

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON AGRICULTURE
Thursday, 14 May, 1981

Time — 8:00 p.m.

CHAIRMAN — Mr. Robert Anderson (Springfield).

MR. CHAIRMAN: We have three people in the gallery who wish to make presentations. They are Dr. Blaine Thompson, Chairman of the Legislative Committee of the Manitoba Veterinary Medical Association; Mr. Walter Kehler, a private citizen; and R. O. (Bob) Douglas of the Manitoba Farm Bureau.

Mr. Uskiw.

MR. SAMUEL USKIW (Lac du Bonnet): Mr. Chairman, on a point of order. I thought that all the professional Acts were going to go to the Committee on Professional Bills. Why are we splitting off one here? The reason I say that, Mr. Chairman, is that there was some indication and desire that there be consistency with respect to those bills and that one approach would be taken with respect to each one of those in terms of the principles that are applied towards professional Acts. If we're going to split them between two committees, we really won't maintain that kind of consistency in my opinion and I thought that was an understanding.

MR. CHAIRMAN: Is the Honourable Minister on the same point of order?

HON. JAMES E. DOWNEY (Arthur): Mr. Chairman, I'm not aware of where that feeling came from. I have no difficulty with it but I wonder, in the best interests of working on the bills, if we could deal with the other bill first. I'm not getting into the debate on whether you want to deal with the professional bill at this particular sitting or not at this time.

MR. CHAIRMAN: Mr. Uskiw, on the same point of order?

MR. USKIW: Mr. Chairman, we had agreed in our caucus and I believe that was conveyed to the government that we would only give one speech on all of the professional Acts in the Legislature and I think that already took place. There is only one bill that is held up. I think Bud Boyce adjourned that one and that the whole idea was that we would deal with all of them in principle at one hearing. I would suggest, Mr. Chairman, that this professional Act be referred to that Committee and that we not unduly delay the presence of those that want to make presentations here tonight, so that we should allow them to go home.

MR. CHAIRMAN: The Minister of Highways on the same point of order.

HON. DONALD ORCHARD (Pembina): The same point of order. Mr. Chairman, might there be a consensus when we have the people to speak on that bill to hear them tonight and then take that as their presentation towards the professional bill and

deal with the bill in another committee. I don't know the rules of the House but is that not a convenient way to work the attendance of people who have come a distance?

MR. USKIW: Mr. Chairman, again, the only point I am making is that there was some agreement that we would not deal with these bills separately, that there would be one common denominator to all those bills as far as certain basic principles were concerned. That is the way we dealt with them with our caucus and that's why we only had one speech on the whole bundle of these professional Acts. If this committee is going to hear briefs on this bill, that means that this committee then has to go to other committee to convey what has been said here in order that they can be consistent with respect to all of the bills in order that they can arrive at the same —(Interjection)— Well, Mr. Chairman, I have no problem in accommodating those that want to present briefs but they're presenting them to the wrong group. There is another group that is dealing with professional bills. (Interjection)— Pardon me? —(Interjection)— Well, whatever number there are, yes. There's another Committee that is dealing specifically with professional bills.

MR. CHAIRMAN: The Minister of Agriculture on the same point of order. Order, please.

MR. DOWNEY: The member suggests it was discussed in his caucus and relayed to our House Leader or our caucus. I'm not aware of that.

MR. USKIW: . . . thought that all professional Acts would go to the same committee — that they wanted some standards and some consistency as between those bills. Now if we're going to deal with one professional Act here and another committee is going to deal with professional Acts elsewhere how do we maintain the consistency that we were talking about in terms of professional Acts?

MR. CHAIRMAN: The Honourable Attorney-General.

HON. GERALD W. J. MERCIER (Osborne): Mr. Chairman, this afternoon I had a lengthy discussion with the Opposition House Leader and the Member for St. Johns about the Private Bills and by virtue of the arrangement we had, I think all but one was passed during Private Members' Hour. I indicated I would refer those to the Committee on Statutory Orders and Regulations which would deal with those. There was, I recollect, no mention made of this particular bill by the Opposition House Leader or the Member for St. Johns.

MR. USKIW: We don't want to deviate. We have no problem with any of the bills. It's just that we wanted consistency.

MR. CHAIRMAN: The Member for St. George.

MR. BILLIE URUSKI: . . . in terms of dealing with them, Mr. Chairman.

MR. USKIW: Each principle applied equally to all professional Acts. It was a desire to have consistency between professional Acts. If we're going to deal with two separate committees we won't have that consistency. We will do something here that may not be agreed in the other committee or vice versa.

MR. URUSKI: Yes, Mr. Chairman, in dealing with the professional Acts I should indicate to the House Leader that we dealt with them in terms of how they related to other professional Acts that have been passed. There's a number of questions that we have raised with respect to this one as it relates to other Acts that are there. Now with seven or eight other Acts going to this other committee with all different professions — I mean some of the other professions could have gone to, I think even to the Labour Committee and some other committees of the House because they pertain to different professions.

Our suggestion is that all those eight or nine bills that are here that have been passed or will be passed go and be dealt with by one committee. That's the only point, Mr. Chairman. I don't think there is any great — there is no philosophical opposition to the Act at all. There are some technical questions that would be raised by our group who were doing the work on the eight or nine bills. That's our only point.

MR. DOWNEY: Mr. Chairman, the concern is for the people who are here to present briefs and that maybe could be clarified if the question could be asked if they are able to proceed back to present their brief to the other committee. That could clarify the issue.

MR. USKIW: Mr. Chairman, there may be a compromise is possible here. If they have written briefs they can leave them and we can simply pass them on to the committee that will be considering professional Acts. But I don't think it's worthwhile us hearing them orally and then having them referred to the next committee to peruse them again. I think that's working twice. We're not the same committee. I'm not a member of the other committee — that is in our caucus. We have a special committee dealing with professional Acts.

MR. MERCIER: Mr. Chairman, perhaps a compromise would be that this bill has been referred to this committee some time ago. Mr. Chairman, could I suggest that you hear the delegation, deal with the bills, report it to the House and we'll hold it in the House until the other committee has dealt with the other Acts. If it turns out there's some inconsistency we can deal with it at the report stage.

MR. USKIW: Mr. Chairman, I have no problem with that if that is technically possible. I'm not sure whether we are in a position at that stage of our proceedings to then bring back changes to what we have already passed here, in order that they be consistent with the principles adopted with respect to the other bills. That's the fear I have and that's the only reason I'm raising the question, that we might have one of all the professional Acts that will be outstandingly different from all the other ones, in basic principles that we wish to agree with or otherwise. We don't want to deviate one from the

other on certain of the principles involved and I don't even know what they all are, Mr. Chairman, quite frankly because I'm not on that committee.

MR. MERCIER: I don't propose to be an expert on it either, Mr. Chairman, but the same legislative counsel were involved in these, as I think with many of the others. Perhaps he might offer an opinion as to whether there is any significant difference with the principles that are being developed in the other bills that were based on the experience of last year's session.

MR. CHAIRMAN: Legislative counsel.

MR. ISAAC SILVER: Unfortunately, I was not involved in the drafting of these. Mr. Balkaran was and he has a commitment; I believe he may not be able to be here tonight. But I am under the impression that the principles involved in all these professional Acts are pretty well the same. I know this, not from working with the bills but from talking about them with counsel who did work on them.

MR. CHAIRMAN: The Member for Gladstone.

MR. JAMES R. FERGUSON: Thank you, Mr. Chairman. Our understanding as I would read it was, this afternoon we have two bills that were going to go into Agriculture Committee. Number one is Bill No. 58, which is The Agricultural Lands Protection Act and Bill No. 19, which is the The Veterinary Medical Act and I cannot for the life of me see where the hangup is. The veterinary medical people have a delegation here. I phoned them this afternoon. I'm sponsoring their bill, asked them to be here with the understanding that there was no problem from the Opposition. As I understand it, there is no problem from the Opposition except that you want to move it to another committee to do what with? I don't know. Now, where do we stand?

These people have driven in here from Melita, they've driven in here from Morden with the understanding that that bill was going to be considered. At the time of Second Reading the Member from St. George indicated what your objections were. I mailed a copy of that to the vets. They have considered that. They are here. Then why would we refer that to another committee? I cannot understand your reasoning.

MR. CHAIRMAN: The Member for St. George.

MR. URUSKI: Mr. Chairman, if the group is ready to deal with the problems that we have raised, with the matters of principle which we have raised in dealing with the hearings, with the trial, with a number of matters that we raised specifically with respect to the bill as we compared it to The Registered Nurses Act or one of the other professional bills that was handled last year and we did that and I spoke on it — if they are prepared to do deal with those, because I'm prepared to move some amendments. We wanted to deal with it in the other committee so that we could deal with all the bills in tandem and be able to deal with the amendments in principle as they are. If they are prepared do that, I have no difficulty in going ahead with it.

