

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

Chairperson
Mr. Jack Reimer
Constituency of Southdale

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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 8, 2005

TIME – 3 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Jack Reimer (Southdale)

VICE-CHAIRPERSON – Mr. Jim Maloway (Elmwood)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Selinger, Hon. Mr. Gerrard

Messrs. Cummings, Dewar, Mr. Hawranik, Ms. Korzeniowski, Messrs. Maguire, Maloway, Reimer, Santos, Swan

APPEARING:

Hon. Mr. Rondeau, MLA for Assiniboia
Mr. Jon Singleton, Auditor General of Manitoba
Mr. Hugh Eliasson, Deputy Minister, Industry, Economic Development and Mines

MATTERS UNDER CONSIDERATION:

Auditor General's Report – Examination of the Crocus Investment Fund – May 2005

* * *

Mr. Chairperson: Will the Standing Committee on Public Accounts please come to order.

This afternoon, this committee will be continuing with the consideration of the Auditor General's Report – Examination of the Crocus Investment Fund, dated May 2005. The honourable Mr. Rondeau, Minister of Industry, Economic Development and Mines, and Mr. Hugh Eliasson, Deputy Minister of Industry, Economic Development and Mines are in attendance this afternoon to respond to questions from committee members.

As was indicated in the announcement, this committee will sit no later than six o'clock this evening.

Just as a reminder that, in accordance with our rules, speaking time in standing committees is 10 minutes. The floor is now open for questions.

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): Mr. Chair, if it pleases the committee, I have a report to table. It is the report from the Crocus Investment Fund Implementation Team. It is the report to government. Why it is important to table it today is because what it is doing. I know that in Bill 51 we have addressed a number of the concerns that the Auditor brought up. What this report does is it responds to all the other issues that were brought up to government to address, and it has recommendations on how to proceed and how the government is going to proceed. So I would like to table this for the committee if I can, Sir.

Mr. Chairperson: It should be pointed out that, just as a matter of clarification, if the report is tabled here in the committee, it is not tabled in the House. It is for the members of the committee. It stays in the committee file. Is that agreeable to the members? *[Agreed]*

The floor is now open for questions.

Mr. Gerald Hawranik (Lac du Bonnet): My next question is to the Auditor General. I refer to page 146 of the report. He indicates that there were sufficient red flags to justify a detailed review in the latter part of 2002. Does he still stand by that statement?

Mr. Jon Singleton (Auditor General of Manitoba): Yes, I do.

Mr. Hawranik: Question to the Auditor. Can he say with certainty that one person, the ministers—in other words, when I mean one person, I am talking about the ministers of the department. Can he say with certainty that the ministers did not receive all the red flags?

Mr. Singleton: Which minister are you talking about, sir?

Mr. Hawranik: The Minister of Industry.

Mr. Singleton: We did not interview any of the ministers in preparation for the Crocus report, so I cannot be specific as to what they did or did not know.

Mr. Hawranik: Can the Auditor indicate, in fact, when I look through all three red flags, can he say with certainty that the Department of Industry as a whole, at least, did receive all the red flags?

Mr. Singleton: Yes, I believe that the information was available within the department. There may have been individuals that had more of the information than others but, as we point out in the report, because of the multiple roles that the department was undertaking, it appears that the monitoring role did not receive either the resourcing or the attention that it should have been, so that even individuals that were aware of some of the red flags might not have known what to do with them, or who to communicate them to.

Mr. Hawranik: There was no evidence to show, I ask the Auditor, again, there is no evidence to show, no evidence that he found that would point to the fact that the Minister of Industry, whoever that may be, did not receive all the red flags.

Mr. Singleton: That question is a double negative there. Let me just repeat my answer to the previous question, that I believe there were individuals in the department who had enough information that, if it had been communicated to appropriate persons, it would have been likely, or more likely, that the department would have responded to the knowledge that was present within the department and ask for an investigation. We are aware of some people within the department suggesting that a review would be an appropriate step to take at an earlier time than when we began our audit.

Mr. Hawranik: Again, asking the Auditor General, and maybe I will reword that question: Was there evidence that the ministers of Industry did not receive all the red flags?

Mr. Singleton: Well, essentially, you are asking me to demonstrate a negative there. We did not interview the ministers, so I really do not know what information they may or may not have been privy to. But I would reiterate my answer that it is our position that there were enough red flags present that, if the department had put them together in a robust monitoring program, they should have seen that there was a need to do a review earlier than they did, and should, in fact, have conducted such a review. I believe if that had happened, a lot of the problems that subsequently occurred could have been prevented.

Mr. Hawranik: I will ask the deputy minister the next question.

* (15:10)

There are three red flags, one of which is a repeated request for legislative amendments. In his capacity as deputy minister, did he ever bring this to the attention of the minister at all?

Mr. Hugh Eliasson (Deputy Minister, Industry, Economic Development and Mines): I was aware of the requests that Crocus was making for legislative changes. I think the document that the Auditor references was not seen by me before the Auditor's report, and I requested a copy of it. I certainly was aware that Crocus made representations to officials in the department requesting legislative changes.

Mr. Singleton: Just to add some context around our note of the request for repeated legislative amendments, while it is certainly true that it is not uncommon in a labour-sponsored business for organizations to find the rules difficult to follow, as we identify in the report, a couple of the requests for legislative amendment, from our point of view, were particularly problematic, and we cite those in the report. The idea of using sales net of redemptions to set your pacing requirements would be a very significant increase in risk for investors, essentially risks turning the whole scheme into what is loosely known as a Ponzi scheme, if that were to be approached.

Similarly, the idea of using a net asset test, rather than a gross asset test, which Crocus was asking for, would essentially mean there would be no control over the size of investees in which Crocus could get involved because even large corporations can have small net assets.

So those two, in particular, we see as requests for legislative amendments that signal Crocus wanted a significant reduction in controls and a significant increase in their risk profile. I see those as very serious red flags.

Mr. Hawranik: Deputy Minister, you obviously knew about the repeated requests for legislative amendments. You would have been probably involved in some consultative process within the department to the minister. If it was not you, certainly, it was people within your own department who would have been involved in that respect. Again, my question to you is did you bring this up to

the minister's attention. Did you bring this to the minister's attention at any time?

Mr. Rondeau: I think we discussed this yesterday, Mr. Chair—

Point of Order

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

Mr. Chairperson: Mr. Hawranik, on a point of order.

Mr. Hawranik: Yes, on a point of order. I asked the question of the deputy minister, not the minister. His turn will come. I have got questions for him too. This is a question that is specifically directed to the deputy minister, and it is certainly within his knowledge. It is related to matters of administration within his department and, certainly, with respect to the Auditor General's report recommendations. I request that the deputy minister answer that question.

An Honourable Member: Be allowed to answer it.

Mr. Chairperson: On the same point of order?

Mr. Rondeau: On the same point of order, sir, as you read on page 182, 183, those are the responses or recommendations to the department. I believe, through parliamentary practice for generations, hundreds of years, the conversations, the advice, the information provided to the minister from the deputy minister has always been confidential in every parliamentary system.

Part of the rights of information to ministers or to Cabinet have remained confidential. Right now, if there is a Cabinet document or Cabinet advice or advice to ministers, it remains confidential. It is because it is a tradition, and you want to make sure there is free dialogue between. If we are going to go into that and get away from the rules that were discussed and established from this committee and get away from hundreds of years of parliamentary tradition, I think it is a rather large move.

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

Mr. Hawranik: On the same point of order, Mr. Chair, I put up with it to a certain extent last night from this minister, and he has no right to answer questions that I pose to the deputy minister at all. If this continues, there is provision in the rules for putting people under oath. I am going to be asking that the minister, the deputy minister be put under oath if that is going to continue. In fact, that happened in the late eighties. There is precedent for

it. When I ask a question of the deputy minister, I want an answer from the deputy minister.

Mr. Chairperson: On the point of order that has been raised, I know that this has been revolving around the administration of the department and the policy that the minister would take as questions to be answered.

I think that sometimes I cannot remember what the question was, and, sometimes, if the question is repeated, then it gives me a little bit more clarification as to whether there is a point of order. If the member could maybe ask the question again, then the direction may be more precise.

Mr. Hawranik: Yes, my question is to the deputy minister. In my preamble, I indicated to him that he obviously knew about the repeated requests for legislation because he knew he would be used in a consultative process with the minister with respect to that.

My question is whether he, in fact, raised the repeated requests for legislative amendments as a red flag to the minister.

Mr. Chairperson: The Clerk has pointed out to me that, in the report from the Auditor General, there is reference to the fact that the department acknowledges that Crocus frequently requested legislative changes. I would think that the question posed by Mr. Hawranik is just a reaffirmation of that particular line. That is the way that I would interpret his question. If the deputy cared to comment on it, I would leave that up to him.

Mr. Andrew Swan (Minto): I am not certain if the provision you just cited is from the recommendations to the Department of Industry on page 182. If I am mistaken—

Mr. Chairperson: I should point out that it is a response from the department on the recommendations, so I would think that is a fairly definitive response by the department. It would appear that what the member is asking is whether the deputy is in agreement to those requests that the department has already affirmed in the report from the Auditor.

Mr. Swan: If it relates to a response from the department within page 183, then I think that is an appropriate question as long as it is clear that we are dealing with related matters within the department coming out of the recommendations of the Auditor

General. As long as that is clear, Mr. Chair, then I think we are okay.

Mr. Chairperson: Yes, I believe that is what we are talking about in those two incidents. So I will refer back to Mr. Eliasson, or Mr. Cummings, on the same point of order.

Mr. Glen Cummings (Ste. Rose): Could I ask a question along the line of the same—not a question, make a point along the line of the same point of order? It seems that we spent a lot of time last night, and I hope we do not have to spend too much more time this afternoon arguing whether or not in this process we have the right to ask certain questions.

Couple that with the fact that when a question is asked, whether to the minister or the deputy minister, I know this is not a court of law, but it does seem a little difficult to accept that there is a co-ordination between them on their answers. Not that I do not trust either gentleman individually, but I find it passing strange that, when we ask a question of one, the other one is consulted, that somehow there is a reverse Estimates process where the minister is providing the advice to the deputy.

* (15:20)

I say that only as an observer and not as any disrespect to either one of the gentlemen, but I am troubled by the fact that the government members are constantly intervening and asking if it is within the scope of this committee to ask. It strikes me that we are trying to contain the questions that we would ask the minister or the deputy minister and not allow for some free flow of debate. We have also experienced people saying they do not know, and they are perfectly entitled to say that if that is the fact of the case. So I would hope that we could ask the members opposite to recognize that, when we have embarked on a new and somewhat improved process, we do not spend a lot of time setting up boundaries upon which we can reduce our access to information. I do not need a response from anybody. I just would like that recorded in the record.

Mr. Chairperson: I realize that we sometimes are getting into debate on semantics here, but I will allow Mr. Swan to—

Mr. Swan: With all respect to the Member for Ste. Rose, these are new rules which are taking this Public Accounts Committee down a road that it has not gone before in Manitoba, not under this administration or certainly under any previous administration, and if the Member for Ste. Rose is

suggesting that we do not follow the rules which have been negotiated by all the parties in this Legislature, I would submit that he is incorrect.

The parties have negotiated some fairly specific terms on how deputy ministers can be questioned in this process and, last night, I seem to recall the Member for Ste. Rose having the chance to ask, in fact, every single one of his questions without there being any objection. I seem to recall the Member for Arthur-Virden (Mr. Maguire) asking questions without there being any objections, and, in fact, the Member for Lac du Bonnet (Mr. Hawranik), who is a lawyer, after we had some, I would suggest, initial skirmishes, I think he was able, to some extent, to ask his questions in an appropriate way.

