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of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

AGRICULTURE

31-32 Elizabeth II

Chairman
Mr. A. Anstett
Constituency of Springfield



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

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ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
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WALDING, Hon. D. James	St. Vital	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON AGRICULTURE**

Monday, 15 August, 1983

TIME — 8:00 p.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. Andy Anstett (Springfield)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Adam, Bucklaschuk, Uruski and Uskiw

Messrs. Anstett, Downey, Enns, Harapiak, Manness and McKenzie

WITNESSES: Representations were made to the committee as follows:

Bill No. 3 - The Farm Lands Ownership Act; Loi sur la propriété agricole

Mr. Yude Henteleff, Manitoba Association for Rights and Liberties

Mr. Kent Magarrell, Winnipeg Chamber of Commerce

Mr. Walter Kroeker, Kroeker Farms Ltd.

Mr. Garland Laliberté, Manitoba Institute of Agrologists

Mr. Lorne Parker, Manitoba Farm Bureau

Mr. Rod Fowler, Ducks Unlimited Canada

Mr. Don Glays, Manitoba Wildlife Federation

Mr. Robert Tyler, Manitoba Real Estate Board

MATTERS UNDER DISCUSSION:

Bill No. 3 - The Farm Lands Ownership Act;
Loi sur la propriété agricole.

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MR. CHAIRMAN: Committee come to order. We have a quorum.

Bills referred to this committee are Bills No. 3, The Farm Lands Ownership Act; Bill No. 23, An Act to amend The Real Property Act (2); Bill No. 24, An Act to amend The Registry Act.

As most members may be aware, Bills 23 and 24 are consequential to Bill No. 3. The list that we have of persons wishing to appear on these bills have indicated a desire to appear with respect to Bill No. 3. I believe the Clerk has distributed copies of the list. I have one addition. I believe members have in front them a list showing 12. I have a No. 13, Mr. Goddard of the Manitoba Chamber of Commerce. What is your will and pleasure with respect to hearing the delegations? In the order in which they have registered? Hearing no other proposals, I'll call on Sybil Shack or Yude Henteleff on behalf of the Manitoba Association for Rights and Liberties.

MR. Y. HENTELEFF: In case you don't know, Mr. Chairman, my name is Yude Henteleff.

MR. CHAIRMAN: You're definitely not Sybil Shack.

MR. Y. HENTELEFF: No, I'm not Sybil Shack. Although I must confess, you have no idea how important the work of this committee is, I decided to make a long weekend out of it, and at 4 o'clock a boat came over to my cottage and said you're wanted in the House this evening. That's how the message came.

Mr. Chairman, and members of the committee, the Manitoba Association for Rights and Liberties, which I'll refer to as MARL, is a non-profit citizens' group dedicated to the protection of human rights and civil liberties in Manitoba. Its Legislative Review Committee has reviewed Bill 3, The Farm Lands Ownership Act and offers the following comments and suggestions.

The proposed Bill 3 brings into play the classic conflict between the rights of individuals and what is deemed to be in the best interests of the total community to have limitations imposed upon the rights of persons to deal with their property by virtue of the nature of that property, in this case farm lands, whereas other persons whose property is not farm land would have no such limitations imposed upon their rights. The proposed act would affect not only individuals, but a whole category of persons, indeed, an important and sizable segment of the population of Manitoba.

During the course of the debate on the Canadian Charter of Rights and Freedoms, all the provinces made it abundantly clear that rights as to property were to be excluded. They argued such exclusion on the basis that rights to property came under the exclusive jurisdiction of the provinces. The position of the provinces should not be interpreted as meaning that rights to property should be excluded from guarantees of such rights and freedom as are contained in the Charter. No doubt the provinces will come to deal with these matters in due course.

Nevertheless, MARL must express its present concern with these situations where the property rights of a class of persons resident in a province are affected by legislation to the extent that such class of persons suffer an adverse effect as compared with other persons or class of persons resident in Manitoba. It is acknowledged that no one owns real property absolutely free from restraint. We are well aware of the fact that such rights in a province are subject to actions taken for a variety of purposes which are deemed to be in the public good; for example rights-of-way for various utilities.

Furthermore, lands can be expropriated by various jurisdictions in a province if the lands required are for the purpose of the common good. Examples of these are expropriations for highways or parks. In these situations, a citizen whose lands are so affected can take preliminary objection, arguing that, in fact, what is proposed to be done by the expropriating body is

not in the public good. If the objection is not sustained, the right then remaining in the person, whose lands are so expropriated, is to be adequately compensated.

It is therefore vital that if the right to own real property is interfered with by an arm of the government, the persons so adversely affected must receive all the protection of their rights that is available in similar situations.

We wish to express our general concern that the act does not appear to assure full comprehension of or appreciate the extent to which a number of sections of the act adversely affect the farm business person owning real property as compared to the non-farm business person owning real property. Furthermore, the right to challenge the efficacy on a particular transaction is left to the discretion of the Board itself. It is our view that in respect to rights of this nature, the Board should not have a complete and absolute discretion without right of appeal.

We suggest that some clauses of the act may be in conflict with the Charter of Human Rights, specifically with Section 6 of the Charter, namely Mobility Rights.

Our brief, however, does not deal with the basic purpose of the act, but with the effects of its methods of implementation as set forth in Bill 3. The question as to whether or not the act ought to be put in place for the purpose for which it's intended is not a matter of our concern in terms of the obligations that MARL feels it has in matters of this nature.

The limitations imposed by the act have sociological, as well as legal and commercial implications. We believe, for example, that some of the terms of the Act would subject people who own and till land to more and greater infringements upon privacy and breaches of confidentiality than non-farm people in the province. We are concerned, for example, about the broad powers of investigation included in the act. We are oposed to the "reverse onus" of Section 10, and I'll deal with that in greater detail later. We have therefore examined the act with the following goals in mind:

i. that the act be clear and precise in its terminology so there could be no doubt as to who are affected, how they are affected, and when they are affected.

That means, of course, in addition, Mr. Chairman, that the language should be clear and precise, and in view of the fact that it affects such a large number of people be clear to everyone who reads it. There'll be more than just lawyers, I hope, that will be reading this document.

ii. that there be no unintended consequences which might more severely limit and affect those individuals to whom the Act is directed than is necessary for the purposes of carrying out the purported import of the Act;

iii. that the individuals whose rights are being diminished or affected in anyway receive the maximum protection to which they are entitled, so that adverse consequences to them, collectively and individually, may be kept to the absolute minimum;

iv. that in the application of the act the principles of fundamental justice be adhered to and upheld.

In the copy of the brief that is being provided to you, we of necessity dealt with the matters in a rather summary fashion. I will now depart from the brief and deal with our various concerns which are raised very briefly under the heading of "Definitions" and deal with them more extensively.

Definition of a family farm corporation. Dealing with the subparagraph (i) the definition of family farm corporation, it is not clear if the intent is to have the qualification include the farmers together with the resident spouses, or the ownership by the resident spouses of farmers being a separate and distinct category. I think for that reason alone, because there is a doubt, the resident of spouses of farmers should be a separate and distinct category and therefore in order to make sure of that, the word "or" should immediately precede the words "resident spouses of farmers."

Furthermore, in many instances for a variety of reasons, either the wives or the children of farmers may have formed their own corporation and the shares which they own in the family farm corporation may be held by their own holding corporation.

Accordingly, the definition should be extended to provide that shares owned by the farmer or by his resident spouse or by his resident children or any combination may also include ownership of such shares through and by a corporation controlled by the farmer or controlled by the resident spouse or controlled by the resident children, or any combination thereof. That is a fact of life, Mr. Chairman, and ought to be recognized in that particular fashion.

Further, with respect to the same definition, it is clear not only is it necessary that any one of the farmer's spouses or resident children, or any any combination, thereof legally and beneficially own not less than two-thirds of the shares of all classes in the farm corporation, but the farm corporation must be under the control, in fact, of the farmers, the spouses or the resident children.

Again, to make sure the resident spouses are considered as a separate and distinct category, I would insert the word "or" before the words "the resident spouses."

Secondly, nowhere is the word "control" defined. Does it mean control in all respects; that is, voting control, regards to the nature of matter which is desired to be conrolled, or is it control to related active management, or is it control to related to the sale and disposition of assets, or mortgaging of assets?

The problem that this raises is that you may very well want to invite or enable persons other than the farmer or his resident spouse or his resident children to participate in the farm business. Their participation may be such that if they are advancing considerable sums of money, they at least want some control of farm operations with the farmer, or in respect to certain aspects of the farm business they may want, and justifiably so, control with respect to matters such as mortgaging or the sale of assets of the corporation, or the acquisition of substantial non-operating assets for the corporation.

For example, the acquisition of additional land, which may very well put the farm corporation in a position of jeopardy, having in mind available cash flow. This imposes a double limitation, Mr. Chairman. Firstly, in the farmer himself, in his flexibility, in making appropriate business arrangements with those who wish to invest in the farm operation with him; and secondly, on those persons or corporations who are not farmers, in limiting them from becoming involved in the farm business or the farm where, for the sake of the farm

business itself, certain elements of control ought to, in fact, reside in such investors.

Secondly, we're concerned about the definition of farmer. In considering this definition, one must also consider the definition of the word "farming" in the same section. It's clear from the reading of the two words together, that is farmer and farming that in order to qualify as a farmer, the individual must receive a significant portion of his income, either directly or indirectly from his occupation, and his occupation of farming does not include the purchase or sale of agricultural products or the commercial processing of agricultural products.

In our opinion, this has several unfortunate consequences to the farmer in the commercial realities today as compared to other business persons and certainly, with respect to commercial realities of tomorrow and for the following reasons: firstly, many farmers are required to obtain employment separate and distinct from the farm operation as a means of obtaining cash income in order to keep on operating the farm; secondly, many farmers may try to diversify their operations, which may not directly fall within the precise and clear definition of farming that is used in the proposed act. The definition is so specific that unless you fall foursquare within that definition, certain allied activities you carry on may not be considered as part of a farming operation.

For example, let us assume that a farmer's part of his storage operation includes fairly substantial dry equipment or cleaning equipment for grain. He finds also that he's not able to use the entire capacity of such equipment, and is able to derive substantial income from other farmers who wish to use his equipment when it's not in the use.

The same thing may apply as having established a fairly substantial machine shop, and beginning to do custom work for other farmers by virtue of his own particular expertise in this area. Any one of these or a combination of these activities may in fact provide to the farmer "a significant portion of his income." As one can see that income certainly would not come within the present definition of farming. In the result, there's a possibility - depending on what is meant by significant - he would no longer qualify as being a farmer with the attendant consequences.

Therefore, I turn to the question of what the word "significant" means. We are concerned about this particular definition in subparagraph (i) and (ii) in the definition of farm. Firstly, with respect to subparagraph (i), the definition, I really don't know what significant means in the context of what this act intends to accomplish. Does it mean 25 percent, does it mean 33.3 percent, does it mean a majority of income, namely in excess of 50 percent, or does it mean the principal amount of the income, which may mean something considerably in excess of 50 percent? This should be more precisely defined so that farmers know exactly what they can or cannot do.

Furthermore, I'm not quite sure what the word "indirectly" means in paragraph (i), the definition of farmers. The definition of the word "directly" does not help at all, because it does not appear to relate to income as it's set forth in the definition. In any event, I just don't quite know how one could receive income indirectly from the various processes of farming as

defined in the definition section of Section 1(c) of this act.

We're concerned about the definition of "retired farmer." The definition of "retired farmer" as contained in the definition section provided that in order for a person to qualify as such, he must have been a farmer for a period of at least 10 years. One would certainly like to know why the number 10 was picked. One must appreciate that the longer period of time that was picked, the more discriminatory the definition, and obviously the basis for our concern.

Also what is not clear is as to whether the tenures of qualification has to be a continuous period, or whether it can be compromised of a number of separate periods adding up to 10 years. What if the person fully intended to continue his operation as a farmer for more than 10 years, but by virtue of matters beyond his control he had to terminate his occupation? Is he supposed to be penalized because at nine years and 11 months and 11 days he's hurt in an accident? It appears in this definition that of course he is.

Section 1(2) meaning of "control in fact." We are concerned about this definition for the following reasons. There's considerable imprecision in the definition relating to the power or authority to exercise the powers of the corporation or any material part thereof. Quite frankly, we do not know what is meant by the words "material part thereof." There are practically an infinite number of powers that a corporation can exercise. Is the word material being used in the sense of the quantity of the total number that are capable of being exercised, or in the sense of the nature of the powers being exercised? If it is intended to relate to the nature of the power that is being exercised, surely it should be limited to those powers which are material to the objectives that are being sought to be achieved by this act. Since the object of the act is to limit the ownership of land to certain individuals or corporations controlled by certain individuals, then that is what the definition of control ought to relate to quite specifically.

According, in our judgment, the rights as provided for in this section to direct the management or supervision of the business and affairs of the corporation should not be deemed to be control within the meaning of this section. There may be many circumstances in which a person who otherwise is qualified to own land without being in breach of the act, may have entered into certain contracts with others who don't necessarily so qualify but whom he wishes for a variety of good business reasons to direct the management of the corporation or to supervise his business or his affairs. Should that alone disqualify that particular farmer? What if he suffers from some disability whereby the only way that he can continue his farm business is to delegate such responsibility to other nonqualifying person or corporations? Should such a farm business person, under this particular set of circumstances suffer the profoundly severe consequences of this act.

We are also concerned about the words "or any material part thereof" as they relate to management or supervision of the business affairs of the corporation. I don't know how you could possibly quantify what the material part of management or supervision might be. There are infinite number of business arrangements,

and infinite different kinds of businesses, and in the way they operate. In light of this how could one ever develop any kind of consistent pattern which would enable people to guide themselves by as to what constitutes a material part of the management, or supervision, or affairs of his business, the corporation. We can't help but conclude, Mr. Chairman, that under these circumstances, with this particular definition in place, a farm businessman will find himself in a sort of perpetual quicksand of uncertainty.

Further to Paragraph 1(2) iii. It is difficult to understand why the right to elect a majority of the directors of the corporation is equivalent to control in fact. The shareholders of the corporation have to approve all of the actions of the directors, and so long as the necessary majority of shareholders qualifies under the act that should be adequate.

We are most concerned about the wording of Section 1(3) "deemed control of the ownership." Quite frankly we do not understand this section. Either the corporation's controlled, in fact, by a group who are not farmers, or is controlled by a group who are farmers. The way it now reads it appears you seem to have two persons with identical rights, and if it turns out that one of the persons are not farmers then their deemed to, in fact, have control. I don't know how you can have two persons having control.

With respect to Section 3(1), and I'm on Page 4 of the brief presented to you, I understand that there are some proposed amendments to Bill No. 3, and that the proposed amendment to Section 3(1) is such that it satisfactorily answers, Mr. Chairman, the concerns which we had expressed in our original brief in respect to retroactivity. I understand that's the case. That after the word "it", in the fifth line of the subsection, all the words following that would be deleted.

Similarly with respect to the question of "Confidentiality and Invasion of Privacy" which is the next part of our brief, we understand as well that the proposed amendments dated August 8, 1983 will of course do away with that as well so the substantial concern which we expressed in that area has also been dealt with and responded to quite adequately.

Dealing with Section 3(3) Mr. Chairman, this has been to totally replaced as I understand it, and so that, although we'd expressed our concerns that the board in itself would be exercising powers which we felt would be the responsibility of the Legislative Assembly, the proposed section, the proposed amendment appears to deal with all of our concerns, except that we have one further concern arising out of the way its worded itself. Without a clear statement as to what the purpose and objects of the act itself are, Mr. Chairman, there's nothing by which such exclusions contained in such regulations can be measured. Potentially it lends to total uncertainty, it may lead to inconsistency and it may lead to chaos instead of order.

It would seem appropriate, Mr. Chairman, that there ought to be a clear statement at the beginning of the act which states quite clearly what the purposes and objects of the act are, so that when exemption guidelines are established by regulation, then they will be consistent with those principal objects. I think that's really quite important. Otherwise, there would be nothing to guide those who subsequently and in the usual fashion pass the regulations by the dozens.

Section 3(7) change of residence. It is remembered that pursuant to Section 1(3)(c) the holding of any partial interest in farm land by a person whether jointly held or held in common with another is conclusively deemed to the holding of the whole of such interest in the farm land.

It must also be remembered that under the act by definition a person includes a partnership syndicate, joint venture and any association of persons whatsoever.

The definition of "resident" in the act does not indicate what minimum term of actual residence must be in the province for one to be considered as a natural person bona fide resident in Manitoba. As the case, for example, The Income Tax Act, where for its purpose, 183 days of residence in Canada means one is deemed to be a Canadian resident.

Accordingly, a number of questions arise. Does a change of residence occur where a person who owns farm land decides to live out of the country or out of the province for six months of the year or more? Since a person includes more than one person where the holding of farm land is by a group of persons, what is the consequence of one of those persons changing his residence? These are facts that we are quite concerned about, because they're so imprecise.

Section 3(9)(1), there is a further amendment - I don't know whether all the members of the committee are aware of this - whereby, in addition to Section 3(9), it's now extended to include a corporation, that was a family farm corporation, may continue to hold all interests in farm land held by it. It's to be noted, Mr. Chairman, that in the new proposed amendments that shares could be transferred to a natural person; that is, to any natural person, without having any relationship whatsoever to the farmer. When you turn to Section 3(13) which deals with the transfers by an individual from a non-farm corporation, that is by an individual, you'll note that it is limited to a certain category of persons; that is those who are directly related to him by blood.

