

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

Tuesday, 9 September, 1986

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. C. Baker (Lac du Bonnet)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Bucklaschuk, Harapiak (The Pas), Harapiak (Swan River), Schroeder and Uruski

Messrs. Baker, Cummings, Findlay, Mrs. Oleson and Mr. Pankratz

APPEARING: William Halabura, Agricultural Research Management and Consultants Ltd.

Mal Anderson, Credit Union Central of Manitoba

MATTERS UNDER DISCUSSION:

Bill No. 4 - The Family Farm Protection Act; Loi sur la protection des exploitations agricoles familiales

Bill No. 22 - An Act to amend The Agricultural Credit Corporation Act; Loi modifiant la Loi sur la Société du crédit agricole

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MR. CHAIRMAN: When we adjourned yesterday, Mr. Halabura was to make a presentation. Mr. Halabura, are you ready to come forward please?

MR. W. HALABURA: Thank you, Mr. Chairman, members of the committee, for this opportunity.

In my initial point of departure, I tell you I come like a farmer, unprepared with a written brief. However, there are several limitations that I come with.

One is when I have been circulating amongst the bankers and the farmers. I noticed as soon as Bill 4 was introduced, the bankers were busy at preparing a position paper on their Bill 4. It raised the question, who from the farm sector was preparing a position paper for the farmers; and I haven't seen any farmers prepare a position paper, or very restricted.

The other limitation I have is, most of my work deals with farmers and I have an onus of confidentiality, so I cannot put names or figures - I have to be responsible on that extent. However, I think it only fair that I be general because many of the farmers - and I'm going to be giving you a farmer's story - have allowed me. I've asked them; I said, can I tell part of your story and they said fine, we'd appreciate that.

Because I don't have a written summation, I'm just going to run through a few of the things I wrote down what I'm going to do, then I'll do it and then I'll summarize it.

In retrospect to The Family Farm Protection Act, I'm going to be talking about the first-hand experiences as to the miseries, the hardships that exist out in the community, so I'll have a basic introduction by way of background. Then I'll talk about the banker-customer reality situation, a little story. Later on I'll give you a case study, the worst approach to solving a problem and how it would deal with the family farm and then give you a little story as to the best approach I've seen in my experiences. Then, three snap anecdotes dealing with the realities out in the communities and how they would affect the legislation.

Item No. 5 would be a support of the position on the principles of Bill 4; which part in principle do I support, which part I don't support. Then I want to make comments about the bargaining position of the farmer versus the bank's position; make comments on the skills, ability and procedures of the mediation panel, the farm peer group and how I feel the bill should be restructured. Then I will make comments about either establishment of a commercial ombudsman or a commissioner or agency of monitorization and give you about six examples where it be applicable.

Then I'm going to refer specifically to some of the clauses in Bill 4, clause-by-clause, and where I feel it should be modified. After that, I want to talk about the control of the situation that the farmers, that the bankers have - how do they control the situation and what invites panic - because that really has an effect on what is going to happen; and a few brief comments on proposals and strategies in solving problems and then talk about the debt moratorium aspect of Bill 4; and eventually I'll try to go right to the summarizing. Okay.

You notice in my presentation my name is Halabura and I represent Agricultural Research Management and Consultants Ltd. Well, what in the world is Agri-Research Management, who are they, what do they do, how did they get themselves involved and what expertise?

Agri-Research and Consultants is actually newly formed. It was incorporated on November 8, 1985. Its main task is to facilitate and to hold the hand of the farmer as he goes through the, as I said, knocks of the system or the destruction and reconstruction of his well-being. Agri-Research, the service has been well-called for; in fact, I often used to have a common phrase when I go to a pharmacist: What I do is what the government should be doing.

The next question is they'd say what do you really do? Are you an agrologist? I say no. Well, are you a lawyer? I say no. They say, well, what do you really do? I facilitate the farmer in arriving at a sense of protection and I fall back on various types of experiences that I have held with the community as well as I fall back on some of my own background.

First of all, I have another company called Research Realty. As a realtor in the European market, I have been exposed to at least 1,000 farmers. I have been all over Germany, France, Denmark and England holding seminars and meeting the farmers, shaking hands and

getting their concerns. So I had a little bit of European exposure.

As a realtor in this province, I have specialized in selling farm property. This is where I got my introduction that there were problems. Just to give you an idea, I had a farm sales directory, which I'll submit as evidence, and the problems. If you think what is the problem of the farmer, you look at the prices here and that will tell you what the problem is.

But just to give you an example of exposure to experience, I had 101 grain farms, I had 50 dairy farms listed, I had 6 poultry farms. In 1981, I had 22 piggeries, 30 cattle ranches and 43 small farms. In total, my real estate company has listed over 400 farms, and I have appraised close to 500 farms. This is where my specialty is. I feel it is an appraisal of assets, farm assets. So I come from that background.

Besides that, I held a couple of degrees at the university but I don't think they helped me very much to facilitate my work, but such things such as I've taken welding and mechanics and carpentry at Red River; I've taken, through the university, Real Estate Investment Analysis; that course helped me - it gets me at the agronomics; and a whole host of courses dealing with appraisals. Okay, the background is sufficient. Now we're trying to establish what is the situation like.

I'd like to tell you a little story to put the perspectives in light. A grain farmer in his frustration decided that enough was enough. He was going to go to the bank and have this whole matter resolved. He just couldn't bear the pressure anymore. So he walked into the bank, and he's known his manager for a number of years, and he sat down and he said to the banker: Why did you give me \$1 million? Why did you? Don't you realize that you are responsible to the shareholders and to the depositors? Why did you give this money with all those risks?

When he had finished that comment, the banker had his back up and he says hold it, hold it. He says I made the decision based on our agronomist. We have the projections right here that you and the agronomist put together: the \$9 a bushel for rape; the \$6 a bushel for wheat. That's the basis I made. Then the banker turned and looked at him, and he says but you don't only loan money on those cash flows do you? He says no, we have security.

At that time, land was selling for \$1,200 an acre, and the farmer says yes, I remember, you were telling me they're not manufacturing anymore, so buy it, the additional land that I bought.

Then the farmer looks at the file and he says, my goodness, we've had a long relationship. Our relationship has a file a few inches thick. I don't know where this is all going to end, but I sure wouldn't mind having a copy of those projections and all those trace elements of our relationship, because if this thing ever snowballs into a court case or something, I'm not very well protected.

The banker says, oh no, that's bank policy not to release that type of information. Well, he says, I do have some of that information in my file. I still remember last year's projection. I was going to spend \$18 on fertilizer, and I have your handwriting on it where you crossed out and you suggested I spend \$27.00. Well, unfortunately, the crop froze and not only did I lose what I suggested but also what you suggested and I'm

caught with it. So now the realities are that the land is not anymore 1,200; it's dropped maybe to 400. The reality of the situation is that grain is not 9 as projected and the farmer says now what is going to happen, you know.

I tell you a number of things happened. In my experience, and I have to tell you that I'm now dealing with 80-some farmers in counselling: 2 from the States, 5 from Saskatchewan, 75 from Manitoba. That gives me a pretty good sample, and I'm going to make generalizations as to what I have acquired. They've taught me what I'm telling you, to be very frank with you, because I've gone to the university looking for a book, "How to Help a Farmer in Trouble," and I haven't spotted one yet; but I say, their stories are basically my source of references.

So now we have a situation where basically in the honeymoon period where everything was hunky-dory, no one thought about the collapse in prices, and we have to reconcile with this. Now I want to give you an example of what could be the worst thing that could happen and then counter it with what could be the best thing that could happen.

On the worst side, a story entitled, "Commercial Knifing Through Compromise with a Third Party." This farmer looked over his account in January and he said to his Mrs., looks like we've had a good year. I've got an off-farm job; I earn about \$100,000 off the farm and on the farm, about \$120,000.00. Looking back three years, I've earned over \$200,000, so we've got a pretty good track record. Our surplus, as of January, is about \$30,000.00. What should we do with the surplus? This is a hog farmer looking at the situation; what should we do with the \$30,000.00? Should I expand the piggery on a conservative basis or should I go and have a big renovation?

Well, the wife suggests just a small change, and the farmer figures it may be a good idea. So he goes out and he says, I'm going to buy an old barn and just add it up. This is a true story and many of these facts here are true stories. So he goes and buys a barn. In fact the barn, to put it in Billy's, the Honourable Minister's, is just a mile east of his place. That big, shiny barn. And he's going to add on to that barn and if you're wondering who's place - and he's going to add onto the barn and carry on.

Okay, he does his projections; he's got the \$30,000, short about \$10,000.00. Might as well go talk to the banker and see what he's going to say about the whole thing. And the banker looks at him and he says, you know, you should really have a look at it carefully because you're adding old and new; maybe you should look at it from the point of new. Well, that's a good point.

