

**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON PUBLIC  
UTILITIES AND NATURAL RESOURCES**

**Tuesday, 7 April, 1981**

**Time — 10:00 a.m.**

**MANITOBA HYDRO**

**CHAIRMAN, Mr. Warren Steen (Crescentwood):** Committee come to order please. Members of the committee will recall that on Friday last when we met that Mr. Walding at that time asked if minutes of Hydro Board Meetings and internal documents could be made available to him. At that time I said that I would take it under advisement and discuss the matter with the Senior Clerk of the Legislature. I've also talked to legal counsel and frankly we're not much further ahead than we were on Friday. What I could do for the benefit of members of the committee is refer to Beauchesne and read it into the record, some of the paragraphs and then make a Chairman's ruling.

Mr. Walding.

**MR. D. JAMES WALDING:** On a point of order I don't believe that you put the question entirely accurately. I was not asking for Board minutes. The matter that you took under consideration was not the production of those papers, it was the power of this committee to call for persons and papers to be produced to the committee.

**MR. CHAIRMAN:** Perhaps you phrased it somewhat different than I. But I believe that my understanding is exactly as you have just stated it. On Friday last the Deputy Clerk handed me a copy of Beauchesne where I read into the record and I could do it again, where it says the power of the committee to send for papers, Section 615.

"The committee may send for any papers that are relevant to their orders of reference. Within this restriction it appears that the power of the committee to send for papers is unlimited". Then it goes on in Section 2: "The procedure for obtaining papers is for the committee to adopt a motion ordering the required person or organization to produce them. If this order is not complied with the committee may report the matter to the House stating their difficulties in obtaining the requested documents. It is then for the House to decide what action is to be taken".

In Section 3 it goes on to say: "It cannot however be said that this requirement is absolute either in the case of government departments", and I would assume that Crown corporations are referred to as government departments, "or of public or private bodies since there are no incidences recorded in which obedience to an Order for Papers has been insisted on".

Section 626(1) says: "A committee cannot require an officer of a department of the government", and I would again assume a Crown corporation is meant by that, "to produce any paper which according to the rules and practice of the House is not usual for the House itself to insist upon being laid before it. If consideration of public policy can be urged against a

motion for papers, it is either withdrawn or otherwise dealt with according to the judgment of the House".

I'm informed by members of the Manitoba Hydro Electric Board that if a citizen in the Province of Manitoba wishes to see minutes of their meetings that that citizen of the Province of Manitoba is welcome to go to their offices and see the minutes but they do not make a practice of reproducing copies of minutes and giving them out to the public.

So the question is before the committee as to whether a minute or minutes of the internal operations of the Hydro Electric Board are to be asked for and complied with by members of this committee.

Mr. Walding first.

**MR. WALDING:** Mr. Chairman, I didn't ask for the production of the minutes or for any particular minute. I asked whether the Board had received a legal opinion from its legal advisors at the time of the Tritschler Commission. I'm waiting for an answer to the question.

**MR. CHAIRMAN:** On the same question, Mr. Green.

**MR. SIDNEY GREEN (Inkster):** Mr. Chairman, on the point of order. I find the Hydro position to be astonishing. If they would have said that they don't produce minutes to members of the public I would have understood that and really I think I would sustain that. But Hydro is saying that if a citizen of the province came in and asked to see their Board minutes they would be happy to show it to them. But they are unhappy to take a xeroxed copy and bring it down to give to members of the Legislature who are on a committee.

Now I would have been very satisfied, Mr. Chairman, except with exceptions if I thought that there was some type of chicanery, but I would have been very satisfied to sustain Hydro's right not to give minutes to a member of the public; and I would certainly sustain the right of a member of this committee to move that such minutes be produced and take a vote such as you referred to in Beauchesne and then insist on them. But what we are being told is if a man off the street went into the Hydro offices and asked to see the minutes he would get them, but we, sitting around this table as citizens and MLAs, would not be given the courtesy of having them shown to us and I find that incredible.

**MR. CHAIRMAN:** Perhaps, Mr. Green, I didn't interpret what I understood to be Hydro's policy quite clearly. It's my understanding that anybody can go into their office and request to see minutes of their meetings and they would them to them but they don't make a practice of reproducing copies for people to take with them. I said make a practice. But maybe the Chairman for the Hydro Board or their General Manager can answer from experience. I have never personally ever gone to Hydro and asked for any information.

Mr. Green.

**MR. GREEN:** Mr. Chairman, I think I heard you correctly and I did not misinterpret you, that any citizen of the public could go in and Hydro would show them a copy of the minutes. Obviously you say they would not make a xeroxed copy but they would show him the minutes and if the man either had a good memory or had a pencil or a pen and paper he would be able to know what was in the minutes. Now you're saying that could be done. In other words, I could take off my MLA hat, walk out of this building, go over to Hydro and they'd show me the minutes, but they wouldn't do the efficiency of saying if I wanted to see them here that they wouldn't show them to me. Now I find that to be incredible, Mr. Chairman, and I would certainly support if some member wanted to see minutes for a reason. I would support a motion for it but I think that the situation is absolutely ridiculous.

**MR. CHAIRMAN:** Mr. Craik on a point of order.

**HON. DONALD W. CRAIK (Riel):** On a point of order, Mr. Chairman. As I interpret the Hydro decision, Mr. Green would not have to remove his MLA hat to have a look at the minutes and it's not unusual for other organizations, I don't believe, to follow the same procedure; that if something is wished to be determined from minutes or from reports that are internal reports, the organization is willing to discuss and to show that. What is different here, as I interpret the decision, is that the prior decision made by this committee and by the Legislature under the former government in request to a formal Order for Return by the Member for Brandon West for certain minutes was denied by the Legislature. Now, what Hydro is saying here is that they are interpreting their Act to read that those minutes can be made public and that their procedure to make them public is for a person, a citizen, to go to Hydro and have a look at them.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. HOWARD PAWLEY (Selkirk):** Mr. Chairman, I find your ruling well incredible, but it's hardly relevant to the issue that's before us. Mr. Walding on Friday afternoon asked a number of questions, as I understand it, of Hydro personnel and officialdom, and one question was: Did Hydro receive a legal opinion that the Tritschler Commission was exceeding its terms of reference?

Secondly, did the legal opinion recommend applying to the court to prevent the commission from proceeding beyond its terms of reference.

The third question: If so, how much effort and cost by Hydro was expended on preparation and appearance before the Commission on an issue that Hydro lawyers said was beyond the terms of the Commission.

Now, Mr. Chairman, the matter of minutes, as I understand it, did not really arise at all. All that is required is answer to the questions that were posed by the Member for St. Vital — yes or no, if so how much? And therefore, Mr. Chairman, I don't know within what basis the minutes arose at this point, as I understand it the Member for St. Vital is not requesting copies of minutes, that this is a side issue

that for some reason or other is being injected into the discussions this morning.

**MR. CHAIRMAN:** Mr. Pawley, on another series of questions that Mr. Walding had for the Hydro, he asked about a policy that they had regarding reserves and he asked if he could have minutes of their Board meetings produced to see such a policy and the Chairman of the Board at that time said that we go by the Act, The Legislature's Act, that is our policy, and Mr. Walding kept insisting that somewhere in the minutes there must be a policy and that is when we got into the discussion, Mr. Pawley, as to whether Hydro was required to produce minutes of their internal meetings at this committee or not, and that is the discussion. What I am mentioning in my ruling is that I am saying that I am informed by Hydro that the minutes of their meeting are available if members wish to go and see them, but it is my ruling that this committee doesn't have the power to force Hydro into producing the minutes at this committee. Just before I recognize Mr. Craik, regarding the three areas of questioning that you just referred to, Mr. Pawley; sure the Hydro can answer them if they have the information, they didn't have it on Friday, and it was my understanding that they would have the information today.

Mr. Craik.

**MR. CRAIK:** Mr. Chairman, again I think that the interpretation that the Leader of the Opposition has put on it is the one I went away with as well, at the end of last week. Mr. Walding was not asking for minutes specifically. He was asking as to whether or not the Board had been advised formally by a lawyer or their legal counsel with regard to certain procedures that should be followed in regard to the Tritschler Commission. Somehow, the issue of the minutes has evolved, and I don't think that was the issue. The issue was whether or not Hydro had been advised formally, or its Board had been advised formally of some procedures that should be followed. I think that was the question that I went away with as well.

**MR. CHAIRMAN:** Perhaps if I've misinterpreted Mr. Walding's request, and if it is as Mr. Craik has stated, then perhaps Hydro is in a position today to answer his questions. Then we don't need a ruling on the powers of this committee.

Mr. Walding, is that your understanding then?

**MR. WALDING:** Yes, it is Mr. Chairman, substantially as Mr. Craik has said. The other discussion was on a different question and that arose because I had simply asked to be advised of Manitoba Hydro's policy on reserves. It was because I did not get a straight answer to that that the discussion went on to the minutes, and I made the suggestion that somewhere in the minutes that Hydro had developed a policy on its reserves, and that if someone were to search, they would come up with such a policy. Now I believe from other information that was given to us, that such a declared policy was given to the Public Utilities Board, and Hydro undertook to produce that for us. But on the matter that you were considering a ruling on, there was no request for minutes. We were asking for answers to a couple of questions that I posed on Friday.

**MR. CHAIRMAN:** All right, then we will not dig ourselves in any deeper. We can turn to Mr. Blachford and perhaps he's prepared to answer your questions from Friday.

Mr. Blachford.

**MR. L.D. BLACHFORD:** Concerning Mr. Walding's question: Did Manitoba Hydro lawyers give an opinion that Judge Tritschler was exceeding his terms of reference? We looked into this and no request for an opinion was asked of Manitoba lawyers, nor did they give an opinion in this respect. I believe the other questions that were asked are therefore void after this.

Mr. Walding also asked if we would provide a copy of the PUB and Manitoba Board policies regarding reserve provisions. At this stage, this is a relatively hypothetical question because we have relatively little power to manage what the reserves can be at this time. However, the last time this opportunity was afforded in 1978, there was a position paper provided in Manitoba Hydro and regarding the reserve provision, it reads as follows: "A reserve provision should be added expressed as a ratio of net interest cost. The provision is a judgment figure and normally should change in relative size each year based on consideration of the following factors at the time of making the judgment:

(a) The size of the accumulated reserves, including future decrease is expected due to actual or amortized losses of maturity of foreign-debt borrowings being more than the revenue provided from No. 1 above.

(b) The size of the capital program, the amount of bond maturities and the condition of the bond market (possible need for additional internally generated funds).

(c) Magnitude of possible variation in estimated operating expenses and revenues due to other than median water conditions. Possible changes in value of the Canadian dollar and changes of inservice date of new plants, etc.

(d) Possible uninsured extraordinary losses of plant, that is, ice storm damage.

(e) Benefits of changing rate structures gradually towards a longer term direction rather than providing for large increases and decreases from year to year.

Then it goes to say that the reserve provision added to the revenue needs for rate-making purposes need not be the amount of the planned reserve provision to be recorded in the records of the corporation. That I believe addresses your address of that question. This was in September, 1978. We later had a Public Utilities Board hearing. Hydro received what they had requested earlier in the year and the question is of the same more or less hypothetical to this date because subsequently the rates in Manitoba were frozen.

