

Fifth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Leonard Derkach
Constituency of Russell

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

Thursday, December 14, 2006

TIME – 9 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Leonard Derkach (Russell)

VICE-CHAIRPERSON – Mr. Jim Maloway (Elmwood)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Gerrard, Selinger

Messrs. Aglugub, Cummings, Derkach, Hawranik, Lamoureux, Maloway, Martindale, Santos, Schuler, Swan

APPEARING:

Hon. Jim Rondeau, MLA for Assiniboia

Mr. David Faurshou, MLA for Portage la Prairie

Hon. Christine Melnick, MLA for Riel

Hon. Scott Smith, MLA for Brandon West

Ms. Bonnie Lysyk, Deputy Auditor General and Chief Operating Officer

Mr. Hugh Eliasson, Deputy Minister of Competitiveness and Training, Department of Competitiveness, Training and Trade

MATTERS UNDER CONSIDERATION:

Examination of the Crocus Investment Fund, May 2005

Environmental Audit – Review of the Province of Manitoba's Management of Contaminated Sites and the Protection of Well Water Quality in Manitoba, dated November 2005

Follow-up of Recommendations made in our August 2003 Report, An Examination of Le Collège de Saint-Boniface, dated July 2005

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Mr. Chairperson: We'll call the committee to order, please.

Good morning, ladies and gentlemen. This meeting of the Standing Committee on Public Accounts has been called to consider the following Auditor General's reports: *Examination of the Crocus Investment Fund*, May 2005; the Environmental Audit – *Review of the Province of Manitoba's Management of Contaminated Sites* and the *Protection of Well Water Quality in Manitoba*, dated November 2005; and *Follow-up of Recommendations made in our August 2003 Report, An Examination of Le Collège de Saint-Boniface*, dated July 2005.

Also, I'd like to note that Mr. Lamoureux will be sitting in for Dr. Gerrard today.

Are there any suggestions from the committee as to how long we should sit this morning?

Mr. Jim Maloway (Elmwood): Mr. Chairperson, I would suggest we rise at 11 o'clock.

Mr. Chairperson: The suggestion has been made that we rise at 11 o'clock. Is that agreed? *[Agreed]*

Are there any suggestions regarding the order in which we should consider the reports?

Mr. Gerald Hawranik (Lac du Bonnet): I would suggest that we first do the *Follow-up of Recommendations made in our August 2003 Report, An Examination of Saint-Boniface Collège*, dated July 2005, and then move on to the Environmental Audit and conclude those particular reports by 9:30.

Mr. Chairperson: By 9:30, is that agreed to? *[Agreed]*

Just before we get started, I would like to bring up an issue that becomes a bit of a concern for witnesses being called forward. Although we call reports, we do not often indicate which ministers, which staff people we want, or which deputies we want to come forward for questioning. So would it be agreeable to the committee that the opposition, who usually will call for these witnesses, make that request to the Clerk's office, who will notify then the individuals who will appear before committee and, once that is done, that will also be posted in the

standing committee summary which all of us receive from the Clerk's office. Agreed? [*Agreed*]

Thank you.

All right. We'll now proceed with the report on Le Collège de Saint-Boniface.

Mr. Andrew Swan (Minto): Just to return to the previous point, the agreement then, is that the request for which minister and which deputy would attend will then be made to the Clerk's office. Is that what we just agreed to?

Mr. Chairperson: That is correct. The reason for that is that the Clerk's office will then notify each of the ministers' offices and the deputies' in terms of who the opposition in this case wish to have appear before the committee. That will also then be posted on the summary sheet.

I need a minister sitting in the chair for the post-secondary.

In speaking with the House Leader, there was perhaps a bit of confusion regarding this, but let me point out that this is just within the rules that we have already. We're not changing any rules here at all. All we're doing is posting the people, the deputies and the ministers who are going to be called forward so that there's no confusion when we get to a meeting that the right people aren't at the committee. That's all this is for.

Let us proceed then with the report of the Collège de Saint-Boniface, dated July 2005. Does the minister have an opening statement? The minister does not.

Does anybody from the official opposition have an opening statement? If not, then I will just proceed with the questions if there are any.

Are there any questions? If none, then I will ask the question: Shall the Auditor General's report, *Follow-up of Recommendations made in our August 2003 Report, An Examination of Le Collège de Saint-Boniface*, dated July 2005, pass?

Some Honourable Members: Pass.

Mr. Chairperson: The report is accordingly passed. Thank you.

Let us turn our attention to the *Review of the Province of Manitoba's Management of Contaminated Sites* and the *Protection of Well Water Quality in Manitoba*, dated November 2005.

Does the minister have an opening statement?

Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines): Yes, Mr. Chair, I do. Just a very quick one.

Mr. Chairperson: Proceed.

Mr. Rondeau: I am pleased to be here to talk about the work my department has undertaken to address this issue and the issues of both orphaned and abandoned mine sites in the province. As you understand, there are 149 mine sites identified as orphaned or abandoned for which the Province is responsible. Five are really considered as the high risk. That's Loon Lake, Sherridon, God's Lake, Snow Lake and Baker Patton. The remaining 144 are considered low risk or medium risk. One of the things that was asked was when the report was going to be done. A consultant's report on the inspection and assessment of the 144 medium and low sites is expected by the end of December 2006. We have a preliminary looking-at, but now we're going to get a report by December 2006 which is faster than it was recommended. Investigations and initial rehabilitation work has been carried out at all of the five high-risk sites and long-term rehabilitation plans are being developed for all 149 sites right now.

* (09:10)

In March 2006, we established a \$70-million environmental liability account earmarked for the rehabilitation of these mines. This account provides for funding for our agreement with Viridian to share the rehabilitation costs of the East Tailings Management Area, the former Lynn Lake mine. This is going to be 50-50 for part of these tailing sites. Viridian is coming up with about \$30 million, and we're coming up with the other \$30 million.

We began acting on the orphaned/abandoned mine site remediation in 1999 when we introduced the mine closure regulations and ensured that closure plans and financial security are in place before the permit is granted to operate a new mine. In 2000, we established the Orphaned/Abandoned Mine Site Rehabilitation Program to address public safety and environmental health concerns.

The orphaned/abandoned mine site database has been developed and will be available on both the department's and the national orphaned/abandoned mine site Web site initiatives so it's public information. People know what we're doing in real time as to each of the sites and the progress that's made. The department will regularly review and

update the status of the orphaned and abandoned mine sites to prioritize rehabilitation activities and prepare an annual expenditure plan for approval.

Since the year 2000, under the Orphaned/Abandoned Mine Site Rehabilitation Program, the departments of Conservation and Science, Technology, Energy and Mines have committed over \$6 million to carry out health and environmental risk assessments of high-priority sites and rehabilitation work, so that there is real money being spent in the field now to do real activities. The work completed includes capping and closing off open mine shafts, dike repairs, fencing repairs, new fencing, demolition and clean-up of sites, site inspections, investigations, environmental monitoring, and preparation of long-term remediation plans.

We actually are a leader in the rehabilitation of orphaned and abandoned mines, and our programs, partnerships and community involvement in funding and issues have really taken a lead in the country. We also support the rehabilitation of orphaned and abandoned mines through our participation in the NOAMI, which is, Mr. Chair, the National Orphaned/Abandoned Mines Initiative. They actually had a conference here, and it was very, very successful. NOAMI is a co-operative partnership with the Canadian mining industry, federal, provincial and territorial governments, environmental non-governmental organizations and First Nations talking about where we need to go on clean-up of mines. It was nice to attend that conference, be part of it, and host it here in Manitoba at the Viscount. That happened in just 2006, the best-practice workshop that I was talking about. We met, developed a tool kit of best practice to address the legacy issues and how we can move forward systematically.

So we have made real progress to date. There's still a lot of work to be done. The problem started many, many years ago, but what we are trying to do is move forward proactively, move forward to make sure that we clean up this issue. I have looked at the Auditor General's report and am moving forward expeditiously to get all those issues done. Thank you.

Mr. Chairperson: Thank you, Mr. Minister.

Does the critic have an opening statement? No. We'll proceed to questions then.

Mr. David Faurshou (Portage la Prairie): I appreciate the minister being here today. In his opening remarks, he mentioned that in the Lynn

Lake clean-up, \$30 million would be the responsibility of the Province. Could the minister be specific as to where the \$30 million is coming from?

Mr. Rondeau: Lynn Lake is going to be a total of about \$60 million, Mr. Chair. Thirty million dollars: what we did was we signed a deal with Viridian to do a 50-50 cost share. Some of the other parts of Lynn Lake are totally responsible for companies operating there, some are a provincial responsibility, but the whole cost is \$60 million. That is knocking down the frames, doing the cappings, doing the diking, clean up the water, building an artificial wetlands, all that. That's where the money is going to be spent.

Mr. Faurshou: I heard that in the minister's opening remarks, but very specifically the statement was made that \$30 million was going to be a provincial responsibility. Where are the monies coming from? Perhaps you could just explain to the committee as well the current status of the mining rehabilitation fund, dollar-wise. And please be short; we have a very small amount of time this morning.