So then the farmer says, I have to go and see the agricultural engineers in Winnipeg and see what they say. He goes and speaks to the agricultural engineers and they say you know, a new phase, a new structuring is in the making. Farmers are starting to build barns out of pole structures. And he says you know, there's a big saving if you just go by the pole style. So the farmer's interest is drawn. He says, well, what's the saving? Well, at least a 50 percent saving. You line up the poles and you save on concrete and you save on insulation and heat and ventilation is different. He says, has it been tried before? Never. Well, are you people prepared to prepare a scheme for such a barn? Sure.

So he says well, let the local agricultural engineer do it. So the local agricultural engineer prepares a blueprint of the new barn and he puts into the mind \$60,000 is going to be enough. So the farmer figures well, that's safe; I'll take it to the banker.

He takes that proposal to the banker and the banker looks at the . . . and he says well, maybe we better call in our field specialist and let him look at the whole thing. And the farmer says, that's a good idea because really, if we're going to talk about farrow to finish, feeding out pigs, I don't really have the expertise in budgeting, so maybe we'll get our expertise to do the budgeting. Fine.

The expert shows up at the farm; the meeting is held and there's talk about old and new and what is to be done and a platform of what financing is needed is put forth.

However, after a little while, the budget comes and the farmer is busy as could be, never looks carefully to see if there's an error in the budget. And there was a big error in the budget; a big error. The biggest error is that when the agrologist looked at it, he was generalizing feeding out only weanlings. The proposal was from farrow to finish feeder. And there was the shortfall about \$30,000; that's problem No. 1.

So the farmer starts building this barn and, lo and behold, after a month, he finds out that his agricultural engineer is way off base; no way it's going to cost double. Now there's a real shortfall. The blind were leading the blind. What are you going to do? So then, meets with the banker again, and says look, and when I use the banker in this particular case it was a credit union, goes back to the banker and says, look, are you prepared to restructure? I have to look at it he says, but you know there's a problem. The budget is wrong; we have to get a hold of the person who made up the budget and we have to look at it. He says the person has moved out; we haven't got that staff. That presents, I said, a serious problem for the farmer because now he can't cash flow to finishing and he can't cash flow the building.

So the banker says, why don't you lean on the third party? Go get the feed mill man in. He'll finish off. We'll release the security. We really don't have the security on the finishing . . . and get the third man in to compromise. That has the seed of the compromise, that suggestion. What happens in short is the third man eventually, the bill starts getting up to \$25,000 and he has no security and he gets worried. He says, hey, I want security, and the farmers says, well let's wait till MACC approves it and then we'll restructure it. MACC does approve it with some difficulty or some hesitation and eventually that's enforced. However, the third parties are now putting undue pressures, saying look, I've got to have security; why don't we double attach. In other words, you give us an assignment for the same thing you gave to the bank. The farmer says no. He says after a little while he leaves it, he comes back. The next week he says, you're not going to finish this whole project. It's downhill. You've been caught in the two factors. The bad budget and the . . . Why don't you transfer the property to me? The farmer says, well hold it. Before I started this whole thing I had 60-some percent equity; I was worth over \$220,000 plus equity. This whole unit is worth \$260,000 to \$270,000. If I transferred just for what's outstanding I'm, as a farmer, the farmer says I'm losing too much money.

However, the feed fellow says look, if you don't transfer it I'll get it from the banker. One way or the other, I'll get the farm. The farmer says, I don't believe that's possible; I trust the banker. I don't think he would tell you what the running balance is of the account. What happens is that eventually a disease factor comes in and other things, and the whole thing becomes a nightmare, and the farmer says, I need a holiday. He tells about 15 people he's going to . . . As soon as the farmer is off, the third party is in with a bunch of hogs and now the banker and the farmer are farming. Yet the title is in the farmer's name. The barn is being filled up. Everybody forgot about the one aspect, in whose name is the title? Who's paying the bills? The compromise is there. So the farmer comes back, he says, wow, what in the world happened? The next day I was out, exactly what the third party said. I'll push you out and he was right in there. Then the farmer wonders well, the best thing is gone is gone. Even if I saved the hogs and the equipment, that's enough. If I save \$70,000, let them have the farm. But I'll go and I'll sell it to the third party. So the farmer doesn't want to deal with the banker any more. He goes to the third party and says, I offer you the farm for sale. Let's make the deal.

You should have seen the light of the feed man. He was just happy as could be. Now he's getting a deal. But he didn't know what the running balance was at that time. So a deal was struck for about \$205,000, the farm was sold. Outstanding was about 165, so that meant there was a little bit of push-it. Well, what happens after that? The deal is subject to financing that; financing is approved; it's a solid deal, so there should be no more kickbacks. The farmer is going to take what he has left over and he's going to start all over again. However, a crucial problem, and the problem was the banker talked too much.

When the third party got together with the banker, he pressed and pressed and then the banker released the running balance off the farm. Now, you have a problem. The third party doesn't want to buy for what he has agreed. He wants to buy for the running balance. He wants it for \$165,000; why should he pay any more?

I've seen this happen about five times in my agri-research experiences, that once you release specific confidential information, it just throws a domino effect. It creates the whole relationship and sometimes one wonders if there wouldn't be a need for what you call an act of confidentiality, that such information so vital, because what it really means - and I've experienced it as a realtor - you're trying to sell a farmer's property and they go around the back directly to the bank and they say buy it or sell it to us for what is outstanding.

Anyway, what happens in this case is you get a whole mess in here and the bank starts to back off. The bank says, it's not our fault. It is the third party's fault. We were prepared to finance, but the third party would not sign the mortgage papers. So, you have a situation where eventually the farmer says, I'm going to find a lawyer. So, he goes into the Trizec Building and as soon as he says, what are my rights, I want to know what my rights are and I want to deal with this financial mess. The lawyer says, can you afford me? That's the first question. If you can't afford me, sorry.

He goes to another lawyer and the same tune comes in, can you afford me? My God, he says, where is

justice? You have to have money to get access to justice? Eventually, after four tries he comes across a lawyer and he says, sure I'll listen. He listens and he says, all right, we can do many things, but you have to give us a sense of direction.

Then the farmer says, all right, I'll come back in a day or two and he gets word of another lawyer who is a super lawyer, and he goes and visits the lawyer and he tells the same story that I'm telling you to the lawyer says, look, there's two ways of looking at it, to the farmer. He says to the farmer, one way is you can look at the past and all the garbage that goes with it. Sure, you can sue for specific performance; sure, in 90 percent of the case, you can go and put a padlock on that barn and chase everybody off and they'll go to the courts and ask for possession and you will counter sue for possession and tie it up in the courts, and two years down the road you will have your day in court and you may get your justice.

I said, is it worth the cost? Is it maybe not better to put the whole thing aside and look at it from this point of view? Farmers are not stupid. They have all kinds of ability to do other things. Do you really need a \$200,000 mortgage to buy a job? Moreover, he says, if you've been honest, demand that the third party be honest or demand that the banker be honest and keep him honest. He says, you have to make a judgment call. Do you want a resolution soon or do you want a resolution in the future in the courts? The farmer decides it's best that he demand that the banker be honest now and keep him honest and call a big meeting and resolve it at the big meeting. So what are the grievances? Well, look, he had no business interfering; I want damages, the farmer says. I want damages.

Secondly, when the farmer walked off the property, he noticed all kinds of things missing. I want payment for those things. Well, I have to tell you that damages were paid, a deal was struck and the whole thing ended with one sentence, which I'll read, and that will be the end, it says, of the bad story, and it ended. Such cases, if you ask yourself, if the farmer had that same opportunity, under Bill 4, which would be better? The provincial legislation or the federal 117? And I have to tell you that this sentence itself would give you the answer.

After the deal is struck, damages are paid, there is a condition. It says, "It must be understood that the terms of this settlement are to remain confidential between our respective clients. If your client in any way makes this settlement known to the public, then our client reserves the right to claim damages." Anytime there's a hush-hush-hush situation, it will not be dealt with by the federal legislation. Why? And the other thing is do you think the bank would risk what we call collusion and self-dealing as there were many examples? No way. So, as I say, that was the example of where one bill would be more appropriate. The family farm judicial review would give immediate access to the courts. Justice is not automatic if you need money, as I told you. That avenue, that process would be available.

All right, now I'll go onto what I call a very positive experience, and it's called cooperation to the end. As a realtor, and I started this process of negotiating for farmers in debts about three-and-a-half years ago, I was called by one family, again a hog farmer, and the

specifics that I give you are not exactly as to numbers, but anyway I'll make up a number. Let's say he owed \$400,000 to the bank. He says what am I going to do? Really, Mr. Halabura, he says, I'm a Christian and I feel that if they were good enough to give me the money, I should be good enough to pay it; and, secondly, I have never stolen from anyone and I'm in a real conflict. He says I don't want to steal a cent from that bank. They have carried me 100 percent and I would like to do the best I can, but I am broke and I got caught in a power take-off.