MR. CHAIRMAN: The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, I think we can accommodate the situation. I think what we should do if the delegation wishes to proceed, we should hear them but then we not go through clause by clause of the legislation until the other committee meets and do it there. I don't think we have to complete the bill. We can hear the delegation, as far as I'm concerned, but I don't think we should approve one bill, to finality if you like, in the absence of relating to the other ones and making sure that the principles that we are agreeing to are consistent throughout all of the professional Acts. I don't believe there was any intent that there would be some deviation with respect to this bill from the principles established in the other professional Acts and I not being part of that other Committee don't know what those are and I'm not prepared and I'm not equipped to deal with this clause-by-clause today, Mr. Chairman. I don't know the issues. We have a special committee of our caucus that has been struck to deal with the issues of the professional Acts. It is not this Committee.

MR. FERGUSON: Mr. Chairman, as I pointed out before, the Member for St. George who is the official critic for the agricultural end of the Opposition said, this is what we want, I talked to him, forwarded all of his requests to that group and I cannot understand for the life of me, I cannot understand, why, when those people are here —(Interjection)— Yes. —(Interjection)— Yes, we'll hear them but what difference does it make. These people are here. They want to make a presentation and what difference does it make if you've got ten professional bills or one. You're going to take them one by one. So what are you stalling for?

MR. USKIW: Mr. Chairman, there is no attempt on our part to stall or to hold back —(Interjection)— there is no deviousness behind our concern. My concern is that I'm not equipped to deal with it from a professional act point of view because that was delegated to me in our caucus. We have a special committee that has been dealing with all of them and has made a single speech on all of them, in principle, and I don't think it would be fair to that group of people to now deal with it in their absence. That's all I'm saying. So, Mr. Chairman, let's hear them out, but let's not proceed with a clause by clause consideration so that we then deal with this bill and tan them with the other bills in the other committee. There's no problem in terms of hearing the dekegation.

MR. CHAIRMAN: The Minister of Highways.

MR. ORCHARD: Mr. Chairman, we've got an obvious problem here in that some of the members in the Opposition didn't realize we're going to deal with this bill here, but I think it was fairly obvious that we were dealing with that bill here, it was on the roster for this Agricultural Committee meeting and you know, as much as I would like to make an apology for the Member for St. George for not knowing the bill was going to be dealt here tonight, but we have an obvious problem in that we have got a group in to present concerns predicated on the only speech that was made from the Opposition on this bill and that was made by the Member for St. George.

Now it would seem obvious to me and I don't want to speak for their caucus organization, but it would seem obvious to me that the committee which was struck to handle the professional bills since the Member for St. George spoke on this bill must have been the person responsible for any amendments or criticisms of the bill and I would think that basis that the Member for St. George is here, has been the only member that's spoken to the bill. The Member for Gladstone in sponsoring the bill has made the Association aware of your concerns. They are here tonight to speak to them, to answer your concerns and I can't quite frankly see the problem. The Member for St. George is going to be the one that takes this professional bill through any committee.

But, Mr. Chairman, they say, no, and that's the point, but the problem is, the Member for St. George was the one who spoke to this bill, who raised given concerns on this bill and I would think in fairness to the Association and to the member that's sponsoring the bill, that we could proceed with the clause by clause based on the concerns that are raised and the questions the Member for St. George would care to put to the presenter of the brief.

MR. CHAIRMAN: The Member for Minnedosa.

MR. DAVID BLAKE: Mr. Chairman, I don't really think we should be carrying on wasting too much more time of the committee on this thing. We've got delegations here that have come a distance. It's been agreed that we'll hear them. This bill can sit in limbo until all of the other professional bills have been considered. We can call this committee back if you want to leave it in this committee, and we'll pass it after the other professional bills are passed. I can't see any problem whatsoever. Delegations are here. We'll hear them, ask whatever questions you want. If you want to wait until the other eight bills are passed, we'll bring this bill back in this committee, we pass it 5 or 10 minutes and we're finished with it.

MR. CHAIRMAN: The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, just so that we don't tie the House up unnecessarily, let's leave it open to the House as to which committee it comes back to, whether it's this one or the committee dealing with professional Acts. Let's leave that open because I don't know whether we want two committees to meet.

MR. CHAIRMAN: The Minister of Highways.

MR. ORCHARD: I don't know whether that's a fair suggestion because the Member for St. George should be able to bring forward the concerns of your uniformity in the bills, like if you bring in another group of members, or take the bill to another committee, they haven't heard the presentation and the reasoning behind some of . . .

MR. USKIW: That was my further concern.

MR. ORCHARD: But you people . . .

MR. USKIW: You're just confirming what I said.

MR. ORCHARD: No, I'm not confirming what you said. The mistake is yours, that you didn't realize this

bill was to this committee and we have got people here who are wanting to answer your concerns and questions that you, in the Opposition, raised. And I don't think that we can do anything but listen to them tonight, and as the Member for Minnedosa suggested, refer this bill to Agriculture Committee and come back after all the other professional bills are dealt with and deal with this one in this committee.

MR. URUSKI: Mr. Chairman, to the Minister of Highways. If the Minister was in the House today, one member from our side spoke on all eight bills in broad principle, and we dealt with —(Interjection)— well, Mr. Chairman, the members says this one — they're all, Mr. Chairman, all the bills have certain principles that we wanted to have embodied in the legislation, based on some of the principles that were passed last year. I have raised some of those concerns. However, there may be other changes that may be made in the professional Acts that are going through that other committee, and if those principles are adopted on those other professional bills in that committee, we would want to see similar treatment to this piece of legislation as well.

MR. CHAIRMAN: Order please. Before I recognize the next speaker, I would point out, on Bill 19, it received its first reading February 16, 1981, received its second reading April 9th, and at that time I gather was referred to this committee.

The Minister of Agriculture.

MR. DOWNEY: Mr. Chairman, I think we would be best to proceed to hear the people that have presented their briefs and then put it through either the Agriculture Committee if it were to reconvene, or to the professional committee, and I propose that we get on with the job of hearing the briefs. Is it agreed?

BILL NO. 19 — AN ACT TO AMEND THE VETERINARY MEDICAL ACT

MR. CHAIRMAN: Dr. Thompson. I gather, Dr. Thompson, that you have no formally prepared brief and that you'll simply make your remarks as you see fit, to the committee. Thank you.

DR. BLAINE THOMPSON: Yes, I've gone through this recording and hopefully can answer with some plausible explanations the reasons for some of these amendments. There are several areas in Mr. Uskiw's complaints, or concerns here, sorry, that I really don't understand and perhaps I can point these out later and we can maybe decipher out some of the meaning here.

I'll just run through briefly some of the main areas I see for concern here. You can perhaps stop me at any time and we can go into it further.

The first significant concern I felt was the exclusion of gross negligence and incompetence. What I think is the intention here; well, I think there's been a misunderstanding here by Mr. Uruski. The whole section is being repealed and deleted, rather than just the word gross. We felt that there's no other place that it is mentioned, we thought the definition should be taken out and put all into clause 14, under Order of the Board.

Now the next area of concern asked about, was proceeding with an inquiry in the absence of a member. What it actually states in the amendment, is that the Board may proceed, simply may proceed, and that is to get around the fact that some members may never answer our inquiries and you have to have some method to go ahead and proceed and start an inquiry. Some people will refuse to answer your complaints and letters and so on. Is there something you'd like to . . .

MR. CHAIRMAN: The Member for St. George.

MR. URUSKI: On that point, Mr. Chairman, the point that I was making and maybe if you didn't find it clear, is that in the event that an individual came late to a hearing and the request that I had for an inclusion without adequate or justifiable reason, that if the person towards whom the inquiry is being held and hearing is being held, comes in and says, look I couldn't make it, or I can't make it because I fell down and I want to come and can you hold the hearing up one day. That being a justifiable reason, can the Board then, if a justifiable reason is given, that that hearing be held over until that member can attend, if he so desires?

I agree with the concern that you've raised, that some people just don't respond to the call for a hearing and that this would take that into account clearly, but in the reverse if there is a member who may wish to attend the hearing and something does happen to him and he has a justifiable reason, this section, the way I read it, the Board can go ahead with the hearing, even though that member may wish to attend and state his own case before the Board. That's the point we're making.

DR. THOMPSON: Well, I believe that by saying the Board may proceed, that you are presumably taking these considerations into effect, if a member has a legitimate excuse. Now what interpretation you put on that is . . .

