

AGRICULTURE COMMITTEE
10:00 o'clock, Tuesday, May 21, 1974

CHAIRMAN: Mr. Pete Adam.

MR. CLERK: The first thing on your agenda today will be the election of a Chairman. Are there any nominations?

MR. TOUPIN: Mr. Proteem Chairman, I would like to nominate Pete Adams as Chairman.

MR. DEREWIANCHUK: I second the motion.

MR. CLERK: Mr. Adam? Are there any further nominations? Any further nominations? Hearing none I would ask Mr. Adam to take the chair.

MR. ADAM: We will call the committee to order. I believe the first order of business is to set up a quorum. There are twelve members on the committee. What is your wish.

MR. USKIW: Mr. Chairman, I move that the quorum be 7.

MR. CHAIRMAN: It's been moved that the quorum be seconded. We will be dealing with bills No. 10, An Act to amend the Margarine Act; Bill No. 12 and Act to amend the Veterinary Services Act; Bill No. 19 an Act to amend the Crop Insurance Act; Bill No. 42, the Veterinary Medical Act; No. 43 an Act to amend the Farm Machinery Equipment Act; and No. 52, an Act to amend the Credit Union Act.

If there are any delegations or briefs to be presented from the audience, I would ask you to come forward to the microphone and give us your name and also the number of the bill you wish to speak on.

MR. MCGREGOR: Mr. Chairman, I wonder if I could interject here. I notice some delegations that are, you know, over 200 miles, on the Farm Machine Act, would it be possible to have them early or at the first in the event that we don't get to them. They have come over 200 miles, at least two of the ones that are going to give briefs.

MR. USKIW: Mr. Chairman, on that same point, I think the first procedure should be that we find out who is here representing who and what bill. On that basis if there are no other delegations other than on that one we would proceed straight into it.

MR. CHAIRMAN: Will anyone who wishes to present a brief come forward and give us your names.

MR. KELLY: Mr. Chairman, my name is Kelly with the Canadian Farm and Industrial Equipment Institute. I will have a very few remarks and then the Chairman of our Legislative Committee, Mr. Snelgrove will have further remarks if that's permissible.

MR. CHAIRMAN: On which Bill do you. . . ?

MR. KELLY: . . . Oh I'm sorry, on Bill 43. Farm Machinery.

MR. CHAIRMAN: Bill 43. Mr. Kelly and Mr. Snelgrove. . .

MR. KELLY: . . . and Mr. Snelgrove yes, we have several other members of our committee here, but these will be the two prime speakers. Do you wish us to proceed now or . . .

MR. CHAIRMAN: No. We will take all the names and we will call you. . .

MR. CHERNEY: I'm Peter Cherney, I'm a dealer - Peter Cherney. That's on Bill 43, Farm Machinery. And we got committees here with us. . .

MR. CHAIRMAN: Are there others in your group who wish to speak?

MR. CHERNEY: Right.

MR. CHAIRMAN: What are their names?

MR. CHERNEY: Billy Thompson, . . .

MR. CHAIRMAN: Thompson? With your committee? Are you representing a group or is this individual?

MR. CHERNEY: Well it's kind of a group yes, and . . . dealer.

A MEMBER: Dealer and farmer

MR. USKIW: Which individual dealers and farmers?

MR. CHERNEY: And Lorne Matheson.

MR. CHAIRMAN: Matheson?

MR. CHERNEY: That's right.

MR. CHAIRMAN: Any further people who wish to speak - are you through? We will call you when we get all these people listed here.

MR. CLARKE: My name is Oliver Clarke. I have a brief on behalf of the Manitoba Wholesale Implement Association concerning Bill 43.

MR. PETRIE: My name is Joseph Petrie, representing Merchants Consolidated in reference to Bill 10. I only learned of this meeting this morning and have no brief, only one comment to make in reference to the bill as it now stands.

MR. MATTHEWS: My name is Wilson Matthews. I'm representing the Prairie Farm Implement Manufacturers Association. I don't have a prepared brief, but I will request the opportunity to ask some questions and make some comments.

MR. CHAIRMAN: What is your Association again, Sir?

MR. MATTHEWS: Prairie Implement Manufacturers Association.

MR. CHAIRMAN: And that's Bill 43?

MR. MATTHEWS: Right, yes.

MR. CHAIRMAN: Very good. Now, it was suggested by Mr. McGregor that we hear the briefs from people who have come in a long distance. What is the wish of the committee.

MR. USKIW: Mr. Chairman, let me make a suggestion. It appears that there is only one brief on Bill 10, and a short one at that as I understand it, and perhaps if we get that one out of the way then we would only have submissions on Bill 43; in which case we could then proceed to take the out-of-town people first on Bill 43.

MR. CHAIRMAN: Is that agreeable to the committee that we proceed in this manner?

MR. JORGENSEN: Mr. Chairman, . . . that the proceedings of this committee be transcribed - recorded and transcribed.

MR. ADAM: I think they are being transcribed. Are they not?

MR. JORGENSEN: No, they are done so on motion.

MR. CHAIRMAN: It has been moved by Mr. Jorgenson and seconded by Mr. . . . All agreeable to this, all in favor of this? Opposed if any? Carried. The minutes of the meeting shall be therefore transcribed. We will therefore call Mr. Petrie, of Merchants Consolidated to present his brief.

MR. PETRIE: Actually, Mr. Chairman, I should have said that I have some representation from the Edible Oils Association of Canada. Mr. Caldwell the Chairman of that committee has delegated some responsibility for a change in the Margarine Act to myself and other members of the grocery industry, and we are in quite agreement with the bill as it stands with the exception of water and fat content, and if in our opinion the over 16% of water or less than 80% of fat, if the reference to the percentage on the fluid content could be erased from the bill as it now stands it would be in keeping with the bills that are in our sister provinces to the west and would tend to give us uniformity in the processing of the margarine product. If we are to stick to the 16% when we come into soft margarine we would be in the position perhaps of having to add to the costs because to get the texture we would have to add more fat.

That briefly gentlemen is the only question that I have to ask in reference to this particular bill.

MR. CHAIRMAN: Thank you very much Mr. Petrie. Do you mind staying there just for a moment in case some of the members wish to ask you questions.

MR. PETRIE: I should say, Mr. Adam, that I am not a technician, my technology insofar as the processing and that is very very limited, but I am interested from the standpoint of the consumers and from the standpoint of manufacturing costs.

MR. CHAIRMAN: Well, Mr. Petrie, I can advise you that you are not under any obligation to answer any questions

MR. PETRIE: I will answer if I can.

MR. CHAIRMAN: That's fine. Does anyone wish to ask--Mr. Johnston from Portage.

MR. G. JOHNSTON: Mr. Petrie, you say in similarity to other provinces to the west and they have an 80% fat content - what is the other 20 or do you know what makes. . . ?

MR. PETRIE: The fluid in reference to water only could be milk. It would add to the texture but would be less costly from a fat standpoint.

MR. G. JOHNSTON: But is there another three or four percent of some other. . .

MR. PETRIE: No. It would have nothing to do with the format of the product, there would be no additives. Again my lack of knowledge, Mr. Johnston, is that as I understand it, if they were to stick to 16% water in soft margarines we would run into problems of cost. If I had had time before this meeting, on Fridays, if I had had the notice on Friday, then I could have got in touch with Toronto and had perhaps pertinent facts.

MR. G. JOHNSTON: So really you want it left open it could be up to 20% water, which is the same as other provinces?

MR. PETRIE: Basically I would like it to be similar to the sister provinces to the west. When I say I, I mean we.

MR. JOHNSTON: Is that up to 20% water?

MR. PETRIE: That I can't answer you, Mr. Johnston.

MR. JOHNSTON: That's all, Mr. Chairman.

MR. CHAIRMAN: Thank you very much. Mr. Graham.

MR. GRAHAM: Thank you, Mr. Chairman, through you to Mr. Petrie. You tell us if you had that, had more time you could have given us more technical information on this thing and I would like to ask you a question. Would you like to see this bill held open for further presentation at another committee meeting?

MR. PETRIE: Actually, the man that would be best qualified to speak on this particular subject is Mr. George Caldwell of the Edible Oils Association of Toronto, and perhaps it would be in the best interests of the bill if he could be present and if we had sufficient time to get him here.

MR. GRAHAM: Then, Mr. Chairman, may I ask through you to committee members if it would be probably in the interests of the total bill if this thing was set over to another meeting?

MR. PETRIE: Would there be any danger, Sir, in that this bill would not go through in this particular session of parliament?

MR. GRAHAM: We would have to ask the Minister that question.

MR. USKIW: Well, Mr. Chairman, if I may intrude then at the moment, let me suggest that we have no way of knowing how long the session would last, but if you are suggesting that this gentleman could be available fairly soon, then I don't see a problem. . . On the other hand, we could have departmental discussion with the gentleman in question if that is a reasonable way to proceed, although that takes the opposition out of the discussion. I am very flexible on that point personally.

MR. PETRIE: From my personal standpoint, I would like to see the uniformity with the sister provinces, but if in the interest of the committee and to prevent long debates because the implement industry are here in great depth and they seem to be in the position that they are going to take a great deal of your time, I would be prepared to accept any suggestion that comes from the Chairman.

MR. JOHNSTON: Mr. Chairman, I make the suggestion that we keep Bill 10 for the time being and that Mr. Petrie contact his Toronto expert and notify you, Sir, as to when he could be here, and if that was suitable to the committee we'd proceed then. But if it wasn't suitable to the committee, it was too long a waiting period, you would so notify the committee and we'd proceed with Bill 10.

MR. CHAIRMAN: Is it agreeable then to the committee that we hold this over? (Agreed)

MR. ADAM: That's fine then.

MR. PETRIE: Then whom shall I get in touch with, Mr. Adam. - Mr. Uskiw?

MR. CHAIRMAN: Myself as the committee chairman.

MR. PETRIE: Thank you, Mr. Adam.

MR. CHAIRMAN: Thank you very much, Mr. Petrie. That is the only--the other briefs that we have are all on Bill No. 43. We have another Mr. Martel, who has also indicated that he wished to speak on Bill 43 and I will call up the members in the order that I have them down and the first gentleman that I have on my list is -- It has been suggested that we have those people from out of town present their briefs first because in view of the number of briefs that we have on Bill No. 43 those who come from a long ways may have a long wait before they can leave town, in the event that they wish to leave sooner. What is the wish of the committee on this? (Agreed) I'm not sure who is out of town, that's the only. . . --(Interjection)--Kelly and Snelgrove and Peter Cherney.

MR. CHAIRMAN: Mr. Cherney and Mr. Thompson, Mr. Mathison and Mr. Snelgrove?

MR. PETRIE: Mr. Snelgrove and Mr. Kelly are from Toronto.

MR. CHAIRMAN: Where are they from? Oh, Toronto.

Mr. Kelly and Mr. Snelgrove are from Toronto and I believe the other three gentlemen are from Manitoba?

MR. PETRIE: That's right.

MR. CHAIRMAN: . . . I think perhaps--proceed, Mr. Cherney. Do you mind giving us your name and speak up to the microphone please.

MR. CHERNEY: Peter Cherney from Hamiota. And we have one problem, not only one but quite a few. Before the Farm Machinery Board came in we didn't have no problem getting parts and now I can show you the bills that was ordered--I made one order on October 10, 1973, here's the proof, here's the parts came in, just on the Customs; and if the weather would have been any good the farmer would have been two weeks or three weeks behind waiting for parts. We can't farm like that and we can't run business like that. There's the papers, you could pass them over.

Then I ordered again the same parts on February 4, 1974, same parts, same number same Blockman that took the order. Before I used to get it from Saskatoon, Regina-Saskatoon Saskatchewan and we used to get the parts from there if we were short in Manitoba. I phoned them on Friday, I got witness for that, they had the parts there but they said they wouldn't send it to Manitoba. Then we found one guy in Regina that had parts for that drill. It was only a year old drill; what's going to happen ten years old that drill's going to be? Where are the farmers going to get the parts for it? Then we phoned Regina, they had parts and the parts man told us: "Yes, we've got them but I have to talk to the boss if he could send it over to you." He says, "Wait ten minutes, I'll give you the proper answer." We waited and I phoned collect, I'll accept the collect phones as long as we get the parts. We waited three-quarters of an hour in the garage, there was no phone calls came and still we haven't got it. Then on Saturday we got it from - our parts are in the Customs now. That's how long it took us to get the parts before we never--I'm 30 years in business, we never had no problem. Before we used to phone, in the morning we'd get our parts if we haven't got them in our garage. Now they wouldn't do it. So we have to do something about this because the farmers they can't wait.

Then there's another, this emergency parts' order. That's no good for farmers, that's the old time way to order parts. When a farmer's got a breakdown he has to get the parts in 24 hours, not 74 hours, and take the holidays off, Saturdays off and Sundays off, the farmer could wait three weeks, four weeks before he could get it. They could get it through the phone in one day.

Then another thing, they used to sell to Saskatchewan - machinery - because the machinery, they could have sold it to Saskatchewan cheaper than Manitoba prices. Now Manitoba prices are dearer than Saskatchewan or U.S. I could show you all the books if you just want to see them, I've got them right here. The same thing with - I've got a paper here, I think you got it in here - that Versatile people, they wrote us letter: Don't sell machinery until you've got it in your yard. They're shipping, you see, to Saskatchewan; they're shipping to U.S. but they won't give it to Manitoba dealers, just if they've got leftover, that's all we're going to get and that's where the trouble comes in. I'm not protecting actually my garage, I'm protecting my land too. I'm a farmer, I'm a cattleman too and I'm in this racket for 30 years and this last two years, that's the worst game I ever had.

I had to order parts, I've got witnesses, I've got 80 knives, swather knives, 80 because we're scared that when the times comes you won't get nothing. We ordered over \$14,000 worth of parts and we had about \$10,000 worth of parts. I have to protect my farmers, we want to stay together, we don't want to break up and the way it looks to us somebody is trying to break the farmers up, not giving us the things what we should have. I bought, for example myself, I got five tractors, I shouldn't have bought one tractor but I was scared in case I can't get parts or I can't get it repaired. They say that there's too many garages out in the country, they need twice as much garages as there is. The farmer's got a breakdown, he has to wait two weeks to get his tractor in or his combine into the garage. It's loaded.

It doesn't bother me if I've got competition no, sir, I'm happy. Let somebody open up right beside me, I'll be happy because I'll have less work. We're working ourselves to death in our labour right now and they say there's too many garages out in the country. There's not enough. They're taking the poor guy out, rich guy out, everybody out. What's going to happen in another few years? We can't run the farm--you know, look it here what's happening right now is a good example. People can't put their crop in; now we can't get parts, what's going to happen? We're going to starve - this country. This country is depending strictly on farmers. If there wasn't a farmer, nobody would have nothing to eat. The same thing with cattle, cattle are down. It costs us \$35,000 to feed our cattle over the winter and if I sold my cattle I wouldn't get \$35,000. So we have to do something about this.

(MR. CHERNEY cont'd)

There's enough, you see--surely the old people that used to come to the country, the people done anything they want with them because they weren't smart. Now there's a young generation coming up and it's not going to be funny, you know, it's going to be pretty hard these young guys, you know. You give a young farmer \$30,000, he can't even get to the first base farming because everything's so high. The same thing with us, we can't get labour. I've got three men working for me and I'm a fourth one and we're just killing ourselves, and I can prove that.

MR. CHAIRMAN: Mr. Cherney, if I could just ask you stick to Bill No. 43, the bill that we're on. I'm allowing as much latitude as I can but we would have to deal with the contents of Bill No. 43 which is the Farm Machinery Act. If you could just confine as much as possible in order to proceed, you know, to expedite the business of the committee.

MR. CHERNEY: Well I just want the answer about these parts. And another thing why machinery is dearer in Manitoba than Saskatchewan and States? That's what we'd like to know.

MR. CHAIRMAN: I'm awful sorry, Mr. Cherney, but the people who are making presentations cannot ask questions of the committee members. The committee members may ask questions for clarification from you on your brief, to get explanations on your brief, but it's not permissible under the Legislative Act for those who are presenting briefs to ask questions through the members.

Are you through now, Mr. Cherney? Well, do you mind staying there for a few moments, I think Mr. McGregor would like to ask you some questions. Mr. McGregor.

MR. MCGREGOR: All right. Mr. Cherney, you were saying, referring to your problems with Saskatchewan in say the last five years, what percentage of your business went to farmers in Saskatchewan?

MR. CHERNEY: I'll say we had about roughly, you see, I haven't got the figures, but we had about \$30,000, \$40,000 business from Saskatchewan.

MR. MCGREGOR: And how would that. . . ?

MR. CHERNEY: That's two years ago.

MR. MCGREGOR: And what about the last year?

MR. CHERNEY: None.

MR. MCGREGOR: Well, you used to buy some from dealers in years gone by from Saskatchewan to bring into Manitoba?

MR. CHERNEY: Yes, I did it this year, I got it cheaper, two tractors from Saskatchewan than I had to pay in Manitoba for our own use.

MR. MCGREGOR: Then you're referring to the difference of price, and probably I'll pin down two things that's pretty popular, is a four-wheel drive tractor and a swather. Could you give an approximate price of the Manitoba 15-foot swather and the Saskatchewan or the difference thereof?

MR. CHERNEY: Right now, this year, we got everything on the paper here. See, it says here Manitoba only, on a 15-foot swather 400, same equipment, in Manitoba it was \$4,838; in Saskatchewan or U.S. is \$4,326.00.

MR. MCGREGOR: Then what about a 4-wheel, a comparable 4-wheel drive tractor?

MR. CHERNEY: I didn't get that figured out. There will be about \$1,900 difference on a 700 tractor.

MR. USKIW: Mr. Chairman, I'm wondering if the gentleman would give us the make of those machines?

MR. CHERNEY: 400 model, Versatile.

MR. MCGREGOR: Then, Mr. Cherney, I see by the photostatic copy of these bills, this gear 20T and 12-201, there's two of those, what make is this, what make of the company?

MR. CHERNEY: Kirshman.

MR. MCGREGOR: Kirshman. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Johnston.

MR. G. JOHNSTON: Well, Mr. Chairman, I want to ask Mr. Cherney, in his opinion why wouldn't the Saskatchewan supplier supply you when you had phoned, whenever you said you'd phoned Saskatoon once, and they said they had the part but they were hesitant about giving it to you and the same with the Regina supplier? In your opinion, why wouldn't they supply you?