He says I can't farm, firstly; and, secondly, when I built this big farm - he had 2,000 hogs on the farm - when I built this farm, I thought it was for my son and my son doesn't want it. He says it's not worth it, what the farmer goes through; and moreover, my son has aspirations of becoming a Minister and he's scheduled to go to Bible School in the fall. So he says I've got a big problem.

Well, I said, I'll look at your situation. At that time, I was at the university taking a whole series of credits preparing for my service, and I said give me some time to think about it. Well, lo and behold, that farmer shows up on May 8th right at the place where I was writing the exam. He says I've had it, here are the keys, you look after it. He says I came from the States; I'm going back. I can't take it, he says; I'll go insane. We cannot take the pressure anymore.

Well, I says, in all fairness, come with me and I'll introduce you to a super lawyer, you know, a lawyer's lawyer. Let's work out a deal with the lawyer and a strategy and then we'll take it to the bank. So we spent a couple of hours and we got the lawyer involved. Lo and behold, two weeks later the lawyer came back and he says no headways, we can't make headways. I said: Is it a problem of communication, that as soon as you get a lawyer, the other party gets a lawyer and there's a standoff and no one's giving an inch? He says that's the problem. So I said what are you going to do? He says I don't know.

I said, well, I'm going to give a whack at it but I'm going to go talk to the farmer, and I said to the farmer let's try a new strategy; let's say we come to the bank and say, look, we'll do everything we can, cooperate 101 percent, but we want something for our cooperation. You give us something for lining up that equipment, something for hauling all those hogs to market, something for all our efforts.

So I sat at the bank with the farmer and I said what do you think is going to be the maximum on your equipment, on your livestock, on the farm? We did an appraisal of it - and this is very important - in fact, there's three types of appraisals that have to be done, three types of values. So we did an appraisal of market value, an appraisal of ongoing value, an appraisal of restructured value. Now I had some meat to take to the bank, and I walked in, and actually without notice even, and I sat down in four hours. In those four hours, I hammered out a deal which took back 20 years of the farmer's sweat and labour and all that he had.

It was the basis of the way the two parties, and basically, if I was going to go back to the \$400,000 that I'm making up in my mind, I said to the banker we'll guarantee you \$250,000 and after that, we split. We said 50-50 and the banker said that's too rich of a slice, but let's take 75-25; 75 for us, and I says but I want some conditions. Fine.

Well, I have to tell you that when the farmer, because he was a strong Christian, called all his Christian fellows in - there were about seven or eight of them - they painted up the equipment, they lined everything up and there was a fantastic sale. It was expected \$60,000; there was \$118,000.00. With the bank expecting \$100,000 out of the hogs, I sold them for \$122,000.00. There was way, way more, and at the end the farmer left with his share and the bank was more than pleased.

In fact, I want to read just one sentence out of what the bank's position was on the whole thing. They said, "Your efforts to proceed with an orderly wind-down of your farming operation are commendable and they have reconfirmed our faith in the farming community. We know these are trying times for you and trust that our activities have not contributed to any of your worries." No duress, no stress, no do this or else I'm going to kick you off. A total partnership.

The banker, I asked him: What happens to this farmer if he goes to the next place, he's planning to move out, is his credit good? He says 100 percent. I says I love this whole thing because what it does is you have a long-term plan. You've started as friends and you're leaving as friends and this person will still contribute to the business wealth of your bank after the, as you call it, after the separation, and a very positive thing. In fact, bankers like that, I would subscribe, would make excellent candidates on the debt review because they know both sides of the story. This fellow has been extremely professional, and I normally don't want to do this, but in this case I have to tell you, it's the Toronto Dominion Bank.

The Toronto Dominion Bank, I've had three experiences, 100 percent, very professional, very. Anytime I was in trouble where I didn't know an answer, I used to go back to some of their people and say what would you do because I need help. In my business, I really have to appraise and I have to use my deal-making skills and I've got to bring the meeting of the minds, and I need that help.

Okay. However, as I said, I gave you an example of the worst and an example of the best. There are many examples of things that did not turn out the way they should do. I'll give you an idea of how I operate on the procedure and you may find it valuable.

I go and appraise the property. That's the first thing, the appraisal. Secondly, I ask the farmer for all his documents from Day One and I sift through the documents to see if the mortgages are in place, if the securities are in place. Thirdly, I go and do a PPSA search. I want to know exactly what is the impact on the chain of priorities. Fourthly, I want to know what were the circumstances of the loan. What were the building blocks, the underlying pending of that loan? Under what basis was it made? Because it will determine how I'm going to settle.

When I appraise the property - I'm going back - I want to know the three values: what's the market value; what's the present ongoing value; and if that farmer is to continue, what is the restructured value? That's an important element in order if we're going to do projections.

Then once I get that information, I give the farmer a choice. I work with many lawyers and I say, we have certain questions, which one of these lawyers do you want? He says, I don't know. I say, you know what I'll

do? I have a working relationship with - in fact to be frank with you I have two law firms that have hired me to help them, and I have a fertilizer company that has hired me to help them with their problems - so there must be something that I'm doing right.

So I go and I spend 15 minutes on each case. Normally I have what I call a session day and I'll take four or five files and I'll have three lawyers at a table. We go, client No. 1, go around and highlight what the problems are and where the strengths and weaknesses are. I do the same thing with the other law firms. Eventually we strategize what is in the best interests of the farmer and the farmer gets involved to that extent. All right.

Well, sometimes things aren't as you expect. I want to tell you a story about a farmer who was about 57 years of age. He fought the issue in his mind for two years. He's a millionaire farmer. He fought it for two years and then one day his grandchild came up to him and says, "Grandpa, you're not cheerful anymore; you're not happy anymore. Don't you love us anymore?" Well, I tell you, that man broke down that night. He cried all night and he said, it's not worth it. The farm isn't worth it and nothing in life is worth it if you can't appreciate the beauty of your family and God. He says, I'm prepared to surrender the farm. They can have the farm. I want to have a normal life back again.

So he gave me a call and he said, make a deal. He tells me the story, make a deal. Eventually I used what I call high-powered lawyers to assist me in this. We meet at the bank and we try to iron out a deal, but there's no giving. Eventually, lo and behold, on a Saturday, who shows up if not the receiver and the banker and it's just wait and see; we've come to check and see. We want to know what's happening on this farm, and they go out around and say, hey, you really do have the grain here. You haven't sold anything, fantastic.

He says but, you know, you've got one problem. You shouldn't have hired that consultant and that lawyer and you are unrealistic in your expectations. He says however - the banker and the receiver say and this is on a Saturday - they said, we'll make a deal with you. If you drop the lawyer and if you drop the consultant, we'll give you \$50,000 but we want a transfer of title and a whole bunch of conditions.

The farmer is listening to all of this, goes to the bedroom and phones me. He says what should I do? I said you've got 50,000 you never had yesterday, grab it, but make sure it is in writing. Make your deal right there. You know, I chuckled that they had to pay to get rid of us because we might be doing something right, really, are doing what we intend to, give you a little of protection and hold your hand when the times are tough. That's all we can do.

So we got a deal there. At least the farmer thinks he has a deal. He says, when do we get this in writing? Monday. Good. He comes in Monday to the receiver and guess what happens? The receiver says, sorry, I've been fired; I gave you too much. Go back to the bank and start all over again. The farmer says, I can't take it anymore. He says, I'll take whatever they give me. He says, well, we'll give you 25,000.00. He says, but I'll never, ever deal with that bank.

There's a story here. If Bill 4 says that there's going to be a certain watchdog to see that the documents

are in writing, I think that was a case where documentation between the two parties and the deal that was struck should have been with a third party watching because the deal was killed and restructured when the farmer had his emotions down.

I was called to a situation about 300 miles away and just to highlight it, sometimes things are not as complicated as farmers think they are. I listened to the farmer's story and I said, really, you haven't got a problem. You were farming 1,800 acres and now you're farming 600 acres. You're well over-equipped. All you have to do is cut down, get rid of your surplus and I think you're on the go again. As I said, after three hours of looking over this, that's exactly what happened.

I make this point because sometimes what farmers think are serious problems, are not serious. They could be mild adjustments. This farmer says, I want you to meet my neighbour. He's about eight miles away and he's very sick. He's confused and I fear - and this was on a Wednesday - and I said, do you know what, I'll make a trip on Sunday. I have a practice and a business that it's charity time on Sunday. I go to people that I know have no money and I know they've been in the hospital as a result of stress or something and I try to see if I can give them a little bit of comfort. I said, I'll go and see him on Sunday.

I get a call on Thursday night and he says, Bill, I've got some sad news. I asked what happened. He says, Alex shot himself. I says, oh, no. He says it's sad because he was telling all of us that he had a problem. He was telling the banker and, actually, the signs were there and none of us really took heed. We are all responsible.