MR. URUSKI: Would you be opposed to the inclusion of the words "may proceed, does not attend an inquiry without adequate or justifiable reason." — those words after "inquiry," so it would read: "where the registered member in respect of whom an inquiry is being held under this section, having been duly notified, does not attend the inquiry without adequate or justifiable reason, the Board may proceed to hold inquiry in his absence." Would you be opposed to that kind of wording?

DR. THOMPSON: Yes, that is agreeable. No problem.

MR. URUSKI: Okay.

MR. CHAIRMAN: Would you continue, Dr. Thompson?

DR. THOMPSON: Another area of concern was the acceptability of a graduate. The wording in this clause has been changed. I think why it's been changed is that our associations are trying to get away from the use of the word "accredited." Fewer and fewer foreign schools are asking for a creditation by the National Association.

I'd point out here that graduates from a credited school simply can come to the province after going through the Veterinary Medical Board's exam and procedures, can become registered.

Members from non-accredited schools require a National Examining Board exam and in that essence we felt that we should change the wording from "accredited" to one of "recognized" or "acceptable."

Perhaps I can bring up here one of my questions. This deals with a concern about renewing a member's certificate on the terms that a registered member is professionally deficient and your wording in the recording came back as, "may refuse certification in terms of a registered member being proficiently deficient." That may be a typing error but I'm not sure. Could you explain that; Clause 12, section 5?

MR. URUSKI: I don't think there really is a difference in meaning. All I wanted and I'm just looking at my notes, Mr. Chairman, is that I wanted a clarification and when I looked at the old Act and the new Act and you've explained the reasoning for the "acceptable" rather than "accredited", and that's the point that I was raising primarily. If I raised something else, it may have slipped my mind at this point. I don't have it in my notes as well.

DR. THOMPSON: Another major area of concern, I thought, was the appeal procedure being done or carried out through trial de novo. What has been done here is the new, or the amendment sets out the procedure by which, or the form by which the judge conducts the appeal. Here again we're presuming that the judge will call for affidavit and more testimony if required. I can't really defend that much more.

MR. URUSKI: Mr. Chairman, the amendments in the Act, and this is where we had differed, in terms of we could see the association indicating that in terms of the board making a ruling, and in terms of the costs, that it was in the old Act that a judge could, and the powers of the judge could confirm, cancel, reduce and increase the fine and you had all those areas were defined in the old Act, yet you have removed it. Our feeling has been that just the hearing of the transcripts from the original board hearing would not at times, in the event that there was new evidence that could be presented at the hearing, therefore that it be open that the judge could hold a new trial, the hearing would be new, so that if there was any new evidence, the opportunity to present that new evidence on behalf of your member was there.

As it is now, 16(1) in the Act indicates that evidence taken, an appeal under Section 15 shall be commenced by originating notice of motion and shall be founded upon a copy of the proceedings before the board. The evidence taken and the order of the board with respect to appeal is taken certified by the registrar.

Mr. Chairman, with respect to this, and to this whole host of the whole appeal procedure, we wondered why you would have changed the old Act and not allowed the member or a judge to hear new evidence if there was such new evidence to be presented, at least have that option, and by having

that option it would have to be a new trial rather than just being able to decide on the matter of the transcripts that were presented.

Is it a matter of costs? What is the desire to change that, because it is a change? It was in the old legislation and it is there, or at least close amendments to other association acts; The Nurses Act, is very, if I'm not mistaken here, close to that in terms of the Registered Nurses Act. The judge's latitude in terms of the hearing is fairly wide, and we felt that a member be given the opportunity to present new evidence if he or she so wished. That was the thrust of our remarks on this.

You're making the change; do you have any reasons to give to the committee that would say on past experience it has never happened, and it may not happen, but at least it gives the member an opportunity to present new evidence? Would you oppose the sections that were in the old Act of 16(1) and 16(2)?

DR. THOMPSON: Before replying to that, perhaps I could counter with another question. I'm not sure of the legal aspects of an appeal procedure, however, can a judge in an appeal, this is a judge of the Court of Queen's Bench, in his discretion can he not ask for any new evidence? I assume that's why this has been deleted, that it's assumed that a judge may, at any time, ask for new representation.

MR. URUSKI: Mr. Chairman, I'm not a lawyer, and that's the reason for the discussion that we had earlier this evening about referring this to the other committee.

Mr. Chairman, 16(1), as has been pointed out to me, is that an appeal under Section 15 shall be commenced by originating notice of motion and shall be founded upon a copy of the proceedings before the board. Meaning that the interpretation given to this section is that the judge would hear on the basis of the transcripts available to him at the original hearing. That is my understanding of the amendment in the Act. So that the judge by this very section, would be bound to hear that evidence that was presented to the board and make a ruling on that evidence upon a copy of the proceedings before the board, and the evidence taken and the order of the board with respect to which the appeal is taken; therefore fairly narrowly defying the judge's scope in terms of hearing it.

While in the old Act, the section is quite clear, that the appeal shall be a trial de novo, and the judge in his discretion may receive further evidence, either by oral examination or by affidavit.

If you wished — and I'm not a lawyer but I would submit that if you wanted to include an amendment indicating that the judge may receive further evidence either by oral examination or affidavit, rather than bringing in the old section, that may be a way of dealing with it.

But certainly this section, and maybe legislative counsel can comment whether this section would, in effect, fairly narrowly describe the scope of the judge's authority. That's dealing with Section 16(1) in the Act.

My understanding of that amendment is that in an appeal against the board's ruling, the judge is bound, his ruling, by taking into account only the evidence that is founded upon a copy of the

proceedings as the section states, without having the benefit, as was in the old legislation, of having a trial de novo and the judge in his discretion may receive further evidence, either by oral examination or affidavit. (Interjection)— I have the old Act here.

DR. THOMPSON: Mr. Chairman, perhaps I could add something further here. I don't really think that's necessary to add that to the amendment. As I say that may have to be checked, but I believe that the judge has power to call for other information. If you go on further into clause 16(2), "the powers of the judge on hearing of the appeal may make such order as may be just." So I think there is some allowance for him to make other requests.

That brings us into another point of costs of an appeal and that was one of your concerns. You left me with the impression that you did not think that a judge could change or implement more fine or change the levy in any way. Well if you go on to 16(2) and (3) it sets out that can be done.

MR. URUSKI: Mr. Chairman, the present section 16(2) in the act — our concern was — limits the judge with respect to the costs of the inquiry. Maybe I didn't make it clear in my remarks. Yes, the section is clear in the legislation that is there, 16(2), "the judge can confirm the order of the board, cancel or reduce or increase the fine, cancel or amend the order of the board as in his discretion seems just or makes such as other order as may be just."

Mr. Chairman, with respect to the order of the board — I was looking in section . . . I guess it is in section 14(6) where an order of the board to fine a member or to suspend or cancel certificate of registration of a member does not . . . No that's not it, no that's not the section that I had, I haven't got it. (Interjection)— Mr. Chairman, I wanted to comment on that. What we felt was that the judge, while he could vary the decision of the board, there was nothing in the legislation that could change the costs of the hearing that would be imposed on the member by the board, the expenses of the inquiry, and that's in 14(8) in the legislation; "Where after an inquiry respecting a registered member of the board does not dismiss the complaint against the registered member, the board may in addition to any order it makes under subsection 7, order the member to pay all or any of the costs and expenses incurred by the board in or concerning the investigation and inquiry into concerning the complaint." The present section 16(2) does not clearly set out the jurisdiction of the judge with respect to being able to either rule on the costs, which the member may say to the judge or may make a submission that the costs are onerous, and I think we had the case of the hearing here, the doctor practising holistic medicine, whereby I think the cost of the hearing, the doctor ended up paying some \$16,000 or more, not in terms of the penalty but he ended up paying for the costs of the hearing, which may be very onerous and may not and should not be placed on the member if the judge hearing the evidence may say that, I may direct that the costs be split. But 16(2) does not clearly set out that the judge might vary the costs that are set out in the trial or in the new hearing that he's held.

DR. THOMPSON: It should dispell your concerns, Mr. Uruski. In 16(2)(c) it states, "The power of the

judge may, on hearing the appeal, cancel or amend the order of the board as in his discretion seems just." An order of the board can be imposed against a member to pay certain costs incurred in that inquiry. That is a power of the board. I think it sets out here fairly clearly what the power of the judge is in terms of amending orders for costs incurred.