So, certainly, there is no intention on our part to prevent the members opposite from asking questions in accordance with the rules which had been fairly negotiated by all the parties in this Legislature, Mr. Chair.

Mr. Chairperson: I think, maybe, I will have to sort of try to make a—*[interjection]* Okay.

Mr. Cummings: I only want to point out that every time we force you to make a ruling, we are likely setting a precedent for the future operations of this committee, and you are being put in a position, I would say somewhat unfairly from time to time, to making very quick decisions about what may affect legislators for a number of years in terms of precedents about how we are able to operate here. I hope that the good will around the table continues, and that we do not put you in that position too often, but it needs to be put on the record because somebody, a year from now, is going to ask us what were we thinking.

Mr. Chairperson: I could agree with the member wholeheartedly on that. In fact, the Clerk has pointed out that, and I certainly am not prepared to go down that track at this time, but she says it has been pointed out that the Chairperson can direct the question to the specific person to be answered. I have not done that, but I think that it is trying to work in co-operation between trying some sort of continuity within the committee so that we can ask questions on a more free and easy basis.

In regard to the point of order, as was mentioned, the department did acknowledge that the Crocus frequently requested the legislative changes, and I would think that that is more or less in line with what Mr. Hawranik is asking.

So, with that, I think that maybe we can proceed, and I will ask the deputy minister if he is prepared to answer.

Point of Order

Mr. Chairperson: Mr. Swan, is this a point of order?

Mr. Swan: This is a point of order. I am not going to challenge the decision you made. I should point out the section that you referred to is, "The Department acknowledges that Crocus frequently requested legislative changes." The next sentence, which I think the Auditor General expressed very well last night, is: "The act of requesting legislative amendments is not necessarily indicative of broader problems." I think that should be put on the record that, clearly, any questions have to be put in the context of all the recommendations that the Auditor General has put forward.

But I do not want to slow this down. Let us proceed with the Public Accounts this afternoon.

Mr. Chairperson: There is no point of order, but I thank you for the point.

* * *

Mr. Chairperson: I will ask the Auditor General if he would possibly have some input.

Mr. Singleton: I would just reiterate the comment that I made previously that the member did correctly quote the department's response to our recommendation. But I reiterate my point that at least two of the requests that Crocus was making were very problematic and would have significantly increased the risk profile of Crocus, and were a sign that they were probably in rather desperate straits if they needed to actually ask for changes that would weaken control over them to that extent. So, in other words, I would take a different view than the department did in their response on that matter.

Mr. Chairperson: I guess you are going to have to go back to that question again, Mr. Hawranik.

An Honourable Member: Unless the deputy minister can remember the question.

Mr. Hawranik: Okay, I will try it again.

The deputy minister obviously knew about the repeated requests for legislative amendments since he would have been consulted with respect to those amendments, either himself or his department, and the importance of those amendments. Did he ever

raise this issue, the repeated requests for legislative amendments, with the minister?

Mr. Eliasson: Discussions occurred with both funds, consultations with both funds on legislative changes for the entire duration that I have been deputy minister of this department. They occurred on a fairly regular basis. The legislation was changed in 2001, so there were consultations and discussions with both funds leading up to the changes in 2001. Legislation was prepared and presented to the House and taken forward by the minister, so I think it is quite obvious that the minister was fully aware of the legislation that he presented to the House at that time.

Crocus, in particular, continued to pursue legislative changes after the changes in 2001. They did that most aggressively in 2003. The kind of legislative changes that Crocus was pursuing at the time were related to the pacing requirements as a major feature of the legislation that they wanted to see changed. They wanted the pacing requirement changed so that pacing applied net redemptions, which would have produced the effect that the Auditor pointed out, that then new money could be used to fund redemptions before the pacing test was applied, which is not dissimilar from the regime that exists in Ontario, but it does create significant difference in terms of the public policy objective. It would convert the pacing requirement from having 70 percent of new money placed in new investments with eligible Manitoba businesses to a regime where it would sustain Manitoba investment in business, but not nearly encourage the level of new investment.

That was a change that the government did not proceed with. It was not presented to the Legislature. But the minister would have been engaged in the discussion around those legislative options in the normal course of events. I mean, civil servants do not on their own prepare legislation and present it to the House.

Mr. Hawranik: Did you express any concerns to the minister about the volume, the repeated requests for legislative amendments, any concerns about Crocus?

Mr. Eliasson: As I mentioned, the kind of requests that Crocus was making in terms of legislative change would have involved a significant shift in policy. Advice is provided on policy matters, but policy decisions belong to the government.

Mr. Hawranik: Are you saying that you expressed no concern to the minister?

Mr. Eliasson: I am saying advice was provided to the minister on policy matters, but civil servants do not make policy decisions.

* (15:30)

Mr. Hawranik: Red flags were raised in your own mind?

Mr. Eliasson: I think I addressed that question yesterday. I think that the Auditor General has pointed out that the department had five specific roles related to labour-sponsored venture capital funds, that it was in the position and had been in the position from the time that the labour-sponsored funds were created, of being the policy department component of capital markets, of the availability of capital within the market, at times a co-investor in different projects, and also the compliance responsible for the monitoring and compliance. The Auditor General pointed out that it was very difficult to wear five hats and that the monitoring and compliance role was probably not emphasized sufficiently. That is a recommendation that the government has accepted, and, in June of 2005, the government made the decision to split the monitoring and compliance role from the policy and promotion role. That monitoring and compliance role is being transferred to the Department of Finance.

The minister today has tabled a copy of the implementation report. The implementation team was established in June of 2005, it was co-chaired by John MacDonald, who is a retired senior partner from Deloitte, and Winston Hodgins, who is the chief executive officer of the Manitoba Lotteries Corporation. It was the Deputy Minister of Finance and the Deputy Minister of Industry who were a part of that team that dealt with the recommendations, the decision of the government, and has provided the government with recommendations on how the monitoring and compliance role can be transferred to the Department of Finance with different functions allocated to the Manitoba Securities Commission and the establishment of an independent administrator within the Department of Finance to handle other functions.

Mr. Hawranik: My next question is to the Auditor General. During the course of your investigation of Crocus, the Crocus Investment Fund, a very detailed, obviously, a very detailed investigation, produced a very detailed report, was there any evidence to

suggest that, in fact, the department, anyone in the department raised concerns about the volume and the proposed legislative amendments to the minister?

Mr. Singleton: No, we did not.

Mr. Hawranik: My next question is to the minister. Did anyone in the Department of Industry raise questions, with respect to the repeated requests for legislative amendments, that that would be a red flag to look for and have some concerns over Crocus?

Mr. Rondeau: No, no one raised it as a quote, unquote "red flag." In fact, Mr. Chair, one of the things that I find interesting is, in hindsight, looking at a number of different pieces of information and a number of different departments with a number of different officials, it may have raised red flags if known altogether. I think it has been rather evident in discussion that the deputy minister did not possess all the information. The minister did not possess all the information and the good part about the Auditor General's investigations, when he looked at all the information, he found certain information with certain individuals. Taken together, they could have raised red flags. You know, in hindsight, it would have been good that information had have been all collected, but it is quite evident from the investigation, to me, that it was not all put together. If it had have been, government would have taken action.

Mr. Cummings: On that point, and I suppose this minister might claim that he was not there, but would it not be logical for a minister to question why he was being pushed on a particular amendment? That seems to me, we all know the gold standard by which ministers should be judged, that, or you just rubber-stamp anything that comes up from the department

Mr. Rondeau: I think it explained in our response to the recommendations that the requested changes were on maintenance and pacing, and part of the discussion was whether we wanted to have the money that was being taken out of the fund be replaced by new fund. The maintenance, the pacing, those were the discussions.

Now, the maintenance, we were talking about how much money had to be placed in Manitoba business, and we were presented with an opinion that we could either have the company, in this case Crocus, dispose of property or get rid of assets or maintain the assets, and we were in discussions that they had some different solutions to solve the pacing and maintenance issues.

Their request was for legislative change, but we did not respond to that. Now, we did not respond to that, and, in discussions, as was correctly pointed out by the Auditor General's report, they had said to government that they had other options. Their preferred option was legislative change. That is not what we did. There was no legislative change in maintenance and pacing. The changes were in reporting and things like that.

Now, if you are looking at a go-forward basis, what we have done is we have acted proactively to make sure the monitoring is separate. There is a simplified description of maintenance and pacing, and that makes sense. And so, in a go-forward, which I believe the purpose of this committee is often to see what happened and how we can correct things in the future, we are talking about better governance, in fact, excellent governance. We are talking about appropriate financial administrative governance, and that is what we are doing in a go-forward basis.

Mr. Hawranik: My next question is to the Auditor General. On page 145, he indicates that "in January 2002, an official from the Department of Finance suggested that CIF's continuing requests for legislative amendments may be a sign of management issues and that an independent review of CIF's operation may be in order."

I ask the Auditor General whether he knows who that official was.

Mr. Singleton: Yes, we are aware of who the individual is. It has been our long-standing practice in our reports not to name individuals, but to describe them in terms of their position within the organization, so my suggestion would be to the member that, if they wish to know the name of that individual, they pose the question to someone in the Department of Finance.

Mr. Hawranik: Can the Auditor General explain the nature of that communication? Was it an e-mail memo?

Mr. Singleton: Yes, it was an e-mail.

Mr. Hawranik: Where was the memo sent?

Mr. Singleton: It was sent to a number of individuals within the department of IEDM.

Mr. Hawranik: Was it sent to the minister?

Mr. Singleton: No, it was not.

Mr. Hawranik: Was it sent to the deputy minister?

Mr. Singleton: Well, as I indicated before, it is not our practice or policy to name the individuals that are involved with our reports, but to describe them in terms of their functions.

I would suggest that the member direct that question to the deputy minister in terms of identifying the names of recipients of that particular e-mail.

Mr. Hawranik: I ask the deputy minister: Was that memo sent to him?

* (15:40)

Mr. Eliasson: The first time I saw that memo, the copy of the e-mail, was after I noted the reference in the Auditor's report, and I requested a copy of it.

Mr. Hawranik: It was obviously sent to someone in your department. Did anyone bring it to your attention at all?

Mr. Eliasson: I just answered that the first time I saw it was when I requested a copy after I noted its reference in the Auditor's report.

Mr. Hawranik: Do you know whom it was sent to?

Mr. Eliasson: I do not have a copy of that e-mail here. It was sent to officials in Finance and officials in Industry.

Mr. Hawranik: Was one of those persons it was sent to the Minister of Finance (Mr. Selinger)?

Mr. Eliasson: No.

Mr. Hawranik: Can you recall to whom it was sent in terms of their official capacity? Any of them?

Mr. Eliasson: Well, there were officials in Finance and in Industry who worked on matters related to The Income Tax Act and the labour-sponsored venture capital act and the Crocus act. So these were officials whose job function was to deal with elements of that legislation, and it was those officials and some resident in Industry, others resident in the Department of Finance.

Mr. Hawranik: Do you recall how many people it was sent to?

Mr. Eliasson: Not precisely, but I think it was probably three or four or five, something like that.

Mr. Hawranik: Has the minister seen this memo?

Mr. Rondeau: I did after the Auditor General's report, and what happened was it was shared with me after the report. Actually, it was interesting because

the deputy minister and I both—I asked him for the memo and he produced it in about four seconds because he was going to give it to me.