Mr. Rondeau: Right now, Mr. Chair, it's \$66 million that the fund is sitting at. There has been some money spent for Baker Patton, \$4 million, approximately, in cleaning up that site, so there is just the monitoring in that site. So it is about \$66 million right now.

Mr. Faurshou: So is this where the \$30 million for Lynn Lake is coming out of?

Mr. Rondeau: Yes.

Mr. Faurshou: In the Auditor General's report, it is very specific that your department is to submit an annual report to the Comptroller's office of the Department of Finance. I believe you did state in your opening remarks that that is on track.

Mr. Rondeau: Yes, it is, Mr. Chair. We're expecting an annual report.

One of the things that we are waiting for, now, is the whole report from the 144 low- and medium-risk sites so we can include a more comprehensive report. Rather than giving a report that says virtually nothing, it is better to have a report with all the data, or as much as possible. So I am anticipating that sometime in the new year.

Mr. Faurshou: Just to be clear on this, you are going to be in compliance with the Auditor General's recommendations in much shorter order than the Auditor General had at first anticipated?

Mr. Rondeau: Yes, one of the things when I became Minister of Mines, I looked at this environmental issue that's been left, in the case of the Sherridon-Cold Lake, since 1953, 1954, it's a long time. It's a blight on our environment. So, as a government, we chose to move forward expeditiously on this. Even the time lines from the Auditor General, we are hoping to do much better than. So we anticipate a report, and this is from the environmental company that's doing it, they are saying December 2006. I wouldn't put total on that, that's what they're shooting for, but I would say early in the new year they are going to have the report. We're going to have a go-forward plan. It's going to be made public on the Web site.

Mr. Faursehou: That concludes my questions on the beginning of the report.

I'd like to move to Water Stewardship, Mr. Chairman. Oh, my apologies. I yield the floor to the honourable colleague from Inkster.

Mr. Kevin Lamoureux (Inkster): Just a couple of very quick questions to the minister in regard to this: I understand that there was a warning from Environment Canada regarding some allegations of violation of federal legislation with respect to abandoned mines. Can the minister indicate as to when the department would have received those warnings?

Mr. Rondeau: Mr. Chair, I believe they were two years ago. What is interesting about it is they have all been taken care of. All the issues of the leakage of the mine tailings have been taken care of. All the sites have been remediated. The interesting part is the dikes are now fixed up and, actually, we are talking about putting in an artificial wetlands to make sure any of the ground water gets properly looked after, totally.

Mr. Lamoureux: Is it possible to receive or table the letters that would have been received from the Department of the Environment?

Mr. Rondeau: I don't have the letters; I'm sorry. I don't have the letters with me. I don't know which part of government would. I can endeavour to get them to the member. The only other thing that, the letters, that might be interesting is we also wrote to the federal government to see if they could help out with the environmental liability in Sherridon-Cold Lake, because the mine started under their watch before Manitoba was responsible for the natural

resources. So we can endeavour to get all those letters to you.

Mr. Lamoureux: Then, finally, in terms of the costs of damage control, or fixing the problem, I should say, in regard to Lynn Lake and Kississing Lake, my understanding is that you are somewhere around \$150 million for one and closer to \$200 million for another. Can the minister just give some sort of indication what it is going to cost for us to fix up those two areas?

Mr. Rondeau: What we have is we have a breakdown of all the sites. Basically, it's about \$112 million, from what I understand. But what we have is we have a cost there. We do have deals, like with the Viridian deal, where you might have \$60 million spent, but part of that goes to Viridian, part of it goes to us.

* (09:20)

So, in today's dollars, that \$66 million that's in the abandoned mines should cover it. One interesting thing, though, is because we're getting all the reports from the engineers, and they are talking about exactly how much was going to be spent and they're coming up with a plan and how we're moving it, we expect this year to have the go-forward basis. We have until 2009 to redo this environmental account to see whether it is \$66 million or more or less. So, when we come up with the engineering plans, then we can actually move that figure if we need to. So far the base plans have all been within the first estimate that the department said, which is the \$66 million that's left.

Mr. Lamoureux: The final question is, can the minister give Manitobans, to the very best of his ability, what is going to be the maximum cost to the province in cleaning up those two projects?

Mr. Rondeau: What I will endeavour to do is when the environmental plan comes, and we've actually been into Lynn Lake, we've been into Sherridon, to provide the plan, the costing, the participation of local people. We actually do that in public in those communities. We're not doing this quietly. So what we're trying to do is make it public, and that will be public. That will be part of the plan. This is what it's going to cost. This is our anticipated cost.

One of the things you can never do is foresee what will happen in the future. Some of the abandoned sites that are medium or low risk were cleaned up to the best of the environmental standards of the day. Now, 40 years, 30 years, 50 years later,

we go back to the site and say, oops, that's not good enough. Okay. You need to go back there and do it better.

So what we have is we have the best standards, environmental standards, and what's appropriate today, trying to turn it back to original forest, trying to turn it back to original use. But I can never predict what's going to happen 50, 100, 200 years from now. We're going to bring it up to standard today. We're going to bring it up so that we fix up the sites to the standard today, but I can't predict what's going to happen in 50 or a hundred years.

Mr. Chairperson: Thank you, Mr. Minister.

Mr. Faurshou: One final question: The minister alluded to the \$66 million and that he was satisfied that that fund is sitting at an appropriate level, or is the Finance Minister going to demand that that fund increase, and should our mining community expect significant increases to bring that fund up to further cover additional or anticipated demands?

Mr. Rondeau: Mr. Chair, everything's come in within or under the original estimate so far, so unless there are unforeseen circumstances, this should cover it quite well. As I said, I also wrote to the federal government to say that we hopefully can get partnership to have them clean up what we hope would be their role in the environmental issues in Sherridon-Cold Lake. If we get to cost-share that, we might actually have too much money in the mining liability account. We're not too sure. So the \$67 million is a very good guess.

We have engineering firms doing a clean-up plan with costing now. They're going to present that very early in the new year. They're going to be presented to the community. Once they're presented to the community, then they'll be accepted, and I don't anticipate a lot of movement from there.

Mr. Chairperson: Thank you, Mr. Minister.

Does that conclude the questions on this report?

We will ask the Minister of Water Stewardship to take the chair, please.

Mr. Rondeau: No more questions?

Mr. Chairperson: Thank you, Mr. Minister.

Mr. Rondeau: That was easy.

Mr. Chairperson: We are joined by the Minister of Water Stewardship.

Does the minister have an opening statement?

Hon. Christine Melnick (Minister of Water Stewardship): No, I do not.

Mr. Chairperson: Thank you. We're open for questions.

Mr. Faurshou: I appreciate the minister being present this morning.

There are a number of considerations and concerns emanating from the report. Perhaps, though, the minister could just update us at the present time as to the number of boiled-water orders issued out of the department currently, the number of Manitobans that are affected by these orders. The AG's report had stated 40. I believe there are more than that number today.

Ms. Melnick: Yes, thank you for the question, and I'd like first to introduce the deputy of Water Stewardship, Gerry Berezuk.

To update the committee on actions that have been taken subsequent to the time frame of the report, I'll just quickly go through a couple of things that our government has done.

First of all, we established the Department of Water Stewardship. We have also brought in the strongest legislation of its kind in Canada, The Drinking Water Safety Act. We have created The Water Protection Act and brought that in. We have passed amendments on The Ground Water and Water Well Act. We've established the Office of Drinking Water and hired 12 drinking water officers.

Regulation, certification and training of all water and wastewater treatment operators is underway. We've completed a tender for the process of bacteriological testing using a very rigorous process there. Testing is going on now in schools, hospitals and seniors residences as well as child care centres. This is being brought in incrementally. We've provided a subsidy for private well testing: 70 percent for regular testing and 100 percent when there are situations where we believe water would be at risk; for example, in 2005 with the flooding that occurred. The Environmental Act has been strengthened to require all installers of on-site wastewater management systems to be certified. We've strengthened the on-site sewage and wastewater disposal regulations putting stricter limitations on the location and installation of sewage system and septic fields.

The Lake Winnipeg Stewardship Board has been established. The Lake Winnipeg Action Plan has

been announced, and we're working on that. Sixteen inspectors have been hired to enforce new manure and mortalities regs. Over \$100 million has been invested in drinking water and sewage infrastructure throughout the province of Manitoba, and more than a million dollars has been committed to new water stewardship initiatives for Lake Winnipeg.

We also ran consultations and recently released our draft regs on the water quality management zones, otherwise known as the nutrient regs. We've created a riparian areas tax credit; completed extensive diking wherever needed, particularly in the Lake Winnipeg area; introduced a very successful program, the Clean Beaches Program which we understand has been very successful; and we've hired a well driller inspector liaison who works directly with the drillers. As well, our departmental Web site was established, is up and running and provides fact sheets on well water, well water testing, contamination, et cetera. We also distribute throughout the province through various distributors such as our offices, municipalities, et cetera, over 10,000 hard copies of the fact sheets.

So, getting back to the specific question of the boiled-water advisory, the total number of advisories right now is 59, and I'll give you a bit of a breakdown on that as well. From those numbers we could roughly calculate how many Manitobans would be affected. Manitoba has 390 public water systems; all are being regulated and monitored. Of those 390, three are under boiled-water advisories. For populations of over 500 there are three advisories on public waters. For populations of less than 500, there are 22.