It appears, therefore, that if a person owns a farm corporation, he has unlimited rights to transfer shares to anybody even if they're not related to him. So, by virtue of this amendment, Mr. Chairman, there is an inconsistency between those who own land and their rights under a farm corporation of much greater rights to transfer as compared to an individual. There should not be in existence that inconsistency, because it's not "person". If you'd used the word person instead of natural person, then person includes a whole range of persons. But when you look at the only definition of natural person, actually there is no definition of natural person, and that's part of the problem. So now by virtue of this amendment, you have an inconsistency between both sections. In other words a person who owns land through a farm corporation has greater rights of transfer compared to the individual who owns it in his own right.

I only received these recent amendments just a day or so ago and didn't read them until late this afternoon, so you'll have to forgive me if I bounce back and forth a bit.

I'd now like to turn to subsections 8(2)(c), (d), and (e) as indicated on Page 5 of the original brief provided to you. Clause (c) authorizes the board to "conduct hearings or authorize any person, including any member of the board, to conduct investigations, and determine

and prescribe the scope thereof where the board has reason to believe that a person has taken, acquired, received or holds an interest in farm land in contravention of this Act." These powers are surely too broad and invite abuse. What would be the "reason to believe"? Could information be neighbourhood gossip, or the ill-will of jealous relatives, or so-called information from a spiteful neighbour? No board should have or be able to delegate such broad powers.

Similarly subsections 8(2)(d), and (e) seem to us to be an extraordinary invasion of privacy and confidentiality. Under (d), even if the person proposed to acquire an interest in land, he/she might be required to submit information "of any kind that might be required." Does that mean that every time an offer to purchase is made, even at that stage of the game, all information of any kind, and every re-offer and counter-offer and sub-offer, your offices will be flooded with such a deluge of paper that under no circumstances would you ever find out when you'd ever get to the end or the beginning of a transaction of any kind that might be required and under (e) he/she must submit to the board annually such information in such form as it may require.

We urge strongly these requirements be modified to conform with appropriate and recognized standards of privacy and confidentiality and with the powers that appointed administrative boards should properly exercise.

Section 11. This section and several subsections also threatens the privacy and right to confidentiality of individuals. Subsection (1) compels the "production of books, documents, papers, correspondence, records or things of a person being investigated", "or of any person representing or acting on behalf of or as agent for such a person." Not even The Income Tax Act with all its horrendous power provides such powers and such protection to an investigator. In other words, the whole question of confidentiality is not at all respected to or responded to as being for example solicitor and client in this particular act.

We believe it is wrong to allow the investigator to decide by himself what books, documents, papers, correspondence, records or things are relevant. Surely that decision, that power ought to be qualified and subject to appeal or determination by a court if there any dispute as to what is or is not relevant.

Similarly, subsection 11(1)(b) allows a kind of global investigation which we believe should be totally unacceptable in our kind of society. All of Section 11 should be re-examined in terms of the right of individuals to privacy and confidentiality.

Section 12, we're also glad to note, Mr. Chairman, that the question of confidentiality, the proposal has been redrafted, and the section as redrafted meets our concerns in that regard.

Onus. Section 10 places the onus of proof of innocence on the accused individual. We recognize the fact that in your further amendments, Mr. Chairman, you've proposed that this doesn't apply under criminal proceedings under Section 15, but that still doesn't satisfy us. There is nothing within the nature of this act which puts it in such a category, such as for example The Income Tax Act, which justifies a reversal of onus. There is nothing yet which has been demonstrated which shows that basic fundamental right of the Crown

or the government agency seeking to enforce, ought to have the onus being placed upon it has been satisfied.

The deeming of persons to be guilty and requiring them to prove their innocence is offensive in a free and democratic society. There is no such justification for such a reversal of the usual and accepted onus in this particular act.

Section 11 dealing with search warrants. We are glad also to note, Mr. Chairman, that by an amendment not only requiring that there be reasonable, but also probable cause for a search warrant is issued satisfies our concerns as earlier expressed in our brief.

Section 13(1), the question of liability of board members provides very little, if any protection against arbitrary acts on the part of any of the persons mentioned in this section. It relieves of liability the chairman, members, officers, employees of the board, and "persons acting under the instructions of any of them or to the authority of this act" so long as they act in good faith. Proof that any one or all of these many persons were not acting in good faith apparently is the responsibility of those people who have suffered loss or damage. Enforcers of the act would merely have to say what they were doing is in good faith. I can't help but use analogy and it may sounds perhaps a bit of overstatement, Mr. Chairman, but nevertheless we hear too often about those people who say I was just following orders, I did it in good faith. We are most concerned that this gives an out to those who simply say I was following orders, therefore, I did it in good faith, or I did within the general parameters of the act. We're very greatly concerned about the escape clause where breaches of these fundamental rights can give those responsible an easy out.

There's one matter that I meant to have dealt with respect to Section 3(3) and perhaps I can deal with it now. We are of the view that there should be a right of appeal against Section 3(3) of the act which deals with the question of exemptions. This gives the board almost unlimited power to exempt a person, a class of persons, farm land, interest in farm land, or a class of interest in farm land from all or any part of the act. Presumably, those persons exempted, of course, wouldn't want to appeal, but should not others who have an interest in the exemption on the alleged basis of presumed conflict of interest or undue pressure or ordinary fairness have the right to contest this section. For example, neighbouring farmers might wish to appeal the board's decision on the grounds that it is contrary to the public interest or that it was particularly discriminatory against them and totally inconsistent with actions which were taken against them.

In many instances, the sections are so long, so twisted, so weighed down with subordinate clauses and modifying phrases that its meaning has totally gone astray. Somewhere, in a vast variety of them, the verb in the last line between the subject of the sentence, presumably at the beginning, and the verb in the last line, the meaning has been lost.

It is convoluted, it's difficult, and if ever there was an act which ought to have been simple and direct and clearly understood, this ought to have been it, Mr. Chairman. With the greatest respect, it's not.

That's our presentation, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Henteleff. Are there any questions from members of the committee.

Mr. Uruski.

HON. B. URUSKI: Thank you, Mr. Chairman. We've had lengthy discussions on this legislation with Mr. Henteleff. I wanted to ask you, did your association make representations when the present legislation that we are now operating under, when it was being enacted, did your association make representation to the then government?

MR. Y. HENTELEFF: I'll have to ask Mr. Arnold, Mr. Chairman, I don't know. I was just asked to be involved in this one, so I don't know. — (Interjection) — I had to turn to Mr. Arnold, the executive director. He says that so far as he knows so long as MARL has been existence, this has never come to their attention. He doesn't even know when the previous legislation had, in fact, been proposed.

HON. B. URUSKI: Why I asked that question, Mr. Chairman, is that some of the sections that you find objection to, like the reverse onus, liability of board members, have been plagiarized or are in the present legislation. There is nothing new in the sections that are in this legislation.

MR. Y. HENTELEFF: Our criticism is indiscriminate, Mr. Chairman. We don't discriminate.

HON. B. URUSKI: Well, only that you didn't appear.

MR. Y. HENTELEFF: Is it more than five years, I really don't know — (Interjection) — 1977. We weren't in existence then.

HON. B. URUSKI: Okay.

MR. Y. HENTELEFF: I was in existence, they weren't in existence.

HON. B. URUSKI: With respect to investigatory powers, you're no doubt aware that there are many pieces of legislation that do have the type of powers that are in this act, and that the powers that are given in this act are not somehow completely extraordinary from many pieces of legislation that we have within the province and outside the province.

MR. Y. HENTELEFF: Mr. Chairman, we would be as equally critical of that legislation, if I knew what it was, as we are of this. Quite frankly, we are profoundly concerned about the ever-widening net of investigatory powers, and whether it was put forward by the previous government or by this one, we still have the same concerns. As a matter of general concern, we are profoundly concerned about this continuous and invidious and insidious invasion of privacy. I use those adjectives because it's just a continuous encroachment. Sometimes it's small, and it's hardly noticed; sometimes it's as obvious as this one is.

HON. B. URUSKI: Well, do you know that The Manitoba Income Tax Act, The Securities Act of the Province of Manitoba, The Retail Sales Tax Act, The Mortgage Brokers and Dealers Act, The Real Estate Brokers Act,

The Agricultural Lands Protection Act, The Livestock Act, The Horn Cattle Act, The Public Utilities Act have powers that are very similar to this legislation within this province?

MR. Y. HENTELEFF: I have to accept your interpretation of the wording of those particular acts, Mr. Chairman, and all the more reason if those rights are already that widespread, just because they're there and we haven't given full thought to what the full consequence of them are doesn't necessarily justify them, with the greatest respect. In fact, what ought to be done with the greatest respect, Mr. Chairman, is to begin to look at all that legislation and really come to understand and appreciate how wide in fact the consequences are, because now people are beginning to realize — (Interjection) — with the greatest respect, it's not a question of less and less government. It's a question of government being practised in a particular fashion. It is, in our judgment, largely unnecessary to have those kind of investigatory powers when it could be done in other ways, because all that tends to happen is they get to be abused and misused.

HON. B. URUSKI: You indicated regarding section 8, about 8(d), in your brief you quoted, "of any kind . . .

MR. Y. HENTELEFF: I'm sorry, 8 which?

HON. B. URUSKI: 8(d) on your Page 5. It's underlined about half-way down the page, concerning the powers of the board to conduct hearings and request all kinds of information and you quoted, "of any kind that might be required."

MR. Y. HENTELEFF: Well, as it may require.

HON. B. URUSKI: But could you tell me where the words "of any kind" appear in the legislation, being whatever might be needed as you had pointed out? Where are those found in the present legislation?

MR. Y. HENTELEFF: I'm just looking.

HON. B. URUSKI: Because 8(d) does say "such information and in such form as it may require." Not of any kind of information, but only such information as it may require.

MR. Y. HENTELEFF: Well, that ought not to be underlined or put in quotes. That's a paraphrase. Because when you say, it may require, that means any kind. There is no limitation put upon it.

HON. B. URUSKI: It then becomes a play on the words as to how heavy a definition you want to put on it.

MR. Y. HENTELEFF: No, it becomes unlimited in its nature. That's the problem. When you say "as it may require," that means they have a total judgment to determine what is or is not required, and therefore it is any kind.

HON. B. URUSKI: With respect to Section 3(7) where you indicated that the definition should be more definite about the change of residence.

MR. Y. HENTELEFF: Yes.

HON. B. URUSKI: Should we have some provisions as to the length of time that one should be resident, like the Province of Saskatchewan, 183 days, or should we be much more flexible in the legislation to allow flexibility in terms of giving allowance and discretion for cases that might be put forward to allow for different circumstances?

You know, we had a long discussion where we said, the more that you make definite in the law, the less of an opportunity do you have for allowing for discretion on the board to deal with these kinds of cases where someone may argue, "Look, I'm intending to come and here's my circumstances." But if we put a time definite within the section, then it's black and white, you can't deal with it. Then you're saying, "No, I'm sorry you're excluded." Then the only way to deal with it, you've got to come back or call the Legislature into being and say let's pass an amendment, because we have a case which we think is legitimate and we can't deal with, or do we deal with it by a regulation and an order of the board?

MR. Y. HENTELEFF: No, I think you deal with it in this way with respect, Mr. Minister. What you do is, since there is already a substantial precedent; namely, The Income Tax Act, use the 183 days. You know, there is an established principle which is well recognized. Then, what you do, you say, however the board has the rights under circumstances where it deems appropriate to make the time less. Now what that does is this - over the years there will be established a series of findings, hopefully, consistent hopefully, that the board will have determined, under its own discretion and with its own good thought that there are certain situations under which an exemption should be granted.

Let me give you an example. Under the Canadian Human Rights Act, a person must bring a prosecution under the act, or a complaint under the federal act, within one year of the time that it arises, but the commission has the right to determine under what circumstances that should be waived. Simple lack of knowledge isn't enough. There has to be more than just simple knowledge because people are deemed to know the law. So, over the years guidelines have been established as well as a series of a decisions, which have now been published, which, in fact, lays out under what circumstances that ought to happen.

There's no reason why that shouldn't happen here. Let, at least, people be able to deal with it with some precision; let them know, at least, where they start from, and then they can guide their affairs accordingly. Like this, what are they going to do? Is it one year, is it eight months, is it 12 months? Are they supposed to go to the board each time and say I'm going to go away for five months or six months or two months, how long is that I'm entitled to be away? The board itself won't have any guidelines by which to operate.

HON. B. URUSKI: You argued in your brief that there should be a preamble to the legislation. As a matter of fact, I should tell you that we had a long debate and, in fact, had a preamble to the legislation, and history and advice from legislative counsel was of such

to say, look, most acts do not have a preamble and the preamble and principle, that you are now saying put into the act, was removed. So, there's a difference of legal opinion and approach in terms of the presentation of the legislation. That's all I'm saying.

MR. Y. HENTELEFF: No, Mr. Chairman. No, it's not a question of legal opinion, because those acts were, in fact, for example, there are certain profound and basic rights being affected. In fact, it is quite common for those particular acts to have a statement of principle. I understand the reason why legislative counsel might argue against that, but it's our view that having in mind the nature and objective of this particular act, and because of the nature of the wording which follows it, in order to make sure that this government or those who have to apply it - not this government but those who have to apply it, whether it be now or later - at least, are then bound by the basic principle enunciated in that act so as to completely limit potentialities for abuse and misuse. That's why this particular act is deserving of that particular kind of approach, despite what, with the greatest of respect, your legislative counsel may have said.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Mr. Henteleff, on the very first page of your brief, third paragraph, you remind us of the fact that property rights have, of course, been excluded as such from our new Canadian Charter of Rights. However, your brief goes on to state that this position was argued by and large by all or most provinces on the basis that property rights come under provincial jurisdiction.

My single question to you, as a spokesperson for the Manitoba Association for Rights and Liberties, does your association consider property rights a basic right?

MR. Y. HENTELEFF: Well, yes, it does, but that doesn't mean to say we that we do not agree with the position of the provinces. I don't think we've taken a position on that.

MR. H. ENNS: I just thought it was a coyly-worded paragraph, whereas you remind us of the fact that the Canadian Charter of Rights does not have an including of property rights. You point out the constitutional fact that the provinces argue that position because of jurisdiction, but you purposely left out of the brief and out of the paragraph the position of the Manitoba Association of Rights and Liberties.

MR. Y. HENTELEFF: Thank you, Mr. Chairman. May I respond in this way. There are many of us across Canada, when the question of opting out by provinces was being discussed during the time of the Charter, who really weren't terribly concerned because we said who would ever believe that a province would dispense with some of these basic rights. The fact is we've seen some clear evidence of it fairly recently in British Columbia and in other places.

Quite frankly, Mr. Chairman, perhaps those of us who were so sure that kind of opting out of certain basic rights would never occur, the public opposition would

see to it that would never happen. In fact, I have grave concerns. I'm not suggesting it actually relates specifically to property rights, but as a matter of general concern there are these basic rights, one of which is property rights, which are not now enshrined in the Charter, and all the more reason for an act like this to be viewed with such close scrutiny.

MR. CHAIRMAN: Mr. Manness.

MR. C. MANNES: Thank you, Mr. Chairman.

Mr. Henteleff, I believe that your organization has sent a letter to the government a month ago regarding the concern of a number of areas, but certainly the rights aspect, and I believe it was the mobility rights. Did the government respond to you at all regarding specifically that point?

MR. Y. HENTELEFF: Not as to mobility rights, no. I must say that now we've sent a copy to the government, and particularly to the Minister, but also to the opposition and to the Clerk. Everybody had an opportunity to meet with us. Mr. Uruski invited us as a delegation to meet with him, and he gave us, I must say, a tremendous amount of time. I would like to think that some of the changes which have occurred are in direct response - that is proposed changes - to our brief, but as to that particular question, no.

MR. C. MANNES: You're saying a counterargument was never provided to you?

MR. Y. HENTELEFF: I'm trying to think very hard, quite frankly, as to whether we discussed that particular aspect. I really don't remember. Please forgive me, I really don't remember. Quite frankly, Mr. Chairman, I don't think we dealt very much with the Charter at all, but I'm not suggesting we didn't deal with a lot of other things. It's obvious from our presentation tonight that we weren't totally convincing.

MR. C. MANNES: Well, Mr. Henteleff, I'm wondering if you could help me with Section 3(13), an interpretation that you have of that particular section. Yes, can you take from that particular section that if land is handed down to one generation, that, in fact, it can be handed down to the second generation.

MR. Y. HENTELEFF: I'm glad you've asked that question, because I'm not sure that it can. It may very well stop after the first transfer. Let me get back to my first concern. Did I make my point clear to you about what I felt was discriminatory between 3(3) as amended in this section?

MR. C. MANNES: 3(9)(1) and 3(13).

MR. Y. HENTELEFF: Yes, alright. Let me just look at this again.

Well, if the natural persons is a spouse, child, grandchild, brother or sister, once they own the land they become a natural person. I would assume, therefore, if they become a natural person - I don't know - they would only become entitled to their natural person who otherwise qualified as a farmer under the

act. So, that there be no subsequent transfers allowed to a person who didn't otherwise qualify, that's the only time it appears to me from the reading of 3(13) that a transfer can take place to a non-qualified person by virtue of their relationship. No subsequent transfers by those persons, I think, could be made, except to a person who is a qualified person under the act.

MR. C. MANNES: Well, hopefully, Mr. Henteleff . . .

MR. Y. HENTELEFF: May I say, by the way, that runs contrary to what is provided under The Income Tax Act, because under The Income Tax Act, there's no such qualification. It can go from generation to generation.

MR. C. MANNES: Well hopefully, Mr. Chairman, the government will give us a further understanding as how they envisage that particular section. Certainly in debating on second reading we've asked for it for a number of times. At this point we haven't received it.

I'd like to ask specifically a question dealing on Section 8(2)(d), and I think you made reference to it in your notes both (d) and (e).

MR. Y. HENTELEFF: Yes.

MR. C. MANNES: I'm wondering again if you posed your example to the Minister? I think your example was that every offer to purchase, for instance, could come forward to this board and whether that example was challenged by the Minister at all?