MR. URUSKI: Mr. Chairman, where the difference is that the board may in addition to any order dealing with the expenses of the inquiry. If I knew that the expenses of the inquiry were part of the order as is set out differently in 14(8). If you read 14(8), the board may in addition to any order it makes under subsection 7, order the member. Those costs are not part of the order. If you read your amendments in section 14(8), they are in addition to any order and that's maybe the point that I missed in bringing it, because it isn't the costs that we're talking about. The costs in here does not dismiss the complaint against the . . . "The board may in addition to any order it makes order the member to pay." And if those costs are in addition to the order, then how can the judge cancel or amend the order of the board if those costs are in addition to the order as is noted in 16(2)? (Interjection)— But, Mr. Chairman, a veterinarian practising may challenge a decision of the board and if the costs may be such as may cause him to cease practise, not as a result of the fine but as a result of the cost of the hearing which may be extensive, I would say that if one could tell me that those costs are part of an order, where 16(2) indicates that the judge could cancel or vary that order in terms of the appeal, then I don't think I would have any difficulty with that, because then clearly your intent would be that the judge could vary that order. Maybe legal counsel can tell me whether my concern is valid.

MR. CHAIRMAN: Legal counsel please.

MR. RAE TALLIN: It seems to me that the section is clear. It says, "in addition to the order made above, it may also order", so it becomes an order of the board even though it may be with respect to costs.

MR. CHAIRMAN: Any further comments, Dr. Thompson?

DR. THOMPSON: Yes, another comment I had was clause 19. Our association felt it was best to delete the term "wilfully". Now this in terms of unlawful practise of veterinary medicine, 19(c) "unlawful practise of veterinary medicine, who wilfully and falsely claims or pretends to be a graduate" etc. I think the intent of taking that out is that it's extremely difficult to prove wilful intent or this act being wilfully done. I think it's just a matter of trying to streamline things a bit so that they don't get perhaps bogged down and more legal controversy than is necessary. I think it's just so that willful intent does not have to be proven.

Statutes and limitations were brought into line with two-year statutes as is done for other associations. Now the other main issue brought out in the recordings here was an inquiry held in private. The people who attend these enquiries are the person who brings out the complaint, the member that the complaints are brought out against, the board and

representatives from the association. What do you infer as private?

MR. URUSKI: Mr. Chairman, in the one other professional bill, The Registered Nurses Act, section 36(6), if you see The Registered Nurses Act, "All hearings of the discipline committee shall be held in private unless the person whose conduct is a subject of inquiry applies to the board for a public hearing." In other words, there it is left open to the individual against whom the enquiry is held and the association to deal with the matter, so that in the event that the information is not borne out, and a hearing can be held in private. That is the section that I was referring to. It is in other professional Acts. We were wondering whether your association objected to that to an inclusion of such a section in your Act?

DR. THOMPSON: We didn't feel that there were special restrictions or considerations required under this format. I believe that it is private. I believe that strictly is a private inquiry. You have your board and representatives from your association. I still believe that's a private committee, private concern.

MR. URUSKI: Then you would have no difficulty in terms of the hearings that they shall be private unless the person whose conduct is the subject of inquiry applies to the board for public hearing, and the board is satisfied that none of the parties to the hearing would be prejudiced by the holding of a public hearing, but where the board determines that there may be prejudice to any of the parties to the hearing, it shall give written reasons therefore. You then would have no problem of indicating that the hearings are private and unless a member so desired that the hearing be public that these hearings are by statute private. Would you have . . .

DR. THOMPSON: Mr. Chairman, again, I just disagree. I just don't think it's necessary.

The last subject here is one of technicians. Again it's a change of terminology away from accreditation. Again the Canadian Veterinary Medical Association is having some problems carrying through their accreditation program, they want to, I think, get out of that. Some of these schools are not requesting an accreditation tour and you can't really force your way into an area of other concern or an area of other teaching. So what we did was change that so that we can deal with it simply in our by-laws of the Association. This has some other significance through The Veterinary Services Act. It's set out there that technicians employed in government clinics can be covered by a supplemental grant. I think you have to put some restrictions on technicians that you can hire. I don't think the grant's applicable to someone you pick up and train yourself, so I think really that has been changed so that we have a little more control over the technicians that are employed in the province. As I say, some of these schools do not want accreditation or cannot be enforced to have an accreditation tour and that leaves you high and dry by staying with the clause "accredited by the CVMA" — many will not be. So in our by-laws we will hopefully be able to set out some other standards which gives us a more acceptable technician.

MR. URUSKI: Mr. Chairman, could your by-laws conceivably become more restrictive with respect to the requirements of technicians?

DR. THOMPSON: I don't believe it will become more restrictive. It will probably will become somewhat less restrictive. At the present time there are only four schools in Canada that are accredited, and there are probably four more that should be, but for whatever reasons, they don't desire to be. And what I'm sure will happen is that our by-laws will include some of these schools. So as I say, I don't foresee it's going to be more restrictive, probably less, simply because the problem that our National Association is having with these courses.

MR. URUSKI: So you see your by-laws as being able to accommodate the other schools that are training technicians to be able to operate for and with veterinarians. Am I reading you clearly on that, because a number of the schools in this country, and I gather from your remarks, do not have accreditation status, you would be able to include and allow technicians from these schools to also be operative? Is that fairly accurate?

DR. THOMPSON: Yes, I think you're correct on that. So that basically wraps up my replies. Is there anything else that you'd like . . .

MR. CHAIRMAN: Thank you, Dr. Thompson. Are there any other members of the Committee who wish to question Dr. Thompson? There appears to be none. Thank you for your presentation Dr. Thompson.

That completes the presentations on Bill 19.

BILL NO. 58 — AN ACT TO AMEND THE AGRICULTURAL LANDS PROTECTION ACT

MR. CHAIRMAN: I have a list of three people who wish to make presentations on Bill 58. The first one on my list is Walter Kehler, a private citizen. Mr. Kehler please.

MR. WALTER KEHLER: Thank you, Mr. Chairman.

I'm appearing as a private citizen and a legal attorney with the law firm of Newman, McLean in Winnipeg, but I'd like to stress that I'm not holding the brief of any client or any group or association otherwise. My practice has concerned itself very substantially with new immigrants to this country, or to this province, who are engaged in agriculture, so that I work with this particular Act fairly regularly and consequently have some interest in it.

I would apologize as well to the Committee for not having prepared anything in writing for you. I'll try as a result to remain mercifully brief, however difficult that may be for people in my profession.

I would draw your attention really to three main concerns that I have with the amendments that are being proposed. I might just in passing mention that I'm a little concerned that you would find it necessary to include in this kind of a bill, a repeat of the immigration rules, in terms of residency with the suggestion that you're going to take the enforcement of those and put those with the Agricultural Lands Protection Board.

I suggest to you that firstly that should be unnecessary and secondly, to the extent that you feel that there are people circumventing those rules, I would suggest that it really is not easily within the

power of this province to do the enforcing anyway, because for example, a landed immigrant may reside in any other part of Canada and I seriously doubt whether you would want to have investigators sitting across the street to watch his coming and going. I really think that the bill can do without it and not take away anything from the enforcement rights that exist.

My second concern and one of the major concerns I have relates itself firstly to the definition of "landholding" in section 2, of the amending bill, which I would in turn like to relate also to a portion of section 7, the part that will be section 5(2) of the amended bill.

Firstly, I'm concerned in terms of landholding, at least with the practise that I have followed pretty universally with the would-be immigrant who is acquiring land. What I have been doing is in the purchase agreements that I prepare and generally in these kinds of situations, it is probably more common for a lawyer to prepare these, than it is in the ordinary course for real estate agents to prepare a standard agreement, simply because they generally require a whole bunch of additional terms and conditions that require more exactness, the kind of things that people in my profession do. But basically what we have been doing when a would-be immigrant to Manitoba comes to consider the province, what he would usually do, is find a farm if that's what he's looking for, that would suit his needs and he would negotiate a conditional deal to buy that farm. Conditional entirely upon his achieving landed immigrant status, coming here to live, landing as it were and then ordinarily at least, living on the farm full-time.

I find that works quite well, because what it means is that so long as he doesn't have the immigration, there is no deal, there's a conditional deal only. If he doesn't achieve the immigration status and we ordinarily say within a certain time frame that is agreed between vendor and purchaser, the whole agreement falls and the parties go their separate ways.

If the immigration is achieved, the agreement completes. I suggest that as I read the definition of landholding, if I make that kind of agreement, I could very well be in breach of that subsection. I haven't worked out an alternative wording, but I would caution in light of this type of illustration, that I would like to see that definition changed to at least allow the conditional agreement.

On the other side of this, I have some question in my mind about the prudence of the proposed new section 5(2), which is No. 7 in the amending bill where you proposed to allow for options. I appreciate that there is not in legal principle really very much difference between what I have suggested that I have been doing and what is suggested in the bill, but I think that in practise there turns out to be, particularly within the understandings that exist in the farm community; I at least quite frequently come across situations where Options to Purchase have been taken. Generally they come in every shape, size or form, with every different kind of content for \$1.00 and other good and valuable consideration. Occasionally they are for substantial consideration, much more often no and if you are going to allow an ineligible person to obtain options like this for a year

at a time, I suggest that you may incur a danger that there will be people who are ineligible or who represent people who are ineligible, who would collect these for a later marketing.