I says, tell me a little bit. How did it happen? Well, he says, what happened is after I met with you, I went down and told him you were coming out and he was a little bit happy that someone was going to look into it. But there was a surprise waiting for him on Thursday morning. Lo and behold, the receiver and the auctioneer showed up on Thursday morning at nine o'clock and the farmer was not prepared for the shock. There was no warning.

So he listened to them and he pleaded and begged that they give him time to contact a lawyer and that they back off just so that he could work this out with them. They said, no, it's gone too far and something has to be done.

So all he did is he sat in his half-ton, drove up in the hills and they heard the bang. When they heard the bang, the bank backed off, the auctioneer flew back. Everybody went to their starting places. Everything was at a standstill.

It's tragic. When I heard that, I said to myself, I've got to go on Friday. I've got six clients close by. I wonder how the other banks are reacting to something like that, when it gets out into the community? It spreads like wildfire. I said, I want to see if there's more concessions made under such a situation or not.

I have to tell you there are, and there's more sympathy. I say why do we need a death to teach us that sometimes the harshness of procedures has to be modified, has to be alleviated. As I said, I think we all share in the deaths of those farmers who do such things.

I'll be very frank with you. It used to be I had a hell of a situation, something that I never experienced, and I've only had three times where farmers phoned me

and signalled to me that's all they're going to do; there's no use fighting, just end their life. One of those situations was yesterday. That's why I was quite exhausted when I came here.

However, I think when you look at policies, you're not really passing debt-to-creditor policies, but you're also passing a policy of how you're going to deal with poverty because this is what, really, we are talking about. Many of these farmers are in severe poverty situations. The fact that you have, under Bill 4, a judicial review, I think I support it, maybe not in all its structure that's in the bill. First of all, I had mentioned before that justice is not automatic. You need money to buy justice. How much justice can I afford is the question many farmers have.

Even if you look at legal aid, if they turn to legal aid, there are income restrictions, a gross income of \$17,000.00. Then you have another problem, and I've seen it over and over again. If you say I'm going to seek justice, I'm going to go find myself a lawyer, you go to a lawyer and they are profit oriented people. They're not going to work for \$35.00 an hour, which your legal aid offers, so you have a serious problem. Moreover, to be frank with you, I've had lawyers refuse to deal with farmers because they say the organizational time is just tremendous. It's not a simple problem; it's highly demanding.

So who's going to represent the farmer if, on the one hand, you have the banker with his high-powered lawyers. The banker has another advantage; he's got money. The banker has another advantage; it's a role replayed. For the farmer, it's his first time he's going through the hell of financial stress. The banker has many, many times replayed the same role with others and he's got added experiences and advantages; he knows already. What has the farmer had? He's got to turn to someone and, as I said, there were no position papers written by farmers that I could bring to you, but I'm sure there are some by the legal people for the bankers.

So he has to appeal to you, that you at least give him his day in court, that you at least give him a chance so that he is capable to tell his side of the story. His side of the story has something to look at. I have to tell you that of the 80-some experiences, a good majority of them - I would say at least 20 percent - there are errors in the legal contracting. You would be surprised at the mistakes that the legal profession makes in the documentation of contracts. It's unreal. I know one case where a lawyer for a credit union wrote up 22 mortgages, all invalid.

It was a simple mistake, too. He drafted a security agreement and he drafted a mortgage. He said the security agreement is collateral for the mortgage, the particulars of which will be spelled out in the mortgage. But he forgot to put the particulars in the mortgage.

I've seen mortgages drafted up on cash flow and they forget about The Interest Act, that they've got to show how much is outstanding. Here you have a floating of the loan. My lawyer friend says, well, all that the farmer is responsible for is the lowest level of that floating.

I've seen lawyers forget about The Dower Act, and I've seen negligent lawyers, lawyers who use conflict of influence. In other words, they're two-timing. On the one hand they're saying I'm helping you, Mr. Farmer; on the other hand, they're working for the bank.

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I've seen lawyers sued by bankers for real screw-ups. For example, four parcels of property and the lawyer says, I'm going to frighten the farmer. I'll just get one parcel of property; I'll foreclose and go through all the murky and complicated process of foreclosure and I'll frighten the banker. He forgets about Section 16 of The Mortgage Act. As soon as he forecloses, the debt expires with the discharge of the mortgage.

As I said, you're going to ask which bill is better, the federal bill or the provincial bill. I'll tell you that if there is a screw-up, it's not going to go through the federal; it's going to end up in the provincial aspect because the fact is it's going to end up in the courts.

If you are going to say which one of the bills would be advantageous, you'll find out anywhere there is hiding and there is something underhanded. You're not going to see any justice done in the federal C-117 bill. The only request the farmer would have is to beg that Bill 4 would be in place and he would have access to the courts.

Look at Bill 4. As I said, I agree in principle under the judicial aspect, but would rather see it somehow modified parallel to the federal bill C-117, which has a judicial review with cram-down procedures. Basically, if we're going to have a cram-down, a force-down situation on the creditors, let the creditors get together - at least 75 percent of them get together - and either approve the restructure or not.

Moreover, I seriously see a lot of good will in the community, where the bank is inviting the farmer to make a proposal. I wouldn't want this good will killed.

I would recommend that we have something similar to the American chapter 11 subsection, where you register a deal. Have a paragraph that says, give the banker and the farmer an opportunity for informal mediation and negotiation, but give the farmer a credit specialist, an advisor, someone to hold his hand, to go through this mediation process.

I think, as I gave you in that good example with T-D involved, no bill is required. I'm working - even with my good friends at the credit union, we don't need any legislation. The spirit of cooperation is there; they can handle it themselves.

I think the law should be as a shadow of the past at first and then, eventually, if they're not going to operate under the spirit, then the shadow of the past will force them to operate, give them the incentive. You would have the settlements registered.

I feel there is a need for some kind of watchdog agency over this whole bill, whether it's going to be called a Commercial Ombudsman, or a Commercial Commissioner. What can the person do? First of all, he or she could confirm, if you look at this bill where it says summary presentations, the reporting will be made by somebody. Well, there may be objections; there may be certain needs for cross-examination of the information. How is this information going to be dealt with? How is the farmer going to have a chance, let's say, if the report, the appraisal is based on some bad judgment calls. How is the farmer going to have that corrected? I hope there is some mechanisms to deal with that, because it happens.

The second thing I could see, was I could just confirm as a watchdog, if there are self-dealings between where the creditors themselves self-deal in the situation and the farmer doesn't have any access to justice. Let there

be some reporting on self-dealing or reporting on collusions with other parties.

The other thing is the harshness. You'd be amazed how harsh some debt collection procedures are. So unreal. Then another thing is, monitor some of the government services, because there's so many things going on and happening so fast, I don't think the government bureaucratic system is in tune with the needs of the insolvent and bankrupt farmers. I'll give you two or three examples.

I've had a case where the Hydro was supposed to be cut off and the farmer phoned me at 11 o'clock at night, sweating, because not only did he feel that the power would be cut off but his only source of food. The freezer would rot, he felt that his livestock may die, and the pressure that Hydro standing out there with their trucks waiting to cut off the hydro was not very helpful. Thank God I was able to get hold of the Minister and postpone the whole thing; but I think if there had been some watchdog where the farmer could have said, look, I'm having this financial problem, could we look at some delays until it's dealt in the whole parameters?

Another example is the telephone. I've seen a situation where there is a limited company and a private company running. The limited company goes into bankruptcy - and I don't mean to give Al any more problems than he has - but the limited company goes bankrupt and what happens is that they disconnect the phone. So he phones the telephone company and he says, my goodness, you're cutting off my life line. I have a private business that I'm running and I need that phone. He says I'll put up the money; I'll give you \$500 right now. The lady on the phone says sorry, it's not a question of money; it's policy. Policy? So we've been trying to correct that policy for a month and the man's source of income has been cut off because he was making money as a limited company and he was making money as a private company and the private got locked in.

A third example is welfare. I make a lot of calls right to the farm. I want to know exactly what's happening. Really, I want to find out where we stand, because the first question I normally ask is, have you got food for tomorrow? If I see a baby, have you got milk and diapers, stuff like that. So it's the basic survival.

I walked into this place and I said your cupboards are empty. The lady tells me she borrowed a loaf of bread from the neighbour. I says where you going to get food? Well, she says, one of the people about five miles away promised to loan us \$400 and that will keep us going for a while. I says, you know, you can't be proud in this situation. You have to go to the Health and Social and you have to apply for welfare.

So the person goes and applies for welfare, out comes the worker and he says to the farmer, how can you guarantee me that you're already financially dead? How do we know that you've got nothing to live with? He says all these assets are still here. He says but I'm in receivership, the receiver is looking after it. He says, well, as long as there is some indication that you've got money or equity, it's against the policy.