MR. CHERNEY: Well I don't want to say it--to be honest, I think it's all Farm Machinery Board done that.

MR. G. JOHNSTON: Well was it because they were afraid they couldn't keep the delivery date and might be penalized?

MR. CHERNEY: Right.

MR. G. JOHNSTON: But they had the parts?

MR. CHERNEY: They had the parts, I got a witness for that.

MR. G. JOHNSTON: Is that common amongst your dealer friends?

MR. CHERNEY: I used to get from him quite a bit, parts, yes.

MR. G. JOHNSTON: No, but other dealers that you know. Has this happened to them?

MR. CHERNEY: Well I'm so busy you know, I haven't got no time to go - we just work, work, work and work. We've got to go on the land, we've got to look after the garage and everything, and there's only four of us.

MR. G. JOHNSTON: Are you a Versatile dealer?

MR. CHERNEY: Right, strictly a Versatile dealer.

MR. G. JOHNSTON: Did I understand you to say that you are receiving less supply from Versatile than before?

MR. CHERNEY: Right.

MR. G. JOHNSTON: In other words you think the factory is giving priority to shipping to other provinces and the U.S.?

MR. CHERNEY: Right.

MR. G. JOHNSTON: Thank you.

MR. CHAIRMAN: Mr. Blake.

MR. BLAKE: Mr. Chairman, I just have one question to Mr. Cherney. He's mentioned to us that it was easier for him to get parts prior to the enactment of the Farm Machinery and Equipment Act Bill. I wonder if he could indicate to us his relationship with his customers prior to the enactment of the bill. Did you have any problems in maintaining good relations with your customers in regard to warranty or guarantees of your product prior to the enactment of this bill?

MR. CHERNEY: Well we used to get, you see, we keep a big bunch of parts, a very big supply, and I'm thinking there is very many dealers maybe not keep that. But you run out. We have people come away from Souris to us, Hamiota and Souris for parts because we had them. That was on Sunday. And if Blockman was here, Versatile Blockman, he will back me up on that; he says if you don't get it from Cherney, you won't get it no place. And he would have had to wait until Tuesday to get that part but we had it and he came over and he bought lots of more parts than that.

MR. BLAKE: Fine, Mr. Chairman.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Yes, Mr. Chairman, I want to find out from Mr. Cherney why it would be that the Versatile 400 swather would be roughly \$500 cheaper in Saskatchewan than in Manitoba, in your opinion.

MR. CHERNEY: Well, I shouldn't say it, you see, but I know why, because Blockman told me - they're protecting themselves.

MR. USKIW: In which respect, Sir?

MR. CHERNEY: Well, maybe I should say it and maybe not. If there wasn't Versatile people here, maybe I should. Well they figure, you see, the government is going to freeze the prices on machinery and they're jacking it up; they're jacking it up, you see, to protect themselves, in case they do freeze it, they're away up.

MR. USKIW: Then you're saying there is no reason then other than some fear that the prices in Manitoba might be frozen and they want to get the jump on prices.

MR. CHERNEY: Right.

MR. USKIW: I see.

MR. CHERNEY: Because Blockman told me himself. I don't care if he's here or not.

MR. USKIW: Now to the last person that asked you a question, Sir, you indicated that people in Saskatchewan or companies in Saskatchewan were refusing to supply you with parts here in Manitoba because of a fear of late delivery which would result in some penalties. Which companies are you talking about?

MR. CHERNEY: About Kirshman, that's made in Bismarck, North Dakota - seed drills, Kirshman.

MR. USKIW: Pursuant to the provisions of the Act as they are now, however, a company that wouldn't supply on time would be incurring costs and I'm trying to understand how you would arrive at a position where they refuse to supply because of those penalties, . . . to be true.

MR. CHERNEY: Here's the proof right here. It's not my writing.

MR. USKIW: I mean that kind of action in other words would cost them money. Supplying the parts would not cost them anything.

MR. CHERNEY: You know those gears they cost \$20, and it cost me about \$40 phone calls already.

A MEMBER: Do you add that on to the top?

MR. CHERNEY: No, that's warranty.

MR. USKIW: Now do you think that we should eliminate the Farm Machinery Act entirely, sir?

MR. CHERNEY: I think so, yes. We were better off before than the way we are now.

MR. USKIW: All right. . .

MR. CHERNEY: The companies that used to cooperate with us and customers used to cooperate with us, and everything--I'm in 30 years business, you know, and I know what is exactly the score.

MR. USKIW: If you feel then, sir, that we should not have legislation, consumer legislation with respect to farm machinery, then why are you suggesting to the committee that we should increase the responsibility on the companies so that they would in other words provide us with parts service within 24 hours rather than 72 which would also require legislation, sir.

MR. CHERNEY: I always got my parts in 24 hours from my Versatile - never slipped.

MR. USKIW: But your argument, sir, was that you would want faster service.

MR. CHERNEY: That's fast enough, you see I could phone them.

MR. USKIW: So your position is then if I'm reading you correctly that if there was no legislation you would receive better service.

MR. CHERNEY: Right, right.

MR. CHAIRMAN: Mr. McGregor.

MR. MCGREGOR: Yes, Mr. Cherney, in past years were you able to get and give second year warranty on what was normally a one-year warranty thing on legitimate problems with your . . .

MR. CHERNEY: We got extremely--we got a gentleman right here, he's got a swather over three years old, he brought a brand new one from me and he then had over \$22 parts to it in three years. I sold four years ago, seven years' old swathers to three years old, 12 swathers, used swathers, and I guarantee them the same as brand new year swathers and I've had \$195 warranty on the used swathers. Where do they get the idea it's going to cost that much on a new swather? I can't see it. Somebody is trying to make a buck, you know, out of the farmers for no reason. If they give me \$150 warranty on each swather I'll back them up myself, company doesn't have to back them up. I'll supply the warranty and labour for every swather I sell, and I wouldn't be scared.

MR. MCGREGOR: Thank you, Mr. Chairman.

MR. CHAIRMAN: If there are no further questions, that will be all. Thank you. Is it Mr. Thompson?

MR. MATHISON: Mathison.

MR. CHAIRMAN: Mathison. Proceed then. Just give us your name. . .

MR. MATHISON: Lawrence Mathison from Hamiota, I'm a farmer. On the way in with Mr. Cherney this morning we were discussing this warranty, three-year warranty or your option of a one-year warranty. And I guess as you say, we can't ask questions - but we still have to pay the same price, whether we take the one-year or the three-year, so I understand from him. And I think this is--I don't know why, if we're just going to take one year, I've had experience with tractors and if you can't get the kinks out of them one year, usually one year, once you get by that you're laughing.

MR. CHAIRMAN: Mr. McGregor would like to ask you a question.

MR. MCGREGOR: Mr. Mathison, then I take it what you're suggesting to the committee that we really do scrap this Act and go back to what we used to know as a standard one-year going into the second year if there's a good legitimate problem, that satisfies you as a

(MR. MCGREGOR cont'd). . . farmer.

MR. MATHISON: I would agree with that, yes.

MR. MCGREGOR: Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any further questions? Mr. Ferguson.

MR. FERGUSON: Yes, Mr. Mathison, in the event that the Act isn't scrapped, would you prefer to have a freedom of choice on the type of warranty you get. Would you prefer to have the standard machine warranty plus the other two, which is your one and a half and then your transportation and labour is I guess up to three and a half or four.

MR. MATHISON: Well I'd prefer just the one year if they'll bring - and not pay the same price for the three-year warranty.

MR. FERGUSON: So the old standard one-year warranty is what you would prefer.

MR. MATHISON: Yes, I would prefer that. But not have us paying for the three-year warranty and taking the one-year.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Yes, in your view, sir, if you had discovered a defect in a machine beyond your first-year warranty, what kind of satisfaction would you expect from your dealer and your company, this assuming that you didn't notice your defect till the second year? Do you say that the farmer should pay for a manufacturing defect?

MR. MATHISON: Not a manufacturing - I'd say you know, if we can prove that it is a manufacturer's defect, that the company, I think they'd stand behind it if they realized that this is what it was.

MR. USKIW: Well here's my point, sir, the warranty provisions only apply against proven defects of the manufacturer of that machine, that is the only purpose of the warranty in the Act, and therefore no payments should go out to anyone where it is not proven that there was something wrong in the manufacturing of the machine. Therefore, sir, I put the question to you: What is wrong with a lifetime, for example, warranty of any machine, never mind the three years that is now statutory in Manitoba, what would be wrong with a lifetime provision, if you're only talking about proven manufacturing defects?

MR. MATHISON: Yes, while I was just talking--I wasn't referring to the proven ones because I figure the company would back that, it didn't matter what year it happened.

MR. USKIW: Would you support then a change in the Act, sir, that would repeal the present statutory provisions with respect to the time of the warranty in favor of the Board, the Manitoba Farm Machinery Board awarding a warranty regardless of the age of the machine but based on proven defect at the manufacturing level. So that we would only deal with specific cases that are referred to us and which are proven to be manufacturing defects.

MR. MATHISON: Well, I think that would be worse, but . . .

MR. USKIW: That would be worse?

MR. MATHISON: I think that would be pretty hard on the company. You'd have them out there all the . . .

MR. USKIW: Are you saying, sir, that they would have a lot of machines that would have defects proven against which they would refuse to pay?

MR. MATHISON: Oh, they'd have to have a man out there all the time checking this and advising you to end up going to court in anything like that.

MR. USKIW: No, but for example if you had a complaint, let's say there were no provisions in the Act for a warranty period but the Board was empowered to recommend, not only to recommend but order a payment, do you feel that it would not be unreasonable for you to appear before the Board to prove your case. And at that point if the Board felt that you were right they would award a warranty or not; they would if you were right, not if you weren't, in their opinion, but which would be subject to appeal to a court. The board's order in other words would be subject to appeal to the courts.

MR. MATHISON: Oh, I don't think I'd go along with that.

MR. USKIW: You don't think that's a good idea.

MR. MATHISON: No.

MR. USKIW: Well I'm not sure where you are, sir. You want to reduce the present warranty period. . .

MR. MATHISON: Put it back to what it was, yes.

MR. USKIW: Put it back to what it was, yet you've made the statement that if a company has a manufacturing defect within one of its machines that it should be responsible beyond the regular warranty.

MR. MATHISON: It will be, I think this is facing the company - I'd pay for the thing myself if the company wouldn't do it; I'd ask them what they thought and if they didn't think it was anything to do with them well we'd just go ahead and do what we used to, pay for it ourself.

MR. USKIW: So you're saying that the farmers should pay for a manufacturing defect then, beyond one year.

MR. MATHISON: Well, I'm just putting the faith in with the company, if the company will work together on it. We never had any problem with the company on any. . .

MR. USKIW: How many years, sir, have they gone back with respect to any machine that you have had problems with.

MR. MATHISON: Well we've never had problems. . .

MR. USKIW: You've never had a single case.

MR. MATHISON: Not manufacturer's defects, no.

MR. USKIW: I see. Do you know of any instances where the company has gone into the second or third year period with respect to a repair job or parts warranty or whatever.

MR. MATHISON: No, I don't; maybe Mr. Cherney might, but with the machines that we've had we've never had any problem, and we've had different companies too.

MR. CHERNEY: I could answer that question. I . . .

MR. CHAIRMAN: I think, sir, you better come to the microphone if you wish to add to the previous speaker.

MR. CHERNEY: We had a case like that this year, the tractor was four years old and the farmer took the gears out of it. And we got the Blockman out and they asked us what would be the cause of that, the tractor - taking the gears out, and the gears were not right temper and the company put a whole rear-end after three years without no charge and they paid the labour.

MR. CHAIRMAN: Thank you. Any further questions? Mr. Uskiw? Mr. Jorgenson, I believe has a . . .

MR. JORGENSEN: Mr. Mathison, how long have you been farming?

MR. CHAIRMAN: Right into the microphone, Mr. Jorgenson, please.

MR. JORGENSEN: May I ask how long have you been farming?

MR. MATHISON: Twelve years.

MR. JORGENSEN: And during that period you have bought a number of machines from machine dealers.

MR. MATHISON: Right.

MR. JORGENSEN: You've had no problems getting settlements with the dealers or the companies if there were problems that arose?

MR. MATHISON: Well, we had one problem last year.

MR. JORGENSEN: That was since the Farm Machinery Board came into being? You had no problem prior to that time?

MR. MATHISON: No problem prior to that, no.

MR. JORGENSEN: If I understood your statement correctly, you said that you would much rather put your faith in the honesty and integrity of the machine companies and machine dealers than you would a bunch of bureaucrats making decisions for you.

MR. MATHISON: I trust them. I trust the machine companies.

MR. JORGENSEN: I'm paraphrasing what you said. That is the essence of what you meant, is it?

MR. MATHISON: Yes. Thank you.

MR. CHAIRMAN: Okay. Mr. Uskiw.

MR. USKIW: Yes, what was the nature of your problem last year, sir?

MR. MATHISON: Well we have an Allis-Chalmers grainer combine and we broke the main power takeoff shaft coming out of the motor, we broke it right in the spline. We immediately phoned H.E. Wright in Brandon, asked them if they had a power takeoff shaft and they didn't. So we said, well we got the combine broke down and it's nice weather, we'd like to be going, try and get it as soon as you could. And so we went into Brandon the next day and they got phoning right across Canada and they couldn't get a part. So we waited a couple of days, and then I phoned in again to H.E. Wright in Brandon and I asked them if they had any word on this part, and they said no. I said, well I'd like to go on this emergency. And he said, well - oh, you can't do that because you didn't buy the machine from us, and they

(MR. MATHISON cont'd). . . weren't going to back us. So I said, okay, and I said, try and get the parts. So as soon as I hung up I phoned right down to Allis-Chalmers in the States, I got a hold of a combine factory and I asked them if they're still making them, making the combines, and said, we have no parts up here in Canada and we've got one of your combines. And the guy, he said, well if you're in that problem we'll have it there in three days. So I said, that's good. And 15 minutes after I phoned down there we get a call from Winnipeg, and they said when you're ordering parts, how come you phone down to the States, you're supposed to order through your dealer. And we said, well, we ordered from H.E. Wright and Winnipeg said, well, we haven't got an order on that. Well, in the meantime we went to Mr. C. . . in High River and out to Oakenville, Saskatchewan, to see if they'd weld it and we come back to the guy in High River and he welded it, and the combine ran and took the crop off for us. And there was a meeting in Hamiota, I think Mr. C. . . was out there, I think it was February, I'm not too sure when it was, and he was talking to my dad and they talked about this shaft, they got this shaft in from Allis-Chalmers, this company said, we just got it in. Well this was about four or five months later. In the meantime we'd taken our crop off. Well that's the only problem, and I was sort of disappointed with this outfit in the States, that he said he'd have it there in three days and he didn't have it but in the meantime we got this thing going, so. . .

MR. USKIW: How would that, sir, then relate to the fact of the Farm Machinery Act, though? What connection has that incident with the fact that there is a consumer protection service in Manitoba?

MR. MATHISON: I don't think we followed it through on this emergency, when we told H.E. Wright we would go on this. . .

MR. USKIW: No, but you're not saying that it was because of something the Board did pursuant to the Act that you were in trouble.

MR. MATHISON: Oh no, no, no. I just wondered whether if I had of phoned the board and told them about it, but we didn't follow it through.

MR. USKIW: You're saying then that it's coincidental that you had a problem last year at a time when you were supposed to have been protected from these kinds of things.

MR. MATHISON: Yes. But then I guess we didn't follow it through. Maybe if I had phoned the Board, they might have done something about it.

MR. CHAIRMAN: Thank you very much. I believe that's all the questions. Does Mr. Thompson wish to make a presentation?

MR. THOMPSON: Mr. Chairman, I have nothing more to add at the present time.

MR. CHAIRMAN: Do you mind telling us your name so that it can be transcribed.

MR. THOMPSON: Bill Thompson, Hamiota, a farmer.

MR. CHAIRMAN: Proceed.

MR. THOMPSON: I have nothing more to add further to the last two at the present time, thank you.

MR. CHAIRMAN: That's fine. Thank you very much. Next, Mr. Kelly, Toronto. The Canadian Industrial . . .

MR. KELLY: The Canadian Farm and Industrial Equipment Institute, Mr. Chairman, very often referred to by its initial letters, CFIEI.

MR. CHAIRMAN: Do you have briefs to distribute? The Clerk will distribute them.

MR. KELLY: We have, Sir. I don't know if we've got quite enough copies for everyone here at the committee, I think we have ten. They are in effect copies of a letter we sent the Minister, and development by our Legislative Committee, which we sent the Minister.

MR. CHAIRMAN: Do you mind indicating your name in the microphone?

MR. KELLY: My name is Kelly, Robert Kelly. I'm the General Manager of the Institute. My role here this morning is really simply to introduce to the members of this committee what the Institute is and some of the people we have brought with us.

The Canadian Farm and Industrial Equipment Institute is a trade association of manufacturers who market in Canada. The members of this Institute probably account for the majority of farm machinery sales in Canada, I have heard the percentage is as high as 80 percent, but there's no way of working it out that fine, but it's certainly a majority. We have a working relationship with the Prairie Implement Manufacturers Association which you already know is on your list here today, and so between the two organizations I think we do represent by far the vast majority of product marketed in the country in that basis.

MR. USKIW: Mr. Chairman, I wonder if I might intrude at the moment.

MR. CHAIRMAN: Yes, Mr. Minister.

MR. USKIW: Just for clarification, is the brief that you are presenting us this morning the same as the one that we have received in the mail as a department . . . ?

MR. KELLY: It's the same as the one that was sent to you, Sir, yes.

MR. USKIW: So therefore I don't need another one. All right. Since we're short of them I thought it . . .

MR. KELLY: Fine, fine, it's exactly the same as was sent to you, Sir.

MR. CHAIRMAN: Proceed then, Mr. Kelly.