The experience I have had is that if one of my farmer friends has signed a document that deals with the sale of his farm, he thinks that's a pretty serious document and he plans to abide by it and he expects the other side to do so and indeed the largest problem I have encountered in this kind of area is that people will act as vendors in the concept that the money is already coming, even though the whole thing is totally conditional.

So I would suggest the conditional type of agreement is a much better solution because in practice what happens is that the entire deal is worked out between the parties at that time, rather than a simple option that says only that it exists for X period of time and you file it with the board and it says that it can't be exercised until the ineligible person becomes resident.

I suggest that it would be much better to go the other way, where the parties know what their deal will be if they can make it, because those situations in my experience are generally accompanied by substantial deposits, obvious good faith on both ends, so that if the transaction cannot complete because the provisions of this Act cannot be met that everybody is clear that's the reason and not because they're in a dispute over something else. I suggest that the experience of the farm community as well as people who are coming into the country would be happier if that change in concept took place.

The second concern I have is the provisions in respect of disclosure and it's a little difficult to be critical in specifics in this regard when you don't know what the disclosure statement is going to be. I am already not too happy with some of the things that I see in the present disclosure statements that we are required to file with land transfers. For example, the Act purports to control the amount of acreage held by certain classes of people, but in fact when you look at the document, it contains among other things requirement for disclosure of what consideration was paid, what the sworn value was on the transfer of land, notwithstanding that all of this is already public information, but what tends to happen is that things which are not really called for under this Act at all creep in.

Disclosure, I presume, would relate itself primarily to whether the people who owned the Corporation — I am talking now about section 3 of the amending bill — whether the Corporation is owned by persons who are eligible or not. I think that if you are asking for every non-agricultural corporation as it's defined here to submit each year an annual disclosure statement, we are going to have a horrendous amount of paper work just as we already have in the Corporation's Branch. Surely it would be sufficient to allow for disclosure statements to be required in any specific case. I think that gets you the answers that you need whenever you feel there is a need to have them, but to require it from every non-agricultural corporation every year does not only take in, for example, the corporation which as now under the rules would be a non-resident corporation but which has already held land for 15 years and consequently

is entitled to continue to do so. Obviously there is a concern that that type of corporation not change hands because that is not allowed. But there are a great many corporations, and I would number a good many clients among them, who are by definition not strictly an agricultural corporation but entirely Manitoba-owned, for example, a manufacturer who has purchased a half section of land outside of town for excess machinery storage, perhaps thinking five years ahead. Now to require all of these people each year to submit another annual statement means they won't do it themselves, mostly; it means that once again lawyers will be called on to do it, and there will be another expense and a collection of a great deal of paper that I don't think really is either needed or particularly desired.

The other question about disclosure that I would caution about is I would be very concerned to know what is going to be required to be disclosed and I would think that should relate itself very specifically to what the Act is about rather than other information which might be interesting knowledge but not part of this Act.

The last thing that concerns me very considerably is the new penalty sections. I'm dismayed, frankly, to see that the penalties are being increased anywhere from three to ten times what they were and I think that they look to me frankly as revenge penalties, not penalties at all. If I look for example at what will be the new section 12(1), that's number 14 in the amending bill, there is a provision that every person who contravenes any provision of this Act or the regulations is subject to on summary conviction to a fine not exceeding \$50,000 plus costs. If I were fined \$50,000 I certainly wouldn't be back here the next time you amend this bill, and I have been every time so far.

Just to illustrate how easy this might be, if you have to file your return within 60 days, and somehow or other it doesn't happen, and this is something that comes up every year, if you speak to the Corporation's Branch, a lot of returns come in late. They come in late for many different reasons, but where you are allowing a 60-day period within which to file and somebody comes in on the 63rd day, immediately open to be charged, and if charged, if I were a judge, what would I do? If I look at what the Act was like before you had in the equivalent section, a maximum fine of \$15,000, now it's \$50,000.00. Obviously, sure, you can say, well all I need to do is fine \$100 or whatever it is, but can I really do that if I'm being judicial and the will of the Legislature obviously has been to go from what was already a pretty substantial fine to one that's one of the highest known to me for any kind of an offense. I suggest that those fines are greatly more excessive than is needed in terms of any question of compliance.

I think with those things I would stop. I'm prepared to deal with any questions that members of the committee may have.

MR. CHAIRMAN: Thank you, Mr. Kehler. You have indicated that you would respond to questions. The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, on page 4751, could you foresee a situation there sir, or has it come across your experience where a person realizes an

asset, farm property, by way of quit claim or foreclosure, a person who would normally not be entitled to own land according to this legislation?

MR. KEHLER: No, there is a dilemma about this because the Act, this part of the Act essentially doesn't change much from what it was. That provision has been there that in effect you have to sell within two years if you acquire title on foreclosure.

MR. USKIW: I understand that.

MR. KEHLER: I haven't come across it frankly in all the years now that we've had this legislation even once, but the other part of the reason perhaps is that in the regulations there is a provision which purports to say that if you acquire financing as a farmer from a source outside the country, you are in breach of the Act. Now I think frankly that regulation is not valid because it's inconsistent with the Act and I think the Board's position has been that they have not enforced it but I also don't know if they've really encountered it. I doubt whether they have to any extent because it's not going to happen very much. We are obviously going to have an enormous number of farm bankruptcies this year, given the high debt loads that farmers carry and the high interest rates that prevail, but the landholders will then be the banks primarily.

MR. CHAIRMAN: The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, I want to put forward a hypothesis and I want to know from you, sir, whether you would agree with what I am going to conclude at.

If a farmer wishes to sell his land, a section of land for one-half a million dollars and he knows that the highest price is not achievable or attainable within the province, that to get that value he would have to sell to someone outside of the country — let's take that as a given — but this legislation interferes with that, why can't a farmer presume to borrow the money from the person who wishes to eventually own the land, a person from outside the country? That person wanting to speculate on the land, knowing that he has two years within which to dispose of it and he's prepared to work within those parameters, but hoping that in that period of ownership or loan and ownership, it could be five years, it could be seven years or ten years, then he will have realized his capital gain and that this provision really is not going to prevent him from acquiring Manitoba land for purposes of capital gain.

MR. KEHLER: I think in practise you would simply not find that happening because in point of fact, we've now had this type of legislation for four years. I think I've worked with it as much as any lawyer and I've never seen it. I haven't ever seen it considered and I think the reason why is that it would be a possible way around a restrictive law, just as there are probably other ways and will be, no matter what you do. It's like a tax law that you can go this way or that way, but there will always be a certain slippage probably, but the fact is, that in the thinking that I have seen, in terms of the acquisition of farmland, I do not really see people speculate on farmland, except locally.

Local people speculate. People at a distance do not, because if I'm looking for a quick rollover on my dollar, I'm going to do that close to home where I can be sensitive to the market movement. If I'm 6,000 miles from home, I'm going to miss that most of the time. I've questioned personally a number of people who are non-resident, not about farmland, but subdivision land, things that are truly speculative by their nature and I have yet to find even one taker frankly and now that's perhaps eight, nine years. The reason is always the same. We don't know — there's no way we can confirm that what you say to us is true.

So when people buy farmland, they buy it with the view of working it or keeping it, or whatever. They do not speculate as I understand speculation.

MR. USKIW: Mr. Chairman, it may be a matter of definition or interpretation. To me I believe every person that owns land is a speculator — as a given, you know maybe not intentionally, but if one holds land long enough, there is always — as long as you have an inflationary economy — a capital gain to be realized; a capital gain which may or may not be taxable, depending on the circumstances.

MR. KEHLER: That of course, is a matter of one's philosophy about this. I think that land happens to be a good investment because it has the capacity to adjust for inflation, but the inflation isn't created by that, nor would I call that speculative.

MR. USKIW: Oh, all right, I understand.

MR. KEHLER: The inflation is in point of fact, probably created as much by governments at all levels as anybody and it's part of the problem that I know that you gentlemen all face.

MR. USKIW: Well, yes then could you, sir, indicate to us in your experience, what it is that people who are purchasing property in Manitoba, farmland in particular, what it is that their objective is? Since you say they are not speculating in the land, why are they buying it, because they're not coming here to farm it? Many of them are buying it and own it, but they do not farm it, they lease it back to the original owner or they find people in the community willing to lease it.

MR. KEHLER: My experience actually is the opposite largely. The majority of them buy in order to come here to live and work.

MR. USKIW: Oh yes, that's fine.