And I've seen it happen about four times where there was nothing in the cupboard and they turn to welfare and they can't get it, you know, because of policy. It shouldn't happen.

I mentioned to you about values. Whether it is provincial or whether it's a federal board who look at the real estate values of the farm and find it in the first or second week, is the unit viable? Well, I tell you, my friends, there is a lot of controversy and a lot of problems at arriving at these values.

Only in 1980 was the first course offered at a credit institute of appraisals to farm appraisers. We don't have a systematic orderly pattern of appraisals - as in the urban setting - in the farm setting. There is a lot of controversy. Should you evaluate by unit? Is the whole greater than the parts? And when land prices are going down, are the building prices really going down?

Going back to the first story, I'll just give you an example. Remember the commercializing? The banker called for an evaluation; \$125,000 was the value of that farm two years ago. That's panicking, that was shocking to the farmer. How could it be possible? If MACC, it was \$200-and some thousand; if there was an independent appraiser looked at it, they said it was \$187,000 without the new barn. Yet the banker was flashing. All the place is worth is \$125,000.00.

The other factor in place was that there was a coincidence of values. Sometimes values seem to only reflect what's outstanding. So as I said, it would be good, I guess, to have a committee struck where some principles of evaluation would be established so you don't have such variances. I think that one of the biggest variances occurs in depreciation. In the urban setting you look at a furnace, you say all depreciated over 14 years; you look at the roof and you say 11 years; you look at concrete, maybe 40 years. You have a pattern of depreciation. It's a hit and miss with agricultural depreciation, and that's where the variances lie. Here you're going to be appraising a farm and setting up a base, whether that farm is going to survive or not and you have such variances. You may do a great injustice to the farmer.

The second question I have is the question of viability. What is viability? Well as a realtor I've had some experience with the provincial management people defining viability. They said viability, when you're processing an immigrant, is 50 percent. The debt to equity ratio on a dairy should be 50 percent; on a cattle operation, 80 percent - good - 80 percent assets, 20 percent debt - and on the grain, 100 percent assets; no liability to survive. That's the format.

So I say if that is the format by which we presently have employed for processing of immigrant or would-be new Canadians, what are we going to use as the base formula when we're going to deal with viability? And who is going to arrive at this? Because it goes right to the root of whether that farmer is going to survive or not. Are you going to be looking at circumstantial situations? What happens if the farmer has a brother that wants to give him his equipment; or some family member that wants to . . . I've got a phone call which I guess I should make, but I'll finish this.

Control of the situation and what invites panic - bear with me - the bank looks at the situation, its securities and says, how long can we allow this farmer to continue? What will determine it? Well, first of all, they say we've got to be commercially reasonable in what we're doing. He says that's well exemplified in Section 62 of The PPSA Act, or in Section 95 of The Corporations Act,

or Section 179(5) of The Bank Act, or Section 187 of The Credit Union Act. We've got commercial reasons. So the bank, that's on their minds. We've got to watch that we don't damage. The other thing is, they say, look at the chain of priorities; there's a problem.

The farmer used Section 34 of The PPSA and gave the fertilizer fellow special rights or special priorities rights in security. So now the bank says, I really don't have a hold on the agreement. How about the equipment? We know it's just the farm equipment and machinery act is not in line with the PPSA, so the banker looks at that equipment and he says, I've got it secured, but do I have it really secured? All of a sudden, he finds out that somebody has an unregistered hold against that equipment.

I would say there are two major discrepancies that I have, as a common denominator, in legislation. One is registration of name. Wow, what a mess we have there. We don't have an authoritative definition of what name is. I remember sitting in the Legislature hearing about a cattle farmer who closed down in February. I said to myself, I wonder how they were secured, and that farmer, who was also a client of mine, on the last day before he declared bankruptcy, he came to me to tell his story. I said, I wonder under what name he was secured. So I did a PPSA search, and I noticed there were three securities in the livestock. I says, how did that happen? Because there's no authority. Did he go under Leslie or his middle name?

As a result, I think the bank must have done a search and said, my God, somebody's ahead of us, so nine-tenths of the law is possession. Grab - I've got it. Now all of a sudden, there's a battle, who's got it?

Then there's the other factor, control of the situation, so the banker is trying to give some lease on life on the situation and he says, I wonder what's happening to the inventory. In the normal course of business, all of a sudden, he hears creditor dealing with fertilizer has thrown in an injunction to freeze for the courts X number of dollars, dollars that he counted on. The panic button is there; he wants to jump in and close the situation. So there are many factors. What's unfortunate is any one of them creates a domino effect and you have the destruction of farms.

Unfortunately, sometimes this shouldn't happen. I'll give you an example where a debt moratorium would be very ideal and I support it, in the way it is. Let's say a farmer has 60 percent equity and 40 percent liability, but the domino effect of someone jumping, let's say, a fertilizer company is owed \$95,000 for fertilizer; and all of a sudden that \$95,000 has jumped, which the bank thought had security but didn't do their work properly, there was no proper attachment and perfection. Wham, bang, they jumped him, destroyed the balance of the equity. I know the farmer would benefit from that moratorium.

Another example, let's say I have a 60-year-old farmer who has a heart condition. He's got 60 percent equity, but no bank would give him any more money, except the existing bank that's trying to deal with him. The farmer cannot make the payments, so he says, what's going to happen? All of a sudden, the process of foreclosure comes in. There should be a moratorium on that foreclosure until either the farmer sells out, given reasonable time to sell.

I want to wrap this all up now and be ready to answer questions. I think I could end this by saying that one

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time a farmer said to me, I fought in the Second World War, and I fought for equality of law and equal justice but, as a farmer, I'm not getting it. I cannot see, because I don't have the money to buy that justice, I cannot see what I fought for. Moreover, the harshness of the situation that is prevalent, he says, I need peace of mind. I think the legislation should give farmers the chance to review the situation and say, forget about the past because the past is history. The fact that we made a bad judgment on incomes and we made a bad judgment on land prices, let's put the past aside; let's put all that garbage aside and let's work out a deal, dollar for dollar, as the situation is, with the best possible gain for the farmer and the best possible gain for the bank.

Also, let's look at the future so that we are still friends. The farmer did not invite all these problems. They came to his doorstep; he's crying out for help because he feels this is what this government's all about - law, order and good government. He doesn't want all the panic, destruction of assets that occur, and I'm sure you've read in the paper some of the things that were written, and they're true, 100 percent. He doesn't want that, and I don't think in the farm losses, that the banks don't want that too. I have to tell you that sometimes, for points of clarification, I used the word bank, but really it's one or two of their employees.

I'll give you an example, a real stupid decision and cruel decision. A banker says to the farmer, we'll help you out, you help us out. Line up all the equipment, sell the cattle, sell the grain, bring us the money in. Fine, hold the auction sale on such and such a day, and the farmer says, we've been friends for a long time. Could I put my furniture in the auction sale and change it? He says, no problem. He says, can I pay the bills that are outstanding, X number of dollars, \$5,000.00? No problem. As soon as the cheque comes into the bank, guess what happens? He forgot about the deal. The farmer's sitting in an empty house because he trusted the banker on his verbal deal. That shouldn't have happened. Under The Judgment and Execution Act, that stuff was exempt and it was seized.

Since I'm on The Judgment Act, we've got to correct that too. Just look in Manitoba. A person is allowed a residence of \$2,500.00. What kind of sugar shack can you buy for \$2,500.00? In Saskatchewan, the basic exemption is \$16,000; in Alberta, \$20,000.00. I hope they increase it to \$60,000.00. So I think besides Bill 4 there could be cleaning up of The PPSA Act, cleaning up of the other legislation; and too bad The Bankruptcy Act is so outdated.

I think the Federal Government have slipped there too, tremendously, because a lot of the problems that we are dealing with today should have been dealt with in a revised bankruptcy or in an amended bankruptcy act.

Debt Review Panels were talked about in 1966 by the Committee of Bankruptcy Insolvency. There's nothing new there. The only thing they would have passed what was in 1983 and made it not only for corporations where you have a judicial review and cram-down procedures where the creditors get 75 or 80 percent; or 60 percent of the creditors get together to restructure it, that would have helped a lot of farmers.

I have to tell you that the majority of my farmers that I've serviced, have less than 15 percent equity, so

I don't think there is a hope in hell of restructuring the farm to carry on farming. But we still have the obligation, we still have the duty to hold their hand through the process and offer them something new.

MR. CHAIRMAN: Would you give us any specific recommendations you have to Bill 4, please, because time is running out?

MR. W. HALABURA: All right. Division III, Section 9(1), I was hoping that we could have just before that the voluntary settlement agreement being registered through the courts, something of an informal nature, that the good will that's in the community, we'd have a paragraph just before that, that we would still preserve the good will that's in the community between the banker and the farmer, and that there would be registration of these settlement agreements.

