



Standing Committee on Public Accounts

Hansard Verbatim Report

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**STANDING COMMITTEE ON PUBLIC ACCOUNTS
2000**

Ken Krawetz, Chair
Canora-Pelly

Pat Lorje, Vice-Chair
Saskatoon Southeast

Rod Gantfoer
Melfort-Tisdale

Debbie Higgins
Moose Jaw Wakamow

Carolyn Jones
Saskatoon Meewasin

Carl Kwiatkowski
Carrot River Valley

Lyle Stewart
Thunder Creek

Kim Trew
Regina Coronation Park

Milton Wakefield
Lloydminster

Mark Wartman
Regina Qu'Appelle Valley

The committee met at 9 a.m.

The Chair: — Thank you very much for coming for this meeting. We've had some difficulty setting up some meetings with everybody being busy, but as you can see by the notice of meeting we have booked three days or parts of three days — the full day today and half day tomorrow, and that being the afternoon, and the full day on Thursday.

Before we get into looking at the agenda and other items, I see a number of new faces around the table and I think it would be appropriate if we have introductions of the various people. And I'll begin with the Auditor's office and ask Fred to introduce the members of his staff.

Mr. Wendel: — Well good morning. With me today I have Brian Atkinson. I'm sure you've all met Brian at one time or another. And Rodd Jersak over there who coordinates our activities with the committee and Gordon Neill, the lawyer for our office.

The Chair: — Good. Thank you very much, Fred. Terry from the comptroller's office.

Mr. Paton: — Mr. Chairman, I have Chris Bayda with me once again who attends all the meetings with me. And I've also brought along Lori Taylor and Lisa Healy who have been involved in drafting The Provincial Auditor Act and some of the amendments that you see before you today.

The Chair: — Thank you very much. And Clerk's office. I'll ask Greg.

Mr. Putz: — Thank you, Mr. Chair. I'd like to introduce to you Mr. Viktor Kaczowski. I hope I have that right, Viktor. Last . . . Carl's giving me the thumbs up. Another Polish member.

As you know the board last winter approved another position for our office — the first addition to our Table in over 20 years. And we held a competition in the summer and Viktor won that competition, obviously, hence his appearance here today.

Viktor was a committee Clerk in Ontario for some eight years and we're very happy that he accepted the position. And he'll be assuming duties with the Crown Corporations Committee sometime after the new year. So I'd like to welcome Viktor to the committee.

The second person I'd like to introduce is Maria Swarbrick. She is the new member services librarian. Maria recently came on staff, a couple of days after Viktor, about two weeks ago.

She's a graduate of the University of Alberta library science program and she has an undergraduate degree in political science from the University of Manitoba. And she comes to us from the Credit Union Central where she was responsible for the establishment of the electronic library services throughout the credit union system. So Maria will be very pleased to serve this committee and all members in her new position here at the library.

The Chair: — Thank you very much, Greg. I thought you were

going to continue on.

Mr. Putz: — No, that's it.

The Chair: — Okay as I indicated, the agenda that we have before you was an agenda that the Vice-Chair and I talked about, I think quite a while back, as we had anticipated an earlier meeting and then it didn't happen. So the agenda that you see before you is an agenda that was determined weeks ago, if not already probably a month and a half.

I understand that there has been some discussion about this agenda by members. And I believe that there is a suggestion or an amendment that is being proposed. And I recognize Mr. Kwiatkowski.

Mr. Kwiatkowski: — Well thank you and good morning, Mr. Chair.

I would like to refer to the letter sent to you dated November 17 by the MLA (Member of the Legislative Assembly) for Estevan, Doreen Eagles and her request that consideration of the Provincial Auditor's *2000 Fall Report* on the SLGA (Saskatchewan Liquor and Gaming Authority) and the Saskatchewan Indian Gaming Authority be added to the agenda.

So as per that request, Mr. Chair, I would move the following motion:

That a discussion and examination of the 2000 Fall Report of the Provincial Auditor dealing with issues surrounding the Saskatchewan Liquor and Gaming Authority and the Saskatchewan Indian Gaming Authority be added to the agenda of the Standing Committee on Public Accounts meeting of November 21, 2000/ November 22, 2000.

I think at this point it would be appropriate to indicate, Mr. Chair, that on June 22 we attempted to bring this matter to the Public Accounts Committee. At that time, our motion was defeated by government members of the committee. But in fact while speaking to the motion, Ms. Lorje said, and I quote:

We need to receive a proper, well documented report from the Provincial Auditor. We need to be courteous to the Provincial Auditor, give him the space and the opportunity to review this very serious matter, and to present a formal, properly documented report to the legislature and to this committee. At that time, that's when we discuss the SIGA matter.

Mr. Chair, we feel that we have now arrived at that time. There are obviously some very, very serious issues that have been addressed and identified by the Provincial Auditor. And just to perhaps briefly highlight some of them: the lack of access to SIGA board minutes; the additional amounts owed by the former CEO (chief executive officer) of SIGA; other issues around travel and unauthorized expenses; the fact that it was very clearly identified that government did not have the appropriate controls in place in order that this type of activity couldn't occur; and that the understanding was the government also had a clear sense that there were improprieties occurring at SIGA.

I think we are also at a point where this is very timely in that the current gaming agreements will be expiring in February. So prior to those agreements being renegotiated and perhaps renewed, I think we need a full and formal airing of this issue; and I agree with Ms. Lorje, I think this is the appropriate time and the appropriate place. Thank you.

The Chair: — Before I go into further discussion — Mr. Kwiatkowski, clarification. Your opening statement of your motion indicates November 21/November 22. Is that a typo and indeed . . . because our meeting dates are November 21, 22, and 23.

Mr. Kwiatkowski: — November 21, I'm sorry.

The Chair: — Twenty-first to the 23rd? That's . . .

Mr. Kwiatkowski: — I had a birthday yesterday, Mr. Chair, so I'm a little traumatized by the dates.

The Chair: — Okay. On the motion, the time of our meeting of the Standing Committee of Public Accounts is November 21 to November 23. So it's a clarification, okay? Discussion?

Ms. Lorje: — Thank you very much. I especially appreciate Mr. Kwiatkowski quoting my words back to me because I do indeed agree that we need to have a full and frank discussion of the Provincial Auditor's report. You get no disagreement from me on that, Mr. Kwiatkowski. I think it is very important and it is a matter that all of the public of Saskatchewan are looking to, so it is imperative that as soon as possible we have that discussion.

I want to though, issue a few cautions before we deal with your motion, and I would also . . . Usually nobody accuses me of having a soft-spoken voice so . . . A couple of things, and I also have a motion that I would put at the appropriate time.

I want to first of all talk about the fact that all recommendations have been accepted by the government, all recommendations in the Provincial Auditor's report, and they are being acted upon as we speak. I think that's important to note because government does appreciate the auditor's report and appreciates the work he's done and does plan to act on those recommendations.

We consider the matter of the problems in SIGA (Saskatchewan Indian Gaming Authority) to be very serious issues and we want to work together with the FSIN (Federation of Saskatchewan Indian Nations) and together with any other interested parties to clean those things up. So there is no doubt in our mind that this is a serious matter. It is so serious indeed, that Minister Hamilton, the Minister responsible for Saskatchewan Liquor and Gaming Authority has referred the matter to Justice.

Not only has Minister Hamilton referred the matter to Justice, when I understand when Mr. Wendel tabled his report, that he also referred the report to Justice. Is that correct, Mr. Wendel?

Mr. Wendel: — I haven't sent it yet.

Ms. Lorje: — You haven't sent it yet? Okay, it was my

understanding that you had sent a copy of your report to Justice. So I think that those actions indicate how serious the government views this situation and how serious the auditor views this situation.

It's rather sad, I must point out, because we had embarked on what we thought was a bold experiment of partnership with FSIN and it was groundbreaking . It has the potential for being a very exciting and very good way of achieving some employment opportunities for Aboriginal people in this province.

Indeed I've spoken with people in the gaming industry who tell me how pleased they are with the employees there and what a great job they're doing. And we all know that when you get a first job it leads on to being able to build on that and getting other jobs, or having your children getting other jobs and so forth. And because of the very unfortunate employment or unemployment situation amongst Aboriginal people, it's really imperative that we work on this.

So it's too bad that this bold experiment in partnership has hit a bump in the road, but I am convinced that government intends to deal in a forthright way with this bump in the road. And I believe that the FSIN is also prepared to deal with this bump in the road.

And we will ensure that the appropriate accounting procedures and practices are in place and that SIGA has the same standards as we would expect from any other government organization or third-party organization.

Having said that, I want to point out a couple of things. The first I'm a little hesitant to say but I think it's necessary. I did contact Minister Hamilton's office to determine the availability of officials. And it's clear that Ms. Langlois, being the director of SLGA, would be the key witness that we would want to call. Right now her mother is dying in Ontario and Ms. Langlois has booked a flight to fly out tomorrow afternoon to Ontario to be with her mother.

And so unless we had her come over today, and I think that that would be very difficult emotional circumstances for her and it would also be that we would start questioning and then we would have to stop so that she could attend upon her mother in Ontario. I think that out of courtesy we may wish to wait.

Secondly I've already referred to the fact that both Minister Hamilton and it is the intention of the Provincial Auditor to refer this matter to Justice for consideration. We have to be aware in this committee that as legislators we have something called the *sub judice* convention. And basically that convention says that when a matter is before the courts it is not discussed or commented upon by the legislature.

I took the opportunity over the weekend and yesterday to contact the Clerk's Office and by the way, Mr. Krawetz, I did provide a copy of your letter to me to the Clerk's Office. I felt that they . . . I noted . . . guess it was just an oversight on your part was it that you . . .

The Chair: — I delivered a copy to him as well.

Ms. Lorje: — Okay, when I was talking with him he hadn't received a copy. So I just felt that it's important that our Clerk always know what's going on because when we're going to change the agenda or whatever it has implications for them. So I did take the liberty of providing him with a copy of your report. I also took the liberty of asking him about the *sub judice* convention and the implications that it might have for us here today.

Now clearly this matter is not before the courts right now. We know that. But we also know that it has been referred to Justice for an opinion. And it would be my hope that Justice would act speedily upon this. And I understand that the review is presently underway. It seems to me it is likely premature to discuss any matters relating to this issue while Saskatchewan Justice is conducting its examination of the matters before it. We don't know if we could inadvertently say something that could prejudice the outcome of any decision or any potential court case. And I think that we want to be as cautious as possible in that matter.

I think that it's imperative that we are prudent. We have always as legislators held very dearly to the *sub judice* convention, and we know that people are entitled to a fair trial. And it is the practice of legislators not to prejudice a trial by having a discussion going on in parallel. I do not know what kind of discussion we would have about this . . . about the auditor's report at this time. And I don't want to put us in the position of potentially prejudicing any decision by Justice or by . . . or if it should come to that, any court case.

So therefore what I would propose if we could — recognizing that indeed this matter is important; it is imperative that this committee begin its discussion as soon as possible and that we not stonewall or try to hide from it or anything — I had prepared the following motion that I would like to read for you and ask you if you would consider withdrawing your motion so that we could then deal with mine. And it is:

That the Chair seek, on behalf of the Standing Committee on Public Accounts, the opinion of the Department of Justice on the following questions:

- 1) Does the Department of Justice anticipate any legal action being taken as a result of the Provincial Auditor's audit report on the Saskatchewan Liquor and Gaming Authority and Saskatchewan Indian Gaming Authority (Volume 2, Fall 2000 *Report of the Provincial Auditor*), and if so when;
- 2) If legal action is to be taken, could a review of this issue by the Standing Committee on Public Accounts at this time prejudice the rights of individuals of the outcome?

So my motion basically is saying, let's be prudent, let's be cautious, and before we leap into this . . . but let's also make sure that we can discuss this as soon as possible. Let's ask Justice for an opinion on a priority basis. It would be inappropriate for me to ask on my own, but I think that it's more than appropriate for this committee to ask Justice what's going on. Are they anticipating any legal action? And if so, when? So that we've got the time frame because if they're going to say well we might take two years to consider it or

something, then obviously we don't want to hold off on this.

And secondly, if any legal action is to be taken, could a review of this issue by our committee prejudice the rights of individuals, or prejudice the outcome.

In closing I would say that I am prepared, and I'm sure all government members are prepared, to come back to resume meetings of the provincial . . . of the Public Accounts Committee as soon as we get that opinion. And if the opinion is, there's no problem with discussing it, then I would say let's just get at it. We can be back here, probably not November 27 — I think most of us are else-wise occupied on November 27 — but the 28th, we could be back here and dealing with the matter.

The Chair: — Okay, thank you. I just . . . your comments are not a motion?

Ms. Lorje: — No, no . . .

The Chair: — Okay, they're just for information purposes . . .

Ms. Lorje: — They're not a motion.

The Chair: — Because we do have a motion on the floor.

Ms. Lorje: — That's correct.

The Chair: — Good. Thank you.

Mr. Kwiatkowski: — Mr. Chair, I, at this point, would not be prepared to withdraw the motion that I made earlier. And while I certainly understand some of Ms. Lorje's cautions, on the other hand I have some tremendous concerns around some of her comments; particularly the comment that, once again, we're prematurely attempting to address an issue. That was the comment the last time that we attempted to bring this to the Public Accounts Committee.

And in her own words, this matter is in fact not before the courts at this point. And the Provincial Auditor has indicated that he has not forwarded his report to the Department of Justice yet.

What we have here are not issues of justice, but issues of accountability. And we have a complete and detailed report from the Provincial Auditor indicating some serious concerns around the Saskatchewan Indian Gaming Authority. Those concerns, as I indicated previously, range from lack of access to board minutes at SIGA, through to why the provincial government didn't have the appropriate controls in place prior to these events that ended up with the auditor having to do his investigation and make his report.

Those are the issues that I think we need to discuss, and we need to discuss immediately, once again, because of the issues around the expiration of the gaming agreements; issues around accountability; and the necessity to give the Provincial Auditor the tools that he needs in order to be able to do his job. And I think it's incumbent upon us to facilitate, as a public accounts committee, or do what we can, in order to allow or to find a way, to give the Provincial Auditor access to SIGA board minutes, and to address some of those concerns that he has

identified in his report.

So no, Mr. Chair, I wouldn't be prepared to withdraw the resolution, and as I say, I am concerned that the constant reference to the prematurity of raising the issue — at what point isn't it premature to raise it?

The Chair: — I have at least two speakers, Ms. Higgins, followed by Mr. Stewart.