Mr. Hawranik: Does the minister know to whom it was sent?

Mr. Rondeau: No, I did not actually take note of that. I was more interested in that it was just two officials, and I made sure, I just read it, and actually I do not have a copy with me.

Mr. Hawranik: Can the minister undertake to provide a copy of that memo to us? I know there may be a concern as to the names that are on that memo and we would be, certainly, amenable to having him stroke out those names. Would he be able to provide that copy of that memo to us?

Mr. Rondeau: There has been a long-standing practice from the Freedom of Information officer who strongly recommends not releasing the e-mail. He indicates that it is a long-standing practice respecting the principle that employees need to operate within an environment that allows for the free flow of thoughts, ideas and proposals and advice without concern that the views they express may find their way into the public.

I think it is also interesting to note that, as soon as that someone found out that there was an e-mail between officials, a member from your party, the critic who was on this file, immediately went public and said that the person should be fired, these people should all be fired. Well, what we need to do is have a public service that does work effectively and does have a free flow of information and discourse within themselves. We cannot ever threaten to fire people if they express an opinion. This is a public service that is very professional, that serves both governments, and we need to do that. So, under Freedom of Information, it has never been done, and we want to make sure that our civil servants fulfil a non-partisan function, and that this information, there is a free flow of information. I think that is appropriate to the Freedom of Information,

I know you might forget Mr. Loewen, but he did mention this publicly. If you want the exact quote, it was done in *The Winnipeg Sun*, June 2, 2005, and now he is a Liberal. I know that he is a Liberal now, but he was a Tory, and he was the critic at the time. John Loewen said that departmental officials' heads should roll, and what I think we should do is we should take responsibility, that there should have been a monitoring function. Again, the role of the

committee is to look at where we should be going to improve the systems of government to serve all Manitobans.

So what I believe we should be doing is learning from this experience, that when you have a lot of functions in one department, what we do is we follow the Auditor General's recommendation, which was good, and that was to divide the responsibilities. So you have the monitoring on one side, the promotion and policy on the other. We have accepted that and we want to move into that. That is where we have to move to make sure there is appropriate accountability and appropriate monitoring of the functions. That is what we want to do. I think that is appropriate. I do not think we want to look back and blame. What we want to do is move forward to set up appropriate systems to ensure accountability.

Mr. Hawranik: I agree when the minister says we should take responsibility, but that applies, I think, to his office. I can tell the minister, remind the minister that whether he produces it here or whether he produces it for a court of law, he will definitely have to produce it for a court of law. That is coming.

I again ask the minister. You can take away; you can blot out the names. That is what your concern is. I have no problem with that. Certainly, the subject of the memo, the words in the memo, can be put on the record. What is wrong with that? Why will he not do that? Is there something damaging in the memo?

Mr. Rondeau: First, what it is, it is an e-mail. It is an e-mail between two officials, officials in two departments. FIPPA is very, very clear that the purpose of not providing this is so that the public service can do their jobs without fear and without any threats of being fired or intimidation, as the member of your party, the critic, said that he would go out and fire them. What we need to do is make sure that there is appropriate discourse.

Now, going forward, I think what we have to do is look at, again, not say we need to place blame. I think the whole process of this committee is to make sure that we move forward, to make sure that the systems are appropriate. I think that the Auditor General provided us a road map which we are following to do that.

So I would like to emphasize that the Manitoba Securities Commission is independent, and it monitors all the different programs and the prospectuses and all that. What the Auditor General proposed, which we are accepting and which I just

provided you in the implementation team, is that there will be an independent administrator in Finance. We are not talking just a person who is an employee. We are talking a totally independent administrator who has the rights and responsibilities to act appropriately for Manitobans. I think that is a really good view because it is not a government official. It is not someone who is under the thumb of government. It is independent. It is going to be like the MSC, and I think that was a great recommendation and that is where we need to move forward.

We do not need to affix blame, to say, "Why did you not do it?" We have to say we need to move forward to make sure people have confidence in The Labour-Sponsored Venture Capital Corporations Act and the MSC and move forward to the future.

Mr. Hawranik: Since the minister refuses to provide the e-mail memo to us, regardless of whether the names are blacked out or not, I will ask the Auditor General. Now, he put certain statements in his report, what the official from the Department of Finance suggested in the e-mail, and I am wondering whether or not the Auditor General can tell us what else is in that e-mail without disclosing names. What else is in the e-mail besides that? Is there anything else?

Mr. Singleton: No, I cannot do that. In essence, when we go through all of the evidence that we gather in the process of doing an audit like this, we make a careful assessment of what information needs to be communicated so that people can understand what we have found and what we have concluded and what we are recommending.

If we were to provide you all the evidence that we had, it would be many volumes of paper in this particular audit, and that ties in with a prohibition that is in The Auditor General Act that we may not lay any of our working papers before any committee of the Legislature or the Legislature itself. So the implication that I take from that is I do not want to start providing additional evidence that is in our working paper files that we decided not to include in the report itself.

* (15:50)

Mr. Cummings: On the topic of concerns that were raised and the issue around what governance the funds had to operate under, and I would ask my question to the deputy minister: Was the possibility of withdrawing the tax credits that were available

under these investment programs, the possibility of withdrawing the tax credit benefit in order to bring the funds to order in terms of meeting their requirements, was that ever at issue?

Mr. Eliasson: No.

Mr. Cummings: Was Crocus, particularly, ever in danger of not being able to meet the conditions? We know that they were late, and I understand some of the reasons why they might have been late and/or resisted providing information, but they could not have been too late or they would have been in violation of the act. So that is the genesis of my question. So, therefore, raising the question the other way, were they ever in violation of the act?

Mr. Eliasson: That is difficult for me to comment on. The Manitoba Securities Commission has made certain allegations that have yet to be heard, and some of those allegations revolve around the valuation process at Crocus. That valuation process, in addition to being outlined in the prospectus, was prescribed by legislation. I would not prejudge the outcome of the Securities Commission's investigation or the opportunity for people to defend themselves against those allegations.

Mr. Cummings: I appreciate the deputy minister's answer. I would direct my question to the Auditor. Certainly, I am on ground that I am unfamiliar with in terms of my professional training, so I can be told that this question is out of order. But does the Auditor have any opinion about whether or not they may have been in violation of the act?

Mr. Singleton: I would point out to the member that, if we start on page 115 of our report, we have a whole section on compliance with The Crocus Investment Fund Act and by-laws. In that section, we identify what we believe are a number of examples where Crocus did not, in fact, comply with the legislation.

Mr. Cummings: I appreciate the reference, but where I was coming from was in the acquisition of the \$10 million through the Fond and whether or not that demonstrated a liquidity problem, which it seems to indicate. If there is a liquidity problem, then it follows that the company could easily have been in violation of the act in terms of not meeting conditions on redemptions and/or money held or placed. I will study the next section further unless the Auditor would like to enlighten this committee further.

Mr. Singleton: Crocus required the \$10 million in order to meet its liquidity requirements. We did a calculation, which is shown on page 73 of the report, which identifies three instances in which we think they would have run into a liquidity problem or run below their liquidity limits. A comeback to that might have been that, if Crocus was unable to come up with that \$10 million, they might have come up with another plan to try to prevent that from happening. I guess if you put together the fact that Crocus was not open and transparent about the actual nature of that transaction, together with the fact that it was essential for them to meet their liquidity test, it causes one to question really the motives behind that particular transaction.

Mr. Cummings: Well, I thank the Auditor for that observation. It confirms actually what my concern is and perhaps that will have to be settled at another forum. I see the minister nodding. I hope he would agree that another forum may well be that there will have to be an inquiry so that we find out who was snowballing who in terms of meeting the requirements and how it was that we have ended up with as big a loss that has occurred at Crocus.

The second part to that, and if I read and understand this correctly, last night there was, I believe, a brief reference to it, but if I am repeating myself, I apologize to the deputy minister. But do I understand correctly, or I will rephrase that question, was he aware at any time, other than through the official prospectus, of the Solidarity loan? *[interjection]*

I am sorry, I am not trying to confuse the issue. My question was to the deputy minister and I heard an answer last night. It related to this. But I want to get it clear in my mind: Would he or anybody in his department been made aware of, or had opportunity to know about, the Solidarity loan before it was listed in the prospectus?

Mr. Eliasson: I believe that Crocus put out a press release announcing the investment by Québec Solidarity. As I referenced last night, I think they addressed it at their annual meeting. I also said last night that the terms and conditions of that investment were not disclosed to the department, nor was there a requirement for Crocus to disclose the terms and conditions of that investment for the department, and that the department relied on the audited financial statements to assess whether the reserve requirements were met.

Mr. Cummings: So my question to the minister, then, is along the same line. How does he see the shareholders and the public getting some satisfaction as to knowing who made the decision and whether or not they may or may not have accurately reflected this loan? What vehicle should be used to provide satisfaction to the shareholders who now see this as part of an enormous loss that occurred?

Mr. Rondeau: I think it is important to know that the Auditor had put some recommendations as to where we go to make sure the public is satisfied that due process is done. So, if you look at page 164 of the Auditor's report, it refers that we should make sure that certain parts of this examination are referred to things.

* (16:00)

So, at the MSC, there is a charge if there was a false prospectus. If people issued a false prospectus, then that is as per section 400 of the Criminal Code, and so we have referred that as appropriate.

The MSC, if they are doing something on fraud or public market, that has gone to the RCMP. As far as the court case, there is a public court case where there may be a class action that takes place that then has rules of discovery, which is a public case. CCRA, the Canada Customs and Revenue, has also been referred a number of informations. So the MSE, the Manitoba Securities Commission, will make sure and is responsible to ensure the accuracy of prospectuses, making sure that the information provided by the officers of Crocus, the information provided by the firm's auditor, who signs off on the financial statements, information provided by Wellington West, who is the underwriter, is accurate. Now that has gone to the MSE, and they will conduct an investigation. You can look on the Web site. You can see that it is there.

The RCMP does do an investigation. The investigation is confidential, but, if there are any charges, it is an open public. The people are expected to provide the information in public, and they are provided to do a defence in public. It is a public forum. So it is really important to note that we have taken all the issues that the Auditor General brought up and we have referred them to the appropriate agencies for prompt response. So what we are doing is we are doing a very effective way of addressing the issues the Auditor General made and taking action on them. So it is not just a case of listening to them. These investigations, these proceedings are underway, and that is appropriate. It is not

appropriate to make it political. It is appropriate to make sure that the people with the experience, with the expertise, take action. That is what we have done, and I think that that is appropriate.

Mr. Cummings: The minister has done a good job of encapsulating why this file is so frustrating to people like me because it is not easy to get your hands on, for lack of a better term, whoever the culpable bodies were that created this situation. I would turn to the Auditor because his tomb here, if you will, or tome, certainly not his tomb—I hope the Auditor will forgive my lisp. I would like to say that was deliberate, but it was not.

Mr. Chair, when this very large volume that the Auditor has produced raises a lot of questions and provides some solution, I guess the question is pretty generic to the Auditor: Is he satisfied that all the bodies that he has made recommendations to are, indeed, moving, as the minister just indicated, at what would be a reasonable pace? If he is not comfortable with that question, he can answer it however he chooses.

Mr. Singleton: Mr. Chair, I am always chary of the word "all," so I will just refer to some specific things. We have had a number of meetings with the implementation team as they worked to develop the document that was tabled at the committee today. I have to say that my staff and I were quite impressed with the diligence that the people brought to that work, and believe that they took the recommendations in our report very seriously and have come up with what appear to us to be practical and realistic approaches to dealing with them.