However, the matter does arise each year when the budget is made up for the following year and late last year it was reviewed in this manner in considering this, what was called, the integrated financial plan. Mr. McKean then recommended that the transfer of the contingency and general reserve be revised from 25 percent of interest net to zero percent of interest net for the year 1980-81, and the transfer to the contingency and general reserve for the year 1981-82, be revised to 9.5 percent. During the period of the rate freeze, planned reserve levels

can only be provided to the extent of projected excess of revenue over expense. I just put this in at this stage to indicate that while it is desirable to increase the equity in the corporation, it's not necessarily attainable at this time with the rate freeze.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mr. Chairman, to Mr. Blachford, Mr. Blachford has indicated that no request for such a legal opinion was requested by the Board, nor was any legal opinion given to the Board pertaining to the Tritschler Commission conducting hearings in excess of its jurisdiction or terms of reference. Is that my understanding from Mr. Blachford's response?

**MR. BLACHFORD:** I limited this to exceeding his terms of reference.

**MR. PAWLEY:** Mr. Blachford, the source of your information is from the minutes of Hydro, what is the source of the information . . . ?

**MR. BLACHFORD:** It's from the General Counsel of Hydro in consultation with the lawyers at that time and also corroborated by a member of the Board at that time.

**MR. PAWLEY:** In respect to the lawyer at that time, are you referring to Mr. Steward Martin?

**MR. BLACHFORD:** I believe it was Mr. Smellie whom we consulted.

**MR. PAWLEY:** Can you advise me whether or not any consultation was made with Mr. Steward Martin, who was I understand the chief legal counsel for Manitoba Hydro at that time?

**MR. BLACHFORD:** I believe it was not.

**MR. PAWLEY:** Mr. Chairman, when was the consultation made with Mr. Smellie in this regard?

**MR. BLACHFORD:** Last Friday afternoon.

**MR. PAWLEY:** Mr. Chairman, I want to ask the Minister, through you, whether or not the Minister would be prepared to permit both Mr. Smellie and Mr. Martin, who I understand was the chief legal counsel, to appear before the committee pertaining to this matter?

**MR. CRAIK:** Mr. Chairman, we went through this discussion on Friday and I think the Leader of the Opposition . . . well not with respect to particular individuals, or any other individual, and at the time it was pointed out that this committee has not in the past ever had outside representation brought before it, although as the Leader of the Opposition is aware there was a request to the committee several years ago for that procedure to be adopted and the request was dealt with at the committee negatively, it was referred to the House and dealt with in the House as well, with a negative result. That policy, to the best of my knowledge, still applies to this committee.

**MR. GREEN:** Mr. Chairman . . .

**MR. CHAIRMAN:** Sorry, Mr. Green, Mr. Pawley is not finished.

**MR. PAWLEY:** Mr. Chairman, the Minister hasn't responded to my question. Am I to draw from the Minister's answer that he is refusing to bring legal counsel to the committee to answer questions pertaining to this matter?

**MR. CRAIK:** No, Mr. Chairman, I'm not in any way refusing legal counsel. What I'm doing is saying that the policy of this committee, Public Utilities Committee, is, to the best of my knowledge, still the policy that has pertained and applied to it through the entire history that any of us I think have ever been here.

**MR. PAWLEY:** Mr. Chairman, that is not too helpful. If the Minister is indicating that we must place a motion before the committee to arrive at present policy then we'd have to do that, but I think it would be much simpler on the part of the Minister to simply indicate whether or not he is prepared to permit the legal counsel at that time to make an appearance to permit this committee in fact to make its own policy at this time pertaining to this matter.

**MR. CRAIK:** Well, Mr. Chairman, if the Leader of the Opposition wants to pursue that recommendation then he ought to pursue it in the same manner it was pursued the last time it was brought up and that is that a motion should be put before the House, not before the committee.

**MR. PAWLEY:** So then in response, so that we can be very clear on the Minister's response, he is indicating that he will not voluntarily provide this committee with the presence of Mr. Steward Martin and Mr. Smellie to answer questions pertaining to this matter, but that in fact the Opposition must present a motion in the House to that effect; that he is not prepared to ensure that this committee receives complete and full information directly from legal counsel that were involved in these matters and were involved in providing advice to the Board; that instead he is insisting that the Opposition present a motion in the House.

**MR. CRAIK:** Mr. Chairman, I can repeat again for the Leader of the Opposition and I know that other members of the committee are familiar with the background of the operation of the Public Utilities Committee that if the House decides that a particular committee ought to have representation before it, it can instruct the committee to do that or do any other number of things that it so desires, to sit in between sessions and to do all the other things that are possible for a committee to do. I simply point out that is the procedure that has been followed historically and the last time that I recall this request being made, it was referred to the House for a decision and there was a motion put before the House recommending that certain people appear before the committee. That motion was never approved and I don't refer here to legal counsel. I presume that if you were going to call legal counsel there would be no end to the number of legal counsel that could be called before the committee, particularly dealing with the topic mentioned here which refers to the Tritschler Inquiry Commission.

I would presume that there would also, if you're going to formally call legal counsel, it would have to be authority to pay the expenses of legal counsel. So I don't think, Mr. Chairman, that there's any particular reason why we ought to deviate from the past practices of the committee and that is if the Leader of the Opposition wants legal counsel, or any other person, to appear before this committee or any other committee to refer it back to the House for the House to decide whether that's the way they want this committee to operate.

**MR. PAWLEY:** Mr. Chairman, it's always been my understanding that committee had the powers itself to require the attendance of witnesses if the committee so determined that a matter such as this certainly would not have to be referred back to the House. If we wanted to go by the way of that long route, of course, we could do so but I think it's within the powers of this committee to require the attendance of anyone that acted in a capacity on behalf of Manitoba Hydro and pertaining to the material questions that are being proposed in order to provide information to the committee. The Minister is suggesting that this entire matter would have to be referred to the House. I'm quite astonished by that response, Mr. Chairman.

**MR. CRAIK:** Mr. Chairman, maybe if we can just clarify it, as the member will recall, several years ago under the previous government when Mr. Cass-Beggs was the Chairman of Manitoba Hydro; only he was allowed to speak to the committee and no members of his staff. This policy was changed somewhat after Mr. Cass-Beggs left and I believe that some of their members of the Hydro direct staff were made available to the committee. That's the policy that still applies and has applied for the last few years. Whether it applied in the last year or two of the former government, I don't recall, but the committee had consciously decided that they were going to discuss matters directly principally with the chairman, chief executive officer and the members of the staff that they felt that they ought to have assistance from in presenting their Annual Report. That has been the policy that has been followed. I simply repeat again that when a request was made to this committee some years ago for outside representation, it was not approved. It was referred to the House; the House dealt with a motion on it and did not approve it. That's the guidelines under which we are currently operating and which would appear to be probably still the procedures we should follow unless the Leader of the Opposition wants to refer it back to the House and change the method of operation of the committee.

**MR. CHAIRMAN:** Mr. Green.

**MR. GREEN:** Mr. Chairman, I'd like to raise a point of order, not to interfere with the questioning, but the Minister is referring to a policy of the committee. With great respect, my recollection differs from his but it really is quite irrelevant. My recollection is that the Chairman of Hydro appeared before the committee and the government of the day took the position that he was the one who would answer for Hydro and that he could ask anybody who he wished to answer questions in addition to himself but that

would be done through him. That was the position that was taken and then a motion was made to hear other people and that motion was turned down by the committee. Despite the fact that it was turned down, in order to accommodate the requests, nevertheless, the committee met informally and heard from D.L. Campbell. But it was never established as a policy that a motion could not be made at committee for the hearing of other people and if the Leader of the Opposition or Mr. Walding wanted to make such a motion, I think it would certainly be in order.

I would also ask the Minister to recollect that Mr. Cass-Beggs had made his report and then said if anybody from the staff wishes to say anything in addition to what I have said they are welcome to do so and Mr. Kristjanson then got up. You will see it on the record that is exactly what occurred but I think that is all "old straw," that is all "old staw." Any legislative committee is entitled to hear a motion to have other people appear, and if the Leader of the Opposition wanted to make one, that would be his concern. If the Minister is saying that the practice and the policies are what applies and that the committee is not entitled to do these things, I would suggest, Mr. Chairman, that the practice is and the policy is — you know, I'm not saying this, I'm saying this tongue-in-cheek — the policy is that as soon as the government changes, a commission of inquiry is appointed. At that commission of inquiry, all of these people are subpoenaed and they are not paid legal fees for answering a subpoena. They come before the commissioner and they tell their story and the new commissioner, whoever he may be and I gather that he will work without fee, will then hear all of the people that the government suggests that they won't call. That is the policy. If my friend says that you take actual practice and turn it into a policy, that is the policy. I suggest that there is no such policy governing this committee, that anybody here is entitled to make a motion, and if the Chairman ruled it out of order, I would strongly object to that. I think if you will go back into the records, and here we're both on thin ice, because one of us could be wrong. I would suggest that a motion was made and the motion was turned down. If it then went to the House, it went by subsequent motion, but a motion was made at committee and turned down. I am perfectly satisfied that it should have been turned down.

With regard to what is being requested now, if a motion is made, I will have to make up my mind as to how to deal with that on the motion, but I know that the policy is that when the government changes you have a Commission of Enquiry, which some people may uncharitably call a witch hunt, but I won't use that. I'll just say that's the policy.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mr. Chairman, I want to ask the Chairman whether or not he would be prepared to cause the attendance of Mr. Steward Martin, so he could be questioned directly pertaining to the matters that have been raised by the Member for St. Vital and myself.

**MR. CHAIRMAN:** Mr. Green.

**MR. GREEN:** Mr. Chairman, just before the question is answered, perhaps since the Hydro people have

been so accommodating, the matter could be resolved by asking Mr. Blachford and Mr. Kristjanson, who have asked Mr. Smellie whether they would directly ask Mr. Martin whether at that time he advised Manitoba Hydro to challenge the basis upon which Mr. Justice Tritschler was proceeding, and whether or not it didn't go beyond his terms of reference, because they've asked the others and they've given an answer and perhaps if they asked Mr. Martin and gave an answer, that would at least be some progress and we wouldn't have to go any further. I don't know whether that would satisfy the Leader of the Opposition, but at least that would be some progress.

**MR. CRAIK:** Mr. Chairman, I think the question was asked on Friday; it has been answered and I thought, adequately, by the President of Manitoba Hydro. I don't know where all of this ends. You could go on forever with these kinds of requests.

Mr. Chairman, I don't think it's a fair request to keep putting these kinds of questions before Manitoba Hydro, and I think in that regard if they wish to make comment on it, by all means. But I say on behalf of the committee, I think this thing has gone to the point where the basic question has been answered. There is no requirement for Manitoba Hydro to go further.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mr. Chairman, I understand the Minister's reluctance, but we are not satisfied with the answer that has been provided us. It's my understanding that Mr. Steward Martin was the chief legal counsel during the time involved. I don't know on what basis it's been suggested that we should content ourselves with the response related to us as having been received from Mr. Smellie. Mr. Martin was the chief legal counsel during the time involved.

The matter can be cleared up very, very easily if indeed, Mr. Kristjanson could assure us that he has spoken to Mr. Martin, or alternatively that Mr. Martin and Mr. Smellie, but Mr. Martin was chief legal counsel, be brought before the committee so that they could deal with questions with the consent of the Chairman of the Board.