MR. Y. HENTELEFF: I may say that it was only at that particular meeting, in the course of it, that those examples were then given. The Minister did not have, nor members of his staff, a prior opportunity to consider them as they had the brief. They were then given these examples not only verbally but also in printed form. I can only assume by the fact that this is not reflected in the proposed changes that they don't accept our examples, or don't agree with the fact that it requires a change.

MR. C. MANNES: Well, one final question, Mr. Chairman.

I'd like to ask Mr. Henteleff whether I'm correct in suggesting that as I read and listen to your brief, that the main essence of it appears to be that you're concerned about the looseness and vagueness of the wording such that it leaves an awful lot of discretionary power to this so-called board. Is that a fair statement of how I would summarize your brief?

MR. Y. HENTELEFF: I would alter it in this way, Mr. Manness. I would say that any wording of any kind of legislation ought to be clear to the ordinary lay person. This is not nearly as clear as it ought to be. It appears to operate from a premise that people are out to cheat. Now I appreciate that this will be a very difficult act to apply no matter who drew it but I think that one falls into a trap by trying to make it fool-proof because there will always be somebody smarter. In the attempt to make it fool-proof it has become unfortunately so convoluted, so difficult that I'm afraid it'll confound and

confuse. To that extent we are concerned both as it leads to lack of understanding on the part of the farm community, and to the extent that it may very well lead to inappropriate interpretation by those bureaucrats who will be applying it.

MR. C. MANNES: Mr. Chairman, you may want to rule me out of order but I'd like to ask Mr. Henteleff, now that he's here, whether he'd like to give us the benefit of his wisdom on Bills 23 and 24, which of course changed the registry; one's The Registry Act, and one The Real Property Act. You've obviously had an opportunity to digest those bills, and what is the real meaning of them, what does it do to the procedure . . . well I guess . . .

MR. Y. HENTELEFF: Mr. Chairman, I have no authority from MARL to deal with those. I could only deal through MARL on this particular subject and none other.

MR. CHAIRMAN: Mr. Brown.

MR. A. BROWN: Thank you, Mr. Chairman.

Under Section 3(3), you made reference to that particular section where the board has the power to grant exemptions if they find that a certain situation is not contrary to the public interest. A thought just occurred to me. Do you think maybe that the board is being placed, or could conceivably be placed, in temptation? Let's say that if a person were to come up and say, well for \$10,000 could you find me not to be contrary to the public interest, could you see this maybe as a problem that could arise because the board has the power to declare anybody not being contrary to the public interest?

MR. Y. HENTELEFF: Well, in response to your specific suggestion I have total and complete confidence in anybody who would be sitting on that board, Mr. Brown, that they wouldn't let themselves be swayed by that kind of thing. That's not our concern at all. What our concern is as expressed today, that there ought to be some direction given to this board, for example, by way of a statement of objectives, or principle, at the beginning of the act so this board would have some guidelines within which to act. It seems to me that by not so doing two things happen. You then have legislation by regulation which we're concerned about always, and we're concerned about the fact that this board will become an entity unto itself by deciding matters of broad principle which it ought not to. That's not its responsibilities. The principle ought to be laid down and it should operate within the parameters of that principle.

MR. A. BROWN: You have expressed a number of concerns with this particular piece of legislation. I wonder, if you were to give a recommendation to this government what would your recommendation be as to what, in your opinion, they should do with this bill?

MR. Y. HENTELEFF: I think that - if you wish me to answer that Mr. Chairman - MARL has presented a brief, Mr. Brown, and that's its position. It makes no other comments.

MR. CHAIRMAN: Further questions, Mr. Brown?
Mr. Uruski.

HON. B. URUSKI: Mr. Chairman, I wasn't very clear on your interpretation where you indicated by virtue of our amendment in 3(9)(1), I believe, that we would be giving greater powers to shareholders of corporations in the bequeathing of land over natural persons.

MR. Y. HENTELEFF: If you compare 3(9)(1), Mr. Minister, with 3(13) . . .

HON. B. URUSKI: Did you look at 3(12)?

MR. Y. HENTELEFF: Well, but the question is - our shares . . . oh, but you have to remember that 3(13) deals with the people who are non-residents.

HON. B. URUSKI: So does 3(12).

MR. Y. HENTELEFF: No, no. 3(12) says . . . No, but one is inheritance and one is by devise. No it's also by devise, made by devise . . .

HON. B. URUSKI: They're equal.

MR. Y. HENTELEFF: No, one is on the death of a resident. I'm assuming that's arising on the death, and that's the only circumstances under which 3(12) applies. 3(13) . . .

HON. B. URUSKI: No, but 9(1) is the same. Compare that to 9(1) to the amendment, and that was your comment, versus the amendments and the inconsistency that you mention. Compare 9(1) to 3(12) rather than 3(13). Immediately before his death.

MR. Y. HENTELEFF: No, no I'm just checking back to 3(9).

HON. B. URUSKI: Yes.

MR. Y. HENTELEFF: I think you've answered it because under 3(12) "A natural person, wherever resident, may take, by devise or on an intestacy, or by right of survivorship, arising on the death of a resident"; then if it's a corporation, then he can give him shares, so a natural person, wherever resident.

It appears - and I believe you're right - that 3(12) and 3(9)(1) complement each other; that is, 3(9)(1) is really an extension of 3(12). If I may say, that's where it belongs. But dealing with 3(13), if I may say, then it appears that that only applies on death. What happens with an interest in a corporation during a lifetime?

HON. B. URUSKI: This is 3(13), is gifting, during a lifetime.

MR. Y. HENTELEFF: I'm sorry, non-corporate held land.

HON. B. URUSKI: Right. There is no comparable provision of gifting. That is correct.

MR. Y. HENTELEFF: Yes. That's what I'm talking about. That's my point then.

MR. CHAIRMAN: Further questions, Mr. Uruski?

MR. Y. HENTELEFF: Thank you, for bringing this to my attention. So we're still left with that one point of the fact that there is a difference between the two.

HON. B. URUSKI: The other one.

MR. Y. HENTELEFF: Correct.

MR. CHAIRMAN: Mr. McKenzie.

MR. W. MCKENZIE: Mr. Henteleff, on the second page, you mentioned, "It is therefore vital, that if the right to own real property is interfered with by any arm of the government, the person so adversely affected must receive all the protection of their rights that is available in similar situations." How can we protect the individuals with this kind of legislation?

MR. Y. HENTELEFF: I think, first of all, the first point we made is that he should clearly understand how and when it applies, so he can then carry on his business knowing full well what the consequences will be. That's most important. The second is that he ought to be, if he's going to be treated differently than any other kind of person because it's considered to be in the greater good of society that farm lands, for example, not be disposed of to non-residents, then two things happen. If he's adversely affected by that, then I suppose it's up to someone to say, should he be compensated for it? But that's not part of our terms of reference, that's a political decision. That's a decision that's beyond something which comes on the terms of reference of MARL.

For example, an expropriation - if my lands are expropriated, if I have a right to object, if it turns out that it isn't in the public interest, then all that's left for me is to be compensated and that's what society has decided, which is quite appropriate by the way.

MR. W. MCKENZIE: Right, but that protection is not in this legislation.

MR. Y. HENTELEFF: We can't come under that for reasons which I have given. I'm sure there are others who will.

MR. W. MCKENZIE: A second question, Mr. Chairman. You mentioned MARL's concerns, you mentioned the limitations opposed by the act as sociological, legal and commercial implications, and that some of the terms of the act would subject people who own and till land for more greater infringements, privacy, breaches of confidentiality than non-foreign farm people.

Do you see a need for this kind of legislation in this day and age in this province or in any province across Canada?

MR. Y. HENTELEFF: It is not for us to stand here in judgment of whether this is appropriate, whether the objective of this act is appropriate or not. That's not within our terms of reference. Our job is to make sure, however, that where legislation becomes before

anybody that it doesn't infringe any greater than the extent that is absolutely necessary, if at all. We have given our position on that, I think, quite clearly. We are greatly concerned over the extent to which it does and whether it's necessary.

MR. W. MCKENZIE: Would MARL test this legislation in the courts if they proceed in its present form?

MR. Y. HENTELEFF: I can't speak for MARL in that regard.

MR. W. MCKENZIE: Thank you, Mr. Chairman.

MR. Y. HENTELEFF: I may say that I don't believe it's MARL's practice to test matters like this before the courts just before public opinion. That's our court.

MR. CHAIRMAN: Further questions, Mr. McKenzie? Further questions from other members of the committee? Seeing none, Mr. Henteleff, on behalf of the committee, thank you very much for appearing tonight on behalf of your association.

MR. Y. HENTELEFF: Thank you, Mr. Chairman, and gentlemen.

MR. CHAIRMAN: The next person on our list is Mr. Kent Magarrell, Winnipeg Chamber of Commerce.

MR. K. MAGARRELL: Mr. Chairman, the Winnipeg Chamber of Commerce is very concerned about many of the legislative proposals contained in Bill 3, The Farm Lands Ownership Act.

The Chamber firmly believes that Canadians and landed immigrants should have the right to own Manitoba farm land, regardless of occupation.

Our new Canadian Constitution stresses that our outlook should be national rather than be parochial, and in that regard we recommend that Bill 3 be amended, removing the proposed sections which restrict the ownership of Manitoba Farm Land to farming residents in Manitoba.

If occupational restrictions are to be included, the definition of a farmer in Section 1 (1) should also extend to those providing the management and the investment associated with operation of the farm unit. A corporation should also have the same status as an individual farmer, provided the majority of its shares of all classes are owned by Canadians and/or landed immigrants.

The bill's restrictions on land ownership by non-farming persons or corporations should recognize the practical problems associated with the aggregate limit of 10 acres. Testing and research facilities for seed companies, sites for future grain elevators, are but a few examples of such problems.

Bill 3 does allow for the transfer of farm land to succeeding generations, if the land is conveyed to the relative by a retired farmer or his spouse, if that person had been a farmer for at least 10 years. The Winnipeg Chamber of Commerce feels land owned by any citizen, not just a farmer, should be transferable, without interruption, through succeeding generations.

In a society where mobility is an accepted and highly visible characteristic, the movement of individuals from

time to time beyond the boundaries of Manitoba should not be construed as a diminishment of loyalty to this province. If the family corporation itself continues to be domiciled in Manitoba, its status should not be threatened if some shareholders moved to other areas and remain Canadian citizens.

The Winnipeg Chamber of Commerce appreciates this opportunity to present briefly our concerns on Bill 3, the Farm Lands Ownership Act.

If you will note, Mr. Chairman, at the bottom it's dated January 25, 1983, and we have not really dealt with any amendments since then. We haven't dealt with the issue, in fact, haven't even seen the amendment, so I can't comment how they fit.

MR. CHAIRMAN: Mr. Magarrell, thank you very much for your comments. Are there any questions from members of the committee?

Mr. McKenzie.

MR. W. MCKENZIE: I'd to ask the Minister, Mr. Chairman, why the Winnipeg Chamber of Commerce didn't get a copy of the amendments?

HON. B. URUSKI: Mr. Chairman, we did not distribute the copies to anyone who is presenting a brief. The copies were made available to members of the Legislature.

MR. W. MCKENZIE: Then I would ask the Minister how Mr. Henteleff was referring to certain amendments?

HON. B. URUSKI: Mr. Chairman, they heard about the amendments with respect to discussions in the Assembly. They contacted our office and we sent copies to them.

MR. W. MCKENZIE: To the Minister or Mr. Henteleff, he correctly said that he had a chance, that the amendments satisfied him, is that correct?

HON. B. URUSKI: Mr. Chairman, the amendments were made available to yourselves and to anyone who contacted us. We did not send amendments around to anyone.

MR. C. MANNES: One question, Mr. Chairman. I'm wondering if the Chambers had an opportunity to speak directly with the Minister, other than by way of his brief, and ask him as to whether he sees a problem with the 10-acre restriction as it affects, using some of your examples, grain elevators to be built on future sites?

MR. K. MAGARRELL: We had a meeting some time in the spring with the Minister and as well with some of his staff; I believe Mr. Gartner was there and Mr. Dryburgh and Ms. Shlosser. We had an hour-and-a-half to two hours, and we had a very nice discussion. We didn't agree on very much but we did certainly have a good dialogue with the Minister.

MR. CHAIRMAN: Further questions, Mr. Mannes?
Mr. Uruski.

HON. B. URUSKI: Mr. Chairman, during that meeting, Mr. Magarrell, was it not the Chamber's position that

there should be no restrictions whatsoever on the sale or transaction of sale of farm land in the Province of Manitoba?

MR. K. MAGARRELL: That's correct.

MR. CHAIRMAN: Further questions? Seeing none, Mr. Magarrell, thank you very much for your presentation on behalf of the Chamber.

Next person on our list is Mr. Walter Kroeker.
Mr. Kroeker.

MR. W. KROEKER: Mr. Chairman, Mr. Minister, and members of the committee, I appreciate the opportunity of making some comments to the committee. I have had conversations with Mr. Uruski. He has kindly consented to have a conversation with me on our company's concerns. I have corresponded with him after the amendments of August 8th were introduced. Unfortunately, the letter to him only arrived on his desk this afternoon, and I'm sure he hasn't been able to react to it.

I represent a farming company in southern Manitoba, headquarters at Winkler. We feel that we are a family farm corporation in the true sense of the word. Unfortunately, I expect that we will not be able to fully meet the definition of the act for a family farm corporation, and herein lies our problem. If you'll bear with me for a few minutes, I'd like to give you a little background and tell you how our company developed.

Our family came to Canada in the 1870s in search of farm land and the opportunity to farm among other things. My father was born in the Winkler area, the Town of Winkler was not in existence at that time, but he grew up in the area, grew up in Winkler, got married, taught school there, became a merchant together with two of his brothers in the early 20s. In 1928, he moved to the farm. He left the partnership and moved to the farm. He told me that I got into too much mischief in town and he had to find a better environment for me. Be that as it may, he did find a lot of work for us on the farm. We had a lot of problems because the Depression, dust storms and drought came shortly after we moved to the farm.

We set a lot of store by research people, by the experimental farm, and we spent a lot of time there looking for answers to our problems. It was probably because we had a lot of faith in these people and didn't have very many preconceived notions that we became ready disciples for the theories and the solutions that these people had for us.

In 1932, they sold us on the idea of crop rotations of corn and diversified agriculture, which at that time was very foreign to the area. The practice there was you grew wheat until you didn't get a good wheat crop anymore, then you put in oats or barley, then you summer fallowed and went back to wheat again. In the early '30s, that land was very susceptible to soil drifting. There are a lot of problems there. In 1932, we began growing corn on the recommendation of the Morden Experimental Farm and other people associated with them. It was an answer to prayer, the corn was not very susceptible to grasshoppers and the land didn't drift where the corn stubble stood. The corn stubble kept whatever snow fell and we got some lovely crops

after that. Other farmers followed the same practice, and the very prosperous diversified agriculture of the Pembina triangle and southern Manitoba was born.

The corn was followed by sunflowers and the CSP Foods at Altona, sugar beet culture, came in after that, potatoes, and we had a very prosperous agriculture. We're proud of our contribution to that agricultural scene, but we also take a lot of pleasure out of the fact that we've been part of this very prosperous community in southern Manitoba.

In 1936, when I was 21 years of old, my father and I formed a partnership; A. Kroeker and Sons, and we committed ourselves in that agreement that as others in the family became of age, they would be admitted into the partnership. Well, I had four brothers and four sisters, and they were all intensely interested in the farm. As time went on and the fractions became more complicated, it was obvious that we should find a better solution.

In 1955, we incorporated. It was the ideal system for us. We could transfer shares without concern for complicated fractions, and it worked well for us. At that time, we would have met the definition here, Mr. Uruski, we would have met it perfectly with a lot of space to spare, very comfortably. We're farmers, we were the children of farmers, we had no intention at that time that it should be otherwise.

Fate or destiny got involved in the matter. Three of my brothers stayed in Manitoba. One brother wanted to become a doctor. He tried to attend the University of Manitoba Medical School. He didn't fit into their quota system. He went to McGill University, and one thing led to another and he didn't come back to Manitoba. Two of my sisters married people - one of them was a Manitoban - she had no knowledge that they would be moving away, but as their jobs took them away, she followed her husband.

I'm just telling you that we were all Manitobans. We really all are Manitobans, but fate, destiny and circumstances led some of them out of Manitoba. This doesn't mean that our loyalties for Manitoba are any less, our love for Manitoba is any less, but they happen to reside outside of Manitoba, and we would have difficulty at the present time in meeting the definition of a family farm corporation for that reason only.

I'm speaking here on our own behalf, but also on behalf of other people who are at present, or at some point in the recent past, have formed a family farm corporation, who can meet the requirements at the present time, but I'm sure that 10 or 15 years down the road some of them will not be able to meet these definitions. The concept of maturity of a family farm corporation should enter into the picture. Otherwise, only the newly formed corporations will have a chance of meeting the definition. I have suggested to the Minister, and I have it here as an alternative, that the definition of family farm corporation should be expanded in that not only the farmers and the resident spouses of farmers, but there should be included the lineal descendants of farmers wherever resident, or the spouses of these lineal descendants. This would then continue to make the clause applicable, and it would make it possible for people to meet that requirement.

One of the amendments that the Minister introduced last week is one that is of considerable value, and I don't want to underrate it. The modification of 3(1)

where an interest in farmland that is held at the present time, at the time the act comes into force, may continue to be held either by a corporation, or by an individual. If an interest in farm land were only the ownership of land, I would be prepared to live with it even though it would eliminate all future land dealings for our corporation.

I'm not ambitious that we acquire more land. I would like to have the opportunity of trading a quarter here for a quarter there if it's more suitable for potato growing or some other reason, but I would be prepared to live with it, but interest in farm land also includes leases and leases are for a finite period, whether it's one year, two years, or five years but leases expire. As I read this section, once lease is expired, we could not renew them. So that in a very short period of time, we would have to contract our farming operations to accommodate a rapidly shrinking farm land base.