Of course, we were all aware that Bill 51 was passed shortly after the report came out to address a number of immediate issues, and I believe this report identifies some additional legislative amendments that it recommends to the government for consideration.

So I guess I would be hard-pressed to think of what more could have been done in the last few months than has been done to respond to what was a very complex and difficult situation.

Mr. Cummings: Does the Auditor have any comment on the possibility of, or the ultimate disposition that we are seeing of the company?

His job was to observe what was going on and comment on the correctness or otherwise, but, in the ongoing aftermath, we are seeing the company being pulled apart by the—not yet being pulled apart by the

wolves, as they would argue in the industry, I suppose, but it is not likely to return ever to where it was as an attractive investment.

Does the Auditor have any thoughts or comments about where that process is going?

Mr. Singleton: Well, I have lots of thought about it, but I am not going to share them. But it is an important question because I am still being called quite often by the media to make comments about this, and I really regard that our job was done when we tabled the report in the Legislature. I am happy to talk to anyone who wants me to explain anything that is in the report or why we made certain recommendations or what we mean on page 53 in line 2.

I am happy to clarify what is in the report, but all of the activity that may or may not take place in the future as a result of the report is really not for me to comment on.

Mr. Hawranik: I refer again to page 145 of the report, and just a little lower than halfway down it indicates that there was no indication that Industry seriously considered the suggestion from the Department of Finance official, I take it, until October, 2004, when in an internal document officials expressed an interest in reviewing Crocus's business plan.

I ask the Auditor General what was the nature of that communication.

Mr. Singleton: It was a submission to a committee of Cabinet.

Mr. Hawranik: Did the minister see the submission? Did he hear the submission?

Mr. Rondeau: I cannot recall seeing it.

Mr. Hawranik: Were you in that Cabinet meeting in which it was discussed or the submission was made?

Mr. Rondeau: I can endeavour to find out if I was in that Cabinet meeting where it was discussed, but all Cabinet information is held in camera, and it is private and confidential.

* (16:10)

Mr. Hawranik: When were you appointed as Minister of Industry, Economic Development and Mines? What was the date?

Mr. Rondeau: October 12, 2004, but I would like to inform the member that there are lots of minutes and materials that are prepared by the department that do

not go to Cabinet. There is a lot of discussion that does not go to Cabinet and, again, that is why the free flow of information rule is important.

Mr. Singleton: I just wanted to expand on my previous answer. We also saw a number of other documents within the department related to this issue of suggesting that a review of the CIF business plan take place.

Mr. Hawranik: Can the Auditor General indicate approximately what dates that those documents were produced?

Mr. Singleton: I would refer you to page 146 of the report, the top bullet there where we indicate that IEDM officials had concerns with CIF's longer-term business plans, and in mid-2001 CIF outlined in their presentation to IEDM its vision for the next 10 to 15 years. I believe it was out of those kinds of issues that we raised there that led to minutes and memos, et cetera, being drafted around the issue of whether it would be appropriate to have a look at the business plan of CIF.

Mr. Hawranik: Can the Auditor General indicate that October 24 in that internal document, that submission to Cabinet, was it someone within the Department of Industry that made that submission?

Mr. Singleton: The copy that we have is a draft document that is not signed by any particular individual.

Mr. Hawranik: I ask the deputy minister: Is that submission made in October 2004, that internal document that was made as a submission to Cabinet, was that document prepared by you?

Mr. Eliasson: No, it was not prepared by me, but it was prepared by officials in our department and in the Department of Finance, and it was a draft.

Mr. Hawranik: You did see that document, I take it, and have some input in terms of what it contained?

Mr. Eliasson: I am at the disadvantage of not having the document in front of me, but there were lots of discussion in the fall of 2004. The department had concern going forward on Crocus's ability to meet redemptions. Up until the point that trading was halted on December 10, to my knowledge, Crocus had never failed to honour a redemption request when it was made, and 2005 would have been a fairly light year for redemptions for them because, going back eight years, that was when the hold period changed from seven to eight years, but 2006 and 2007 were eight years after some of their most

successful selling years, so the level of redemptions in 2006 and 2007 would have been a particular sort of peak in the eligibility for redemptions.

We wanted from Crocus detailed strategy on their plan to manage their portfolio in a way that allowed them to meet those redemptions. Those were the discussions that were under way in the department in the fall and up until December 10, when trading halted and the question more or less became moot.

Mr. Hawranik: Again, for the deputy minister, does the deputy minister recall when that submission was made to Cabinet, when that document was produced for Cabinet?

Mr. Eliasson: It was a draft submission to a Cabinet committee, and it was not presented to a Cabinet committee. The events of December 10 made that irrelevant.

Mr. Hawranik: Can the minister get back to me then in terms of whether he was presented with that document, whether he was a Cabinet minister at that time, whether he was a member of that Cabinet committee when that submission was made?

Mr. Rondeau: Mr. Chair, I do not know whether the Cabinet document was presented. I think we just heard that it was not presented to the Cabinet committee, and we heard that it was not presented to Cabinet. It was a draft document, a discussion document in the department that did not proceed.

So it would have been impossible for me to be attending a meeting in Cabinet where it was presented if it was never presented, and it was not presented to the Cabinet committee or to Cabinet.

Mr. Hawranik: My next question is for the Auditor General, and I refer again to page 145 with respect to liquidity problems. In January 2001, a senior account manager with Industry reviewed information provided by the fund, and they observed that, unless Crocus invested sufficient investments to fund redemptions, it would run into liquidity problems as early as 2002-2003.

Can the Auditor General explain what the nature of that communication was?

Mr. Singleton: That was an e-mail sent by that senior account manager to two other individuals in the department.

Mr. Hawranik: Getting back to the October '04 draft submission to Cabinet that we are told about,

can the deputy minister indicate whether or not he knows whether he or other officials within the department raised that draft with the minister's office?

Mr. Eliasson: I do not believe that the draft submission was ever submitted to the minister's office.

Mr. Hawranik: If the draft submission was not submitted to the minister's office, did anyone in his department speak to the minister about the contents of that draft?

Mr. Eliasson: I cannot answer for discussions that staff may have had with the minister.

Mr. Hawranik: Your answer is that you do not know?

Mr. Eliasson: I do not know. There are 200 and—

Mr. Hawranik: Getting back to the January '01 memo, the e-mail memo, I think the Auditor General indicated that it was sent to others in the department. That is the Department of Industry?

* (16:20)

Mr. Singleton: Both Finance and Industry were copied on this particular e-mail.

Mr. Hawranik: Did that e-mail memo go to either ministers of Finance or Industry?

Mr. Singleton: No, it did not.

Mr. Hawranik: Did the e-mail memo go to either of the deputies of Industry or Finance?

Mr. Singleton: Well, as I indicated before, I do not want to disclose who it went to. I am happy with going as far as saying it did not go to a minister. I do not want to inadvertently disclose who it did go by going through a checklist of who it did not go to. So I would prefer not to answer that question.

Mr. Hawranik: How many people within those departments did it go to? Can you recall?

Mr. Singleton: Yes, one person in each department.

Mr. Hawranik: I will defer to the member from—

Mr. Larry Maguire (Arthur-Virden): Thank you, Mr. Chairman. I guess there are a few things that go back. I know that—

An Honourable Member: Speak up, Larry.

Mr. Chairperson: Maybe you should bring the mike a little closer, please.

Mr. Maguire: I appreciate some time to ask a few questions around this issue of Crocus, as well. I guess one of the first things I want to go back to is that there has been, you know, this just did not happen overnight. There has been some time for this to occur.

First of all, I will ask a few questions, just to ask, because I am not familiar. I wanted to ask the deputy if I could, Mr. Eliasson, how long he has been in his present position.

Mr. Eliasson: I became a deputy minister in 1988, and was deputy of this department until 1991. I then was Deputy Minister of Government Services. I was then Deputy Minister of Advanced Education, and I came back to this department in 1999.

Mr. Maguire: I thank you very much. Certainly, quite a line of experience. I appreciate the service you have provided Manitobans.

I guess I would want to say that, you know, the loss under Crocus was some \$60 million, or somewhere in that area. Can the deputy indicate to me just exactly what the loss was? Is there an exact number?

Mr. Eliasson: No, I cannot.

Mr. Maguire: I guess, you know, my terminology may have been off, Mr. Chairman. Could I rephrase that to say that was the write-down. Is there a value of the write-down of the shares that were, of the shares in the company that occurred in the period that we are questioning about, leading up to September of '04?

Mr. Chairperson: Maybe as a clarification, Mr. Minister.

Mr. Rondeau: Just, if the honourable member would please rephrase it, it should be dealing with administration of this department. This department did not have anything to do with the valuation, the amount the shares were worth. The department had to do with the policies, et cetera, and, if you are talking about whether we were monitoring pricing or compliance with the information or what happened in the department, that would be great. I know it is complex, but the MSE or the Department of Finance, et cetera, would be more able to respond to valuation issues.

In fact, this department had nothing to do with the valuation issues or what the shares were selling in. So that probably would be more appropriate to a different person.

Mr. Maguire: Well, either the minister or the deputy could answer this, then. I would just like to ask them from the report, from the Auditor General's report, if they can tell me if there is an indication there of a valuation write-down.

Mr. Rondeau: Again, what we did in the report, and I would like you to refer the committee to page 182. If you look at it, one of the things that the department has said is we did not have a sight for valuation; we did not check the prospectus as far as what the value of the funds were. We monitored for maintenance, pacing, whether they had the proper liquidity, if they had the public policy objectives such as the small loans.

One of the things we assured is that, by breaking it up, that would be okay. Because, when we would follow the Auditor General's recommendation to split it up, then there would be the financial monitoring; it would be the MSC, which would follow the valuations prospectus, the information from there, and we would still continue with the public policy.

Again, on page 182, we have the Auditor General's recommendations. They are talking about how we move forward. We follow that. I believe the implementation team has done a lot of work to see how we move forward to ensure that proper information is done. As far as stating the price of what the share is worth, I think it says in the prospectus, I think once or twice in every prospectus, that we do not certify the valuations. We do not certify the information in the prospectus. That is not our role. And we did not accept that. We believe that the officers of the fund, the board, the fund auditors and the people who are responsible for the prospectus, Wellington West, would be more skilled at those answers. But our department was not responsible for doing that, nor did we do that.

Mr. Chairperson: Before we continue on, is it the willingness of the committee to take a 10-minute little break, little recess? 10-minute recess. Thank you very much.

The committee recessed at 4:17 p.m.

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The committee resumed at 4:36 p.m.

Mr. Chairperson: Committee, come back to order. We will continue questioning.

Mr. Maguire, I believe you are going to ask a question?

Mr. Maguire: I believe the question that I had asked was around the levels, values, that sort of thing, and the deputy minister indicated that there had been, the minister had indicated, I guess, that there had been no discussions there.

I wonder if they can indicate whether there have been any discussions about the valuations with the industry players since the Auditor General's report has come out.

Mr. Rondeau: Again, it would not have been this department's role to talk about the valuations. We would have been talking about other issues. If you follow what we have done, it is we have actually responded to the Auditor General's report by looking at independent administrator that is going to be responsible for this in the future for the decisions. We are talking about the decisions on, say, if they want a waiver, that would go to the independent administrator, et cetera. So it would not be a political decision. It is to a person who has expertise in the area. I think that is good. I know that they have had discussions about documentation. That is referred to in the implementation committee report. They have talked about how we make sure that this moves forward in the future.