Ms. Higgins: — Thank you very much. I have a couple of concerns with this motion. The first being, as Ms. Lorje has already stated, that this report has been referred by the minister to the Department of Justice for their opinion. And what may come out of that, I'm not sure.

As I look around this table, there is no lawyers that I know that sit as members of this committee. So to pass a judgment that these are accountability issues and not issues of justice is beyond our means. And I think that that is even more important, why Ms. Lorje's motion should be put forward, that we need to seek a legal opinion on these things.

That is what this committee does, in many respects. I mean, Mr. Wendel is here to give his opinions of the auditing of the various departments and that's his role to play. But I think also that we need to get that opinion out of the Department of Justice before we proceed.

But I also have another concern with the committee. A great deal of work has gone into the work we were previously ever . . . have gone over for the last previous meetings, last couple of meetings, concerning the auditor's report and the process of selecting a new auditor for the province of Saskatchewan.

The Provincial Auditor's office provides a very valuable service to the people of Saskatchewan, to this committee — I mean to all of us. And I think it's important that we carry through with the work that was begun to give more stability to the Provincial Auditor's office. And no slight to the Acting Provincial Auditor, but I think to have a permanent position in place or a permanent person in place is very important at this time.

And I have some real concerns with this committee jumping from one topic to the next. I feel we should make that a priority and once that is done and we have our opinion back from Justice, then we can carry on with the report.

The Chair: — Thank you, Ms. Higgins.

I guess two points for, maybe for my purpose, is that I concur with probably most of your remarks — that we have a lot of work to do. No question. And that's the reason for my trying to get a previous October meeting and now we have a November meeting. And I appreciated Ms. Lorje's remarks that said that members will be available soon after November 27, because we do have a lot of work.

The other part is I have a letter that Mr. Cline, the current Finance minister, sent to me and he indicated in the letter, and if I might quote the last paragraph, he says:

I understand that your committee plans to continue your

deliberations on The Provincial Auditor Act and I look forward to your recommendations. In the interim, pending legislative changes, Mr. Wendel will continue to serve as Acting Provincial Auditor.

So until those, you know, recommendations and the actual legislature deals with them, Mr. Wendel is our auditor. And you know, I think we have a time frame that we can work with him, so I don't see it as being urgent to deal with it today. It might be good to deal with it tomorrow.

Mr. Stewart: — Thank you, Mr. Chair. This matter may or may not even be under investigation at this time, but it's certainly not before the courts. So I don't see how the *sub judice* convention could possibly apply.

There is extreme urgency to deal with the matter now, since the framework agreement between Liquor and Gaming and SIGA expires December 31, 2000, and the casino operating agreement expires March 31, 2001.

One would think that if this government is truly concerned about preventing abuses like those detailed in the fall report volume 2 from reoccurring, that we would want to get to the bottom of this matter before such agreements are renegotiated. So I certainly support the motion of Mr. Kwiatkowski.

The Chair: — Ms. Higgins, you indicated you wanted . . . I don't have another speaker? No.

Ms. Higgins: — . . . it was just your comments — sorry, we're jumping — your comments about Mr. Wendel remaining as Acting Provincial Auditor.

That's true, and I believe . . . I mean that gives some consistency to the job and the purpose of the office. But also we have no process in place for hiring a Provincial Auditor, and that was what we were working on.

It's taken us quite a while to get to this point. And I know from our discussions with our members of the committee that we felt progress had been made and that we were getting close to having legislation in whatever changes were required for the spring; that a lot of work has gone into it and we have made progress. And I truly believe we should continue and get that process in place and done and ready for the spring.

Mr. Wakefield: — Just a couple of comments if I could. And I guess I'm referring to some of the comments that Ms. Higgins mentioned about moving along to discuss and deliberate acquiring a new auditor.

I guess my concern here is the fact that the acting auditor does not have the tools to do the job to even put forward a completion of the audit that he's already begun. It's stated in this fall report no. 2 that there is no access by his office into minutes, for instance, and some of the other very important details that needs to be brought forward by our Acting Provincial Auditor.

To try to move ahead and deliberate on what's needed to acquire a new auditor I think is really defeating the purpose of allowing the present acting auditor to move ahead. And I think

we should be working in a way to allow him to finish the job that he's already begun before we start moving into looking at a new auditor and the requirements and the deliberations needed.

Ms. Lorje: — Thank you. I just want to be perfectly clear about this. It was my thought last week when the auditor's report came down; I thought well good, we have scheduled three days of meetings of Public Accounts. Why don't we just get on with this and also deal with the fall report?

When I actually drove down to Regina though, I looked at it and realized . . . I looked at the material that Minister Hamilton had put out and realized that she had referred the matter to Justice, and I think that creates a whole different set of circumstances for us. I don't want us to be in the invidious position of having to hire legal counsel that will say to us when we put a question, yes, no, this question won't interfere or prejudice the outcome, this one would. I think that we want to be able to have a full and frank discussion of all the auditor's recommendations.

I'm pleased the government is acting on all the recommendations. But I, as an MLA, want to know exactly what those actions are, and what the timelines are going to be on them, and so forth. I want to question the officials of SLGA as much as the members of the opposition do. I just don't want us to do anything that would be imprudent and that could potentially cause problems if this matter should end up being referred by Justice for possible prosecution.

And so I'm saying, why don't we be wise, let's ask Justice what they're doing, when they'll be doing it, and if our discussions could possibly prejudice any actions that they might have. Justice, I'm sure, can get us an opinion within a day or two; perhaps we could even get the opinion today. But I just think it's wiser if we wait and ask Justice.

And if we as a committee — so that it's very clear that it's coming from both opposition and government members — that we ask the opinion of the Department of Justice on this matter. I'm just asking for some caution and prudence on behalf of the committee members.

The Chair: — Okay, I have speakers — Mr. Kwiatkowski, Mr. Gantfoer, Mr. Wakefield.

Mr. Kwiatkowski: — Thank you. Just once again, Mr. Chair — and as I have stated and my colleagues have stated — this matter is in fact not before the courts.

And I guess I fail to understand how a discussion around the denial of access to SIGA board minutes could compromise any kind of future action. And, as a matter of fact, perhaps I would like to ask the Provincial Auditor if any assistance that could be provided to him in terms of providing him with some of those tools, such as access to the board minutes and some of the other information that he was denied, would compromise any kind of future actions.

Just with respect to another issue that was raised earlier, was the lack of — and referred to again by Ms. Lorje — the inability of some of the officials to be able to attend. I think that we would be quite prepared to have this discussion today with the

Provincial Auditor and we could wait until a more appropriate time to have the officials attend the Public Accounts Committee meeting.

The Chair: — Thank you.

Mr. Gantfoer: — Thank you, Mr. Chair. I very much appreciate the comments of the members opposite in terms of the seriousness with which they regard the auditor's report and the issues surrounding the SIGA situation. And I think that there is a legitimate, cautionary role that we should accept although I also don't think that we should be so afraid of moving forward and exercising our responsibility that we end up doing nothing.

I think that there are some very grave concerns that I have that I think that we could actually make some recommendations on if we put it on the agenda. And I recognize there are limits to what we could deal with if this motion proposed by Mr. Kwiatkowski would be brought forward today.

For example, I think one of the glaring things that is left undone is coming up with a clear direction over and above what the Provincial Auditor has said, that in order for him to do his work in a professional way, he needs the access to the further documentation of particularly the board minutes, that has been denied to him up until this point.

So we could lend our committee support to that recommendation which may indeed strengthen the hand of the auditor and perhaps even the minister, if she is accepting all of the auditor's recommendations, certainly one of them being that he receive access to those minutes.

It may indeed be very appropriate for us to add our voice to those that believe that giving the auditor full and complete access to the information he requires to complete his work in his report is appropriate. So we could certainly do that without in any way prejudicing any potential legal outcome.

The second thing is, is that I do think there is a timeliness issue here to some extent. And I recognize that it would be useful for this committee to get an opinion from the Justice department in terms of, would potential work that the Standing Committee on Public Accounts undertake, potentially in some way jeopardize work that the Justice department would be doing? I understand that. But I think everyone also understands that there are gaming agreements that are pending and that timeline is before us. I take it seriously that Ms. Lorje says that government members would be willing to meet very quickly from this time forward into dealing with further issues that this committee might want to discuss.

I certainly think that we should accept Mr. Kwiatkowski's motion this morning. I think what I would like to see then that the committee do is to — when we move into that item of agenda — is to accept Ms. Lorje's motion which would then be dealt with at the appropriate time under a discussion of this issue.

I further think that what we should do as a committee is to lend our support to the auditor's recommendation that full and complete disclosure of information, particularly minutes, be

given to the Provincial Auditor. And that the committee would set itself a commitment to reconvene very quickly, certainly within this current year, before December 31, 2000, following the report from the Justice department as a result of Ms. Lorje's motion to further consider these issues.

I think that we could move to that part of . . . have this whole thing onto the agenda and deal with it in that specific way. But it moves it forward in a way that strengthens the auditor's position in a very difficult . . . discussions I'm sure he's undertaking. And it also would then get the information that has been suggested by Ms. Lorje onto the table. And the proper way to deal with that is deal with it as an agenda item when we would put it on the agenda. Not as a discussion about the agenda, but as an agenda item. So I think that it would be quite appropriate to support Mr. Kwiatkowski's motion and then we deal with those two major issues and then carry on with the rest of the agenda.

The Chair: — I have Mr. Wakefield, on the government side. Okay, Mr. Wakefield.

Mr. Wakefield: — Mr. Chair, many of the things that I was going to say have already been reflected, particularly by Mr. Gantfoer, so it would be a redundant discussion. I'll pass on.

The Chair: — Any further discussion or comments? We have a resolution before you.

I would read that resolution, moved by Mr. Kwiatkowski:

That the following be added to the agenda of the Standing Committee of Public Accounts meeting of November 21, 2000/November 22, 2000:

A discussion and examination of the 2000 Fall Report of the Provincial Auditor dealing with issues surrounding the Saskatchewan Liquor and Gaming Authority and the Saskatchewan Indian Gaming Authority.

That is the motion before you. The question has been called. All those in favour? All those opposed? The motion is defeated.

Mr. Kwiatkowski: — Well thank you, Mr. Chair. Perhaps then what may be appropriate is a resolution that would identify or that would address some of the concerns that we have identified over the course of this discussion. So therefore, I would like to introduce a second motion.

Ms. Lorje: — Before you do that, Mr. Kwiatkowski, I had already indicated that I had a motion that I wanted to put if we should defeat yours. So I think out of courtesy, I should be allowed to put my motion.

The Chair: — You want to put your motion forward?

Ms. Lorje: — Yes, because I do want to resolve this issue in a way that we can discuss it but I want to ensure that we have a very clear opinion from the Department of Justice before we proceed. So without further discussion, I'm going to put my motion.

The Chair: — I would recognize Ms. Lorje.

Ms. Lorje: — Thank you. Thank you. I would move the following motion:

That the Chair seek, on behalf of the Standing Committee on Public Accounts, the opinion of the Department of Justice on the following questions:

1) Does the Department of Justice anticipate any legal action being taken as a result of the Provincial Auditor's audit report on Saskatchewan Liquor and Gaming Authority and the Saskatchewan Indian Gaming Authority (Volume 2, Fall 2000 Report of the Provincial Auditor) and, if so, when;

2) If legal action is to be taken, could a review of this issue by the Standing Committee on Public Accounts at this time prejudice the rights of individuals or the outcome?

I put that motion.

The Chair: — Do you have sufficient copies for all the others?

Ms. Lorje: — No, I'm sorry, I don't. Do you want me to go get them photocopied?

The Chair: — I think it's in order that each person have a copy. Is this the only copy? The only copy?

Ms. Lorje: — That's my only copy, sorry.

The Chair: — So we'll get copies for each member so we can have a discussion of the resolution with the words in front of each person so there's no misinterpretation of what the words are.

I do have a tendency to read sometimes too quickly.

Ms. Lorje: — No, no, no. It was just amazing that I even found a word processor this morning after I got off the plane from Saskatoon. So I didn't think to turn on the photocopier machine and make sufficient copies. So I apologize to the committee.

Mr. Kwiatkowski: — Mr. Chair, I don't think it's necessary that we require the photocopies of the motion. I think we understand what the motion is.

The Chair: — Well I think . . . I have asked for that copy to be brought here. It'll just be a couple of minutes if you would bear with me. I would appreciate that if every member has that motion before them, it will facilitate discussion much more accurately.

The committee recessed for a period of time.

The Chair: — The motion before you, and there has been a little discussion during the recess here, I believe is in order because it deals with item no. 4 on our current agenda that says that we establish Public Accounts Committee business agenda and timelines. So I think it's a valid item even though the topic of discussion right now is the agenda and this motion doesn't put anything on the agenda right now, but it does deal with no. 4.

So with that comment, I would ask for discussion and I'd ask Mr. Gantefoer.

Mr. Gantefoer: — Thank you, Mr. Chair. Well I certainly am disappointed that we're not having this discussion in the context of an agenda item dealing with this whole issue as I had suggested, because I think that would have been the appropriate way to deal with it and it wouldn't have taken very long because . . .

While I don't disagree with the intent of Ms. Lorje's motion, I want to make it very clear that I'm concerned that we don't end up using this type of emotion to stifle any opportunity for the Committee on Public Accounts to make any meaningful recommendations about changes that should be made to the system. Because potentially, at least, if there are litigations that will move forward out of this — and we don't know that at all — but they could go on for years.

And certainly no one would have wanted to wait till the end of the past trials that have gone on before this committee or this legislature had made changes to the rules as to how we conduct our affairs. We very much made those decisions to change the way our affairs would be conducted before there was any end of litigation going on.

So I really, strongly want to express my concern that this isn't ending up going to be something that we become so fearful about. Because what if the answer to your question and your query in no. 1 is yes? And what if the answer is yes, there is going to be a legal action taken and it's going to be in due course in the process of law? And finally what if the answer to the question of no. 2, why would the Justice department answer any other way than possibly or maybe yes?

It says could a review prejudice the rights of individuals of the outcome? Well of course they could. Does it mean that the actions of Public Accounts would prejudice the outcome? I hope not. But does that mean then if the answers of this thing are going to be in the affirmative, that we have somehow tied our hands so that the Standing Committee on Public Accounts cannot deal with any issues surrounding this whole matter or the recommendations of the Provincial Auditor. I don't think we should go messing in this committee into legal issues.

This is not an inquiry or sort of a grand judiciary process. This is a process that is supposed to investigate the recommendations of the Provincial Auditor about the way the procedures and processes are or are not in place to safeguard the public interest in finances.