Manitoba has 1,500 semi-public water systems of which 21 have advisories, and advisories on communities using private wells would be nine. Advisories on aquifers such as communities that now have installed municipal infrastructure and advisory remains for the limited number who continue to use the ground water source, there are four.

Mr. Faurchou: Thank you for the minister's response. The total number, there was 40 at the commissioning or the presentation of the report. Is there now 58 by my calculations that you—in addition?

* (09:30)

Ms. Melnick: The boiled-water advisory list is a living list. There are communities that move on, communities that move off; 40 have moved off, and

currently there are 59. A number of these are currently working with the Water Services Board, if they're public systems, to better their water systems. As you look through the list, several of the boiled-water advisories would be for campgrounds, some cottage areas. There could—

Mr. Chairperson: I'm sorry to interrupt proceedings. It is 9:30. I want to thank the minister for her response.

Mr. Swan: I wonder if you would canvass the committee to see if there is any desire—if Mr. Faurchou or Mr. Lamoureux expect that they'll be finished the questions soon, it would be great to complete the questioning in this report and pass the report if we're talking about five or 10 minutes.

Mr. Chairperson: I'm just watching the heads shaking. It looks like there's no will to do that. Is that correct?

An Honourable Member: Correct.

Mr. Chairperson: So the report will not pass today, and we will move on to questions on Crocus. Thank you, Madam Minister.

Now I will ask the minister responsible for Crocus as well as the deputy minister responsible for Crocus to come to the table, please.

While we are waiting for the minister, I would just like to clarify something for the committee's sake. When we agreed that we would have the Clerk's office notified regarding the witnesses, I just want to clarify that this is just the witnesses that are going to be asked are those who are within the rules. In other words, the rules, I think, spell out which witnesses are eligible to be called forward. I would ask that the opposition then would do this in writing just so that there's a record of it. Thirdly, that, if at all possible, we would notify the Clerk's office at least 24 hours prior to the meeting. In that way it gives the opportunity to post those names on the standing committee summary sheets.

That was just for clarification.

We move now to the report on Crocus and the continuation of the questions on the Crocus file. We will dispense with opening statements, and we'll go directly to questions.

Mr. Hawranik: I refer again to page 145 of the Auditor General's report, to the e-mail in January '02 that was directed from a Finance official to a number of industry officials which indicated that Crocus's

continuing request for legislative amendments were—may be a sign of management issues and an independent review of Crocus's operations may be in order. The Deputy Attorney General at the last meeting indicated that during the course of an audit lots of documentation is accumulated and conclusions are based not just on documents in the report. She indicated that chances are there was other supporting documentation.

So I ask the Deputy Auditor General whether she could detail what other supporting documentation was found to support that there were management issues at Crocus and an independent review was necessary or may be in order.

Ms. Bonnie Lysyk (Deputy Auditor General and Chief Operating Officer): During the course of audits, we accumulate a lot of documents and various forms, memos, correspondence, e-mails, draft documents, et cetera. In the report, when we write up a report, we may cite a couple of documents as examples. So, hence the comment that there are other documentations that we accumulate during the course of an audit that we don't refer to in the report specifically. So, in terms of the conclusions we've reached in the report, we do have audit files that contain documents that have a lot more detail than what we have in the report, but that's common.

Mr. Hawranik: With respect to that supporting documentation that was found, other e-mails and correspondence, can the Deputy Auditor General indicate whether or not any of that was coming from or directed to a minister?

Ms. Lysyk: I mean, that whole section, the sections in the report that deal with the knowledge around the monitoring of the Crocus Investment Fund, is based on a series of documents. It does discuss the knowledge around the Crocus Investment Fund and the fact that information, with respect to liquidity, pacing, eligibility, a number of items were discussed and known within IEDM and the Department of Finance. There would have been discussions through all levels.

Mr. Hawranik: All levels, meaning it would have been within the knowledge of ministers, say, Minister of Industry or Minister of Finance?

Ms. Lysyk: At various points in time there would have been discussions and correspondence to that level, yes.

Mr. Hawranik: Was it as early as 2001?

Ms. Lysyk: Yes.

Mr. Hawranik: Was it a continuing knowledge after 2001, as well? I take it from some of the responses by the Deputy Auditor General last meeting was that it seemed to be starting as early as 2001 and continued on. Was that knowledge within the minister's office during all that period of time?

Ms. Lysyk: I believe there would have been various points of communication between administration and the various ministers' offices during the period from there up to the stop share trading.

Mr. Hawranik: The e-mail from Finance to Industry in January '02, it was indicated that there was a cc to Finance. Was that cc to the Minister of Finance?

Ms. Lysyk: No.

Mr. Hawranik: Did the e-mail that's referenced in the report raise the issue of liquidity at Crocus?

Ms. Lysyk: That particular e-mail, no.

Mr. Hawranik: The Deputy Auditor General indicated that as early as 2001 and, perhaps, even sooner, there was documentation within Industry and Finance that indicated there was an awareness of liquidity issues around Crocus. Can the Deputy Auditor General indicate what kind of documentation there was?

Ms. Lysyk: There were various correspondences between the Crocus organization and the Province that dealt with liquidity in the sense of changes requested to legislation, as well as a discussion around eligibility of investments. So it would have taken the form of correspondence, as well as internal documentation that would be normal in the course of business.

Mr. Hawranik: My next set of questions is to the deputy minister. At the last Public Accounts meeting, the deputy minister indicated that from 2001 and on, and it was during the time I believe that he was the deputy minister in that department, Crocus was advocating for legislative changes, indicating that the Auditor General's report indicates the potential legislative changes, and that was directed to potential liquidity issues, the legislative changes were directed towards potential liquidity issues. He also indicated that the Department of Industry was in frequent discussion with Crocus on how to deal with redemptions at that report.

So I ask the deputy minister: Did you ever ask for a redemption plan from Crocus?

* (09:40)

Mr. Hugh Eliasson (Deputy Minister of Competitiveness and Training, Department of Competitiveness, Training and Trade): Crocus requested a variety of legislative changes, some of which were administrative, some of which dealt with more substantive issues of policy. Their requests around the pacing issue would fall into the more substantive area of policy, and in and around that there were several discussions on how Crocus planned to deal with their redemptions on a go-forward basis. Their preference was, and they continually sought changes to the pacing regime which would make the pacing and maintenance test in Manitoba similar to the one that exists in Ontario, where it's simply a maintenance test. There were discussions around at what level that maintenance test might be. In and around those discussions, the alternatives that they had on dealing with redemption issues were to adopt a more aggressive divestiture program. They had, in their history prior to when they ceased trading, examples of very successful investments that they had exited from. They, at times, would look to the changes to legislation to deal with redemption issues, and, at other times, they expressed their confidence in their ability to divest at a sufficient pace to meet redemptions.

So there were discussions around that. There was no specific redemption plan. They talked about a policy of 15 percent, and I am going by memory here, but some percentage of their portfolio that they would liquidate on a regular basis that would provide sufficient funds for them to meet their redemptions. It is a very difficult area to forecast because there are several factors that go into redemptions. It is shares that are redeemed and so the value that the fund is trading at, or being sold at, at a particular point in time, obviously, has a pretty significant impact on the overall amount of money that is required to meet redemptions. The number of shares that are eligible to be redeemed, 100 percent aren't presented for redemption. It is a high percentage, but it is not 100 percent. Then, when you look at particular companies to exit, then you would have to forecast what the market value of those companies would be at a future point in time to determine how much money was raised from liquidating any particular investment.

So there are a number of factors that would go into that kind of analysis, and it would be very difficult to look several years forward to put precise numbers around what companies would need to be

liquidated and at what prices in order to meet redemption.

Mr. Hawranik: What was generally acknowledged, and I believe you mentioned it as well as the deputy minister, that Crocus certainly had liquidity issues as early as 2001. It was discussed, it seems, at the highest levels from at least 2001. Did you ever think it was necessary to ask Crocus for some sort of long-term redemption plan.

Mr. Eliasson: I think saying it was generally acknowledged that Crocus had liquidity problems in 2001 is not a statement that I would support. It was quite evident that, following the whole period, shares could be presented for redemption and that the biggest sort of challenge that they had would have been in the years 2007-2008, I think. So there was the necessity to ensure that there was a plan in place in dealing with that. Those issues weren't presenting themselves in 2001, to our knowledge.

Mr. Hawranik: When did they present themselves?

Mr. Eliasson: You know, we were in discussion with Crocus through the entire period on ways in which they would deal with the redemption issues when they arose. To my knowledge, Crocus never failed to meet a legitimate request for redemption right up until the point when they stopped trading in December of 2004.

Mr. Hawranik: You indicated that there were frequent discussions with Crocus about liquidity issues that they had. Was any minister present during those discussions?

Mr. Eliasson: I don't recall being present at a meeting where Crocus discussed liquidity issues with ministers.