MR. KELLY: The Institute is not a large organization from a staff standpoint and depends to a great, great degree on committee work. We are fortunate when we go through our committees that we do put together committees of what one would call experts, be it Customs and Excise Tax areas or traffic areas, parts and service or in this instance, legislation. We get a lot of work from these committees, people put in many many hours and then the office works as an administrative centre for them. Today we have representing the Institute in general terms here one of our members and a member of our Board of Directors, Mr. Macdonald of Killburn Manufacturing. From our committee standpoint, we have Mr. Beardsley of AgriSteel in Minnedosa; we have Mr. Thompson and Mr. Colburn from the John Deere Company in Hamilton; we have Mr. Edmonds and Mr. Pesey from the International Harvester Corporation from Hamilton and we have Mr. Snelgrove from Massey Ferguson in Toronto; and Mr. Snelgrove is the Chairman of our committee and I am going to call on him to go through our brief to the degree with which the committee wishes. I mentioned all these people because we're all here and open for questions at any time. Not every one of them is going to stand in line to get up here at the microphone, but if your request is such we are all available for questions. And if I may, Mr. Chairman, I call on Mr. Snelgrove to proceed with any detailed discussion.

MR. CHAIRMAN: That is fine. Mr. Snelgrove.

MR. SNELGROVE: Thank you, Mr. Chairman, gentlemen of the committee. This is the third time that The Canadian Farm and Industrial Equipment Institute has appeared before your committee in the last three and a half years.--(Interjection)--I hope familiarization doesn't breed contempt. Now, gentlemen, as Mr. Kelly mentioned, this is the brief that I intend to present, is the same brief that was sent to the Minister, Mr. Uskiw, and some of you have copies of it now. I can approach this in two ways; (1) is to go through the entire brief; or (2), if you gentlemen feel you have read it and have sufficient information before you, we could merely answer questions from the brief. Your wish is my command in this respect.

MR. USKIW: Mr. Chairman, I wonder if I might advise Mr. Snelgrove that there are matters in your submission that are not referred to in the Bill before us, and therefore I would suggest that we're not in a position to deal with those matters that are not before us by way of legislation at this session. You're making reference, I believe, in two areas here, to sections of the Act that are not being amended, Sir.

MR. SNELGROVE: You're referring to the last two pages . . .

MR. USKIW: Yes.

MR. CHAIRMAN: How do you wish to proceed? I don't believe that outside of this, the Minister, I don't believe that other members have had an opportunity to go through your brief. So I'm not sure just how the committee wishes to proceed on that. Should we--it's quite a lengthy brief but nevertheless . . .

A MEMBER: Might as well go through it.

MR. CHAIRMAN: That is fine then, if we're all agreed on that, we'll proceed, we'll go through the brief and proceed, Mr. Snelgrove.

MR. SNELGROVE: Thank you, Mr. Chairman. We'll proceed with the brief, and it's in a chronological order based on the sections of the present Act which is amended, or which is to be amended by Bill 43.

The first section, it's rather a minor point but nevertheless a fairly important one, and that is under Section 1 (e) (ii). We suggest that the \$750 retail selling price limit be increased to \$1,000, if for nothing more than to be consistent with another province who has amended their limit in 1973, and that's the Province of Alberta.

The second point is the amendment in Section 8 (1) with respect to the emergency repair parts, which under 8 (1) (g) under Bill 43 amends to add "farm tractor" to the list of equipment. And although there is no season of use designated in the Act it will be done on the regulations.

(MR. SNELGROVE cont'd) We suspect that the season of use would be all year. We urge notwithstanding the broad utilitarian function of a farm tractor that for the purpose of this section the amendment read (g) "farm tractor used in seeding, haying or harvesting operations." By this amendment that we're suggesting, this would orient the inclusion of farm tractor to the most critical parts of the farming operation, namely, seeding, haying and harvesting. And based on the existing season of use for seeding, haying, and harvesting equipment in the present regulations, the farm tractor would then have a season of use from April 15th to October 31st.

Now if a farm tractor is designated by regulation, assuming this amendment to include farm tractors is passed, and the designation and the regulations is all year, this means in effect that farm machinery dealers, many of whom sell farm tractors, would be required for emergency parts requirements under Section 8 to remain open all year long from 8 a. m. to 10 p. m. every day of the year except Sundays. This seems to be a very harsh and unrealistic burden on the farm machinery dealers of Manitoba. We also raise the question in our brief as to the conflict of the requirement of farm machinery dealers being required to remain open for the purpose of emergency parts, or to have the dealer himself or his employees on call, which is tantamount to the same thing, during these 8 a. m. to 10 p. m. times every day in the year except Sundays for machinery that bears an entire year as a season of use. We feel that this would severely conflict with the Manitoba Employment Standards Act, unless there has been an exemption recently under that Act with respect to farm machinery dealers, of which I'm not aware. The Minister should recognize the very probable conflict between Section 8 (1) and the Employment Standards Act, and the additional cost, the additional employee cost the dealer is required to bear under this section, particularly for that type of machinery that will be designated as having seasons of use for the entire year. I'm sure that the answer that may be given is, will the farm machinery dealer have to rearrange his employee availability. Well this isn't always easy when a dealer has a limited number of employees within which to make re-arrangements. Because when you're talking about the Employment Standards Act, you're talking about areas such as hours of work, 8 hours per day, or 44 hours per week, overtime pay, vacation pay, and statutory holidays for employees; with a large operation that a dealer may have, this may be feasible; for the smaller dealers with fewer employees, this would be rather difficult. We suggest at the very least that the dealer's statutory obligation under Section 8 (1) should be revised to reduce the 10 p. m. limit to 7 p. m. and include statutory holidays as well as Sunday as exception days. Now it's very probable that dealer representations later on may have further comments on this point.

The next item relates to - and gentlemen if you have any questions as we go through these sections, perhaps it would be easier to ask questions as we go along rather than wait till the end.

MR. CHAIRMAN: That's a good point. That point is well taken and Mr. Uskiw has a question.

MR. USKIW: On that last point that you made, Sir, you are saying to reduce the hours to 7 p. m. from 10 p. m. Is that based on the assumption that we would be providing this service in a 365 day basis, or regardless?

MR. SNELGROVE: Well I think we're trying to be realistic here . . .

MR. USKIW: I am just wondering under what assumption, Sir, you're working, that's all.

MR. SNELGROVE: Well at least on the basis of an all-year.

MR. USKIW: Oh yeah. But not if it was based on season of use.

MR. SNELGROVE: Well I think you still have the conflict of the Employment Standards Act whether it's all year or seasonal.

MR. USKIW: No, I appreciate that. I'm trying to get your views whether it would be deemed reasonable to provide for extended hours only during the season of use, if that were only the case, and that I could understand an objection if you're talking 365 days a year.

MR. SNELGROVE: Well of course all I am talking about - this section only relates to season of use that they have to stay open. So to be consistent I have to say that the reduction of hours would relate to those units that carry a season of use, and for those particular seasons of use.

MR. USKIW: It's not the point I'm trying to get across, Sir. I'm trying to suggest, or get from you, Sir, whether you agree that during certain periods, being crucial periods, that we might want to agree to maintaining a longer period of time per day in which a service is provided, as opposed to the year-round provisions that you seem to be afraid of with respect to

(MR. USKIW cont'd) the amendments being proposed in Section 8 (1), in which you seem to assume that the regulations would require a 365 day service which may not be the case at all. You're whole position here is based on that assumption. That's why I'm wondering whether I can get further clarification on that point.

MR. SNELGROVE: Well certainly for those machines which presently include the feed-processing and mechanical feeding that bears an all year-round season of use . . .

MR. USKIW: Okay.

MR. SNELGROVE: . . . there should be less of a burden and a reduction of hours, and if farm tractors are included as well as all year-round, the same should apply to them.

We're making two suggestions here: one is that the season of use for farm tractors be based on the season of use of seeding, haying and harvesting equipment; and secondly, that the hours of use, or the hours that the dealer must service, be reduced from 10 to 7, and include statutory holidays as well as Sundays as not being, or not having the dealer open for business during those holidays.

MR. CHAIRMAN: Did you have a question?

MR. SNELGROVE: You're creating quite a burden for the dealer on this point.

MR. CHAIRMAN: Proceed.

MR. SNELGROVE: The next item is Section 8 (7) which requires disclosure of extra costs, and we're suggesting here that the amendment be modified to reduce the administrative burden imposed on dealers to specify extra costs charged beyond the parts list prices on every invoice to a purchaser with respect to his repair part purchase, whether on an emergency basis or otherwise. The way the amendment is written it would apply to all parts orders, whether regular or emergency.

Our suggestion is that it be modified to require such invoice disclosure only when at the time of sale the purchaser requests the dealers to do so, so that the dealer doesn't have to every time, whether the farmer or customer wants it or not, to have these extra costs disclosed on the invoice. This protects the dealer, and it could reduce the administrative burden; it protects the farmer, and it could reduce the administrative burden on the dealer.

MR. CHAIRMAN: Mr. Uskiw has a question on that point.

MR. USKIW: Sir, if we pursue that suggestion, isn't it obvious then that we have completely deleted consumer protection in that area, if we accept your proposition.

MR. SNELGROVE: Not at all, Sir, because the dealer would be required to disclose the extra cost if the purchaser requests it.

MR. USKIW: That's the point though. We are trying to, in the Act, provide consumer protection to the unbeknown consumer who may get caught in a transaction and wouldn't discover his problem until some time later, that he has been charged for something, a service or otherwise, that he did not receive, or is not satisfied as having received. Therefore it completely pre-empted the consumer protection vehicle if we accept your proposal.

MR. SNELGROVE: What you're requiring now is that recognizing that this provision would cover both regular and emergency parts orders you may find in many instances for regular orders, not of an emergency type, that because of the busy season of the dealer he will just hand the part to the customer and receive the cash for it. Now you're going to require him to set out an invoice, include any extra costs, and his administrative burden is going to increase. If the dealer's administrative burden is going to increase and he has to take time to fill out an invoice with all these extra cost requirements, then you should increase the \$10.00 limit to cover emergency as well as regular parts orders; or for regular parts orders you should allow him an extra charge to do this. You can't keep imposing burdens on dealers without recognizing the extra costs they're put to.

MR. CHAIRMAN: Mr. Uskiw, you have a question?

MR. USKIW: Mr. Chairman, just on that point. I'm not sure that I'm reading you right, but it seems to me that you're suggesting that some farmers do not require a receipt for payment of goods received. Now how would that stack up in terms of his income tax file. Certainly everyone asks for a receipt. You don't simply hand over dollar bills and receive a part without some form going with it, so that there would be a record of the transaction for income tax use.

MR. SNELGROVE: Well I think in the real world, Mr. Minister, that there are many instances where this isn't done. Or perhaps the dealer might do it when he has a lull in his business, prepare an invoice for his income tax records.

MR. USKIW: No, his own, but I'm talking about the farmer's records. I mean, it would seem incredible that if we had any amount of business transacted in that way.

MR. SNELGROVE: Well a number of farmers don't really bother with their receipt, particularly for the regular orders.

MR. USKIW: Okay, I'll let it go.

MR. CHAIRMAN: Okay. Proceed Mr. Snelgrove.

MR. SNELGROVE: The next item is Section 11 (1), and it may have been inadvertent so far as the draftsman is concerned, it requires that on all the farm machinery contracts for sale that an exact copy of the contract be signed and subsequent sections require delivery to the purchaser. Our problem here is the use of the word "exact", and we suggest that the word "duplicate" be used instead, which is consistent with previous practice. The word exact would imply that original signatures on each contract copy be inserted, and this would involve a complete reprint of contract forms that are paid for by the dealers or by the vendors.

MR. USKIW: We've already made a note of that, Sir.

MR. CHAIRMAN: Proceed.

MR. SNELGROVE: The next major area of concern, and there has been considerable debate in this room in two previous occasions concerning the warranty on Section 13. The warranty provisions that are amended by Bill 43, or to be amended by Bill 43, modify the adverse impact of the existing warranty somewhat, but it doesn't go far enough. We still believe, and we still maintain, that a three year warranty on tractors and combines under the existing Act is unrealistic and unnecessary. It's interesting to note that since the Manitoba Farm Machinery and Equipment Act was passed in July 1971 no jurisdiction in Canada or the U.S. has passed similar or equivalent legislation having the Manitoba Act in front of them when revising or preparing new legislation.

As a matter of fact Saskatchewan and Alberta have since 1971 amended their respective Farm Implement Acts and Alberta has opted for the one year warranty, and Saskatchewan has continued with their existing one year warranty under their Act.

We also reiterate that the labour costs beyond one year for tractors and combines, and the travel and transportation costs, be deleted from the warranty obligations of dealers and vendors. And the reason for this is the cost, the additional cost to the vendors, the dealers, which ultimately is paid for by the farmers. The vendors and the manufacturers can do anything conceivably that any government wants it to do but there's a penalty if it's beyond the normal commercial approach, and we suggest that the one year warranty prevail in Manitoba, and that travel and transportation be deleted from the existing Act.

Our brief refers to the approach of preparing legislation and we feel that the three year warranty for tractors and combines gives no option to the farmers who are our ultimate consumers and customers and the dealers' customers.

We believe that cost-benefit relationship of these warranty provisions do not favour the vendor, dealer, or more importantly the farmer. We believe that the role of legislative authority is to establish minimum regulations, to allow the free interplay of private enterprise, and the dialogue and relationship between vendor and consumer to continue, as was referred to earlier by two other speakers.

Now, as to the specific amendments in Bill 43, we would suggest that the word combine be redefined to mean self-propelled combine, because as it reads now the word "combine" includes all type combines as well as self-propelled. And of course, as we all know, the self-propelled combine is a vehicle; the pull type combine is not a self-propelled vehicle. And we see no justification to include a pull type combine which falls in the same category as many items of drawn equipment.

We also feel that pull type combines should not bear the three year warranty as it is a drawn implement, and expose the farmer to the consequential Manitoba price increase.

Now, as to the hour meter, we applaud the government's attempt to have an alternative duration by time as well as hours of use, but we again point out that our engineers inform us that there is still, three years later, when we discussed this point before, no tamper-proof hour meter, no fail-safe hour meter. I mention that, not for the purpose of eliminating, or trying to eliminate the hours of use approach, but just as a caveat to you, gentlemen, to indicate that hour meters on automobiles, trucks, or elsewhere, in the present technology, are not fail-safe. They can be tampered with at will.

Now, as I mentioned before, on the transportation, if we have to live with a mileage re

(MR. SNELGROVE cont'd) transportation, which we've mentioned before, we submit should be deleted entirely, then the distance of 50 miles could be reduced to 25 miles, so that the round trip would be 50, rather than 100 for the dealer.

Now the other amendments in Bill 43 concerning the warranty should more closely relate to the mechanical condition of the equipment, and the language cleaned up so that it's not susceptible to interpretations involving extraneous matters. Therefore we suggest that in sub-clause (d) of Section 13 (1), of Bill 43, that it should read: "when the farm machinery and equipment is incapable of being driven due to a mechanical breakdown". The present language is "when the farm machinery and equipment cannot be driven". Well, there are many times when a piece of machinery cannot be driven for reasons beyond mechanical condition. So what we suggest is that the language be amended to relate it to the incapability of being driven to a mechanical breakdown.

Sub-clause (e) similarly should read "where the dealer specifies that the farm machinery and equipment should not be driven due to its mechanical condition." And sub-clause (f) which presently reads: "where the purchaser cannot deliver the farm machinery to the dealer's shop for repairs because of the size or weight of the farm machinery", we suggest that the word significant be inserted before "size", because the way the language of the amendment reads now, size is purely subjective and there's no qualifying words; presumably the section is to mean significant weight.

Is there any questions on that portion up to this?

CHAIRMAN: Mr. Uskiw has one.

MR. USKIW: Yes, I want to go back to the first part of the warranty provisions, Sir. You feel that the company should not bear responsibility, notwithstanding the fact that it in fact could be a manufacturing defect that is the problem. You know, I still can't quite fathom how anyone could take that position, in view of many other groups that provide protection to the consumer voluntarily. Namely, for example, automobile manufacturers who quite often recall hundreds of thousands of vehicles wherein they have discovered there have been some defects that they wish to correct, and at no cost to the consumer.

But notwithstanding that, Sir, I'm prepared personally to consider changes again here, and I'm wondering what your group's reaction would be to eliminating the statutory limitations provisions with respect to time, and allowing the Farm Machinery Board to make their decisions on complaints only, and therefore that would mean on any machine wherein they can prove that in fact that the cause of the problem was because of the faulty manufacturing of that machine.

MR. SNELGROVE: You mean for the life of the machine?

MR. USKIW: Well if it's a fault that we're talking about, then to me it means that it doesn't matter when, providing it can be established that it is in fact the fault of the manufacturer to begin with. Is that a compromise that would be reasonable, is the question that I'm putting to you.

MR. SNELGROVE: I think there are several points to mention in that regard. Number one. I think the members of our institute have beyond the current standard commercial warranty in many jurisdictions in North America, have in fact repaired where it was found to be a defect of farm machinery. And this is notwithstanding the fact that the automobile companies are subject to the Federal Motor Vehicle Safety Act, which is subject to safety recall. Our farm machinery is not subject to that Act. And I'll also say that farm machinery, where there is a safety related defect, a number of companies have had modifications, not necessarily recalls - although I remember we had one ten years ago on a corn picker where it involved a safety hazard. So you do find instances of this, without legislation, in our industry.

Secondly, the question of having an open-ended warranty, recognizing that your point was "manufacturer's defect" does create a contingent liability for the life of the machine, and we are getting into here presumably the assignability of any warranty from one customer to another, which is certainly a problem for our industry, and because of the audit and control aspect; you're looking at several owners, and you don't know how the machine was treated, what accidents were involved with the machine by one owner as opposed to the subsequent owner. There are many complicated audit and control matters here that would increase the administration costs of dealers and vendors.

MR. USKIW: I wonder if I could interject on that point, Sir . . .

MR. SNELGROVE: Yes, certainly.

MR. USKIW: . . . because on my own thought - I'm trying to convey my thoughts to you so that you could respond - is that during the depreciable period of a machine, with respect to the original owner - I'm not talking about five or six owners . . .

MR. SNELGROVE: Oh, all right. You said the life of the machine . . .

MR. USKIW: I'm saying, what is wrong with redressing a situation where in fact it is proven that it is a manufacturing defect, and that the board have that responsibility, and just simply delete all reference to statutory time limitations in the Act.

MR. SNELGROVE: Well, what you're doing is making it open-ended.

MR. USKIW: But only on valid cases. We're no longer talking about a general approach. It's got to be a proven complaint, eh?

MR. SNELGROVE: Well, yes, but all warranties, all warranty claims have to be proven, whether it's on a commercial basis and jurisdictions outside of Manitoba, or under the existing Act, or under your proposal . . .