It is not to sit there and say we believe that the result of our deliberations should be something that litigation or charges be laid. We are here to act on behalf of the public interest in the general sense. And I believe that the auditor has raised some concerns that I think we should be dealing with, the issue about his lack of accessibility to the minutes.

This committee should have an opportunity to say that we support that recommendation of the auditor very strongly, and that we put the full weight of our committee's recommendation behind the fact that these minutes should be turned over to the Provincial Auditor's office. That is not prejudicing results from

that information being fully disclosed. It simply says in principle, we believe, in the public interest, that this information should be disclosed.

And the second reality that's before us is our responsibility to Executive Council to make recommendations about the safeguarding of public interest. And particularly in light of the fact there are these gaming agreements that are imminently before us. I understand the minister has said that there will not be negotiations until certain conditions are met, and I appreciate that.

But the whole point is the agreements are expiring and so there maybe is going to be interim extensions granted or whatever; I have no idea. But there is a timeliness to this, and that is our responsibility to exercise our duty.

Very often we have the luxury of going through our work in a methodical, orderly fashion that is not necessarily time sensitive because they do not have those imperatives. These are imperatives that are before us, and I think we should have been discussing them as an agenda item rather than talking about these things in discussion of setting an agenda.

And so I understand and I appreciate the concept behind the motion. I just think we're missing the opportunity to do this in its proper context, and then subsequently to say okay, we've got to meet in a timely way before the expiry of this current calendar year.

And so somehow I think we've gotten sidetracked by defeating the first motion or not putting it in its proper context of having this as an agenda item so it could be discussed. So quite frankly I support the . . .

I don't have any problem with the thrust of your motion, Ms. Lorje. I just think that we're sort of piecemealing it instead of doing it in a proper way at this time to move forward and support the Provincial Auditor and get this whole discussion done in an appropriate way.

Ms. Lorje: — Thank you. I think you raise important concerns, Mr. Gantefoer. And I want to emphasize again my motion is meant in no way to stifle the committee, or to stop discussion, or not to have it be timely discussion.

It would be my hope that when we deal with this motion, and if we pass it, that Justice could provide us with a report that I'm asking for, even today. Certainly perhaps maybe by tomorrow or the day after they could give us that report. And we would . . . it would be my hope . . . you ask about the what ifs. Well, I would hope that what they will give us is guidelines for the questions that we can ask, and not ask, or the manner in which we put them.

I don't want us to be in the unfortunate position of having to hire counsel to sit over the Chair's shoulder to ensure that the questions we put will in no way prejudice either the rights of individuals involved, or any outcome of Justice's review of this very, very serious matter.

I think, as I've said, I am prepared to come back here next week if Justice says go ahead; or if Justice says, no, we're not going

to deal any further with this and . . . or whatever they happen to say. If they give us the green light to go ahead the government members will be here as speedily as possible to discuss the auditor's report.

I've already indicated the minister's office has accepted all the recommendations. We view this as an extremely serious matter. It is very unfortunate that it's happened and I think I join with most people in the province of Saskatchewan in saying that this ought never to have happened and we need to ensure that we have proper controls in place so that it never, ever will happen again.

We also need to ensure that we can have a climate of opinion so that we can continue with these very valuable partnerships with First Nations people, so that we can ensure adequate employment opportunities for them.

All I'm asking is that we be prudent and cautious today before we add this to our agenda for this week and we seek an opinion from Justice. If they come back . . . if the Chair is able to draft the letter over noon and we courier it over to the Department of Justice, and if they give us a response this afternoon saying there's no impediment to dealing with the auditor's report today, we can discuss it today. I have no problem with that. I just want to make sure that we get an opinion from Justice on this, and that we get their guidelines if they're issuing any caution for us, so that we're not going to step in a big pile of brown stuff. Okay.

The Chair: — Mr. Wakefield.

Mr. Wakefield: — Thank you, Mr. Chairman. I guess I have some concerns here in this area. I don't think . . . I don't think our intent is to make accusations. I don't think our intent is to try to talk our way through corrective actions. I think you indicated earlier, Ms. Lorje that the recommendations have already been reviewed and are being acted upon.

I guess my concern here is that I don't want to wait for guidelines to be issued to the Public Accounts Committee by some external force that really doesn't apply to the things that I think are really important here. And what I mean by really important is the fact that this auditor's report; I think the conclusions that I've read in here would indicate that it's an incomplete report.

And I believe that we would want to give our acting auditor as much support as we can to make sure he can complete his report. There is areas that he has not access to. And I think we should put our support in place to make sure that that gets done.

The time line that we're working under is in fact the negotiations for the new agreement I'm sure are going on right now. And this report has to be, in my view, more complete for our understanding before the new agreements go in place.

And in fact, if we can't do that, I can't see why we would be sitting here debating the merits of how to go about hiring a new Provincial Auditor if we've already tied the hands of our auditor in trying to get to as much information as we think and he thinks he should have. That has nothing to do with jeopardizing anybody's position or making accusations, as I

said earlier, or discussing any corrective actions.

I think that's the most important issue in my mind right now, is to complete the issue.

Ms. Higgins: — Thank you. Sitting here listening to Mr. Gantfoer's comments, something struck me that . . . I appreciate his comments and I agree with many of them, but also I would like people to recognize the fact that Mr. Gantfoer and Mr. Chair, that you have a great deal of experience, Ms. Lorje. But there's many of us that are new to this committee.

As a new committee member, I have sat and read the mandate and the procedures of this committee and it can be a very boggling process at times. Some of you have a great deal of experience, many of us don't.

To seek a legal opinion and give us a little more comfort in dealing with this topic, I think will make this committee a better committee. The more information we have and the better understanding we have of this whole process will only make for a better committee to achieve better things for the people of Saskatchewan.

I agree with Ms. Lorje's motion and I believe that it is something that this committee should wholeheartedly do. And not only realizing that this is a timely topic and it is of great importance to many people, but the better prepared and the better information that we have as a committee, the better able we are to perform the task that we are here for.

Thank you.

The Chair: — Thank you, Ms. Higgins.

Mr. Kwiatkowski: — Well I would just like to reinforce the comments of Mr. Gantfoer and Mr. Wakefield. I have some very serious concerns that by adopting this particular resolution we could be putting this entire issue off months, perhaps years.

The other question that I ask myself is if you follow the same logic around this resolution and requiring these particular opinions, is would those apply to the negotiation of the agreements when they expire as well? Would the negotiations and perhaps the implementation of some of the recommendations, I mean would that compromise or be compromised if there was pending court action?

I just see where we could end up in a state, a complete state of terminal inertia here. But perhaps we could pull this together. And I would be prepared to offer an amendment, Mr. Chair.

If item no. 2 on Ms. Lorje's motion was to read something to the effect, could the Public Accounts Committee conduct a review of the issue without prejudicing the outcome of any possible legal action, and if so, what should the parameters of that review be?

So when Ms. Lorje suggested that perhaps guidelines could be offered by Justice, I think if we could include an amendment such as this, then it would make it very clear to them the kinds of guidelines that we are asking for.

Ms. Lorje: — I think that's an excellent suggestion.

The Chair: — Are you proposing that as an amendment?

Mr. Kwiatkowski: — Yes, I am.

The Chair: — Could you read that, please, and maybe we can have it recorded.

A Member: — You better write it out.

The Chair: — Please write it out.

Ms. Lorje: — I think Mr. Kwiatkowski gets at exactly the same kind of point that I wanted to arrive at, and it's much clearer. Because clearly we do want to have guidelines. We don't want to hold this off indefinitely.

I have to say, having been a person who is waiting for a review of another matter and it's now subject to a police inquiry and a matter of being before the courts, I would like to be able to get on with my life and deal with things on that.

So I appreciate the cautions you're giving. We don't want to see it dragged on indefinitely. We do want to deal with the auditor's report. But we need the guidelines from Justice.

The Chair: — While Mr. Kwiatkowski is writing out that amendment, I recognize Mr. Wartman.

Mr. Wartman: — Thank you. I appreciate Mr. Kwiatkowski's amendment. I was thinking in somewhat the same directions. And given the real desire to deal with this issue effectively that I think all of us on this committee hold, I'd be quite prepared to second that amendment as well.

The Chair: — In committee I understand Mr. Putz has indicated that we do not require a seconder.

Mr. Wartman: — Don't? Okay.

The Chair: — But you're duly noted. Duly noted.

Mr. Wartman: — I think it's a good idea anyway.

The Chair: — We'll recess for a moment. We will get copies of that amendment so that it is before you as well as the first motion was. Okay. We'll give you eight minutes.

The committee recessed for a period of time.

The Chair: — A copy has been provided to you of an amendment to the current motion on the floor, which is motion number 2. And the motion reads, moved by Mr. Kwiatkowski:

That the motion be amended by deleting point number 2 and that the following be added:

2) Could the Public Accounts Committee conduct a review of the issue without prejudicing the outcome of any possible legal action and if so, what should the parameters of that review be?

That is the amendment before you.

Mr. Trew: — Thanks. I think that this is a good amendment. I'm just a little bit curious, how would we follow whatever the parameters are that get recommended, assuming there are parameters recommended?

I'm just interested in Mr. Kwiatkowski's comments on that. I think I'm in support of the amendment, but I'm curious on that question.

The Chair: — Mr. Kwiatkowski, do you want to comment on how you see the parameters influencing the work of this committee?

Mr. Kwiatkowski: — Well certainly the parameters may frustrate to a certain degree, but yet by the same token — and once again I refer to Mr. Gantefoer's comments — I don't think Public Accounts Committee can be put in a position of being completely stymied with respect to reviewing this issue. At least it would be a starting point.

Mr. Trew: — A starting point for ongoing discussion at this committee? I'm wondering are we going to wind up just changing what we're wrangling about? I hope not.

Mr. Gantefoer: — Well I, you know, I think that this amendment, you know, really sort of puts in a clear perspective the comments that Ms. Lorje made in terms of exercising some caution in terms of making sure that committee members are assured that any actions that we take do not prejudice potential action that the Justice department may see fit to undertake, and to seek their guidance insofar as, if there is a potential of anything the committee does that would compromise that action, that parameters on how we conduct ourselves would be set out by the Justice department.

It's difficult to say how we'd react to those parameters without seeing them. And there may indeed be no parameters that the Justice department would set, because I'm unable to recall, in my limited experience of Public Accounts, where at any time in the past any recommendations coming from the Provincial Auditor and dealt with by a Standing Committee on Public Accounts jeopardized potential litigation that was going on in respect to actions that may have been under . . . in direct review.

So I don't think there's a great danger, but I think the motion appropriately words the motion so that if there is a danger the Justice department has an opportunity to indicate that and establish some parameters or suggestions for parameters. But I think it's difficult to kind of anticipate what they may be, if indeed they exist at all.

The Chair: — Okay, thank you. Any further questions or comments?

Ms. Lorje: — I'm sorry, Mr. Krawetz. It seems to me that the amendment put by Mr. Kwiatkowski helps to fine tune my original motion. And I appreciate that we have it before us and I certainly will support his amendment.

The Chair: — Call for the question. I don't think there's any need for me to reread it. The motion before you is the

amendment as proposed. All those in favour? Opposed? Seeing none, the motion is carried.

Mr. Putz: — The motion as amended.

The Chair: — Yes.

We'll now go back to motion no. 2, which is now . . . has been amended. And that motion now, if you strike out the point no. 2 as was printed on the original no. 2 and add the new no. 2, that is what the motion is before you now. Any further discussion?

The question has been called. All those in favour of that motion number . . . amended motion? Opposed? Carried.

Guidance then maybe for the Chair, and I'd like to confirm maybe some of the actions that will be taken, is that with Mr. Putz's staff, our new person in the Clerk's office, we will try to draft that letter to Justice immediately, that is in the next hour and a half, so that . . . or hour and 20 minutes, so that when we break for lunch, I will have the opportunity to review that letter.

And during noon hour, if that letter is adequate, we will forward that on to Justice immediately. And hopefully, because we do not sit tomorrow morning, we would . . . I would encourage Justice officials to make . . . or to comment on our request by 1 o'clock tomorrow afternoon so that we can deal with . . . or 1:30 tomorrow afternoon. I know; it's 1 o'clock for Mr. Trew.

We will ask for Justice's response by 1:30 tomorrow afternoon. Okay, consensus there? Okay, any further comments on the agenda.

Mr. Kwiatkowski: — Okay, one other outstanding issue, Mr. Chair, and that's the issue of access to the minutes of the SIGA board. Now the Provincial Auditor has indicated that he was denied access. That is something that has been of great concern to us and to many others, and I think it's incumbent upon us as a Public Accounts Committee to support the Provincial Auditor to the fullest degree possible. And I believe . . .

I have a motion here that I believe we have consulted with Ms. Lorje on, and I would like to make this motion at this time. And the motion would be as follows:

That the Standing Committee of Public Accounts request, in writing, from the Saskatchewan Indian and Gaming Authority, all records that the Provincial Auditor feels is necessary to allow him to complete his examination of certain issues surrounding the Saskatchewan Indian Gaming Authority, including all SIGA board minutes from April 1997 to the present date as cited in the Provincial Auditor's 2000 Fall Report Volume 2.

The Chair: — Before further discussion, Mr. Kwiatkowski, before allowing you to make any further comments, I believe that the motion is maybe contrary to our current discussion, which is the agenda before you, and I would ask members if they want to consider this motion. I would appreciate that I think we have to have some consensus here and I think there has to be some approval that indeed this motion can be put forward.

And I'd like to see, notwithstanding the fact that we're discussing an item all morning which is being put forward, but this is not part of the current agenda. And I wonder if we have consensus from all members that we could move forward. You do not want to move this motion forward?

Ms. Lorje: — I think you're exactly right, Mr. Krawetz, and I think the Chair is being very wise in that this isn't the item up for discussion right now. We just finished going through a long series of discussions about SIGA and the necessity to seek an opinion from Justice before we proceed. So I think that while Mr. Kwiatkowski's motion may have eminent merit, he's sort of putting the cart before the horse. Let's get the opinion from Justice before we deal with any further motions surrounding SIGA and let's be ultra cautious in this whole matter.

The Chair: — I believe that to allow this motion to put forward it has to be unanimous, and seeing that it's not unanimous I would rule the motion out of order at this time.

Back to our original discussion, which is the agenda before you, that contains four items, and that we have now added a motion to no. 4 that is specific in nature, that we've dealt with. Are there additional items . . . or additional discussion about the agenda?

Could I have a resolution that would adopt the agenda that includes the motion for item no. 4 that we have already passed?

Ms. Lorje: — Before you do that could I just ask a question?

The Chair: — Yes.