We do try to lease farm land to grow certain crops that have to be rotated very regularly in order to be responsible stewards of our farm land base. We don't want the disease accumulation; we don't want the loss of humus, which occurs when you keep on growing a crop like potatoes, and we have neighbors, other farmers in the area, who are very happy to grow grain on a field where we have had potatoes on, and they will let us rent land from them where they have had grain, and where we're prepared to grow potatoes. It's a matter of expediency, it's a matter of practical field husbandry and making the best of the circumstances within which we find ourselves. If some way could be found to permit, even for farm corporations such as we are and who don't meet the definition to replace expired leases, then many of our problems would be solved. I'm using our experience, not because legislation has to revolve around our particular requirements, but where we are, others will be. We'd like to have this serve the communities and the farmers, not only now, but in the future. So I have prepared, and you have before you, a number of alternatives.

The first one on Alternate I is the definition of "family farm corporation" and I've already referred to that.

Alternatively, if the concept of lineal descendancy of shareholdings is unacceptable for all corporations, the proposed definition of family farm corporation should be expanded to allow lineal descendancy of shareholdings at least for farm corporations that were in existence prior to the act coming into force - a grandfather clause. To accomplish this the following words could be added to the definition of family farm corporation which is presently set out in the Bill:

"Provided however that a corporation that is primarily engaged in the business of farming and was so engaged prior to the date of this act coming into force, and which would have qualified as a family farm corporation at any time prior to this act coming into force, shall, notwithstanding any other provision of this act, be deemed to be a family farm corporation so long as not less than 90 percent of its shares are held directly or indirectly by the lineal descendants, wherever resident, or the spouses of such lineal descendants, wherever resident, of the person who qualified the corporation as a family farm corporation, and the farm continues to be managed by farmers who are the direct lineal descendants of such person.

To me this expresses the actual situation of a family farm corporation, and if you could see your way clear

to putting a concept such as this into the definitions or as an addendum to the definitions, then not only we but other family farm corporations would be served.

Then another alternative and I consider this to be less ideal than the first one.

Allow persons, individuals and corporations, who hold interest in land, either by ownership or by leasing, to replace those holdings when they sell land or when their leases expire. This could be accomplished by amending subsection 3(1) to read as follows:

Existing Rights.

"3(1) An interest in farm land held by a person on the date when this act comes into force, may continue to be so held, if and to the extent that person was entitled to hold that interest at the time he took, acquired, or received it - up to there is where you have now amended it - and in the event any such person disposes of any such interest, or in the event any such interest expires after the date when this act comes into force, notwithstanding any other provision in this act, such person shall be entitled to acquire a new interest in farm land to replace the interest so disposed of or so expired, provided that such new acquired interest is of substantially the same nature as the interest so disposed of or so expired and further provided that the aggregate holdings of interests in farm land, measured in acres, of such person do not as a result of such acquisition exceed the aggregate holdings of interest in farm land of such person as of the date when this act comes into force."

Then a third, but lesser alternative, would be to allow mature family farming corporations that have maintained lineal descendancy of share holdings, but as a result of early incorporation and growth in the number of family members who are now shareholders of the corporation, are now not able to satisfy the restricted definition of "family farm corporation" contained in the bill, to replace interest in farm land as some land is disposed of and leases of other farm land terminate. This could be accomplished by introducing a new subsection, say, subsection 3(9.2), into the bill, as follows:

"3(9.2) In the event a corporation holds an interest in farm land at the time this act comes into force, and such corporation is not a family farm corporation but would have been a family farm corporation at some time prior to this act coming into force, and such corporation disposes of any such interest or any such interest expires after the date when this act comes into force, notwithstanding any other provision in this act, such corporation shall be entitled to acquire a new interest in farm land to replace the interest so disposed of or so expired, provided that such newly acquired interest is of substantially the same nature as the interest so disposed of or so expired, and that the aggregate holdings of interests in farm land, measured in acres, of such corporation, do not as a result of such acquisition exceed the aggregate holdings of interests in farm land of such corporation as of the date when this act comes into force, so long as, and there are the two clauses which you have in the definition of family farm, except the concept of lineal descendancy.

Mr. Chairman, I realize that there is probably not very much time between this committee meeting and the time when there'll be further disposition made of this bill. I don't know how much time the government can

devote to it, but I would request, recommend, that the Minister and the Legislature take these alternatives into account and make it possible for family farm corporations to continue to operate in Manitoba.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Kroecker. Questions for Mr. Kroecker?

Mr. Uruski.

HON. B. URUSKI: Mr. Kroecker, in your presentation would your farm corporation that you now operate, if the share structure were changed to allow for let's say like in Saskatchewan, for 51 percent of the shares to be owned by non-active farming participants, would your corporation now qualify if that change was made?

MR. W. KROEKER: I think we would at the moment, but again we shouldn't have to make our decisions, our operating decisions, our management decisions on the basis of what's in the act. We should have freedom to appoint a manager or have the farm operated by members of the family without taking into consideration if we have this man operate it, his shareholdings are such that he wouldn't quite qualify for that percentage, therefore, we can't have him operate it. I don't think it'd be practical.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, I want to take a moment to compliment Mr. Kroecker on a very informative brief. I believe that all of us will be better off for having heard it and read it subsequent to this evening, because I don't believe we have yet digested it, Mr. Chairman. I believe it's worthwhile to the extent that we should take the time to go through the recommendations one by one before we are agreed on the final package of amendments that we proceed with.

I want to say to Mr. Kroecker that I was not at all surprised with the presentation that we have. Walter, we've heard you many times before and you're as able as you've always been, and we thank you very much, at least I do for taking the time to make us aware of those legitimate concerns.

MR. A. BROWN: Mr. Kroecker, I'm somewhat familiar with your operation, and I know that you lease a number of parcels of land. When you were talking about the problem that you saw coming with leases, and this just reminded me of the situation that you could possibly find yourself in. Around the Winkler area in which your farm is, or one of your farms is, there is a number of people who have very small land holdings - 40 acres, 80 acres, and thereabouts - and I know that you leased this land from these farmers in many instances, and they work for you and help you in your operation thereby allowing them to make a decent living and at the same time they can also help work the land which they own.

The problem is that the income that these persons are going to have as a result, working for you, is going to be much larger than the income that they're going to receive from their land rentals, and what this bill really in effect says that if we don't really know what

significant is going to be, but I can see many many problems arising as a result of this where the persons who are now working for you and that you're leasing land from will be forced to relinquish their holdings and the dwellings that they reside on, because most of them do live on their property. Is this a concern of yours, Mr. Kroeker?

MR. W. KROEKER: Well, it's one of the factors. I couldn't say just how many of those people there are. I know that there are several, but that doesn't constitute a major part of our operations. There are several that fit that description.

MR. A. BROWN: I was thinking not only of your particular situation, but I was thinking also of the problem that the people that are working for you are going to be faced where they can possibly relinquish or be forced to sell their property.

There's another area I think in which you are working in at the present time where you exchange land, and I think that there is a substantial amount of that being done where you will, just as an exchange getting somebody's land, you plant potatoes on it and give it back to him next year and you'll give him some land that you have potatoes on the next year, so that you can work your crop rotation in.

Do you think that is going to be affected by this bill?

MR. W. KROEKER: As I read the act, Mr. Chairman, such an exchange would constitute an interest in farm land, and I think as a layman interpreting the act, I would think that as it stands now, we would not be permitted to exchange parcels of land for that purpose.

MR. CHAIRMAN: Further questions, Mr. Brown? Questions from other members of the committee?

Mr. Enns.

MR. H. ENNS: Well, Mr. Chairman, not to bring partisan politics into it at this late stage of the Session, but I too know Mr. Kroeker from many years back, and we weren't always on the same side of the fence. In fact, I can remember when he circled this building with his vegetable trucks because he didn't like what I was doing to a vegetable marketing board that he was part of. All summed down - and I have this one question to Mr. Kroeker, and we've had a lot of partisan debate about this issue - I think that from your brief you have impressed members of the committee about the fact that you represent a very successful agricultural family. Believe me, anybody that succeeds in agriculture over the years has to be credited with some management skills in the diverse way that you've done it. My simple question to you is the bill as it's being presented is injurious to your family operations. Is that a fact?

MR. W. KROEKER: It holds the potential for it, and what is on the one hand disturbing, and on the other hand exhilarating is that with very few, and very small changes, it can be made quite acceptable for our farming operations.

MR. H. ENNS: Politicians being what we are even though we say we only have one question, there's always, of course, a second question.

Would you then not, as your final advice, advise us to step back even at this stage and take some additional time to consider (a) your recommendations, and, of course, others - I say this because you may not be aware, but you should be aware that the House is not proroguing as it normally does this time of the year - it should have prorogued a month ago to let some us out of here - we are recessing and we'll likely be back in the House in four or five weeks, or the latter part of September, or the early part of October to deal with another matter. Would it not be your opinion that we at least give this bill that much time for further consideration to make those adjustments, that fine tuning to the bill that could make this into a fine bill.

MR. W. KROEKER: Mr. Enns, I well remember the occasion when I was on the other side of the fence from you on this matter of farm products marketing. I was in your office, you stood up, you came to me and said, "Walter, you are no Conservative." I don't whether I've redeemed myself in the interim or not, but I don't think that I should make a recommendation to the Legislature, but I would like to say this, that whatever time it takes to get these alternatives considered and hopefully implemented, I would appreciate that time being taken.

MR. CHAIRMAN: Mr. Downey.

MR. J. DOWNEY: Thank you, Mr. Chairman. I have a question for Mr. Kroeker. Mr. Kroeker, we have been told by the government that one of the main reasons for the introduction of such tough legislation controlling ownership of farm land by other Canadians and by corporate owners is that it is important to keep the price of land down, or to make it so young people can get into the farm community. Would you say that it is corporate ownership or non-Manitobans that are causing difficulties for young Manitobans to not get into the farm business, or what is, in fact, the reason for people not being able to get into farming in an easy way in Manitoba?

MR. W. KROEKER: Well, certainly the lack of capital, be it for buying farm land or buying machinery, or the operating costs of a farm are horrendous for beginning farmers. I don't think there is any question about that. What possibilities exist for modifying these costs if the farm lands ownership bill becomes law, I can't anticipate.

I do believe, however, that even the young people who are sons and relatives of operating farmers will have a very difficult time becoming farmers on their own unless some device, such as a family farm corporation, is allowed as an option for them. I think there is a lot of possibility to this option, which I don't think has been given enough weight in the considerations. If there is a suitable mechanism, and I think incorporation is a suitable mechanism, available to them in which they can start off with a small share where they can progressively buy shares as their resources permit, then it becomes an orderly way of finally acquiring ownership of the farm. If there is a definition of a family farm corporation, which causes problems in the future and which promises to cause

problems in the future, there will be people who could use that device or that mechanism who may not use it. But, I think to the extent that the definition of a family farm corporation is very restrictive for the future, to that extent one option is being denied to the beginning farmer.

MR. J. DOWNEY: So, in other words what you're saying, this legislation is working counter to helping young people get into agriculture?

MR. W. KROEKER: I don't think it's intended that way, but I think it may well - unless that definition is modified - have that effect over the long term.

MR. J. DOWNEY: In the area in which you farm, Mr. Kroeker, is there a lot of evidence of other than farming corporations or family farm corporations buying and owning land, or foreigners buying and owning land and pushing that land price up in the area in which you farm?

MR. W. KROEKER: In the area where we farm there is so much pressure from residents and from farmers to pick up any parcel that becomes available, foreigners don't have a chance there.

MR. J. DOWNEY: Thank you, Mr. Chairman.

MR. A. BROWN: I have one further question for Mr. Kroeker. If they're not the first farm corporation to be formed in Manitoba, they certainly are one of the first that were ever formed. I wonder, Mr. Kroeker, would you mind telling us how many shareholders you have in your family farm corporation at the present time?

MR. W. KROEKER: Well, I wouldn't know it off hand, if I wouldn't have had to look it up in order to use it in a letter I wrote Mr. Uskiw the other day. There are 67 members of our family who directly or indirectly hold shares in our family farm corporation. They are all lineal descendants of my father or their spouses.

MR. A. BROWN: So, certainly there are children and grandchildren. Would there be any great-grandchildren involved in it at the present time?

MR. W. KROEKER: A few.

MR. A. BROWN: Thank you.

MR. W. KROEKER: I should mention though that outside of our community, it shouldn't be considered that 67 at this stage would be a norm for the farming community.

MR. CHAIRMAN: Are there any further questions for Mr. Kroeker from members of the committee? Mr. Uruski.

HON. B. URUSKI: Just one question on the family. How many of those 67 would be involved in the farming operation directly?

MR. W. KROEKER: There are five of us that are full-time employees of the company. There are at least

three or four others who work during the summer as part-time employees. We have seven directors, who are not employees but who take a lot of time with the company. When we have our annual meeting, our shareholders come in from everywhere. It's the gathering of the clans. We have tours of the farm. We have three days of very concentrated education and participation by them and no one can tell me that the fact that they live outside of Manitoba has diminished their interest in our farm one little bit.

MR. CHAIRMAN: Further questions for Mr. Kroeker. Seeing none, Mr. Kroeker, thank you very much for your presentation this evening.

Next on the list is Dawn Harris. Is Ms. Harris here this evening?

Gentlemen, the Clerk has Ms. Harris's brief, would you like it distributed, or in the event that the committee doesn't finish its presentations tonight, it may be possible Ms. Harris will be here at a future meeting. What is your will and pleasure? — (Interjection) — Delay, okay.

Mr. Garland Laliberté, Manitoba Institute of Agrologists.

MR. G. LALIBERTÉ: Thank you, Mr. Chairman. I understand that the revised act for the Manitoba Institute of Agrologists have had its way passed this afternoon, and all I can say, after having listened to Yude Henteleff, is that I wish that as many years ago as The Lawyers Act was passed that The Agrologists Act would also have been passed, then I would have been as eloquent as he is.

The brief has been distributed to members of the committee just now and so I propose to read it. I have shared it, or at least our president, has shared it with the Minister about a month ago, and so he will have had it, so if he will please bear with us.

The Manitoba Institute of Agrologists appreciates the opportunity to express its views to this committee concerning Bill 3, proposed for enactment as The Farm Lands Ownership Act.

The Manitoba Institute of Agrologists has a unique role with respect to agriculture in Manitoba, in that it is the only organization which can reflect the interests and views of those who provide the professional service to the food and agriculture industry in Manitoba. Among its 597 members are persons with expert qualifications in almost every area of specialization and almost every aspect of the industry. As professionals, we have a creed which requires objectivity in our analysis of issues and, when we feel we have something to contribute, a responsibility to speak out.

The initiative for the presentation of this brief has its beginnings in a resolution endorsed at the Annual Meeting of the Institute held in April 1983 at Portage la Prairie. That resolution required the Council of the Institute to study the question of farm land ownership in the province, particularly in relation to Bill 3, and to prepare a background statement for distribution to the institute's membership. In the process of preparing this statement, it became evident that the views of the Institute could perhaps be of assistance to the government in responding to contemporary legislative needs for regulating farm land ownership in Manitoba.

This brief is being presented on behalf of the institute, with the hope that the views it contains will be helpful and will influence the developing legislation on this very important issue.

The institute is in full support of the four principal aims of The Farm Lands Ownership Act as set down in a December 1, 1982, letter from the Honourable Bill Uruski, Minister of Agriculture, and distributed to a number of his fellow Manitobans. Specifically, the institute endorses the following goals as appropriate objectives for farm land ownership in Manitoba:

1. to preserve and strengthen the family farm in Manitoba;
2. to support the development and growth of owner-operated farms;
3. to provide an opportunity for farmers, including young and beginning producers, to acquire land;
4. to support the development of rural communities.

Furthermore, the institute recognizes that the legislation currently in force with respect to farm land ownership in Manitoba creates administratively difficulties which, as a result, permit farm land ownership which may not be viewed as being in line with the above-mentioned objectives. The institute acknowledges then that with certain modifications, which are outlined in the background statement, not in this brief, Bill 3 could serve as the legal framework to accomplish the social aims inherent in the proposed legislation without unduly restricting the business aspect of Manitoba agriculture.

However, the institute is of the view that Bill 3 is not based on the most suitable model of farm land ownership (where only resident Manitobans have unrestricted access to farm land) for achieving the desired goals. Bill 3 would compromise the aspirations and opportunities for farm land ownership by other Canadians, assigning to them no more rights than foreigners. Furthermore, it would restrict the opportunity for farm businesses to use a corporate structure without encumbrances - a structure which is otherwise a legitimate instrument for managing liability and for estate and tax planning. In so doing, the bill would place constraints on farming which no other business in the province is faced.

Restrictions on the basis of residence: In excluding other Canadians from acquiring farm land in Manitoba, the bill would exclude many former Manitobans or descendants of Manitobans who, for legitimate reasons, are out of the province. It would also exclude those who intend to return to Manitoba to take up farming at a later date, but who wish to commence purchasing farm land prior to taking up Manitoba residence.

The institute acknowledges that there are some concessions in Bill 3, through exemptions granted by the Manitoba Farm Lands Ownership Board for such individuals, but the institute holds that the proposed legislation would still be unnecessarily restrictive in this regard.

The issue of absentee ownership (in the sense that the owner might not physically reside on the farm land) has been cited from time to time as a reason for excluding other Canadians. However, this is not a valid basis for excluding other Canadians, since the bill does not apply a similar exclusion to residents of Manitoba who do not physically reside on their farm land. So the argument here is that absenteeism, although it has been cited as a basis for the need for this legislation, in fact,

is not reflected in the act as an undesirable attribute for farm land owners.