Mr. Hawranik: I refer to page 145 of the Auditor General's report. It indicates that an account manager within Industry was asked to review the compliance package received on March 5, 2001, as early as 2001, and noted that Crocus had calculated its pacing requirements based on sales and net of redemptions. It also indicates that in January '01, a senior account manager within Industry with a background in accounting reviewed information provided by the fund, and the manager observed that unless Crocus divested sufficient investments to fund redemptions they would run into liquidity problems as early as 2002-2003. Doesn't that statement indicate that in Industry, in January '01, there were concerns about liquidity?

Mr. Eliasson: I think I've said clearly that the department was in discussion with Crocus on their strategy for redemptions. The analysis that is referred to in the Auditor's report was a very cursory analysis, and I think that the conclusion that unless they had sufficient divestitures to meet redemptions is accurate.

Mr. Hawranik: The frequent discussions with Crocus about liquidity, at least the results of those discussions, were they shared with any minister?

Mr. Eliasson: The discussions around the legislative changes that Crocus was pursuing that dealt with policy, and that would have been changes to the investment pacing and the maintenance test, if those changes had been made in accordance with what Crocus was pursuing, that would have represented a fairly significant shift in the government's policy towards those funds.

The tax credit was being provided to encourage a level of annual investment in eligible companies, and that's what the 70 percent pacing test was designed to do. If the pacing test was eliminated and there was a maintenance test, then that would be quite a significant shift in the tax credit incenting the maintenance of a level of Manitoba investment in companies, but it wouldn't have been encouraging the same level of continuing investment. So any change in policy would be a subject of discussion with ministers.

Mr. Hawranik: Considering that the Deputy Auditor General indicated that, as early as 2001—and that's obviously right in the report—it indicates that a senior account manager within Industry, who had a background in accounting, observed that Crocus would run into liquidity problems as early as 2002-2003. So it seemed to be that there was an official within Industry who knew that there were liquidity problems and there were liquidity issues with Crocus. The Deputy Auditor General indicated that as early as 2001, perhaps even sooner, there was documentation within both Industry and Finance that indicated there was an awareness around liquidity issues around Crocus.

Considering that that information was available, and liquidity certainly is an important and material issue with Crocus and with any investment fund, wasn't it important to tell unitholders that liquidity was becoming an issue with Crocus?

Mr. Eliasson: Crocus filed an annual prospectus that clearly outlined the risks associated with the fund,

and that's the vehicle by which communication with shareholders occurred.

Mr. Hawranik: Clearly, the department knew that there were liquidity issues as early as 2001. We've heard the Deputy Auditor General say so. We've got it right in the Crocus report. Certainly, that's something. Wouldn't liquidity be a material change in circumstances to any investment fund that it would be necessary to report to the public?

Mr. Eliasson: Crocus's responsibility for reporting to the public occurred through their annual prospectus and their audited financial statements that were available to every investor in the fund.

* (09:50)

Mr. Hawranik: Don't you have a duty as a deputy minister, or doesn't the ministry have a duty, if they know that there are problems, liquidity problems at Crocus, and they may not be able to meet their redemptions on time, and that that would affect the value of their shares—doesn't the deputy ministry or the ministry have a duty to report that to the public?

Point of Order

Mr. Chairperson: Point of order, Mr. Swan.

Mr. Swan: I haven't objected to any of Mr. Hawranik's questions to this point. I think this does cross the line into a question of policy.

Mr. Eliasson, I think, has done a pretty complete job of explaining what his department did. But I would suggest this question is going well into policy. It is a question that can be asked of the minister. I'd suggest, perhaps, Mr. Hawranik can rephrase his question or ask it a different way so we can keep going.

Mr. Chairperson: On the same point of order, Mr. Lamoureux.

Mr. Lamoureux: Yes, Mr. Chairperson, I am listening very closely, and I think that the member from Swan River does not have a point of order. We would like to continue to listen to the line of questioning—I'm sorry, the Member for Minto. I think it is, indeed, in order and most appropriate.

Mr. Chairperson: On the point of order, let me begin by asking the committee to be at least mindful that sitting in front of the committee we have witnesses who are professionals. These are people who will discern whether a question is out of line or not within their profession and can, at any point in time, I guess, offer no answer or simply indicate that

the question is one which is outside of their purview and their responsibility.

This is a serious committee. It is an accountability committee, and I ask that we be careful with regard to raising these types of points of order because they do then deflect from questions that are being asked.

But it's a difficult thing to rule on. I acknowledge the fact that there is some sensitivity here and I thank Mr. Swan for raising the issue. Once again, I'll ask those who are asking questions to ensure that, as closely as we can, we have those questions directed to the appropriate personnel. If, in fact, a question is one that is of a policy nature, in this case, the deputy minister or the Auditor General's department can indicate that in their response and then we'll move on from there.

So, with that, I would say that this is not a point of order but, indeed, a point of caution that we should all be mindful of, and I thank the committee.

* * *

Mr. Hawranik: Well, perhaps we'll come back to that line of questioning a little later, but, in any event, there are still a couple of questions to the deputy minister that I would like to ask. I would like to ask the deputy minister whether he was a Crocus board member in 2001, I believe from January to June. Could he confirm that for me?

Mr. Eliasson: I was a Crocus board member from April of 2000 to April of 2001.

Mr. Hawranik: During that, till April 2001, the Auditor General indicated in the report that there was an awareness within industry that there were liquidity issues as early as 2001 and perhaps even sooner than that, I think that was her words, and during that time you were a Crocus board member, during the 2001 period. Can I ask the deputy minister who appointed him to the board?

Mr. Eliasson: I believe the appointment was by the Minister of Finance.

Mr. Hawranik: Was there any discussion as to, were you aware of why you may have been appointed to the board at that time?

Point of Order

Mr. Chairperson: Point of order, Mr. Swan.

Mr. Swan: Again, I don't want to stop Mr. Hawranik from being able to ask questions, but now he's asking

the deputy to speculate as to why a minister might have appointed him. I am sure we can proceed if Mr. Hawranik asks the question or pursues a slightly different line of questioning.

Mr. Chairperson: On the same point of order, Mr. Hawranik.

Mr. Hawranik: No. I'll rephrase the question.

Mr. Chairperson: On the same point of order, the Minister of Finance, Mr. Selinger.

Hon. Greg Selinger (Minister of Finance): Yes, I am just mindful of section 118.1(2) of our rules for this committee: "The deputy minister may be questioned on matters related to the Auditor General's report recommendations and related matters of administration." This question doesn't relate to the report. It doesn't relate to a matter of administration. It's a matter that's asking him to speculate on a policy decision by government before the report and not commented on in the report.

Mr. Chairperson: Thank you. Any other contributions?

Mr. Lamoureux: Mr. Chairperson, I'm concerned in the sense that, when we look at the scope of the report, there's a responsibility of opposition members to be able to raise the issues, as the Member for Lac du Bonnet (Mr. Hawranik) has, and get answers specific to questions. I think if you start looking right to the letter of the rules, you know, our committee is already somewhat toothless. Let's allow the member to ask the questions and not have his questions interrupted, intentionally interrupted, in order to sidetrack what I believe is a fair line of questioning from a member of the opposition. I see it more as interference than it is anything else. There is nothing wrong with the questions that are being put forward by the Member for Lac du Bonnet.

Mr. Chairperson: Any other contributions? If not, I would rule that Mr. Swan does have a point of order, and that, in fact, questions of awareness of the deputy minister should perhaps be rephrased, but I do believe that this question is in fact one where Mr. Swan does have a point of order.

* * *

Mr. Chairperson: So I'll ask Mr. Hawranik to rephrase his question. Thank you.

Mr. Hawranik: Yes, again to the deputy minister: You were on the Crocus board for about a year; and, after your appointment ended, did you report back to

the minister with respect to issues at Crocus particularly relating to liquidity?

Mr. Eliasson: You know, the reference to the liquidity problem in the Auditor's report that references that 2001 e-mail from a senior manager within IEDM was a document that I had not seen until I saw reference to it in the Auditor's report. It wasn't a communication that caused others in the department or the person to whom it was addressed to raise those issues at a more senior level. When I did see that communication after I noted its reference in the Auditor's report and I requested a copy of that communication, in my opinion it was a very cursory analysis of the situation at Crocus. I'm going from memory, but there was a comment in it that the senior account manager said: I had some time on my hands today, so I ran some spreadsheets based upon some information that Crocus had provided. That was the extent of it.

This was not an in-depth analysis of the resources required to meet redemptions at Crocus. As I indicated earlier, that kind of analysis would involve a variety of variables and would require assumptions to be made in a variety of areas including the future trading price of Crocus, the future value of the investments that were to be divested, and this analysis was by no means that kind of thorough review. It was a very cursory analysis.

Mr. Hawranik: The next question is to the Minister of Competitiveness. He indicated at the last Public Accounts meeting that many staff provided information in regard to the issues of liquidity and pacing to the minister. He stated that a lot of staff had provided briefings and staff had discussed liquidity and pacing in both Finance and Industry.

So my question to the minister: The minister admits that the issues of liquidity and pacing at Crocus were then well known by staff in Industry and Finance and within the knowledge of both ministers of Industry and Finance. Would that be correct?