Ms. Lorje: — Do we anticipate with respect to agenda item no. 3 that we are going to want to hear from the audit advisory committee?

The Chair: — I did not anticipate that, Ms. Lorje. I thought that it was necessary upon, I think, maybe re-educating ourselves about what that committee did and the recommendations that were put forward to the minister, is for this committee to have a frank discussion about that report that was put forward and that we may want to determine what our role is. So I was not intending to have witnesses called from that committee. Is there someone that feels that it is necessary to have witnesses?

Ms. Lorje: — Well I guess I would like to ask the comptroller directly if he feels that there would be any merit in having either Ms. Joorisity or Mr. Aitken appear before the committee as we're discussing that.

The Chair: — Seeing that we're discussing agenda and that it involves someone outside of the members, I guess that would be in order to ask for a comment.

Mr. Paton: — Mr. Chairman, if you recall when you last met on this issue you had an opportunity to hear from the advisory committee and what their recommendations were. And they spoke to you rather briefly about those issues and Fred Wendel, Acting Provincial Auditor, also presented some of the issues.

But my recollection is, you didn't enter into any debate or

questioning of those individuals so if you'd wanted clarification, if any of the members wanted clarification, I don't think you had an opportunity to obtain that. So I guess it's up to the committee if they think they would like to ask that committee whether or not they would be available to answer questions on your behalf.

The Chair: — I'll seek your advice here as members. Do you wish to have committee members — or as many as would be available at such short notice — available maybe tomorrow afternoon or Thursday morning. Obviously we're not going to seek their presence for today.

Ms. Lorje: — I think we should . . .

The Chair: — Any suggestion as to the time that you would . . . because I mean we don't want them sitting here from 1:30 tomorrow afternoon if we have no intention of reaching point no. 3 tomorrow.

Any suggestions? Do we want Thursday morning as the possibility of having officials . . . Mr. Paton, would you comment?

Mr. Paton: — Again, Mr. Chairman, I did talk to one of the members and I believe she is available Thursday morning. I can confirm that for you if the committee chooses.

The Chair: — Okay, seems sort of a consensus that seems to be developing. We would ask your office to contact members of the audit advisory committee and see which members would be available to attend PAC (Public Accounts Committee) meeting on Thursday morning. Okay? That's for clarification purposes, it . . . Okay?

Any further comments on the agenda items? Resolution to adopt the agenda? Ms. Higgins. All in favour? Opposed? Carried.

Okay, item no. 1 on the agenda is continued discussion on Public Accounts Committee recommendations for changes to The Provincial Auditor Act. And I think it's been a while since we've had the opportunity to look at that Act and to look at the recommendations that were put forward.

And maybe I think it would be appropriate time maybe if Mr. Wendel would enter into the discussion here and bring us back up to date as to what was proposed and maybe where we are at this moment from your recollection, Fred.

Mr. Wendel: — Thank you. At our last meetings we went through this special report we made in February of 2000. And I went through the recommendations in the report and also advised you where there were differences between what the advisory committee had said and what we were reporting.

And I have prepared a little schedule like that. If you'd like to see that I can make that available to you. Would you something like that? Okay. All right.

Just before I get into the schedules that have just been handed out, just to refresh your memory as to how this special report was structured, okay. And it was structured on the basis of risk

management, and that's when we go to every government organization and we look at the risks they have to achieving their objectives and making sure that people have addressed those risks, and they have systems and practices to make sure they manage those risks.

So what we tried to do in this report is say, what are the risks to the Assembly receiving independent, relevant, and reliable information from our office? What are the things that would prevent that? Then how best to address that, and the way the Assembly speaks to us if you like is through the laws, okay? And that's how you set the objectives and talk about managing the risks.

So this report is structured around looking at the risk to you receiving information from us as independent, relevant, and reliable, okay? And we've used a guideline set out by the Canadian Institute of Chartered Accountants for addressing risk.

And what we did is if you go to page 20 there's a . . . this report is set up along those lines where it talks about . . . there's a little spread sheet in there, and it's got four columns to it. And it talks about the Assembly's risk, why the Act should address those risks, how the current Act currently manages those risks, and any recommended changes we think are needed to the law to make sure that the law speaks to that risk. And you then are assured you'll get independent, reliable, relevant information from our office. So that's why it's structured the way it is.

Now the first handout you've got from us or from me is the tabular one, okay? It's got a kind of a table style. And when I went through the report with you the last time there were recommendations that we've made, okay, and there was discussions by the advisory committee on those recommendations.

And then there were recommendations that the advisory committee made that we didn't think were necessary to enhance the independence of our office or to ensure there was independent, relevant and reliable information coming from us. And that's the second item that you received, okay. Those are recommendations that we haven't dealt with. It's a three-page statement.

So just as an example our first . . . on page 20, our first risk we identify there is the Act should explicitly set out the Assembly's objectives for the Provincial Auditor. We recommended the Act do that, and if you go to that schedule that's got a tabular form, it says recommendation no. 1 and it says advisory committee disagrees. And you go to their no. 30, you will get their discussion on that. So that's that would work.

With respect to the other one, I've identified the recommendations that they've made in their report that we don't deal with in our report. And I've given you our views on those recommendations, which I gave to you at our last meeting.

The Chair: — So for clarification, Fred, if I look at recommendation no. 1 and where you say that the committee disagrees because the committee has said . . . recommends no change, you're viewing that as a disagreement because you

have proposed some changes to it.

Mr. Wendel: — That's right. That's what I mean by disagreement. I guess, I'm not sure how the proceeding . . . the committee wants to proceed next. If you want to go through each of our recommendations in this report, and either accept them or accept them with changes or whatever, however you want to proceed.

The Chair: — I'm open to some suggestion here. We have 15 recommendations that were contained in the Provincial Auditor's report that was presented to us, and we have certain other recommendations that were put forward by the advisory committee to the Minister of Finance, okay?

So they're slightly different in terms of the report. We don't have . . . as a Provincial Auditor's committee; the report of the audit committee isn't ours. It is not ours to make recommendations on, because it is a report to the minister.

So I think, very clearly, we have to react to the auditor's report and then be able to be aware of what the audit committee is saying, but . . . am I wrong, Mr. Paton?

Mr. Paton: — Mr. Chair, I'm just trying to recall. I thought that the Minister of Finance had sent the report to this committee for their review and I would anticipate that he's expecting some comment or feedback on that.

Just, you know, going back in time as to how things have evolved here, last December the government considered amendments to The Provincial Auditor Act and sent those amendments or the intent of those amendments to the Provincial Auditor's office. That is . . . as a result of that, the Provincial Auditor did table his special report. That's the report that you're referring to currently, the auditor's report on those amendments.

Subsequent to that, realizing there were some disagreements or issues to be resolved, that is when the Minister of Finance established the special audit advisory committee to consider both what the auditor had said in his special report, as well as what amendments were being requested by government.

So I guess what I'm coming to is that the committee that the minister had has also looked at both sets of recommendations already. They've had some of those discussions and that's where you may want to have them here to understand both sides of what they saw, not only what the auditor's office put forward, but also the other amendments that they were considering.

So I think the Minister of Finance would be thinking of acting on the recommendations of that committee, being that is a committee that he established to review the Act, to review the Provincial Auditor's recommendations. And I think that the Minister of Finance would be acting on those recommendations, but he wanted to hear what Public Accounts had to say based on those various reports.

The Chair: — Yes, I think I concur with you.

The point I was making is that the report of that committee is a piece of research for us. Okay. It has been presented by letter

from the minister directly to the Chair and I've shared it with each and every one of you. But it is not a report of the Provincial Auditor. It's not a document that is within the responsibility of Public Accounts. I think it's here for additional research that will be used by the minister when he makes recommendations to the legislature based on what this committee puts forward and I guess what this . . . what his committee has put forward.

So I just say that that's a research document that we want to use in our deliberations. It's to assist whether or not we concur with the Provincial Auditor or whether we disagree. And if we disagree, we probably will be disagreeing based on the . . . you know, on the material that has been put forward by that committee.

Mr. Paton: — That's good.

The Chair: — So I guess how do you wish to deal with the additional items? Do you want to go each one individually to discuss it, to determine whether or not you support the idea put forward by the Provincial Auditor in his report, or whether you want to deal with all 15 first and get a perspective of where we're going and then come back.

I'm totally flexible on that procedure. I do want to get some work done.

Mr. Gantefer: — Thank you. It's sort of difficult because in order to . . . you know, because there are issues that everybody concurs on in terms of the advisory committee, the auditor's office, and likely ourselves; but it also strikes me there are issues that there is not concurrence on. In fact the auditor has quite rightly highlighted areas of disagreement. And I'm finding it just a little bit awkward that if we go into this thing we can say well here's the auditor's opinion and that's fine, but then I want to sort of go and say, well I want to understand what the advisory committee's thinking was on this sort of thing and there's just an empty table there.

So that I'm having a little difficulty. I certainly agreed with the fact we should get a representative of the advisory committee because I think we've got to nail this stuff down and make our recommendations — listening to the auditors' point of view, listening to the advisory committee's point of view, and we have to establish our recommendation. That's our responsibility.

But I kind of find it frustrating to sort of hear one side of the story and then the other side of the story and somehow have to put that together in a bit of a vacuum. I appreciate the fact that, you know, we want to get something done and we've become very process driven here, but I'm quite frankly at a bit of a loss in terms of how exactly we would proceed. I mean we can listen to Fred's thing this morning and then what? I mean do we go over it all again Thursday morning when the advisory committee can respond or how are we going to do it?

I'm just having trouble with dealing with number one and, you know, to some extent number three in absence. I mean the role of the advisory committee with respect to the minister's recommendations is not an agenda item; it's sort of a reality. I mean we've got to have them as part of this discussion in our

deliberations.

So I don't know exactly what we should do. I think that perhaps in . . . I don't know. Terry, can we get, would it be possible to have the advisory committee be represented earlier than Thursday morning?

Mr. Paton: — Yes, Mr. Chairman. I was just going to speak to that. When I talked to Nola Joorisity last week I thought she would be available today if the committee had called her. My office is currently trying to get her for Thursday morning but if you will give me a few minutes perhaps I can see if I can contact her right now and see if she may be available this afternoon.

Mr. Gantfoer: — Well that certainly would be helpful. And what I'm getting at is that I think we've got to nail down what the role is and we need the auditor's office; we need the advisory committee here when we go through those deliberations. Otherwise we're just going to waste time. And if that's possible, then I certainly would concur that if Ms. Joorisity could be here this afternoon that would help it.

And maybe we could then leave that item. As I say, I hope we're not so process driven . . . and we could talk about what is the process for hiring a new auditor because I don't think the advisory committee needs to be a part of that discussion. So we're not being held up.

But if we're going to go through this thing in just the way it's nailed down, I think we've got a problem.

The Chair: — If you would have someone make contact.

The other point, Mr. Gantfoer, is that there are five or six items here that if Mr. Wendel's interpretation is correct, it says that the advisory committee agrees. Do we want to review those five or six items in the 55 minutes, just to . . . (inaudible interjection) . . . no?

Mr. Gantfoer: — I would like to deal with this whole thing in a context where we can sit down and say okay let's go through this thing. Let's try to understand what the pros and cons are. If they're agreed fine, but I don't want to piecemeal it. I think we should be sitting down and making . . . you know, if this afternoon is possible, I think that gives us enough time to put a concerted effort to dealing with this topic and be able to listen to both sides. If that isn't enough time, we can move it into tomorrow afternoon, or Thursday, or whatever it's going to be.

The Chair: — Mr. Wendel, your comments.

Mr. Wendel: — Just one more piece of paper that we . . . a lot of pieces of paper that we've made available to you several months ago, and it was some draft wording that would bring these recommendations we're making to life, so you can understand what it is that we're saying the Act would look like. It was . . . it had several colours on it, blues and reds and black, so you could see what the old Act looks like, what we're proposing for changes.

So that when you're looking at that first objective, I can have Brian Atkinson and Gordon Neill talk to you how . . . what that

might look in law, so you can get a feel for that. So it's after you've talked to them, you've talked to me, you may want to look at that and see what you think at that point, whether you want to recommend something like that. You may want to also look at that.

Mr. Gantfoer: — I agree. But I really don't think that you can kind of pick and choose pieces of this thing out of context. Because if you're going to get your head around it, you've got to get your head around the whole thing and keep it there, and work your way through the pros and cons of the whole issue.

And perhaps, Mr. Chair, because we don't know . . . well, we can't . . . we've got an hour and I don't . . . I agree we shouldn't waste time. If it would be the agreement of the committee, I don't think item no. 2 requires the advisory committee's attendance. And that if the advisory committee can only be in attendance later today or tomorrow, then maybe we could move to that agenda item and proceed. Because I agree, we haven't had an opportunity to meet often enough that we shouldn't waste time.

The Chair: — The only comment I would make, Mr. Gantfoer, before I recognize Ms. Lorje, is when I was putting this agenda item . . . the agenda together, I recall discussions before dealing with the hiring of the Provincial Auditor. The minister's advisory committee has made very specific recommendations as how they should be involved in the hiring process, and I think members on both sides were questioning which way it should go. So in order for us to talk about the hiring process, if we don't finalize what our . . . what our recommendations are — and I'm sorry to be the nitpicker here — but if we don't finalize the recommendations that we're going to make to the legislature on the changes to the auditor's Act, those recommendations do very . . . state very explicitly how the audit committee should be involved.

And there's been some discussion about whether or not that's acceptable. And some have said yes it is, some of them have said no it isn't, so I just throw that out because we can . . .

Mr. Gantfoer: — Well, then I guess we should wait to hear when the advisory committee is available.

The Chair: — I'll recognize Ms. Lorje now.

Ms. Lorje: — If we keep throwing things out, eventually we're going to want to throw up as well too. I agree with Mr. Gantfoer, we want to get on with something today.

I'm wondering if we couldn't do sort of a bit of a compromise. I think there is some merit in the committee members having a discussion about the role that the committee members would play in the process of hiring. And I don't think that would prejudice . . . that kind of a discussion would not prejudice a discussion about what the audit or the advisory committee's role would be.

So I would like to see us, and out of respect and with all due deference, Mr. Wendel, I don't know if you or any members of your staff are going to be applying for this lofty job. I don't know why you would after . . . you've been dealing with some very difficult things in the last little while.

But I would like to suggest that we go in camera and simply have a frank discussion about the role that we see the Public Accounts Committee members serving in with respect to the process of hiring the auditor. And that we do that, continue that discussion until noon, and then we can adjourn and report back to the whole . . . to the formal committee at — was it 1 or 1:30 we were planning? — 1:30. At that point either Ms. Joorisity is available or not and we will have at least accomplished some work.