MR. USKIW: So then you're saying . . .

MR. SNELGROVE: . . . claims would still have to be proven.

MR. USKIW: Are you then saying that rather than doing that, you would prefer to stick with the three years. Is that what you're . . .

MR. SNELGROVE: No, we would prefer to go to the one year, Sir.

MR. USKIW: Well then how do we handle the defect, Sir?

MR. SNELGROVE: Pardon?

MR. USKIW: Then how would we handle the legitimate defects, the legitimate complaints that are found to be legitimate; there's no dispute as to whether it was a manufacturing defect or not. If we're satisfied that that's what it is, how do we handle it, beyond the year?

MR. SNELGROVE: Well I think to be perfectly frank, and I obviously haven't consulted with my colleagues, but if we had the one year, and we had the Farm Machinery Board as the focal point relative to complaints where farmers can go, where they can come now, and where, for those companies that didn't endeavour to fix a machine beyond the one year period where it was a proven manufacturer's defect, this is one of the purposes of the Board, to cast the focus, cast the spotlight, on those companies that apparently have done the farmer some wrong, so long as there's justification for those claims.

MR. USKIW: But how does that bring redress to the farmer who has suffered the loss?

MR. SNELGROVE: Well, why don't you live with it for a while? Try it out.

MR. USKIW: But that's what we had, Sir, before the Act was brought in. The reason we brought the Act in was because of the consumers' complaints.

MR. SNELGROVE: I know, but the farmers, many of the farmers are paying for something they don't need.

MR. USKIW: You're saying that farmers are prepared to pay the cost of a manufacturing defect themselves?

MR. SNELGROVE: No, no. I'm saying that many farmers are paying for the higher cost of warranty for tractors and combines in this province when they don't need it, . . .

MR. USKIW: Well then, Sir . . .

MR. SNELGROVE: . . . some would, some would if it happened in the third year.

MR. USKIW: Then, Sir, are you telling me that tractors and combines are not designed in order that they would be free of manufacturing defects beyond the first year period.

MR. SNELGROVE: No. They are designed to be free of defects for a good many years. The life expectancy under U.S. Census Bureau reports right now is 14 years, and by 1980 it'll be 19 years.

MR. USKIW: Well then, Sir, why are there added costs if we warrant them beyond one year?

MR. SNELGROVE: Because there is a very very real problem of identifying a defect the greater use any piece of machinery gets.

MR. USKIW: It doesn't make sense.

MR. SNELGROVE: Well, it does, because the longer a machine is used, and whether it's a farm machinery, truck, automobile, turbo engine, or whatever, the longer the use, and particularly one that's a piece of mobile equipment that is subject to much use, and particularly with a power plant like a tractor, that is designed to redesign and remold and turn over the soil, many of its parts over a period of years--it's almost impossible to determine whether it's wear and tear or defect.

MR. USKIW: Well, then we get back to the next point, Sir, and that has to do with the original Act, not the original Act, but the changes that were brought in two or three years ago, where we introduced but didn't proclaim the mandatory hourly limitation . . .

MR. SNELGROVE: Right.

MR. USKIW: . . . based on your representations, we decided not to proceed because you felt that the meters were not reliable or could be tampered with. How do you explain, Sir, that I believe that at least two large companies write into their warranty provisions the hourly use period, based on their hour meters, if that is a problem.

MR. SNELGROVE: Well, it's not a problem, it's either/or. They do have a duration period, or hours of use.

MR. USKIW: But that's what we are writing in now.

MR. SNELGROVE: Yes, you're writing in now, and that I applaud. What you were doing before was having a straight hours of use.

MR. USKIW: So are you saying that the present amendments are relatively reasonable?

MR. SNELGROVE: As to the concept of hours of use and the duration, either/or, right. But we still maintain the one year warranty is more realistic.

MR. CHAIRMAN: Proceed, Mr. Snelgrove, on your brief.

MR. SNELGROVE: On Section 13, (1. 1) we agree with the approach in the amendment to expand the parts that wouldn't be subject to the warranty, or as may be set out in the regulations. We would also suggest that, and we think that this would be the intent of the government, to adding a new sub-section to the amendment to include such parts as set out in the regulations that are classified as convenience or cosmetic parts which are not essential or required for the intended functional operation of the farm machinery, and we give a list of items there including radios, and heaters, and paint, air conditioning, etc.

MR. USKIW: We've made a note of that already, Sir, your comment.

MR. SNELGROVE: Section 15. We're suggesting again our amendment to revise combine to read self-propelled combine. We're suggesting also that Section 15, 15 (1) which now relates to the equipping of the tractor or combine by the vendor or manufacturer . . .

MR. USKIW: We agree.

MR. SNELGROVE: . . . should also include the dealer, an hour meter may be equipped by the dealer, and as he is also jointly liable on the warranty, he should also have that privilege to put the hour meter on the tractor or combine.

MR. USKIW: Mr. Chairman, I wonder if I could take you back to 15 (1) and try to determine the rationale of the companies wanting to provide a difference in warranties between pull type and self-propelled units. I know you touched on it briefly, but you didn't convince me, Sir, You simply said that because they were not mobile units that they should be categorized differently. But essentially all of the other working parts are the same as a self-propelled unit. Pretty costly by the way . . .

MR. SNELGROVE: Well, it's . . .

MR. USKIW: It's relative to small equipment.

MR. SNELGROVE: It's not a self-propelled unit.

MR. CHAIRMAN: Mr. Snelgrove.

MR. SNELGROVE: Yes.

MR. CHAIRMAN: Proceed.

MR. SNELGROVE: It's not a self-propelled unit. I think it's as simple as that, Mr. Uskiw.

MR. USKIW: But how does that in itself justify it not having reasonable warranty provisions on the moving parts?

MR. SNELGROVE: Well, I don't want to be placed in the position that all drawn equipment should now bear a three-year warranty.

MR. USKIW: We're not saying that.

MR. SNELGROVE: Okay. With that understanding, I'm placing a pull type combine in the same basis as other drawn equipment.

MR. USKIW: Yes. I simply wanted to make the point that harvesting equipment, especially equipment that is as complex with many moving parts such as a combine really can be distinguished as apart from a field cultivator or a plow, you know, in terms of warranty provisions.

MR. SNELGROVE: Oh, well, everything's relative I agree. But I think on a three-year

(MR. SNELGROVE cont'd) warranty that we should be talking about self-propelled units. Now you and I could debate this for . . .

MR. USKIW: We will never agree on that ruling.

MR. SNELGROVE: I guess we won't, Mr. Minister . . . with respect.

MR. CHAIRMAN: Proceed Mr. Snelgrove.

MR. SNELGROVE: Well, on 15 (2), Section 15 (2) of Bill 43 we submit that notification by the purchaser to the dealer of the hour meter failure, "as soon as possible" is too general. In view of the importance of immediate notice in this circumstance we suggest that the phrase "within five days thereafter" be substituted for the phrase "as soon as possible". Again it puts a time limit, and it's for the protection of the dealer and the farmer, then he knows that he's got to do it within a certain number of days.

Section 15 (3) we refer to the absence of a fail-safe or tamper-proof hour meter and we suggest 15 (3) be revised to read as follows: "Where the hour meter of a tractor or a self-propelled combine is disconnected or tampered with the warranty on the tractor or self-propelled combine is void unless the hour meter is disconnected temporarily by a dealer for the sole purpose of repairing or servicing the tractor or self-propelled combine, and thereafter the hour meter is reconnected before the tractor or self-propelled combine is placed in use." Now the principle of this particular suggestion that we have comes from many of the provincial statutes relative to automobile and truck emission standards relative to their requirement of absence of removal of emission equipment. And we strongly endorse it to the government and your committee. Mr. Chairman, may I ask, how long will the committee sit before lunch?

MR. CHAIRMAN: We're trying to complete your submission, and all of them if we can by 12:30 - if we can, but . . .

MR. USKIW: Well, Mr. Chairman, for purposes of clarification, are there others that want to address the committee on this bill or, Sir, are you representing the group that has been listed?

MR. SNELGROVE: No, I'm representing the committee on Canadian Farm and Industrial Equipment.

MR. CHAIRMAN: Mr. Minister, I have quite a few here . . .

MR. USKIW: Other than?

MR. CHAIRMAN: . . . other than, yes, I have. I believe I have two other briefs besides the one that's being presented now.

MR. USKIW: Oh, yes, they're local people.

MR. CHAIRMAN: Proceed Mr. Snelgrove.

MR. SNELGROVE: The next recommendation we have relates to Section 24 (5), and this involves the notice of the decision by the Farm Machinery Board with respect to their order concerning whether a creditor may repossess a unit under which a farmer has defaulted under a retail contract or finance contract. The amendment in itself looks fairly innocuous, because it increases it from four to five weeks. We suggest that the repossession of a unit prior to a season of use is important relative to the re-sale of the used unit that has been repossessed. We appreciate that the board has many burdens if this bill is enacted as written, its burden will be considerably increased, and we suggest that the four week stand, and if necessary the board increase its personnel to take care of the work load.

The next recommendation is Section 25, and here it's really a housekeeping suggestion we have--Section 25 (7) which involves finance contracts and loans, uses the phrase "finance charges" when in fact the previous reference in the Act to 11 (4) to the Consumer Protection Act of this province uses the words "cost of borrowing" and we suggest that the language be consistent.

The next item is Section 33, sub-section (1). We disagree with this proposed amendment, which would add another unnecessary statutory burden on vendors by requiring them to take inventory and accept unused farm machinery and unused parts at the dealer's place of business when the dealer has terminated, or resigns his franchise. It is not always practical for the vendor's representative to perform the parts' inventory taking function during seasons of use when it is convenient for the dealer, or within the prescribed time limit of 90 days under Section 33 (3). And this is particularly so during season of use when the main function of any parts' department is to get parts out that are ordered on any emergency basis.

Furthermore, it doubles the inventory task and increases costs if the vendor is to inventory and sort parts at the dealer's place of business and repeat the process in part at the

(MR. SNELGROVE cont'd) vendor's place of business. If a vendor wishes to take inventory at the dealer's place of business, that should be his prerogative, but it should not be a statutory requirement. Surely terminated dealers must recognize that they, too, must comply with the definition of "unused part" which is required to be taken back by vendors under this Act, and that the dealers must carry out their obligations under Section 33 (6. 1). After all, the vendor is already obligated to pay the freight costs from the dealer's place of business for those bona fide unused farm machinery and the unused parts, covered by Sections 32 and 3.

Furthermore we submit that the terminated dealer and not the vendor should bear the penalty of the shipping cost of inventory returned to the vendor where the cause of the dealer's termination results from his dishonesty, breach of trust or cancellation of his dealer licence under the provisions of the Act. Indeed, all of the vendor's statutory obligations under Sections 32 and 3 should not apply if a dealer's termination results from those circumstances.

Now we come to - apart from the warranty provisions - the second of three major areas that concern the Canadian Farm and Industrial Equipment Institute. And the first one relates to dealers and vendor licencing. It is with total amazement to have it revealed, particularly in Sections 35. 1 (4), (5) and (6), the total absence of full assessment and conception as reflected in the bill of what is proposed by these amendments. Section 35. 1 (4) involving the suspension of a dealer or vendor's licence in effect provides that the board has unfettered power based merely on reason to believe "the dealer or vendor has breached the Act or regulations to suspend the licence upon written notice to him". Now, this may not have been the intent of the government when they had these amending sections drafted, but when you read the Act, the power is there.

Once a licence is suspended, it thereby is not a valid and subsisting licence under Section 35. 1 (1) with the result that the licensee cannot then carry on his business as a dealer or vendor of selling new or used farm machinery or repair parts. To be sure Section 35. 1 (5) does provide for the board's notification of a hearing after the suspension to determine whether the licence should be cancelled, but Section 35. 1 (6) states in effect, that the hearing will be held sometime after ten days following the board's notice of suspension. Therefore the hearing may be held in eleven days, or twenty days, or thirty days, plus depending on the board's time schedule, another one to five days for the board to make its decision under Section 35. 1 (8). And if the licensee exercises his Right of Appeal from the board's decision to cancel under Section 35, then it may take months to resolve the question of suspension. This inequitable procedure is obviously based on the premise of suspending the licence first and asking the questions later. These amendments, if passed, of course cannot be changed or revised by regulations prescribed later.

MR. USKIW: Or recommend to the Minister.

MR. SNELGROVE: What then is the impact of the board's notice of suspension of a licence of (a) a farmer, (b) a dealer and (c) a vendor? And particularly, if the board's decision is in error or based on improper or inaccurate information, or where there may be reasonable justification or extenuating circumstances which resulted in the licensee's breach of the Act, or other circumstances under which the licence may be suspended as prescribed by Regulation 36 (h).

What then is the effect on the farmer? The effect upon the farmer arising from the suspension of the dealer licence is that he must obtain his machinery and parts requirements from another dealer or the same vendor, or a dealer handling a different brand located in or adjacent to the farmer's local area. Also, machines and parts ordered to the dealer's suspension would have to be reordered from another dealer handling the same product line or a competitive product line unless the regulations to be prescribed under Section 36. 1 provide relief for this section, or situation. If the licence of the vendor is suspended the farmer will be unable to obtain his machinery and parts requirements supplied by the vendor anywhere in Manitoba, at least on an interim basis, if the suspension is rescinded. In any event the farmer will be forced to make his purchases from licenced dealers who retail competitive machinery and parts.

What then is the effect on the dealer? The effect is, that it would close down a dealer's business for a minimum of ten days during the season. It would result in loss of sales and profit; affect the dealer's return and investment of his premises, fixtures, and equipment; reduce his working capital; result in lay-offs of some or all of his employees; damage his relationship and reputation with his supplier, customers and in the community; and impair or destroy his ability to carry on business in any form.

(MR. SNELGROVE cont'd)

What then is the effect on the vendor? The effect of a suspension of a vendor's licence would, as with dealers, vary with the size, substance and financial capacity of the vendor. First of all, the effect of the vendor's suspension would adversely affect all his dealers in Manitoba, in that the vendor would be precluded from selling new farm machinery, or repair parts to any of his Manitoba dealers, because the licence is one of general application for all Manitoba under Section 35. 1. If the vendor's distribution system is confined to Manitoba, he would suffer similar consequences to that of a dealer. If the vendor's distribution system includes markets outside of Manitoba, he would be forced to deploy anticipated Manitoba sales and machines and parts to his distribution outlets and markets outside of Manitoba. This is so notwithstanding Section 36. 1 of the amendments, because the duties "prescribed" by regulation for suspended licencees cannot change the substantive statutory prohibition in Section 35. 1 of "selling" machinery or parts. Now, as I say, this may not have been intended, but this based on our reading of the pertinent sections of Bill 43 is certainly going to be the result.

MR. CHAIRMAN: Mr. Uskiw has a question.

MR. USKIW: Mr. Chairman, before we go to the next--well it's still relatively the same, but I think it might be appropriate to intervene at this point. We agree that this is a bit strong and we're prepared to make some amendments, but would you agree, Sir, that there could be situations where it's necessary to have quick action. If we amended the section to provide for the Minister on the recommendation of the board, to suspend, and that would bring it right up to the . . .

MR. GRAHAM: That makes it worse.

MR. USKIW: Well, I'm not sure if it does. It depends who the Minister is, I suppose. It's a debatable point here.

MR. SNELGROVE: You talked, Mr. Minister, and I believe you - you talked about the consumerism concept that you're trying to build into the bill. I think when you have a matter relative to licensing which is a hard-nosed approach as evidenced in the Act and Bill, that you've got to have a statute that has general application to all licencees. I agree that there might be the odd instance where you might want to take immediate action, but I think the preservation of the licencee's rights to be heard before his licence is suspended is something you just have to live with.

MR. USKIW: Would you then agree with me that we should then also provide that no company can close out a dealer without the same provision?

MR. SNELGROVE: That no company can close out the dealer?

MR. USKIW: Without the same notification provisions that you would want us to have applied in this instance?

MR. SNELGROVE: Well . . .

MR. USKIW: I mean, would you--should you have the right . . .

MR. SNELGROVE: Companies right now have for years given notification . . .

MR. USKIW: I know, but at the present time they can close out a dealer without notice, and therefore all of the problems that you relate to here are evident, whether we do it by suspension of a licence or whether you do it by removal of a dealership. And my point to you, Sir, is, if you think that we shouldn't do this, should you also be prevented from doing the same thing, without notice and without a hearing?

MR. SNELGROVE: Yes. The point you're making is pretty much related to dishonesty of the dealer . . .

MR. USKIW: That's right.

MR. SNELGROVE: . . . submission of fictitious retail contracts . . .

MR. USKIW: That's right.

MR. SNELGROVE: . . . death of a dealer . . .

MR. USKIW: That's right . . .

MR. SNELGROVE: And you know, you just have to terminate without notice on the death of a dealer.

MR. USKIW: Exactly, we are now agreeing.

MR. SNELGROVE: Pardon?

MR. USKIW: We are now agreeing.

MR. SNELGROVE: Well, I don't know whether we are or not. You're saying that the licence is suspended on the death of a dealer, if he's a sole proprietor.

MR. USKIW: No, a dishonest dealer.

MR. SNELGROVE: Pardon?

MR. USKIW: You know, where there's an evident fraud taking place, in which case you would want to close him down as a company, in which case we should remove his licence.

MR. SNELGROVE: Well, the reason we want to close him down in cases of dealer dishonesty, fictitious contracts which could involve millions . . .

MR. USKIW: That's right.

MR. SNELGROVE: . . . is because of the - depending on the size of the dealer, the significant inventory of the vendor that's on the premises, and we'd be foolish to let him continue to sell it and not settle.

MR. USKIW: I agree with you, Sir, but what you are saying is . . .

MR. SNELGROVE: So our interest is financial, your interest is . . .

MR. USKIW: Yes, I appreciate that, but the point I'm trying to make here, Sir, is that you are saying that any public authority should not have as much right as a private authority, and your basis is simply that you have an investment to protect, that's your only . . .

MR. SNELGROVE: This is right. Yours is a regulatory authority, I would assume - on a licencing basis.

MR. USKIW: No. But we have - this is consumer protection that we're talking about, and if we're going to prevent a fraud from taking place as between a dealer and a farmer, or as between a dealer and the company, certainly there'd have to be immediate action if this is evident. Now as I understand, the company practice to date is that without notice they would close out a dealer, either by letter or simply in one form or another by way of a . . .