The institute is not convinced that the Manitoba Farm Land Ownership Board, proposed by Bill 3, is a suitable mechanism for determining the acceptability of persons wishing to acquire land who fall outside of the narrow definition of legitimate purchasers allowed by the bill. The broad latitude for decision-making, without legislative guidelines, given to the board, is cause for apprehension. It must be recognized that the criteria and basis for decisions of the board cannot be expected to be as constant over time as would be legislation which is changed only after extensive and constructive critical debate.

This is not a reflection on individuals, nor is it a reflection on the political process. Rather it is a recognition of the normal operation of such bodies which, as a matter of course, change to reflect contemporary circumstances. This position is taken notwithstanding, and in full recognition of, the sincere and honourable intentions that the government may have with respect to ensuring the credibility of the board.

Furthermore, it is questionable whether the most appropriate legislative model is one which relies on a board to exempt certain classes of landowners for whom contravention of the legislation is already foreseeable even though these landowners are acknowledged to be acceptable and consistent with the legislative intent, but who unfortunately fall within the legislative restrictions.

What is called for, in the face of such a complex situation, is brilliant legislative draftsmanship which could produce a bill comprehensive enough to require application of the board's judgement in only a limited number of situations not specifically foreseeable at the time of enactment.

I'd like to deal with restrictions on corporations. The institute believes that the four objectives outlined earlier would be better served by a less restrictive model for corporate ownership of farm land than by that proposed in Bill 3. Specifically, the institute proposes two categories of farming corporation which could be designated family farm corporation in the first instance, and co-operative farm corporation in the second instance. To be designated as a farming corporation, a corporation would have to be certified by the Manitoba Farm Lands Ownership Board in advance of its initial farm land purchase.

Dealing now with the two types of proposed corporation: A certified farming corporation would continue to have its rights as a landowner until such time that it no longer met the criteria which will be outlined in a moment. In the event that there were to be a change in share ownership, subsequent to initial purchase, if deemed appropriate by the board, the board could review the ownership structure to ensure that the corporation continued to meet the criteria of a farming corporation. Having received the required certification, a farming corporation would enjoy the opportunity for unrestricted farm land ownership and acquisition.

Now, the two categories of certified farming corporation would be characterized as follows:

1. A family farm corporation would be a corporation, registered in Manitoba, in which all shareholders are individuals and resident in Canada, in which the majority

of shareholders can trace ancestry to one founding farmer, and in which at least one shareholder actually operates the farm.

2. Co-operative farm corporation would be a corporation, registered in Manitoba, in which all shareholders are individuals and resident in Canada, in which all shareholders contribute to capital and/or operating costs of the farm and share in the profits and losses rather than simply act as land owners receiving rents, and in which at least one shareholder actually operates the farm. While both types of farming corporation would qualify for certification by different means, they would be treated alike under the law. By requiring the registration of corporations in Manitoba and allowing only individuals as shareholders, rather than corporations, partnerships, etc., the administrative difficulties of enforcing the legislation, which evidently exist with the current legislation, would be eased.

In using the certification process, a positive approach is taken whereby corporations are certified to be in compliance with the legislation, rather than the more negative exemption route of Bill 3 where corporations which operate based on an exemption remain in fundamental contravention of the legislation, except for the exemption that they are granted.

Finally, dealing with research and information needs: It is suggested that research and information relating to farm land ownership are required in the following areas:

1. A comprehensive study should be carried out by an independent body into the impact of absentee farm land ownership on farming in Manitoba, including the collection of statistical data as to the area of farm land owned by Manitobans, by non-farming Manitobans, specifically, Canadians and non-Canadians. The study should include a survey of the positive and negative aspects of current land tenure in Manitoba to determine the optimal approach to reaching the social and economic objectives. This approach may prove to be other than through restrictions on farm land ownership.

2. A reporting system should be developed which accurately reflects the residence status of both purchaser and seller in order to differentiate between farm land parcels which are being sold to non-Manitobans for the first time and those parcels changing from one non-resident to another.

3. A determination should be made of how much farm land held by corporations is held by farmers, retired farmers, non-farming Manitobans, non-farming Canadians and non-Canadians.

Concluding, Mr. Chairman, the institute reiterates its expression of appreciation to this committee, to the Government of Manitoba for making this opportunity available and for its attentiveness to our presentation.

MR. CHAIRMAN: Thank you, Mr. Laliberté. Are there any questions from members of the committee? Mr. Uruski.

HON. B. URUSKI: Thank you, Mr. Chairman. I thank the institute for their brief. You've made some comments in the brief, Mr. Laliberté, indicating that the act excludes Manitobans who intend to return to Manitoba, as I read it here, to take up farming at a later date. Why would you make such an allegation when I have repeatedly

stated that the board would exempt anyone who plans to take up residence in Manitoba within a reasonable period of time?

MR. G. LALIBERTÉ: The concern of the institute is what is in the legislation, not the assurances from the government. The legislation, we understand, has to be interpreted for what it is. This legislation may be around for a long time, and the assurances of those in power today is really not sufficient for a decision which has such profound impact on the industry and particularly on the individuals affected.

HON. B. URUSKI: Can you tell me from your experience, has there been a profound impact in the negative to legislation, such as in our neighbouring Province of Saskatchewan which has similar provisions?

MR. G. LALIBERTÉ: I would say that the impact on individuals in any situation where such a minor occurrence as the death of a shareholder, for example, in a corporation, the impact on that corporation is profound. So I have no way of knowing, Mr. Chairman, in answer to the Minister, what the impact has been in Saskatchewan, but I would suspect that it affects decisions that are being made on ownership of farm land.

HON. B. URUSKI: Mr. Chairman, from that statement, there is no doubt that it affects decisions on the basis of ownership of farm land as we are, in fact, allowing farmers, active owner/operators, which you indicate you fully support, as an objective to provide opportunity for the development and growth of owner/operators. You made a statement in your comment that it would affect shares of corporations where you're aware that we have proposed amendments which would allow the same kind of rights to owners and operators under the corporate structure which is right within the legislation as we do to owner/operators who are outside of the corporate structure.

MR. G. LALIBERTÉ: No, Sir, I wasn't aware of the amendments that have occurred in the last few days. We submitted the brief some time ago, and I haven't been aware of those changes. If those changes have been made, then I would agree that they are positive and good.

HON. B. URUSKI: Did your association make representations to the government at the time that the present legislation was in place, the present Farm Lands Act?

MR. G. LALIBERTÉ: The last time that the institute made representation to the government, I believe was in 1975 - I think the legislation ended up being passed in 1977 - and that was being discussed at least at that stage.

HON. B. URUSKI: You raised concerns in your brief about the powers of the board. Are you aware that the powers of the board in the present legislation that is being proposed are very similar to the powers of the board under the existing legislation?

MR. G. LALIBERTÉ: I believe that they are not very much different; I would acknowledge that. Nevertheless, it still is a matter for concern that there would be so much discretion allowed and particularly with respect to a new act which - and I haven't dealt with this in the brief - has in it so many ambiguous areas and sections.

MR. DEPUTY CHAIRMAN, H. Harapiak: The Honourable Minister.

HON. B. URUSKI: In your presentation, you have given us definitions of what you feel might be more appropriate to allowing farmers to form corporations to allow other Canadians to be part of corporations, and you've given us a couple of alternatives. Would your association feel that a Canadian - and we have some examples, who purchased farm land in Manitoba, and we have - for example, I'll read you one.

A Canadian land dealer, who resides most of the year abroad, purchased 6,800 acres of farm land, just under \$3 million through a Manitoba company. Now I want to know whether this person would fit your definition. This individual has bought land through the corporations and has transferred this land to individuals who are successful in obtaining immigrant status, but who have never come to Manitoba. Now some of that land was purchased. We have a section of land for \$160,000, resold within two months for \$350,000.00. Another 800 acres were purchased for \$625,000 and transferred four days later for an amount of \$670,000.00.

Would your definition allow that Canadian to form a certified company within the Province of Manitoba and be eligible to purchase farm land within the province.

MR. G. LALIBERTÉ: I'd respond in this way. We haven't attempted to be lawyers in drafting the definition of a resident but the intent would be bona fide residents in Canada, and as such the person that you described I don't believe really would qualify.

Now can I elaborate in this way by saying that if one takes a look at the data and evidence, that is irrefutable one can't find a sound basis even for excluding foreigners.

Dr. Kraft's work at the University of Manitoba indicates that for every 1 percent land owned by foreigners in a municipality, the price of land was increased by only I believe, \$1.22, or \$1.28 per acre. It shows that in only one area of the province can it be shown with any certainty that the price of land has been increased by foreign ownership, and that's in the Red River Valley. It also shows that only in municipalities where more than 15 percent of the land is owned by foreigners has there been an impact on the price of land.

So, getting back now to the question, if one takes a look at the impact of foreign ownership one has a hard time even determining that there is a basis for excluding foreigners. However, our institute has taken the position that it is perceived, by the farming community, that the price of land has been increased by foreign participation in the market, and so therefore on that basis, because there is that perception, and because the price of land is in fact, a psychological issue, therefore we have taken the position that there

is a basis for excluding foreign ownership. But we can't extend that same argument because we don't think it applies to other Canadians. So therefore we propose that there not be a distinction between other Canadians and Manitobans because of the fabric, and the family connections, that exist between some Manitobans who own land, and others who have interest in that land.

Dealing with the specific question, and I'm sorry to be taking so long to get around to it, it seems to me that it should be possible by our legal minds to devise some sort of a definition that excludes those people who are deliberately trying to circumvent the act, the foreigners who are deliberately trying to circumvent the act, by taking out residence, staying a day, and then returning. That's a question that we haven't dealt with because we really aren't lawyers.

HON. B. URUSKI: In your definition of the family farm corporation you indicate that the majority of shareholders who are resident in Canada can trace ancestry to one founding farmer. How far would you take that or how far would you allow that?

MR. G. LALIBERTÉ: No limit.

HON. B. URUSKI: So then . . .

MR. G. LALIBERTÉ: It has to be a founding farmer, founding of the corporation.

HON. B. URUSKI: So then the example that I gave you of the Canadian who is a land dealer and did the flipping of the land within several months of purchase, who is a Canadian and who is a founding person of that corporation would be allowed - am I then . . . ?

MR. G. LALIBERTÉ: Was that person a farmer?

HON. B. URUSKI: Your definition doesn't say that it has to be a farmer. A corporation registered in Manitoba in which all shareholders are individuals and resident in Canada, in which the majority of shareholders can trace ancestry to one founding farmer.

MR. G. LALIBERTÉ: Yes.

HON. B. URUSKI: If there was a - and I would think that many in this country - you're talking about founding farmers in the Province of Manitoba - that there would be a fair number at one point in time in terms of the numbers of people who had been here ostensibly, I'm sure that someone can trace a relative. No problem there.

MR. G. LALIBERTÉ: We're talking here, remember, about a corporation.

HON. B. URUSKI: Yes.

MR. G. LALIBERTÉ: We're talking about a farmer who founded the corporation, not anyone who can trace ancestry to a farmer who was not part of that corporation. That's the distinction that we're making.

HON. B. URUSKI: Well, okay then let's take that argument and say that this person was the founder of

this corporation and regardless of the roots of family history and in fact this is the case, the person did set up the corporation, was one of the founding persons of the Canadian corporation which is presently allowed under the legislation, not leaving aside any family roots, that person founded this corporation, did the flipping of the land and I have a number of others - but is that conducive to your agreements in principle that that will strengthen rural communities, that will assist family farms or young farmers who are starting or wanting to purchase farm land having to compete with this corporation? Because taking your definition of the setting up - either way I don't think it matters either way whether they would have had a root within Manitoba as a family root, or whether or not they were the founder of the corporation - I don't think it matters much, but it may be a little bit harder on the root of this individual. I'm not sure, I don't know fully the background but certainly the founder of the farm corporation, of the corporation in the province - this individual was.

How does that square with the principles which you have said that you totally agree with, that you endorsed of supporting for example the opportunity for farmers to acquire land when many of whom we have found have come to this Legislature and said, look I'm in financial difficulty. Part of my difficulty has been that I've had to compete with some of these who have no direct interest in farming, but who have certainly wanted to use land as an investment for the time being and I'm now in financial difficulty because I did compete and the land because of the market situation cannot repay the mortgage loans that we've got helped me out. How do we deal with that?

MR. CHAIRMAN, A. Anstett: Mr. Laliberté.

MR. G. LALIBERTÉ: I'm perfectly sympathetic, Mr. Chairman, with the scenario that has just been described but I'm not sure that our position is being understood. It may be because I am unfamiliar with the example that the Minister is telling us about. If it were a simple flipping from one corporation to the other with no descendants of the founding farmer involved then obviously it doesn't fit this definition and so therefore I don't see any problem with the original four objectives with which we totally agree.

HON. B. URUSKI: No, but if the corporation is allowed under the act initially, does it matter provided that that land is flipped to another Canadian or another Manitoban or another Canadian as you suggest. Does it matter?

MR. G. LALIBERTÉ: Does the word individuals help? That prevents the flipping from corporations. It allows it only to go to individuals. Shall I read again: The family farm corporation is a corporation registered in Manitoba in which all shareholders are individuals and resident in Canada, and in which the majority of shareholders can trace ancestry to one founding farmer." We are not talking about flipping between corporations here. We are talking about individuals.

MR. CHAIRMAN: Further questions? Mr. Manness.

MR. C. MANNES: Thank you, Mr. Chairman. I would like to ask Mr. Laliberté whether the MIA has felt that

there needed to be change in farm land ownership, or protection afforded to Manitoba farmers in this regard?

MR. G. LALIBERTÉ: We met with Mr. Muirhead and with Bruce Dryburgh, and we listened to the arguments in favour of changing legislation. We were, I would say, impressed by some of those arguments. Some of the administrative difficulties with the present act, we could concur that there were problems and that there should be changes to reflect those in line with contemporary farm land ownership legislative needs for the province. So I think, I would have to answer that question positively.

MR. C. MANNES: Mr. Laliberté, is it a matter then of the quantity of land that is deemed to be non-resident-owned, because I take it from one of your research and information needs, as you listed on Page 6, that you'd like to see a study which includes a collection of statistical data as to the actual figures that are supposedly non-resident-owned. I guess I pose that question after our caucus has done a relatively simple statistical analysis, whereby we identify land that is owned, foreign-owned or non-Manitoban-owned on an average of about 3 percent or 4 percent.

Now, I would further like to qualify my question by saying - and you made reference to the Dr. Kraft Study, at which time I believe you said that a real impact supposedly, you used the word foreign ownership had an impact of over 15 percent. Well, as I remember that study, Dr. Kraft made no reference to foreign ownership. He made that conclusion based on absenteeism or non-residency, which included, of course, many people living just outside the municipality.

So through that long question, again I would ask you whether you would feel that this is a serious issue, given the fact that statistical information might point out, regardless of who did it, that only 3 percent or 4 percent of the land, on average, throughout the whole province was owned by foreign people.

MR. G. LALIBERTÉ: I appreciate that correction with respect to the Kraft Study, it wasn't foreign-owned land; it was, I believe, absentee.

In preparing for this brief and for our background statement for the membership, we tried to search out studies that might have been done to document this issue. We, I guess, went to the board for information that they could make available to us, and we received the most recent reports that were publicly available. We also were directed to the Kraft Study, which we looked at and studied carefully.

The Kraft Study has some major shortcomings. The methodology of it was such that it operated with a residual, which included in it, we expect, more than foreign ownership, more than foreign owners. It included a number of people whose addresses weren't known to the local secretary of the rural municipality. Therefore, they got left in the residual. Many of those people could easily have been people farming the land, but living in another location. They could have been absentee owners. They might even have been accountants to whom tax notices were to be mailed. So for all those reasons, we feel that whatever the results of that study were, you can't draw the conclusion, as I did in my

response earlier, that it's foreign ownership. In fact, it is some conglomerate that includes foreign ownership.

That's why we think there needs to be a study and, with all respect to your party, we think it should be an independent study. That's why we are proposing it.

MR. CHAIRMAN: Further questions, Mr. Manness?
Mr. Downey.

MR. J. DOWNEY: Mr. Chairman, I have a couple to Mr. Laliberté. How long would it take, do you expect, to have a study done? Would you think that it could be done in, say, time to present a bill to the next Session of the Legislature if, in fact, there was a determined need for legislative change? Would you estimate that it could be done in that time?

MR. G. LALIBERTÉ: Mr. Chairman, I feel like I'm being tempted here. I don't want to make a guess as to that, because it wouldn't likely be someone like myself involved. It's pretty difficult for me to really say how long such a study would take. It's possible, I suppose, that it could be handled that quickly.

MR. J. DOWNEY: You are aware that the only information that has been used by the government in presenting this bill was the Kraft Study that was done in 1976, I believe. Is that correct?

MR. G. LALIBERTÉ: I think '77, and reported . . .

MR. J. DOWNEY: '77. You are aware those are the only backup statistics that are available, other than those that we were able to put together as a party, as a caucus, from the rural municipalities, a questionnaire that we sent out. We do have some information which is close to being accurate and would be made available or could be made available to a group of people doing a study, so that it would be a basis to work from. You are aware of that?

MR. G. LALIBERTÉ: We were provided with the annual reports of the Farm Lands Ownership Board, which has some information in it as well, but the basis for that information is not provided. So that is the only other information that we're aware of.

MR. J. DOWNEY: Basically, what you're saying, before any legislation is introduced in this regard that a major study of what should be done should be undertaken. That's the bottom line.

MR. G. LALIBERTÉ: We are saying, Mr. Chairman, that such a study would form a valid basis for determining how serious the problem is. That's why we are recommending it.

MR. J. DOWNEY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Further questions from members of the committee? Mr. Uruski.

