I said, if we bring forward a new business or financial plan, we talk about why we needed the more money, and we get an approval or a disapproval from this committee.

That's not what we were talking about here. What we're talking about is the controls that are applied under The Financial Administration Act, 1993. We don't think it's appropriate for our office to be subject to those controls. And it goes to independence. And I'll maybe just have Gordon Neill talk about why he's of the view, or why we're of the view of the independence.

Mr. Neill: — Well, Mr. Chairman, I don't want to get into a legal debate, and it's not appropriate to do that. I think it would be more interesting to look at the philosophy and policy behind The Provincial Auditor Act. And of course we're all in agreement that the office must be independent.

When this Act was first drafted in 1983, I was involved in the drafting of it. And one of the things that . . . You know, as a consultant to the Provincial Auditor. And one of the things we were quite concerned with was to ensure the independence of the office by . . . in its method of financing.

Now at that time the government of the day would not put in the provisions that we sought. However, as time went by, as you all know, the Board of Internal Economy has assumed control over the financing for the office and that was a step forward.

But it would be a step backwards to suddenly say that this Act . . . the Provincial Auditor's office is subject to the controls of The Financial Administration Act, 1993 — the very people whom they audit. I mean, the principal audit of course is of the Department of Finance. And any perception that they have any control in any way over the spending is abhorrent to the very concept of the Act.

Now it doesn't matter necessarily whether there's actual control or none of the actual control. It's also a matter of perception.

When this Act was first introduced, we went to court in order to establish that the Provincial Auditor should have a separate collective bargaining agreement with its employees, not be covered by the same contract as the executive government was. Not that they were opposed to the union — not at all. It was a matter of who the union would bargain with with respect to the office. And the Labour Relations Board eventually agreed with that position and severed the existing unit. Again it was a matter of perception.

And the Act of course provides that the employees in the office are not members of the public service, but are employees of the Office of the Provincial Auditor.

Well in my submission, and I also understand from Mr. Wendel, that the Provincial Auditor's office would not be the only one that retains its appropriation over the year end. There are — how many did you tell me?

Mr. Wendel: — We provided this committee with a report June 6, nearly 200 organizations here don't necessarily send all their revenue to the General Revenue Fund, or . . . (inaudible) . . . or appropriations that have surplus funds. So there are many organizations like this.

Mr. Neill: — So while this is being portrayed as an exception to the general rule, it is not that unique an exception. And furthermore we're back to the position, as this committee in concerning other matters here today has taken the position, if it's not broke, let's not meddle with it.

Well this is a situation exactly like that. We have not had anybody tell us what is wrong with the present system. And so we are saying, keep the present system because its perception is right and it's working.

Ms. Lorje: — We've reached one of those sticky points here that I thought we might reach. I tend, I have to say, to agree more with the recommendations of the advisory committee. But I can also see that we don't want to do anything that could give the perception of interfering with the independence of the Provincial Auditor.

So my suggestion is that we hold this recommendation in abeyance — I don't want to get into tabling it or that sort of stuff — but that we move on to our next recommendation. Give us some time to review the *Hansard* on this one. We've heard the arguments mounted, it seems to me, from three different points of view. Let's take some time, as responsible committee members, review it, and we can come back later to giving a recommendation.

Mr. Wakefield: — Before we consider that, I just have one question for clarification, at least in my mind. Under the present circumstance, under the present legislation, does the Provincial Auditor have access to special warrants? And if they do, what is the procedure or the logistics?

Mr. Wendel: — If we were to want a special warrant, we would have to prepare a business and financial plan, we would send it to the Board of Internal Economy, it would be up to them to review that at the moment.

Mr. Wakefield: — So the only difference then would be that your preparation of the business plan would come to the Public Accounts Committee?

Mr. Wendel: — That's correct.

Mr. Wakefield: — And that then goes to the question that was directed to Mr. Paton earlier about what's the anticipated legislation.

The Chair: — Mr. Paton, if I could ask you to comment.