MR. SNELGROVE: In specific situations, now, Mr. Uskiw . . .

MR. USKIW: Yes. I understand it, you have the right now to physically remove your equipment from a dealer without notice, so you put him out of business.

MR. SNELGROVE: Well, is the government involved in bankruptcy situations as a result of whether they should terminate a licence or rescind a licence or not? The vendors are.

MR. USKIW: No, what we are . . .

MR. SNELGROVE: I think what I'm saying to you, Sir, is that what you're trying to do is compare apples and oranges. Our investment in a situation that we've . . .

MR. USKIW: He wants to write the loan.

MR. SNELGROVE: . . . that I'm trying to explain to you is, that if there's a bankruptcy or a very real possibility of a bankruptcy, the vendor of that proposed dealer bankrupt has to act quickly, otherwise his machinery is going to be involved for months.

MR. USKIW: Absolutely. Right.

MR. SNELGROVE: Now the government doesn't have the same stake.

MR. USKIW: The farmer may have.

MR. SNELGROVE: Yeah, I know, but the government doesn't have the same stake. And what I'm saying is - I mean, the farmer has the alternative of going elsewhere if he so chooses. He's going to have to anyway, if the dealer's bankrupt.

MR. USKIW: What if there's a fraud involved, though, that's the point we're really getting at. For example . . .

MR. SNELGROVE: If you have a good valid bond, then you've got the farmer protected relative to fraud.

MR. USKIW: For example, double financing.

MR. SNELGROVE: Yes, oh, that would be very . . .

MR. USKIW: Should one intervene if that was brought to one's attention? If there was a case of double financing.

MR. SNELGROVE: Oh, yes. We have it more frequently than we would care to admit.

MR. USKIW: That's my point, Sir.

MR. SNELGROVE: Yeah.

MR. USKIW: And you feel that in that instance there should be immediate intervention.

MR. SNELGROVE: Yes, to prevent it - from our standpoint, because we're the ones that accept the contract.

MR. USKIW: But should we not - why should we though, Sir, provide a licence to someone who has already lost his right to sell machinery because of that fraudulent act? Should we not in concert with the company, say "Sir, you have committed a fraud, we are suspending you, and you can appeal the suspension, but we are satisfied that you have committed a fraud."

MR. SNELGROVE: Yes. Well, our audit people make these investigations, but I don't know whether the government would. In other words, what I'm saying is that there has to be clear proof before you suspend.

MR. USKIW: I agree with that.

MR. SNELGROVE: Clear proof.

MR. CHAIRMAN: Proceed, Mr. Snelgrove.

MR. SNELGROVE: But if you're going to relate it to those types of circumstances, you should spell it out in the Act. And you shouldn't have it so broad and general that it covers. . .

MR. USKIW: No, well I've indicated we are prepared to make some changes there, Sir, but it's just the matter of principle that we're dealing with at the moment. And it would seem to me that if it applies to government, then logically it should equally apply to anyone else, if we're going to be consistent in law, where someone's rights as a human being are not taken away, regardless of the circumstances. And that was the point, Sir, that you were making, and the only qualification that I understood you to make was that because there is your money involved, you want to have rights that you don't think the government should have, or the Crown.

MR. SNELGROVE: On the basis that yours is a regulatory authority.

MR. CHAIRMAN: You may proceed, Mr. Snelgrove.

MR. SNELGROVE: Well, our recommendations are, relative to this licencing matter, that the dealers - and we've mentioned this before, a year and a half ago when the dealer licencing was the only . . .

MR. USKIW: He didn't like that interruption.

MR. SNELGROVE: . . . item on the agenda. So I can say in all honesty, it's not just because the vendors have now been added, that we're repeating what we said then, that the dealers and vendors should be treated in the same way as collection agencies and door to door salesmen are treated under the Manitoba Consumer Protection Act. And generally, the Consumer Protection Act and their licencing of collection agencies and door to door salesmen provide first of all for a warning notice to the licensee, in the event that any dealer or vendor has committed or is committing a breach of any provisions of the Act. And I won't read it, but we set out the language of a suggested warning section to any licensee.

We also suggest that the board's action to suspend or cancel a licence is subject to it giving prior warning notice as stated above. Next, that the board does not have the power to suspend the licence but only to give notice of possible suspension or cancellation by personal delivery or registered mail to the licensee. Next, that after the notice, a possible suspension or cancellation is given to the licensee, the licensee shall be entitled to carry on business until the hearing and the board's decision to suspend or cancel the licence is given, and all rights of appeal have been determined.

Next, that a copy of the board's notice to the licensee shall also be given at the same time to the licensee's dealer or vendor as the case may be. Next, that the new section provide that date of the board hearing shall be fixed no later than 15 days after the board gives notice. And we think this is important, that there should be a very short period of time between the date of the notice of possible suspension and the date of the first hearing.

Next, in addition to any other defences available to the licensee, it should be deemed an offence of the licensee, with respect to the pertinent sections dealing with licencing, that if he satisfies the board that his breach of the Act or regulations was due: (1) to a bona fide error or omission or advertence on his part; (2) a bona fide misunderstanding of the requirements of the Act or regulations. Now it may be that if you sent a warning notice that this would come out at that time; (3) was one of an isolated nature and did not represent a continuing practice; or (5) the breach was of a minor character, which was not prejudicial to any interested persons.

And you see, what we're trying to do here is to narrow the authority of suspension or cancellation of licence, not to include those cases which I'm sure the government doesn't intend to move on in any event. But let's have it in the Act.

Our next recommendation is that the appropriate section be revised to provide that the board on completion of the hearing may: (1) suspend the licence for such period of time and on such terms and conditions as it deems reasonable, considering all the circumstances and the degree of severity of the licensee's breach. We're making the board's action in considering and assessing these licensees and possible suspensions more flexible; whereas in the existing act it was black and white; he's out or he's in. And that doesn't reflect the human elements these days. The board also may cancel the licence, or the board may rescind and withdraw

(MR. SNELGROVE cont'd) the notice of probable suspension or cancellation.

The next recommendation is that the bill and the Act should define, at least in a general way, those circumstances under which the licence may be suspended or cancelled, which is referred to in the regulations Section 6 (h). These circumstances again are a matter of substance and should not be left to the determination by regulation; and should be put in the Act, so that we all know what they are, and that they can't be changed by Order-in-Council.

The next recommendation is that we all recommend, or that we recommend that a new section be added to include those important situations not covered by the bill where the Board refuses to issue or refuses to renew a licence, referred to in Section 36; or where the amount of the bond is required to be greater than \$10,000 under Section 35, where the applicant or licensee considers excessive. Now here are true consumer protection items. If the board refuses to issue a licence to an applicant he should have reasons why; or if the board refuses to renew a licence of an existing licensee he should be in a position to have a hearing and determine why there was such refusal or to renew or issue a licence. •

We therefore suggest the subsection should read - "and then we set out for your information a suggested revised section dealing with the refusal and renewal situation." I think what we're really talking about here is, particularly for the dealers and the smaller vendors, that we're talking about people whose very business existence has to be treated with some respect, with respect to any regulatory licencing procedure that you set up.

The next minor suggestion is a typo in Section 32. 2; the word "day" should read "date".

The next recommendation is another major concern of our institute, and it relates to the establishment of a fund, which is new to this province. The introduction of this proposed amendment compounds the confusion and uncertainty as to the intent of the bill, because much of the substantive provisions that should be included in Section 35.4 are as yet undisclosed, and are left to the Minister's discretion in the form of regulations to be described in the future. It could also raise serious constitutional issues. Either the government is undecided what this substantive provision should be, even though Bill 43 was introduced, or it has elected to adopt the principle of not permitting the Legislature to consider these matters of substance and thereby permit ministerial discretion to be exercised by means of regulation. One conclusion therefore that the approach is that of rule by men and not the traditional rule by law pursuant to the specific provisions of the Act itself.

. . . . continued on next page

(MR. SNELGROVE cont'd). . .

Let us illustrate. Section 35.4(1) provides the establishment of a fund to be administered and used by the board for the payment of claims made to the board by such persons and in such amounts as may be provided by the regulations. First of all, what is meant by claims. And here again because we don't really know, the only thing we have to go by is what the language of Bill 43 says. The government may not have intended that these results would arise but by virtue of the language of the bill there certainly are comments certainly germane.

First of all what is meant by claims? Are the claims referred to those arising out of a breach of the Act by a farmer, dealer or vendor? But if the breach of the Act by a farmer was contemplated then the farmer should also be subject to an annual levy as are the dealers or vendors. It uses the word "persons" that includes everybody. Or do claims mean "no fault liability claims" where all a farmer or other person - here we have the "person" word again - has to prove that he has suffered a loss without providing any breach of the Act by a dealer or vendor, or that the loss arose outside of and separate from the provisions and the statutory obligations of the Act. Is it conceivable that claims is intended to mean the dealers and vendors by virtue of the imposition of annual levies on them are to pay for farmer losses over which the dealer or vendor are not at fault or for matters over which they have no control? Are claims intended to mean something more than which are presently adjudicated by the courts? This vital issue must be clarified and defined in the bill in order to determine its validity and fairness. Next, do the words "person" mean a farmer, dealer or vendor or all three? Or does it mean a Crown or municipal corporation, a member of the board or somebody else? And these are persons who may submit claims. Are vendors entitled to submit claims to the board? Are dealers entitled to submit claims?

The next item is what is meant by amounts - the amount of the claim? Is it \$100 or \$50,000 or more? This is important when it appears that the dealers or vendors may be required to contribute to the fund by the imposition of annual levies and tax money from the consolidated fund. All of the above matters are of substance and not procedure and must be defined in the bill for consideration by the Legislature and the parties affected.

Next, Section 35.4 makes no provision for a hearing of the board to determine the validity or propriety of claims or where interested parties may present evidence or defences. Again this is a matter of substance to be included in the Act and not by regulation. Next, Section 35 provides for annual levies to be paid by dealers and vendors. What is the basis or formula to be determined, to determine the amount of such levies? Is it based on the merit rating system with respect to the payment by dealers or vendors or otherwise? These are matters that also must be spelled out in the Act.

By merit rating system I mean for those dealers or vendors who have constantly had proven claims before them, are they going to pay the same levy as other dealers and vendors pay or are they going to be penalized for their defaults and breach as determined by the board on proven claims? There's no real incentive here if everybody pays the same levy or based on sales if the majority of dealers or vendors are not given the incentive to say well we're going to be charged the same levy even though we've had no proof of claims against us. In other words, there should be some, I don't know about Manitoba, should be a merit rating system as they have in some of the provincial workmen compensation Acts. This creates incentives for employers to improve their safety record. But if every dealer and vendor is charged the same rate of levy then you're requiring most of the dealers who are not involved in any default to pay for those who are.

All of the above matters are clarified by statutory definition. Until all matters are clarified by statutory definition Section 35.4 dealing with the fund should be withdrawn. And indeed this is the strong recommendation of our institute, that it would be very much preferable not only from a government standpoint but from a dealer and vendor standpoint to rely solely on the bonding provisions, subject to our recommendations, and to eliminate completely the establishment of a fund. One thing is certain, however, if Section 35.4 is enacted as written, Section 35.1 and two provide the requirement of a penal bond to be furnished by a dealer or vendor upon licensing and the forfeiture of that bond under certain conditions. The board may in its absolute discretion waive the bond requirement presumably for one or more dealers or vendors.

We also have the establishment of a claims fund under Section 35.4. Therefore Bill 43 gives the power to the board to utilize two funds as it's presently written. The proceeds of the

(MR. SNELGROVE cont'd). . . forfeited bond and a claims fund. Are the "persons" as used in the amendment or the board entitled to claim against or have recourse against both of these money pots; or will priorities be established as to the access by the persons or the board to both these funds? Also it appears that the board would have the statutory power to pay the same claim twice, once from the bond proceeds and again from the claims fund. Again, this may not be the intent of the government but this is what the language gives the government by way of power. This is indeed a tragic comedy of errors which is another forcible illustration where by statutory degree the government is unnecessarily increasing the costs of dealers and vendors by requiring the payment of bond premiums and annual levies for the claims fund and thereby is a direct influence and contribution to the current general inflationary price situation.

We recommend as to the claim fund the following, some of which I've mentioned before. It is apparent that Bill 43 should only require the penal bond provision or the claims fund provision, but not both, and the Bill should be revised accordingly.

We urge, and we strongly urge, that the bond approach be adopted as it is the most efficient way of handling these matters without unduly increasing the administrative duties of the board and increasing the costs in an unwarranted fashion to dealers and vendors.

No. 2. If the claims fund is retained, which we strongly suggest it does not be retained, Section 35.4 should be revised as follows:

To define claims to be the claims of farmers who are purchasers under the Act which arise from the allegation that the dealer or vendor has breached or failed to comply with the provisions of the Act;

(b) to provide that only such claims which arose or have incurred after Section 35.4 has been proclaimed in force are deemed to be claims under this section;

(c) to specify a reasonable maximum dollar limit of up to \$3,000 for an award allowable to a farmer if his claim of loss is proven and liability of the dealer or vendor is established;

(d) to provide a time limit of three months from the date the basis of the claim occurred within which the farmer shall submit his claim to the board;

(e) to provide that the submission of a claim to the board shall constitute a bar to the farmer to institute or proceed with court action with respect to the same subject matters covered by the claim to the board; and conversely that the commencement of court action by a farmer shall constitute a bar to proceeding with the claim under Section 35.4 with respect to the same subject matter.

(f) that Section 35.4 expressly provide that the board shall conduct a hearing following written notice to all interested parties so that all parties may be represented with respect to the determination of the claim and liability.

(g) to provide the basis and reasonable maximum limits of annual levies on dealers or vendors on a merit rating system, otherwise the majority of dealers and vendors will subsidize the defaults of a few.

(h) that any data furnished to the board by the dealers or vendors which may be used to establish the annual levy and the amount of levy shall be confidential information and treated as such. That any interested party, the farmer, dealer or vendor may appeal from a decision of the board with respect to the claims to a judge of the County Court. And this would be an appeal similar to what the government currently has in Bill 43 relative to an appeal from their licensing decision. Also that a dealer or vendor may appeal from the board's decision of the imposition of an excessive annual levy. We put this in because we don't know what the formula is going to be.

All of the above matters are of substance and should be expressed in the Act and not in regulations.

Now again, I think this is the third time, perhaps the second time, that when there are any adversary proceedings before any board there should be some rules of natural justice spelled out. And I think we again get, but on a different side of the fence, to what the Minister is endeavouring to achieve by this bill relative to consumer. And by consumer I'm using that in its broadest term of persons who do business in this province, including members of our institute and many others. Although we recognize that Sections 35 (1) and (7) grants the right to counsel for licensed hearings, we urge the same rights should be given to claims hearings if in fact the claims and fund section is included in the bill as passed.

In addition, we strongly urge that for the benefit of all concerned the amendments should include a new section which expresses additional rules of natural justice that must prevail with

(MR. SNELGROVE cont'd). . . respect to all hearings conducted by the board where the board is required under the Act to adjudicate the adverse interest of parties. And whether or not the fund sections pass, this would certainly apply to hearings of the board with respect to licensing.

Of paramount importance are those hearings relative to licencing and claims or the fund provisions under Section 35.4. These rules of natural justice should be as follows, and I'll just paraphrase them. All interested parties should have reasonable notice of the hearings. The board shall provide all interested parties information and evidence against them produced by the claimant to permit the parties to respond and reply to these allegations by the claimant. The interested party - any interested party shall be granted a reasonable request for adjournment to properly prepare his response or allegations. All oral testimony shall be given under oath and the oath may be administered by a member of the board. All interested parties shall have the right to call and examine witnesses and to cross-examine witnesses who adduce evidence against his interest. The decision of the board shall be impartial and based only on the evidence presented during the hearings on the subject claim or complaint. The decision of the board shall only be made by the majority of directors who were present at all hearings with regard to the complaint or claim.

Now some of these rules are pretty basic and one would suspect that this would be adhered to in any event. But if you read a lot of cases involving administrative law and the conduct of tribunals - and I'm not referring to this current board - you'd be surprised what goes on.

The next rule is, the members of the board shall make decisions free from bias and any conflict of interest. The board shall provide - and this is an important one - written reasons for its decisions and furnish copies of same to all interested parties by personal delivery or registered post. Any breach of the rules I've mentioned will render the hearings and decisions of the board void.

I would think that Manitoba is no different from any other province because of the increased use of administrative tribunals and boards in many areas and many functions, and if you're really going to give any effect to the Ombudsman Act that you really should have, whether it's in this act or on a general statutory powers procedure act, these rules that some of the other provinces have adopted to ensure that the abuses of tribunals are regulated just like the Minister is endeavouring to regulate dealers and vendors.

I've been told that the additional suggestions which we've made twice before, I'm not able to mention them, but if you look at the last two pages gentlemen they're set out for your information. If you have any further questions...

MR. CHAIRMAN: Yes, I have a question from Mr. Uskiw for your ...

MR. USKIW: Yes, again, Sir, in your last page here we get into another situation where it appears that ...

MR. JORGENSON: Mr. Chairman, before we get into a discussion, it is now 12:30 and our rules provide that we sit the same hours that the House sits, and there's no way that we're going to complete these hearings in any case. And some of us have other commitments. It's 12:30 and I wonder now if we shouldn't adjourn and ... I took the liberty of speaking to the House Leader earlier because I anticipated we would not complete our hearings this morning. He has suggested that the committee could reconvene Thursday night at 8:00 o'clock.

MR. CHAIRMAN: I am open to suggestions from the committee. It has been suggested that the committee rise and reconvene after the question period if it was agreeable to the committee. However, I'm just wondering if the committee would want to complete hearing Mr. Snelgrove's brief, and I still have three more briefs to receive, that of Mr. Clark, Mr. Matthews and Mr. Martel, which if we could perhaps complete this presentation it might expedite the business of the committee. Mr. McGregor.

Mr. MCGREGOR: Yes, Mr. Chairman, I would suggest that we do reconvene this committee today because there are people out of the province that are here and it would seem like a lot of added expense to bring them back Thursday night or - surely we can arrange some time today to accommodate them. Seem to be only reasonable and fair.

MR. SNELGROVE: I might add, Mr. Chairman, if this would assist the committee, that we're available all afternoon and this evening if that's the wishes of the committee.