**MR. CHAIRMAN:** Mr. Kristjanson.

**MR. KRIS KRISTJANSON:** Mr. Chairman, the question asked on Friday as I understood it was, "Did the Board of Manitoba Hydro have a legal opinion to the effect that the Tritschler Commission was exceeding its terms of reference?" Was that essentially your question?

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mr. Chairman, I just want to ensure that there is no misunderstanding. I did not pose the question Friday. The question would be: Does the Hydro Board have a legal opinion or did the members of the Hydro Board ever receive a legal opinion, verbally or in writing, from the chief legal counsel, Mr. Steward Martin, that the proceedings of the Tritschler Commission were in his opinion, in excess of jurisdiction, then application ought to be made to the courts to quash those proceedings.

**MR. KRISTJANSON:** Mr. Chairman, as you can appreciate, I was not involved at the time. The question was asked on Friday. Mr. Blachford and members of staff researched the minutes, consulted with people that were involved at that time, and the answer has been given by Mr. Blachford, and I thought that the answer had been complete.

**MR. PAWLEY:** Mr. Chairman, I'm simply indicating to you that the Opposition is not satisfied with that response. I think it's a perfectly sensible suggestion that indeed, Mr. Kristjanson would agree to contact the chief legal counsel. After all, Mr. Martin was the chief legal counsel it's my understanding, rather than Mr. Smellie. In order to check out the questions that were posed, and if the answer was still in the negative, then we would be more prone to accept the report that we've received; better still, I feel if Mr. Martin was made available to answering questions, of course, with the concurrence of the chairman of the Board.

Mr. Chairman, I don't really see why there ought to be much difficulty pertaining to this matter. It can be cleared up very easily. I do not know for instance if the Chairman was in contact with the former members of the Board during the time that the Tritschler Commission was holding its proceedings, who the Chairman communicated with, but we're saying to Hydro that the question should be checked out through the chief legal counsel for Manitoba Hydro at that particular time.

**MR. CHAIRMAN:** Mr. Brown.

**MR. ARNOLD BROWN (Rhineland):** Mr. Chairman, I was on the Board at that particular time when the Tritschler Commission was having their enquiry into the activities of Hydro. I remember that there was some concern expressed by Mr. Martin that the Tritschler Commission possibly was going beyond their terms of reference, but he never, to my knowledge, recommended that Hydro take the Tritschler Commission to court because they were going beyond their terms of reference. So I know that concern was expressed, and discussions were held on this, but it was always the Board's intention and Hydro's intention at that particular time to cooperate as fully as we could with the Tritschler Commission.

**MR. PAWLEY:** Mr. Chairman, I want to ask the Minister if this concern that Mr. Brown has made reference to, that indeed it could be that the Tritschler Commission was acting in excess of its authority beyond its terms of reference, was at any time communicated to him as Minister responsible for Hydro?

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Chairman, just to clarify the picture, Mr. Brown has indicated that he was a member of the Board, which brings to attention the fact that probably neither Mr. Kristjanson nor Mr. Blachford would be there at the time. Mr. Brown is perhaps the only member of the Board who would have recollection and Mr. Blachford has reported that no legal opinion was requested from Hydro nor documented presumably with the Hydro Board at

least, with regard to this matter. I don't know what further information can be relayed to the committee.

**MR. PAWLEY:** Mr. Chairman, I asked a question of the Minister because Mr. Brown's information was indeed revealing, that concern was expressed by the chief legal counsel of Hydro. Now Mr. Brown indicates that no recommendation was made. I differ, though I was not a member of the Board, differ on the basis of information and I ask the Minister whether or not the concern in general revealed by Mr. Brown was related to him as Chairman for Hydro and if so, were any recommendations brought to his attention arising from those concerns expressed by the chief legal counsel for Hydro?

**MR. KRISTJANSON:** It might be helpful to members of the committee to know who the members of the Board were at that time. There were Dennis Scott, Mr. J. Hoogstraten, Professor Hoogstraten, Mr. Wedepohl was then Chairman, Mr. J. Stewart Anderson, Mr. L. A. Bateman, Mr. Bateman was Chairman at the time, and Mr. Arnold Brown.

As current chairman I would be prepared to contact the then chairman or members of the Board that were serving at that time to further clarify this question if you wish.

**MR. PAWLEY:** Mr. Chairman, I appreciate the chairman's effort to be helpful. I would prefer to see communication with chief legal counsel for Hydro, Mr. Martin. Surely if indeed my allegation is correct then Mr. Steward Martin would be in the best position to verify that allegation. Mr. Brown has indeed tended to indicate there is some substance to the allegation. Surely it would be best if Mr. Kristjanson would agree to this, to check with the individual that made the recommendation. Memories are faulty but they're not faulty in the part of the individual that would make the recommendation. It might be faulty on the part of Board members in general that may or may not have been in attendance at particular times. Some Board members, I suspect, would recall, other Board members would not recall. But surely the most expeditious and most effective way of dealing with this would be to speak to chief legal counsel, Steward Martin.

**MR. CHAIRMAN:** Mr. Brown.

**MR. BROWN:** Mr. Chairman, I believe that the minutes have been checked and I don't believe that there is anything in the minutes that there has been recommendation come forward from Mr. Martin in this regard. I believe also the secretary at that time has been contacted and I understand that he also does not remember of any distinct recommendation coming forward from Mr. Martin. I don't know how much further we can go with this because really the Board wanted to cooperate at that time fully with the Tritschler Commission and so did Manitoba Hydro.

**MR. PAWLEY:** Mr. Chairman, Mr. Brown asked how much further we can go. He indicates that there's no reference in minutes. He indicates that on the basis of hearsay there doesn't appear to be substance that any recommendation was made for a specific action by legal counsel. So the question is how much

further can we go? It's quite simple, Mr. Chairman, again bring Mr. Steward Martin present, permit him to deal with the questions that have been posed by members of the opposition. It's as simple as that, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Chairman, really the Leader of the Opposition has used their key word. He said hearsay. Well hearsay that's being used here is hearsay on his part. His question has been fully and formally answered by Hydro and there's really little more to be said. If we're going to open the committee up for all sorts of representation about people who want to say what they felt they should have said at some time or other the numbers will be legion on this topic and Mr. Martin will certainly be one of them, whether it's with regard to what he thought the inquiry should do or not do or any other number of topics that he may have opinions on. But really the question has been answered. There was no request for that kind of opinion. No opinion was rendered and there is no recollection by a Board member who was the only person who was on the Board at the time of such having taken place, but what more can be done? If in fact you're going to invite people to the committee on the basis of hearsay which is really the proper word to be used, which the Leader of the Opposition has used then we're going to be here for a good long session because we'll have Earl Mills up before the committee and D.L. Campbell and any number of other people who bring seasoned experience and fixed positions to this topic.

**MR. PAWLEY:** Mr. Chairman, it's precisely that I don't want the committee to entertain any findings based upon hearsay that I make the suggestion Mr. Steward Martin be present. What we've heard to date has been references to what Mr. Brown thinks that Mr. Martin said at the Board. He admits that Mr. Martin expressed concern. He recalls general concern being raised by legal counsel for Hydro. Mind you, Mr. Chairman, it took some pulling and I appreciate Mr. Brown coming forth and giving us at least that much information.

Mr. Chairman, it's my opinion that it went beyond that — that opinion indeed was rendered and some recommendations were made. Now, Mr. Chairman, if I am wrong it's simple and easy to prove me to be wrong by calling Mr. Martin to this committee so we can deal with the individual in question, obtain information from him as to precisely what took place. So we don't have to deal with, as Mr. Craik says quite properly, hearsay, let us find out from Mr. Martin exactly what kind of recommendations Mr. Martin made, what resulted from those recommendations if any.

Mr. Chairman, I don't see any need for any ducking around on this issue. It's as straightforward as that. Mr. Brown by his comments this morning has confirmed that there was some concern expressed and I can understand that Mr. Brown wouldn't fully be able to recall all the detail that might have taken place two years ago in respect to this matter. So, again I have to ask the question in order that this matter be cleared up, can the Chairman bring forward Mr. Martin to permit him to deal with these questions that had not been dealt with satisfactorily?

**MR. CHAIRMAN:** On the other hand, Mr. Pawley, as Chairman of the Committee, perhaps I could suggest to you that either of your colleagues, on either side of you who are official members of the Committee, might propose a motion and maybe we can have the matter dealt with in that manner?

**MR. PAWLEY:** Mr. Chairman, if that's the only way we can deal with it we certainly will deal with it in that way. The Minister has also not answered a specific question which was put to him. Mr. Brown acknowledged there was concern, concern that was expressed to the Board by the chief legal counsel for Manitoba Hydro. That's pretty serious. Mr. Craik was the Minister responsible for Hydro. I ask Mr. Craik whether or not he had received advice of this concern by legal counsel and whether it was brought to his attention by the then chairman of the Board, and if so, what did Mr. Craik recommend arising therefrom?

**MR. CRAIK:** Well, Mr. Chairman, I can tell the Leader of the Opposition directly that the former legal counsel certainly did not in any direct way advise me of his feelings in this regard. I'm quite aware of the fact, from the former chairman of Manitoba Hydro, that Mr. Martin left under a high degree of disturbance over the affairs with regard to representing Hydro on the work of the Commission and so on. So, if that's any help to him that's about as much help as I can give him. —(Interjection)—  
... complete by saying that Mr. Martin left the representation of Hydro at some point in time during the hearings and was replaced by another lawyer from the same legal firm who took over the work and carried it to its conclusion. But there was no formal, as you can see just so the record is complete, there is no evidence in Hydro of at least a formal concern being expressed about the terms of reference of the commission, although it's quite possible he may have on a personal basis expressed those concerns.

**MR. PAWLEY:** By the Minister indicating that it was not brought to his attention, that chief legal counsel then for Manitoba Hydro recommended that proceedings be initiated within the Court in order to quash the proceedings of the Tritschler Commission?

**MR. CRAIK:** Mr. Chairman, certainly not in any formal way, not either directly by that legal counsel nor directly by the Hydro Board, but as I say, there is no doubt about the question that he was disturbed about his work, Hydro's position, some of the things that were occurring as a result of the Inquiry; whether or not the terms of reference of the Tritschler Inquiry Commission were his concern, I can't tell you. It may well have been wrapped up in his entire concerns about it, may well have been one of his reasons for leaving. You will have to ask him.

**MR. PAWLEY:** Mr. Chairman, I want to just then follow that up with the Minister. Is the Minister then indicating that he would release Mr. Martin from any solicitor-client confidence that he might presently be restricted to? Mr. Craik has indicated that that I must ask him, must know, solicitor is restricted to solicitor-client confidence. Unless the client releases the solicitor from that confidence.

**MR. CRAIK:** Mr. Chairman, I think we should be clear, that if he at that time had concerns, certainly

he was bound by his obligations to his client to have formalized those concerns. The committee has been told that there is no evidence of that. I have no evidence, nor have I ever seen any evidence of him formalizing a concern about the operations of the Commission. So we're going on hearsay. So, if somebody in hindsight feels that they should say something now, as I say, you are going to have people here legion in number, and I don't particularly feel that any preference should be given to a person appearing before this committee, whether he is legal counsel or whether he is a ratepayer for Manitoba Hydro.