The Chair: — Prior to . . . I would believe that would be a resolution, Ms. Lorje that we go into camera. But before recognizing that, I would like to have Mr. Paton return to give us an idea as to whether or not there is, you know . . . if Ms. Joorisity is available. Because if there is a chance, so that, I think, tells us where we're headed this afternoon.

So I won't recognize your resolution until I hear what the results of the phone call are. Any discussion on what might be a resolution coming before you? What might be . . .

Mr. Gantefoer: — Mr. Chair, I think it's appropriate because at least in any of our experience as members of Public Accounts, we're on new territory here. Both in the fact that there is the review and changes coming to The Provincial Auditor Act that we're being asked to comment on and that's extremely important, and also the process of hiring a new auditor.

And I think it would be appropriate that we have a bit of a philosophical discussion as to the role of members of the Public Accounts Committee and how that would work in our minds. I think it has to occur and probably is appropriate that it does happen in camera, that we have a bit of a philosophical direction that we believe this committee should . . . to take. So I think it is entirely appropriate that that occur.

It's not the kind of thing that you're going to get to do very often as a member of a Public Accounts Committee, is to potentially make serious recommendations as to legislative changes to the structure and nature of the Provincial Auditor. It is one of the most fundamentally important offices in our legislative system. And I think we have to do it appropriately.

And I cannot help but think that recommendations from this committee will be seriously regarded because we have probably the closest working relationship with the Provincial Auditor of any standing committee of the legislature. So I think we should proceed in a way that gives us comfort. Many of us are new, and to this issue we're all new. And we should proceed diligently but not try to just sort of rush it through because we need to get the job done. I know we do but . . . and I would like very much that we would move forward.

And I hope that everybody's agendas are such that if we don't get the work done today we undertake to meet in a timely way going forward now so that we can get this item closed.

The Chair: — Thank you for your comments. I'm just hopeful that Mr. Paton will come through that door any second now.

Ms. Lorje: — Ken, if I could just, while we're waiting for Mr. Paton, I just want to address the issue of why I think it's

important that we have a full and frank, in camera discussion as committee members. I don't want to see this getting into any positions that we may, upon later reflection, wish that we hadn't said, you know. And so we . . . I know I'm probably the most guilty person in this room of that. I have said so many things that if I could have smote my tongue it would have been a good idea.

So I'd like to see us just talk about some of the issues — how we see ourselves, what kind of role we see ourselves serving. And I think we can arrive at that by consensus. We are all honourable men and women. And having this discussion in camera will help us to have a clearer idea of where we want to go, so that we can assist this process and make sure that it goes forward in a timely fashion and in a non-partisan fashion.

The committee recessed for a period of time.

The Chair: — Yes, we went into recess, Terry, because we wanted to look at probably an in camera session, but we didn't want to do that until we knew what the result was of your phone call.

Mr. Paton: — Nola Joorisity unfortunately is in meetings right now, and it appears she may not be available this afternoon or tomorrow. Now I'm going to talk to her at 12:30 and confirm because that's inconsistent with what she told me last week. So her assistant may not know that she's able to leave some of her commitments. And I'll be able to check with her at noon and see if indeed she can change her plans. Hopefully she'll be able to.

I also tried to call John Aitken, and he's at one of his clients right now. And I will be in touch with John at noon as well and see if it's possible for him to be here. So unfortunately I have no constructive news here.

The Chair: — Well seeing then no news, we have the idea of moving into camera. Do you still wish to proceed with that even though it might mean that we may not continue our discussions with both groups, both the auditor's office and the advisory committee being represented this afternoon?

If so, Ms. Lorje, I would recognize your resolution.

Ms. Lorje: — I would move at this time . . . Do I have to have it written out?

The Chair: — No, no.

Ms. Lorje: — Okay. I'd just move:

That the committee resolve itself into an in camera session and that we report back at 1:30.

The Chair: — A motion before you that we move into camera till . . . and we reconvene at 1:30 as a PAC Committee? Question: all those in favour? Opposed? Carried.

The committee continued in camera.

The Chair: — Welcome back, everyone. I think our discussion centres around items 1 and 2 for the moment. And if I might ask

Mr. Paton for an update on discussions with members of the advisory committee, I think we'd find that useful.

Mr. Paton: — Yes, Mr. Chair, I was able to speak to both John Aitken and Nola Joorisity over noon. Nola unfortunately will not be available until Thursday morning. She has other prior commitments and is unable to attend, but she will be available Thursday morning should we ask her to be here.

John Aitken will be able to attend tomorrow afternoon. He was unable to free himself up for this afternoon. So if we have other business or something that you can take care of in the meantime, he will be available tomorrow at noon if we want him.

The Chair: — Thank you. Okay, having heard that update we cannot, you know, have anyone present this afternoon, which we I guess anticipated that before lunch. So we did some discussions on item no. 2. And I think if we're to continue on item no. 2, I think we'd find it useful to have maybe both Mr. Paton and Mr. Wendel make some comments on where we may be right now. And maybe we are all on the same wavelength in terms of the recommendations being put forward by the auditor's Act, the changes to the auditor's Act as well as the audit committee.

So I'd like, Mr. Paton, if you would, to make comments on recommendation nos. 1, 2, and 3 from the auditor's committee recommendation list, and see just where we stand and whether we have some consensus about moving forward. Because I'd hate for us to lose the remaining three hours.

Ms. Lorje: — I'm wondering and worried a bit about Mr. Gantfoer's position that it might be best if we had both the auditor, a member of the advisory committee, and the comptrollers.

The Chair: — Well I agree with that. That's why I'm not suggesting that we discuss no. 1 right now.

Ms. Lorje: — I thought you said 1, 2, and 3.

The Chair: — Recommendations 1, 2, and 3 from the report of the Provincial Auditor Advisory Committee. Those are three recommendations that talk about how we would . . . what process we would follow in hiring an auditor. Are they the same things that we all concur in?

And we could hear from Mr. Wendel as to say no, currently the Act says this. And we know that they will require legislative changes of course if some of these things are proposed.

And from our discussions this morning in camera, I think you can tell that there's a build-up.

Ms. Lorje: — I guess so that we're all operating off the same page, we're dealing with the June 2000 report of the Provincial Auditor Advisory Committee right now?

The Chair: — Correct. The recommendations on appointment of the Provincial Auditor, which is chapter 2 on page no. 5. And again I'm basing this choice on your decision this morning and Mr. Gantfoer's suggestion that we do not get into a discussion

about the recommendations in the auditor's Act versus the recommendations in the advisory committee's document until we have both people present.

However, we have some consensus on moving forward on the hiring of an auditor and how we might be able to do that. And I want to see if there is agreement on these things as where we sit right now or if indeed there is strong opposition to what the recommendations are in the auditor's Act and what we see there. Then we'll have to determine in the next half hour whether or not this meeting continues this afternoon. Okay?

Mr. Paton: — Yes, Mr. Chair. The key recommendation here is obviously recommendation one. And under current legislation, the appointment of the Provincial Auditor is by the Lieutenant Governor in Council after consultation with the Chair of this committee.

Now the government had proposed that that be changed and the audit committee or the . . . pardon me, the special committee of the Minister of Finance have recommended that that be changed so that the appointment of the Provincial Auditor take place after the unanimous recommendation of this committee and with the approval of the Assembly.

So what we're saying is that this is the committee that should be selecting your new Provincial Auditor and going through that process and that then it would go directly to the Assembly to put that in place.

The second recommendation that sits there tries to provide this committee with some technical advice during that process, knowing that that's a great asset to any committee when they go forward and try to do this type of work where you're trying to find an individual with certain professional qualifications.

Now this specifically says that legislation should be amended to allow the committee, being your Public Accounts Committee, to request advice from the audit committee or any other advisers in the process of selecting a new Provincial Auditor.

So that's kind of an empowering provision. It doesn't require you to use either of those groups, but it gives you the ability to request advice and assistance in that matter.

And the third recommendation, again by the special committee, recommends that you do indeed use the audit committee for that advice.

So I think for the most part, the Provincial Auditor, and you may ask Mr. Wendel to speak to this, but I think he concurs primarily with no. 1. And he may have some concerns with your work with the audit committee but he could speak to that. But this might be an area where the committee could continue on, on the understanding that the government and the audit committee and the Provincial Auditor have general concurrence on how this process should take place.

The Chair: — Thank you, Mr. Paton.

Any questions of Mr. Paton right now, before I . . . and I have asked Mr. Wendel to comment on those three sections as well. Okay.

Mr. Wendel: — Yes. In our special report, we make a similar recommendation. On risk no. 6 we say that the Standing Committee on Public Accounts should select a Provincial Auditor. So we're in agreement with recommendation one.

The resources, we say the committee should get whatever resources it needs, and advisers to help them make that decision. Whether they get the advice from the audit committee or whether they get the advice from some other person, that's entirely up to the committee to decide. They should get whatever advice they need.

We have pointed out some concerns working on a committee, but I'm not sure if they're directly related to this item. I guess they go to this item also.

But one of the things you'll have to discuss when you get your representatives in here, is whether you want this audit committee to be part of the legislative branch of government, in other words appointed by this committee, or whether you want them to remain as part of the executive branch of government. And depending on which way you go, then there would be different risks you would have to look at, and I would comment on that at that time.

The Chair: — Okay. Clarify that last comment, Fred.

Mr. Wendel: — Well if the audit committee is going to be part of the legislative branch of government — in other words you're going to appoint it; it reports to you — then I would point out in this paper that I gave you that I have some concerns then that we need to deal with, with respect to the reporting — the reports we make to the Assembly.

I don't think it's appropriate for a committee of the Assembly to see the reports of draft. If it remains part of the executive branch, it's fine, because the executive branch can't interfere with what we do. They can't change our reports.

It would be very difficult for me to discuss a draft report with you and you would say to me, I don't think you should report that. This is a committee of the Assembly now, so we have to be very careful with that. So that's all I'm pointing out: there's a risk there.

So if it's going to become part of you, I don't know if I should be discussing draft reports with you for that reason. You could be in interference with that report. Then it wouldn't be our report any more; it would be your report, because you would be deciding what's being reported.

If it remains part of the executive branch of government, then you need to be sure that, when you're going through all these recommendations, that you haven't left the audit committee in a position, as far as the executive branch, that can interfere with what we do or how we audit or what we report.

So it would just be different risks that you have to manage, but it has to your decision where you want this committee to be.

The Chair: — Comments? Yes, Mr. Gantefer.

Mr. Gantefer: — Well I think on Mr. Wendel's last point, it's

not in context of the topic of hiring agenda that we're talking about right now. And I think it's appropriate that we can have this discussion now because we certainly, I think item 2 on the agenda is the process that we're talking about here.

And I think that it's my feeling that clearly the Standing Committee on Public Accounts is the body that should be making the recommendation. This calls for a unanimous recommendation and I think that that puts an onus of non-partisanship on all of us in order to make that challenge. And I think that that is realistic.

I also recognize that recommendation 2 and 3 are advisory rather than requirements and it's a point well taken. And certainly this committee should avail itself of whatever information and resources it requires in order to make a responsible discharge of its duty of the selection process.

I very much support the fact that this process is recommended to be different than what's currently on statute in terms of an order in council upon a consultation with the Chair of Public Accounts. This is much stronger in terms of an emphasis on our role.

And I don't think we have to get into the details of how that audit committee is struck or what it is if . . . because we may choose indeed not to consult it. This recommendation is only a recommendation that we have the authority to make those consultations. And so in terms of this context, I don't think it's appropriate.

So, Mr. Chairman, I think that we certainly can have a discussion and indeed, based on these recommendations without the presence of the audit advisory committee, to actually come to a final discussion and decision in terms of the hiring process for the Provincial Auditor.

The Chair: — Continued discussion? I think everybody is in agreement with that. As pointed out by Mr. Wendel, recommendation 1 is definitely something that is agreed upon with your recommendation and no. 6.

No. 2 and 3 as you've pointed out, Mr. Gantefer, are specifically dealing with the hiring. They are not dealing with the work of the auditor. And that's something that, as Mr. Wendel's pointed out, may have some bearing on resolutions and recommendations 9, 10, 14, and 15. But that's down the road.

Okay, seeing that type of consensus around recommendations 1, 2, and 3 coming from the advisory committee, there are, I believe, other . . .

Ms. Lorje: — Should we adopt them then?

The Chair: — I don't know what that process would be in. I look for some guidance here.

Mr. Gantefer: — Mr. Chair, if I may.

The Chair: — Yes.

Mr. Gantefer: — I think that, you know, that there was some

very fruitful discussion in our in-camera session this morning. And I think that before we get to these specifics, I don't think that we have to necessarily adopt these per se or not.

I think it's incumbent on us to come up with a process. And in recommending the process, if it's concurred with or if it's a point well taken by the government, then indeed that will infer our recommendation. It might not be specifically this. So I don't think first of all we have to do it.

Second of all, in terms of the manner of process, I'd like to have the general discussion if need be right now. But then I think we should follow up on our discussion this morning and perhaps go back into camera to finish up some of the work of the discussions that we had started this morning to come up with specific consensus. Go out of camera if need be — I'm not sure of the exact process — and then make a motion that's done on the public forum so that the result of our deliberations are then open and in front of us.

But I believe we had the understanding this morning that we wanted to have an opportunity to see some draft of what we were talking about this morning before we would do that on the record.

Ms. Lorje: — Just so that we're really clear, we're remaining silent at this point on the issue of the audit/advisory committee because we still want to hear from both the Provincial Auditor and members of the advisory committee to see which direction we feel that committee ought to go, whether it should be through executive government or reporting directly to the legislature.

But what we are saying is we definitely want a unanimous recommendation from the committee for the hiring of an auditor and that we're looking at seeking the advice of some outside body, audit committee, or advisory committee, as the case may be.

So we are reaching consensus though not coming, not bringing it to a motion, on the main thrust of recommendations 1, 2, and 3.

Mr. Gantfoer: — Yes, Ms. Lorje I agree. I think that when we go through this little process, because I think we have to because we agreed to this morning, is that we've got to look at this, we've got to come back and then on the record we will bring forward our motion that will indicate a process. And that will then, by the nature of that motion, speak to how we've addressed this issue.

The issue of the role of an audit committee in the future, executive and legislative, are for further deliberations and we don't want to limit our ability to put this decision before us by getting into that right now in my mind.

Ms. Lorje: — I think we're both speaking on the same page.

Ms. Jones: — Just for my own . . . I want to be very comfortable with knowing what we're talking about. Are we referring to the audit committee and the advisory committee as one and the same?