In Section 9(4)(e), The Value and Condition of Farm Assets: I would qualify the values there, make it clear because we're talking about more than one type of value.

In Section 13(7), Summary Manner: Any hearing under this section shall be heard and determined in a summary manner. I have concerns if it violates the doctrine of natural law. There should be a need to cross-examine. I'll give you an example.

If there is an appraisal that's not in line or something, it should be cross-examined. There should be something that allows the farmer - to give him a reason why something or some position was taken.

I think I'll stop there and if there are any questions, fine; if not, all right.

MR. CHAIRMAN: Any questions? The Minister of Agriculture.

HON. B. URUSKI: Mr. Chairman, to Mr. Halabura, just on the last point dealing with cross-examination, are you aware that the information and the negotiations as envisaged in the bill would in fact take place with the farmer, with some help of staff and the mediation board, so that the period in which the review is taking place, these kinds of shall we say discrepancies or disagreements, could be ironed out and we envisage most of them ironed out without the necessity of going to court?

MR. W. HALABURA: Yes, I'm aware of that but the peer advisory panel committee is supposed to be structured, I understand, of farmers, or retired farmers. I have a concern that they may lack expertise to deal with a certain field. After all, I ask myself, why do I have at least five farmers who are millionaires come to me for advice? Because it's a special type of advice.

HON. B. URUSKI: Okay. You're referring to the initial step that may be called into play before a notice of foreclosure, in terms of using the Peer advisory panels. However, the mediation board itself will be involved in the negotiations and the court process, because of your comments about the availability or lack of availability of dollars for lawyers that may or may not be required, that the procedure be as informal as possible.

Do you see a concern about having as informal a procedure as possible in the event there is still a disagreement between the farmer and basically on the report of the mediation board, because that will be the consideration of the court, the report?

MR. W. HALABURA: The structuring that you have put in place may be satisfactory. It has to be tried. It all depends on the expertise of the people.

MR. CHAIRMAN: The Member for Virden.

MR. G. FINDLAY: Thank you, Mr. Chairman.

Mr. Halabura, in your long and lengthy presentation here this morning, you mentioned a couple of times that no farmers had come forward and made a position on this bill. I would ask you who KAP represented, who the Manitoba Cattle Producers represent, who Pool represents, and who UGG represents?

MR. W. HALABURA: When I was making that comment, I was making it in the context of those financially troubled farmers who I work with because they are not prepared or have the resources. In fact, I think they're afraid to make a presentation. That's the context of that comment.

MR. G. FINDLAY: Why would they be afraid to make representation?

MR. W. HALABURA: They're afraid there may be repercussions from the banks. I'll give you a concrete example.

In Brandon there were five farmers around me when the CBC had the "Harvest of Debt," and I asked them, are you going to present? They said, no. I said, why not? We're afraid what the bank will do to us. I said, it's sad, you should speak up. He says, we still are in the process of negotiation; or we have negotiated and we're basically afraid of the power of the bank.

MR. G. FINDLAY: You're referring to the "Harvest of Debt" at Dauphin, not Brandon, are you?

MR. W. HALABURA: At Dauphin, yes.

MR. G. FINDLAY: Do you believe that all farmers can be saved?

MR. W. HALABURA: No, that would not be logical or reasonable. As I've mentioned, the majority of the 80, most of them are 15 percent and under so they can't be saved.

MR. G. FINDLAY: You operate as a private individual, mediating farmers' financial problems. Do you believe that this mediation process that's presently been going on for the last three years, in your experience, that the mediation process has been successful for any of your farmers?

MR. W. HALABURA: I think I have two farmers who applied to the mediation panel; or they were dealt with at the mediation panel and didn't find an answer, then they came to me. I have to tell you, out of the 80 I

have approximately 40 settlement agreements; 40 farmers have peace already.

MR. G. FINDLAY: I didn't catch that last word.

MR. W. HALABURA: I said two farmers have gone through the provincial mediation. All right? And if I rightly remember, they came to me after they had gone through the process. They were not satisfied with what happened there. I also made the comment that out of the 80, I have 40 settlement agreements in the file. They're closed; we've done our job. Not got paid - we haven't been paid but we've done the job - sometimes.

MR. G. FINDLAY: Are you aware of how many people have gone before the provincial review panels?

MR. W. HALABURA: I think 20, if I may be right.

MR. G. FINDLAY: Twenty over about three years and you, as a private mediator, have handled 80, half of them successfully. How many more would have been handled by private mediators in the Province of Manitoba in the last two years?

MR. W. HALABURA: I think it's the style and the approach you take. I take a very personal interest. I have an open line. They can phone me anytime and I take a very personal interest. Sometimes when we get into the very bureaucratic system of red tape, it just doesn't. I wouldn't want to guess how many. It's not fair for me. I think they're just given the chance to go through the judicial process. That gives me muscle.

MR. G. FINDLAY: Why do you need muscle?

MR. W. HALABURA: You need legal muscle to correct the wrong sometimes. You need legal muscle sometimes in the judicial process to get them to the bargaining table. The majority of the effort, I find, is not in settling the group; it's getting them to the table to settle. That's where all my efforts are spent. Once I have them at the table, then we're going to make a deal; but get them there, that's the big job.

MR. G. FINDLAY: Will the process of Bill C-117, the federal Debt Review Act, bring people to the table through the mediation board process?

MR. W. HALABURA: It may bring some of the FCC people, a majority of them, because they're running right now in a little bit of a conflict. They've had to represent the farmer on the one hand; on the other hand represent their interests. But I would say it wouldn't be very satisfactory because it's volunteering. If it's volunteer, you just could have one element that would serve as a barrier to the channel of justice and you've had it. I would rather, as I mentioned in my speech, let them work under the spirit of the law but have the law behind.

MR. G. FINDLAY: Are you aware that even in the provincial bill that the court's action is simply to review the mediation board's report, so the power of making a settlement is in the hands of the mediation board even in the provincial bill?

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MR. W. HALABURA: I'm aware of this, but I want to share with you, the bill is in Saskatchewan. All my clients in Saskatchewan have received a letter from the bank inviting them to make a proposal before. I haven't seen that happen yet in Manitoba. How come they're inviting the farmer in Saskatchewan?

MR. G. FINDLAY: Are you saying that there's been no mediation agreements arrived at between farmers and bankers and credit unions in the Province of Manitoba?

MR. W. HALABURA: I am not saying that. I am saying that, as a sample, out of the five that I've been working in Saskatchewan with, they're flashing a letter saying to the effect, the bank is inviting them to make a proposal. That is an expression of good will and I am wondering whether that would be there if they didn't have the act. They've got the act; something must be pushing them to make that initial informal deal.

MR. G. FINDLAY: In your experience with 80, 40 or 50 percent of which you say you successfully mediated, how many refused to bargain? How many refused to sit down and discuss the problem?

MR. W. HALABURA: That's a very difficult question to answer because a deal is not struck on Day One. It takes a lot sometimes for a gestation period, a resistance on both sides; so something has to trigger them to the bargaining table. Some leverage has to be implemented to get them there; except, I would say, not in all cases. I gave you a positive example of a highly professional undertaking, and I'm dealing with one with the credit union right now - 100 percent beautiful.

MR. G. FINDLAY: Have you any examples of refusal to negotiate?

MR. W. HALABURA: Yes, those are the examples that are going to go to court because of what's happened; and I have some that I expect to end up in the Queen's Bench.

MR. G. FINDLAY: How many?

MR. W. HALABURA: Well, I can't tell right now because first of all, it wouldn't be fair because we are trying to settle. That's the purpose of our job is to settle without going to court.

Let's put it this way: It's the process that sometimes destroys whether there is a settlement or not. The bank says to the customer, you express some good faith and then we'll settle. So what's happened is, the farmer lines up the equipment, does this and that, and then the bank withdraws from his verbal agreement and that is never settled. Then, eventually, it gets into foreclosure.

MR. G. FINDLAY: I am not asking for specific names. I am asking for a number out of the 80 that refused to negotiate. That is not divulging any information that is going to affect their appearance in front of court.

MR. W. HALABURA: You've caught me off guard on that one. I haven't - you know, I can supply it to you.

I'd have to go over the whole file. I do keep a log of every person's position and what the proposals are, where we are and where we're going, but I go back to what I said before.

MR. CHAIRMAN: The Member for Virden. I noticed the bee got on the mike there for a little while.

MR. G. FINDLAY: He's coming to see me now. Your whole case is built on needing clout, needing a big stick to make things happen; and you've failed yet to give me any concrete example that that clout is essential to get an agreement between people who are negotiating honestly.

MR. W. HALABURA: I object to that. I did not say clout; I would not say we need a hammer. All we need is a carrot, some incentive, something to say, look, let's put it this way. I'll be honest, but we want you to be honest and let us get to the bargaining table. That's all we want, you know, simple. There are too many barriers to stop the process and you want it rolling.