Hon. Scott Smith (Minister of Competitiveness, Training and Trade): In referring to page 145, this was something that was identified in the Auditor General's report. Obviously, it's something that had been brought forward by ENSIS and by Crocus on a number of issues and considerations for officials in the department.

* (10:00)

Obviously, that's not new information as has been presented by yourselves as new information. It's something that was identified in the report. It's something that ongoing discussions with Crocus and with ENSIS obviously in any detail was limited to basically what the prospectus identified the role of government and our role. The considerations by any officials that we had within the government was to deal with what's clearly stated as well in the two chapters, that the Auditor clearly states the responsibilities of each individual organization from the board to the government and others. That's nothing that hasn't been identified. It's nothing that hasn't been ongoing, certainly, since the fund was developed in 1992, that, obviously, considerations for any changes of legislation or any consideration or any changes were to deal with what the government's responsibility was. That is clearly identified, and, yes, that has been stated.

Mr. Hawranik: The next question is to the Deputy Auditor General. On pages 72 and 73 of the report it indicates that, if Crocus falls below its minimum reserve requirements for a period of more than 60 days, Crocus shares could be declared ineligible for tax credits. This could be a serious problem. Crocus could fall apart because it would impair the ability of the fund to raise additional capital and would affect its long-term viability. Would the Deputy Auditor General agree with that statement?

Ms. Lysyk: The 15 percent was considered a cushion for having monies available to pay shareholders if there was a cash requirement, and so, if they did fall below that, it would drain the cash from the organization.

Mr. Hawranik: If this were known within the public that, in fact, the liquidity, the reserve requirements, weren't high enough or they were having difficulty meeting those reserve requirements, in other words liquidity, clearly that would create a difficult situation for the fund or a difficult climate within which the fund could raise additional capital. It would also affect the long-term viability of the fund. Would you agree with that?

Ms. Lysyk: I guess, I'd say that the 15 percent was put in there for protection purposes. So, if there was a drain on the 15 percent, if they went below the 15 percent, then that would pose a problem, and that would show an additional liquidity concern of the fund.

Mr. Hawranik: Would you agree that that, in fact, would create a very difficult situation for Crocus, in the sense that they could be declared ineligible for tax credits?

Ms. Lysyk: Based on the act, yes.

Mr. Hawranik: If they became ineligible for tax credits, obviously, would you agree that it would impair the ability of the fund to raise additional capital because the public would be aware that they may not get redemptions?

Ms. Lysyk: You know, I'd be giving, I believe, an opinion on that. All I can really say is that they would lose their right for tax credits and the impact of that would have to play out if they tried to go to market and couldn't issue tax credits. Like, I couldn't really offer any other comment.

Mr. Hawranik: Reserve requirements by the fund— it's otherwise known as, of course, cash investments—are required to be maintained in a reserve account, as I understand it, equal to a certain percentage. I believe it's 15 percent of contributions and 50 percent of guarantees. Would that be correct?

Ms. Lysyk: Well, on page 72, they're required to maintain a reserve account equal to the greater of 15 percent of the fair market value of its assets and 50 percent of the total of its outstanding guarantees.

Mr. Hawranik: This money, I take it, is used to fund redemptions. Would that be correct?

Ms. Lysyk: It would be money available for whatever purposes it was designated for at the time it was required to be paid out.

Mr. Hawranik: The Deputy Auditor General indicated that liquidity issues at Crocus were well documented in Finance and Industry, and well known. I had an opportunity to speak with a person by the name of Jeffrey MacIntosh from the University of Toronto law school, who is also a chair of the Toronto Stock Exchange in Capital Markets Law, and he revealed that whenever there are liquidity concerns in labour-sponsored venture capital funds or changes in liquidity, he believed that, absolutely, absolutely in a case like that, shareholders should be notified. He further stated that any material change to the value of those shares or material change to liquidity requires notice to be made publicly, included in an amended portfolio listing. I ask the Auditor General whether she would agree with that.

Point of Order

Mr. Chairperson: On a point of order, Mr. Swan.

Mr. Swan: Mr. Hawranik, who is, with respect, out in the weeds, suggesting what somebody who has no familiarity with The Crocus Investment Fund Act suggests would or wouldn't do in a hypothetical situation, which he is now wanting to put to the Deputy Auditor General.

Again, I think there may be some different ways that Mr. Hawranik can pursue this, but I think it's well outside what this committee does to ask the Deputy Auditor General to answer hypothetical questions which don't deal with The Crocus Investment Fund Act, which, of course, is the statutory framework that the Auditor General's office reviewed what happened at Crocus. So it's a point of order. Again, I hope Mr. Hawranik can simply change tacks, and we can continue on.

Mr. Chairperson: On the same point of order, Mr. Hawranik.

Mr. Hawranik: On the same point of order, Mr. Chair, the Deputy Auditor General is a professional here, and I think she can make up her own mind as to whether or not she can answer the question. You know, obviously, the information is, I believe, within her abilities. She has a professional degree, and she's qualified to make those kinds of comments.

Mr. Chairperson: I thank the members for their contributions.

Well, we are, again, faced with a situation that we had last time, and that is a point of order being raised about questions being asked of the people at the table. Just a few minutes ago, I did hear the Deputy Auditor indicate, of a question that had been asked of her, that if she were to answer it, it would be an opinion only. I think we have to, you know, pay the proper respect to these professionals, and they will discern which questions they think are out of line. They are quite free to say, I think this question is out of line, and I will not answer that.

On the other hand, we've allowed for some discretion both in answers and questions in the past, whether it's the minister or whoever is answering or asking the question. So what I would like to do is just caution members on both sides of the committee to be careful in terms of how they word their questions so that we don't get into that whole area of hypothetical versus not hypothetical. Perhaps this is

just going to serve as a caution, and we can move on from here. Thank you.

* * *

Mr. Chairperson: So, Mr. Hawranik, could you, once again, ask your question.

Mr. Hawranik: Because liquidity of the fund affects their ability to redeem shares, the question is shouldn't those who are about to purchase shares have the right to know.

Ms. Lysyk: At this point, I'd have to say that I can't answer the question in knowing whether it's a requirement under The Manitoba Securities Act to put a clause like that in a prospectus. I would say that, in general, any significant change in the direction of a business or in the operations of a business, from my understanding, would traditionally be reflected in a communication to shareholders. Having said, in this particular case, whether or not there is a note in the prospectus or whether or not there is a requirement by the Manitoba Securities Commission to have put something in there, I can't comment on.

*(10:10)

Mr. Hawranik: If there's a material change to the investment fund, a material change as defined under The Securities Amendment Act, The Securities Act, is that required to be put to the public?

Ms. Lysyk: From my understanding of the read of the act, that would be, if there was a material change in an entity that sold shares to the public, there would be a disclosure requirement.

Mr. Hawranik: Would you regard the liquidity issue, the fact that Crocus has liquidity issues, would that be a material change under the act to the ability of the corporation to redeem shares?

Ms. Lysyk: You know, on this one I think I'd rather not comment on how that would reflect in a prospectus. I can only comment that, with respect to liquidity, there are a number of factors that affect liquidity. I think it depends on the degree to which those factors affect liquidity and whether or not an organization is operating in accordance with their prospectus is probably the key to determining whether or not there's disclosure around the problems with respect to liquidity and whether they're operating in accordance with their act.

Mr. Hawranik: Liquidity is extremely important, Mr. Chairperson, because it's a price attribute. It can

determine, first of all, the price of the shares. A liquid investment sells at a premium, but an investment that is not liquid sells at discounts. Liquidity affects, therefore, the price of the shares, and if Crocus was having liquidity problems in 2001 and the Department of Industry and the Department of Finance both knew there were liquidity issues at Crocus and obviously, from what we've heard from the Deputy Auditor General and, in fact, even the Minister of Competitiveness (Mr. Smith), there was an awareness of liquidity problems as early as 2001.

I ask the Auditor General: Shouldn't the public have been made aware of that because it affects the price of the shares?

Ms. Lysyk: I can't comment on that. The only thing I can comment is that the annual operating results of Crocus over a number of years, they were operating at a deficit which would be considered a run-rate gap. So liquidity would take into account the fact as to whether or not the organization was divesting of its investments in a pattern that allowed it to have liquidity in order to redeem shares of shareholders whose shares were coming to maturity.

Mr. Hawranik: So I ask the Minister of Competitiveness: Liquidity, obviously it seems like it was well known since at least 2001, both at the ministerial level and in the department level of Finance and Industry. Liquidity, in fact, it changed the value of the shares. In the meantime, the public, there's no warning. The public continues to buy shares in Crocus assuming everything is okay.

So I ask the minister: Why didn't you bring the liquidity issue to the attention of the public?

Mr. Smith: I appreciate getting the question and clarifying roles for the member once again. What is a key finding and was a finding certainly in discussions, when the member puts on record problems and wording in that sort, there were discussions regarding liquidity, regarding pacing and regarding a number of other things on legislative changes. The changes that were brought forward by Crocus, and certainly by ENSIS, were some changes that the Auditor also identified and what those changes and some of the discussions were in which the Auditor clearly stated those changes would have weakened actually the ability in legislation for the Province.