If we're going to open up the committee to that sort of thing then so be it, but if that legal counsel had concerns at the time and did not formalize it and now the Leader of the Opposition is suggesting that we ought to rediscover all of this, then I think it's not serving the best interests of the committee. He knows very well that he can go to the legal counsel and ask him for his opinion and perhaps get it; if that's the case he's fully empowered to do it.

**MR. PAWLEY:** Mr. Chairman, I would do that if the Minister indeed is telling me that Manitoba Hydro is prepared to permit their former legal counsel to discuss this matter and in so discussing this matter will be released from any solicitor-client confidentiality. Mr. Craik is suggesting that is the route that I can pursue, if so, I want to know whether it's going to be a very useful route for me to pursue or am I going to be confronted with the usual kind of restrictions that a client imposes upon legal counsel, past or present.

**MR. CRAIK:** I think the Leader of the Opposition, Mr. Chairman, knows very well that I'm not empowered to bind him or unbind him or anything else. I didn't engage him.

**MR. PAWLEY:** Why did you tell me to go to speak to him then, if he can't speak to me?

**MR. CRAIK:** Well, Mr. Chairman, it's a free country, the Leader of the Opposition can go and speak to any one he wishes to speak to. What the Leader of the Opposition now is trying to do is play lawyer and say that we now must unbind this man from his former obligations as legal counsel. As I said, is he serious in thinking that that is possible?

**MR. PAWLEY:** What I am attempting to do is find some way out of the impasse. The chairman has indicated that he appears to be hesitant to call Mr. Martin before the Board. Mr. Craik, by way of a suggestion said, well, go and speak to Mr. Steward Martin. Well, I'm prepared to do that; if that is going to assist me in obtaining information pertaining to the matters that I have raised, I'm prepared to follow Mr. Craik's advice. But if I go to Mr. Martin and Mr. Martin says I can't speak to you because I'm bound by a solicitor-client relationship, then what is the good in my following Mr. Craik's advice; I'll be wanting to come back to the committee, raise this matter again, but the committee will have already concluded its hearings and I'll be told that, sorry we're out of the ball game.

So, what I must find out from Mr. Craik, or from Hydro, if indeed this is the route that their

suggestion has been made, Mr. Craik made the suggestion, that I simply find the answers to the questions I've raised here this morning by speaking to Mr. Martin, is he prepared or is Hydro prepared to release him from client-solicitor relationship? It's as simple as that. If they are not prepared to call Mr. Martin to this Board, if that's their conclusion, if instead they are telling me to go and talk to Mr. Martin, then I want to know whether or not that's going to be very useful to me or are they going to bind him by usual client-solicitor restrictions?

**MR. GREEN:** Mr. Chairman, I think that the Leader of the Opposition has raised certainly a justifiable question that if Mr. Craik says can he speak to Mr. Martin, the question is whether Mr. Craik will also tell Mr. Martin that he can speak to Mr. Pawley. I mean it has to be dialogue but, Mr. Chairman, am I properly summarizing it from what has come before the committee, that the inquiry was in process, that chief counsel for Hydro was Mr. Steward Martin; that Mr. Steward Martin either distinctly or indistinctly did express concerns that the Commission was going beyond its term of reference, that he was concerned with that; that he was so concerned with that, as Mr. Craik says, he left Hydro under circumstances where he was quite — I don't know if the word "bitter" was used but — disturbed at the course that was being taken and his relationship to it; that he was subsequently no longer with Manitoba Hydro; that Manitoba Hydro then engaged another solicitor in the same firm, Mr. Smellie, who was a former Cabinet Minister of the Conservative administration. That is the summary.

**MR. CHAIRMAN:** I suggested to Mr. Pawley earlier that there was another means of getting passed this impasse, that is a motion being placed before the committee.

**MR. PAWLEY:** Mr. Chairman, maybe that's what you would like to have a motion to be dealt easily with, but questions have been posed to Mr. Craik because Mr. Craik suggested an alternative route. Again I would ask Mr. Craik, is he prepared then to tell Mr. Martin that he's quite free to speak to me?

**MR. CRAIK:** Mr. Chairman, I suppose the Leader of the Opposition now is dealing in an area that he's quite familiar with, having been a former Attorney-General at one time, as to whether or not it would be a recommended course of action, and I really can tell him that I expect that he can walk over and have a talk to his friend and get his personal information if he wishes. I don't know, I don't know that to be true. Perhaps it's offensive for me to suggest that about Mr. Martin.

I don't know, on the other hand, that any good purpose is served here in pursuing this. I have no powers; I didn't engage Mr. Martin. The government did not engage Mr. Martin. Mr. Martin was engaged by the utility to work with the utility. I made the suggestion that if he wanted to approach Mr. Martin on a personal basis he can do that. Certainly he can do it. If Mr. Martin feels like he should talk to him about the matter, he will; if he feels he shouldn't, he won't. I'm sure that whatever applies in the operation of the legal profession will apply, and as the Minister responsible for Manitoba Hydro I'm not not



empowered to make decisions that tell a legal counsel or a lawyer, how he should act. He will act the way he sees fit.

**MR. PAWLEY:** Mr. Chairman, the Minister has indicated that he feels that he's not the right person to give us such an "okay" to Mr. Martin. Then I ask the Chairman of Manitoba Hydro whether he is prepared to do so.

**MR. CHAIRMAN:** Mr. Kristjanson.

**MR. KRISTJANSON:** Mr. Chairman, I've listened to this discussion with some interest. Our primary responsibility in Manitoba Hydro is to provide an adequate supply of power to the people of Manitoba at the lowest possible cost. This matter, in my opinion, was reviewed in great detail and while I was not associated with the utility at that time it is my distinct impression that the people of Manitoba Hydro provided all of the information freely and honestly, as honestly as they could, for the purpose of appearances before the Commission. Now you have asked for some view that has been held by a counsel that was engaged by Manitoba Hydro. As was indicated earlier, Mr. Blachford and his colleagues have reviewed the records, reviewed the minutes and found that there is no such formal opinion on record. I have indicated that Mr. Dennis Scott, Mr. Hoogstraten, Mr. Wedepohl, Mr. Anderson, Mr. Bateman and Mr. Arnold Brown were then the members of the Board.

I would, as I indicated earlier, be prepared to contact some of those members to further research this matter. I do not think that Manitoba Hydro would be serving the interests of the customers by trying to — I was going to use the word "reconsider, rehash" — all of the material that was presented to the Tritschler Commission. So to answer your question, as Chairman, I'm not prepared to recommend that we contact Mr. Martin on this question.

**MR. PAWLEY:** Mr. Chairman, then I take it from what Mr. Kristjanson has said that he is not prepared to release Mr. Steward Martin, then chief legal counsel for Manitoba Hydro, from solicitor-client relationship so that he can discuss this matter freely as to any and all legal opinion that was presented by then Mr. Steward Martin to Manitoba Hydro Board of Directors and any recommendations that Mr. Steward Martin provided to the Board of Manitoba Hydro. I'm also to understand that Mr. Kristjanson is indicating that he is not prepared to contact Mr. Steward Martin in order ascertain whether Mr. Steward Martin provided any formal legal opinion to the Board of Directors of Manitoba Hydro.

**MR. CHAIRMAN:** Mr. Kristjanson.

**MR. KRISTJANSON:** Mr. Chairman, I would see no reason for contacting Mr. Martin on this question unless Mr. Martin formally requests the Board that engaged him and those who now carry that responsibility, if we get a formal request from Mr. Martin to be released from this relationship, the lawyer-client relationship, then we would deal with that request. That's my opinion, sir.

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Chairman, certainly Dr. Kristjanson's interpretation has to be the correct one. If the party, Mr. Martin, feels bound that he wants to have some second thoughts and reconsider and be freed from his normal binding obligations as a lawyer to a former client, unless that request comes in for him, it's certainly not the responsibility of Hydro to contact him to see how he feels. So I think the interpretation is perfectly correct. If Mr. Martin, as a result of appeal from whoever, wishes to now reopen the matter, let him apply to request of his former client the right to do whatever he feels he should do as a lawyer.

**MR. PAWLEY:** Mr. Chairman, I would hope that Mr. Martin would see fit to make such a request. I don't know whether he will make such a request or not. If he does, I'm not aware of how the Board of Manitoba Hydro will react to such a request. What I do know is that we are dealing with this matter now and I'd hoped that we would obtain some more precise answers from the Chairman of the Board, from the Minister that is responsible for Hydro. The Chairman has made some comment about rehashing Tritschler Commission. It seems to me that the Tritschler Commission has been gladly rehashed by the Minister responsible and the First Minister over and over again on many occasions since the Tritschler Commission Report was released. Now there's a strange protectiveness towards any further discussion of the recommendations that were made to the Tritschler Commission or its findings. I find that a little strange, a little peculiar, particularly coming from the Chairman of Manitoba Hydro who has had some past interest in all the matters leading up to the Tritschler Commission Report. He wanted to cooperate fully is what we had understood and now he makes reference to rehashing, rehashing, and uses that as a form of defense, Mr. Chairman, in order to ensure that there's a full hearing before this committee.

**MR. KRISTJANSON:** Mr. Chairman, this very simple question was: Are we prepared to ask Mr. Martin for an opinion and I have indicated that if Mr. Martin asks the Board of Manitoba Hydro to release him from the lawyer-client relationship then that matter would be considered by the Board. On the basis of the request we have no such request and we see no particular reason for bringing him back.

**MR. PAWLEY:** Mr. Kristjanson doesn't appear to realize that there's also a public interest. Mr. Craik made some reference about exploring the feelings of Mr. Martin. Mr. Kristjanson makes a comment that Mr. Martin requests. I hope he does request but I'm not sure what he's going to do. I know that there is a public interest that's involved. We're dealing with that public interest at this committee hearing. I don't want these proceedings to be dependent upon the feelings of Mr. Martin or any other individual that's not participating in these proceedings. There is a public interest involved as to whether or not indeed there was serious concerns that were raised by the then chief legal counsel of Manitoba Hydro as to the excess of the Tritschler Commission in its terms of reference. If indeed recommendations were made that Manitoba Hydro take action to quash those proceedings for the courts of the province and if

indeed those recommendations were ignored or indeed refused, that's what we want to find out, Mr. Chairman. It's a matter of public interest, not a matter of Mr. Martin's feelings, not a matter as to whether or not Mr. Martin may or may not request. It's a matter of public interest and I would trust that the Chairman of Manitoba Hydro would fully recognize that in view of his past utterances and concerns that he's expressed in the years gone by.

Mr. Chairman, if we're not going to obtain better cooperation than this then I would ask that one of my colleagues indeed do move a motion so that this matter can be formally dealt with at this committee.

**MR. CHAIRMAN:** Mr. Walding.

**MR. WALDING:** Mr. Chairman, Mr. Brown has told the committee that he was on the Board when there was some concern raised. Mr. Craik has used the term disturbed in reference to Mr. Martin's concerns. Yet the answer that we received this morning was that there was no formal opinion. So the question before us seems to hinge on what is formal and what is informal and who said what to whom. Mr. Kristjanson has given the list of Board members at the time that this concern was raised. Just to pin down a couple of details, I wonder if Mr. Kristjanson could give us the time that he referred to and could he also inform us who was the chairman of Hydro at that time.