Mr. Paton: — Yes. The only thing I'd like to add to the comment is that the current rules for the auditor to obtain additional funds through special warrant are those rules that are enshrined in The Financial Administration Act, 1993 That's the Act that we say does apply to him in some fashion, which they disagree with.

What we're doing here is trying to present rules that this committee is, you know, is satisfied with, within their own Act, so that this committee understands those rules and how they're going to operate.

Currently they would go through the normal process and the Minister of Finance could currently deny that special warrant funding under The Financial Administration Act, 1993.

The Chair: — Before I entertain Ms. Lorje's suggestion, Mr. Paton, I have a question. How do you react to Mr. Neill's comments about the fact that if we look at that recommendation as put forward by the audit committee, that indeed we're moving backwards and that we're placing the auditor's office in control of the very group that it audits.

Mr. Paton: — I'm not sure. Well obviously I don't agree that it's a step backwards. I believe it's moving it into the hands of this committee. That's what I believe is happening.

The one thing that I also disagree with was the comment that Mr. Neill made about the authority of other agencies. We made comparisons to the Provincial Auditor's office with other officers of the Legislative Assembly and with departments of government. The entities that are being referred to by Mr. Neill, I believe, are outside of that realm.

In addition, unless I am mistaken, if they are tied to government and they have the authority to retain public funds, that authority exists within their legislation. And entities like SaskPower and SaskTel have specific authorities to raise monies and retain them for their purposes.

That was the second part of my comment. If you don't accept what the advisory committee is saying, then I believe you should provide for that authority.

The Chair: — I do want to inform members that the document, I believe, that Mr. Neill responded to — if we take Ms. Lorje's suggestion and we take some time — it was a letter dated June 6 to myself as Chair of the committee from Mr. Wendel. It was a fairly large document. It was distributed to each of you at our meeting of June 13, so if you want to reference your file of the meeting of June 13 you should find that report that you can look at.

Mr. Wartman: — Well, I'm not sure I agree with taking the time. I see this as an enabling piece. It allows the work to be done in this committee where I believe it needs to be done. And therefore I would like to move that we concur with the recommendations of the advisory committee on this and that would mean disagreeing with the recommended no change.

The Chair: — I'm just looking for clarification on the

resolution, Mr. Wartman. It would be that we disagree with the recommendation contained in the auditor's report and that you support . . . do you want to be specific and cite the recommendations? Or do . . .

Mr. Wartman: — Well the recommendations are 18 and 19, I believe, and 5 and 6. And those are the ones that . . .

The Chair: — So it's the concept that's put forward in 5, 6, 18, and 19.

Mr. Wartman: — That's right.

Mr. Kowalsky: — Well I appreciate Mr. Wartman's position, but I just want to know whether members of the committee are prepared to vote on this because if you think you want a little more time to look at it, I . . .

Mr. Gantefoer: — Yes, I really appreciate the fact that this is an important decision and you know we were trying to quickly sort of discuss this a bit. And I think we are probably a long way towards a consensus on our side.

And it might even be the kind of thing that . . . this is the kind of thing that at the end of the day I agree with Ms. Lorje that when we go through this process there's some philosophical principles that I think we're all interested in preserving. Certainly the independence of the Office of the Provincial Auditor is an important one. And we don't want to do anything, perception or otherwise, that does not allow for that to happen.

But on the other hand, it's also an office that is part of the legislative system of the province of Saskatchewan and it's an office that is accountable to the legislature of this province. And I get a little nervous about setting it so apart and independent that it isn't part of our system.

So I'm torn in my own mind, and I would like some opportunity to think about it and make sure that what we do preserves the principles that I think we absolutely support and adhere to.

And so I'd like to agree that we just put this on hold for the moment. And I'm also thinking at the end of the day there may be a need to have a bit of a committee in-camera discussion on some of these principles and just to satisfy ourselves that we're not doing anything to violate those fundamental principles that I know we all agree to.

Ms. Lorje: — I just want to make one final point so that it's not forgotten when we do . . . if we follow what your suggestion on recommendation 6. It seems to me that while it sounds like we're agreeing with recommendation 6, we would want the wording changed so that it would be: The committee recommends that legislation allow the Provincial Auditor to request special warranting funding which would be . . .