HON. B. URUSKI: Mr. Chairman, when you analyzed the Kraft Study, did I understand you correctly that if I took one segment of that study, and the study indicated

where there was significant or at least approximately 20 percent purchases of farm land, 20 percent of the total sales were purchased by absentee owners as defined by Kraft, that they had an impact on the price of land anywhere from 12 percent to 25 percent more than normally would have been the case had those purchasers not been there? Is that a fairly accurate paraphrasing of that finding?

MR. G. LALIBERTÉ: Our background statement says the following: Kraft indicated that where non-resident participation in the market is less than 15 percent, it could not be shown that foreign buyers paid more than local buyers. That's all that I meant to state.

HON. B. URUSKI: Are you aware of his analysis which indicated, where there was at least 20 percent purchases of farm land by absentee owners, that the value of land did escalate by anywhere from 15 to 25 percent over and above the purchases that were on municipalities, and there were some, I believe, 10 or 11 municipalities in Manitoba where this impact occurred and could have been documented.

MR. G. LALIBERTÉ: No, I'm not personally aware of that. The only information that I have which comes close to that is extracted from the Magnusson Study - she was his graduate student - and that is that Magnusson was able to show that only one area of the province, the Red River Valley, where non-residents on average paid more and that was \$28.08 per acre more than resident farmers for similar land. I guess this would be 1977 and earlier information, so it is relevant.

HON. B. URUSKI: What I was referring to was also extrapolated from the Magnusson Study by Kraft.

MR. G. LALIBERTÉ: I don't have that information.

MR. CHAIRMAN: Further questions by members of the committee? Seeing none, Mr. Laliberté, thank you for presenting this brief on behalf of your association.

The next person on our list is Mr. Lorne Parker, on behalf of the Manitoba Farm Bureau.

Mr. Parker.

MR. L. PARKER: Mr. Chairman and members of the committee, I have with me tonight our Second Vice-President, Mr. Art Rampton, who is also Chairman of the Manitoba Milk Producers Marketing Board; Mac McCorquodale from our staff; and our lawyers, Mr. Tom Dooley and David Carrick from Smith, Simonsen and Co. and I may well want to call on the lawyers at some point in the presentation.

You have the brief, I think, in front of you. Just a few asides at the beginning; I wouldn't be quite as charitable as the staff was in writing the first paragraph. We're glad to be here; however, I think when I look around the audience tonight and a bill of this seriousness and magnitude and there are very few farm people that are here, it's very evident that the timing couldn't be any worse. In my case, my day started at 6 o'clock this morning. I had two swathers and a combine going. We shut down part of that outfit at 6 o'clock tonight so I could be here and I'm sure that's going on through the whole farm community. You're timing is atrocious.

Early in June of 1982, the government introduced into the Assembly, Bill 54, also entitled, The Farm Lands Ownership Act, which proposed basically to tie the right of ownership of farm land in Manitoba to residency in the province. In the latter part of that same month the government, in response to a rather alarmed response from the general public, decided not to proceed with the proposed legislation but rather to give it further consideration with a view to introducing amended legislation dealing with this policy issue in the next Session of the Assembly.

In response to an indication from the Minister of Agriculture that he would welcome advice concerning possible measures to be taken relative to the issue of ownership of farm land in Manitoba, the bureau undertook a refinement of its policy position for presentation to the Honourable Mr. Uruski. Initially, the Farm Bureau understood the main purpose of the proposed legislation was to close loopholes in the current legislation and to combat difficulties in attempting to enforce that legislation.

Members of the Farm Bureau staff and legal counsel, with the permission of the Minister, met September 20, 1982, with senior policy personnel from the Manitoba Department of Agriculture and one of the lawyers responsible for providing advice to the Agricultural Lands Protection Board for discussions on that issue.

The substance of those discussions was very carefully considered in the position which was developed through consultation among the member groups of the bureau and presented to the Minister in a submission October 19, 1982. In the submission presented to Mr. Uruski, the bureau expressed the opinion that in light of the public reaction to what constituted a rather radical departure from any previous legislation relating to this issue the government had been wise in deciding to give the substance of Bill 54 further consideration before proceeding. Also in the submission to the Minister, the bureau reiterated the position it had held consistently throughout the debate concerning what restrictions, if any, should be placed on the right to ownership of farm land in Manitoba.

Basically the submission said that while individuals within the agricultural community tended to hold differing views with respect to farm land ownership, depending on their relative circumstances, the one point upon which there had been consistent agreement, certainly within the bureau and we believe throughout the agricultural community, is that the government should take measures necessary to prevent the purchase of farm land in Manitoba by foreign nationals who buy farm land in Manitoba solely for purposes of speculation. In making that statement, the Farm Bureau made it clear once again that the farming community has no objections to the purchase of farm land in Manitoba by foreigners who intend to come to Manitoba to operate farming enterprises.

In the submission to the Minister, the bureau expressed strongly the opinion that the vast majority of farming people in Manitoba simply would not support the enacting of legislation which would restrict other Canadians in other provinces from owning land in Manitoba and that the measures embodied in Bill 54 had been unduly restrictive. The bureau suggested that this concern in the minds of many people stem from the strong belief amongst farming people that there

should be no restriction on their ability to pass interest in their family farms, in whatever form, to members of their families in succeeding generations wherever resident.

The submission also expressed concerns relating to the restriction placed on non-farming residents from taking advantage of any benefits which might occur from the legitimate use of the provisions of corporate law, the restrictive definitions of farmer and family farm corporation and the rather wide, discretionary powers to be granted to the Farm Lands Ownership Board.

The submission indicated that properly drawn, provincial legislation, perhaps coupled with the use of complementary regulations under The Canadian Citizenship Act could effectively close any loopholes in the current legislation and allow for proper enforcement of the act. In summation, the submission recommended that only those measures necessary to eliminate foreign speculation in Manitoba farm land should be taken.

As you are aware, Bill 3 was introduced by the Minister of Agriculture in December, 1982. While some desirable modifications have been made, the basic thrust embodied in Bill 3 resembled very closely that which had been put forward in Bill 54. Needless to say, we in the bureau were keenly disappointed that the Minister failed to adopt the advice given in the submission of October of the same year and frankly found at that point that we had many of the same concerns about Bill 3 that we had about Bill 54.

In the months succeeding the introduction of Bill 3, there was considerable debate with legislators and Department of Agriculture staff about whether or not a control system advocated by the Manitoba Farm Bureau involving a dual test of Canadian residency and Canadian citizenship, through a combination of a well-drafted provincial statute and the provisions available under The Canadian Citizenship Act, would be effective in controlling foreign speculation.

We were therefore taken considerably aback when we learned that the government had designed and introduced Bill 3 to deal with absentee ownership, not foreign land speculation. At this point in time, the Farm Bureau remains convinced that the only legislation, dealing with the ownership of farm land in Manitoba, wanted and/or needed by the agricultural community is legislation to curb purchases of farm land in the province by foreign speculators.

In a number of exchanges of correspondence with the Minister of Agriculture, Premier Pawley and other members of the government, we have outlined our concerns with respect to Bill 3 and how many of those concerns would be alleviated if the specified residential characteristic was changed from Manitoba to Canadian.

The government indicated on August 8, 1983, that it planned to introduce a number of amendments to Bill 3. While those amendments will deal with one or two technical aspects of the proposed legislation, they do not address the important policy question. The Manitoba Farm Bureau continues to believe that the only restrictions required could and should be enforced by the establishment of a control system involving a provincial statute requiring Canadian residence, perhaps supplemented by utilizing the provisions available under The Canadian Citizenship Act, to catch those few who might somehow slip through the Canadian residency requirement net.

The resulting criteria, which would then have to be met by any person wishing to acquire and hold farm land in Manitoba, would require that he be a natural person who bona fide resides in Canada for at least 183 days in each calendar year, and who is a Canadian citizen or who is a permanent resident within the meaning of The Immigration Act.

Provisions should be added to the legislation dealing with corporations, partnerships, joint ventures, financiers, etc., to permit land holdings by such entities controlled by parties who meet the Canadian residency test. If judged absolutely necessary for enforcement purposes, consideration could be given to requiring corporations which own farm land to be incorporated under The Manitoba Corporations Act, with registered office located in Manitoba, with all directors being Manitoba residents and, with a residency test to be met by a percentage of the beneficial owners of the shares issued by such a corporation. Federal legislation could also be used to provide a second qualifying test for these parties under The Citizenship Act.

The Manitoba Farm Bureau believes also that the proposed legislation should be amended to embody the concept of lineal descendency to permit the transferring of interests in family farms and farm corporations to family members in succeeding generations wherever resident.

As a result of various discussions with government staff, we remain convinced that our proposal to broaden the residential jurisdiction within the legislation to encompass Canadian residents would constitute a workable and viable amendment and one which would make the legislation a great deal more acceptable to the vast majority of Manitobans.

We have concerns that Bill 3, as presently drawn, could conceivably be challenged under the Charter of Rights. We do not believe legislation of any province should discriminate against Canadians who do not reside in that province. Bill 3 represents a distasteful approach to legislation, which if copied in other areas, by other provinces would lead to a fragmenting of Canada into 10 separate countries.

We believe our proposal is consistent with the spirit of, if not the letter of, the Charter of Rights. Grievous harm could be done by enacting provisions which may be contrary to the Charter, giving foreign speculators the opportunity to challenge The Farm Lands Ownership Act basis the Charter of Rights that was intended to be for the benefit of Canadian citizens only.

As indicated earlier, in correspondence with a number of governmental officials, we have identified a number of concerns of a more technical or legal nature with Bill 3 as drafted. An elaboration of those concerns and a discussion of how many of them would be alleviated to some extent by a broadening of the residential jurisdiction were contained in a letter to the Premier and the Minister of Agriculture, dated February 3, 1983, and a memorandum that followed on March 11, 1983. Copies of that letter and memorandum have been appended to this submission for your information.

On occasion, comments have been made about a perceived absence of any major groundswell of opposition from the agricultural community to the provisions of this proposed legislation. We can assure the committee that the telephone calls which have come to our office indicate that many people are seriously

concerned. It has been our experience that many people do not understand the thrust of Bill 3, but upon having opportunity to discuss it in more detail are indeed alarmed. We suspect that the reaction of many to this proposed legislation is akin to that concerning measures such as expropriation legislation in that people do not react until affected personally.

Bill 3 goes far beyond any previous legislation enacted to control foreign speculation in Manitoba farm land and we believe, unnecessarily so. The Manitoba Farm Bureau remains convinced that the simplest way of alleviating the many difficulties and complexities connected with Bill 3, while still addressing the concerns raised by foreign speculation, would be to change the residency test within the proposed legislation to that of Canadian residency.

We thank you for your attention and before I stop, I pass over the letter, but I would just quickly go over some of the key points in the elaboration to that letter that we forwarded in March.

We looked at a number of areas. First off, the narrowness of rights-of-appeal; secondly, no right-of-appeal from the denial of an exemption order; thirdly, information requirements and investigatory powers; fourth, the breadth and vagueness of offences and penalties; fifth, the scope of companion amendments to The Real Property Act; sixth, failure of the act to authorize the holding of interest in farm land by partnerships and other classes of persons; and seventh, re-establishment of residency before a three-year divestiture period expires; and finally, other difficulties where concern could be alleviated by moving to a Canadian residency test and superimposing a citizenship requirements by way of regulations under The Citizenship Act.

I'm tempted to read all of No. 8, but I think I'll pass for the moment and let you peruse that one at your leisure.

That concludes our presentation for the moment, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Parker. Questions for Mr. Parker from members of the committee?

Mr. Manness.

MR. C. MANNES: Mr. Parker, the letter that you submitted to the Premier and to the Minister of Agriculture on February 3, specifically as it relates to the dual system, Canadian residency and Canadian citizenship, there's been no change from that concept developed there than that which you present today?

MR. L. PARKER: No.

MR. C. MANNES: Has the government, or legal people on behalf of the government, satisfied the Farm Bureau at all that the dual approach which they have presented cannot work? I mean, what has been the comments that would lead you to believe that it's unacceptable to the government?

MR. L. PARKER: No, I don't think you have. I wasn't in on many of those meetings, and I certainly wasn't in on the last meeting that our lawyers had with staff. My impression though is, and I could ask Mr. Dooley

if he wishes to comment on this point, that department staff are now admitting it should work and could work. If I'm wrong, the Minister or Mr. Dooley can correct me.

MR. C. MANNES: Mr. Chairman, I would hope somebody would tell us whether Mr. Parker is wrong in that assertion or not. Maybe the Minister would like to tell us whether that's correct or not.

MR. CHAIRMAN: Further questions for Mr. Parker?

MR. C. MANNES: Not at this moment, thank you.

HON. B. URUSKI: Certainly I am not aware of myself making any statements that it's a possibility of setting up any kind of a scheme, but I see that there is a bit of a problem in terms of how the Bureau looked at the proposed legislation in light of the statements that I have made that we were really after speculation in farm land and not just foreign speculation. Be that as it may.

Last year the Bureau made submissions on the old Bill 54, on the original drafted act, and had indicated that most farmers do not want restrictions imposed on, and I use "other Canadians", the words from your brief. You stated that, "Without doubt, a very large part of the concern in this regard stems from a belief that other members of farm families, wherever resident, should be entitled to purchase or receive as gifts portions of the land or shares belonging to the family farm."

Now since Bill 3 does allow opportunity for the transfer of land among family members, does the proposed legislation not meet the concerns that you raised last spring to a very large part about so-called other Canadians?

MR. L. PARKER: Mr. Minister, as you know, it went part-way. You can transfer to the first generation, but there is real doubt as to whether you can transfer to the second. We have heard at least two witnesses comment on that particular point previously tonight. Our lawyers do not think that you can.

HON. B. URUSKI: In your submissions in the past, the Bureau has continually stated that it has been concerned about foreign investment in land, because among other things this causes significant aberrations in land prices. Why would the same problems not be caused by some of the examples that I gave - the Eastern Canadian land dealer or real estate companies or lawyers acting as fronts for investors? If it's logical to argue that foreign speculators cause social and economic problems, what about Canadian speculators? Do they not do so as well?

MR. L. PARKER: The example you used with Mr. Laliberté, I think the real estate agent, you commented, did not live in Canada half the year.

HON. B. URUSKI: But he was a Canadian.

MR. L. PARKER: Under our residency test, then he wouldn't qualify.

Now the bill, as you have currently written it, you are attempting to rule out absentee ownership from other parts of Canada, but it's interesting that within Manitoba anybody could own farm land, and I suspect that there are as many speculators in this province as there are in the other nine.

HON. B. URUSKI: I can give you a number of examples, such as the individual from Ontario who would be a resident of Canada, bought land for \$600 an acre, sold it to another Canadian corporation for \$1,048 per acre in '81. In '78, he had bought that, that's about three years, and it was transferred to another corporation within one year for \$1,125 per acre. So that within three years, the land almost doubled in value. Now would that be allowed under your definition?

MR. L. PARKER: I could have bought land in 1969 for \$60 an acre. It is now worth \$1,000.00. I don't think either you nor I can analyze what all of the factors were that impacted on that price of land.

The position that the Bureau was taking, and we sincerely believe it reflects the feeling of the majority of farmers in this province, is that they do not want restrictions on other Canadians owning land, provided they will meet the kind of dual test which is the main thrust of our brief. Now you can quote all the figures you want past me, but I'll come back with the same kind of an answer.

HON. B. URUSKI: In 1980, your submission to the former administration on the present law made a couple of points which would require all non-farming corporations to obtain approval from the board before being granted title to the land and limiting the amount of farm land which could be purchased by non-farming corporations. Are corporations now okay?

MR. L. PARKER: I'm thinking about that one. I would like, if I could with the permission of the Chair, to ask Mr. Dooley if he will comment on that point.

MR. CHAIRMAN: Mr. Dooley.

MR. T. DOOLEY: Mr. Minister, firstly I would like to go back to something stated earlier today. We did, in fact, have a meeting with representatives of the government. At that time, they did, in fact, question us very carefully and very politely about the Farm Bureau's proposal to perhaps utilize The Citizenship Act in order to supplement the kind of control system that is available to you as members of the Provincial Legislature. That was as far as the meeting did go.

I think, I wouldn't want it left that there was a positive response from them, saying, yes, we do understand your system and it is workable. It really wasn't that type of meeting. It was simply an informational meeting from their point of view at which they could get our input.

Mr. Minister, would you mind repeating your question, and then I'll attempt to deal with it?

HON. B. URUSKI: In the letter of January 23, 1980, to the then Minister from the Executive Secretary, there were three points made.

"No. 1. Corporations purchasing farm land in Manitoba be required to be registered in Manitoba and that there be provision for an ongoing monitoring of the ownership of shares in such corporations;

"No. 2. There be a limit established on the amount of farm land in Manitoba which may be purchased by non-farm corporations;

"No. 3. Non-farm corporations purchasing farm land in Manitoba be required to obtain the approval of the Agricultural Lands Protection Board before being granted title to the land."

MR. T. DOOLEY: Mr. Minister, with respect to the first point, I don't believe there is anything terribly different between the proposal the Farm Bureau is putting forward today.

With respect to the other two points, I think it should be acknowledged that the present proposed bill places no limitation whatsoever with respect to Manitoba residents in their individual capacity. I think, as a result of a government policy or statement in the legislation which indicates that there will be no restrictions whatsoever with respect to Manitoba residence, the Bureau wasn't at this stage going to put forward any kind of proposal that corporations that fell into a Manitoba characteristic should have some limitations imposed on them, thereby setting up a different set of rules for holding land by individual Manitoba residents and holding land through Manitoba-oriented corporations.

So I think that's probably the explanation as to why there may be a difference between a proposal put forward in 1980 and the comments on this particular piece of legislation.

HON. B. URUSKI: Well, just for clarification, we are talking about and so is the bureau talking about non-farm corporations, and we're talking about non-Manitoba corporations; we're talking about other than Manitoba. The corporations that you're talking about are outside of the Province of Manitoba and, as well, they are non-farm corporations which this act deals with and so does their submission about non-farm corporations.