Obviously, discussions and discussions regarding in terms of pacing and liquidity were certainly brought forward. That is nothing new.

That's something that was brought forward certainly over a period of time over the years from 2000, 2001 and onward. Basically, the member opposite is confusing roles again where you have in the Auditor General's report and looking at the Auditor General's report, obviously the Industry Department, as the Auditor had said, a privately managed fund is not the responsibility certainly of the government. It's not the responsibility of the government on the investment fund's performance. That's clearly stated. At the Public Accounts, obviously, the Auditor again confirmed that valuation issues really have nothing to do with the department and the board and others certainly have responsibility for that. It's defined clearly in legislation and it's defined clearly in the prospectus who has responsibility for what piece of Crocus and Crocus Fund.

It goes on to say the government's role is not in managing the risk in the portfolio, and that is crystal clear. The government has legislated responsibility. Out of the report, out of the 120 recommendations, the Auditor General also had about 20 for the government for some changes or strengthening the legislation. Those were taken into account. Those were acted upon very quickly by a panel and a board that brought forward how to implement those recommendations. That has been done, quite clearly. But the member continues to confuse issues of responsibility.

Basically, as the Auditor stated and others, the prospectus and the financial statements, certainly, were the responsibility of others. Those were clearly identified and brought forward. The government's role is clearly defined as well. The government took onus of the responsibility on some of the changes recommended by the Auditor General. Those have been done. They've strengthened it. The member talks about potential hypothetical problems again on the potential of what liquidity might have meant and the problems brought forward. The terms in the wording that he's using are certainly offensive. Obviously, with Crocus, many issues were brought forward, and with ENSIS, many issues were brought forward. Officials dealt with those and made recommendations to the government.

Mr. Hawranik: The issue here isn't about evaluations. Valuations are almost an aside. It's liquidity that's the issue here. The minister's role as an MLA, the minister's role as minister, his duty and his role is to protect the public. He has a fiduciary duty. He has a moral duty. If he sees that, obviously, there are things going on here that would affect the

value of the shares. In the meantime, the public is buying shares. There has been a material change to Crocus in terms of liquidity. He knew; other ministers knew in his place. The Industry Department knew. The Finance Department knew. They all knew, but they sat back. They all knew there were issues about liquidity here at Crocus, and they continued to let the public purchase shares at Crocus.

Why didn't you, in your role as minister, notify the public that liquidity was an issue at the time? Why didn't you do that?

Mr. Chairperson: Just before I let the minister answer, I would just caution the member asking the questions that the questions should be posed through the Chair rather than to the minister directly. I would appreciate that very much. Thank you.

Mr. Smith: Thank you very much. Again, the member opposite brings forward a lot of hypothetical information and in a kangaroo-court-type fashion. Quite frankly, the Crocus had never, ever identified that they were not able to meet redemption requirements. That is sheer nonsense. You know, the member opposite in clouding the issues and responsibility of the individuals, continues to cloud issues in the form that hypothetically, and even in asking questions of the Deputy Auditor General, is hypothetically asking questions of what-if and maybe. He continues to do that. It's clearly identified it's not the responsibility, for the Crocus Investment Fund's performance, of the government. The members opposite may want to have a hands-on, and maybe they did that when they were in government through the '90s, I'm not certain of that. But, certainly, on this side of the House and this government was clear in the legislated requirements that we had.

The hypothetical questions continuing of the member opposite asking about what did you know and when has been very clearly identified in the Auditor's report, answered by several ministers. The member opposite continues to ask why didn't you go forward and tell the public about a hypothetical bunch of nonsense.

* (10:20)

Quite frankly, the responsibility for managing the fund in the interests of the shareholders is clearly identified in the report over a number of chapters. The member knows that. Obviously, the fund's external auditor who is responsible for auditing the

fund's financial statements is clearly identified as well. The fund's underwriter, responsible for signing off on the prospectuses, is clearly identified as well. What's identified is the Industry Department, at that time, was responsible for monitoring how well the fund was meeting public objectives in trying in the legislation, and that was done. The member continues to cloud the issue of responsibility that we're dealing with in this report—

Mr. Chairperson: Order. Oh, I am sorry. I just thought you were on a point of order, Mr. Cummings.

Mr. Glen Cummings (Ste. Rose): No.

Mr. Chairperson: Thank you. Continue, Mr. Minister.

Mr. Smith: —who had responsibility for what and certainly whether the policy objectives were being met. That was done in co-operation in working with, certainly, information and officials from the departments, different departments in government, with officials from ENSIS, and certainly some of the challenges and recommendations that were brought forward, those were clearly identified, and they are clearly identified. The member opposite has this uncanny ability to confuse issue of responsibility, and no matter which direction he wants to twist it, it's just clearly identified. The member brings forward hypothetical information and asks hypothetical questions.

Quite frankly, if you want to deal with fact, the facts have been clearly identified to you. It's no secret that, certainly, discussions were ongoing with both the funds in Manitoba, and the member put out a statement from his caucus that this was new information which is false. That is a false statement. That is, it's clearly identified that there were ongoing discussions for a number of years on a number of issues. That is no secret. So the member, clearly, is putting hypothetical information on. He's asking why things weren't brought forward and whose responsibility. If the member would like me to read through clear responsibility in the Auditor's report, certainly, I can do that for him. If the member would read the Auditor's report, he would know that information.

Thank you, Mr. Chair.

Mr. Chairperson: Just before we proceed to questions, I do want to caution the committee. You know, both answers and questions should be respectful in terms of their language, and terms like

"kangaroo court" are not accepted in this committee, and I would just like to caution both questioners and answerers to respect the process of this committee. I know that, and recognize that discussions in committee sometimes become heated, but I would ask members to keep their remarks tempered and worthy of this Assembly.

So if we could now proceed to Mr. Cummings.

Mr. Cummings: Mr. Chairman, clearly, the minister at the last session of this committee talked about liquidity discussions through staff, Finance and Economic Development.

I have a question for Deputy Minister Eliasson: Did the department monitor the minutes of the Crocus Fund?

Mr. Eliasson: Crocus was a private business entity, and the minutes of a private business entity are not provided to the government.

Mr. Cummings: Did the department understand the circumstances of the Solidarité transaction?

Mr. Eliasson: The Solidarité transaction was reflected in the audited financial statements of Crocus, and the department relied on the audited financial statements to determine whether the reserve requirements were met.

Mr. Cummings: Was there anything in that report to indicate the nature of the Solidarité transaction?

Mr. Eliasson: You know, I'd have to look at the financial statements again from that period. It would be common to have a note that described the need for the transaction.

Mr. Cummings: Well, the Auditor, in looking at it more closely, I would ask to Ms. Lysyk: In reviewing the Solidarité transaction, the report is quite critical of how it was portrayed. Do you know if that was adequately presented?

Ms. Lysyk: I would refer to the discussions on page 72 to page 74, where we highlight, actually all the way through to pages 79 and 80, where we refer to a discussion on the Solidarité transaction. In concluding on that, based on the information that was reviewed by the audit team we concluded that the transaction is treated as equity, and, in our view, the treatment was more along the line of debt. It should have been debt.

Mr. Cummings: I'm conscious of the sensitivity about asking questions of awareness. I'll choose my words carefully.

Would the information provided by the fund to the department have given any indication of red flags around this transaction?

Ms. Lysyk: I can't comment that we've seen any documentation around the discussion of the Solidarité transaction between Crocus and the department. I don't believe we have. Our review of it consisted of reviewing the history behind the transaction, the correspondence and the statements, the financial statements.

Mr. Cummings: I'd like to ask Mr. Eliasson when they received the report, and this will be very specific to the Solidarité transaction. Would it have appeared as a positive investment?

Mr. Eliasson: I'm not sure what you mean by would it appear as a positive investment.

Mr. Cummings: My layman's terms, as an investment, which, apparently, Crocus wanted to have it portrayed as, rather than a loan. On the balance sheet or on the report that the department should have received, can you recall how it was portrayed?

Mr. Eliasson: I believe its presentation in their audited financial statements was as an investment rather than a loan.

Mr. Cummings: Was there any point when you or someone within the department would have looked at this and asked what was going on? One of the conditions was 10 percent return on the money which, in my opinion, would have raised somebody's hackles. Was there a point when you or anyone in the department realized that that was one of the conditions?

Mr. Chairperson: Mr. Cummings, could you place your questions through the Chair, please.

Mr. Cummings: I'm sorry.

Mr. Chairperson: Thank you.

Mr. Eliasson: Crocus is a private business entity, and the details of investments that they make or investments that are made in them are not disclosed to the government or to other parties.

Mr. Cummings: Well, then, when would the department have first understood the conditions of this transaction, through the Chair?

Mr. Eliasson: You know, I can't—I don't know. When I first became aware that there was an issue was when I read the Auditor's report.

Mr. Ron Schuler (Springfield): At last committee, I asked you a question in which I stated: "Can he, the deputy minister, tell us when he first became aware that there were financial difficulties at the Crocus Investment Fund?" Through you, Mr. Chair, the answer back was: "The first indication that I had that there were issues with valuations was on September 24, 2004."