Again, valuation issues are not the Department of Industry's purview. What we were doing is looking at the public policy and promotions, et cetera, working with them. That is what we do. Again, that is part of the whole MSC investigation about the valuation. MSC is an arm's-length organization. We do not direct it or control it. That is where the investigation on the valuation should be, and is.

Mr. Maguire: I appreciate the minister's answer. I guess I was merely asking as to—virtually every other Manitoban has talked about the valuation of this, at some point. I did not know whether it was his responsibility or not. I just simply asked him if he had ever talked about the valuation with his department or had any liaison in that area. They have not, I understand from his answer.

Mr. Rondeau: I think that, if you are talking about the responsibilities of the department, we are not responsible for the valuation issue. If you are asking me whether any one of the 230-some-odd people involved in the government ever talked about the value of shares, I could never possibly answer that

because I do not refer to what they talk about. It would be impossible for me to know what they have over coffee or at home or anywhere else.

As far as the responsibilities of government, we are not responsible for valuations.

Mr. Maguire: I appreciate that, and I appreciate that the minister would not know what those couple of hundred civil servants that work in his department do at coffee breaks. That is their business.

My question is has anybody in his department talked to him about it.

* (16:40)

Mr. Rondeau: In the responsibilities of the department, we have had lots of discussions as to where we have to go in the future for venture capital. We are talking about, again, the departmental administration of the venture capitals. We are talking about where we are working in the future. When we talked about valuations or who should be responsible, I would refer the member to 182—and I will put on my glasses so I can read page 182, and what it says. I could have probably memorized it. But what we are talking about is that, to make sure that the monitoring function is resourced, it is designed and resourced, and it includes the appropriate policies and guidelines.

So what happened, when we are talking about valuation monitoring, compliance, all that, that is in the MSC. What the proposal from the implementation team is, is to establish a separate person, an independent person within that structure that looks after labour-sponsored venture capital, looks after the implementation of policy to make sure that the monitoring is there, so that MSC is responsible for the prospectus and the information provided. The independent person that is suggested in the implementation committee, they are going to look after making sure the reports are done, making sure that if there are any waivers that are there, and it is separate. It is independent of government in a separate organization to make sure that that is done.

Mr. Maguire: I appreciate that. Can the minister give me any indication when that independent administrator will be put in place?

Mr. Rondeau: We received the report, the final report, early this week. We accepted it, and what we are doing is we are moving on it expeditiously. I understand that the implementation committee has shared their information with multiple people, the

Auditor, with ENSIS, with different people who are familiar. So what we are trying to do is make sure that we know that the process, what needs to be put in place.

We have the recommendation. Now we are moving very expeditiously to make sure a person is in place. Now I do not expect it today. But we just received the report this week. I just presented the report very quickly to the committee, and what we hope to do is move forward to make sure this person is in in the very near future.

Mr. Maguire: Of course, Mr. Chairman, I just have to ask, for the record, that this report that has come out was asked for by the present government around changes required because of activities that became public in the Crocus file in the Auditor General's report. Is that correct?

Mr. Rondeau: Yes. What has happened was in 1993 they set up the organization, and it was set up with all the right intentions to set it up. In 2001, we put in the reporting and improved it and, again, this is set-up, this recommendation, it was recommended by the Auditor General on a number of things. All the items that he referred to, we said, "Okay. We might not have the expertise to make sure that we have followed these to the best practice." So we had an implementation team look at this, look at the Auditor General's recommendation and make sure that we have best practices.

They have come back, very expeditiously since Bill 51, and they have looked at all the recommendations of the Auditor General to make sure that they are implemented to create the best practice. When I look at this, it makes sense. We asked for it, but I think it was, more importantly, the Auditor General suggested it, and it was a good suggestion to make sure that we have the best practices.

Mr. Maguire: My point is, Mr. Chairman, I guess that these changes have come about because of draft legislation that was there, or legislation that has come forward to improve reporting and to improve facing issues. Can either the minister or the deputy confirm that?

Mr. Rondeau: I assume the implementation team has recommended new, additional legislative changes, and they will be presented in the future. Again, some of it is going to be implemented by policy or by hiring the new administrator to oversee these, but some of it is going to be legislative

changes. So I know we have seen some improvements in Bill 51. Again, the implementation team has recommended other legislative changes, and we will be introducing those in the springtime.

Mr. Maguire: Of course, for the record as well, just to clarify my mind on it as well, Mr. Chairman, these recommendations have come forward under this minister's time in his portfolio?

Mr. Rondeau: Yes, they have. What has happened is that Bill 51 I presented to the Legislature, and then these changes have also been presented while I was minister of this department.

Mr. Maguire: Can the minister indicate to me, then, what concerns came forward to him to bring that legislation forward?

Mr. Rondeau: I think what happened was that, with the Auditor General's report, we were provided with some broad strokes of changes that needed to be made. We made some changes in Bill 51. They did not address every recommendation. They addressed the bigger ones, the ones that we had to take immediate action upon, so we did those.

We did those very expeditiously because, after the Auditor General's report, we put in legislation quickly, and then we proceeded. We took the Auditor General's report very seriously because this is a very important report on a very serious issue, so what we did was we took it very seriously. We have some very good people who worked on the implementation committee; they gave us the rest of the recommendations.

So what we are now doing is through certain things, through hiring, through regulations, we will implement some of them. I encourage you to read the implementation team's report. The other ones will be done in legislation in the near future, but, no, we did not have a chance to draft the legislation and do that in the couple of days since we received the report.

Mr. Maguire: No, I respect that, Mr. Chairman, and, of course, I agree that the Auditor General's report is very, very important in this whole process. That is why we are here. It pointed out many concerns, many concerns, tremendous observations, many concerns and, of course, some clear recommendations on what needs to be done in this area.

Since the Auditor General's report has come out, has the department—and I would ask to refer this on the administration side to the deputy, Mr. Eliasson—

seen a list of the companies that Crocus has invested in?

Mr. Eliasson: Yes.

Mr. Maguire: Of course, Mr. Chairman, I am assuming, then, that they will have been able to see the share valuations in those companies as well. Can he indicate to me whether he has or not?

Mr. Eliasson: No, I have not seen share valuations. Crocus, when they stopped trading on December 10, launched an effort that then engaged external firms to provide an evaluation of individual companies that, I think, represented about 88 percent of the value of their overall portfolio.

That work carried on through January, February, March. I think it concluded in April sometime. That arrived at a certain value for the fund that a share value was reported, but never established, that the fund was not trading; there was no prospectus. In July, the receiver was placed in charge of the fund, and he has arrived at a different value for the shares of Crocus.

The receiver is in the process, with the court's approval, of proceeding with an orderly liquidation, probably over a four- or five-year period of the individual investments in the portfolio.

Mr. Maguire: So I guess what would be clear, then, of course, is that the department and minister would have access to the valuations at the date of closure at least, for each of those companies within the fund, if not the share value.

* (16:50)

Mr. Rondeau: As was explained, we do not look after the valuations, nor are we reported to in this process. The important part is that I have not been involved in the whole wind down of Crocus. What happened is that this went to the receiver. It went to the courts, which have the interests of the shareholder in mind and the taxpayer in mind.

Again, we do not get reports on the valuation, nor do we supervise the valuation. Again, they have not come to a final conclusion on what the company is worth. So it is not something that I would get a lot of information or involved in because, again, it is something that the receiver is looking after; the courts are looking after, and the courts have the interest of all taxpayers and all shareholders at heart.

Mr. Maguire: I appreciate that the minister has indicated many times that they are not responsible

for the valuations. I am not asking him that. I am asking him if he has actually seen a piece of paper that says that each of the companies within Crocus is worth X amount of dollars per company. There should be a company name and an attachment there with a valuation beside it. You may not have seen it. I just was wondering whether or not he has actually even seen something like that.

Mr. Rondeau: What I have seen is *Winnipeg Free Press* and *The Winnipeg Sun* articles on what the valuation of the company is. It is not my role or responsibility to check on the valuation. I do not supervise the courts. I would never presume to supervise the courts. They are independent of government, and it is a court-ordered process. So I would not presume to get myself involved in that. Again, we follow this division of responsibility between the legislative and judiciary. I am not going to get involved in that in any way, shape or form.

The other part of it is that I do not have any official reason to ask for that information because I believe that the courts and the receiver have a fiduciary responsibility to the shareholder and taxpayer, and I have faith in them.

Mr. Maguire: If I could ask, Mr. Chairperson, of this minister, he is the minister responsible for industry, mines and energy.

An Honourable Member: Close.

Mr. Rondeau: No. I am the Minister of Industry, Economic Development and Mines, but you are not the only one who gets it wrong.

Mr. Maguire: Well, I guess I should have known it was not energy. Thank you, Mr. Chairman.

Go back into somewhat, you know, when this whole process became much more public, I want to go back and ask the minister just a question about who his predecessor was in the ministry before him, if he could give us the name of the individual that was the minister before him.

Mr. Rondeau: It was Mr. Scott Smith, who is currently Minister of Intergovernmental Affairs and Trade.

Mr. Maguire: I would agree with the minister on that one. And the minister in charge of this portfolio before Mr. Smith was?

Mr. Rondeau: It was MaryAnn Mihychuk, who is currently not an MLA but, I am happy to say, has

found employment in the mining and mineral industry.

Mr. Maguire: Just as an aside, I hope he is not as equally happy that she found that employment in the city of Toronto.

But, anyway, Mr. Chairman, I want to just clarify some of the things. I know that Ms. Mihychuk has indicated publicly that she was aware of this, the problems in Crocus, during her ministership. She has indicated publicly that there was drafting of legislation already going on at that time to crack down on Crocus by improving the reporting requirements. Can the deputy minister indicate to me if that is correct?

Mr. Eliasson: There was legislation that was passed in 2001 when MaryAnn Mihychuk was minister. In 2003, there was legislation that was drafted, but not presented to the House.

Mr. Maguire: So that legislation would have been there while Ms. Mihychuk—it was being drafted under her while she was still there then. Is that correct?

Mr. Eliasson: I do not have the date at hand when she left the portfolio.

Mr. Maguire: I just wanted to ask, then, I know that she was the minister after the election in '03 before she left her seat, I believe, to run for candidate in the mayoralty election here in the city of Winnipeg. Of course, maybe the member from Minto that is here in the House today could remind the minister just what time frame it was that he became a member of the Legislature.

Mr. Chairperson: I believe Ms. Mihychuk went from Industry, Trade and Tourism or, at that time, I think that is what it was called, to Intergovernmental Affairs and, from there, that is where she quit to run for mayor.

Mr. Rondeau: I can respond to your comments. The draft legislation did not have to do with valuation. The draft legislation had to do with pacing and maintenance, and it ensured that that is what it had to do with. So, again, the draft legislation, from what I understand, was never presented to the House and, as was put on the record, had to do with maintenance and pacing changes. Again, it was never presented, and I think it was not presented because of issues that were discussed here previously.

Mr. Maguire: Mr. Chairman, I thank the minister for his answer, even though I had not asked a

question. I guess my question to the minister is, then, since he has come into his ministership, he has obviously seen the draft of the legislation that was cancelled.

Mr. Rondeau: No, I have not.

Mr. Maguire: Well, then, how does the minister know in his previous answer that it was for maintenance and pacing?

Mr. Rondeau: I have been informed that by staff.