MR. JORGENSON: Well there is another committee meeting. The House meets this afternoon and the Law Amendments Committee meets tonight and ...

MR. CHAIRMAN: I believe it's tomorrow. What is the wish of the Committee- do you

(MR. CHAIRMAN cont'd). . . wish to continue proceedings to finalize this brief or . . .

MR. USKIW: Well, Mr. Chairman, it would seem reasonable since we have people here from distant points that we try to give them an opportunity to complete their presentations and . . . am I correct, is it only Mr. Snelgrove that is out of the province?

MR. SNELGROVE: No there are other gentlemen with the CFII...

MR. USKIW: Who wish to address the committee?

MR. SNELGROVE: No unless there are questions that the committee have to ask them..

MR. USKIW: Because from my own point of view if you are the only individual that we are dealing with out-of-province then I would suggest that the committee agree to complete your submission and we can call intra-province people on another date. Now I'm not hard and fast on that suggestion. If members opposite feel they have to leave...

MR. CHAIRMAN: Mr. Graham, on that....

MR. GRAHAM: Mr. Chairman, I believe that there is nothing in our statutes that prohibits a committee meeting while the House is in session. It's conceivable we could carry on this meeting at 2:30.

MR. USKIW: Or subsequent to the question period.

MR. CHAIRMAN: Is that agreeable then? Very well then we shall hear the completion of Mr. Snelgrove's brief now, is that the wish....

MR. USKIW: No, at 3:00 o'clock.

MR. CHAIRMAN: Very well then. Committee rise and we will reconvene after the question period.

MR. SNELGROVE: At 3:00 o'clock, Mr. Chairman, or thereafter?

MR. CHAIRMAN: It would be about 2:30.

MR. USKIW: Say 3:00 o'clock..

MR. CHAIRMAN: Perhaps 3:00 o'clock.

--0000000000--

RECONVENED 3:35 p. m.

MR. CHAIRMAN: Gentlemen, we will call our Committee to order. Before we broke for the noon hour Mr. Snelgrove was completing his presentation. I'll call Mr. Snelgrove to - I am not sure whether you had completed, Mr. Snelgrove or not but I believe Mr. Uskiw was asking you or beginning to ask you a question. Have you finished your presentation or . . .

MR. SNELGROVE: Yes, there's just one brief little summarization I'd like to make, Mr. Chairman, if I may, and that is that we want to emphasize three points that we attempted to emphasize this morning.

Number one is, the licensing procedure we feel should be vastly improved to in effect apply the consumerism concept to dealers and vendors as we've outlined in our brief. This is essential in order to maintain and retain a viable industry in this province.

Number two. We earnestly solicit and recommend to the committee that the compensation fund be eliminated from the Bill and that the Act concentrate its efforts solely on the bonding provisions which we understand is working fairly well now after the initial bugs have been worked out of it. We feel to have an either/or a duplication of bonding and claims fund is going to create a horrendous situation in the Province of Manitoba with respect to farmers, dealers, and vendors.

And thirdly, we'd like to emphasize that we believe in the interests of all concerned, including farmers, that we should revert back to a one year statutory warranty.

That summarizes our

MR. CHAIRMAN: Thank you very much. Mr. Uskiw wants to ask you a question, Mr. Snelgrove.

MR. USKIW: Yes, I simply want to acknowledge the last point that was just made. We, too, agree that the wording of some of the new provisions as such that I suppose could be described as ambiguous. But I want to assure Mr. Snelgrove that the intent here was not to require both the fund and the bond with respect to any individual dealer, but that it would be either/or; so that if one was not bonded one would subscribe to the fund or vice versa. So I want to make that clear, but we will be bringing forth amendments to clarify that aspect further.

MR. SNELGROVE: If I understand you correctly, Mr. Minister, would the intent be

(MR. SNELGROVE cont'd)...either/or the concept of bonding or the concept of the claims fund? In other words, you wouldn't have some dealers or vendors on a bonding approach and other dealers or vendors contributing on a claims levy fund approach?

MR. USKIW: It would be optional, Sir, to the dealer.

MR. SNELGROVE: Optional to the dealer?

MR. USKIW: He can choose to be bonded or he can choose to purchase or belong to the fund - participate in the fund. It would be optional to the dealer. That is the intent. Now there would be a license or levy if he opts to participate in the fund and that would have to be a self-sustaining fund; but he has his choice to be bonded or if not to participate in the fund.

MR. SNELGROVE: And that option would be available to dealers?

MR. USKIW: That's right, that's the intent. Or maybe it's not clear enough but we intend to refine it somewhat more. Now on page 32 - I was trying to finalize my comments when we adjourned. On page 32, Sir, on item 9 you again suggest that the board should provide written reasons for its decisions with respect to any of these claims. And again I want to draw to your attention the contradictory approach that you seem to be taking here, in that if that were the case should not it be the requirement of law or this Act that companies also should give reasons on close-outs of dealerships and that there be some independent adjudication as to whether they're warranted or unwarranted?

MR. SNELGROVE: Well I think again we're comparing commercial relationships with government regulations.

MR. USKIW: We're talking consumer protection and in this case the consumer is the dealer rather than the farmer.

MR. SNELGROVE: I think that many dealers will acknowledge that before there is a close-out of a dealer instituted by a vendor that there has been considerable dialogue between the vendor and that dealer long before the termination is put into effect. The attempt to upgrade a dealer sometimes takes a period of two or three years after it's first believed by the vendor that, well, maybe he's not doing what he should to sell the product and service the product. So it comes really as no surprise to the dealer after this continuing relationship relative to termination; in many cases the termination is mutual. The situation where you get abrupt termination - and I think I speak for my colleagues and the experience in their companies-- is where there is a, what we term a breach of trust, and the dealer obviously knows why he's terminated.

MR. USKIW: Do you not feel, though, that it would be in the public interest in terms of providing a continuity of service within a region, that that particular dispute could come before another authority or, in the absence of that arrangement, should there be some responsibility on the company to satisfy an authority, be it the board or whoever, that they will continue to provide a service within that region? Right at the moment we don't have any capacity to ensure that we will have a dealership representing Massey-Ferguson, if you like, in a given region.

MR. SNELGROVE: Well, there, with respect, Mr. Minister, you're endeavouring to substitute a governmental decision for a commercial decision, and maybe this is your intent. If you are going to require a dealer or a vendor to maintain a place of business in a particular trade area, which the vendor and the dealer both know is unprofitable - and let's face it, that's the name of the game for a retailer and a vendor; that's the lifeblood, profit, even though it may be a dirty word in some circles - that every time you're substituting a commercial decision by government regulation you are usually contributing to inefficiencies, and inefficiencies have to be subsidized somehow. And it's usually the taxpayer that pays the shot.

MR. USKIW: In the context, Sir, of your other comments, and that is with respect to mileage, wherein you had recommended earlier in your brief that the provision be cut to 25 miles from 50, "distance of 50 miles should read distance of 25", in that context, then, you know, how can we even consider reducing the distance required in terms of service provided if in fact we know that we are not going to come near servicing huge areas? I mean, the two almost are contradictory. If we don't agree on a system that should provide some security to the region as to the service that's going to be provided, then certainly we have to disregard the other position that you don't want to be responsible for anything over 25 miles.

MR. SNELGROVE: Well our first position of course, as stated in the brief, was that all provisions in the Act relative to travel and transportation should be eliminated and, failing that, the mileage should be reduced, but our first contention is travel and transportation should be eliminated. We're not inconsistent.

MR. USKIW: Okay. My last point, Sir, then has to do with the warranty itself which you again have suggested should go back down to a one-year statutory provision, and I put to you the possibility of having no statutory provisions, whether that would be acceptable to the companies.

MR. SNELGROVE: No statutory provisions?

MR. USKIW: Yes.

MR. SNELGROVE: Whatsoever?

MR. USKIW: None at all.

MR. SNELGROVE: Well, I guess the initial answer is yes but I think that you should have a one-year statutory provision for all farm machinery.

MR. USKIW: My point is, Sir, I'm wondering whether the common law would do a better job than a statutory provision and whether we should find a way of applying the common law as opposed to building in a requirement in any Act or legislation.

MR. SNELGROVE: Well that could very well be. I think you would find that most companies, if not all companies, and dealers would be providing a commercial written warranty on the sale of their goods in any event, as we do in other jurisdictions in North America, regardless of the existence of any statutory enactment.

MR. USKIW: My assumption is of course based on the theory that common law would probably go beyond the provisions of your own warranty, but the vehicle that is lacking is the ability of the individual to go to the Supreme Court, and if we were able to plug that one gap in some other form, whether that might not be the alternative that we should be looking at, and completely deleting, completely deleting all reference to statutory warranty provision.

MR. SNELGROVE: Well I think, Sir, you would be adopting the position of many jurisdictions in North America for farm machinery, except for Saskatchewan and Alberta and yourself. That's what other jurisdictions do.

MR. USKIW: They have no provision whatever.

MR. SNELGROVE: They have no provision whatsoever.

MR. USKIW: No, but they also . . .

MR. SNELGROVE: . . . statutory provision in the warranty.

MR. USKIW: Yes, but there is also no provision for assisting people to get to the courts, is there?

MR. SNELGROVE: Oh yes. Sure there is.

MR. USKIW: There is in that . . . I see. You would not object to that idea, then.

MR. SNELGROVE: None whatsoever.

MR. USKIW: Okay.

MR. CHAIRMAN: Any further questions, Mr. Uskiw? Mr. McGregor, I have you down here. Did you wish to speak? Are there any further questions? Mr. Jorgenson, did you have a question?

MR. JORGENSEN: Well, Mr. Snelgrove, I take it that you see an essential difference between your relationship with a dealer insofar as termination of contracts are concerned, as opposed to the kind of a relationship that a government would have with that same dealer.

MR. SNELGROVE: Yes I do, Sir.

MR. JORGENSEN: Your dealerships or your contracts are entered into on a mutual basis, are they not, with dealers?

MR. SNELGROVE: That's right. Contractual basis.

MR. JORGENSEN: The dealer knows precisely what the terms of that contract are. He endeavours to live up to the terms of those contracts, and I presume the vendor in return has some obligations on his part in that same contract.

MR. SNELGROVE: That's right. If he wants to distribute and sell his products in that trade area, yes.

MR. JORGENSEN: Is there any course of action that a dealer could take if he finds out that the vendor is not living up to the terms of the contract?

MR. SNELGROVE: Yes, if there's a breach of contract on the part of the vendor, then the dealer has the right to sue for breach of contract. It has happened.

MR. JORGENSEN: He has recourse through the Courts.

MR. SNELGROVE: Yes, absolutely.

MR. JORGENSEN: Do you know of any instances where the dealer has won?

MR. SNELGROVE: Yes. Yes, I have.

MR. JORGENSEN: In terminating a contract, you mentioned that in most cases there are negotiations between the vendor and the dealer as to the reasons why there is a possibility that a contract may be terminated.

MR. SNELGROVE: That's right. I think that is more common than it is the exception. And I must say, and I think I speak for my colleagues here, that on any termination of a dealer contract in Canada, I know from my own standpoint and I'm sure I speak for my colleagues, that I from my capacity as general counsel, review the file on that dealer termination to see if it's justified and to see if the justification is sufficient in the event of court action - and that's how important we attach terminations - before the termination is put into effect, and this is becoming more and more a practice of vendors and manufacturers in any franchise system.

MR. JORGENSEN: I understand, and I don't have any precise figures, but I understand that there has been a considerable reduction in the number of dealerships throughout Canada.

MR. SNELGROVE: This is true.

MR. JORGENSEN: I take Manitoba as an example. I think that's been reduced to something like 180 now, or perhaps even less. Perhaps you'd get more precise information from Implement Dealers Association.

MR. SNELGROVE: This is right.

MR. JORGENSEN: Would you hazard an estimate of the reasons why there are reductions in dealerships?

MR. SNELGROVE: Yes, I think so, and perhaps my colleagues would want to expand on it if they may. Since the war, when we changed from a consignment or commission agent and went to the franchise system in a very preliminary way, the number of dealers throughout Canada has decreased and it's becoming even more so now because of the gradual shift of people in the rural areas to the urban areas, and we find it increasingly more difficult to locate applicants for franchise in the rural areas that have sufficient financial capacity to carry on a dealership, sufficient knowledge of the area he's going to serve, sufficient knowledge of the product, and his service and business acumen, and that creates a problem for the industry. It also creates a problem for the longstanding viable dealers because more and more they're required to serve a greater trade area and this extends them. We don't like to see it but there has been a gradual attrition of dealers over the last 20 years, and that's one of the reasons that I think is really at the heart of it.

MR. JORGENSEN: Would there not be a further reason, that the sophisticated type of machinery that you now put out, particularly tractors and combines, and the very sophisticated machinery or equipment that is required to service those machines, are making it difficult for dealers to get the kind of help, service people, that can handle those machines and service them adequately?

MR. SNELGROVE: This could be a contributing factor. I might say, however, that my company and companies that are represented by the delegation can point to many of their dealers, in this province and elsewhere in Canada, that have been dealers for 20, 30, 40, 45 years, either through their father or sons who have succeeded them in the dealership. The dealer over the years has to grow just like the companies have to grow and just like the farmers have to grow. But what you're saying is true. It does certainly have a bearing on it.

MR. JORGENSEN: But do you see a further attrition?

MR. SNELGROVE: Well, so long as the rural population continues to migrate to the metropolitan areas, it's going to make it awfully tough for the surrounding dealers to do their job and for vendors to locate and find viable dealers that are going to survive. We know that in a number of cases in all companies, that employees of the company decide to take a franchise and therefore it's a question of some of the urban people moving back to the rural communities, and if this trend continues, this is good, although we'd like to see primarily people who have been brought up in the community take over a farm machinery dealership.

MR. JORGENSEN: So I conclude, Mr. Snelgrove, that the lack of servicing in certain areas because of the phasing out or the moving out of a dealer, is not necessarily caused by the vendors closing these people up because of a breach of contract, more so because of the natural circumstances of reduction in the farm population.

MR. SNELGROVE: I would think so. I think it's fair to say that the number of dealers that are terminated by vendors, for the dealer's own good should have been terminated two years before, or one year before, but because of the position of wanting to serve the farmers in that area and the position of not being able to find another replacement dealer, the particular company

(MR. SNELGROVE cont'd). . .has gone along with that dealer until it was at its rope's end and it couldn't carry on any longer. It's too tough to find a new dealer these days.

MR. JORGENSEN: Yes. Do you, in phasing out such a dealer, do you look around for an alternative dealer who could service those machines that are in that particular area, someone near by, to take over the servicing of those machines, or is that a concern to you?

MR. SNELGROVE: Well, if it's a viable open point for a new dealer in the same town. We're looking for a new dealer to replace the terminated dealer.

MR. JORGENSEN: How far would you say would be the point of no return? That is, how wide an area could one dealer service?

MR. SNELGROVE: If we can't find a new dealer, then we discuss it with the surrounding dealers of the same vendor to try and pick up the slack. And as I say, sometimes this isn't always possible because then that surrounding dealer, or dealers, may be extending themselves from a service standpoint because of the distance.

MR. CHAIRMAN: Mr. Uskiw, do you have further questions?

MR. USKIW: Just on that same point, Mr. Chairman. It's recognized that we have had a problem with respect to maintaining a number of dealerships throughout Manitoba because of the factors mentioned by Mr. Snelgrove. I'm wondering whether Mr. Snelgrove is in a position to comment on the probability, possibility, or whether it is even happening today, the idea of multiple dealerships, where one dealer handles all lines in a given community so that people don't have to travel hundreds of miles in order to deal with the dealer of their choice, but who can go into a shopping centre that has Massey-Ferguson, John Deere and Versatile, and I'd better mention New Holland, and a few others . . .

MR. SNELGROVE: I think you'd better. (Laughter)

MR. USKIW: You know, should there be a shopping centre approach to servicing the farm community rather than further thinning out the dealership system without replacing the service?

MR. SNELGROVE: Well, this comment of course is not new. It's been mentioned in the Maritimes, in Ontario, and elsewhere I guess, through various federations of agriculture. Dr. Barber and his Royal Commission studied that situation and came to the conclusion that this particular concept would tend to create a monopoly in one product line to the exclusion of the options available to the farmer, and this would depend on the financial backing and the terms and discounts that is given to the central retail store, if you will, by one particular manufacturer, who will obviously push that product to the exclusion of the other, and if there was legislation to say that the other vendors could not open their own retail stores, then they're just locked in. So the option to the farmers would be severely restricted.

MR. USKIW: My comment is in the context of an independent distributorship rather than one that is tied directly to any company; that would handle all lines.

MR. SNELGROVE: You mean a Crown agency sort of . . .

MR. USKIW: Oh, I mean it could be anybody. It can be Mr. Smith down the street, but who would be licensed as a multiple dealer.

MR. SNELGROVE: Well, of course, in the industry now we have dual dealerships who sell competitive products. Mind you, most of them sell complementary products, but there are a number of instances where a dealer will handle two combine lines or two tractor lines. Most of them will handle competitive implement lines. So in effect we have that now.

MR. USKIW: If you had a dealership that was completely independent, one in every major community, would it not challenge the argument that there would be less competitiveness, but rather would it not create more competition as between the supplier and the distributor -- or, yes, between the suppliers vis-a-vis the independent distributor?

MR. SNELGROVE: No, I think you'd restrict and impair competition severely on that basis. The name of the game, really, is more competition in our industry.

MR. USKIW: I appreciate that, but it seems to me that if you are always vying for the same market and your wares were displayed in the same store, that that's where the competition should reveal itself.

MR. SNELGROVE: Not necessarily, because I think -- and I think Barber points this out -- that most of the farmers, certainly in Western Canada where he undertook his study -- most of the farmers made their purchase decisions on the basis of what their neighbours bought and how they liked the machine.

MR. USKIW: But, say, if I can interject, isn't that true though only because the

(MR. USKIW cont'd). . . neighbours were limited to one or two outlets rather than six or seven outlets or a dozen outlets?

MR. SNELGROVE: Oh, I don't know. . .

MR. USKIW: I mean, if you look at . . .

MR. SNELGROVE: I think farmers, when they want to be, can be vast shoppers. They'll go to many towns if they want to really shop around.

MR. USKIW: Well, anyway, that's fine.