MR. G. FINDLAY: Where do you see Bill 4 working in conjunction with Bill C-117? The federal Farm Debt Review Act is now in place, boards are being set up in Manitoba. Do you see them both working simultaneously or are they working in cooperation, as one board or two boards?

MR. W. HALABURA: I think at the present time possibly they could merge and Bill 4 would deal with the foreclosure, the other one would deal with the intricacies of equipment and other assets. You're going to find out that many of the FCC, because it's a federal legislation, will be processed through Bill 4. That's good. I think you could have a common link effort.

MR. G. FINDLAY: Are you saying that they should be talking and working out a mutual relationship?

MR. W. HALABURA: I think at the present time if it's possible, yes.

MR. G. FINDLAY: In your presentation, you suggested many times that lawyers are involved and have to be involved - I think you probably used the word lawyer 80 or 90 times in your presentation - setting up mediation boards where the bank comes with its lawyer, the farmer is then forced to engage a lawyer to protect himself; whereas I see the mediation process that's been ongoing privately behind closed doors, not involving lawyers up to this point in time to any great extent, involving mediators or just a banker/farmer sitting down and having a down-to-earth discussion and resolving their differences; and I see your proposal that everything be operated under Bill 4 with the big stick there, the courts, the moratorium being a boon to the lawyers of this province and actually increasing the cost to the farmer to arrive at settlements. Is there any fairness in that statement?

MR. W. HALABURA: No, I don't agree to that. Lawyers are involved by the banks from Day One. If we're going to deal with that client, I often see the expression, we've

got to send the file to our lawyer to find out where the security stands. That's step No. 1, and then you're waiting for the lawyer's response.

It's a legal contract and one has to go back to the building blocks and the circumstances. I think you can, and I mentioned it several times, that you can say let's put aside all the legal aspects and work a dollar and cents deal, where I can leave and you can leave in the best of spirits. That's I think, what should be the intent and purpose of the mediation board. But before you get to that stage where you're going to say, you put aside the past, you're definitely going to shake hands with the legal realms, but once that is done, you work out your deal. It's not the happiest situation for the bank or for the farmer; it's the best of the worst.

MR. G. FINDLAY: Are you in favour of the enacting of the moratorium immediately?

MR. W. HALABURA: I think I would wait for six months. I want to see how the rest of the legislation works.

MR. G. FINDLAY: Are you prepared to see how the mediation process works? Is that what you're saying?

MR. W. HALABURA: Pardon me?

MR. G. FINDLAY: You're prepared to see how the mediation process works. Is that what you're saying?

MR. W. HALABURA: Let's say, enact the act, but not declare it. Get the mediation going; set up the mechanisms that might be agreeable to them; but also remember one of the rules as I suggested is, just register the settlement agreements. Keep that good will that the banker has and that the farmer has, but give the farmer a crutch.

MR. G. FINDLAY: Do you believe that the credit unions and banks may say, well we won't go the last mile, we'll move in and start the process a year or two sooner than we would have normally?

In other words, they'll trigger action when a person's asset position drops to, say 25 percent, as opposed to a lower figure now?

MR. W. HALABURA: I already see evidence of that. A farmer just got a loan for purchasing 60 head of cattle. What happened? The re-did the whole security just for that 60. The bank re-did the whole security, but farmers are also changing. Right now, the hog prices are at the best price. Farmers are worried and aren't talking about expansion. What are they telling me? I know about five or six farmers who say, let's liquidate; that's the best time to liquidate. Get out of this mess because I don't know if I'll get another chance.

MR. G. FINDLAY: Do you see the mortgages on land requiring a higher security in the future than at present?

MR. W. HALABURA: I think that Canada has to almost follow the same pattern as the U.S. where there would be a federal guarantee on mortgages.

We come to the crux of financing, where I can't see it's going to be done like it was done in the past. Now,

just like we dealt with it in 1967, major changes were made, we're at the stage where major changes in the banking policies and government policies have to be made in regard to financing.

MR. G. FINDLAY: In your experience with the people you've dealt with, do you believe there are some farmers who would like an opportunity to operate under the Rural Transition Program, an option for retraining and finding another way of life?

MR. W. HALABURA: Yes, I think that is a positive aspect. I welcome that because at least there's something to offer them; and some of them are in real dire straits, just unreal.

MR. G. FINDLAY: I appreciate that, and then you would support the federal act being in place in Manitoba so that farmers have access to that public money.

MR. W. HALABURA: I think that access to the public money should be made regardless of whether we have support for that act or not. The realities of the situation call for help and we've got to help them. It's as simple as that.

MR. G. FINDLAY: You mentioned in your brief that people like to keep some of these negotiations private, behind closed doors, but yet you want the mediation board to handle everything from here on, rather than private negotiators like yourself, which would open things up to the public more than is presently the case.

Do you think that is reasonable, that everything should be opened up and everybody's affairs be made more public than they are now?

MR. W. HALABURA: I have some concerns about the Peer Advisory Committee. I would rather have two farmers and one, what I call a liaison officer, that sticks with the farmer right from the beginning to the end and sees him in the transition to more of a specialist working with the two farmers, rather than having three farmers; because as I mentioned before, if the farmers could have solved it themselves, why did they come to me? I'm not a millionaire farmer. If the lawyers could have solved it themselves, why did they come to me for strategic procedures?

MR. G. FINDLAY: In your presentation, you used a couple of examples. One was telephone, the other was welfare, that government agencies don't always deal in the fairest fashion either because of "policy."

Do you believe that in this process of negotiating on behalf of a farmer, that government sponsored boards can really be any better than private negotiators like yourself, in doing the job?

MR. W. HALABURA: I'm sorry, I lost the gist of your question.

MR. G. FINDLAY: In your presentation, you gave two examples, one of telephone, one of welfare where, because of policy, government is sometimes very insensitive to particular situations; but yet you're proposing that government be totally involved in the

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mediation process, rather than private individuals like yourself. What I'm saying is, do you not see the same insensitivity creeping in to the mediation process when government legislation is going to dictate policy and set regulations on how the process is handled?

MR. W. HALABURA: I also had suggested that there should be some kind of a watchdog agency, a monitoring agency and, moreover, there's going to be a report on the progress of those mediation panels, and it should come out. If there is any injustice, I hope it comes out in the reports.

MR. G. FINDLAY: You're aware that there is an Ombudsman presently in place and any farmer who has a problem can go and see him and get a report done?

MR. W. HALABURA: I'm aware of that, but when you want food on the table today or tomorrow, you don't go to the Ombudsman, who's got a backlog of work. You go to the department that you have to deal with and you try to; and if it doesn't work, you've got to find someone who's going to have faith and keep this family fed.

MR. G. FINDLAY: In one or two sentences, can you tell me exactly what you'd like to see done with Bill 4?

MR. W. HALABURA: I'd like to have it passed as is, put the moratorium on hold. I'd like to see the province seriously negotiate with the Federal Government so they could work a little bit together and have a team effort and hope they hire the right experts.

MR. G. FINDLAY: One mediation board in Manitoba?

MR. W. HALABURA: I don't think it's possible. Two.

MR. G. FINDLAY: Did you say two?

MR. W. HALABURA: Yes two, but each one doing different emphasis.

MR. CHAIRMAN: Anybody else any other questions?
The Minister of Agriculture.

HON. B. URUSKI: Mr. Chairman, just one question in dealing with the mediation boards. Do you believe there should be some consistency in the approach in negotiations as between lenders and farmers, in terms of settlements, given similar circumstances the farmers are in difficulty, in terms of what might end up as a settlement?

MR. W. HALABURA: Consistency in the process but each settlement is going to be tailored to each need.

HON. B. URUSKI: The point I'm trying to make is if, in fact, given two farmers getting into trouble for generally the same set of circumstances, management reasonable but weather and markets being the problem if, in fact, in one instance, for example, one lender is prepared to use as a give, small business development

bond, and in the other, just no negotiations. That's the kind of consistency I'm talking about.

MR. W. HALABURA: Yes, that would be welcome. It's always an ideal objective.

MR. CHAIRMAN: Any other questions? Thank you very much, Mr. Halabura.

MR. W. HALABURA: You're welcome.

MR. CHAIRMAN: Mal Anderson, Credit Union Central of Manitoba.

MR. M. ANDERSON: Thank you very much, Mr. Chairman.

Before I go into my presentation today, I have some copies that we made up. Given that last night everybody was handing out copies, we thought we'd better keep the stock of paper flow in Manitoba flowing and we have made up some presentations. They're not as formally produced, but we have got them.

Last night we did have with us a different delegation. We had our president and our first vice-president, as well as some of our officials. Today we have our first Vice-President, Mr. Sawatzky from Niverville, and we have a number of officials from our staff here.

Mr. Chairman, I expect that I'll take about 20 to 25 minutes to deliver and then I'd be open to questions at that time.