MR. KEHLER: That's what the majority do. Those who lease back, ordinarily consider that a transitional step and it's one of the unfortunate parts, I think, of sort of a combination of this kind of legislation along with our immigration legislation, which is more largely a Federal matter, that doesn't really allow for a very good transitional way in, because you have to appreciate that someone who is making this kind of a move, rarely does it in the classic Fifties style of selling everything he has there; waiting a year or more to see if he can get approved for immigration; then coming here; looking around till he's found something to move into; then resuming his career.

They don't do that. What happens instead is that they say, we're not going anywhere unless we know where it is, so that starts first. Then you have to work backwards and often I find there are people who have farms that they have to take two, three years to sell, where they come from, just as is the case here, or they have another business that they have to sell; they have houses to sell and so on. They may not be able for those kinds of reasons to come over instantly and immediately sit down on the farm. Moreover, I think the ones that do that, are in the end, the better immigrant farmer for us because they get an opportunity to watch very closely and my experience is they do, as to the differences between our farming method and the ones they came from. Very often when they phase in a little more slowly, their results are uniformly better, rather than having to make all the mistakes first and then building out of the ashes.

That's my experience.

MR. USKIW: Mr. Chairman, I had occasion very recently to intervene on behalf of people who were being held up by the Immigration Department. People who came here, entered into an agreement, on a fairly substantial piece of farmland, but were having difficulty in processing their immigration proceedings through the Department of Immigration, in order to meet the so-called deadlines of purchase and also deadlines pursuant to legislation here.

I'm wondering whether you would have any suggestions there, whether this legislation can somehow accommodate a problem where someone has had real intentions of immigration, but is being held up for one reason or another, but who then comes in violation of regulation or the law here. Do you have any recommendations to deal with that problem?

I know in talking with the Immigration Department, they said to me, our pile is this high and your client is a way down there. We don't know when we're going to approve that one. We are not opposed to it but we're not down there yet and it may take another six months or twelve months. That's the kind of answers you get out of immigration. Now if a person is sincere in wanting to come here . . .

MR. KEHLER: I have that experience very frequently and it is a real problem. What I would consider to be a better answer, actually would require a fairly fundamental change to this Act. I would suggest what I would like to see in principle, is that they be allowed to purchase conditionally that they become fully landed immigrants and resident, say within a time frame, be it two years, three years; something that would accommodate the immigration process; leave them at risk; that if they don't meet it, they have to divest, but it would solve a very large problem because, particularly from certain countries where the pile is the highest, it is very difficult for both vendor and purchaser to make an agreement and then wait for a year or longer to see if it can be implemented.

Too much changes among other things, for example, I get a great number dairy farm transactions and they're especially susceptible to substantial change in such long time frames. That would help a lot if this Legislature would see fit to do it, but I appreciate it would require a substantial change.

MR. USKIW: I'd like to throw a suggestion at you for comment, sir, if you would.

If we had a fairly relaxed provision with respect to those acquisitions, but a catchall clause that says if they don't immigrate by a certain period, maybe five years even, that they divest and all capital gains belong to the Province of Manitoba.

MR. KEHLER: Well I think you'd have to give them at least interest on . . .

MR. USKIW: Well no, I appreciate that point, but I'm talking about real earnings beyond that, I appreciate that . . .

MR. KEHLER: The mechanics of how one would do that . . .

MR. USKIW: But that would show sincerity and intent. It would remove them out of the speculation field and they are prepared to do that.

MR. KEHLER: I would think that's within the realm of feasibility. You're not for that matter — it's not going to give you a great flood and I think you have to understand that these things happen, not so much from the result of everybody wanting to flood in here to buy cheap land. They arise from political conditions in other parts of the world and the resultant economic moves that people make. But for example I notice that this year, the number of people who are coming to look is substantially down from where it was last year. I think there are very specific reasons for that in Europe and those reasons are among others things, that the loose capital has largely shifted, that is going to shift, to other places not necessarily North America.

The second thing is that market conditions respecting real estate have drastically changed in most European countries as well, for the worse for them. So people are sitting there with something they can't sell, so they haven't got the capital. So it's not something that would create long lineups, in my opinion. It obviously can vary from time to time, according to condition.

MR. CHAIRMAN: The Honourable Minister.

MR. DOWNEY: Mr. Kehler, I'd be interested in your comments about the farm bankruptcies. You are in the legal business. Do you have actual, factual documentation to substantiate the comments you made in that area?

MR. KEHLER: I don't have statistical evidence as such, in the same way that I'm sure your department does, I just know what my clients are telling me and they're very concerned and I don't say that in terms of being critical of what the province is doing to assist the farmers. I'm just saying this is going to be a fact of life, if one takes into account what kind of business the farming business is.

It's a very capital intensive business, existing in a country that is very capital poor and the result is that you're going to have a disproportionately high amount of loan capital as against equity capital. I think I have argued before this Committee before, that I frankly feel that the legislating we're doing here is at the wrong end.

I would have preferred to see you not legislate on the matter of investment into the land, but much rather legislate on the operation of the farming businesses and conserve that for these young farmers I constantly hear about who can't get into farming, because I think there obviously is a need to get more equity capital into the farming business if it can be done, but it's very hard for somebody who has a very high debt load and is paying very high interest on it. It takes a long time.

MR. DOWNEY: Well, I appreciate the difficulties. I understand you really don't have any facts on the bankruptcies you referred to, because the facts that we have, there are very few and as you've indicated —(Interjection)— Well, Mr. Chairman, the members are making quite a noise about that. I realize and appreciate the difficulty. If the times are so tough and there are so many people going bankrupt in Manitoba, why are you handling so many people wanting to come to Manitoba to farm if things are so tough in this province?

MR. KEHLER: The numbers on both sides are not so overwhelming — I don't want to leave the wrong impression, it's not that there's a constant stream of people coming through just dying to get in, or another constant stream that are filing their bankruptcy notices. That isn't the case, very clearly. I'm just pointing out — the point I was making is that it's a very difficult time for the farming industry and the difficulty comes on the capital side because of the very high interests rates that prevail and I appreciate that the province can do only a minimum amount about that, but it's a fact and I think that anything that could be done to introduce additional amounts of equity capital without totally disturbing the farming industry is worth taking a look at.

MR. DOWNEY: Further to that, you suggest you would like to see legislation that would control what farmers do with their land and in fact, do you feel as a Manitoban and as a free Canadian and as a lawyer that you would like to have legislation that would limit your capacity and limit your ability to do things in this province? We all have certain basic laws and limitations to what we can do when it's in the best interest of law and living in a common society, but I would be very hesitant to bring in rules and regulations that would determine either how many acres or how much one could do in this country. I get very concerned when I hear that kind of a comment coming from a legal profession.

MR. KEHLER: No, I don't want to be misunderstood. What I'm suggesting is this: My first choice is not to have legislation at all. That's the best answer as far as I'm concerned. I'm just saying that if we must have legislation, I would have preferred it to be at the operational end rather than at the capital end. What I'm suggesting is nothing more than this, that you can tell a non-resident as follows, "You may invest your money in land, and provide the equity capital that is needed, but you may only farm it yourself if you're qualified for immigration as a farmer in Canada. Otherwise, you must lease to Canadian farmers." I don't think that that is particularly complicated or necessarily unfair. I'm not saying that it should go to any more detail than that.

It's a proposition that I think I made to this Committee on previous occasions, and I don't expect that it will probably carry today anymore this time than it did last time, but I perceive the problem of the agricultural industry to be a shortage of equity capital and it doesn't help very much to legislate to freeze out more equity capital. I would sooner find another way, if I have to do anything, and I personally would prefer to see us stay outside the realm of legislation with this because it becomes very emotional and I don't think that it helps the industry.

MR. USKIW: Mr. Chairman, I'm very intrigued by your comments. You're suggesting that it might not be a bad policy to open up opportunities for land to be bought by non-residents or non-Canadians providing that land was then leased to Canadian farmers. Is that what I'm getting from your comments, sir?

MR. KEHLER: Yes, so long as they're non-resident.

MR. USKIW: Yes, so long as they're non-resident, that they shall be required to lease that land to Canadian farmers. Doesn't it follow from that then that we end up with a landlord-tenancy situation, absentee landlord and farmer tenants?

MR. KEHLER: Of course it ends up with a tenancy situation, but I don't know that there's anything particularly wrong with that. Ordinarily, I've done goodness knows how many farm leases, I don't usually find too much difficulty between landlord and tenant reaching agreement, whether they're six thousand miles apart or two miles apart. There is perhaps sometimes a bit more of a communication problem at a distance but it's generally resolved pretty easily. If you found you had bad problems, I suppose you can look at certain statutory provisions that leases must have, but there are so many variables, I'd prefer that it be a matter of contract wherever possible.