**MR. KRISTJANSON:** Mr. Chairman, if you could give us a moment. We do have a list of the people that were Board members at particular times and I believe we have the date of appointment. Mr. Chairman, I wonder whether I could just ask Mr. McKean who has been associated with the organization on a continuing basis and he may be able to just indicate the timing of these appointments and the change of membership from time to time. Frankly I don't carry that around in my head.

**MR. A.K. MCKEAN:** Mr. Chairman, my recollection of the timing was that Mr. Bateman discontinued being Chairman just around Christmas of that year, it was towards the end of December, I haven't got the exact date. He was replaced by Mr. Wetepohl as Acting Chairman. Mr. Martin withdrew as Chief Counsel approximately the end of January of the following year; again I can't give you the exact date. At that time he was replaced by Mr. Smellie who had been the assistant to Mr. Martin, I might say, up to that point.

**MR. CHAIRMAN:** Mr. Green on a point of clarification.

**MR. GREEN:** The point of clarification is that the recommendation that wasn't made was made during the time that Mr. Bateman was no longer the chairman.

**MR. MCKEAN:** I have no knowledge of this recommendation, Mr. Chairman. I can't speak on the recommendation at all.

**MR. WALDING:** Mr. Chairman, does Mr. McKean have any recollection of the concern that was raised at that time?

**MR. MCKEAN:** No, Mr. Chairman. My understanding was that Mr. Martin withdrew because of health and all this is news to me. Obviously if there was any discussion it was with the Board, which I am not a member of.

**MR. WALDING:** Mr. Chairman, I wonder if Mr. Brown can tell us whether these concerns were brought to the Board directly by Mr. Martin or via the chairman or someone else.

**MR. BROWN:** Mr. Chairman, I believe that Mr. McKean is correct that Mr. Wetepohl was the Acting Chairman at that particular time. He's also correct that Mr. Smellie was acting with Mr. Martin, the two of them were the legal counsel for Hydro during the period of time of the Tritschler inquiry. When Mr. Martin left and I must say that I don't really know for what reason he did leave. When he left then that was towards the end of the inquiry and we continued on with Mr. Smellie only at that particular time.

Like I said earlier it's a little difficult to recall everything because there's nothing in the minutes on this that you can go back on. The Secretary of Hydro at that time does not recall that any specific recommendation came forward from Mr. Martin. I don't know whether we can take this any further, except that Mr. Wedepohl might have more information on this than what I have.

**MR. WALDING:** Mr. Chairman, I asked whether Mr. Brown could recall how the concern was communicated to the Board, whether it was by Mr. Martin directly, or through the Chairman or somebody else reporting to the Board and raising this concern.

**MR. BROWN:** Mr. Martin appeared before the Board and expressed his concern.

**MR. WALDING:** It seems to be coming a little clearer, Mr. Chairman, that Mr. Martin did have concerns and that he did communicate them to the Board. So the answer to my question as of last Friday afternoon, whether Hydro received a legal opinion from Mr. Martin about the Tritschler Commission, seems to have been answered in the affirmative. Now the answer that I got from Mr. Blachford that there was no formal written opinion as such, nothing appears in the minutes, might well be true, but the answer to the first question seems definitely that there was an opinion given by Mr. Martin directly to the Board at the time.

What the next step was, and what exactly the recommendation was, is still a little vague to us. Now it's been suggested that Mr. Kristjanson will contact the former Chairman — I believe he gave us that indication — as the receiver of that opinion. Would Mr. Kristjanson also give us an undertaking to talk to Mr. Steward Martin as the sender of that opinion?

**MR. KRISTJANSON:** Mr. Chairman, if it is the wish of the committee, I believe I said I was prepared to contact members of the Board, who were serving at that time, to get further information if any, with respect to the basic question: Was there an opinion given by counsel to the Board?

**MR. WALDING:** Yes, that's a repeat of the answer that Mr. Kristjanson gave us a little while ago. I'm

not sure of his reluctance to speak to Mr. Martin. After all, it's a free country and anyone can speak to anyone else. The Minister has given you permission to speak to anyone, Mr. Kristjanson. Are you willing to speak to Mr. Martin?

**MR. KRISTJANSON:** Mr. Chairman, in terms of my responsibility, I see no reason for doing so. It is a free country, I agree.

**MR. WALDING:** Well, Mr. Kristjanson, if you're looking for a reason to do so, perhaps I can suggest that a good reason would be to satisfy Mr. Pawley and Mr. Uruski and Mr. Cowan and myself. As four elected representatives, we would be happy if you would do just that. Now is that sufficient reason?

**MR. KRISTJANSON:** Mr. Chairman, we serve the public as best we can within the terms of the Act, and we report to the public through this committee. I appreciate the fact that all of you represent the public that we serve. So if this committee directs us to contact Mr. Martin, we would be prepared to consider that direction.

**MR. WALDING:** So you are saying that the fact that the Leader of the Opposition and three other members of the Legislature, who would like you to do this, is not sufficient reason, and that you would only do it if ordered by a majority of this committee.

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Chairman, Mr. Walding is asking the current Chairman of Manitoba Hydro to do something which any member of this committee can do as an individual. It's not something that's exclusive to the Chairman of Manitoba Hydro to undertake. From that point of view, I would suggest that Mr. Walding might want to do that, he might want to contact both of the individuals in particular, who were named this morning, to find out whether or not they have an opinion to pass on to him on this matter.

I think Mr. Kristjanson answered in the first case, which was the legal counsel case, that if the former legal counsel does apply to the Board to ask to be released from any lawyer obligations, then the Board will have to undertake to give it consideration.

With regard to the second, I'm not aware that Mr. Wedepohl as a former Chairman would be bound by any formality, such as has been indicated by the Leader of the Opposition, in which regard I would suggest that Mr. Walding may wish to contact Mr. Wedepohl directly and ask him. I don't think it's incumbent on the present Chairman to go back to ask some person, who was an appointee prior to his holding the office, for information that is available to anyone. That is not information that is internal to Hydro.

**MR. CHAIRMAN:** Mr. Walding.

**MR. WALDING:** Mr. Chairman, I'm just trying to understand Mr. Kristjanson's reluctance to phone Hydro's former legal counsel, but seems under no constraint about phoning several former Board members.

**MR. KRISTJANSON:** Under the definitions of responsibilities and authorities, I see no particular reason for contacting Mr. Martin.

**MR. WALDING:** Perhaps Mr. Kristjanson could tell us why he wants to contact the former Board members.

**MR. KRISTJANSON:** Mr. Chairman, I suggested that simply to try to resolve this question of whether or not the Board of that time received any opinion which was not recorded. Mr. Blachford and his colleagues have done their very best to review the evidence available to them in order to answer the question raised on Friday. It is my opinion, Mr. Chairman, that Mr. Blachford and his colleagues have given a complete and adequate answer.

**MR. CHAIRMAN:** Mr. Walding, as Chairman, I suggested to the Leader of the Opposition that there is another means of perhaps resolving this impasse. We have now been on this subject for some time this morning. Do you want to use the other means perhaps to resolve the impasse, and allow the committee to get on with the report? Mr. Walding.

**MR. WALDING:** Mr. Chairman, I know we've been on this matter for quite some time, and we will probably be on the matter for quite some further time. We are quite well aware of the other alternative that you have outlined, and we will decide whether we would use that or continue with this particular line of questions that we have.

I assume that Mr. Kristjanson wants to satisfy this particular committee when it asks for information. Now some information has been given very freely and readily by Hydro. Other information we have had to probe and ask questions, and often repeat ourselves. I understand that Mr. Kristjanson is indicating some willingness to provide us with further information on this matter of Mr. Martin expressing concern in his capacity as legal counsel. Now he is saying that in order to do that, he's prepared to contact further Board members for the receipt part of the opinion. Is he not prepared to provide us with information as to the sender of that information? If not, what is his reluctance?

**MR. KRISTJANSON:** Mr. Chairman, we were asked on Friday whether or not the Manitoba Hydro Board had received an opinion from legal counsel, and we undertook to review the records. Mr. Blachford and his colleagues have done so and provided a reply. It's my understanding that some members of the committee are not satisfied with that reply. So I undertook to further affirm the answer given by contacting the people who were then members of the Board, if that was the wish of the committee. I'm still prepared to do that.

**MR. WALDING:** Mr. Chairman, I appreciate that Mr. Kristjanson gave his undertaking to answer the question. I wonder if he will give me the same undertaking to answer another question on the same topic. That is, will he undertake to ascertain whether Mr. Martin communicated an opinion to the Board about the Tritschler Commission, this concern that Mr. Brown has mentioned?

**MR. KRISTJANSON:** Mr. Chairman, in speaking to the Board members, I will ascertain whether or not there was any formal opinion communicated to the Board on this matter.

**MR. WALDING:** That's not quite the question, Mr. Chairman. The question was: Will Mr. Kristjanson ascertain that Mr. Martin gave such a legal opinion?

**MR. KRISTJANSON:** Mr. Chairman, I know from past experience that Mr. Walding and I do not necessarily communicate well with each other, and it takes time. I'll say once again that I will ascertain by contact with the people who served on the Board at that time whether or not any formal opinion was received from legal counsel.

**MR. WALDING:** Well, Mr. Kristjanson, perhaps we do have some trouble in communicating, and I'm not sure why. I'm of the opinion that my questions are simple and straightforward, but they may not be perceived that way. Yes, you have given us an undertaking as to whether an opinion was received. I'm asking you whether you will ascertain that an opinion was given. Those two things are not necessarily the same thing.

**MR. KRISTJANSON:** Mr. Chairman, I simply don't perceive the distinction.

**MR. CHAIRMAN:** That's almost unanswerable.

**MR. WALDING:** Mr. Chairman, if Mr. Kristjanson cannot see that something that is sent is not necessarily received, then I wonder whether the Hydro Board is in good hands.

**MR. KRISTJANSON:** I've said that if there was any formal opinion given by legal counsel at that time, that the answer to that has been given on the basis of what management has found from the records, and I would confirm that or seek further clarification by contacting the people who were serving on the Board at that time. That's my undertaking.

**MR. GREEN:** I was going to go to a different subject. Mr. Uruski was . . .

**MR. CHAIRMAN:** Mr. Uruski, do you wish to ask a question?

**MR. BILLIE URUSKI (St. George):** Yes, Mr. Chairman, I haven't gotten into this discussion, maybe Mr. Kristjanson and I can communicate a little bit better. Mr. Chairman, Mr. Kristjanson indicated that he will check with Board members as to whether a formal legal opinion was provided by the Board. Mr. Chairman, a Board member, present and previous, has indicated that there were concerns expressed, so some kind of an opinion was tendered by legal counsel. The question I ask and if the chairman of the Board can answer, as to why did Mr. Martin resign or leave as legal counsel to Manitoba Hydro? Why did he leave his position as chief legal counsel?

**MR. KRISTJANSON:** Mr. Chairman, I have no knowledge of that, I have no involvement at that time and I have not discussed that question with anyone, so I'm sorry I do not have any knowledge of that.