We would change that to: which shall be provided on the recommendation of the Standing Committee of Public Accounts.

The Chair: — I believe Mr. Paton has concurred that that is something that's definitely . . . Mr. Wartman, hearing the discussion, would you be prepared to withdraw your resolution?

Mr. Wartman: — Well bowing to the wisdom and experience of my elder members, I certainly will.

The Chair: — I thank you for that. Mr. Wartman has withdrawn the resolution pending further discussion.

We would require a resolution then that says that we come back to 7(2) at a later date and I would . . .

Mr. Wartman: — Basically that's a motion tabled.

The Chair: — Okay, so we're agreed to that. And it will be recorded that 7(2) will be again on our agenda. Thank you.

Section no. 8 on page no. 31 . . . recommendation no. 8 — as far as Mr. Wendel sees it is not applicable in the point of view of the advisory committee's recommendation number. And you have no comment technically by the advisory committee, and then you make some comments about 14, 15, 16, and 17.

Mr. Wendel: — This risk relates to our complete independence from executive government and committees and boards of the government and the Assembly to decide what's to be audited, how it's to be carried out. And we're recommending no change to the Act. We think we have the appropriate independence to give you the information you need.

The Chair: — Any comments from Mr. Aitken or Mr. Paton?

Ms. Lorje: — My comment is that this one is really key, and I think this is going to be another one that we're want to hold in abeyance and review the thinking of both groups.

I mean clearly this committee is going to require some additional outside resources. Clearly though we need to be separating executive government from legislative government, and we need to ensure that there isn't a bleed over there. So the whole question of an audit committee and who appoints it, who it's responsible to, is going to be very, very key. So I think I will stop now and let all the three parties make their case and then I would suggest we review this.

The Chair: — Mr. Paton or Mr. Aitken, any comment?

Mr. Aitken: — Well we're just trying to review our comparison of our two reports. And we didn't deal with this recommendation head-on and so I think Ms. Lorje's comments . . .

Ms. Lorje: — What I see this as is the underpinning to whether or not we should have an audit committee and if so, is it an advisory committee and who appoints it? Is it the Minister of Finance? Is it this committee? To whom is it responsible? All those kinds of questions.

And I think that that was the real cut and thrust of your original report and was the philosophical underpinning for most of your report. So I'm asking you to please take the time now and make your case for it so that we can then hear from the auditor in the points where he would disagree and also from the controller.

Mr. Aitken: — And you're correct, Ms. Lorje, in your question saying a big part of what the advisory committee deliberated on

was the thought of a creation of an advisory committee that's part of the Public Accounts Committee that deals specifically as an audit committee, dealing with the Provincial Auditor on things like mandate. But ultimately the authority to audit clearly rests with the Provincial Auditor in terms of what do I have to audit and what's the length and breadth of that?

But having said that, there were some particular reasons why we thought this committee required a provincial . . . required an audit committee. And maybe I'll just try and enumerate from memory the . . . Under existing legislation there is provision for an audit committee of the Government of Saskatchewan but it's dormant. The provision is in legislation so this is not a new thought; rather it's an old thought.

The committee was also directed to some experience with that committee that Dr. John Brennan had and we asked Dr. Brennan to speak with our committee. And he spoke of the audit committee as being particularly useful; had some good experience in the time that it wasn't dormant where it helped resolve some issues before the final audit was released . . . audit conclusions were released.

I should also put it in the context. Audit committees is a particular focus of all or of very many of the developments that are intending to improve the effectiveness of the auditing. Auditors and the profession centre around audit committees. It just seems to be the focus or has become the focus of if we're going to do this better, if a governance is going to be better, then audit committee is the way. In Toronto and in the corporate world, that's where the focus is.