I would like to ask Mr. Eliasson a more direct question, and that is: Can he, the deputy minister, tell us when he first became aware that there were liquidity difficulties at the Crocus Investment Fund?

* (10:30)

Mr. Eliasson: I think that it's very important to be clear on what we're talking about in terms of liquidity issues and liquidity problems. As I stated before, to my knowledge, Crocus never failed to honour a legitimate request for redemption right up until the point that they stopped trading in December. They never indicated that they had an inability to meet redemptions as they came due. There was substantive discussion on how they would have sufficient liquidity to meet redemptions as they came due, and part of that revolved around the discussions around changes to the investment pacing and maintenance requirements, and some of that revolved around Crocus's strategy for the divestiture of investments.

Mr. Schuler: Mr. Chair, to the deputy minister, we appreciate the further information, but the question was: Can the deputy minister tell this committee when he first became aware that there were liquidity difficulties or issues at the Crocus Investment?

Mr. Eliasson: I think I just answered that. They never failed to meet the request for a redemption. So they had sufficient liquidity up until December 10 to meet redemptions as they came due.

Mr. Schuler: We appreciate that, until the fund actually collapsed on itself, they were still meeting their payroll, and individuals who wanted to cash in their shares still got their money. That was done by all kinds of different means.

I'll rephrase my question a little bit: Can the deputy minister tell us when discussions first began on the issue of liquidity difficulties at the Crocus Investment Fund?

Mr. Eliasson: There were ongoing discussions around Crocus's request for legislative changes probably from 2000, or so, on.

Mr. Schuler: Through you, Mr. Chair, to the deputy minister: So, starting in 2000, there were already discussions within the department, that you were involved with, with the issues of liquidity at the Crocus Investment Fund?

Mr. Eliasson: There were discussions around Crocus's request for legislative change and those continued from 2000 up through 2004.

Mr. Schuler: Starting with those discussions in the year 2000 on liquidity issues dealing with legislative change, I take it then that the department, through the deputy minister, would have been fully briefing the minister that there were now discussions on liquidity and thus legislative changes at the request of the Crocus Investment Fund.

Mr. Eliasson: The discussions around the legislative change had many dimensions to them. Part of it was, I think, motivated by Crocus as part of their strategy on dealing with redemptions. Part of it involved a fairly substantive change in government policy as to the purpose of the funds and the purpose of the tax credit. So there were multi-dimensional discussions around the legislative changes that Crocus was requesting.

Mr. Schuler: Can the deputy minister tell this committee when he first became aware that there were pacing difficulties at the Crocus Investment Fund?

Mr. Eliasson: I never became aware of that because there were not pacing difficulties at Crocus. In every information return that they produced, they had satisfied their pacing requirements, and I think that the Auditor's report acknowledges that.

Mr. Schuler: When it became aware that there were liquidity problems at Crocus and discussions started as early as 2000, and then obviously they would have become more serious as time went on, at what point in time would you have advised—through the Chair, would the deputy minister have advised the minister that perhaps the liquidity problems were becoming such that perhaps there should be some kind of notification to the public?

Mr. Eliasson: That time never occurred. As I said earlier, Crocus's disclosure to the public is through their audited financial statements and through their prospectus. The prospectus, I think, quite clearly outlines the risks associated with an investment in the fund.

Mr. Schuler: So there were not sufficient enough red flags being raised between 2000 and when the fund actually collapsed. On liquidity issues that would have warranted the minister, or by advice through you, Mr. Chair, to the deputy minister, by advice from the deputy minister to the minister is saying: We believe that there's sufficient concern here that there should be a public notice.

Mr. Eliasson: The answer is no.

Mr. Schuler: To Ms. Lysyk. At last committee meeting a question was asked in regard to red flags, if they were ignored by the ministers. Your answer back was: "I can't comment on whether the red flags were ignored per se," because in your next answer you said: "Our objective was not to look to determine whether ministers were aware of various pieces of correspondence," You do say that: What I can comment on is that the documentation of the information that we highlighted did outline that there were liquidity concerns with respect to Crocus that stemmed from requests or were related to requests for legislative changes."

We've just heard from the deputy minister that that was as early as 2000. Would you concur with that?

Ms. Lysyk: As outlined in this report, there were indicators of concern in 2000.

Mr. Schuler: Again, to Ms. Lysyk. Did the documentation show that the information coming forward was increasing in seriousness insofar as the liquidity of the Crocus Fund?

Ms. Lysyk: The issue around liquidity and the relationship between liquidity and the requests for changes in the legislation, the discussion started around 2000-2001 in order to discuss what could be done to address potential issues around liquidity in the future.

Mr. Schuler: Again, through the Chair to Ms. Lysyk, in the documentation that you saw, was there then the feeling that it was through legislation that Crocus Investment Fund liquidity issues could be addressed, rather than through other means?

Mr. Chairperson: Mr. Schuler, to reword your question, you're asking about feeling. You said, was there a feeling. Could I ask you to reword that question, please.

Mr. Schuler: In the documentation, was it stated that the issues at Crocus dealing with liquidity could be dealt with through legislation?

Ms. Lysyk: I can only comment that Crocus did not have a divestiture plan, so in terms of how they could have dealt with the liquidity issue separate from a request for legislation, I can't comment on.

Mr. Chairperson: I'm sorry, was your answer complete?

Ms. Lysyk: Maybe if you could repeat the question one more time.

Mr. Chairperson: Mr. Schuler, can you repeat your question, please?

Mr. Schuler: Okay, the concern of the committee is that it all seems to come down to the request for legislation, in that, at Crocus Fund there were clearly problems. We're not shooting at the dark here because we know that, by September 23, 2004, the board approves a drastic write-down in the Crocus portfolio, clearly, an indication that there are issues at Crocus. And then we know that December 10, 2004, basically Crocus collapsed. It halts trading.

So I guess what the committee is concerned with is that those who would have known that there were liquidity issues, that there were all kinds of issues facing Crocus, that the resolution was simply by legislation rather than other means; I guess the concern of this committee is that in the meantime Manitobans were continually sold Crocus shares because the feeling was, within government, that we can solve this by legislation.

I am asking Ms. Lysyk, through the Chair, if that would be a fair statement, having viewed the documentation.

* (10:40)

Ms. Lysyk: I can just comment by saying there's a difference between share pricing and liquidity. The share price is affected by two things. One would be if there is a write-down or a write-up in investments, unrealized gains, unrealized losses. The second would be whether or not the fund had sufficient operating monies and was operating at a loss.

In this case, the share price of Crocus appeared to be declining as a result of not divesting investments as well as operating at losses for a number of years. So the operating losses for a number of years as well as not being able to sell investments at a gain brought down the share price.

At the same time, the sales to shareholders were increasing, and, therefore, the impact of more shareholders and less net assets would have caused a reduction in the share price.

With respect to liquidity, liquidity would have come into play with respect to the fact that Crocus was going to be needing new shareholder monies to pay back old shareholders.

Mr. Schuler: So the way Crocus was functioning at the end, through Mr. Chair to Ms. Lysyk, because the value of the assets was declining and there was a need for cash flow for those individuals who wanted to redeem and also to keep the doors open, which we in small business would call cash flow, there was an attempt to go out and sell more shares in Crocus to just keep the doors open and those individuals who wanted to redeem shares to just keep current. Was that shown in the documentation?

Ms. Lysyk: No. There is no documentation around intent and what intent was.

Mr. Schuler: Okay, and that's fair, and I'm going to be called to order pretty soon because we don't want to get into intent. I mean, what we want to do is stay with the facts and what was there. What we do know is that, as of 2000, there was some discussion taking place about liquidity. We know, obviously, that there was some difficulty with the value of the properties held, of the investments, because by September, there was a drastic write-down.

We know that there were a lot of issues facing Crocus, and we do know that the government knew because of requests for legislative change that discussions were taking place. Was there, at any point in time in the correspondence you saw, correspondence given to the government that indicated either a moral responsibility or fiduciary responsibility to go public with the information and stop Manitobans from buying in because the devaluation was coming and there were liquidity discussions already taking place?

Ms. Lysyk: We did not see any documentation dealing with the discussion of going public or not going public on information of any type.

Mr. Schuler: So, even though Crocus, as of 2000, was facing some liquidity problems, there were discussions, obviously, government officials knew because there were requests for legislative changes, if Crocus was allowed to go into the marketplace and continue to sell shares to unsuspecting Manitobans,

yet there was some knowledge that there were issues facing Crocus.

Point of Order

Mr. Chairperson: On a point of order, Mr. Swan.

Mr. Swan: I'm sorry to do this to Mr. Schuler, but the question he's asking is based on such an improper premise based on the evidence that's before us, including the evidence that Mr. Eliasson's given us in some detail about what was brought forward in 2000 and 2001. What Mr. Schuler is doing is he's putting an unfair question to the Deputy Auditor General based on no evidence at all and, in fact, in the face of evidence that's been presented very clearly this morning. So perhaps Mr. Schuler could again continue questioning. We want to keep going, but let's get back to reality here and ask questions the Deputy Auditor General can truly deal with in the spirit of section 114 of the rules.

Mr. Chairperson: Mr. Hawranik, on the same point of order.