MR. CHAIRMAN: Thank you, Mr. Uskiw. If there are no further questions then, Mr. Snelgrove -- thank you very much, Mr. Snelgrove, for your presentation.

MR. SNELGROVE: Thank you very much, Mr. Chairman. I appreciate the opportunity for our colleagues and myself to appear before your Committee and the Minister.

MR. CHAIRMAN: Thank you very much. The next person I have on the list is Mr. Clark, the Manitoba Wholesale Association man.

MR. CLARK: Thank you. I have copies of my presentation if you wish them distributed.

MR. CHAIRMAN: Yes, please. The Clerk will distribute them to the members.

MR. CLARK: Chairman Adam, Mr. Minister and gentlemen . . .

MR. CHAIRMAN: Would you please tell your name so that we can transcribe it.

MR. CLARK: My name is Oliver Clark. I'm with New Holland. Accompanying me is Mr. McDonald of Killbery; Mr. Penner of International Harvester; Mr. Hildebrand of Allis-Chalmers; Mr. Parker of Massey-Ferguson.

A MEMBER: Representing -- who are they representing.

MR. CLARK: Manitoba Wholesale . . .

MR. CHAIRMAN: You're representing The Manitoba Wholesale Association.

MR. CLARK: Manitoba Wholesale Implement Association, and this organization represents the majority of wholesalers and distributors in the Farm Machinery Industry in Manitoba. We appreciate the opportunity of appearing before you to present this brief regarding Bill 43 that amends the Farm Machinery and Equipment Act.

We believe we are an important part of the complex agricultural industry of Manitoba. We supply approximately \$50 million worth of farm machinery annually to Manitoba farmers. Approximately 500 implement dealers look to us for their needs and we employ several hundred people in our distribution organizations.

We have appeared before this committee several times in the past expressing concern over the Farm Machinery and Equipment Act. We have managed to adhere quite closely to the requirements of this act, however the amendments proposed in Bill 43 cause us additional concern.

We believe that it is most desirable to have uniform pricing structure for our products throughout Western Canada. We understand that our Government concurs with this belief, too. Section 13 of the Farm Machinery and Equipment Act concerning warranty is a major contributor to this lack of uniformity and pricing structure. The amendments to section 13 contained in Bill 43 help but they still leave us a long ways from uniformity. In all fairness to our farmer-customers in neighbouring provinces where we also do business we cannot offer a premium type of warranty in one province without asking farmers of that province to pay for the luxury. We would be loath to ask others to subsidize Manitoba farmers and if Manitoba farmers are unwilling to pay a premium for the extended warranty that is legislated by the Farm Machinery and Equipment Act then section 13 should be amended to give the same one year statutory warranty on all machines as is legislated by our neighbours.

The cost of handling Manitoba pricing and warranty as an exception is enormous. Experience has shown that the vast majority of machinery buyers endeavour to minimize their machinery investment by waiving the travel and transportation portions of the warranty sections through the provisions of section 17(2). Some even declare themselves to be custom operators and, through the use of section 13(2), exclude themselves from the entire warranty provisions of the Act. Thus they are content to rely on the commercial warranty offered by all manufacturers. We earnestly request that the warranty provisions of the Farm Machinery and Equipment Act be amended to provide a one year statutory warranty covering material and workmanship defects on all machines.

We are also extremely concerned over the implications of section 35.4 concerning the establishment of a fund. Under the amendments of Bill 43 provision is made for both the

(MR. CLARK cont'd). . . establishment of a fund and bonding of both dealers and vendors. The original intent of the bonding sections of the Farm Machinery and Equipment Act was to protect our farmers from harm should a dealer be unable to meet his commitments as outlined under the Farm Machinery and Equipment Act. These commitments included the refunding of deposits that may have been made in the event that a machine is undeliverable and meeting obligations for failure to deliver machines or parts within specified time limits. The bond was a last resort method whereby a farmer could obtain justice short of suing through the courts. The fund outlined in section 35.4 of Bill 43 permits a far broader payment of claims and includes vendors as contributors and these contributions are in unspecified amounts.

We believe that the whole intent of these sections of the Farm Machinery and Equipment Act has been changed from one of ensuring that a farmer does not suffer hardship through action of others to one of reimbursement for losses regardless of cause. After great expense and inconvenience our Dealer Organization has been able to comply with the bonding requirements of the Farm Machinery and Equipment Act. We suggest that we continue with this requirement and abandon the concept of a fund.

The purposes of the bond were specific. The cost was borne by the individual who would benefit by it. Administration was minimal for the Farm Machinery Board. Perhaps the \$10,000 minimum bond was a hardship for some of the smaller but nevertheless important dealers. Reduction of this minimum could solve this problem. We take exception to the amendment that permits the Farm Machinery Board to waive the requirements of a bond for any dealer or any group of dealers. We believe that bonding, in varying amounts perhaps, should be a universal requirement for licensing.

We therefore recommend that section 35.4 be deleted from Bill 43 and that our farmers rely on the bonding provisions of the Farm Machinery and Equipment Act to ensure justice in this area. We recommend too that section 35.1(3) be amended to eliminate the Board's ability to waive the bonding requirement.

We are concerned over the lack of a section in this legislation regarding confidentiality. We recognize that this is a subject beyond the confines of Bill 43. It appears, however, that more and more information is being requested about the inner workings of our dealers and their vendors. We believe that these people should be assured that this information will not be made public and will be used only to conduct Farm Machinery Board business. We request that the minister instruct the board that information provided to it is to be used only for the purpose that it was intended and will retain its confidential status.

We thank you for your consideration and your attention.

MR. CHAIRMAN: Thank you very much, Mr. Clark. Mr. Uskiw would like to ask you questions.

MR. USKIW: Yes. Mr. Clark, your indication that you represent a number of companies, and as their spokesman, or spokesman of their association should, I suppose, not preclude me from zeroing in on any one of those companies as to their operations, and I should like to in that context ask you with respect to how New Holland has operated its contracts and warranty provisions. For some time is it -- am I correct in suggesting that they've had a life-time warranty provision always?

MR. CLARK: We have no specified time limit.

MR. USKIW: So that if there is a problem brought before you, it really is of no consequence as to the age of the machine but rather you're dealing with the question of whether it was a manufacturing defect?

MR. CLARK: Right.

MR. USKIW: And since that has always been the case, what has been the company's position since the new Act was introduced, or at least the amendments brought in, which provided for statutory limits?

MR. CLARK: The company has suffered by the emphasis of combine warranty and by the emphasis on warranty, particularly combine warranty. We do not advertise the fact that we do not have a time limit on our warranty. We do not put a marketing campaign on saying 'We do not limit warranty'. Consequently it's not the best-known factor of our warranty. We put a

MR. USKIW: It's not a sales gimmick that your salesmen use?

MR. CLARK: No, no. No, it's not. We find that the emphasis now on three year warranty for a combine has led us to receive more combine warranty on older machines and

(MR. CLARK cont'd) . . .greater demands.

MR. USKIW: So you're saying that because of the publicity of the legislation, that people have now become more aware of warranty provisions and therefore, notwithstanding the fact that they always were entitled to them vis-a-vis New Holland, that they are now participating more than they did before, the recoveries through your warranty provisions.

MR. CLARK: They are making greater demands.

MR. USKIW: In that context, then, has the company applied any additional charges because of the Act or has it maintained its pricing levels in accordance with past practice?

MR. CLARK: It has increased prices in Manitoba.

MR. USKIW: How does it then justify that action if it was sincere in offering that service in the first place?

MR. CLARK: Well, because we write in now travel and transportation as a consideration for warranty.

MR. USKIW: No, but if those are waived, which is an option . . .

MR. CLARK: Then there is no price increase.

MR. USKIW: There is no price increase at all.

MR. CLARK: This is right.

MR. USKIW: So you don't see the Act as it presently stands then as a hardship in terms of your approach to servicing complaints. It is not a deviation from your past policy.

MR. CLARK: Other than travel and transportation.

MR. USKIW: Which is optional.

MR. CLARK: Which may be option, yes.

MR. USKIW: Okay.

MR. USKIW: Only on the warranty aspect is it a disadvantage.

MR. CHAIRMAN: Mr. Burtniak, do you have a question?

MR. BURTONIAK: No, I had the same question Mr. Uskiw solved.

MR. CHAIRMAN: Fine. Anyone else wish to ask Mr. Clark a question?

If there are none, thanks very much, Mr. Clark. Is there anyone else in your group that wish to if there is no one else in your group that wish to make. I will call on Mr. Matthews. Mr. Matthews?

MR. WILSON MATTHEWS: My name is Wilson Matthews - I am representing the Prairie Implement Manufacturers Association.

I am here somewhat in default today, I think, because Mr. Ross who, is the Manitoba Representative on the Legislative Committee of the Association, was called away shortly because of a death in the family. So unfortunately I am somewhat unprepared.

I think perhaps for clarification for some members in the group here that may not know who the Prairie Implement Manufacturers Association are, they are largely an organization of family-owned manufacturing concerns in the three prairie provinces. The membership in Manitoba is not large but we hope to rectify that in the near future.

I really only have about one question to ask. It probably has a couple of prongs to it but there's just one question, and that deals with the limitation in respect to the requirements of the Act where it states that the value of a machine shall be \$750.00 to qualify under the Act. Now that creates a problem, as I understand it, for some of the short line manufacturers in this respect, that an attachment - it could be a straw chopper, it could be a pick-up, or it could be some other attachment - that if sold separately would not require to meet warranty conditions, but if sold with the machine, would in fact on a combine be required to meet a three-year warranty period. On the other hand, a vendor may sell a combine that is Brand X and a pick-up that is Brand Y. These two parts of this piece of equipment that he requires to operate his business under the Act would be termed as an operating unit. One or the other may fail and the purchaser may have the right under the Act to reject the equipment, which seems to be rather a difficult situation that we've got ourselves into. Here's a dealer selling equipment from two people, from two suppliers, one of whose equipment didn't perform satisfactorily and the other of whose equipment did, but the dealer is in fact saddled with the return of the complete set of equipment. I think this area of the Act needs some clarification and I thought I would draw this to your attention as being the only other thing that we had to offer. Mr. Minister, I believe you are in receipt of a letter from Mr. Ross indicating that, generally speaking, the Prairie Implement Manufacturers were in accordance with the recommendations put forward by Canadian Farm and Industrial Equipment Institute.

(MR. MATTHEWS cont'd). . . Thank you, gentlemen.

MR. CHAIRMAN: Are there any questions? Mr. Uskiw?

MR. USKIW: Yes, I have a couple of questions. What was your company's policy - again I want to separate you from your own involvement, the presentation from your own company.

MR. MATTHEWS: I'm only here on the authority of the Prairie Implement Manufacturers Association today.

MR. USKIW: You're not able to talk on behalf of your own company then.

MR. MATTHEWS: Oh I could but I didn't address myself here in that context and...

MR. USKIW: You don't have to answer if you don't wish to.

MR. CHAIRMAN: You don't have to answer any questions, Sir.

MR. MATTHEWS: Well I guess I can better judge when the question is asked.

MR. USKIW: That's right. Your company's warranty policy - what was it before and how has the Act changed the policy for you? Has it had serious implications?

MR. MATTHEWS: We, in November of 1968, put forward a two-year warranty on all equipment regardless of whether it was pulled, drawn or self-propelled. With the enactment of the Manitoba Implement Act, we had to put ourselves in the position of following a three-year warranty on tractors and combines, of course, but we also followed the Manitoba Act on the warranty on other equipment because we didn't feel that we were in a position to give the best of both worlds to everybody.

MR. USKIW: As a result of the Act has your company decided to surcharge on its equipment sales in Manitoba?

MR. MATTHEWS: Well as you know, Mr. Uskiw, I represent Canadian Co-op Implements whose members are spread all over Western Canada, and we don't feel we have any justification to charge one more than the other, so that if there are additional costs as a result of the Act it must be borne by all members.

MR. USKIW: So your company doesn't feel that there is enough increase in cost in Manitoba to warrant a difference in price then, between here and the other provinces.

MR. MATTHEWS: Well, taking the stand that we do with respect to members, we haven't even gone to the trouble of taking a costing on that.

MR. USKIW: Would it be fair to say, then, that because of the extended warranty provisions you did have originally, that you arrived at somewhat of a saw-off as between the three-year warranted machines and the one-year warranted machines?

MR. MATTHEWS: We felt, in order to protect our financial position, that we couldn't continue to offer the two-year warranty as well as three-year warranty on...

MR. USKIW: Would it be fair to say it's balanced off, in other words, in that context?

MR. MATTHEWS: I can't tell you that it does or doesn't. We don't have any figures to prove it.

MR. USKIW: That's fine.

MR. CHAIRMAN: Are there any further questions? If there are none, then thank you very much, Mr. Matthews.

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MR. CHAIRMAN: I have one more presentation to receive. Mr. Martel from Altona. Mr. Martel, you're what? An executive on the Dealer Association . . . ?

MR. MARTEL: That is right, and I'm presenting this brief on behalf of the Saskatchewan and Manitoba Implement Dealers Association. And as chairman of the legislative committee for Manitoba, to start off with I'm sorry I cannot give you copies of the brief. I think they're held up in the mail. We were caught kind of unawares on this committee meeting.

I would like to first make it quite clear that we are concerned about cost to the farmer. It doesn't make too much difference how much we pay, the costs all are passed on to the customer, and this is of prime importance to us. We like to keep satisfied customers. We like the repeat business - this is our bread and butter. In Section 1 (c) this figure we think should remain at \$200 and should not be increased to \$750.00. By increasing the figure, that would allow chain stores such as McLeods, etc. to sell a multitude of farm machinery with no responsibility. Distinct chain stores would not have to have a licence or a bond and would not have to contribute to the fund and would not provide a repair service. The principal idea of the Act is to eliminate poor or inadequate service to the farming industry, and allowing chain stores to operate at such a level is quite detrimental to that idea. The figure should remain at 200 to comply with the basic features of the Act.

One further comment on chain stores is that each store should have a licence and a bond, and not just the parent corporation. In Section 5, and this was brought out previously, the word "exact" should not be used as it indicates all copies must be originally signed. Just additional paper work. "Duplicate of the signed copy" should be sufficient.

In Section 13 (1), we believe pull-type combines should be exempted from this warranty. Combines, pull-type combines today no longer have a motor on, they are a strictly pull-type machine, and we believe that the farmer is just being penalized under the existing conditions by having to pay this extra warranty. He gets very little out of it.

In 8 (7), we are allowed any extra costs in excess of the current list price charged to a purchaser for obtaining repair parts. But this must be shown separately on the invoice and itemized. This detail is a lot of paper work. It's just about impossible to do this. And we claim, especially the companies that have moved out of Manitoba with their branch houses where a minimum charge on freight, for instance Calgary to your home dealership, would run over \$9.00 for a small item, the item might be \$3.00 and you're charged \$9.00 for it, and we feel it would be unfair to charge this entire amount to the customer. We have made cost studies on this in our own particular business and we find that on our total parts sales over a month period, our additional costs in freight, phone charges, etc. come to roughly around 5 percent. We believe that we should be able to charge this across-the-board. The same as warranty is a built-in cost, this is a built-in cost then as well.

In Section 13 (1) (a), we believe there should be an option inserted in this section. The farmer should have a choice of either having the warranty coverage provided by the Act or the standard company warranty. This option should be open to the farmer as he is paying one warranty already on his machine. It is well-known that warranty under the Act costs the farmer a lot of money. The standard company warranty already incorporated in the price would save the farmer a great deal of money if we didn't have to pay that extra warranty which most companies are charging us. It has been observed by the dealers that over the past year a very large percentage of the farmers would have chosen the standard warranty if they could have.

In Section 13 (1.1), our interpretation of this Section is that these items, tires, batteries, bolts, etc. are to be taken out of company warranty. We do not go along with this concept. We believe that the company should be entirely responsible for the entire machine so that the dealers do not have to go to ten different suppliers on warranty. The company should be responsible for the entire machine.

In Section 35, it is with this section that the dealers voice strong opposition. We have never liked or been pleased with the concept of a bond. It involves a third party. We feel we get nothing for our money and the bonding company has a heyday on it. All three requirements combined seem unrealistic and only serve one purpose; to drive the cost of machinery and parts upward. The members should consider the impact of the whole Act when considering this section. The very nature of the Act forces the prices of farm machinery, parts and service upward and this section compounds these prices.

It is respectfully submitted that the bond is not needed for several reasons. Many

(MR. MARTEL cont'd) dealers cannot obtain or do not bother to obtain a bond, and carry on business without one. Bonds are just another form of red tape and only insurance and bonding companies benefit from same. The implementation of a fund eliminates the need for bonds as it will provide a resource to settle and pay claims and would prove to be much more satisfactory than bonds. For the above reasons and obvious duplication being created it is respectfully submitted that bonds should no longer be required under the Act.

In the case of lawyers, they have a fund administered by the lawyers. It seems to work out very well and it's doing a wonderful job. If Legislature sees fit to leave in the Act the requirement for a bond, then the phrase at the end of Section 35 (1) (3) "but the board may in its absolute discretion waive the requirement of a bond" must be struck out altogether. The position should be that either every dealer in the province of Manitoba has a bond or no dealer in the said province has to have a bond. Such a clause creates favouritism and unnecessary loopholes whereby bad dealers could operate. Every dealer in Manitoba must have a bond and there can be no exception, if this is the wish.

Section 35 (1) (4) then deals with the power of the board to suspend the licence of a dealer without notice. The dealer can then request a hearing concerning the suspension and can appeal the decision of the hearing of the courts.

It is respectfully submitted that is contrary to natural justice and very close to a police state power, when a politically-appointed board can suspend another man's right to earn a living without a fair hearing. The section is poorly worded; the board could suspend the licence on a whim, prank, complaint or personal vendetta. It is suggested that, because this is a democracy, the dealer involved should have an opportunity to defend himself. On this basis it is suggested that the Act to be amended follow this procedure: When the Board receives a complaint about a dealer, it forwards a written copy of the said complaint to the dealer and the dealer provides a written reply. If the Board feels that the dealer's answer is satisfactory, the can be dropped. If the Board feels that the matter should be pursued, then a hearing could be held where all parties should be represented before the Board and the Board could then decide the matter. If a suspension was imposed as a result of the hearing, then a dealer could appeal to the Courts. It is respectfully submitted that this would be a fairer, a more equitable amendment, and in line with current legislation of a similar nature.