The main benefit of the audit committee is that it enhances the clarity of the audit, of the governance process, and it perhaps improves the process of auditing. So that is a general statement around what are the benefits to be gained from an audit committee of this committee. There are other obvious . . . we've made reference during the day to audit committees being . . . an audit committee being of assistance to the Public Accounts Committee as a whole in things like certain aspects of engaging the new Provincial Auditor where this committee as a whole doesn't want it to fulfil all of the tasks involved. Therefore you could have some assistance in doing that through such a committee.

The Chair: — Mr. Paton, members of the committee. It's now past 4 o'clock and as our resolution ended, if we would move to another item. I accept Ms. Lorje's comments that we require I think further discussion on this item and that maybe that's where we can begin our discussions tomorrow, with item no. 8 as we see it.

If you would inform Ms. Joorisity that that's where we will be beginning our discussions, and no decision has been made on any part of no. 8 other than the suggestion that we have to consider the whole picture here.

With that I would thank Mr. Aitken and your staff and allow them to leave. And I would ask the members to turn to the letter that was proposed. And while you're doing that, it will take a couple of minutes and . . .

The committee recessed for a period of time.

The Chair: — If we can reconvene for that short, little recess. The letter that I indicated to all members was received this morning from Justice, and I would like to have some discussion on that letter as to where we proceed and if we proceed.

Mr. Kwiatkowski: — Thank you, Mr. Chair. As a member of the committee that was involved in formulating the resolution yesterday that resulted in the letter going to the Department of Justice and the response received today, I'd just like to take a few minutes and speak to the letter, after having had an opportunity to review it.

And while I certainly agree with Mr. Wartman's comment earlier on that this committee has a very large backlog of reports to deal with, the Provincial Auditor's report on SIGA is obviously the one that at this point is at the top of the public agenda. And I think it should also be at the top of this committee's agenda.

Ms. Lorje, on June 22, spelled out a series of criteria that would result in the matter being discussed at the Public Accounts Committee. I think those criteria have been met. The auditor has released volume 2 of his fall report dealing specifically with the inappropriate use of gaming revenues by SIGA. Yesterday this committee asked for guidelines from the Department of Justice, and today we have received guidelines from the Department of Justice.

The Provincial Auditor's report makes 16 specific recommendations designed to strengthen the accountability measures with regard to the management of gaming operations in Saskatchewan and also to ensure good stewardship of taxpayers' money in the future.

There are many questions that we need answered. We need to know: does the Saskatchewan Liquor and Gaming Authority have a plan in terms of how they will be acting on these recommendations? We need assurances that the issues have been rectified, and we need those prior to these gaming agreements being extended.

I think the Public Accounts Committee also needs the opportunity to question the auditor, perhaps the minister, the Saskatchewan Liquor and Gaming Authority, to ensure that these steps are being taken as per the recommendations of the Provincial Auditor.

Now today we received from the Department of Justice parameters within which they believe the committee can deal with the auditor's report without jeopardizing any potential police investigation or subsequent prosecution. Specifically the Justice department indicates no objection, and I quote:

. . . to a discussion of matters dealing with broad issues of accounting practices, accountability standards, etc. (identified in the auditor's report).

The official opposition members on this committee share the view that the 16 recommendations in the Provincial Auditor's report all fall within the Justice department parameters. And an acceptable review in a form of a responsible discussion will not jeopardize any police investigation or court action.

The official opposition members of the committee also share the view that the release of the SIGA board minutes to the Provincial Auditor in order that he can do his job, will not jeopardize any potential police investigation or a court action. And the Provincial Auditor has been very clear. He cannot complete his audit work or do his job satisfactorily without those board minutes.

The auditor also warns that SIGA's refusal to turn over its board minutes demonstrates a lack of commitment to public accountability. And I think on page IV he even speaks to a corporate culture that maybe hasn't necessarily accepted the need for change and therefore opens the door to further abuses of the taxpayers' money.

Now I think we all realize the mandate of this committee is to ensure that public funds are managed and spent appropriately and within an accountable and proper framework. The auditor once again has already identified that the government knew about the inappropriate spending at SIGA before it was brought to public attention back in June of 1999, but that sufficient action was not taken to correct this problem. And I don't think this committee can make that same mistake.