MR. USKIW: You say you suggest that as an option because you believe that we have problems with respect to providing for capital both for equity and operating and if somebody else put the equity capital, which would be now these owners of land, that would free us up with capital for the operating end for the tenant. That's really what you're saying.

MR. KEHLER: That's right. In an industry that is so capital intensive — Just to give you a simple example, supposing that the amount of land that I need to farm costs me \$400,000. To get the machines to farm that probably costs me at least \$200,000 more, maybe a little more than that. Now, I also need some operating capital to carry me through a year, so at this point I really need capital of about \$700,000, pretty close. It is very hard for any young farmer to get that much capital, or any old farmer for that matter, because it's an awful lot. I'm suggesting if you can take the land out of that package, you've cut the \$700,000 to \$300,000 and the land must be paid for too in a way and my experience is that with land the people will take a low rate of return because they expect land to adjust for inflation on a somewhat irregular bases but a fairly certain basis. Consequently, it is possible to get

in effect 6 percent capital that way as opposed to borrowing and maybe paying 20 percent for that capital. That's the basis upon which I suggest it. I'm not saying that without this the industry will die; I don't believe that, but I'm suggesting that it is a way that you can assist the industry if that's really the intent.

MR. USKIW: Given that that is the way you see the financial restructuring of agriculture because of the need for so much capital now, would you then want to comment whether or not the Province of Manitoba was indeed right a few years ago when we entered into such a program through public acquisition of land that was offered for sale and then made available to lessees and then financed the operating aspect for those lessees through the Manitoba Agriculture Credit Corporation?

MR. KEHLER: No, I regret I have to disagree with you there.

MR. USKIW: All right, tell me why.

MR. KEHLER: The reason is that it doesn't take into account the psychological makeup, if you like, of the farmer. Whatever it is in the farmer, and I've run into it repeatedly, I think from your constituents as well as those everywhere else, they somehow seem to resent the intrusion of government into that position where they do not take that position with the deal they make on a one-to-one basis with another person. Now I am not saying that they are right or they're wrong, so much as I'm saying that is what they tell me. I think that was the reason that program didn't work better than it did. It was just not something farmers would buy.

MR. CHAIRMAN: Before I recognize the next speaker, I believe that the relationship between this particular subject and Bill 58 is getting somewhat tenuous.

Mr. Uskiw.

MR. USKIW: Mr. Chairman, I tend to agree with you that you're right psychologically, only when you're comparing between locally rented land, that is land owned locally to a tenant farmer and the Province of Manitoba or the state. But if you're comparing between a situation where foreigners would acquire all of the land or whatever portion, all the rent moneys going out of the country overseas against the Province of Manitoba buying that land and providing the same option, then it seems to me that between those two options that your analysis would probably be wrong. Now that's an opinion, of course.

MR. KEHLER: Yes, it can be argued. I think, though that is not the way it happens. First of all, that rent money is always going to be a very small proportion. I think, the statistics of the province itself indicate that only some 2-3 percent maybe of the transactions that have taken place in the last two years involved even possibly non-residents, so that you're really not dealing with a very large number to begin with, so it won't have that big an influence, it will be one of a number of programs.

But, the second thing is, too, that it is my experience that the rent is not taken out of the

country. The rent stays where there's a choice. Generally, if it were still open, it would probably be reinvested and it would almost certainly be reinvested. Very few people take it home.

MR. CHAIRMAN: There being no further questions? Thank you very much for your presentation, Mr. Kehler. The next witness on my list is R.O. (Bob) Douglas, Executive Secretary, Manitoba Farm Bureau. Mr. Douglas.

MR. R.O. (BOB) DOUGLAS: Mr. Chairman and Members of the Committee. I firstly want to apologize for not having a written submission for you this evening. As you are aware the matter of inadequacies in The Agricultural Lands Protection Act has been a longstanding concern of the Farm Bureau and it was fully our intention that when we received the Bill to make it available to the various member groups and officials of the organization and we've had some feedback but we are finding more and more concerns with the proposed Bill and we've asked our solicitor to provide to us a legal opinion on a number of aspects and unfortunately we don't have that report back from him and further more he's out of town today and wasn't available for consultation before we came this evening.

The other thing, gentlemen, is that just having a couple of hours notice when we didn't anticipate that the Bill would finish Second Reading and appear in Committee, this quickly, which is much quicker than normal I understand or I think it is, we really wondered if we might express that disappointment to the Committee for that procedure because it's virtually impossible to get farmers off their tractors and into Winnipeg to make a representation in that short notice and thought maybe if the Committee didn't finish its hearings tonight that we might have the opportunity to come back in another form and make a written submission and make our points a little more forcibly about our concern.

I think though, Mr. Chairman, and gentlemen, we'd like to sort of express the view here tonight that the Bill in our view does have some weaknesses and doesn't go far enough in controlling foreign speculative purchases. I'd like to make reference to Page 2, under the definition of Corporations. Under the Section of Agricultural Corporations, (a)(ii) seems to come down fairly tight and then in the Family Farm Corporation it is the same thing, but in my considered opinion in (c) it's not nearly as forcible and either we should add (a)(ii) to it or rewrite it along with (c)(ii), one or the other. It seems to me it doesn't adequately do the job and that's the kind of thing we were asking our solicitor to look at.

The other concern I have is that when we turn to 15 on Page 6, I really would like clarification from you as to whether we can effectively write regulations under 15(e) I think it is, designing kinds of classes and shares of purposes for sub-clause 11 (i) and (ii) and (iii). We're not sure that that will effectively deal with it and we'd like to have that sort of assurance.

Mr. Chairman, I'm sorry that those remarks are so brief and so on but that's the kind of thing we were asking our solicitor for an opinion on and we may have to, if it isn't finished here, have another opportunity, or provide something in writing.

MR. CHAIRMAN: Thank you, Mr. Douglas. Will you respond to questions if there are any from members of the committee?

MR. DOUGLAS: Yes.

MR. CHAIRMAN: Are there any questions from the committee?

The Minister of Agriculture.

MR. DOWNEY: Mr. Chairman, I appreciate the concern that the director brings to the committee. However, the procedure is not unlike other years, the bill was distributed and available to the public, and I believe there was a copy sent over to the office of the Bureau as soon as it was distributed to the members and made available. I appreciate the fact that the farm community are on the land, seeding, and I would further like to add, in my opening comments, if the Bureau were aware of it; in my opening comments I commented that after discussions with the farm organizations, the union and municipalities, the different farm groups, that the bill was drawn on the concerns that were brought forward from the farm communities, so in the major sense I think that we've covered off those concerns, Mr. Chairman, that the Bureau had brought to our attention.

Now, we have got some proposed amendments that I think will deal with the concerns of the Bureau and would feel that after our two years of, I guess, consultation, there has been several briefs made by the Bureau that we have covered off most of those areas. So with those comments, Mr. Chairman, I think we could proceed, and that it has in fact done the things that we have intended to do to block any moves by the corporations which have been brought to the attention of the government.

MR. DOUGLAS: Mr. Chairman, I can appreciate that, we got bills, and we've had them out to our people, but I think in this kind of thing the real question is legal advice. And we are a little worried that when you close at one place, it opens something else up, and that's what we were trying to get at. And we just don't have that. I think, in principle though, Mr. Minister, you're right. You've tried to block it, we just wanted to be sure before we came and appeared, that's all.

MR. CHAIRMAN: If there are no further questions from members of the committee, thank you very much, Mr. Douglas.

The next witness on my list is Walter Kucharczyk, private citizen.

MR. WALTER KUCHARCZYK: You remember my name? Don't worry about it.

Mr. Chairman, Mr. Minister of the Agriculture, of the Highways, gentlemen, including some — in connection with the Bill 58 . . .

MR. CHAIRMAN: Order please.

MR. KUCHARCZYK: In connection with Bill 58, an Act to amend The Agricultural Lands Protection Act, with your kind permission before I come to technical aspects of it, I just want to make one brief remark.

The last word, protection, I'm afraid that you might reach the situation where you are going to protect those that are not asking you to protect them, and I mean Canadians. It might become a real hindrance. As I said before, before I come to a technical aspect

of it, Mr. Minister of Agriculture, perhaps you would give your ear on the subject matter, sir.

I do recall before the market was opened in mainland China during Mr. Diefenbaker's days, when Mr. Alvin Hamilton and the Wheat Board did such good work —(Interjection)— I have no words to underline stronger than you put it. I recall Honourable Member Mr. Diefenbaker in the House of Commons, when I was sitting in the gallery, I recall he stressed the point, to preserve the peace in the world, to fight the communists, we have to increase the production of the food and improve its distribution. I hope you understand my English, what I'm trying to say.