Mr. Maguire: I would ask the deputy minister, then, if such a draft piece of legislation still exists today.

Mr. Rondeau: What happens is that there are lots of drafts of legislation that are presented or are prepared. They do not always proceed. I think the important part is, as I have been informed by the department, that it had nothing to do with valuations or the reasons for Crocus ending. I think that the Auditor has concurred that it was on valuation, pacing. I do not know if you have seen the draft legislation, but the draft legislation, I assure you, was on maintenance and pacing, not on valuations. What we have done is that, in 2001, we improved the reporting. There was draft legislation prepared but never presented to the House, so we did not proceed with the legislation. So, whether or not some draft material is presented or prepared, we often discuss issues or potential things that could happen. We did not proceed with changes in pacing or maintenance.

Now, what has happened since then is that, if you look at the implementation committee, now we are changing or we are proposing to change the pacing. We are saying it has to be simple, easy to understand. That is where we are moving. We are moving to where the pacing needs to be where people understand. We are talking about preparing it so that people can understand and do their jobs appropriately. There should not be discussions on how you evaluate pacing or maintenance. It should be simple and easy to understand, and that is where we are moving.

The Auditor General mentioned in his report that that is what we should do. We are clarifying maintenance and pacing in this new report, and I am sure that we will present that to the House.

Mr. Maguire: So the minister will confirm that it was the areas of maintenance and pacing that are the issues that were concerns that were raised, at that time, around the drafting of the legislation that was there when Ms. Mihychuk was the minister?

* (17:00)

Mr. Rondeau: As was noted in the examination of the Crocus Investment Fund, the different labour-sponsored venture capital funds had issues on pacing and on the maintenance. One of the things is that the maintenance test and the pacing test specifically was confusing because it started to talk about a certain amount of months after the year-end of the—and it was very confusing.

What we have done is we have taken that discussion from the Auditor General; the implementation team looked at it and said, yes, this is hard. So what they have done is they have suggested in the implementation team's report that two years, and I cannot quote it exactly because I just got it and read it, but I believe it is two years after the year-end of the time that the money is acquired. So, in other words, the year-end of the fund, you have two years to invest it.

The other thing that is interesting here, and was discussed, is that if the venture capital fund does not have an investment that they want to put the money in, they do not have an investment that they do not want to invest in, they then can go to the independent administrator, which is recommended in the implementation team, to say, "Hey, wait a minute. We do not have a good investment. We do not want to just invest money for the sake of investing it for the pacing requirement. What we want to do is delay." Well, now it goes to the independent administrator to talk about the pacing. So there is not this huge rule that on this day you have to invest this much money. It becomes a little bit more give or take. We do not want to force a company to do a bad transaction just for the sake of pacing.

Mr. Maguire: I just want to back up a moment and say that there were concerns raised by persons in regard to the whole area of maintenance and pacing, and it was concerns around the issue of reporting requirements of Crocus. I just want to quote Ms. Mihychuk when she stated: "I was approached by officials and asked would I support looking at measures to tighten up controls. I said I would. At the time, at the end of 2002, at the beginning of 2003, when I was the minister we were, indeed, talking about how to make the fund accountable and open and workable."

This raises concerns, Mr. Chairman, because this was obviously before the '03 election even, and it was also a time, at that point then, when there was draft legislation coming forward in '03, very clearly

before Crocus had any indication publicly for any kind of ending of trading or bankruptcy or closure of its, you know, freezing of the redemptions of shares. Can I get a confirmation from the minister or the deputy that those were the reasons that they were drafting that legislation at that time?

Mr. Rondeau: I think, Mr. Chair, that we had some measures to tighten up the accountability starting in 2001. This is a process. We might not have worked as fast as might have been predicted in hindsight, but there was no reporting before 2001. The funds were established in 1993. There was no reporting mechanism. There was no mechanism to test for maintenance and pacing or the liquidity. There was none.

In 2001, we started the process of doing the reporting. What was interesting about it is it took a while to get the forms right. It took a while to work with the two funds. It was not an easy process, but that started to happen. So we started the process where reporting happened. During that time, the companies requested changes. They requested changes that made sense. Some of them would be: What happens about this investment? Do you have to make this investment right on time, or can we have flexibility? Do we make a bad investment just because we need the pacing? What about the liquidity? What about getting rid of transactions—so there were discussions between the companies, the two labour-sponsored venture capital organizations and the government. There were some recommendations. What it had to do with was pacing and maintenance. Well, the pacing was confusing, and it was mentioned in the Auditor General's report that it was confusing. Even though they were not offside on pacing, it was a confusing sentence. When I read the Auditor General's report, it took me about three times to figure out what it meant. So, with no negative responses to who drafted the legislation in the first place, it was hard to read.

So what we have done is we have sent that to the implementation committee, and they said, "Oh, let us make it simple." Two years after the year-end that the money is received, and I can understand that. Everyone in this room is nodding. Yes, that makes sense. Well, that would be a legitimate change in pacing. Then, what also happened, and the companies would request, I understand, is they said, "What happens if we do not have an investment that we have to make exactly on time?" Well, we needed to make sure that that was there.

So, some of the changes, I have not seen the draft legislation, but I assure you they were on maintenance and pacing because that is what I was told by my staff.

Mr. Maguire: I wonder if the deputy could indicate to me, in Ms. Mihychuk's quote, she indicated that she was approached by officials.

Did he ever approach her to tell her that there was draft legislation needing to be prepared, or was it from other outside sources?

Mr. Eliasson: Any discussion of draft legislation for that did not involve me. She may well have been talking to other officials in the department, but not the conversation that I was involved in.

Mr. Maguire: Did she ever approach you about such legislation?

Mr. Eliasson: No, the legislation was passed in 2001, and, in 2003, legislation was being prepared, but it dealt with the issues of pacing Crocus, and, also, the ability of a fund to cap itself and establish a new fund. It was a complex process.

The Crocus is created under a special-purpose act. It used to be The Employee Ownership Act when it was first created, but it exists under its own legislation. Then, I think, in about 1997, the labour-sponsored venture capital act was created that had many parallels to the legislation that governed Crocus, but also some significant differences. That was the act that ENSIS operated under.

One of the intents in legislative changes that were made and contemplated was to try and ensure that there was a level playing field for both companies under their respective legislation so that one or the other would not be disadvantaged in the marketplace because of a legislative difference. So, whenever legislative change was contemplated to one act, you had to be very conscious of the impact it would have on other legislation. In 2003, once we sort of got into the consultation process, the complexity of those differences emerged, and the legislation did not make it to the House at that time.

Mr. Maguire: Can the deputy tell me who ordered the cancellation of that legislation?

Mr. Rondeau: It was not a case of whether there was a cancellation. What this is, is this is draft. I know when I am writing a letter, I often write a draft letter. If I am dealing with issues, often with the Auditor, with lots of different organizations, you write a draft before you decide whether you are

going to proceed with sending the letter or how you are going to do it in the final framework.

What happened was that there was discussion; there is a draft done, and it was decided that it was not going to proceed. It was a political decision where it did not make sense to proceed. Now, it was not presented to the House. The draft legislation, which had nothing to do with valuations, was not presented to the House.

* (17:10)

It is important to understand that the valuations, again, had nothing to do with the Department of Industry. This legislation dealt with maintenance, pacing and those other public policy systems that fall in the Department of Industry.

Mr. Maguire: Mr. Chair, so the minister is indicating to me that he never saw the draft legislation from '03, but he just told me why it was not brought forward. Is that correct?

Mr. Rondeau: If you note, Ms. Mihychuk confirmed to the *Free Press* on June 4, '05, that no bill was drafted. The idea, basically, had not gone to Cabinet or caucus. There was a draft. It did not proceed and, basically, on page 145 of the Auditor's report it says that the draft labour fund bill was about liquidity and pacing.

With those two points, the Auditor General who wrote the report, the staff who told me that, and it was Ms. Mihychuk who said that there was no draft bill presented to Cabinet or caucus, I think that is pretty conclusive that we did not proceed. There was some drafting of a bill, and it did not proceed. Again, it is like saying why did you not do something. Well, we did not do it because there was reasoning, and it says that it was not presented to Cabinet or caucus. It was about liquidity and pacing, which had nothing to do with the crisis at Crocus. Basically, the Auditor himself told CJOB that the draft bill which he saw, which I have not seen, would weaken controls over the fund.

Well, I think that what we did, which makes a lot of sense, is we actually strengthened the reporting, strengthened the information on maintenance and pacing so that people will understand it, and they can read it. We will actually have a regulation which states the reporting and how the reporting is done. That was not done for about 10 years of the fund's life. There was no regulation on how the funds would report.

So we saw it in 2001; we changed the regulation. So what we want to do is make sure that we do have decent reporting. But we do not control the fund; that is the other important part. We do not control the management of the fund. We are just interested to make sure that the information is provided accurately, that is the MSC. For us, we are worried about the maintenance, liquidity and those issues.

Mr. Maguire: Can the deputy—because, of course, he was there at the time working on the legislation in '03 when the minister was not—indicate to me if there are many changes between the legislation that came through in the bill and the draft legislation from '03?

Mr. Eliasson: The only legislative change that was made since 2001 was Bill 51, which was introduced to the House this past session and passed in June. It dealt with a whole different set of issues than any legislation that was contemplated in the interim.

Mr. Maguire: Could you, just for the record, indicate what some of those differences are?

Mr. Eliasson: Bill 51, basically, dealt with four major areas. One, where a set of provisions that would provide for good governance for labour-sponsored venture capital funds. A second major area was some changes that provided greater empowerment to the common shareholders of labour-sponsored venture capital funds, a set of reporting and disclosure requirements to better protect shareholder interest in labour-sponsored venture capital funds, and the streamlining of the administration of the labour-sponsored venture capital program.

Mr. Maguire: Yes, I thank you for that brief outline. I guess I could go back to the legislation that was there in '03, or the draft legislation, or the draft that was there at that time. Ms. Mihychuk indicated there, again, and I quote: "You really need support of government to take action, but they raised the flags, and they raised a number of issues that they felt needed to be addressed." Why did the government not bring the legislation forward at that time?

Mr. Rondeau: I believe that, when we are talking about reporting, we did bring in requirements for reporting in 2001. What has happened and, again, I believe that we have to make sure that we move forward, and make sure that we address things in a proactive way on a go-forward basis. I look at what was happening in 1993. The board governance was not optimal. It had two government reps who,

theoretically, did not report to government, but were appointed by government.

Bill 51 changed that. That made sense, and that was in the Auditor General's report. So now you have Class A shareholders who are holding that, who are Class A shareholders who invest in a company, who hold those positions. We improved corporate governance. Okay? And what that means is that there are shareholders on the board committees. They are not one-off committees. They are committees responsible and part of the board. We made sure that the common shareholders had greater representation and voice. It was also interesting to see that there were not cases where the board chair could chair all the different committees. So we did a lot of things in Bill 51, and they improved it. The reporting requirements improved it to make sure that we were getting good public accountability for the 15 percent tax credit.

Now, back to why we did not proceed. It did not go to Cabinet or caucus, so it did not proceed. It did not have anything to do with the valuation. What it had to do was with pacing and maintenance. Pacing and maintenance. Pacing is how fast you invest it, and maintenance is what you invest, the percentage that you invest in Manitoba businesses. That is what the Department of Industry invested in. That is why we gave the tax credit, and that is good public policy. We were not responsible for the valuation.