I would then now make the following suggestion and suggest that item no. 4 on the meeting agenda be its first order of business tomorrow morning, November 23's meeting — and I'm willing to make a motion to that effect, although if at all possible, an agreement by members would suffice. And if we could agree on tomorrow's schedule, then I would advise all members of the committee that at that time I would make the following motion:

That the *2000 Fall Report of the Provincial Auditor Volume 2* be identified as the first report for consideration by the Standing Committee on Public Accounts at its next regular meeting to be held at the call of the Chair in agreement with the Co-Chair by no later than December 8, 2000.

Thank you, Mr. Chair.

The Chair: — Comments, further comments? We will have a discussion. It's not a resolution.

Ms. Lorje: — No, are you making that a motion or are you just threatening to make it a motion?

Mr. Kwiatkowski: — I'm asking that item no. 4 be moved to the top of the agenda for tomorrow morning; and at that point I would, in terms of all our future business, be asking that we meet prior to December 8.

Ms. Lorje: — Well, I think you've already made a fairly eloquent speech putting your case, so why don't we just deal with the matter today? We've already seen that the agenda seems to be changing not hourly but maybe even every few minutes or so forth, so I just think we might as well deal with your issue now. You might as well put your motion and we speak to it and then we can dispose of it.

The Chair: — Do we have consensus that we allow for that motion to be put forward? Okay, there seems to be agreement.

Mr. Kwiatkowski: — The motion would read then, Mr. Chair:

That the *2000 Fall Report of the Provincial Auditor Volume 2* be identified as the first report for consideration by the Standing Committee on Public Accounts at its next regular meeting to be held at the call of the Chair in agreement with the Co-Chair but no later than December 8, 2000.

That would be a motion.

The Chair: — We have the resolution put forward by Mr. Kwiatkowski and I think . . . I don't believe I need to reread it. Discussion of the motion please. Any further comments on the motion?

Ms. Lorje: — I would offer Mr. Kwiatkowski the courtesy of speaking to his motion.

Mr. Kwiatkowski: — Well as I indicated in my comments responding to the letter, I feel that there is a responsibility on the part of the Public Accounts Committee here — and I think you yourself, Ms. Lorje, recognized that back in June — to discuss the report of the Provincial Auditor with respect to Saskatchewan Indian Gaming Authority.

I won't go through all of the reasons again, but after having reviewed the letter from the Department of Justice, I think that certainly a reasonable discussion on the recommendations made by the Provincial Auditor can be had and I think is to be expected.

Ms. Lorje: — I'd like to speak specifically to this motion. And I would refer you again to what I said yesterday, that it is imperative that we be prudent and cautious on proceeding with this matter.

I referred committee members yesterday to the *sub judice* convention. I'm going to ask right now that the Clerk distribute copies of that convention so that you can see what I'm talking about. It is a long, clearly established practice by honourable legislators all across this country not to be conducting parallel processes when a matter is before the courts.

I asked you yesterday to use caution on this matter and you agreed with me that we should refer this matter to Justice for an opinion. We've received the opinion right now. And I want to read for you again some of the statements that are in the letter from Mr. John Whyte, deputy minister of Justice and Deputy Attorney General.

He says, very specifically:

Disclosure of specific instances and the names of parties involved could seriously (seriously) jeopardize that investigation and also jeopardize any future prosecution.

They say:

Justice takes the position that SLGA should not (should not) release the Ernst and Young report or comment on specific instances or names of individuals.

They are quite clearly saying to us, do not do what you wanted to accomplish with the motion you put yesterday that was ruled out of order.

They go on and they say:

... Justice is concerned that a detailed discussion of ... (the Provincial Auditor's) report ... could also jeopardize this police investigation and any possible prosecution.

They say:

It should ... be borne in mind that any detailed, public examination of individual circumstances could be very harmful to reputations of innocent people ...

Those are very, very strong statements coming from the deputy minister of Justice. And it seems to me your whole argument hangs on their last paragraph where they say:

... (they do) not object to a discussion of matters dealing with the broad issues of accounting practices, accountability standards, etc.