**MR. URUSKI:** Well, Mr. Chairman, Mr. Blachford, in his answer this morning to committee indicated that he called legal counsel, who from the time he was

aware was Mr. Smellie and he received the advice from Mr. Smellie that no opinion was given. Would it be a problem for yourselves to call Mr. Martin who is also a legal counsel, chief legal counsel up to a certain point and ascertain this same kind of information since it was no problem for the general manager to have called legal counsel and he gave us the answer. Since we now have the advice that there were two main legal counsels to Hydro and one resigned at a certain period in time, whether or not we can check with both legal counsels since apparently there were two counsels? Is that possible?

**MR. KRISTJANSON:** Mr. Chairman, to the best of my knowledge this gentleman, from what I've heard, was engaged by Manitoba Hydro and he quit and I see no particular reason why I should pursue that any further.

**MR. CHAIRMAN:** Mr. Uruski, can we move onto Mr. Green, or do you . . . Mr. Uruski.

**MR. URUSKI:** Yes, Mr. Chairman, we have asked the questions and the Board and the management have agreed to provide the information. We would like that information if possible. The chairman says he doesn't feel that it's necessary. Mr. Chairman, could I ask him, if I asked him and members on this side asked him that we would like to have that information, would it be possible to have a similar kind of telephone call made as was done to Mr. Smellie?

**MR. KRISTJANSON:** Well, Mr. Chairman, in response to the questions on Friday, Mr. Blachford and his colleagues researched the records and have provided a reply, which I think is quite adequate and frankly, as a citizen, I don't see any reason why any member of this committee couldn't go see Mr. Martin, or anybody else in this community. (Interjection)— Mr. Pawley has said that you cannot do that because of a client-lawyer relationship; is that correct? And in response to that question, Mr. Pawley, I've said that the Board would be prepared to . . . no, to receive a request from Mr. Martin for such release; we will consider that.

**MR. URUSKI:** Mr. Chairman, it has been provided to this committee by a Board member that concerns and matters were raised by legal counsel at the time and at the time chief legal counsel, when these concerns were raised was not Mr. Smellie, but Mr. Martin at the time. Am I correct in that matter? It was raised by a Board member here who was present at the Board. Surely the same courtesy that was given to members of this committee in asking the present legal counsel whether he gave an opinion; surely when the matter was raised the legal counsel at the time was not Mr. Smellie, but Mr. Martin and if he was the legal counsel at the time, you know, actually the questions were not answered that were posed by Mr. Walding. Clearly they were not answered because the fact of the matter is a Board member came to this committee, said that this was raised and the person who was alleged to have raised this was not even asked, a person who was completely different than the individual that was discussed and a Board member of this committee raised that matter.

**MR. BLACHFORD:** The information that was given on Friday was that no opinion was asked or given. This did not refer only to the last legal counsel for Hydro.

**MR. URUSKI:** Mr. Chairman, clearly there seems to be a contradiction of information, when a Board member here at this committee now says that there was concern raised, that legal counsel met with the Board, that he came to the Board and raised his concerns, but the member on the Board has indicated that the Board really not, and I will put words into the Board member's mouth, that the Board really notwithstanding that advice, we wanted to cooperate very fully with the Tritschler Commission. So whatever advice was given we didn't heed, but there were concerns raised, at least that's what is being said. So, Mr. Chairman, while there may not have been anything in writing but certainly there were discussions and there were concerns raised so clearly all the information has not been made available to the committee, even though questions were taken under advisement but all the information was not provided, because the entire period of time was not looked at, Mr. Chairman. Since the general manager indicated that he did call legal counsel at the time on Friday afternoon and it happened very quickly, what's to prevent the general manager after 12:30 today to call the previous legal counsel and get the information? Would that be a difficult task?

**MR. CRAIK:** Mr. Chairman, Mr. Uruski though is overlooking the fact that Mr. Blachford has given him as much information as he possibly can. He has given him as much information . . .

**MR. CHAIRMAN:** Mr. Craik is the recognized speaker.

**MR. CRAIK:** Mr. Chairman, Mr. Blachford has given him all the information a person is humanly capable of giving to the committee and I think the members ought to recognize that there is little point in trying to ask a person to provide more information on a subject with which he and other members of the Hydro staff have already indicated that they have no awareness of. The only suggestion here is of any communication that may be near what the members of the Opposition are concerned about is the only person who is available, and he happened to be on the Board at the time and there was some verbal exchange; that's about all the evidence is so it's pointless to ask either the current chairman or the present general manager and CEO for further information. Their information has been given.

**MR. PAWLEY:** Mr. Chairman, I don't know why the Minister and the chairman of the Board are making this matter so difficult. Information was brought back and was given to committee first thing this morning in relationship to the questions posed by Mr. Walding. The information was no, but it later occurred during the discussion, not from evidence presented from this side, but by a former Board member that indeed there had been concerns that were expressed by Mr. Steward Martin, then chief legal counsel for Manitoba Hydro, that those concerns were expressed to the Board. Now

understandably Mr. Brown isn't able to go into all the detail as to the extent of those concerns but he very frankly and openly indicated to the committee that yes there were concerns and that was contrary to the information to some extent that we had received earlier, only a few minutes earlier, that there had been no opinions expressed by chief legal counsel.

Now, Mr. Chairman, wittingly or unwittingly this committee has been mislead; now how do we deal with it at this point? It seems to me that we don't compound the problem by running around to every former Board member that may or may not recall some details. I suspect that you are going to have five or six different varying opinions as to what was said by Chief Legal Counsel, Steward Martin; some of them may recall as much as Mr. Brown, some may recall less than Mr. Brown, some of them may recall a great deal more than Mr. Brown. What, Mr. Chairman, is essential if we are to clear the air on this matter is to receive first-hand information from the then chief legal counsel of Hydro, if there is a written legal opinion that was presented by him to the Board, he will have possession of it. He will have possession of it and this matter can be dealt with by referral then to the legal opinion. If he doesn't have a written legal opinion then let him say, no, there was no legal opinion nor did I present one to the Board. Were there recommendations or not? Mr. Brown, I don't think was clear on that matter. I'm assuming from Mr. Brown that he doesn't recall recommendations, but I don't want to depend upon information that may or may not have occurred on the basis of memory by Board members that presently sit on the Board or formerly sat on the Board.

Mr. Chairman, this entire matter could have been short cut an hour ago by a simple commitment that the chief legal counsel, the solicitor then for Manitoba Hydro, that we say and we assert, did give a legal opinion to the Board of directors at the time and did indeed make recommendations to the Board of directors be called before this committee in the public interest, not just whether or not he has certain feelings as to whether he would like to express opinion to this Board, or as Mr. Kristjanson said, if he wants to he can apply to the Board to be released from solicitor-client relationship. And then we are supposed to be quite content with that, with the stonewalling that we've been receiving this morning? That we are to anticipate that the Board will give sympathetic reception of an application by Mr. Steward Martin to be released from solicitor-client relationship?

Mr. Chairman, the chairman of Manitoba Hydro and the Minister may think that the Opposition are a pretty naive bunch but we are not that naive. Mr. Chairman, if we are to deal with this matter up front in a straightforward fashion then lets discontinue this skirting around the issue, ducking the issue, stonewalling the issue. Let's have a commitment that Steward Martin will be brought before this committee to deal with the questions of the committee members that are representing the public in the Province of Manitoba.

**MR. CRAIK:** Mr. Chairman, this is getting to be about thrice around the Maypole here and I think, unless I didn't hear correctly and I'm sure that the

Leader of the Opposition will correct me immediately, I think I heard him say that unless there was a written legal opinion there wasn't a legal opinion. If that were the case, well, Mr. Chairman, we'll look at the record when it comes out and I'll take the members word for it. If there was, you've been told in the first five minutes of this committee meeting this morning that there was no legal opinion requested and no legal opinion given and that Mr. Blachford, nor the Hydro, nor obviously the staff have any awareness of it. The only suggestion that there may have been some discussion on the matter and maybe it didn't include this matter was with the only remaining member of the Board at the time, so the member is trying to create a tempest in a teapot here, and that's about as far as it's going. What Hydro has said, that they are quite willing to cooperate as far as possible and that if the Leader of the Opposition's party that he wishes to have the freedom to disembrace himself from a former client-relationship makes the application to his former client he'll be released. I withdraw that, Mr. Chairman. I'm not going to pre-empt the Board's judgment on this matter. Even the chairman cannot bind the Board for that kind of a decision. It would have to go before the Board. The Board engaged him, the Board has the decision-making powers as to what they do with regard to it. So really we've gone around this thing now so many times and I think that the Hydro staff and the chairman have tried to be helpful and co-operative in every possible extent.

**MR. CHAIRMAN:** Mr. Green, would you like to go on to a new subject.

**MR. GREEN:** Mr. Chairman, I really didn't want to interrupt the questioning but on the other hand I have to leave and there was another subject that I wanted to get to. I wonder if that could be at least taken into consideration with the question, because it has been going on for some time, not that I don't think that the Official Opposition's position is not entirely sound but it has been stated on several occasions.

**MR. CHAIRMAN:** Mr. Green, would you carry on please.

**MR. GREEN:** Now I've lost . . .

**MR. CHAIRMAN:** No, I seem to have some assurance from Mr. Uskiw that you can carry on.

**MR. GREEN:** I've lost the chairman, Mr. Chairman, but maybe Mr. Blachford can answer.

**MR. CHAIRMAN:** Mr. Green if you want to join us here and Mr. Blachford perhaps can answer your concerns.

**MR. GREEN:** Mr. Chairman, I do want to refer to the graphs. I think that the microphone will be picking me up.

Mr. Blachford 'm looking at this first graph which shows that the cost per kilowatt went from 20 under Winnipeg Electric to 10 under Winnipeg Electric; then when City Hydro came in it went down to 2 and then subsequently down to 1. Is that correct? Am I reading that correctly?

**MR. BLACHFORD:** That's my reading of it too, Mr. Green.

**MR. GREEN:** So that the public utility of City Hydro reduced the Winnipeg electric lights 20 times — 10 times from the last rate but 20 times from the original rate?

**MR. BLACHFORD:** I don't think City Hydro had anything to do with Winnipeg Electric rates.

**MR. GREEN:** Well, I, agree, City Hydro came in after Winnipeg Electric and when City Hydro came in the rate went down to two-tenths and then to one-tenth of what was formerly charged by Winnipeg Electric.

**MR. BLACHFORD:** I have no idea when City Hydro came into being Mr. Green. If you're correct there they must have come in about 1910.

**MR. GREEN:** The chart shows the City Hydro, Winnipeg, domestic only, and the rate before City Hydro was at the 10 figure and then City Hydro came in at the 2 figure.

**MR. BLACHFORD:** I haven't researched the history of this.

**MR. GREEN:** And if you go a little earlier it was a 20 and came down to 1 — one-twentieth of the City Hydro rate is what was provided by a publicly-owned utility as against a private utility. I'm saying something which I find to be astonishing but that's what your map shows and I want to know whether that's correct.

**MR. BLACHFORD:** What is correct? Whether the City Hydro brought the price down and . . . electric?

**MR. GREEN:** Whether City Hydro, a publicly-owned utility, was able to provide electric power at one-twentieth of the rate of the private enterprise efficient "utility"?

**MR. BLACHFORD:** Both utilities had that rate at that time.

**MR. GREEN:** But before the advent of City Hydro the Winnipeg Electric rate was at 10 and then when City Hydro came in both utilities provided the rate at two-tenths of what had been previously provided.