Mr. Maguire: I appreciate the minister's answer that it did not get to Cabinet at that level, but Ms. Mihychuk, just before that stated: "Labour-sponsored funds were a regular and consistent topic at the ministerial level. There were pacing issues, reporting issues. People had flags. They raised issues of concern." Surely, the minister must have raised this with her colleagues at the time. It was very obvious that it was discussed heavily at the ministerial level. That is the Cabinet level. Would the member like to indicate whether that was ever raised while he was a Cabinet minister?

Mr. Rondeau: Again, Ms. Mihychuk confirmed in the *Free Press* that no final bill was drafted, and the idea had not gone to Cabinet or caucus. Now, that is rather strong. It was done in the *Free Press* on June 4, 2005. Now, again, if you look at what the Auditor said, CJOB, that the draft bill would have weakened the controls over the fund. I have not seen the draft bill. I just believe that that is what was said there. Again, on page 145, it says the draft labour fund bill was about liquidity and pacing. With those three

things we did not proceed. Now, I cannot presume to say why we did not proceed. What I do say is that what we have moved forward on is the implementation team report. We moved forward on Bill 51, and we moved forward in 2001 to require reporting, and that made sense.

Mr. Maguire: I just wondered, then, I assume that the minister cannot supply me with a copy of the draft legislation that never came forward.

Mr. Rondeau: I would presume that, with FIPPA and with other things, lots of the discussions in the department, in the industry, between officials et cetera, things that are presented for ministers or for departments, that is open for discussion between officials. What I would suggest is that it would not be acceptable—if the Auditor General can lead light on it, that would be wonderful, but, generally, under FIPPA discussions between different people in the bureaucracy are not generally made public, and, if it is advice for Cabinet or a minister, it is not available.

* (17:20)

From what I understand from Ms. Mihychuk's comments, it was not presented to caucus or Cabinet, but I would assume that it falls under Freedom of Information. I can endeavour to find out whether it is available under FIPPA and, if it is available under FIPPA, we would provide it. I would assume that it is not, because it is conversations among officials. I can talk to the officials and see whether it is available under normal course of action with FIPPA.

Mr. Maguire: There was a higher authority that was referred to in the reports in regard to interfering or moving forward with cancellation of some of these types of legislation and that sort of thing. Can the minister indicate to me who he thinks that was, or can he tell us for sure who it was?

Mr. Rondeau: I know I go to church, but the higher authority may be God. I do not know who it is that might have presented it. There has been no discussion as to who the higher authority is. Basically, it could have been God. It could have been, you know, whatever, Buddha. I do not want to be discriminatory here.

Often people have reasons why things did not proceed. What I would like to explain strongly is that when you do not proceed it would have been different than if we did proceed. The government did not proceed to weaken the legislation. The government did not proceed to weaken what was happening. So, if we did not proceed, that should not

be a way of criticizing that we were going to weaken it. We did not weaken it.

In 2001, it was strengthened on the reporting. In hindsight it would have been nice to have strengthened it earlier, but we did move forward in Bill 51, and we are going to continue to move forward in the next legislative session to implement all of the recommendations from the Auditor and also the recommendations from the implementation team who have written a wonderful report; I encourage you to read it. It actually makes a lot of sense on how to solve some of these long-standing issues.

Mr. Maguire: I certainly did not learn anything in regard to references from the higher authority in the report from this minister, so I assume that it was not him. Maybe I should not assume that, but I have. So I would ask the Auditor General if he does know who the higher authority was.

Mr. Singleton: No, we are not 100 percent certain who the individual being referred to was, but we are quite certain that it was a human being.

Mr. Maguire: Well, that does narrow it down. I think, if I could, without being facetious, Mr. Chairman, indicate that was a much straighter answer than I got from the minister with regard to the references that he made. I appreciate the fact that he has indicated, with a high percentage, that he may not know exactly who it was.

Can he indicate to me with the 98 percent certainty that he talked about whether or not it was the Premier (Mr. Doer)?

Mr. Singleton: Excuse me, Mr. Chair. I thought the question was being posed to the minister.

An Honourable Member: No, it was not. Pardon me, I am sorry, for the Auditor General.

Mr. Singleton: Let me think about this. No, it was not the Premier.

Mr. Maguire: Well, then, could he indicate to me whether it was the minister or the minister in charge at that time?

Mr. Singleton: Mr. Chair, I do not think I can go much further. One of the practices that Crocus seemed to follow in a lot of their meetings with officials was to name names that they believed had authority over the people in the room and make allegations that things had already been cleared, but

we did not pursue those far enough to be able to talk accurately on what the actual situation was.

Mr. Maguire: So I take from that answer that it was not the minister in charge, Mr. Auditor General?

Mr. Singleton: In this particular instance that we are referring to, it was not the minister.

Mr. Maguire: Were there other circumstances where it was the minister?

Mr. Singleton: This is the only reference we make in the report to a higher authority, to officials being told that a higher authority had blessed a particular course of action that Crocus was wishing to pursue, so I cannot really answer the question beyond the specific instances in the report.

Mr. Maguire: Okay, to the Auditor General again, as well, I appreciate that. I was just working off the answer that you had given me and I just wanted to clarify that. So could you also indicate to me then whether or not this was a high-ranking official in the Premier's office?

Mr. Singleton: I think I will fall back on the practice I had before in questions about the e-mails. I do not mind indicating that a minister or the Premier (Mr. Doer) was not involved in something that is cited in our report, but I do not want to go further than that in starting to try to characterize which particular officials may be referred to in our report. I would suggest that that line of questioning be focussed on the department.

Mr. Maguire: Well then, I appreciate the work that the Auditor General has done on this report that actually uncovered this kind of activity because I think it is very much to the core of this whole process, and 33 678 Manitobans are directly affected by the investment they had, and all Manitobans by the tax credit that they received.

So, therefore, it is probably one of the biggest issues that has hit Manitoba in a long time in regard to the actual number of people that are impacted by this whole process that we are going through here, and that is why I think it is so serious that we need to have answers to some of these questions. So I will ask the deputy minister whether or not it was he that intervened as the higher authority in this process.

Mr. Eliasson: No.

Mr. Maguire: Well, I appreciate the fact that it was not this minister because I do not believe he was in

charge at that time, but I will ask him anyway if he was the higher authority.

Mr. Rondeau: No. At five foot six I am rarely the higher authority.

Mr. Maguire: Would either of them be able to tell me whether it was his predecessor, Mr. Scott Smith, who was the higher authority?

Mr. Rondeau: I believe that what we have here is an issue where we are talking about whether there is a higher authority or something like that. I think what we have to look at is the whole issue. The issue was whether there was a quash of a proposed draft legislation or whatever it was.

* (17:30)

What we wanted to do is look at this on how we make sure that we move it forward. If you look at how we move forward the legislation, you move it forward by looking at where we have an independent person looking after this, so that you have an independent administrator with powers like the MSE that can make administrative decisions, so that there is never any perception of government or any interference from anyone, whether it is perceived, which I assume it is perceived influence. What you want to do is make sure there is an independent administrator, which is recommended in the implementation team, so that there is no appearance of intervention by anyone. There is no intervention that a higher authority, because there will be no higher authority; there will be an independent administrator. So, by looking at this issue, looking at it on a go-forward basis, which, I believe, we need to do, we are making sure from 1993 to 2005 we need to solve the problem. The problem is there will not be a higher authority. It will be the independent administrator.

Mr. Maguire: Well, Mr. Chairman, my line of questioning was not about what is going to happen in the future. We have got a wonderful report, an Auditor General's report, and the recommendations that I would hope the government would act on have now got the implementation team's report. I would assume that they are sharp enough to move forward with that. My question was what was going on in 2002 and 2003, and who the higher authority was that cancelled this type of legislation that could have saved the 33 678 Manitobans a good chunk of their investment some 18 months to two years earlier than what finally came in place.

Mr. Singleton: I just want to clarify for the member what the higher authority was supposed to have done. That is referred to on page 146 of our report, on the second bullet. We indicate that the Crocus Investment Fund had made a presentation to officials in the department of its vision for the next 10 to 15 years, and officials of the department advised us that they had concerns about those plans, because they gave rise to a number of policy and practical matters. What we are saying is the Crocus representative assured the officials of the department that they did not need to worry about that, because they had already been approved by a higher authority.

Mr. Maguire: Certainly, I thank the Auditor General for the clarification of that. I think it continues to outline the importance of this whole issue. You know, I had just kind of hoped that the government might come forward with some answers to these questions. So, if it was not the minister, it was not the Premier (Mr. Doer), it was not this minister, it was not the previous minister, it was not this deputy minister, can they indicate to me whether it was a—well, I would ask whether the deputy minister, first, can answer whether he believes it was anyone in his department.

Mr. Eliasson: It was not a statement made to me, and I was not present when the statement was made. I have no idea whom they were referring to.

Mr. Maguire: I thank him for that answer. Does the minister have any indication of who might be being referred to as the higher authority in this case?

Mr. Rondeau: First, I do not have any idea of who may have been, or if there was a higher authority. What I know is that this whole issue, what we want to do in this process is to make sure that we have the checks and balances and the proper procedures for government to make sure that people have the confidence in the systems that we establish by having an independent—and, if you look at page 182, as we had discussed earlier, what we have are the recommendations for the department. And part of the recommendations for the department are to ensure that, on a go-forward basis, as part of a comprehensive monitoring program, IEDM will require documentation to support the eligibility of each fund. So that is one.

Number two, we are starting to talk about the pacing being changed. We are talking about separating the valuation and the monitoring versus the public policy objectives. Those are the things that

we wanted to do. We also want to make sure that there is not even an appearance. I am not saying that there might have been or might not have been anything. All we have is a conversation. What I am also saying is what we want to make sure is that in the future we do not have any perceived higher authority or any perceived conflict of interest or any perceived anything, or real. What we want to do is make sure that there is an independent administrator who has the ability to make decisions and get the information and act appropriately.

Mr. Maguire: I thank the minister for his answer. I take it that he is in conflict. He said he doubted there was a higher authority here; it is very clear that there was.

So I just wanted to put that on the record and say that this issue is not over. As my colleague from Lac du Bonnet has indicated, at some point down the road there will be a public inquiry on this issue. I remind that somebody might have to recollect who the higher authority was at that point, because I think it is very relevant to have shown where the interference was in this whole process. I know that there are others involved in that whole process, and so I will leave it at that for today, Mr. Chairman, in regard to that line of questioning.

I turn it over to my colleague from Lac du Bonnet.

Mr. Hawranik: Mr. Chair, I just have a question with regard to the two e-mails, one on January '02 from the Department of Finance, and one, January '01, from the Department of Industry. I would like to ask the Auditor General whether or not—obviously, he had mentioned that they were directed to certain departments and there were multiple recipients in each case. Was there any response to those e-mails?

Mr. Singleton: Not that we are aware of.

Hon. Jon Gerrard (River Heights): My question to the deputy minister—

Mr. Chairperson: I wonder if you could just pull your mike closer.

Mr. Gerrard: My question to the deputy minister, on page 125 of the Auditor General's report there is a reference to the fact that, June 30, 2001, the fund had invested in Company GG a total of \$20.3 million or 13 percent of the fund's total investment assets of

\$159.2 million. Based on the 10 percent limit, the maximum allowable investment amount would have been \$15.9 million. As a result, the fund's investment in Company GG exceeded the maximum allowable investment amount by \$4.4 million.

My question to the deputy minister is when did the deputy minister first become aware that the Crocus Fund was over its maximum allowable limit of investment in one company.