But they say, and they give us a very strong note of caution:

We ... recognize that it may be difficult to separate these issues from ones involving particular individuals or circumstances, but (that) if ... (it) can be done ... it would not be inappropriate to have such a discussion.

I've already indicated that your motion yesterday that was ruled out of order, if we had dealt with that in the affirmative, we would have been directly — directly — in opposition to the advice and guidance that we've received from the Department of Justice.

And I am very, very concerned if we get into this matter at this time when it is an, obviously, an extremely delicate situation that Justice is dealing with, that we're going to step inadvertently into an area that could jeopardize a public investigation and a possible prosecution.

You say that this should be at the top of the agenda of Public Accounts Committee. I ask you, what is the hurry? What is your motivation in this? Because right now it is at the top of the agenda of the Department of Justice and at the top of the agenda of the RCMP (Royal Canadian Mounted Police).

My judgment tells me that a discussion of the general leads to the specific. I am not comfortable with proceeding with a discussion of this matter at this time, even with all the assurances that the opposition knows what they're talking about and isn't going to stray into the specific.

We know that when the auditor's report, special report, was brought out, government immediately said that it accepts all 16 recommendations of the Provincial Auditor.

It seems to me it would be inappropriate at this time, knowing that we've got a very delicate situation and quite possibly criminal charges being put, to engage in any kind of a discussion. I don't want to do anything that's going to

jeopardize the investigation. I think that a detailed examination could potentially result in harm to innocent people and it just seems to me that this is one where we should be wise, we should be cautious, we should be prudent.

So therefore, I will not support your motion, Mr. Kwiatkowski. I think that there will be plenty of time for us to have a detailed examination of the auditor's special report. I take a great deal of comfort in knowing that government has accepted all 16 recommendations of the Provincial Auditor. And I think we should let the criminal case, if it is indeed to be criminal charges, proceed on its own. We should be responsible legislators, follow the *sub judice* convention, and leave this matter in abeyance at this time.

The Chair: — Thank you, Ms. Lorje.

Mr. Kwiatkowski: — I guess if you were going to follow Ms. Lorje's logic through to the conclusion, what she is suggesting then is that none of the recommendations made by the Provincial Auditor for the improvement of the long-term operations of the Saskatchewan Liquor and Gaming Authority and SIGA literally couldn't be discussed for years — months, years — dependent on how long the argument that it's before the courts can be used.

And I don't think this committee can accept that. And that these are recommendations that have been made as a result of some very serious issues. And I think this committee has a right to determine whether those recommendations are being implemented, in what fashion they're being implemented, and to be satisfied that they will not ... they're implemented in such a fashion that this type of issue can't happen again.

Now there are situations in the past where, as I understand it, committees of the legislature have continued to do their work in the face of court action. Channel Lake was a situation where the committee proceeded with its work while an individual was pursuing litigation against the provincial government, as I understand it.

We had the very tragic example of legislators being in situations of having been charged, but yet at the same time the legislature itself was making changes that I think everyone expected and accepted. If you were to follow the logic through, some of those changes wouldn't be being made until probably just the most recent little while; literally years, and years, and years after.

So I think that just to wrap up, Mr. Chair, that this committee has an obligation to discuss the 16 recommendations, and I think that those recommendations can be discussed in a fashion that we don't compromise any kind of legal proceedings that might occur.

The Chair: — Any further discussion? Question has been called. I'll read the resolution to ensure that you understand it. Moved by Mr. Kwiatkowski:

That the *2000 Fall Report of the Provincial Auditor Volume 2* be identified as the first report for consideration by the Standing Committee of Public Accounts at its next meeting to be held at the call of the Chair in agreement

with the Co-Chair by no later than December 8, 2000.

All those in favour? Opposed? Motion is lost.

It now being 4:30, and the fact that we have sent Mr. Aitken and his staff home, are there any other items of the agenda that we can look at today that will allow us to continue our discussions or should we adjourn? I look for guidance from the members.

The committee adjourned at 4:30 p.m.