Mr. Hawranik: Again, the members opposite are trying to obviously stop questioning. I think we have a right to ask any question of the Auditor General, and she has a right to say whether or not she has the ability to answer it, or whether she prefers to answer it, or whether she doesn't. She's a professional. I'm not sure what the members opposite are getting at, in terms of trying to stop testimony even from the Auditor General about the Crocus report that was prepared by the Auditor General. So it doesn't make any sense to me, Mr. Chairperson.

Mr. Chairperson: Thank you, Mr. Hawranik.

Mr. Selinger: All we're trying to do is to get the focus of the discussion on the report and that what the rules require under 114, to provide advice, opinions and answer questions on matters of accounting, administration and reports.

When I read the report and looked at page 30, Mr. Chairperson, the Auditor General had put labour-sponsored venture capital funds in the context of the declining stock market after the dot-com boom had fizzled out in the early 2000 period, and it looked at all the labour-sponsored investment funds. It showed decline in the share value of all of those funds and then put Crocus in the context of that.

If the members would ask a question related to the report, I believe the Auditor General could give an informed opinion based on the research they did.

Mr. Chairperson: Well, members of the committee, this once again is one of those areas where the rules are fairly clear in terms of the Auditor General's or the Deputy Auditor General's responsibility in answering questions. We are, I think, treading on the edge of questions that, perhaps, could be out of scope or out of line.

However, I've been listening fairly carefully and, whether it's an unfair question or a fair question, I think I would have to leave that to the Deputy Auditor or the assistant deputy auditor to answer that question or not answer that question based on her professional experience and training. However, I do want to caution the committee that we are to focus our attention on the Auditor General's report and issues related to that report from Crocus.

At this point in time, I would take Mr. Swan's point of order as a caution to the committee, and perhaps let us proceed from that point.

* * *

Mr. Hawranik: Yes, my question to the Deputy Auditor General: Liquidity issues were well known in the departments of Industry and Finance. I think it was well established here today, plus in the Auditor General's report. There were discussions about liquidity as early as 2000. That's what the deputy minister said today. The Deputy Auditor General also indicated that there was evidence of liquidity issues at Crocus as early as 2001, perhaps sooner. The minister indicated as well that he had ongoing discussions about liquidity during that period of time.

I ask the Deputy Auditor General whether she found any evidence to suggest why the minister or deputy minister would not have notified the public who continued to purchase shares in Crocus when there were liquidity issues at Crocus.

Ms. Lysyk: Could you repeat that question one more time, please? Sorry.

*(10:50)

Mr. Hawranik: I'm asking whether she found any evidence to suggest why the minister or deputy minister would not have notified the public who continued to purchase shares when there were liquidity issues at Crocus.

Ms. Lysyk: I could say no, we didn't see any documentation around that. Given the nature of the legislation and the complexities around an LSIF, I think, there are a lot of different scenarios and

different issues with respect to making changes to the legislation with respect to an LSIF, and there was discussion around the many issues that come into play from the requests from Crocus.

Mr. Hawranik: This question is to the minister. Again, the evidence is that it was well known that there were liquidity issues at Crocus, discussions about liquidity as early as 2000, directly from the deputy minister. Today, the Deputy Auditor General indicated that there's evidence that there were liquidity issues at Crocus since 2001, perhaps sooner, and the minister even had discussions, ongoing discussions about liquidity with Crocus.

I ask the minister: Isn't it his duty as an MLA, as a minister of the Crown, whether it's moral or fiduciary, isn't it his duty, when there are issues like that at Crocus, to notify the public and protect the public?

Mr. Smith: The member confuses roles again. You know, in dealing with Crocus, certainly in dealing with ENSIS there were ongoing discussions with officials about some issues that they had. Certainly, as the prospectus states and as the member knows, it boils down to, you know, Mr. Chair, that none of the securities administrators or any departments or agency of the government has assessed merits of the investment in the fund. Securities administrators and governments make no recommendations concerning such an investment or assume liability or obligation to an investor in the fund. It's a privately managed fund. Each individual has been highlighted and outlined in the report that I wish we would deal with and, certainly, very clearly who had responsibility in what areas.

The member wants, basically, and I believe, in my opinion, certainly, to have the government do inappropriate actions that are not its responsibility. The member seems to put hypotheticals, as has been going on for some time now, about what may or may not have happened regarding, certainly, issues that were brought forward by ENSIS and by Crocus. Obviously, he has not read clearly, as the Auditor General has outlined the responsibilities for each of the individuals in the report. The report clearly outlines, certainly, since 1992, that it is a private fund, and government had no legal authority to make inappropriate statements concerning the authorities of others or would it do so. The member obviously confuses roles. He continues to come up with hypotheticals and possibilities of what or what might not have been discussed over a period of about 15

years involving the Crocus Fund, and, certainly, the facts are clearly outlined in the report. The member would like to ask something concerning the report that's outlined in the Auditor General's report. Certainly, as the deputy minister, myself and others have clearly stated, the member is off base and, certainly, going in a direction that is inconsistent with true fact in the report.

The chair holders, certainly, were given information by authorities who were responsible in their areas. The government was responsible for the legislation as outlined, and some of those changes in the report were recommendations of government's legislation, which about 20 were. We clearly took those recommendations and made the changes that the Auditor General had recommended.

Mr. Chairperson: I'm going to interrupt proceedings just for a minute to clarify something, a point that we had discussed earlier, and that was with regard to calling of witnesses and notifying the Clerk's office when witnesses were requested. I've just been informed by the Clerk of Committee that, in fact, rule 118.1 indicates that it is the PAC committee that will call witnesses, not the opposition. So, therefore, we have to be mindful of that.

Therefore, I'm going to ask, with the committee's agreement, that requests for witnesses go to the Chair and the Vice-Chair. That way, both opposition and government will know which witnesses are being requested and, once that agreement on the agenda is struck, the list will go to the Clerk's office who will then distribute it. At least then we comply with the rules that are set forth.

Is that agreed? *[Agreed]*

Thank you very much.

Now we'll proceed with questions.

Mr. Lamoureux: Mr. Chair, the deputy minister would give the impression that, in theory, Crocus is a private company. In reality, the constituents that I represent saw Crocus, for many different reasons, as a government-encouraged program that provided tax incentives. Many of these Crocus investors genuinely felt that this was a good way to invest in the province, provide jobs in the province, contribute to the province in a healthy way.

My question is for the Deputy Auditor. On page 4 of the document of the report, it states, and I quote: "It became apparent that a broader examination

should be conducted in order to provide Members of the Legislative Assembly and the citizens of Manitoba with an understanding of the factors contributing to the December 10th halt of trading of Fund shares."

Would the Deputy Auditor be of the opinion that a public inquiry would, in fact, do just that?

Mr. Chairperson: I'm going to ask Mr. Lamoureux to rephrase his question. You're asking the Auditor General for an opinion. Could I ask you to rephrase that, please.

Mr. Lamoureux: Could the Deputy Auditor expand upon why she believes it was important that we have more of an investigation, because that's actually what's been stated on page 4?

Ms. Lysyk: Could you just draw my attention to the paragraph on page 4? I'm sorry, just so I could—

Mr. Lamoureux: The last sentence on page 4.

Ms. Lysyk: I don't think it is my position to comment on whether or not an inquiry is determined by the province.

Mr. Lamoureux: I still do believe it's worthy of noting that particular statement, Mr. Chairperson. On page 127, it indicates in the conclusions, and this is for the deputy minister: "At June 30, 2001, the Fund's investment in Company GG exceeded the 10% maximum allowable investment amount for the single investment as set out in The Manitoba Employee Ownership Fund Corporation Act."

My question to the deputy minister is: When did he first find out? Obviously, it wouldn't have been June 30 when it exceeded. When was he first aware that they were going to exceed, and when did he then notify the minister?

Mr. Eliasson: Just before I answer that, the Auditor's comment on page 4 related to the initial

scope of their examination. After they had engaged in their initial examination of Crocus, they decided that an expanded investigation was warranted. They approached the government and asked to be appointed with the powers that existed under the Crocus act to conduct that examination and that request was immediately granted, and they did then conduct an expanded examination. So that was the context within which the last sentence on page 4 was made.

With respect to Company GG, I can't say when I became aware of when that exceeded the 10 percent issue at the time. There was correspondence, I think, in maybe 2002 or 2003, from an investor who brought that to the minister's attention. Inquiries were made from Crocus, and Crocus provided a written explanation on how that investment complied with the legislation.

Mr. Lamoureux: I am led to believe then it wasn't until 2002 before you even had any wind that there was exceeding of that 10 percent, and the minister was never advised.

Mr. Eliasson: I can only speak to when I personally became aware of that, and I don't recall the exact date, I said. I believe, sort of, the first time it was brought to my attention was as a result of a letter from a shareholder to the minister.

Mr. Chairperson: Thank you, Mr. Eliasson, and I'd like to thank all members of the committee.

Once again, I would appreciate if members would leave behind the unused copies of reports so they may be collected and reused at the next meeting.

The hour being 11 o'clock, committee rise, and Merry Christmas to everyone.

COMMITTEE ROSE AT: 11 a.m.

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