Mr. Chairperson: It has been pointed out to me, and I know that we have gone along very smoothly here for the last while, that most of the questions, in fact, the questions have been in relation to the recommendations of the report. This, to my understanding, is an observation, and it is not part of the recommendation. It really is something that possibly the minister might answer, but not the deputy.

Mr. Gerrard: This is directly related to the recommendations. The reason is that the recommendations deal with the 10 percent limit. So I am just trying to understand the rationale and what has happened in terms of the development of the 100 percent limit and what it was back in 2001.

* (17:40)

Mr. Rondeau: In answer to a policy question, the policy question is how the 10 percent rule was drafted.

Point of Order

Mr. Chairperson: Mr. Gerrard, on a point of order.

Mr. Gerrard: This is not a policy issue. This is when did the deputy minister become aware of the fact that the Crocus Fund was over its limit, period.

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

Mr. Swan: For the information of the member from River Heights, we spent some time yesterday, and, also, earlier today, talking about the scope of questioning and, frankly, I think this process has been working very well. But, Chairperson, it is still a necessity that, if there is a specific question that the member from River Heights wants to put to the deputy minister, it has to be on a matter which is related to the report recommendations set out in the

Auditor General's report and related matters of administration.

So the limitation is set out very clearly in the rules, which have been negotiated by all the parties in this Legislature, and the member from River Heights has two choices: he can either rephrase his question and ask something which relates to those things, or he can ask the minister, which is his prerogative.

Mr. Chairperson: I thank the member for that input on the point of order.

We have a fair bit of latitude in there, but most of the questions, in fact, the scope of the questions that have been asked have been in regard to the recommendations.

Possibly, Mr. Gerrard, you may want to redirect a question or rephrase the question and see whether we can work through this for you.

* * *

Mr. Gerrard: On page 168, the recommendation is that The Crocus Investment Act should be amended to base the calculation of the 10 percent rule on the cost of investments and not value.

My understanding is—and I will ask the deputy minister—that the initial act was changed. I think it was Bill 28, and there is a reference on page 125 to indicate that the change came into effect July 6, 2001, to make it a change from the cost to the value of investment. Is that correct? Maybe the Auditor General would be the one to answer.

Mr. Singleton: I am sorry, Mr. Chair, I was engaged in a conversation just for a moment to clarify. Do you mind reposing the question for me?

Mr. Gerrard: The act came into effect, and I think it was Bill 28 with revisions to the act July 6, 2001 that brought in a change which used valuation as opposed to costing. It made some changes with regard.

Can the Auditor General clarify the nature of those changes?

Mr. Singleton: The essence of the change was to change the basis of the calculation from restricting investments to 10 percent of the cost of the portfolio, and changing it to 10 percent of the fair market value of the portfolio.

Mr. Gerrard: So the original act had a by-cost basis and it was changed to a market value. So the

statement that, here we are, the Crocus Investment Fund, was at 13 percent of the total investments asset. The Crocus Investment Fund was over, based on the cost, but it was acceptable after the legislation was changed, based on market value. Because this is directly related to the recommendation that we move back to cost instead of market value, I am trying to understand why it was changed and what information was available, and I think it is a legitimate question to the deputy minister.

When did the deputy minister become aware that the Crocus Fund had invested more than was allowed under the legislation?

Mr. Chairperson: Maybe, as a point of clarification, changing of that type of initiative, I assume, would be policy, not a deputy minister's decision. The decision would be made by policy which would come out of the department, which would be the minister to really answer that question.

The deputy would not be changing policy, would not be changing those numbers.

Mr. Gerrard: I am not asking about policy. What I am asking is when did the deputy minister become aware that the Crocus Fund had invested more in one company than it was allowed to do under the act.

Mr. Chairperson: That is a different question than you asked before.

Mr. Gerrard: No, that is what I was trying to ask. Maybe I was not clear, but let me ask the deputy minister when he became aware that the Crocus Fund had invested more than was allowed under the act in Company GG.

Mr. Rondeau: What happened is in June 2001, the cost changed to value, and what happened was—

Point of Order

An Honourable Member: Mr. Chairman, this point of order there is—

Mr. Chairperson: Mr. Gerrard, on a point of order.

Mr. Gerrard: This is a very specific question. I understand the change in legislation. I am trying to understand when the deputy minister became aware of the fact that Crocus had invested more than it was allowed under the act at that time.

Mr. Chairperson: I am going to seek further clarification for the minister on this point of order that has been raised.

Mr. Rondeau: Basically, Mr. Chair, what I was trying to explain is that there was a policy decision, a change in legislation that moved it from cost to value, the market value. Okay? This is part of the point of order, Sir. There was a policy issue where it was moved from cost to value. Now, at that point, if the change was made then what happens is that, without the change, then it might have been offside from what I understand. There was a change made. It was a change in policy. What has happened, and I think in the go-forward basis is that there was confusion on both the numerator and denominator. What has happened is that, with discussion and recommendation from the Auditor General, there has been clarification where the numerator and denominator are both on cost, so there is no confusion in the future.

So what we are trying to say is that it is no longer market value. It does not change. It is cost versus cost.

Mr. Chairperson: I know that we are debating a point here, and I will take Mr. Gerrard, again, on the same point of order.

Mr. Gerrard: Let me have your ruling and then let us go on to another question because the obfuscating minister is not helping things.

Mr. Chairperson: Well, then, it is a dispute over the facts, and we will move on to another question then, Mr. Gerrard.

* * *

Mr. Gerrard: My question to the Auditor General. It is quite clear from the Auditor General's report that, on June 30, before this legislation came into effect, in 2001 Crocus was offside legally in terms of the requirements of the act. Is that correct?

Mr. Singleton: Yes, that is correct.

Mr. Gerrard: My question to the deputy minister. When did the deputy minister first learn that Crocus was offside legally with respect to the act on July 30, 2001?

Mr. Eliasson: I do not know when I first learned that. When the act was changed, I was not aware of an issue of them being offside of the act when the legislation was changed. The Crocus Investment Fund Act had a different test than the labour-sponsored venture capital act, and I think the Crocus act test was that they were limited to the greater \$750,000 or 10 percent of their portfolio, and the

labour-sponsored venture capital act was 10 percent of the value of the portfolio or \$5 million. When the legislation was changed, it was my impression that the change was recommended in order to bring consistency between the two acts, and to recognize that The Crocus Investment Fund Act had become a much larger fund than when the legislation was originally written.

*(17:50)

Mr. Gerrard: I would ask the Auditor General whether he can provide any clarification on when it first became clear that the Crocus Fund was offside.

Mr. Singleton: I believe that there was, in fact, no reporting process back from Crocus to the government on whether or not it was complying with that particular requirement. We learned that as a result of our investigation. I guess part of what we found problematic in the process was that Crocus did not have to report publicly on the size of the investments or compliance with those until its annual report came out at the end of September. So it was certainly fortuitous for them that this change was made in advance of the year-end, so that, at year-end, they could report they were in compliance.

Mr. Gerrard: Now, let me go and ask, in terms of the legislative change at that point, it would have clearly moved Crocus from a point where it was non-compliant to a point where it became compliant after the change in the act. That is correct?

Mr. Singleton: Without the change in the act, Crocus would have remained offside.

Mr. Gerrard: It would appear, based on the information that we have from the deputy minister, that he is not sure when he became aware. Let me ask in terms of recommendations which come from the observation, which, I believe, is on page 65, that, from '99 through 2004, there was a significant net loss each year from operations. Can the Auditor General provide an indication of the recommendations that flowed from what appears to be poor operating practice having major loss each year from operations?

Mr. Singleton: I think this comes back, in large measure, to our concerns about the poor quality of governance at the Crocus Investment Fund. The board, as we understood it, was not aware that Crocus Fund was incurring losses of this level, or not

particularly concerned about it. There was no action taken by the board to require management to come back with a plan to stop those losses. So, in terms of our recommendations that would have dealt with that, had Crocus continued in operations, we did recommend a much stronger and more robust governance system be put in place, that people with appropriate qualifications to provide oversight over a complexly responsive investment fund be in place, and a number of related things.

Mr. Gerrard: My follow-up question to the Auditor General. This would have been one number that would have been very clear in the annual report in terms of the loss from operations, would it not?

Mr. Singleton: Yes, it would.

Mr. Gerrard: And it would have been something that one would expect, whether it is government observers or deputy ministers or ministers, something that they would have had access to and been observing. Is that correct?

Mr. Singleton: Yes, I think the department had access to the annual reports of the Crocus Investment Fund.

Mr. Gerrard: My question to the deputy minister. I understand that the deputy minister at least attended certain of the Crocus meetings, and I would ask the deputy minister whether he had access to the annual reports of the Crocus Fund.

Mr. Eliasson: Yes, I would have had access to the annual reports.

Mr. Gerrard: I would ask the deputy minister whether he was concerned about these ongoing losses from operations.

Mr. Eliasson: The Crocus Investment Fund is a private business, and the affairs of the fund were governed by a board of directors and management. They were accountable for the investment performance and the operating performance of the fund. They were the ones that were accountable to the shareholders at the annual meeting for their performance.

Mr. Gerrard: Now, with the exception of a minority of the shareholders, at the minimum, who were, in fact, elected by the shareholders, one of the board of directors was appointed. Was that appointment made on the recommendation of the deputy minister?

Mr. Rondeau: As you know, the appointments or non-appointments, the way that the government has

representatives, is a policy issue. In this regard, what would happen is that we would get recommendations from the department, and we would move forward to make sure that the person had some experience in business, had some experience in investment.

But I must assure you that, again, as was discussed yesterday, they had a fiduciary and confidentiality responsibility to the board. They did not work for government and they had no reporting to the minister or deputy minister on what occurred at the board. This was said yesterday. I reiterated that. That is why we changed it and I think the Auditor General did a good job as far as saying that this board structure did not make sense in case of good governance.

So what we have done in Bill 51 is we no longer have a government rep. Number two, we have Class A shareholders who have the majority on the board, which makes sense. We also have board representatives of the Class A shareholders on each board committee. This means the people who put the money in, invest into the company, actually have a say over how the company is run.

Now, again, I do not think that there were any negative thoughts by the previous government. They were trying to get venture capital in the province. That is a laudable goal, and we agree with that goal. Now the structure needed to be changed, and we have moved forward expeditiously to change the structure, and that was the recommendation. If you read the Crocus implementation team, they talk specifically about how we have to structure it. That was also presented in Bill 51.

Mr. Gerrard: Yes, I think that what is clear in terms of the recommendations and the monitoring is that there were certain areas where the minister, who is knowledgeable, should have been on top of.

What I would ask the deputy minister is how many personnel were there involved in monitoring, and how many personnel involved in promoting the Crocus Fund within the department.

Mr. Eliasson: There was one account manager who carried the primary responsibility in both areas. She was assisted by other staff within the Financial Services branch on an as-required basis. So, at times, there would be two or three people looking at it, but not on an ongoing basis.

Mr. Chairperson: Order, please. The hour being six o'clock, and, in accordance with the

announcement in the House, this committee is to sit from 3 p.m. to 6 p.m.

Before rising, I would like to ask you to leave behind your copies of this report. We are very short of copies, and this will help to reduce the number of copies required for other meetings that are considering this matter.

I would like to advise you the additional meeting of this committee is being held tomorrow,

December 9, from 9:30 to noon, to discuss the Morris-Macdonald report.

A future meeting of this committee has been scheduled for February 2, 2006, to discuss Public Accounts.

Committee rise.

COMMITTEE ROSE AT: 6 p.m.