**MR. BLACHFORD:** It appears.

**MR. GREEN:** That's the way it appears. And if we count their previous rate, it was a 20.

**MR. BLACHFORD:** They also had all the risk at that time, Mr. Green, just to round it out. They had the taxpayer behind them to cozy up the losses.

**MR. GREEN:** But the taxpayer being behind you and publicly going into the utility we were able to reduce the rate by one-twentieth.

**MR. BLACHFORD:** That's the way it appears.

**MR. GREEN:** Maybe that's a lesson in public ownership.

**MR. BLACHFORD:** Could be. I'd like to point out that they didn't go into the business originally here. It was the private utility that did.

**MR. GREEN:** I think that the public should have gone in earlier.

**MR. BLACHFORD:** Maybe they should.

**MR. GREEN:** That's right. I believe that often the public should go in earlier; maybe they should.

**MR. BLACHFORD:** Maybe they should.

**MR. GREEN:** Right, well, I'm glad to have at least your maybe. Now, Mr. Blachford, I'm looking at this, maybe Mr. Kristjanson can help me on this map here. It would appear that in approximately 1960 that the ratio was about 5-1/2 to 9 in terms of what you call demand and capacity. Am I reading it the same way as you would read it? About 5-1/2 to 9 in early 1960s. I'm doing the best I can with the graph as you've made us because it doesn't have the exact period, oh, excuse me 6-1/2 to 9.

**MR. KRISTJANSON:** Mr. Chairman, the whole purpose of that chart is simply to show the trend lines. If you don't mind me joining you for a moment.

**MR. GREEN:** Go ahead, Mr. Kristjanson.

**MR. GREEN:** This indicates the demand over the years. The real challenge of Hydro is to try to match the generating capacity as closely as possible to the demand as it emerges allowing for a 10 to 12 percent reserve-type account of emergencies as they may arise.

**MR. GREEN:** In the early 1960s you'll want to be unfair, it could be approximately 6-1/2 to about 9.

**MR. KRISTJANSON:** I'm prepared to accept your arithmetic.

**MR. GREEN:** You be careful because you don't want to accept something that later you'll regret. Now in the late 1960s, well, middle, it would be approximately 8 to 12.

**MR. KRISTJANSON:** Mr. Chairman I would be prepared to go back and look at the detailed figures from which those charts were formulated and work out those . . .

**MR. GREEN:** It would be in the thereabouts plus or minus 8 to 12. Is that right — which would be two-thirds?

**MR. KRISTJANSON:** Mr. Chairman, I'm not prepared to work out those ratios here and now.

**MR. GREEN:** All right. In the middle 1970s it would be about two-thirds. Now it's 2-1/2 to 4 which is about 5/8ths so wouldn't it be about the same throughout those years that the high peak of capacity relative to demand stayed at about two-thirds, in between 60 and 70 percent. It's no different now in terms of the ratio than it was in the mid-1960s and in the early 1960s; is that correct?

**MR. KRISTJANSON:** Mr. Chairman, I'm not prepared to make loose statements about that but I will . . .

**MR. GREEN:** Is that not what your map is showing us? You brought that map in to show us something. Am I reading your map wrongly or your graph wrongly?

**MR. KRISTJANSON:** That graph indicates that the excess capacity in relation to the demand approached the 38 to 40 percent which includes the 10 to 12 percent that is normally required for emergencies in reserve capacity.

**MR. GREEN:** And it approached that in the early 1960s and in the late 1960s?

**MR. KRISTJANSON:** I would read that map to indicate that the excess capacity has increased in the last few years.

**MR. GREEN:** But in the mid-1960s when you had your demand at 7.5 and it's exactly 8-1/2 to 13, 8/13ths; is 2-1/2 to 4 any different in arithmetic to 8-1/2 to 13?

**MR. KRISTJANSON:** Mr. Chairman, the amount of capital in place in the latter part of that period, from about 1972 to 1980 is substantially higher. Frankly, that . . .

**MR. GREEN:** Can you tell me what the difference is mathematically between 8-1/2 to 13 and 2-1/2 to 4?

**MR. KRISTJANSON:** Mr. Chairman, I can tell you that categorically if we could have matched the supply here with the demand either by having the demand increased or by reducing the capital in place that the rates to the consumers would have been lower.

**MR. GREEN:** But, Mr. Kristjanson, you are going off and answering another question. I'm asking you whether it is not the fact that in the mid-1960s when you were asking to go ahead with the Churchill River Diversion that your capacity was at the ratio of roughly 8-1/2 to 13 and I'm trying to be fair — 8-1/2 to 13 between the demand curve and the capacity. So what's the difference between 8-1/2 to 13 and 2-1/2 to 4? Aren't they both about two-thirds; five-eighths? Then I'll have to leave it to mathematics to answer that question But it is a fact that in the mid-1960s if I took the position on your graph of 8-1/2 at the blue line and roughly 13 at the red line.

**MR. KRISTJANSON:** Mr. Chairman, in the mid-1960s we did not increase the rates and when the Kettle Rapids Project was approved and the transmission line was approved and in principle the Churchill River Diversion and the contemplated Regulation at the Lake was approved in principle, the main focus of the people then engaged in those activities was to put those facilities in place in a manner which made it unnecessary to raise rates for the Manitoba consumer. Now to accomplish that because of the heavy front-end capital it was necessary to work out an arrangement with the Federal Government whereby they made a loan of

approximately \$180 million payable over 45 to 50 years at 5-5/8 percent rate of interest and essentially a moratorium on payments for the first seven years — a partial moratorium. That financial arrangement made it possible for the people then responsible to carry on and implement these projects without a rate increase. As we added additional capital which meant when the plan was modified and I fully agree that it was the responsibility of the government of the day. But by the putting the additional capital into Lake Winnipeg Regulation, Churchill River Diversion, at that same time it became necessary to increase the rates as was indicated on the last page of my presentation, Mr. Green, where it shows the relationship between the capital put in place and the rate is fairly distinct.

**MR. BLACHFORD:** I'd like to just clarify one other thing. I don't know what you're getting at here, Mr. Green, but I would like to say that this graph here was made for one purpose and I think you may be trying to do something else with it. Up until about the late 1960s the Kelsey Generating Station which is included there was not connected to the central system. So the relationship was to . . . actually the operating conditions don't correspond exactly to what it says there.

**MR. GREEN:** Mr. Chairman, may I say that I merely asked a simple question and I'm going to tell Mr. Kristjanson that I regard his answers as being totally misleading, totally inaccurate, and if he wants to debate the subject with me, I'm going to do it. But I am merely trying to get things on which we agree and I've taken your map and I've showed that the ratio that you find so outrageous was the same ratio as you had in the middle Sixties when you were pushing ahead for the Churchill River Diversion. Now if that ratio is incorrect, I want to get an answer to that because I totally reject the suggestion that there has been, the conclusions that you have drawn from saying something else which I am quite prepared to deal with. But I am asking whether in the mid-Sixties the ratio between . . .

**MR. CRAIK:** On a point of privilege, Mr. Chairman.

**MR. GREEN:** Yes, what is the point of privilege?

**MR. CRAIK:** On a point of order, Mr. Chairman.

**MR. CHAIRMAN:** On a point of order.

**MR. CRAIK:** Mr. Green has referred to the reply as being misleading and inaccurate. The reply may not have been what Mr. Green wanted the Chairman to address but it's a fairly unfair comment to make, unless a member of this committee, and I think Mr. Green must know that, to imply that somebody has given a misleading and inaccurate answer.

**MR. GREEN:** But that's the policy of the committee, Mr. Chairman . . .

**MR. CHAIRMAN:** Mr. Craik has the floor. Mr. Craik.

**MR. CRAIK:** Let me finish, Mr. Chairman. Mr. Green keeps wanting to use the courtroom tactics in here of putting his witness under oath and say, yes or no,

or you're in contempt of court. This is not a courtroom. The person that is appearing before the committee has the full right to answer a question when he sees fit and it's unfair and very unfair for a member of this committee to suggest because a person follows that course of action that he's going to be accused of being misleading or inaccurate.

**MR. GREEN:** To the point of privilege. Mr. Chairman, I have not put the member under oath. It's the Minister who said that people should be put under oath but he has been very careful not to put people under oath now that they're here. As far as accusing people from Hydro of being misleading and inaccurate, I'm following the precedent and policy set by Donald Craik, the Member for Riel. I suggest that I didn't ask that question, that members were here, that the public was here, hearing what I asked. I asked whether it is not a fact that that graph shows that in the mid-1960s the ratio between demand and capacity was about 8-1/2 to 13, and Mr. Kristjanson, as has been his wont to do — (Interjection)— I'm still on the point of privilege — has decided that he wants to get back into a political debate which he saw as his stepladder to becoming the Chairman of Manitoba Hydro and which, by the way, other people in Hydro now see as their stepladder if they can only do in Mr. Kristjanson. I am therefore asking him to stay away from those comments.

**MR. CRAIK:** Mr. Chairman, to repeat to Mr. Green, he appears to want to act as if someone is under oath. He appears to want to conduct this like it was an inquisition. I don't think Mr. Kristjanson was doing other than replying to the question as he heard it and replying to it in a free manner that he felt he should. I, in no way, feel that he should be subjected to being accused of giving misleading or inaccurate information simply because he doesn't respond the way Mr. Green's witnesses in court respond. I repeat, I don't think this committee should be turned into a courtroom and I think we ought to have regard that a fair people and a reasonable people that come here should be treated likewise.

**MR. GREEN:** Mr. Chairman, to the point of privilege. I will concede that the Honourable Minister of Energy and Affairs who has referred to an inquisition is an expert on inquisitions and I defer to him in that regard. I also agree that witnesses who come here giving a fair and impartial position to the Commission should be treated fairly and impartially. Now I'm going to continue to deal with Mr. Kristjanson, if I may.

**MR. CHAIRMAN:** Mr. Kristjanson.

**MR. KRISTJANSON:** Mr. Chairman, may I verify what I've said in response to your question? I said that I would be prepared to work up these ratios in any way you wish but I'm not prepared at this time before the committee do that kind of calculation.

**MR. GREEN:** But you have brought a graph before the committee and I am asking you questions on your graph and you say you can't answer them on the basis of the graph that's in front of us. Is that right?

**MR. KRISTJANSON:** That's not what I said. I said that if you want to work up ratios, present the



information in any different manner, we were prepared to do that.

**MR. GREEN:** You cannot tell me from the graph that you have asked us to look at, whether between 1960, the mid-Sixties, and 1970, that the ratio between installed capacity and demand was at one time approximately 8-1/2 to 13. We can't see that from that graph.

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Kristjanson has given the member and the committee a reasonable offer to provide information as I heard it with regard to the actual calculations of the reserve capacity or whatever the proper definition of the term is in a tabled basis rather than in a graphical basis as presented here.

**MR. GREEN:** So then what you're telling me is that the graph that you presented to us is misleading.

**MR. KRISTJANSON:** I'm not telling you that it's misleading. What I've offered to do or suggest that I would do is that we would provide that same information in tabular form so that you can see how that graph was prepared.

**MR. GREEN:** Mr. Chairman, what we do know from the graph is that in 1980 we stand at 2-1/2 to 4 which I calculate as 5/8ths. Is that correct; is my calculation correct?