The audit committee, which is referred to in the recommendations here, and the advisory committee, are they one and the same or is there two committees?

The Chair: — No, I don't believe that there are two. There's a committee that is out there called the audit committee.

Ms. Jones: — Way out there.

The Chair: — No, it's not our committee. We haven't set up an advisory committee to assist us, okay.

Mr. Paton: — Currently an audit committee does exist within legislation within The Provincial Auditor Act . That committee currently has no members and is inactive. There is a committee also that the minister established that's referred to as his advisory committee, and they're probably people with the same qualifications that you would look at when you look at the audit committee.

Ms. Jones: — If I can follow with that. I mean the reason for my concern is recommendation no. 3 refers to the audit committee and so does the preamble when we're talking about appointment of the Provincial Auditor.

So I want to know which committee we're consulting with in the appointment of the Provincial Auditor. Because what we talked about this morning is something altogether different than some way-out-there committee that doesn't have anybody on it.

Mr. Gantfoer: — Maybe I could help clarify that if I may, Mr. Chairman. That's exactly why I didn't want us to go through these recommendations and accept them — because they're not in harmony with what we had a consensus on this morning.

Ms. Jones: — And I needed to be very sure that what I suspected was . . .

The Chair: — Can I refer you . . . each member, can I refer you to page 27 of The Provincial Auditor Act which is the Act that is our responsibility and our, you know, job to review. And as Mr. Wendel has pointed out, that deals with recommendation no. 6, which flows across the page.

And if you look at the recommendation, currently as I understand it, the Act is silent in terms of how we actually appoint an auditor or how the Public Accounts Committee is involved in the appointment of an auditor.

Am I right, Mr. Paton? Could you . . .

Mr. Paton: — It would be close. I believe the Act would read that after consultation with the Chair of the committee, the minister would go through the process. There is a brief consultation process.

The Chair: — Good. Thank you.

And I think from discussions from this morning, plus looking at the recommendations as put forward to the minister by his committee and Mr. Wendel's comments about no. 6, we see that the column on the far right of page 27 says that we require a

legislative change to allow this committee to become involved in the hiring process. And it says, the Act should require the Standing Committee on Public Accounts to select and recommend to the Assembly a person for appointment as Provincial Auditor.

And I think we've spent time discussing how we might do that and who we might involve and everything else. But this is the section that we have to concur on, and recommend to the Legislative Assembly that the Act be changed. And I'm not seeing that anyone disagrees with this particular section.

We also have looked at probably some guidelines, and maybe some advice from recommendation nos. 2 and 3 from the minister's committee, that expand that a little bit to suggest, and again, who might become involved. As pointed out by Mr. Paton, that the recommendations are advisory in nature.

We may use the committee and it recommends, in fact, in the third recommendation, it recommends that this standing committee called Public Accounts use that advisory committee.

Now that is a little bit outside of the parameters, but I think we have to deal with this section because in the end, when we pass a resolution here, it will be based on what recommendations we're making to the legislature. And I think, clearly, it is page 27; do we concur in that. I don't think we need a resolution right now, but I think in the process at the end we'll be . . . that we concur with all of the things that will be listed at that time.

The Chair: — It may be . . . Mr. Putz is making a sort of a suggestion that might be useful in terms of keeping everything on track. Why don't we maybe have a resolution for each section, so that we avoid losing everything at the end, or you know . . . this one right now.

Ms. Lorje: — The problem with that is that we still haven't grappled with the basic question of the nature of the audit committee or the advisory committee, and to whom they should be . . . whom they should be serving. And I think we all want to remain silent on that until we have representatives from the current advisory committee.

I think it is very clear that all of us agree with recommendation no. 1.

The Chair: — Do we want it out of the road right now? That's the question I'm asking you. Do you want to have a resolution that says that we concur in recommendation no. 6 which says this?

Mr. Gantefoer: — Let's follow what we agreed to this morning in that we were going to go back into camera to hear the wording about what we were talking about this morning, and then we're going to come back and do that. Like let's not get things out of sequence here.

The Chair: — Fine.

Ms. Lorje: — And the only reason I made it explicit what I heard Mr. Gantefoer saying was so that it's very clear that we are all agreeing on these things. We're trying to move to consensus; we're not dealing with motions at this point. If

somebody wants to do a scorecard and keep track as we go through on where we've reached consensus. It's clear we've got consensus on recommendation 1; we agree with recommendations 2 and 3, subject to what we decide in terms of this audit or advisory committee.

The Chair: — Fine, with everyone? Okay, let's move forward then.

Under that section again, no. 2 on our agenda, which is the process for hiring a new Provincial Auditor . . . What is the next item that the committee wishes to deal with within that framework of hiring a Provincial Auditor?

Mr. Gantefoer: — Mr. Chair, I believe that our agreement this morning was, is that we would go back into camera to complete and review the work that was undertaken to be completed by 1:30 this afternoon. And once we complete that then we would come out of camera, and we would indeed be making a motion as to the direction that this committee intends to proceed in the hiring of a provincial auditor.

The Chair: — I understood from Mr. Trew's request that we would be dealing with this in camera at the end of the day.

Mr. Gantefoer: — This might be the end of the day because if . . .

The Chair: — Is that what you're suggesting?

Mr. Gantefoer: — . . . nobody can come; this is the end of the day.

The Chair: — Okay. I mean that's the point that I made before when I asked Mr. Paton to clarify. If you feel that you have no other items to discuss for this afternoon, until we go back into camera, I'm making this time available to anyone to deal with those topics right now. Ms. Jones.

Ms. Jones: — I wonder if it wouldn't be worth our while just to, since we have some time, just to go through and any questions that perhaps could be answered, such as my one on the audit versus advisory committee just . . . no? No point in spending any time? . . . (inaudible interjection) . . . No, I don't mean on that one. I mean on anything else just so that we're not wasting time. I mean we are all here. If we just took even half an hour to kind of refresh our memories about what it is we're doing and see if there's anything that . . . any points of clarification or anything.

The Chair: — I would ask Mr. Paton for a comment first before Ms. Lorje.

Mr. Paton: — Mr. Chair, I'm assuming when you go in camera that both the auditor's office and ours will not be in attendance. There are three recommendations that are very closely linked to the appointment of the auditor that you've had some discussion on. And if you might want to ask either of us questions before we leave and you go in camera, that might be appropriate.

Those three are again from the advisory committee, page 21: the recommendation for a term for the Provincial Auditor, where the committee recommended a 10-year term;

recommendation 21 that the definition of salary be clarified; and recommendation 22 that talks about the qualifications of the . . . who is qualified to serve as a provincial auditor.

Now when you go in camera you might have more discussion. But if you wanted any clarification from either of our offices before we leave, this might be your opportunity.

The Chair: — Ms. Lorje.

Ms. Lorje: — That's exactly where I was coming to. I was going to refer the committee members to recommendation 20. We certainly had . . .

The Chair: — Okay. Let's deal with those three then. If we might read that resolution over, and if you have a question of Mr. Wendel and see how it ties to the auditor's report and/or Mr. Paton. Recommendation number 20 in the minister's committee says that:

The Committee recommends that legislation establish a non-renewable ten-year term of office for the position of Provincial Auditor.

And I think Mr. Wendel you had some suggestion there as well. Would you like to make a comment first, Mr. Wartman?

Mr. Wartman: — Yes, please.

The Chair: — Go ahead.

Mr. Wartman: — Just one question that we had in the earlier session, and that was it is a non-renewable term but could a person reapply? And so I would like that to be explored as well please, Mr. Wendel.

Mr. Wendel: — I recall the conversation. Yes, on page 33 of our report we make a similar recommendation. And we say the Act should make the appointment of a provincial auditor for a 10-year fixed term. We had a lot of discussion about what a fixed term was. And I think we all agreed at the last meeting that the person should be eligible to put their name in to see if they could be rehired when you went through the hiring process again.

So I have no concern with that, or the office doesn't.

Ms. Lorje: — Does the office of the comptroller have a problem with that?

Mr. Paton: — No, we have no problems with that.

The Chair: — Any further discussion on recommendation 20 and recommendation no. 12 as put forward in The Provincial Auditor Act ?

Ms. Lorje: — I just think that with respect to recommendation 20 advisory committee and recommendation 12 Provincial Auditor, we need to be very clear to note that we want in the drafting instructions for the legislation to include the possibility that the current incumbent may re-apply at the expiry of the 10-year term.

The Chair: — No exclusion, correct?

To help committee members understand what you already have agreed to, I might read from our minutes of the meeting of June 6, paragraph no. 5, which reads:

The committee deliberated on issues related to the term of office of the Provincial Auditor. It was agreed in principle that the term should be for 10 years; that the incumbent shall not be re-appointed but would be eligible to re-apply in competition for a second term; and that the terms of engagement include a mandatory age of retirement clause; and that the age of retirement be set at the age of 65 years.

Those were things that we had previously agreed to.

And further to those minutes, item no. 4, and maybe that's where I should have started:

The committee deliberated on issues related to the appointment of Provincial Auditor. It was agreed in principle that the selection of a Provincial Auditor should be unanimous decision of the Standing Committee on Public Accounts, and further; that the appointment of a Provincial Auditor should be made by an Order of the Assembly upon the recommendation of the Standing Committee on Public Accounts.

Mr. Wartman: — We have unanimous recommendation . . . (inaudible) . . . Is that correct?

The Chair: — Unanimous decision of the Standing Committee on Public Accounts. Yes.

Ms. Jones: — Then by resolution in the House.

The Chair: — By resolution, yes. Okay? So those are just for, to ensure that we know what we've already previously engaged on and what we still have to continue to discuss.

Mr. Trew: — Thanks, Mr. Chairman, I have one question I guess of Mr. Wendel. How can a Provincial Auditor . . . what would be the grounds for termination of a 10-year contract? Is there such a thing?

Mr. Wendel: — Be for cause.

Mr. Trew: — And what cause . . .

Mr. Wendel: — . . . of the Assembly.

Mr. Trew: — What cause? I'm hoping that we never, ever need to use this. I'm just a bit curious.

Mr. Wartman: — Conversion of funds to the Public Accounts to the auditor's pocket.

Mr. Wendel: — Would probably be cause, yes.

Ms. Jones: — Saying something we don't like.

Ms. Lorje: — I think Mr. Trew is asking if . . .

Mr. Wendel: — Well then I'd be gone many times.

Ms. Lorje: — I'm assuming that there will be a standard clause in this Act.

Mr. Wendel: — There is now.

Ms. Lorje: — Yes, and in the new Act there will also be.

Mr. Trew: — Okay, so there's no change there in that . . .

Mr. Wendel: — No change, no.

Mr. Trew: — And that's fine. It's been addressed. This is coming from absolutely no basis anywhere. It's just I can imagine a 10-year blank cheque. But it's not . . . I mean it's no more than . . . previously we've had a 5-year or an undetermined blank cheque.

The Chair: — If I could ask Mr. Paton maybe to comment on this as well.

Mr. Paton: — Speaking directly to the inquiry, currently the Act says:

Lieutenant Governor in Council may suspend or remove the provincial auditor from office only for cause and on the address of the . . . Assembly.

Now keeping in mind the changes that are currently being made and the appointment process, there is a change being proposed where the new legislation would read: the Legislative Assembly, may, by resolution, suspend or remove the Provincial Auditor from office.

So that would be the new Act once it's been changed.

The Chair: — Okay, that clarifies it.

Mr. Paton: — And the difference — removing the Lieutenant Governor in Council from the process.

Ms. Lorje: — But again, I want to be real clear — but it will only be with cause. We wouldn't get ourselves into a position where a government could have a huge majority and decide that they don't like . . . I don't know . . . the eyebrows of the auditor and so decide to get rid of him or her?

Mr. Paton: — The wording doesn't speak specifically to cause. I believe that would be the intent of it when you're taking it to the Legislative Assembly for that action, but you know that could be a recommendation of this committee. But currently we're proposing that the Legislative Assembly, by resolution, so it would be something through the Legislative Assembly for any changes in your Provincial Auditor.

Ms. Lorje: — I personally feel much more comfortable having the phrase with cause in there.

Mr. Paton: — The current Act says by cause by Lieutenant Government in Council. Now the proposed one just stated the Legislative Assembly but again, that's something that this committee could recommend as a change to that.

The Chair: — For clarification then, you have indicated that that phrase with cause, which exists currently, is being removed.

Mr. Paton: — That's right. There could be other reasons for that though. Your auditor may want to resign, may quit. There could be . . . I don't know if that's with cause. My understanding of with cause would not include that. So if you were to have an auditor like Mr. Strelieff who took another job and went to another jurisdiction to work, the Legislative Assembly would still be removing him.

The Chair: — But I concur with Ms. Lorje in that removing the phrase with cause, I think, changes the intent of that former resolution. And I ask for any comments from any other members.

Ms. Lorje: — I'm going to repeat it again. We want to give this person an opportunity to leave if he or she decides they don't like us. But we don't want the MLAs or the majority of the government of the day to decide they don't like the auditor just on arbitrary grounds and remove that person.

So it seems to me the legislation should be drafted to be very clear that the auditor would only be removed involuntarily from his or her term before the 10 years is up, if it's shown to be with cause.

Mr. Paton: — Mr. Chair, we have no disagreement with that. This just happens to be the way it was drafted by the legislation drafters, but that's something that could be easily incorporated.

The Chair: — Mr. Wendel has some further information for us.

Mr. Wendel: — The current Act allows the Provincial Auditor to resign and provides a process for doing that, and I would hope that that clause would still remain.

Ms. Lorje: — And I would hope so too.

The Chair: — Okay. So am I seeing that there is a consensus about advising the people who will be drafting this legislation, the changes to The Provincial Auditor Act, to include or incorporate the phrase that currently exists which says, "with cause." Okay? I think that that's something that we can note in our minutes as having been agreed upon.

That was recommendation no. 20 and I think we've concurred upon that.

Recommendation no. 21, and we'll see where that ties to the auditor's Act changes. The committee recommends that the definition of salary be clarified in legislation to ensure that it is not subject to interpretation in the future.

Any comments there, Mr. Paton, right at the moment, or Mr. Wendel?

Mr. Paton: — Mr. Chair, perhaps I can just provide some background for the reason for this amendment.

And I'm going to have to be approximate with my dates. I don't know when exactly these changes took place. But prior to 1990,

all deputy ministers of the government were entitled to accrual, a salary of two months pay per year. What that meant is that after any deputy minister serving with government for six years, they would have a full year's salary in terms of severance. That practice was discontinued in 1991.