Section 35.2 (1) also gives rise to strong opposition for several reasons. Firstly, do the reasons for forfeiture of the bond under Clauses (a) (b) (c) and (d) all have to rise from court action of some nature? For example: Section 35.2 (1) (a) (ii) refers to being convicted of an offence under the Act on regulations.

Secondly, in reference to Section 35.2 (1) (d) does (i) and (ii) have to be read together in order to constitute forfeiture? It is suggested that they must be, in order to be just and equitable. Otherwise the Board could order the forfeiture of the bond without giving the dealer any chance to defend his position.

Thirdly, if court action is not required for forfeiture, then the section is redundant with Section 35.1 (4) and unnecessary.

Some other points also arise under Section 35.2 (1). In the second line the words "chairman of the board" should be removed. It is respectfully suggested that no chairman should have such a power and that the board as a whole should make any future demand. Also the wording of Section 35.2 (1) (a) (i) and (ii) should be altered. The conviction for an offence under either subsection should be for acts committed during the course of business or employment. Further, some clarification should be made regarding an offence under the Criminal Code because it would appear that when the section is read as a whole, the Board could order forfeiture of a bond because the dealer has in his employ an ex-convict whose record included fraud. This could be very discriminatory in nature and should be amended accordingly.

The last but not least most objectionable amendment is Section 35.4 (1) (2) and (3). This section provides for the establishment of a fund to be administered by the Board. In this regard the Dealers Association wholeheartedly agrees with the content of this. In this regard the Dealers Association wholeheartedly agrees with the submission of the vendors. The whole fund is to be established for the whim and fantasy of the Minister with no controls whatsoever. All the controls and guidelines for the fund should be set out in the Act. The farm implement dealers are stuck in the middle between the farmer and the company. Many times the dealer suffers a loss at the hand of one or the other and has no recourse. It is respectfully submitted that on this basis if the dealer should suffer financial loss at the hands of a bad farmer, such

May 21, 1974

(MR. MARTEL cont'd) as in the case of fraud or bankruptcy, then the dealer should be able to make a claim to the fund also for compensation. The fund should be set up on an equal basis for farmers and dealers alike.

As mentioned before, the whole Act by its nature tends to drive up the cost of farm machinery. Section 35.4 compounds this dramatically as it will create endless detail and red tape, together with an endless list of claims, all of which contribute to the cost to the farmer.

Another area of concern is the atmosphere this Act is generating between farmers and dealers. Bona fide farmers have worked for years building up a feeling of trust with their customers. Farmers in most cases deal with a particular dealer because they trust him and believe they can benefit from his experience. The farmer is our bread and butter and it is to our benefit to give him the best service possible. That is our aim. Thank you.

MR. CHAIRMAN: Thank you very much, Mr. Martel. Mr. Uskiw has a question.

MR. USKIW: Yes, I have a number of questions, Mr. Chairman. Starting from the last point that you made, Mr. Martel, the question of the fund. It's my understanding that it was your Association that asked the formation of such a fund and on your advice that we proceeded to include it as an option in the Act, and I find it now interesting to hear your remarks that you're not sure that it's a good arrangement.

MR. MARTEL: We are in sympathy with the concept of the fund. We would prefer this over the bond, but we would like to have some say in the handling of this fund.

MR. USKIW: In the operations of the fund. You're not objecting to the idea. I see.

MR. MARTEL: No. We prefer that much to the bond.

MR. USKIW: I see. Okay. On the question of the freight costs with respect to repair parts. I believe there must be some misunderstanding on the part of your group in that the Act doesn't prohibit you from charging the freight costs or handling costs, providing you show it as such, not in specific amounts per individual parcel, it doesn't require that, but it could be shown as a percentage of the cost of the item, so that perhaps maybe you should review that section again with your colleagues in the industry. It does not prevent you, it does not force you to indicate specific amounts on each item other than by percentages if you wish.

MR. MARTEL: We understand this, but according to the law we have to itemize, we have to itemize the costs, which is very hard to do. We get parts in . . .

MR. USKIW: I am told that that is not the case, Sir; that you simply could show a charge a percentage against the bill, as being a freight charge, but you should show what you are charging for, not the amount.

MR. MARTEL: Well, it's very hard to do an accurate job on that because in most cases you will find we'll get these parts in and maybe a week later we get the freight bill on them.

MR. USKIW: No but let's assume your global costs are 10 percent of your parts costs. All you would have to show is 10 percent on your bill as being a charge against freight.

MR. MARTEL: Well then we misinterpreted the Act.

MR. USKIW: That's what my advisor here tells me. We'll check it out in any event.

The other question I have, has to do with your observations on warranties re the pull-type combine, and while I may be sympathetic on that point, it does raise another question though and that has to do with the self-propelled swather and sprayer. If we are saying that self-propelled units should be in that category, then are you saying that let's take the pull-type combine out but throw in the swather and the sprayer, which are self-propelled? You know, in terms of consistency.

MR. MARTEL: Well I would believe you have to have a line there some place, and a pull-type PTO combine is just a plain pulled machine behind the tractor; it has no motive power of its own, and I cannot see why it should be on there. If the Board feels that they should reclassify this and perhaps put it over-all on any self-propelled machine, that is their prerogative. The only thing I'm asking about is it's adding to the cost to the farmers under today's program the way it is now.

MR. USKIW: Okay.

MR. CHAIRMAN: Mr. Blake.

MR. BLAKE: Thank you, Mr. Chairman. A question to Mr. Martel. Your preference for the fund over the bonding procedure. Would that be due to the fact that some of the smaller dealers have experienced difficulty in obtaining a bond? Or is there some other reason?

MR. MARTEL: No, I don't think it's a matter of money involved, but everyone likes to get as much as he can for his dollar and we feel we're getting no return whatsoever for that

(MR. MARTEL cont'd) money, and we feel that if a fund is set up, perhaps the interest from that fund in some way, shape or form could be used possibly - we've got trouble with farm mechanics - for their bursaries or something like that. We'd be getting some value out of our money where now there's only the bonding companies getting any value out of it. And secondly, if a bond is ever exercised on the dealer, the bond company goes right back to the dealer and collects from him again.

MR. BLAKE: But the dealers wouldn't have any control over this fund, though. This would be strictly controlled by the membership of the Farm Machinery Board. The Board members would control the fund.

MR. MARTEL: This is why we asked that we have representation, that we have some say in this fund, as the Implement Dealers Association.

MR. BLAKE: Fine.

MR. CHAIRMAN: Are there any further questions? Mr. Jorgenson.

MR. JORGENSEN: Mr. Chairman, I'm curious about Mr. Martel's statement on the fund as well. You say on the one hand that you prefer the fund to the bonding provision, yet I'm sure you must realize, Mr. Martel, that under the provisions of the Act you have no control over that fund at all. Indeed there are no guidelines whatsoever to indicate that you may be paying a disproportionate share into maintaining that fund over another dealer. Now surely you wouldn't approve of a system that penalized you, as a good dealer, because of the actions of another dealer who perhaps did not live up to the kind of expectations that farmers expect a dealer to live up to. In other words, you could have a situation where one dealer would default under this provision several times, and you would be paying into that several times in order to keep the fund up to \$300,000. Now surely you wouldn't be in favour of that kind of an arrangement, would you?

MR. MARTEL: No, that is why we asked to have some say in the administering of this fund, as an association.

MR. JORGENSEN: Well, are you suggesting that one person on that Board from your association is going to make that much difference if there isn't any written provisions that you can rely upon as being a guideline? There is nothing in the Act that suggests that simply a membership on that board is going to give you the kind of equitable treatment

MR. MARTEL: Well we do not suggest neither that this will come in the law just as it is written here. We expect that there will be revisions here with our views taken into consideration on this. Now we all know that if there's a bad dealer we all have to suffer through it and it's going to cost all dealers some money, but we believe that we are as much concerned about getting the poor dealers out of this business as everyone else is, and this is possibly one way you could do it.

MR. JORGENSEN: How could that . . . ?

MR. MARTEL: Well, between the Board there's always a licence. If he doesn't get a licence he can't And if a dealer trespasses his boundaries and gets into trouble with it, if there's grounds for it, it's possible to suspend his licence if he doesn't behave himself. The same as the lawyers.

MR. JORGENSEN: Well, Mr. Martel, I can understand your suggestion that you'd want this fund operating in much the same way and you mentioned the lawyers. That is a fund that they control themselves; it hasn't got the government involved in it, and I see some difficulties in you attempting to have any influence on that Board at all if it's going to be run by the government. In the final analysis they'll do as they please, with or without your advice, and I think you're asking for some difficulties if you expect that fund to be operated simply because you have one membership on that board. You don't know this government if you think that's going to happen.

MR. USKIW: Or any other government.

MR. CHAIRMAN: Order please.

MR. MARTEL: We believe that due to the fact that we are bonded now, and we have no say whatsoever about it, and we're sure that this other will not cost us any more and we will have a little bit of control in it because the money is there--this other money is gone; as soon as we give it away it's gone--and we believe that it can be worked out, that we could make a satisfactory arrangement. Mind you, we would prefer if as an Association we could handle this entirely and police our own dealers.

MR. JORGENSEN: Well there were some suggestions made this morning in the brief that was presented to the Committee outlining some guidelines as to how this fund would be set up

(MR. JORGENSEN cont'd) and how it would be administered and who would pay into it. Would you approve of those recommendations as being contained right in the Act rather than as regulations? That can be changed from time to time.

MR. MARTEL: No, we believe there could be improvement made in this but we realize at the same time that if one dealer makes a mistake, all dealers will suffer through it and they all have to pay for it, and I can't see why . . . there should be a difference in rates, possibly a larger dealer could pay more than the smaller dealer; I mean this is something that we wouldn't want to at this point say too much about; we haven't gone into it that far. But I'm sure the government is aware of the problems there and there is room for improvement. And I think this is what we're here for today, to improve the Act.

MR. JORGENSEN: Well now, you're suggesting that if you had a choice between the bonding provision and the fund, that you would take the fund.

MR. MARTEL: Yes. Definitely.

MR. JORGENSEN: As it is right now or with some modifications?

MR. MARTEL: Well we would like to see the modifications in it, yes. Definitely.

MR. JORGENSEN: Have you any idea what changes you'd like to see in the legislation as it applies to that particular section of the Act?

MR. MARTEL: Well, No. 1, we as an Association would like to have some say in the administering of the fund. As to who and how the money is paid into the fund, we haven't given that too much consideration because we're paying \$100.00 a year now for a bond and you wouldn't have to pay too many years and you'd have whatever amount is set at, like the arbitrary figure of \$300,000 as set out in the Act, which is just a figure put down, but whatever figure it is it wouldn't take too long to arrive at that fund. As I understand it, the government is going to put up that initial \$300,000 and then it's going to go in there, but we would like this fund to be a trust fund in itself and the interest going towards programs benefitting the implement industry in Manitoba.

MR. CHAIRMAN: Are there any further questions? Mr. Ferguson.

MR. FERGUSON: Yes. Staying with this again, Mr. Martel. Would you like to have this drawn up, what the claims are going to be for, the amount of each claim, etc. or by regulation as is specified now?

MR. MARTEL: No, we would like to have guidelines set down there exactly what the purpose of the fund is, what it's supposed to do, etc., not leave it open-ended that it could be used for any purpose. We'd like to have it spelled out what the fund's purpose actually is.

MR. CHAIRMAN: Are you finished, Mr. Ferguson?

MR. FERGUSON: Yes.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, through you to Mr. Martel. I would like to ask Mr. Martel if he could give us his interpretation of what the fund would be?

MR. MARTEL: What we think the fund should do in case there's anything comes up between company and dealer, and customer or dealer and company, that cannot be satisfied in any other manner, then this fund should come in to satisfy that case. Wherever the right or wrong is, that the wrong can be corrected at that time from that fund. In the case of where a dealer misrepresents a used piece of machinery, anything along that line, or where we have problems with the company - they put out a machine and we cannot make it do, or it does not do the work they said it will do--different things of this nature. Problems that cannot be satisfied in any other way.

MR. GRAHAM: Then you would think the fund should pay to the dissatisfied person, in this case the farmer?

MR. MARTEL: The farmer or whoever it happens to be.

MR. GRAHAM: On what basis would the payment be made? For the replacement price of the implement, or on . . . ? How would you figure that out?

MR. MARTEL: Now, this is a supposition there. You don't know what it would be. If it's a case of a new piece of machinery, the argument is between company and customer. Companies warrant their machinery to do the purpose they intend it for, and in most cases they will stand behind that. Possibly if we had to go to court on something like that, court costs should come out of there.

MR. GRAHAM: You think that all court costs should come out of the fund?

MR. MARTEL: I wouldn't say all, but if there's some that is contentious, that we cannot settle any other way; if it's between farmer and company, dealer and company, or vice versa.

MR. GRAHAM: Well, do you realize that that is not usually the case? That usually the court distributes the costs either jointly between the two parties or awards costs to one party or the other?

MR. MARTEL: Yes, I'm aware of that.

MR. GRAHAM: You think, then, that that should not be the jurisdiction of the judge but it should be paid from the fund?

MR. MARTEL: No, that would not be the primary function of the fund. The primary function of the fund, I think, would be to satisfy any claims that cannot be satisfied in any other manner.

MR. USKIW: It would be under Claims of the Act, I would think. What you're trying to say is . . .

MR. MARTEL: Claims under the Act, yes.

MR. GRAHAM: Mr. Martel, if a farmer unjustly makes a claim under the Act, do you think that the farmer then should be forced to pay, or the fund should be forced to pay the dealer if the farmer's case is proven to be unwarranted?

MR. MARTEL: Well, we're getting to legalities here that I don't know just how you would go about that. If a farmer unjustly claims, he should be responsible for this. Now if he is not contributing to the fund, I don't see how you'd be penalizing the farmer by paying the dealer out of that fund. What the make-up of it--it would depend a lot on what makes up the fund, who is contributing to it.

MR. GRAHAM: Yes, but you have said that previous to this that at no time the farmer is contributing to the fund, but if the dealer unjustly or falsely represents the machine, the farmer should be paid out of the fund. Now if the farmer unjustly makes a claim against the company, why should not the fund pay the company or the dealer for an unjust claim?

MR. MARTEL: Just on the surface it would seem to me that wouldn't be fair to the fund. If the farmer, because he makes an unjust claim and is faulted, then the farmer, by law, would be ordered by the judge to pay this, whatever the cost may be.

MR. GRAHAM: Yes.

MR. MARTEL: If it went to a court of law. However, the dealer I think could possibly ask this fund to pay for any costs that he may personally have with this, but not that the total thing should be paid from the fund.

MR. GRAHAM: Well, then, you visualize the fund being used solely to pay unsatisfied claims of farmers, for no other reason?

MR. MARTEL: Principally, yes.

MR. GRAHAM: Nobody else would have claim on the fund except an unsatisfied farmer.

MR. MARTEL: That's right. That basically I think would be the . . .

MR. CHAIRMAN: Thank you very much. Are there any further questions?

Mr. Jorgenson.

MR. JORGENSEN: Mr. Martel, you made some comments about using the interest from that fund to give bursaries to students who may be studying mechanics and it would assist the Farm Implement Industry in acquiring competent mechanics. Does that imply that you are having difficulty getting qualified people to staff your businesses?

MR. MARTEL: Yes, we've always had this problem, for various reasons.

MR. JORGENSEN: Could you outline some of those reasons?

MR. MARTEL: Yes. We get young fellows in from the farm, they're good mechanics, but once they get their journeyman in our field, in the farm implement field, they are just the type of man that heavy industry wants. And heavy industry, no matter what we pay our men, they can always double our rate. And we found that these fellows are going into heavy industry on seasonal work drawing twice the wage. If we give them \$4.00 an hour, the industry will give him eight. And we found that they're working on seasonal work, working six months a year or so, then they go on unemployment for six months, and they won't come and work for you during that time either even if you want them to because they're making more money than we can pay them. And this is one of our big things; it is a thing we have to live with because we just cannot compete with heavy industry as far as price is concerned. They can always double our wages.

MR. JORGENSEN: When you speak of heavy industry, just who do you mean?

MR. MARTEL: Road construction, etc.

MR. JORGENSEN: Are there any other reasons why you have difficulty in getting help?

MR. MARTEL: Pardon?

MR. JORGENSEN: Are there any other reasons why you have difficulty getting competent help?

MR. MARTEL: No. I would say that the young fellows--well, personally, we have two young fellows and they're darned good, both of them, but I figure that at the most if we can keep them four or five years and we're sending them to school, once they get their journeyman's papers they'll be gone, because we cannot pay them. At the same time, we have the investment of teaching them and then the heavy industry comes along and takes the benefit from our investment.

MR. JORGENSEN: Well, then, what good would it do you to give them bursaries to train them for another industry?

MR. MARTEL: Well, what we have been thinking, when we're training a man it costs us money regardless of how much an hour we give that man. He's costing us money for the first year or two. We are required by law to give him "X" number of dollars per hour, and there is nothing that we can do about that. Now he may get two, two and a half dollars an hour in his training period the first year, and it goes up to three, three and a half, four dollars. We believe, or feel, that during his training period if we would get some help to lessen our investment in that man, we could pay him more money and make it more attractive for him to stay in the machinery business. But the way the thing works out now, we invest this money in this man and then after we've trained him and he's just the type of man that heavy industry wants, your road construction fellows they can come along and give him twice the salary because they don't have to train him any more; he's a free man. This is our basic, our biggest problem that we have in the farm mechanics.

MR. JORGENSEN: That's all, Mr. Chairman.

MR. CHAIRMAN: Thank you very much. If there are no other questions, I will thank you, Mr. Martel, for your presentation.

MR. MARTEL: Thank you.

MR. CHAIRMAN: Are there any further briefs to be presented from the audience? If there are none, on behalf of the committee I want to thank all those who presented briefs today to the committee. Thank you very much and I want to thank you for bearing with us all afternoon. What is the wish of the committee?

MR. USKIW: Mr. Chairman, I would suggest that the Committee rise and that the House Leader arrange for another meeting to consider the bills and the amendments that may be introduced.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSEN: I wonder if the Minister would follow up the initial conversation that I had with the House Leader this morning about the possibility of meeting Thursday night?

MR. CHAIRMAN: Thursday night? Well, we can try. Okay. Committee rise.