Now. Very unfortunately we know the outcome the market been opened many great things happened, but this is not election campaign, so I'm not going to talk about it. However, I want to draw your attention that history itself very recently proved how right Honourable Member Mr. Diefenbaker was, because he at all times indicated as strong as he could the question of politics, per se, should be separate from question of trade. And of course, agricultural products are a question of the trade. And I appeal to the Minister, particularly of Agriculture, to have a long enough memory to recall how he and the Minister of Agriculture of the Dominion of Canada worked last year. I'm trying to say that you gentlemen on the left, in your position, when it comes to agriculture — on my left, I can't suggest your political views — I meant to say on my left.

MR. CHAIRMAN: Order please.

MR. KUCHARCZYK: You should be guided by putting Canada first, because really today — by putting Canada first, Canada is the number one issue, eh? And here, Manitoba is still Canada, eh? So if we really, in this country, will realize not from political point of view but as citizens, what potential this country has, there'd be no better country in the world. I worked for quite a while with scientific delegations of eastern European bloc countries and they were fascinated by our dedication of the farmer. I give you my word of honour, when four people were farming 2,000 acres with modern equipment, a solid, high-up individual suggested it would take 160 in his country.

Now, I often think that you really don't realize as a politician — I'm not trying to insult you, I'm just telling you the truth — that your mind as a politician, is set on an issue as you are already dedicated to. But try to look more from a practical point of view. You talk here about all kinds of restrictions, etc. The lawyer, Mr. Taylor, he put it beautifully, various doubts, and I assume Mr. Tallin and the other gentlemen understood him well. But considering the fact that we have excellent experts in the Department of Agriculture, we have one of the better Departments of Agriculture at the University of Manitoba, and I will tell some of you that might not be aware, Dr. Shebeski, by the way he became a Doctor, given honorary degree way back in Poland, 12th in one of the Polish Universities. They don't give it away like potato chips. His international contribution, including Iran, where they had a problem in producing grains, because of rains and winds, and him and his department, they developed a growth that withstood the wind from taking away

the topsoil, and also the rains would not wash it away.

Why am I mentioning that to you? Just without study, travelling, there are so many lands that are not broken in. Although there's very capable white shoulder gentlemen who could do that, but perhaps they calculate how many bushels per acre they will get and what kind of profit they will make. I respectfully submit for your consideration, don't rush with this bill immediately. Think it over. Maybe your technical advisers will point out that maybe those foreigners should be granted lands that Canadians don't want to look at, unbroken lands. You have Crown lands, all kinds of them.

MR. ALBERT DRIEDGER (Emerson): We're selling it like crazy.

MR. KUCHARCZYK: You, sir, have a very good sense of humour. I have known that for a long time. Back to the serious line, perhaps you should consider that, to utilize our lands better than they had been utilized up to now.

Now, on the technical subject, and if I am wrong with my English, then of course you have to apologize because you are concentrating, some of you, anyway. My English is not at par with yours. Nevertheless it seems to me some nonsense right here. On Page 1, under (h) — I better spell it — "I-N-E-L-I-G-I-B-L-E person" means a person who is not a resident of Canada. Now then, gentlemen, only civil servants, say external affairs, immigration paper, those assigned to United Nations, to say, New York office, perhaps, Geneva Switzerland, or Rome food department of U.N., they don't have to come back to Canada after so many months before the whole year expires to have passport, Canadian passport in order, and to be a resident of Canada.

So really you are doing injustice here by somebody who is absent from Canada for a year and then he is not a Canadian resident any longer. He is not a Canadian any longer, according to your bill. Well, I respectfully submit that you have no right to do that. That's a Federal law already to decide, eh? Would you give a thought to it at least? I assume Mr. Tallin will be good enough to comment on that.

MR. TALLIN: I'm sorry, I wasn't listening to you.

MR. KUCHARCZYK: I don't blame you. You never listen to me anyway. Only once. Okay, Mr. Tallin, sorry. On Page 1 of Bill 58, under (h) it says, "means a person who is not a resident of Canada." Well, fine. So, Canadian goes outside of Canada for a year, sir, and he is not a resident, —(Interjection)— oh no, he has to come back before the year . . . he is a civil servant to renew his passport. So therefore you are taking a right from a Canadian to have the land. Now the mistake was made before by Saskatchewan because one time they put Saskatchewan, non-resident of Saskatchewan, they had to blush, not because it was warm in the room, because they made a blunder.

So I respectfully submit perhaps that should be corrected in such a way that would apply to a Canadian who is in excess of a year or so abroad.

Now, last item, Mr. Tallin and other gentlemen should review in my humble opinion, this particular Bill 58, with people in the mining industry and

particularly the petroleum branch, because if the oil companies who are interested in exploration and development, and let's say they drill for oil and they find the oil, and then their lawyers have to study your bill 58 because they need that land. They might decide to have a storage area for pipes and other equipment, so all of a sudden they have to deal with The Mines Act, then surface rights with the registered owner, and we will say sorry there is a bill here, you go to the government, so he has to go to the Department of Agriculture. So who is next then after the Department of Agriculture? That will be a nightmare.

I respectfully submit, give the public a little bit of time to digest that bill. Maybe it should have a good sleep for the next session. You will finish it, I am sure, with quite a few corrections. (Interjection)— I didn't ask you, sir, that question.

MR. CHAIRMAN: Order please. Mr. Kucharczyk. Order please. Mr. Kucharczyk, please.

MR. KUCHARCZYK: Now on a very brief observation indeed and I let you . . .

MR. CHAIRMAN: Order please. Mr. Kucharczyk.

MR. KUCHARCZYK: I think those so-called suitcase farmers, they don't pay attention, but they learn the hard way some day.

MR. CHAIRMAN: Mr. Kucharczyk, you have the floor, and none of us have any control over whether any of the members of the committee pay attention, but the floor is yours to put your views forward . . .

MR. KUCHARCZYK: Mr. Chairman, thank you very kindly, I recognize an act of God, pity indeed, but maybe some day things will change a different way, that the one who submits certain ideas will be respected.

Also I will remind the past Minister of Agriculture that despite the fact that some people ignore Walter, do read the pamphlet that the First Minister issued on Constitution, and you will see Walter's contribution, for which he is pretty proud, unless they made a mistake, which I don't think so.

In conclusion, Mr. Chairman, once more being brought up in a country where the country meant number one, the personal gain meant number two, in question of priorities. Follow me? Now, if you gentlemen really will concentrate on that bill without going into technicalities, because those technicalities could be interpreted for a benefit of one who is enforcing or attempting to enforce.

You ask yourself, would you like to be over-governed by the bills the way they're worded? When you talk about democracy; when you talk about a free country, then you have results in Poland, the country of my birth. What happened when people of the country became over-governed by various laws? I suggest to you, you have a bonfire with some of those laws at the end of this session.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Kucharczyk. Will you respond to any questions from any of the members of the Committee?

MR. KUCHARCZYK: By all means, but I don't think they will ask.

MR. CHAIRMAN: If there are — the Member for Gladstone.

MR. FERGUSON: What I'd like to ask you, when are you going to shave off your beard?

MR. KUCHARCZYK: Sir, as soon as the hair will start to grow on the palm of your hand, I will match you the length of it.

MR. CHAIRMAN: Are there any further questions for the witness? There being none, thank you very much for your presentation.

MR. KUCHARCZYK: Thank you for privilege and those that didn't like it, I don't apologize.

MR. CHAIRMAN: This brings to an end the people who have indicated they wish to make presentations on Bills 19 and 58.

Are there any further individuals in the gallery, who had intentions of making presentations on either of the two bills?

There being none, is it the wish of the Committee to consider the bill clause by clause?

The Minister of Agriculture.

MR. DOWNEY: Mr. Chairman, we have some minor amendments to make and I wonder if we could pass Bill 58 and make those changes at report stage, Mr. Chairman.

MR. CHAIRMAN: Bill 58 — pass. Agreed? (Agreed)
The Member for St. George.

MR. URUSKI: Mr. Chairman, just before we pass Bill 58, just one short comment.

The Minister in his remarks, indicated that this legislation will strengthen and it was clear to myself tonight, Mr. Chairman, that from the legal presentation that was made, if there is a will, there's a way to circumvent this legislation and certainly it was obvious by comments made by Mr. Kehler that the legislation certainly will not only create a larger bureaucracy which his Premier wanted to avoid by having some other board handle the legislation, Mr. Chairman, but as well this bill does not close off the loopholes.

It is, as we have stated, window-dressing at a time when there is pressure on the government and although this is better than nothing, it still leaves the door open.

MR. CHAIRMAN: Bill be reported.

MR. DRIEDGER: Bill 58 — pass; Preamble — pass; Title — pass.
Thank you.

MR. CHAIRMAN: Committee rise.