The Provincial Auditor Act currently states that the auditor shall be paid a salary of the . . . or the average salary of the deputy ministers and that that salary is not to be decreased. In other words, if the average salary moved down, that wouldn't drop the salary of the Provincial Auditor.

There's been a little bit of confusion as to what salary means, whether or not it includes the severance package that was discontinued for deputy ministers prior to 1991. And our understanding is that that was a benefit of office and it would be removed from the salary calculation of the Provincial Auditor.

It's my understanding that that severance package or bonus — I'm not sure what you refer it to as — continued under current practice for the previous Provincial Auditor, and I believe that amount was paid out last March or April, sometime at that point, when the Provincial Auditor left his office.

And our concern is that that is the area of contention, where it's unclear as to is that salary or is that a benefit of office. So the legislation we're proposing would remove that accrual, that two-month accrual per year and would not be a benefit for the new Provincial Auditor.

So we're not looking backwards on this. We're just looking forward and asking this committee to clarify that provision so that future auditors are aware of the fact that that is no longer a provision of office and has been removed.

The Chair: — Mr. Paton, if I may, when we discussed this last time and I tried to look at some research from 1991, tell me, how was the . . . how were the perks removed from the deputy ministers — by an Act of the Assembly?

And the reason I ask that question, I'm wondering if there isn't an error back in 1991 that the people at that time who made that change, if they inadvertently omitted to include Provincial Auditor along with the deputy ministers.

Mr. Paton: — Well the Provincial Auditor, I believe his contract would be specific to his Act. And my understanding, and Mr. Wendel may want to speak to this, was that that salary provision was an interpretation that that was part of his salary, that severance package was part of the salary definition.

Now the information I have is simply that separation allowances for deputy ministers were discontinued in 1991 pursuant to The Crown Employment Contracts Act and the provision was deleted from contracts with deputy ministers after that date. So there was no further accrual for any deputy ministers that were under those provisions.

And it appears to have been unclear in the past. What we're simply trying to do is clarify the future so that if that provision is believed to be in the Act that it's actually removed and no longer part of the salary in the future.

The Chair: — What I'm trying to understand, Mr. Paton, is if there would have been a change in 1991, if that Act that you just read would have also included Provincial Auditor since the Provincial Auditor benefited from the very same, you know, benefits as the deputy ministers were entitled to, would that have corrected it? Could that have been done at that time?

Mr. Paton: — It probably would have. And like I say I can't go back to . . . I don't know the contents of Mr. Strelloff's contract or how it may have been amended or could have been amended. I don't have that knowledge.

So again, just to repeat myself, we're not trying to correct what happened in 1991 or 1991 up to 1999. We're unsure of what the provisions were. Obviously the auditor's office thought that it had complete legal authority and they acted on those provisions the way they interpreted it. All we're trying to do is clarify the situation going forward.

The Chair: — Any further questions of Mr. Paton? Mr. Wendel, do you have any comment on what exists and where your . . . the recommendations in the auditor's Act would conflict or agree with this recommendation?

Mr. Wendel: — Our recommendation is there should be no change to the salary provisions. And that's again part of no. 6, this no. 6. We think the Act is clear and it does state specifically how you determine the salary each year. It does say there should be no . . . it gives downward protection so it doesn't go down in section 4.

And I guess one of the other things I would point out is, if you change it so that the Provincial Auditor can't participate in the same salary benefits that are given to deputy ministers, looking into the future, you may result . . . it may cause a problem with the salary that you're going to be paying to the Provincial Auditor. Like it may cause that problem; he may not be at market rates or she.

That's all I'm saying, is when you . . . if the government decides in the future to pay salaries based on deferred salaries as opposed to upfront salaries, like they have different pay schemes come about with different times. So all I'm saying is when you do that be aware, okay, that you may be cutting off some salary to a future Provincial Auditor, okay, that you may want them to have that so you can hire someone. That's all I'm pointing out.

So that's why we think it's clear the way it is. I think had the government intended to take that salary away from the Provincial Auditor in the past they would have changed that Act in 1991. They could have made it apply to the Provincial Auditor had they intended to do that. I don't know whether it was forgotten or whether they intended to do it, to not do it, I mean that's . . . you'd have to talk to people about that. I don't know.

The Chair: — Okay, Mr. Paton.

Mr. Paton: — Mr. Chairman, I guess I'd start off by saying I don't think there is clarity in this issue or we probably wouldn't be discussing it here. I think there is confusion. I'd like to be clear on the change that's being proposed here.

What's being proposed is the definition of salary and the definition of benefits. In other words, if there is salary benefits being afforded to deputy ministers, they would also be afforded to the Provincial Auditor.

The clause that is being clarified is the definition of salary and that's the one that provides the downward protection that Mr. Wendel's speaking to. In other words, if his salary is set at a certain level, the salary number does not decrease; that's the downward benefit. At the same time, the Provincial Auditor would be subject to the same benefits as other deputy ministers. But if the government chose to change those benefits, whatever they may be, that they would also change those for the Provincial Auditor. So they're putting him on the same level as other deputy ministers. The salary level is protected from downward movement; the benefit package is included the same as it would be for other deputy ministers; but it's also subject to change, as it would be for other deputy ministers.

And that's the clarification. The downward movement is the salary calculation and that's where the protection is provided. The other benefits of office are subject to the change of the government. So just so you're clear on what the change is.

The Chair: — Thank you.

Ms. Lorje: — We've had deputy ministers leave between '91 and '99 and they did not receive that additional benefit.

Mr. Paton: — That's correct.

Ms. Lorje: — And we had an auditor leave in 2000 and he did receive that benefit.

Mr. Paton: — That's correct.

Ms. Lorje: — It seems to me we want to have the wording in the Act be consistent so that the auditor's salary is consistent with the conditions of deputy ministers' salaries. So if what's going to clear it up is the wording that the comptroller is suggesting, I agree we go with the wording that the comptroller suggests.

The Chair: — Any questions? Mr. Wendel or . . .

Mr. Wendel: — I'll have Mr. Neill speak to this.

Mr. Neill: — I think the . . . I think the issue is not being properly understood, with great respect. Firstly, when Mr. Strelieff was appointed the terms of his employment . . . appointment included this particular provision. And therefore, to change that provision was impossible because the Act provides that —The Provincial Auditor Act — provides that it cannot be less. The salary cannot be decreased by will of the executive government. And that is a very important provision because it ensures the independence of the auditor.

If you have his salary . . . put his salary in the position where it can be varied at the will of the executive government, you are putting him in a position where he can be, you know, his objectivity is compromised. And that's why the . . . in Mr. Strelieff's case.

But the situation won't arise now because the new appointee . . . that provision which was available to all deputy ministers at that time is no longer there. So his contract will not have that provision in it. What he will get is what the Act provides at the moment.

Mr. Wartman: — Thank you. I think the clarification around salary and benefits is . . . I mean having two people say it differently, that's still where the question was with the previous auditor. And it's not clearly defined, which was right and which was not. Even before law it's not clearly defined.

So I think what we have now, and I think I appreciate the last comment in particular, that whoever is appointed auditor will be coming in to a new situation. But if we need to define a difference between benefits and salary for a future time, fine. That particular clause will not make a difference for a future auditor. But maybe we need to be clear whether or not benefits and salary are indeed included in the one category of salary.

The Chair: — Thank you, Mr. Wartman. Before I go to Mr. Gantefoer — Mr. Paton, I have a question.

You've indicated a few times this afternoon that you have wording of specific clauses, one of which removes that section about just cause. And I'm wondering, the information that has been presented to this committee is the special report by the Provincial Auditor, is the chart as everyone is reading from, what wordings are you referring to, if I might ask?

Mr. Paton: — As is the normal course of events, government, you know, pursues legislative amendments every year. What they do is they send out notice to departments and ask them to submit proposals for changes to Acts. And this is where the process started last year, where the government asked for changes to The Provincial Auditor Act, and that's what we went forward and shared with the auditor at that time.

Again, through the next legislative cycle, we've been asked again, are there changes being proposed to The Provincial Auditor Act, and we're saying, yes, there are. For the most part they're consistent with the same ones that we shared with Mr. Wendel's office last year. They've been updated for some of the discussions that we've had with your committee. And these are simply in draft form and will be going through the proper process through the legislative committees and subsequently be introduced to the House.

However they are draft at this point. We're responding to the deliberations of this committee and making amendments as we go forward.

But the wording that I have here, specifically I believe the proposed changes to the salary and the benefits and so on, would have been the same information that we shared with Mr. Wendel approximately a year ago. I'm not comfortable with releasing this to the committee because it is a draft document and it is going through the due process.

But what I'm trying to do is wherever possible, clarify the intent of the government so that you know the direction that it's going and you understand what amendments you can expect to come forward, both as a result of previous discussions at the

government level, and deliberations from this committee.

The Chair: — So the suggestions, the recommendations of this committee upon the changes to the auditor's Act are then taken by you and reviewed with your legislative committee to determine whether or not they are valid enough, and then your committee will determine what is put forward in the draft legislation . . . or in the legislation. Yes or no.

Mr. Paton: — It's not a straight yes or no. This is the legislation of the deputy minister . . . or pardon me, the Minister of Finance. This is the Act that he's responsible for and this will be going through the legislative process based on the direction of the Minister of Finance.

However, one of the issues that we've been asked when we've been at Legislative Instruments is whether or not this committee has had an opportunity to review the Act as proposed — or the recommendations — and what have been your deliberations on those recommendations.

So when we go forward to Legislative Instruments, we will have a draft Act and we will also be asked the deliberations of this committee in that regard. They're definitely interested in what this committee says. So if we put forward something that's inconsistent, it would be our responsibility to note that to them, and the Legislative Instruments Committee would be making a final decision on that.

The Chair: — Could I just ask one more question, Mr. Wartman? Is it true though then that the changes that you would put forward though don't necessarily incorporate what this committee recommends and therefore that the committee wouldn't be cited as having endorsed all of the changes if indeed we don't even see the wordings?

Mr. Paton: — All I can tell you is that we will take any recommendations from this committee and take them back to the Minister of Finance in light of any changes we're making.

Anything that's inconsistent, we'll definitely bring to his attention, so if there's something that there's a difference of opinion between the department and the committee, I believe the Minister of Finance definitely wants the support of this committee. And from what I've seen so far, I don't think there's going to be issues where we can't get something that's agreeable to the committee.

The Chair: — The consensus we reached on just cause a few minutes back, that has now been duly noted by you and your staff?

Mr. Paton: — Yes.

The Chair: — And if you don't make that change to the draft and still omit that phrase from the current, then will we know about it as a committee that says, or will we not know about it until the legislation enters the Chamber?

Mr. Paton: — I haven't discussed that with either our deputy or the minister as to what feedback we might have to your recommendations.

Generally this committee issues reports in the spring. Now I'm not sure how the committee plans on making all of its recommendations such that the Minister of Finance would respond to those specific items.

The Chair: — Thank you.

Mr. Gantefer: — Thank you. Well there's a couple of things and it kind of got sidetracked. I think that this committee has never been a part of, nor has a role in, drafting legislation for the House. Our role is to make recommendation as to the proper way that the resources, the funds of the province, are being spent after they've been voted on by the House.

It's also not our place to be saying that decisions were made appropriately or not in terms of second-guessing the legislature and saying we made wrong decisions in the House in terms of allocation of resources. So we've got to remember our role.

It is appreciated, I think, that in the minister's drafting of new legislation for the Provincial Auditor, he is seeking our good counsel on some of these questions. But there is clearly no obligation for the minister to draft his legislation in any particular way, other than an expectation that if he's seeking our counsel, it makes it more difficult to ignore it.

Back to the point that we have to address here. And I recognize that there are going to be legislative implications, but what we can only do is recommend a process and someone has to then make the decision if it can be empowered. This committee cannot act in any way other than within the authority given to it by the Legislative Assembly.

And so if we make recommendations in terms of . . . today I would hope that we would make recommendations on a process for the hiring of a Provincial Auditor. If we have that authority to go ahead and hire someone . . . is not there. I mean all that we can do is recommend. The Assembly is the ultimate person that will make the decision in terms of perhaps even the process is acceptable or not.

And so we can only come up with a certain amount of recommendations that we can end up moving by way of motion, and ultimately, you know, I guess goes in the form of a report to the legislature and then is accepted by the legislature and that gives it substance in law.

So you know what we end up doing here is only recommendations, and I think that it's good to know what direction that the minister's committee is thinking about in terms of the legislation, in terms of the term of appointment, in terms of the remuneration, and I think it's a fair comment that the package be broken down into the two component parts.

I agree that the salary is something that should be set up in a formula that can't be tampered with. And I think, as I understand it, that that's part of the reason or maybe the main reason why there's that downward protection clause so that you can't arbitrarily get at the Provincial Auditor's salary in a way of intimidating him or influencing his decisions. That there has to be some methodology in place that the salary is indeed protected and that an average of deputy minister's salary is a numerical sort of calculation that has some validity that makes

it a significant salary, that puts it right up at the highest level of public service, and even the fact that there is that downward protection puts it in a category over and above any individual deputy minister's contract.

I also think that in terms of clarifying this whole issue about what would happen over a 10-year fixed term in terms of a benefit package, I don't find that unacceptable to have that to be flexible enough to be consistent with the deputy minister's benefit packages, because a lot of circumstances change in terms of the way we look at benefits over the years.

And I wouldn't want to trap a Provincial Auditor into saying that this is what you can have for the fixed term or indeed that you have this downward protection on the benefits side. Because there may be a great deal of reason why governments of the day would choose to actually make adjustments or improvements on a salary side of things so that benefits were sort of covered off in a different way.

So I think that the two-pronged approach is entirely appropriate. I agree that I've heard in the past there was misinterpretation, and we should do everything we can to avoid it. So I think that those two broad definitions are quite appropriate and could well be part of our recommendation in terms of what we're going to recommend. Ultimately the process should be for the hiring of a Provincial Auditor.

Mr. Wartman: — I really have nothing further to add to what Mr. Gantefoer said. I agree with that. Thank you.

Mr. Wakefield: — Mr. Chair, just so that I've got this clear. I've been trying to absorb all this one side and the other. What would be the new Auditor General's position under the current Act . . . the Provincial Auditor under the current Act, the Strelloff example now out of the way? What would be the difference right now?

Mr. Wendel: — According to the Act, he would be paid a salary equal to the average of all the deputy ministers. The . . . (inaudible) . . . calculation is done once a year on April 1. And if the average has gone down, he remains at the existing salary. If the average goes up, his salary goes up.

Mr. Wakefield: — But the word "benefits" is silent.