MR. T. DOOLEY: If I could perhaps state the position another way. I think the bureau is saying that if people can hold land individually, because of their qualifications or characteristics, then they should also be able to own land through a corporation. One of the reasons for introducing the concept of the qualified Manitoba corporation, or whatever term one might give it, was simply because of problems that were put forward by your administration with respect to enforcement.

The indication was that some corporations were located outside of Manitoba; that their directors were outside of Manitoba; that the shareholders were outside of Manitoba and at that stage we said, okay, from the point of view of an enforcement problem. Maybe we should see to it that those corporations are well within Manitoba; that their directors are Manitoba residents, so that you can readily examine them in Manitoba, gain information from them and be registered here; so that the land is here, the corporation is here, the directors are here. But if the thrust of the legislation is to limit

ownership by individuals to Manitoba residents, then I suppose the corporations ought to be owned by Manitoba residents. But if the thrust of the legislation is to allow ownership by individual Canadian residents, then the bureau's argument that corporations controlled by Canadian residents beneficially, through their shareholdings, ought to be qualified also.

HON. B. URUSKI: One more point. In that submission, the bureau indicated that there should be an acreage limit on non-farming corporations. I don't see that situation at all. In fact, there's, what I would say, a moving away or a reversal of position about having an acreage limit on non-farming corporations. Can someone clarify that?

MR. T. DOOLEY: Well, perhaps the thrust of the bill itself is to say that any non-farming individual Manitoba resident can own as much farm land as he wants. Well, again, if that is the case, then why limit a non-farming corporation that is controlled by the same kind of people? If, Mr. Uruski, the bill would limit the amount of farm land that could be owned by non-farming Manitobans, then I suppose the bureau would be arguing for the right of corporations to own the same amount of land so that individuals who incorporate aren't penalized in any way.

HON. B. URUSKI: When the statements were made though, there were no restrictions on either individuals or corporations at the time that this statement was made in the legislation that is now in effect. That's why I'm not clear. You know, when the statements were being made to the former administration, there were no restrictions on corporations or on individuals and that's why I'm not clear on that.

MR. L. PARKER: I'm not sure that I can add any more to that, Mr. Minister, than the answer that you've already got.

MR. CHAIRMAN: Further questions? Mr. Downey.

MR. J. DOWNEY: Mr. Chairman, to Mr. Parker. We, in the opposition, appreciate that fact that the farmers are very busy at this time of year in harvesting and, if we had our way we wouldn't be debating this bill either in the House or in committee, that we would still be dealing with the present Farm Lands Protection Act that's in place.

Mr. Chairman, in the earlier brief this evening the Manitoba Institute of Agrologists suggested or recommended in their brief that to properly deal with this issue in Manitoba that more research and statistical information is important. Do you believe that the government or the administration of the day should take the time to do a proper investigation, do the kind of research and get a bank of statistical information so that a proper assessment can be made and then move on legislation if necessary? Would that be the proper procedure which you would think could be followed? Would the bureau support that approach?

MR. L. PARKER: If the government and the Legislature thinks they need that additional information we'd say,

yes. Our concern, Mr. Downey, is that you take time to give serious consideration to the dual test which is the full thrust of our brief. We're convinced it's workable. We think the bill as it's currently written is complicated. The word "convoluted" I think was used earlier tonight. People have great difficulty in understanding it. You've had various legal opinions on it tonight. We think that kind of a simple dual test will do the job and then you can forget a lot about the narrowness of your definitions and the difficulty of trying to work out suitable definitions. That's the whole thrust of our brief.

MR. J. DOWNEY: So, Mr. Chairman, what you're saying then is the current legislation that's now in the books, The Farm Lands Protection Act, as it's currently written with the changes under The Citizenship Act, would in fact suffice the desires of the Farm Bureau.

MR. L. PARKER: Not just The Citizenship Act on its own. It has to be the dual test, The Canadian Residency, and The Citizenship Act. I want to stress that.

MR. J. DOWNEY: Thank you.

MR. C. MANNES: Mr. Chairman, I beg your indulgence to ask some questions closely associated, of course, with Bills Nos. 23 and 24.

I would like to ask Mr. Dooley that if the dual system was accepted, could we do away with the need to change those two present acts? Because as it appears by a perusal of those two bills there would be some very major declaration requirements required under The Real Property Act, and The Registry Act. Could that be done away with if the dual approach was accepted?

MR. CHAIRMAN: . . . that the other two bills are companion bills to Bill 3. I think it's perfectly in order to ask questions on them at any point in consideration of Bill 3.

Mr. Dooley.

MR. T. DOOLEY: Mr. Chairman, I really haven't studied those bills in the detail necessary to intelligently answer that question. I have looked at them briefly; I didn't see anything alarming in them myself. I believe the position the bureau took was let's just be sure that we're not asking for anything more than we need.

One of the reasons why we didn't go into any greater detail is because we were hoping to persuade the government to change its test. If we could persuade it to change its test, then the information disclosures would be different. So that we've kind of hung back on examining that issue hoping that we'd finally know what thrust the legislation will take at which time we could turn our attention in a little more detail to that.

MR. C. MANNES: That's fine.

MR. CHAIRMAN: Further questions from members of the committee?

Mr. McKenzie.

MR. W. McKENZIE: On Page 4 of the letter that was sent to the Premier and the Minister, it mentions there of some arguments that Mr. Muirhead had put up

regarding The Citizenship Act and also the expressed opinions that lawyers have expressed concern at the way that the present act is drafted. Were you able to resolve those differences of opinion?

MR. L. PARKER: Give me a chance to read the paragraph, will you, please, Mr. McKenzie?

MR. W. McKENZIE: Page 4, it starts at the top.

MR. L. PARKER: We're perfectly prepared to admit that The Citizenship Act in itself can't do the job. I think some of the correspondence between our office and various departmental staff, or at least initially some department people felt that we were simply pushing The Citizenship Act and that was never the case. I hope we've made it clear tonight that we have to meet the dual test, but that was what the reference was to, Mr. McKenzie.

MR. CHAIRMAN: Any further questions from members of the committee? Seeing none, Mr. Parker, thank you to you and the Farm Bureau for your presentation this evening.

MR. L. PARKER: Thank you very much.

MR. CHAIRMAN: The next name on my list is Robin Watson, Manitoba Farm Business Association.

MR. W. McKENZIE: Mr. Chairman, how much longer are we going to sit?

MR. CHAIRMAN: I think it's highly unlikely the committee will be able to complete consideration of presentations tonight. I leave it to the will of the committee as to how late you wish to sit.

Mr. Mannes.

MR. C. MANNES: Mr. Chairman, if Mr. Watson is in attendance, no doubt he's come a long distance, I would hope that we could hear his presentation, if he's still in attendance.

MR. CHAIRMAN: Calling Mr. Watson again.
Mr. Uruski.

HON. B. URUSKI: Mr. Chairman, might I suggest that we continue. People are here to make presentations and as long as people are here we should hear them, then we will decide as to our next meeting, I would think.

MR. CHAIRMAN: Mr. Watson.

MR. A. GODDARD: Mr. Chairman, my name is Goddard and I appear on behalf of the Manitoba Chamber of Commerce this evening.

The reason you don't have a written submission from us, and I hesitate to intrude in the process, but inasmuch as there's consideration before the meeting as to the possibility of an adjournment or continuing on until we run out of people who are interested in the submissions, the point I would wish to make is that we have not had an opportunity, given the fact that this meeting was

announced at 4:30 on Friday afternoon, as I'm informed, and inasmuch as we have only received a response to our presentation by Mr. Uruski on August 8th, by his letter dated that date, and he did not consider it appropriate to include with that correspondence the amendments that were considered by the House at that point in time, we would appreciate it if this matter were adjourned to a later date in order that we may have an opportunity to consider those amendments and make reasonable submissions in that regard.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Goddard. I should advise the committee that one of the dates that has been suggested for a continuation of this meeting is tomorrow afternoon.

In view of the legislative timetable, as it's progressing this week, for the information of Mr. Goddard and other interested members of the public, I think it's reasonable to expect that further meetings of this committee will take place in the next couple of days. I think that's the intention of members on both sides; I'm not sure how much additional time that would provide to those who feel they have had inadequate notice.

I'm not clear on what the will and pleasure of the committee at this point is.

Mr. Downey.

MR. J. DOWNEY: Mr. Chairman, are there individuals here who have travelled a great distance or it would be inconvenient for them to come back tomorrow? If so, I would suggest we would hear them and, if not, then that we should adjourn the committee tonight or have the committee rise and re-sit again tomorrow afternoon at 3:00 o'clock.

MR. CHAIRMAN: Is Mr. Watson here? Is Mr. Gerald Karasevich here?

MR. H. BUCKHALTER: Mr. Chairman, Buckhalter's my name; I would like to appear in place of Mr. Karasevich.

MR. CHAIRMAN: Are you from Winnipeg, sir?

MR. H. BUCKHALTER: Yes.

MR. CHAIRMAN: Thank you, sir.

MR. H. BUCKHALTER: Mr. Chairman, on a point of interest, I have a meeting with some government staff and I believe one of your Ministers, at 3:00 o'clock tomorrow, and would not be able to appear.

MR. CHAIRMAN: Thank you. Perhaps we should find out if there's anyone else from outside of Winnipeg first.

Mr. Don Glays, Manitoba Wildlife Federation. Mr. Glays.

MR. D. GLAYS: I'm from Winnipeg.

MR. CHAIRMAN: Thank you, sir. You're from Winnipeg

MR. D. GLAYS: I am in the same situation as Mr. Buckhalter tomorrow, but I have a very very short brief.

MR. CHAIRMAN: Thank you, sir. Mr. Ken Maloney. Not here.

Mr. Robert Tyler, Manitoba Real Estate Board.

MR. R. TYLER: Mr. Chairman, I'm from Portage la Prairie and I would be fully prepared to come back. We also have not had an opportunity to review the amendment to the bill and I would appreciate being able to come back at whatever time would be convenient.

MR. CHAIRMAN: Would you rather come back tomorrow, sir?

MR. R. TYLER: I would.

MR. CHAIRMAN: Thank you, and Mr. Goddard, I take it, would rather come back tomorrow so if it's the will of the committee to hear Mr. Gerald Karasevich and Mr. Don Glays - Rod Fowler in the place of Mr. Karasevich, right, would it be agreed that we hear those two briefs and then carry on, set a date for tomorrow or a time?

Mr. Fowler, please; Ducks Unlimited.

MR. R. FOWLER: Thank you, Mr. Chairman and thank you to the committee members for staying up late with me. I would like to give you a little information on behalf of Ducks Unlimited.

Ducks Unlimited Canada wishes to bring to this committee's attention our concerns regarding the impact of the proposed Manitoba Farm Lands Ownership Act on our conservation programs and those of similar, private, non-profit organizations dedicated to wildlife conservation.

Our concerns centre on the definitions within the proposed legislation rather than its intent. Our concerns fall into three broad categories:

First, we believe that the definition of "farm land" is so broad that it covers virtually all types and classes of land, including those which are or may be associated with Ducks Unlimited Canada's conservation activities.

In essence, the definitions could be interpreted as encompassing any and all land within the province, including those areas on which we already have agreements with land owners for project development. Many of these agreements, incidentally, were accepted by land owners because of the farming benefits Ducks Unlimited projects offer in terms of flood control, stock water and water management potential.

Secondly, the proposed act encompasses far more than simple ownership of farm land by including arrangements such as leases and agreements and restricting these to persons conforming to the act's narrow definition of parties entitled to maintain such interests.

Finally, we are concerned that private, non-profit charitable organizations such as Ducks Unlimited are not specifically identified as one of the classes of persons entitled to maintain a legal interest in Manitoba farm land as currently defined under Section 2 of the proposed act.

In the absence of a clearer definition, the proposed legislation implies that every wildlife organization operating in Manitoba and wishing to maintain a legal

interest in wildlife habitat would be required to make application to the board for an exemption under Section 3(3) each and every time one wished to undertake any development designed to maintain, preserve, improve or create wildlife habitat in any area which might be deemed suitable for some agricultural purpose, even if such development was acceptable to local landowners.

This situation would obviously create serious compliance problems for Ducks Unlimited Canada's habitat development plans in Manitoba not only with future developments, but on existing projects covered by existing landowner agreements.

Similar problems could beset a major marsh preservation program presently being negotiated as a joint wildlife conservation initiative involving the Government of Manitoba, the Manitoba Wildlife Federation, The Naturalists' Society and Ducks Unlimited Canada. Under the terms of this agreement, certain lands are to be acquired by the Wildlife Federation's Habitat Trust Program and Ducks Unlimited Canada would undertake the necessary habitat improvements in co-operation with the Government of Manitoba's Wildlife Branch.

We are concerned that the proposed act may be interpreted as requiring each of these conservation initiatives to be reviewed by the Manitoba Farm Lands Ownership Board, thus giving the board the authority to determine the fate of projects already determined to be in the public interest by virtue of their inclusion in the preservation program.

Ducks Unlimited Canada respectfully recommends that this committee incorporate the following clarifications into the proposed act:

Expand the list of persons defined in Section 2 as entitled to maintain an interest in farm land to include Canadian registered, non-profit conservation organizations such as the Wildlife Federation, the Naturalists' Society, Ducks Limited or even the Nature Conservancy of Canada so that such organizations would not be required to seek board approval for every habitat development project.

Also exclude from the proposed act's definition of farm lands, those lands which are presently used as wildlife habitat or those which are reasonably capable of such use through approved development programs.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Fowler. Questions for Mr. Fowler from members of the committee?
Mr. Uruski.

HON. B. URUSKI: Mr. Fowler, I want to thank you for your submission. We would want to have a look at the text of your submission so that we could consider the submission that you have made, certainly.

MR. CHAIRMAN: Further questions? Mr. Downey.

MR. J. DOWNEY: Mr. Fowler, would you be able to disclose, on Page 3, you indicate that there's a major undertaking being negotiated between the Manitoba Naturalists' Society, Wildlife Federation, Ducks Unlimited and the Manitoba Government. Could you disclose what property that is?

MR. CHAIRMAN: Mr. Fowler.

MR. R. FOWLER: On which property it would take place?

MR. J. DOWNEY: Yes, where is this taking place?

MR. R. FOWLER: Negotiations are under way at present. Nothing has been agreed to, other than with the three wildlife organizations. A list of some of the best, most important key wet lands in Manitoba have been identified for possible inclusion. They range from your favourite in The Pas, Sakeram Wildlife Management Area, Oak and Plum Lakes, Delta Marsh, Netley, Libau, just to name some of them.

MR. CHAIRMAN: Further questions?
Mr. Downey.

MR. J. DOWNEY: Under the terms of this agreement, certain lands are to be acquired by the Wild Life Federations Habitat Trust Program. In other words, that land is being purchased by that organization?

MR. R. FOWLER: Under the proposal, Mr. Chairman, yes, it would be.

MR. J. DOWNEY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Further questions for Mr. Fowler? Seeing none, on behalf of the committee, Mr. Fowler, thank you very much for your presentation this evening.

MR. R. FOWLER: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Don Glays, Manitoba Wildlife Federation.
Mr. Glays, please.

MR. D. GLAYS: Thank you, Mr. Chairman. As I indicated earlier, it will be a very short brief. I did not bring any extra copies, although I can leave a copy with you, Mr. Chairman, after I'm finished.

I am appearing before you tonight on behalf of the Manitoba Wildlife Federation, a non-profit conservation organization incorporated in Manitoba in 1944, and representing some 16,000 Manitobans.

We are concerned about the continual loss and degradation of our soil, forest and wildlife resources in this province. We have come to recognize that governments on their own are not in a position to solve all of the habitat problems. In order to usurp that, in 1982, we created what we called the Habitat Trust Program to acquire and hold critical pieces of wildlife habitat, either through bequests or outright purchase.

In addition to that, we have recently been involved in negotiations with the Naturalist Society, Ducks Unlimited and with the province relative to a Major Marsh Presentation Program that Mr. Fowler outlined earlier. We intend, under this program, to preserve some of Manitoba's finest key wetlands. Under this program, I suspect that the Manitoba Wildlife Federation will play a significant role in acquiring these key pieces of private land within marsh complexes.

The Habitat Trust Program and the Major Marsh Program will have many benefits to Manitobans. For

example, we will protect and preserve some of the significant natural areas that have the potential of degradation, and we will preserve these for future generations.

Any land that we purchase will be on a voluntary basis, and there will be no expropriation. When we hold land in the name of the Federation, we pay yearly municipal taxes. This is frequently, of course, not done when government purchases land.

Unfortunately, we feel that these programs are being jeopardized by the proposed Farm Lands Ownership Act. Our concerns are twofold, and they stem from the broad definitions used in the proposed legislation.

First of all, the definition of farm land, farming and interest in farm land is so broad that it covers virtually all types of land which is or could be associated with the conservation efforts of the Manitoba Wildlife Federation. The importance or value of any piece of land to wildlife would be immaterial, as virtually all land would come under the purview of the act.

Secondly, charitable, non-profit organizations do not fall within the classes of persons referred to in Section 2 of the proposed act which can, in fact, hold interest in farm land.

As a result of these two sections of the act, our organization would be faced with the problem of having to make application to the board for exemption under Section 3(3) each time we wished to preserve habitat for wildlife purposes. Even if our activities were considered not contrary to the public interest, we would still be subject to the whims of the board in granting an exemption. This process is, of course, very expensive, and it imposes a great financial burden on the Manitoba Wildlife Federation every time we have to take a proposal to the board. The sole authority for determining whether or not an exemption should be granted is vested in the board, and under the proposed act their decision is deemed to be conclusive for all purposes of the act.