**MR. KRISTJANSON:** I'm not prepared to answer that.

**MR. GREEN:** You're not prepared to tell me whether 2-1/2 to 4 is 5 to 8. I have no further questions, Mr. Chairman. I have to go to something a bit more productive . . .

**MR. CHAIRMAN:** Mr. Jorgenson.

**HON. WARNER H. JORGENSEN (Morris):** Mr. Chairman, I wonder if I may ask a couple of questions. Mr. Green pointed out that this margin in between this to here represents a safety factor that is necessary to ensure that Hydro will be able to provide to their customers power in sufficient quantities to maintain the needs. Mr. Green has pointed out that here — I think it was this point here, between here — represents 450 megawatts in order to ensure that safety factor. Is that right?

**A MEMBER:** No, he never said that.

**MR. JORGENSEN:** . . . it represented, he said 2-1/2 to 4. All right. That safety factor, would it now require, if it represents from this point here to this point here, if that represents 450 megawatts, which is according to my calculations reasonably close, give and take a few megawatts, and is it necessary now to have a safety factor representing the difference between this point and that point? Would it be necessary to have an increased safety factor today as opposed to this period here? Would the safety factor be sufficient if this chart or this line went up here to within 450 to 500 megawatts? What I am asking is, with increased production, does it require a larger margin of safety?

**MR. CHAIRMAN:** Mr. Blachford.

**MR. BLACHFORD:** Not in percentage terms, Mr. Jorgenson. Normally the hypothetical way of designing the system would be to take your expected load and our current reserves that we require on top of that is about 12 percent only. Now, in addition to this, you have inter tie-lines which also help the stability of the system and that extra margin is required for stability, that is to say, the 12 percent. So you do not require the amount that's shown there to supply the Manitoba load.

**MR. JORGENSEN:** If you go over this chart here, according to the chart, Winnipeg Electric came into operation — what? About 1906. I would presume and perhaps you can correct me that the capital cost of building that power plant in the first place would have been incurred in those first four years and they would have been amortized over a period of years. Would it be possible that Winnipeg Electric amortization costs would have been depleted about this point or would it have carried on further than that?

**MR. BLACHFORD:** The normal depreciation time for a Hydro plant according to the U.S. Federal Power in the United States is 40 years. Now Manitoba Hydro uses for its own purposes 67 years, so it's some place between these times.

**MR. JORGENSEN:** Are you aware of what those rates were at this period, at this state? That was quite a number of years ago.

**MR. BLACHFORD:** That's right, but I don't know.

**MR. JORGENSEN:** Could it be possible then that some of those costs of construction might have been amortized around this period?

**MR. BLACHFORD:** It would have been.

**MR. JORGENSEN:** That would then decrease the cost.

**MR. BLACHFORD:** Yes, it could have done.

**MR. CHAIRMAN:** Mr. Walding.

**MR. WALDING:** Mr. Chairman, just on the last two questioners, it seems that Mr. Blachford was prepared to give Mr. Jorgenson answers from the chart but Mr. Kristjanson wasn't. I wonder if Mr. Blachford would care to give Mr. Green answers to his questions from the same chart.

**MR. BLACHFORD:** He wanted ratios. If he would like ratios, we could work them out for him.

**MR. WALDING:** I understand that, Mr. Chairman, that's what Mr. Green was speaking of and the point that he was making was that the same proportions applied back in the mid-1960s as they do today and that he was taking that information from the chart produced to us. Now I wonder if Mr. Blachford can confirm that.

**MR. BLACHFORD:** Yes, the reserve on the Manitoba system is in the order 12 percent. That's what's recognized for a system operation today.

**MR. WALDING:** I believe, Mr. Chairman, Mr. Green was making the point that the reserve in the mid-1960s was far in excess of that and in about the same proportion as it is now. Would that be the facts?

**MR. BLACHFORD:** If that's the point he was making, we can give him the ratios.

**MR. WALDING:** Good. Mr. Green doesn't appear to be here but I will convey that information that you confirmed that, Mr. Blachford. I'm sure that he will be very pleased to receive a straightforward answer to his question.

**MR. CHAIRMAN:** Mr. Craik.

**MR. CRAIK:** Mr. Chairman, on a point of order. That reply is already on the record. It was given by Mr. Kristjanson directly to Mr. Green.

**MR. WALDING:** Back to continue the point that we were making this afternoon, but I'm wondering whether this is an appropriate time to get back into it, or whether it would be a reasonable time to adjourn for lunch.

**MR. CHAIRMAN:** Mr. Walding, we still have 10 minutes of the committee's time available.

**MR. WALDING:** Let's go back then to the matter of the discussion, the concern that was raised at the particular meeting of the Hydro Board which Mr. Brown has told us about. There seems to be some problem with this little word "formal" and that's where we were given two differing views this morning. One from Hydro that said there was nothing formal and one from Mr. Brown that says, yes, there was discussion by the Board following a presentation or an appearance — that may be accurate — before the Board by Mr. Martin. I'm not sure who can answer the question, maybe Mr. Brown can, is what happened? Normally, as I recall it, when an official or a member of the staff appears before the Board, there is usually a presentation to the Board, sometimes accompanied by chart, sometimes accompanied by a written presentation, sometimes just verbally, but it is given to the Board and there is usually then discussion and the Board takes some action on it. I wonder if Mr. Brown can confirm that was the procedure at this particular Board meeting.

Another question on the same topic is whether the minutes showed that Mr. Martin in fact appeared before the Board on that particular date and that should pin it down to a specific date? Was it recorded in the minutes that he appeared before the Board and made a presentation and if so the minutes would presumably show how the matter was resolved?

**MR. BROWN:** Mr. Chairman, my understanding is that the minutes were checked and if I'm correct they did not indicate that there have been any recommendation of any kind, then I do not know whether they did indicate that Mr. Martin had been present. If I could ask whoever checked the minutes whether Mr. Martin's name did appear on any of the minutes . . .

**MR. CHAIRMAN:** Mr. Blachford.

**MR. BLACHFORD:** I didn't ask that specific question so I don't know.

**MR. BROWN:** I think that you must understand that the Board did not meet regularly with Mr. Martin. The Chairman met with Mr. Martin at that time and he reported back to the Board most of the time. I really only recollect one meeting in which Mr. Martin was present and at that time there was some concern expressed and he reported at that time how things were proceeding with the Tritschler Commission. It seems to me that he asked for a recommendation from the Board and from management and the recommendation was that it was our intention to co-operate with the Tritschler Commission as much as we could and give them the information, whatever was required.

**MR. CHAIRMAN:** Mr. Walding.

**MR. WALDING:** Mr. Chairman, I'm not sure I understand the last couple of sentences from Mr. Brown. Is he saying that Mr. Martin asked the Board for its recommendation?

**MR. BROWN:** Well we had a discussion and the way that I recall it is that we gave him the understanding that it was our wish that we co-operate fully with the Tritschler Commission.

**MR. WALDING:** Was it the purpose of Mr. Martin's appearance before the Board then to give a progress report and raise these concerns, or perhaps just that it wasn't the reason for his appearance to raise the concerns, but at his appearance he raised these concerns. Now since he is paid to give legal advice and to do legal work he presumably had made some suggestions along with, or outlined some possibilities in his report and that would follow from your remarks about a recommendation. Is that your recollection of what happened?

**MR. BROWN:** Well, it was a verbal discussion that we had really, and there was no formal presentation made by him requesting us to do anything or take the Tritschler Commission to court or whatever as you were suggesting. This just never occurred to my recollection, it was just a discussion.

**MR. CHAIRMAN:** Mr. Walding, before you carry on, I recall about four years ago when I was a member of this committee that in those days only the Chairman answered questions to members of the Legislature. The rules have been relaxed a little bit more every year and it's gone beyond the Chairman to the General Manager to senior staff members, now to Board Members. I'd like to ask how far and how many persons do you wish to direct your questions to? Usually they are done through the Chair and to the Chairman or the General Manager.

**MR. WALDING:** On a point of order, Mr. Chairman, that is quite true, that is has become the accepted practice that the Chairman is permitted to call upon any member of the staff who he feels can give an answer or presumably anyone else and that raises the question whether Mr. Kristjanson has any objection to Mr. Brown giving information to the committee, which he obviously is not able to do personally.

**MR. CRAIK:** Mr. Chairman, I don't think objection is the right word, we're getting into pretty unusual procedure here where the line of questioning is going across between two members of the committee and I don't think that that has been the practice of the committee. The practice of the committee is to hear the report of the Hydro. I see the distinguished Chairman of many committees here nodding in agreement, perhaps he wants to add something to it. He's seen more committees than I have.

**MR. CHAIRMAN:** Mr. Walding, it was the conversation going back and forth between two members of this committee that I don't think is proper. I think the questions should be directed through Mr. Kristjanson or through the Minister.

**MR. WALDING:** Well, Mr. Chairman, committees have been known in the past to debate amongst themselves and often when there is a debate one member might raise a question and another member of the committee might be in a position to answer and in fact might even be able to respond with another question. It has been in the past to happen, Mr. Chairman. If you are saying that somehow we are out of order, then perhaps Mr. Brown and I will find some other method of exchanging information between ourselves.

However, I would say that I do appreciate the information that Mr. Brown has been able to give to us first hand on this matter. He is the only member of the committee that's in a position to do so. The Chairman and the General Manager were not on the Board at the time and I cannot expect them to give information of their own particular knowledge, but that is part of the problem that we are facing on this question, is getting some direct answers from people who were in a position to know. The suggestion that we have made on this side is that the person most directly concerned with this particular opinion, or the raising of concern seems to be Mr. Martin and that he would be the most obvious one to give us the facts in this particular case. Now, there seems to be some reluctance to ask Mr. Martin to appear.

We have suggested a lesser course of action and that is that the present Chairman phone Mr. Martin and report back to us on this information, but the Minister told us in answer to another question not too long ago that the Chairman would be most co-operative —(Interjection)— co-operate as far as possible. Well, it's really not going very far, Mr. Chairman, to undertake to make a phone call and to report back. I'm sure that it would be most helpful to the committee. Members on this side would appreciate the information and I suspect, Mr. Chairman, that members sitting across the table from us would also be interested to hear that. I see Mr Brown nodding and I'm wonder if he also would appreciate that information.

**MR. CHAIRMAN:** The Chair recognizes Mr. Brown just before committee concludes.

**MR. BROWN:** Mr. Chairman, I would just like to point out that Mr. Smellie was legal counsel throughout the Tritschler Commission Enquiry and at the start Mr. Martin and Mr. Smellie were both working together on this, they were both from the

same legal firm. You would think that Mr. Smellie would have been aware if any recommendation would have been made by Mr. Martin to Manitoba Hydro that they take the Tritschler Commission to court. Mr. Smellie cannot recollect any such a recommendation being made so I certainly would think ~~Board~~ Mr. Smellie and Mr. Martin would have been working in co-operation on this on the whole.

**MR. CHAIRMAN:** The hour of 12:30 p.m. having arrived, is it the wish of the committee to adopt the report before we adjourn.

**MR. WALDING:** No, Mr. Chairman, we are still waiting for further information.

**MR. CHAIRMAN:** Committee rise. The Government House Leader will have to indicate in the House as to the next sitting.

Committee Rise.