Mr. Wendel: — No. There's another clause in here that talks about the . . . (inaudible) . . . being entitled to receive any privileges of office and economic adjustments that are provided to deputy ministers. That's all there is said about that.

So you can have, like if deputy ministers get an automobile or a car allowance, the Provincial Auditor would get an automobile or a car allowance. If deputy ministers get whatever other privileges of office there might be, you might have a specific size office or they might have other privileges of office. Well that's what those . . . (inaudible interjection) . . . I beg your pardon?

Mr. Wakefield: — Or removed?

Mr. Wendel: — Or removed. Right. Whatever the privileges are.

Mr. Wartman: — So just . . .

Mr. Wendel: — That's right. On privileges. Right. Yes.

Mr. Gantefoer: — How would your proposals then, Mr. Paton, differ from that?

Mr. Paton: — As I tried to say earlier, the main difference is potentially a problem down the road where for whatever reason that benefits package becomes something that would be interpreted to be salary as we had in a case in the past. We had a separation allowance that was applied to all deputy ministers at a point in time, and it was removed. Under the current wording, that stayed with Mr. Strelloff.

Mr. Gantefoer: — Because it was considered to be part of salary rather than the benefits of office, or privileges of office?

Mr. Paton: — It was considered to be an item that could not be reduced.

Now if you want, I can go briefly through, there's four clauses here, and tell you what the intention is. And maybe that's the best thing to do. And if that's what this committee concurs with, the overall intent, then we could move forward.

If we're agreeing there's not going to be a problem in the future and this fixes it, then I would suggest that perhaps we should just fix it and move on.

Like I don't want to get back into a situation where we had a problem. We obviously had a disagreement and I'd like to see that clarified. And we think what we're saying here will clarify it and at the same time protect the auditor's salary as a number that can't be reduced.

So could I just . . .

The Chair: — Yes. Before you do that though, I think there's a disagreement from the auditor's office regarding where we were in the past. And if I could get Mr. Wendel to comment on that.

Mr. Wendel: — It comes down to . . . I don't think a deferred salary is a privilege of office. It's a salary.

Ms. Lorje: — That's a disagreement that in the past we're trying to get the wording right for in the future. So I think what we should do is listen to the wording that Mr. Paton is proposing, see if we feel comfortable with recommending to the Minister of Finance that that's the wording that we feel comfortable with too.

Ms. Jones: — I don't think it matters whether we're comfortable with the wording. If we agree with the intent of what Mr. Paton is trying to do, and that is to clearly define what is a benefit and what is a salary and what is a privilege of office and how they're protected or not protected in the case of privilege — if we concur with that idea in terms of what shall be paid in total to the Provincial Auditor, I think we should say we concur; you should consult with your legal people and include it in your drafting instructions. That's all we need to do.

I mean you then go to the legislative advisory committee and

then you go all over the place with people nitpicking away at all of these words, so what difference does it really make? As long as we agree with the intent of what he's proposing for the legislation, I'm happy to wait until it gets to a more finalized stage before I actually care what it actually says.

The Chair: — And I think now it's in order, Mr. Paton, if you would indicate what that intent is.

Mr. Paton: — First of all, in regards to Mr. Wendel's comment, I clearly understand that their interpretation of what the salary was, was different than ours, and that's the purpose of what we're doing here.

There's four clauses being proposed within this one section. The first one is that the Provincial Auditor is to be paid a salary equal to the average salary of all deputy ministers and acting deputy ministers. And there's more words that talk about the dates but I'll just leave that out so that we get to the intent.

The second clause is that any benefits or payments that may be characterized as deferred income, retirement allowances, separation allowances, severance allowances, or payments in lieu of notice, are not to be included in the average salary.

The third point is that when the calculation made in pursuant to clause 1 would be less, that the Provincial Auditor is not to be paid less than his original salary.

And the fourth clause is that the Provincial Auditor is entitled to receive any privileges of office and economic adjustments that are provided to other deputy ministers.

So the main difference being here, the definition of what's included in salary and what isn't included in salary. So clause 2 takes out the deferred income, retirement allowances, separation allowances, severance allowances, and payments in lieu of notice. That's the main change. We believe that clarifies the situation and will not result in a problem in the future.

Clearly we had differences of opinion as to what the legislation read before, and that's the purpose why this is coming forward.

Mr. Gantefoer: — Section 3 was the downward protection clause?

Mr. Paton: — That's correct.

Mr. Wendel: — I just have a question on that. Are you now saying then that the retirement provisions and separation things would be a privilege of office, Terry? Is that what your change is doing now?

Mr. Paton: — No. To be clear, the change that we're making is that the salary protection which is provided under clause 1 does not include those other items, Fred. I'm not calling it a benefit of office or anything else.

All we're doing is clarifying that the salary that's calculated on April 1 of each year is a numerical average of all the deputy ministers. Whatever salary they're getting paid is a fixed number. That's the number that provides for the downward protection. Everything else is something else.

I don't want to get into semantics as to whether it's a benefit of office or whatever it is. The government wants to be clear what protection is being afforded to the Provincial Auditor. It's the salary number that's calculated April 1, based on whatever those monthly payments are.

Mr. Wendel: — I think I understand what you're trying to do, but I thought your earlier arguments were this was those privileges of office. That was your interpretation of why the deferred salary shouldn't have continued for the Provincial Auditor. Okay.

And now I'm understanding that it's not a provincial office, so I'm just . . .

Mr. Paton: — No. As I said at the very beginning, I'm not trying to go back and define what was correct or proper and appropriate in the past. We're not having any argument with that as to what was a benefit of office. It should have been or not should have been included for Mr. Strelieff. We're specifically not addressing that issue because we don't want to go back 10 years and start saying, you know, arguments that are not going to get us anywhere. All we're trying to do is fix the future so that it's clear from the Legislative Assembly's perspective what the salary is.

We're not trying to say we're right or wrong or anything else. We're trying to be clear for the future.

Mr. Gantefoer: — Mr. Paton, on that second clause that defines things that are not included in the salary that's in the calculation, those items . . . are those items typically a part of a — and I'm trying to find the right word — a benefit package for deputy ministers or are they, in most instances, not dealt with at all in deputy minister contracts?

Mr. Paton: — My understanding is that these items are not currently included in most deputy ministers' contracts. I'm not aware of that. I could get the confirmation. My understanding is that is not currently a clause. It's one that could be in the future though.

And I think that's what we're looking at, is clearly defining what the salary is. So should any government in the future decide to include that at a point in time and then subsequently remove it, they would remove it for both the deputy ministers and the Provincial Auditor at that time.

Mr. Gantefoer: — So they would be . . . if they were included, they could be considered as a privilege of office, because they would be then part of a compensation package for deputy ministers if those other categories were included and, under the definition of the Act as it's set up now, would not be protected by that downward protection clause.

Mr. Paton: — That's correct.

The Chair: — Any further questions or discussions from either members or Mr. Paton or Mr. Wendel? Okay. Seeing none . . . yes, Ms. Lorje, your . . . (inaudible) . . . still says something.

Ms. Lorje: — It does and I'm debating whether I should bring this up.

What's the situation for the current incumbent? We continue with the interpretation of April 2000?

The Chair: — Are you talking about the acting auditor and what . . .

Ms. Lorje: — Correct.

The Chair: — I would assume that has not been changed and . . .

Ms. Lorje: — Well Mr. Wendel would have been acting for six months now, so I'm making the assumption that Mr. Wendel's salary and package is the same as Mr. Strelloff's. And when the Act changes, then that changes.

The Chair: — That's a good question because I can see by the movement of Mr. Wendel's head, he'd like some comments.

Ms. Lorje: — Yes. Actually I was hesitant about raising it because when you're talking about a person's specific salary, it's a little embarrassing.

Mr. Wendel: — Yes. Yes, my salary is set by the statute at the moment. I don't have a deferred salary clause because that doesn't exist, and that's my salary.

Ms. Lorje: — Okay. Then that's not an issue.

The Chair: — Thank you. I'm struggling with this. Mr. Paton, as you've indicated sort of the general direction or the intent of the legislative changes, and we've talked about this need to clarify salary and benefits, and I'm wondering what can we have within our minutes as consensus and agreement on this whole issue? Is it your wording? Is it the fact that salary and benefits need to be clarified? What kind of things are we saying?

Mr. Paton: — Mr. Chairman, what I would be looking for is the committee's general concurrence with recommendation 21 by the advisory committee that the definition of salary be clarified. The discussion of these items are in the verbatims and you could expect that what we've talked about today would be reflected in the Act when it comes forward.

The Chair: — Okay. So if indeed you have reached the point of making a decision, maybe it is recommendation 21 because it clearly states that there should be a change and that salary be clarified in legislation.

Any further discussion before we note the committee's agreement or lack thereof?

Mr. Gantefoer: — Let's leave all these agreements until we get to the right time.

The Chair: — Are we going to go right back over every point again?

Mr. Gantefoer: — We're not . . . we're not going to . . . I would hope we're not. No, I would hope we're not going to discuss them all. But, Mr. Chair, with all due respect, this is all part of the package of what we were going to discuss about the process

for hiring a Provincial Auditor. And this is a useful process at this stage.

But I submit that what we should be doing is . . . Mr. Paton's point is well-taken because when we go into committee, the auditor and the comptroller aren't going to be here, and there were three issues that we want to discuss, and we're doing that.

I think we should move on to the third issue of qualifications, and then I think we should follow the process we agreed to this morning, which is going into camera, following this together, and out of that is going to come a comprehensive recommendation about what this committee wants for . . . (inaudible interjection) . . . Well exactly. I mean what we're ending up with is a bunch of sort of piecemeal stuff that we've got to pull together in some fashion afterwards anyway.

The Chair: — Thank you for those comments, Mr. Gantefoer. I agree with you.

Mr. Trew: — Yes. Just to support that's the process that we'd agreed to and we're just seeking information now, and I think . . .

The Chair: — Let's move forward to recommendation no. 22.

Ms. Lorje: — Noting that we feel quite comfortable with 21.

The Chair: — Oh yes. The committee recommends that legislation be amended to expand the qualification requirements for appointed auditors, including the auditor of the accounts of the Office of the Provincial Auditor, to include all professional accounting groups regulated by an Act.

And I know we had some discussion on this and I think there was some explanation as to what existed now and what this proposes. And I guess, Mr. Paton, and Mr. Wendel, I'd appreciate it if you would re-educate me and maybe others. I'm not sure — probably everybody else understands except me. So could you . . .

Mr. Wendel: — I think one of the items that Terry had brought up earlier was the qualifications for the Provincial Auditor, and the advisory committee and our office agree that the Act should remain the way it is. At the moment you're required to be a chartered accountant to be the Provincial Auditor. There was some discussion at this committee the last time on that.

The Chair: — Mr. Paton, I believe that that . . . you know you're looking at changes to the Act, legislative changes, which are different than what the auditor's proposing. Yes or no?

Mr. Paton: — Well the first thing, Mr. Chairman, I apologize because this is not one of the items that your committee should be talking about today based . . . what Mr. Wendel said. This is the qualifications of appointed auditor and the office of the auditor, of the Provincial Auditor. What I thought this was referring to was the qualifications of the Provincial Auditor himself.

Mr. Wendel: — That's what I was talking about. Our recommendation no. 11 and your recommendation . . . the advisory committee's recommendation no. 29, which was that

there was no change required to the . . .

Mr. Paton: — That's right.

Mr. Wendel: — I thought we had an agreement.

Mr. Paton: — We do. I apologize for asking the committee to look at 22 at this time. That's incorrect.

Ms. Lorje: — It's 29 we're looking at.

Mr. Paton: — It's 29, and we're in agreement with the Provincial Auditor's office on that.

The Chair: — I appreciate you saying that that was not the Chair's fault. Thank you. Twenty-nine as clarified by Mr. Wendel in The Provincial Auditor Act is recommendation no. 11, and both are saying no changes, and there is consensus there.

Ms. Lorje: — We're moving towards consensus here. Committee members are probably also agreeing with the Provincial Auditor and the controller on this one, but we're not making any final decisions.

The Chair: — Are there any other sections of either the proposals that are put forward by you, Mr. Wendel, or by you, Mr. Paton, that would assist the committee to reach their decisions later on?

Mr. Paton: — The only other comment I might make for you before you go in camera was when Mr. Gantfoer was talking about the fact that these items that you're talking about aren't in legislation and the committee doesn't have the power to do some of the things that they're talking about.

Currently the budget of the Provincial Auditor is reviewed by the Board of Internal Economy. That's an item that is not currently included in the Act. In other words the government has chose to follow what they see is an improved process, and they allow the auditor to speak to the Board of Internal Economy on his budget. That would be not included in the current Act.

So when you're going forward, I think that if you were to start a hiring process or a process for selecting a new Provincial Auditor that's consistent with the way that the legislation sits — I understand that the law currently doesn't provide it, but I'm not sure if it wouldn't specifically prohibit some way of moving forward in the near future.

Mr. Gantfoer: — A question to the controller. That if . . . not if . . . when we make recommendations later this day as to the process that we are recommending, would we require to direct a letter somewhere — to the Minister of Finance if that's who currently makes the appointment — asking if this process be approved, to get some authorization and, you know, recognizing that it isn't currently in the legislation so that there would have to be some tacit approval or whatever.

Because it would seem to me that we would need some authority to proceed under our recommendation. Otherwise we've got to wait until the Assembly meets and then really

nothing could happen until the Assembly would do it. Is there something of that nature that would be appropriate so that this could move forward?

Mr. Paton: — Yes, Mr. Chair. I think that would be appropriate to send a letter to the minister outlining the fact that you've reviewed certain portions of these recommendations, and which ones you agree with, and wanting to move forward on the selection process. I think that would be most appropriate.

The Chair: — Okay, thank you. Any other questions or comments?

Ms. Lorje: — Are we going to deal with Provincial Auditor recommendation 7/audit advisory committee recommendation 4 today? That's budgets, their money.

You don't think that they might want to know whether or not they go to the board of blessed infernal economy or to us.

Ms. Jones: — Be nice.

Mr. Gantfoer: — Well I'm not suggesting for a minute that we're not going to deal with these other issues but I don't think it's necessarily tied to it. The hiring process is a process. And further clarification of the auditor's Act is something that's going to go on irregardless and needs to be done.

Ms. Lorje: — Okay.

The Chair: — I would entertain a motion to move into camera. Mr. Wartman.

And that would be for the balance of the day to reconvene this committee at 1:30 tomorrow afternoon. Any discussion . . . well, no discussion on a motion to go into camera. All those in favour? Opposed? Carried.

The committee continued in camera.

The committee adjourned at 4:10 p.m.