Our recommendations are really motherhood and apple pie, and there are only two very simple recommendations that we have. First, we suggest that the government consider expanding the list of persons in Section 2 of the proposed act to include non-profit organizations, such as the Manitoba Wildlife Federation, to that list. That would therefore allow us a basic, blanket exemption under the proposed legislation for having to go to the board each time.

Secondly, we ask that this government seriously consider excluding from its definition of farm lands those lands which are used or reasonably capable of being used for wildlife habitat.

That ends my submission, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Glays. Questions from members of the committee?

HON. B. URUSKI: Mr. Chairman, as well, I thank Mr. Glays for the presentation, and we certainly want to review their submission in light of the presentation that they have made.

MR. D. GLAYS: Thank you.

MR. CHAIRMAN: Questions by other members? Seeing none, Mr. Glays, thank you and the Federation for your presentation this evening.

MR. D. GLAYS: Thank you.

MR. R. TYLER: Although I had said earlier, that I am prepared to return tomorrow . . .

MR. CHAIRMAN: Yes, Mr. Tyler.

MR. R. TYLER: I would be pleased on behalf of the Manitoba Association to present my brief tonight if it's the wish of the committee, whatever would be . . .

MR. CHAIRMAN: Does the committee wish to proceed? Please come forward.

MR. R. TYLER: Mr. Chairman, and members of the committee, I am here on behalf of the Manitoba Real Estate Association and its 2,000 members located in Winnipeg, Brandon, Portage la Prairie, Thompson and rural areas of the province. We welcome this opportunity of presenting the views of the association to this committee concerning Bill 3.

The Manitoba Real Estate Association contends that the main thrust of Bill 3 deprives Canadians of the rights that they should have. This legislation could conceivably violate human rights and may even be constitutionally wrong if amendments now being urged by the Honourable Minister are implemented. Government interference, as contained in Bill 3, could further aggravate the present precarious economic situation facing many farmers.

The proposed Farm Land Ownership Act restricts to 10 acres the amount of land that non-farming and non-residents of Manitoba could own. This concept is ill-directed. There is no clear proof of how this legislation will improve Manitoba's economy, no examples given. Has the Manitoba Government produced a balance sheet to show how much money has been removed from this province by those it would like to exclude? How much inflow of cost will be cut off by the proposed legislation? We contend that renters will be harmed; that sellers will be harmed; and that undeveloped land may not be developed.

Our association appreciates this opportunity to present this brief, and I am filling in for John Krause, who was chairman of a committee, that met with several of our representatives near to the heart of farm land sales and farm land operations, and who associate closely with farmers themselves.

We feel duty-bound to express ourselves, because approximately 2,000 Manitoba Real Estate practitioners subscribe to the following principles:

- to encourage and protect the rights of private ownership of real property;
- and to assist generally in the development of Manitoba along the lines best calculated to promote the well-being and prosperity of its inhabitants.

As well, it is the policy of our Canadian Real Estate Association, to which all of our 2,000 members belong, that we offer to governments the benefit of our knowledge and expertise to ensure that future legislation does not unnecessarily impinge on the rights of property owners, both large and small.

We are determined to be vigilant in obtaining information on proposed legislation affecting the rights of property ownership and to be prepared to do

everything within our power to prevent all types of restrictive and prejudicial legislation from becoming law.

That is why the Canadian Real Estate Association, with its 54,000 members nationwide, is at present appealing to the Federal Government to amend Section 7 of the Charter of Rights to say:

"Everyone has the right to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

The amendment adds the words, "and enjoyment of property," to the existing Charter.

The omission of this basic right is a serious deficiency in Canada's Constitution. Although the right to property is a fundamental freedom cherished by Canadians and was specifically mentioned in the Diefenbaker Bill of Rights passed by Parliament in 1960, the Federal Government dropped its plans to include this right in the new Charter of Rights because of concerns expressed by some provinces.

While most provinces agree in principle that property rights should be included, some provinces have been concerned about the effect the change might have on provincial regulations dealing with land ownership by non-residents and provincial powers of expropriation.

The time has come to draw attention to the role of property rights in our heritage, to the erosion of these rights in society today, and to the need to protect them in our Constitution.

If the right of non-farming Canadians and non-residents to bid for farm land is taken away, the rights of our Canadian people to benefit to the fullest extent on their lifetime of labour is being restricted. Canadians should be able to sell to whomever is willing to pay the highest price.

Any Canadian can buy any business he can afford. The restrictions that exist are on the federal level, and pertain only to investors who are not Canadian citizens and who may be restricted by the Foreign Investment Review Agency. Farming is a business. To give a particular business more advantage than another is discriminating. We believe that it is the government's responsibility to keep a fair balance in society.

There are people who believe that purchases of farm land by non-residents have escalated prices to the point that it precludes sons and daughters from investing. We believe that inflation is by far the biggest factor in escalation of prices since 1973.

We are anxious to see every opportunity left open for our young people to farm. This legislation would restrict many capable, potential young farmers from selecting this occupation. We believe that money is not available in large enough quantities to enable young farmers to invest. If, in fact, this legislation is to protect the young farmers and to encourage Manitobans to be the farm owners, why are Manitoba Agricultural Credit Corporation funds not being used to enable young farmers to buy farms?

If Canadian investors buy Manitoba land, two very desirable elements result; namely, capital is brought into Manitoba and farm land is made available in lease form to deserving young farmers. If young farmers cannot buy or lease land, bigger operations may compete for the available land making units fewer and larger, thereby eliminating small holdings, the backbone of our society. Eroding land values in this province would

diminish equity, upsetting those who are desperately trying to hang on because of their commitment to the banker or mortgage company. Land prices have dropped recently, hurting the equity position of farmers. Government interference would further aggravate the situation.

A 640-acre family farm near Portage, in an effort to create greater cash flow, expanded its operations with financing from the Farm Credit Corporation and the Royal Bank, which considered it viable in 1979 and '80. In 1981, a poor crop followed a drought, and a sharp increase in interest rates and lower grain prices resulted in a cash-flow problem. It was evident that loan commitments could not be met. Land prices began their decline in 1981, and continuous pressure from the bank forced this farm to accept an offer 25 percent lower than the original estimated value. This is a typical situation in Manitoba. Restricting other Canadians from investing in Manitoba farm land could cause prices to decline even further, and thus erode equity.

According to the Minister, prices have been inflated by 12 to 25 percent. Foreign owners are speculators, and Canadians outside the province are classified as foreigners if, in fact, there was a 12 to 25 percent inflation in the price of land when the inflation is an overpayment to that extent. However, this alleged inflated overpayment is a direct gain to Manitobans, particularly to retiring farmers. If a \$600-an-acre value was sold for \$750, we have a very welcome inflow of capital which the investor may or may not recover on resale or on return on investment. Furthermore, it is hardly likely that speculators, who want to purchase for the lowest price possible, would offer such a premium for land.

It is indeed unfortunate that the legislation categorizes Canadians as foreigners. Canadians should be able to own Canadian land. Furthermore, the great majority of foreign owners are not speculators, but are investors who are investing capital in Canada, which is a very stable country as compared to other countries in the world.

In southeastern Manitoba, much of the foreign land owned is now prime agricultural land. There are large parcels of up to 11,000 acres which were not cultivated or developed until they were purchased by foreign investors. Today, they are being used for agricultural purposes, and are for sale at half the original cost of purchasing and development. One particular parcel involved an investment of over \$3 million, which can be purchased for little more than half that amount today. This particular project has injected a great deal of otherwise unavailable capital into the province, as well as having provided work for many Manitobans during its development.

It's clear that foreign investment in land has fallen off dramatically. Further, foreign investors must sell today at a lower price than they paid for the land. We would like the Minister to prove that the "speculators" have gained much, dollar for dollar. Whatever the increase in values may have been, we must realize that they probably have not kept pace with inflation.

Manitoba farms owned by people or corporations who are not individually farming the land, whether they be Manitobans, Canadian citizens not residing in Manitoba or foreigners, is not in itself necessarily bad. Non-resident owners are very eager to establish long-

term leases, thus providing the marketplace with a supply of land for rent at competitive prices and, in many cases, at very attractive rents.

Non-farming landowners are intent on securing some assets in land and are prepared to pay the price, being aware that they are hedging against the volatility of the fluctuation of the value of cash. For this reason, they are willing to rent or rent back to the original owner at a lower rate of return to the benefit of the tenant farmer. As soon as these investment returns are not at par with their other investment returns, these farms will be released, as has been done many times in the past.

For example, American people owning land in Manitoba have been very eager to sell, indeed did sell at very low prices when our investment climate was not considered to be on safe ground.

We fail to learn from history. At Arnaud, Manitoba, thousands of acres of land known as Lyman's Land was owned by an American named Lyman. His manager built a large home, two barns to accommodate 60 horses, an elevator, and purchased two high steam engines and 16 bottom plows. After investing, he sold the land to immigrants around 1925 at a very reasonable price and terms. All that land became Canadian, "Manitoba" owned.

The same thing is happening in a similar situation in the marshland area known as Davidson farms. This will happen again and again to land that is non-resident owned today. The owners may choose to either move to Manitoba, sell because of the low rate of return, or will negotiate for a lower rent to maintain their investment.

The proposed legislation could deprive Manitobans from renting land at a lower cost per acre than if they were to buy the land, and would deprive a retiring farmer from benefiting to the fullest on the sale of a lifelong investment.

The Minister is concerned with the outflow of capital. If the government were to own good farm land and rent it to farmers, the interest for a New York loan would be far greater than the \$30 per acre rent charged by a non-resident owner.

The issue should not be ownership, but usage. Is the foreign or Canadian-owned land producing less than if it is Manitoba-owned land? The Gross National Product is determined by the amount of production from the land and not in whose name the title stands. The land base is here to produce food. Legislators can, by their taxation policies, control excessive foreign investment in land.

The price of grain and the returns received by the farmers are integral to the agricultural economy and in the long run dictate the price of land. Excessive foreign investment may be predominant in certain communities and, when compared to communities with minimal amounts, land prices are comparative because of the agricultural economy.

We believe, as do the majority of Canadians believe, that we were born in this country to have the freedom to own and carry on the ownership of land. Property rights are part of our Canadian, democratic, political, socio-economical and legal heritage. We put these questions to you. Should not a young member of a farm family who moves to another province, because time dictates so, be able to purchase farm land next

to the family farm in anticipation of returning some day? Would the board then look at this situation and every similar situation on an individual basis? Do you not think that this will result in a backlog of cases that will create more and more problems for the purchaser and the vendor?

What is meant by "near the Saskatchewan border"? Is this, in fact, another judgment call, creating further backlog of cases to be put before the board?

Some time ago, land was sold to people who would not be accepted to the present government of Manitoba under the proposed legislation. These people are now trying to move their money out of land but cannot do so because the economy has reduced the number of buyers. Do you not think that during a recession the last thing a government should do is to discourage money coming into the province?

4. On Page 2, Item 3(13) of Bill 3, an interest in farm land may be conveyed to a person who has been a farmer for 10 years. Does this government think a person who has farmed nine-and-a-half years does not deserve to own this land?

5. There are approximately 18 million acres of agricultural land in Manitoba, with potential to increase this land base by approximately 6 million acres in the Northern area, as indicated in a Department of Agriculture study. Does the Minister not think this might indicate a need for non-farming and Canadian investors?

Do we as Canadian citizens need more legislation that will restrict our farmers, sons and daughters from firstly seeking a profession elsewhere, and then the laws of the land forbid them from continuing their investment? This being a democratic country, any legislation that prohibits a Canadian citizen from ownership of land is infringing on his democratic rights.

Attached to this brief is an article from the February issue of Grainews, written by Dawn Harris. I understand she is also making a presentation and I will, for the purposes of this report, omit that section.

Before any substantial extensions of the limitations already in existence upon the private ownership of property and land are introduced, it is most desirable that their need or necessity be demonstrated beyond any reasonable doubt and the long-term consequences of such additional restrictions carefully examined and projected.

Foreign ownership of land in Manitoba, outside of urban areas, divides itself into two categories, recreational and agricultural lands. There has been, so far as the Manitoba Real Estate Association is aware, little public concern or outcry respecting the acquisition of recreational lands within the province by persons not residents of Manitoba. The privilege of ownership by foreigners has apparently not been abused, and the substantial resources in Manitoba of recreational lands, combined with the substantial distances from foreign owners likely to wish the use of such recreational land, would seem to protect the province against any abuse arising from a preponderance of foreign/Canadian ownership.

The actual amount of ownership of Manitoba farm lands by non-Canadians or large diversified corporations not primarily engaged in farming is, at the present time, small. Any decisions relating to further restrictions should be arrived at only after very careful

review and study, and on the basis of hard evidence, as to abuse and as to adverse results from such ownership.

To distinguish between various types of ownership by Manitobans or Canadian persons or corporations may be a dangerous step. Any act of a province which tends to divide or classify the citizens of Canada or of one of its provinces into groups having opposing interests is, in the view of the real estate industry, contrary to the best interests of Manitoba and Canada.

In like fashion, to distinguish favourably or unfavourably between the farming carried on by a farmer as a proprietor or partners, and farming carried on by a farm family or group of families under a small agricultural corporation, is equally unfair and essentially divisive.

Inactive ownership of farm land, that is to say ownership by persons not actively engaged in its cultivation, cannot necessarily classify it as harmful. Farm lands are customarily rented on one of two bases, either crop sharing or at a fixed rental price per acre.

The first gives to both the owner and the producer some protection against and some benefit from deteriorating or improving agricultural conditions and market.

The second alternative provides to farm owners an opportunity to expand the amount of land under their cultivation in times of growing market, and correspondingly a reduction in their fixed capital and operating costs during a shrinking economy. The rentals of such land are subject to negotiation between the owner and the farmer, and no farmer is compelled to enter into a rental transaction, disadvantageous to his own interest.

It is the view of the Manitoba Real Estate Association that with respect to agricultural lands, the existing system of control is more than sufficient to meet every subsisting public need.

Great limitations on financial resources available to assist land ownership by private citizens will result, if restrictions are imposed on such ownership which limit or prevent in any way protection of the lender, as will inappropriate restrictions on the right of an owner to dispose of land by gift or testamentary disposition to the heirs and beneficiaries of his or her choice.

Any greater restriction on ownership of land in the Province of Manitoba would, in the view of the Manitoba Real Estate Association, create for the citizens of Manitoba greater problems, greater loss of freedom, and greater cost without offsetting benefits individually or collectively.

I thank you for your patience and endurance in allowing me to present this brief to you. As mentioned, it was prepared by a committee. With me tonight is George Neufeld and Bill Burns from the Manitoba Real Estate Association, as well as Edna Babiak, Executive Officer of the Association.

In summary, I feel that the point being made in our brief primarily is the protection of the fundamental right of the Canadian citizen to the ownership of land. I thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Tyler. Thank you also for waiting for us, just as much as we have waited for you.

Are there any questions for Mr. Tyler from members of the committee? Mr. McKenzie.

MR. W. MCKENZIE: Mr. Tyler, did you say, or you haven't seen the proposed amendments of the Minister?

MR. R. TYLER: No, I regret that we haven't. We were not, unfortunately, informed of this meeting until today, and we just did not have an opportunity to get our homework done on that.

MR. CHAIRMAN: Further questions from members of the committee? Seeing none, Mr. Tyler, thank you to you and to your association for being here tonight. If after, Mr. Tyler, you've had a chance to review the amendments and you wish to forward further comments to the Minister, I expect that we will be considering the bill for at least two or three more days, if not in committee, then in the Assembly itself.

What is the committee's will and pleasure then with regard to tomorrow? I understand there have been some discussions between the two House Leaders, that in view of the fact that most of the work is committee work, we could meet immediately after question period tomorrow. I raise this now, because of discussions with both Mr. Penner and Mr. Ransom, so that we can advise members of the public as soon as possible in the morning.

MR. W. MCKENZIE: Mr. Chairman, I would prefer to await the ruling from the House.

MR. CHAIRMAN: On which, Mr. McKenzie?

MR. W. MCKENZIE: When the committee sits.

HON. B. URUSKI: Mr. Chairman, as I understand it, we have told some people that we may be meeting tomorrow afternoon to hear presentations. I don't believe we would go much further than that in the afternoon, because we would want to consider some of the presentations that we heard here tonight, in terms of reviewing them. We would certainly not have that opportunity to go over them by tomorrow afternoon. If there are other presentations, we could deal with them.

MR. CHAIRMAN: Mr. McKenzie, as Chair, I should point out that Mr. Ransom and Mr. Penner's proposal was that the House would adjourn after question period. It was not a proposal we would meet simultaneously.

MR. W. MCKENZIE: We haven't had a caucus since today, so I can't tell you whether that's yes or no. Mr. Ransom's not here. He never mentioned discussions or left instructions with me. It is just my suggestion that the House rules when the committee will sit. If you want to make it another ruling, I'll agree to it, but I'd like to see what the House is going to do, because I may have some things to say during the course of the day in the House.

MR. J. DOWNEY: Mr. Chairman, the Minister is certainly able to influence what his House Leader is going to call. If that's what he is suggesting will be encouraged,

I think that it's quite true there have been some discussions take place. If you are going to recommend to your House Leader that be the case, then I'm sure that the opposition will agree to it. But as my colleague for Roblin-Russell said, the House makes that determination. All we can do is recommend, and I'm sure that . . .

MR. CHAIRMAN: Mr. Downey, I can advise you that Mr. Ransom spoke to me earlier in the Chair here, and

indicated there was an agreement that after question period the House could adjourn, and the committee could meet at 3:00 p.m. I would like to give the Clerk some guidance to advise those people who have not yet appeared. Would it be agreeable to make a tentative date, subject to confirmation by the House Leaders, that the committee will tentatively meet at 3:00 p.m. tomorrow? Is that agreeable? Further discussion?
Hearing none, committee adjourned.