MR. CHAIRMAN: Thank you.

MR. M. ANDERSON: Mr. Chairman, committee members, I would like to thank you for this opportunity to provide positive, constructive input to Bill 4.

As Chief Executive Officer of the Credit Union Central Manitoba, it is my duty to try to coordinate the views of our various members in a way which you will find useful in dealing with The Family Farm Protection Act. I would like to take a minute to describe the credit union system, a bit about its agricultural involvement and then to outline the procedure that was used to try to develop a consensus of opinion which could be brought before this committee in a useful and constructive way.

I would like to preface this presentation by stating our main concern relates to the total agricultural economy and the long term future of agriculture worldwide. The general agricultural economic situation is the real cause for concern. I do not intend to recite all the economic woes facing the agricultural industry, but rather I wish to go on record as indicating we recognize it is these factors that have in the main created the current troubled situation. In speaking to Bill 4, we wish to acknowledge this bill has been drafted to try and respond to the current agricultural crisis. However, for the reasons we will outline in our presentation, we feel the bill will not be as helpful in relieving the situation as is anticipated. Manitoba credit unions are situated in the rural agricultural communities of Manitoba and want to see everything possible done to assist. We want to work cooperatively with everyone to ensure the long-term viability of these rural communities because if the communities prosper it will be in everyone's best interest.

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The credit union system of Manitoba is comprised of 97 credit unions. At the end of June, 1986, the credit union system had assets in excess of \$1.9 billion. The assets of our system are made up primarily of loans and cash on hand. The liabilities in our system are primarily made up of deposits entrusted to us by the various credit union members. I'd like to focus on that a bit.

The credit union system of Manitoba has approximately 300,000 members from locations as far north as Sundance on the Limestone Hydro Project, as far south as Gretna, as far west as Flin Flon and as far east as Sprague, Manitoba. Our members entrust these deposits to us for judicious use so that their credit union can provide them with a full range of service at reasonable cost.

In reviewing the base of credit union membership and assets in Manitoba, you will find that over 60 percent of our assets come from the rural areas of Manitoba and that our depositors are equally represented in these rural areas. It is important for us, in reviewing any legislation, to represent both the depositor and borrower members and to try and relate in a rational, reasonable manner the possible impact of any legislation on these members. In addition, and equally as important, we believe it is our responsibility to the citizens of Manitoba to try and provide quality constructive input as to the possible ramifications we see from legislation which we have background knowledge on and that we believe would be useful in analyzing the impact of the legislation.

We believe that we do have appropriate background knowledge to speak on Bill 4 and that it is incumbent upon us to take this opportunity to try in a reasoned and rational way to provide input so that the Government of Manitoba can make a quality decision as to how to deal with the very difficult agriculture situation facing us. Given that our system has a strong rural base, and that many of our credit unions' boards of directors are farmers or are local businessmen who are deeply affected by the current agriculture situation facing Manitobans, we believe we have an intimate understanding of the difficulties being faced in the agriculture community. In discussion with several boards of directors of rural credit unions, we have been advised of concerns about Bill 4 and the possible ramifications, not only on their borrowing members, but also on the members who have placed deposits with the credit union. We will touch on this aspect of our concern later in our presentation.

Before we prepared a presentation to the government on this particular bill, we wanted to ensure that we indeed did represent the view of our credit union members. We also took care to ensure that the presentation to be made to the government would not be too heavily influenced by urban credit unions by specifically excluding them from certain meetings which were held on this particular issue. This was not done because we do not respect and appreciate the urban credit union views, but rather because our rural credit unions live, work, sleep and play in the communities most affected by the current agricultural situation. We attempted to obtain input from these rural credit unions through the process of:

1) surveys in order to collect base data on the current agricultural situation; 2) a series of fan-out phone calls

from staff at Credit Union Central of Manitoba; and 3) through direct contact by holding a meeting in Brandon, Manitoba at which time representatives from a broad cross-section of rural credit unions attended. These representatives were both elected officials and management of credit unions. In addition, I personally attended board meetings of several rural credit unions where this matter was discussed with elected officials and staff. The input received from all of these sources was used in putting together this presentation, but the information collected at the Brandon meeting where direct questions on Bill 4 were asked was most heavily relied upon in providing input to this Legislative Committee. We were satisfied that both management and a number of elected officials attended this meeting. It was particularly gratifying that elected officials were able to attend given the harvest season. We also would like to point out that other meetings with elected officials confirmed the views expressed at the Brandon meeting.

Our intention today is not to dwell entirely on the results of this meeting, but also we would like to lend our support to trying to do something about the difficult agriculture situation which faces all of Manitoba and Western Canada. We are concerned about the current and long-term agriculture situation and we wish to assure the government that our efforts in obtaining views on this act were not done with preconceptions. Our intention was rather to examine the bill in light of the realities of both the agri economy and the lending industry and to try to determine whether there were benefits to the agri industry from this bill which could assist the farmer and, therefore, assist a great many of the rural communities in which our credit unions are located. At our meeting we attempted, in a very neutral way, to explain Bill 4. We attempted to present as best we could, based on discussions which we had with government officials, the objectives of the act. We also attempted to explain, as best we could, the relationship of Bill 4 with other pertinent pieces of legislation such as Bill C-117 and The Farm Machinery and Equipment Act. In addition, we attempted to explain the use of similar legislation in The Family Farm Protection Act in Saskatchewan and outlined the impact that it had on both the farmers and financial institutions in the Province of Saskatchewan. We also took the opportunity to highlight complimentary funding programs that had been developed in Saskatchewan and Alberta and tried to explain the relationship between climatic conditions, the farm cash receipts and relate that to the Manitoba situation and the proposed \$6.5 million funding outlined for assistance to Manitoba farmers.

At our meeting we also asked for suggestions from the people in attendance as to possible ways of assisting farmers through these difficult times. At the conclusion of this process, we asked a number of questions to which we received answers, which answers I believe will be useful in this presentation today. We intend to go over the questions and the responses to these questions in detail somewhat later in the meeting.

To recap then, what we have done is try, in as balanced a way as possible, to:

- 1) explain all of the legislation facing credit unions as a lender group; that is the Manitoba legislation - Bill 4, The Farm Machinery and Equipment Act, which is presently in existence, and the Federal Bill C-117;
- 2) to explain the relationship of these bills as we best understand them;

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3) to explain what is happening in other prairie provinces, both in terms of legislative programs and funding programs; and then,

4) to go through a process to try and collect views which we believe should be helpful in your deliberations on this legislation.

In collecting input data from the credit union system on this matter, I think it is important for me to emphasize to you the serious concern that the credit union shares with, I am sure, you and all members of our society for the plight facing the agriculture economy at this point in time. I wish we could see some light at the end of the tunnel for the farm community, but the way the world situation is going in terms of production and price, we do not see any short-term end to the current situation. Our suggestions, therefore, are made keeping in mind both the situation today and the longer-term outlooks for the farm community. These suggestions as well are made with a balanced view from a group of citizens of Manitoba who are both depositors and borrowers in the credit union system. We have the dual obligation of protecting both sides of the balance sheet and we give you every assurance that these comments we make today are made with equal emphasis on protecting the farm unit and the credit union depositors and borrowers.

We have spent time outlining the assistance we received from our own credit unions in developing this proposal, but at this point I would also like to express our appreciation to the Minister and staff of the Department of Agriculture for their assistance in working with us to help us understand this bill and in promising amendments to the bill - amendments which we believe will be done in a most constructive manner.

Just at that point, the staff have been tremendously helpful and without that assistance we would not have been able to carry off the meeting that we had in Brandon because we, only through those meetings and through dealings with the staff and in looking at a number of proposed amendments, were able to understand the bill in as a quality a manner as we hoped we've been able to achieve.

Since the time that Bill 4 was introduced, the Federal Government has passed Bill C-117. With this new legislation and the fact that the concerns we initially expressed to the government have not been fully addressed with the proposed amendments it makes it necessary for us to now provide our input to Bill 4 through this Legislative Committee. Firstly we hope that a suitable process can be worked out with the existing federal legislation and the cooperation of all lenders to ensure that appropriate measures can be put in place which will ensure that all farm units, where there is any possible hope of continuing will receive all possible support. Unfortunately, we do not believe that all farm units can continue to exist. This statement is based on our experience as an agricultural lender and some of the problem situations which we see currently facing the borrower and lender.

Let us now look at the act and the credit unions' views of this act and the particular strategies advanced in the act. The objects of the act, as expressed in Section 2, are:

a) To afford protection to farmers against unwarranted loss of their farming operation during periods of difficult economic circumstances.

b) To preserve the agricultural land base of Manitoba and to ensure that farm land is farmed and managed during periods of difficult economic circumstances.

c) To preserve management skills of farmers during periods of difficult economic circumstances.

d) To preserve the human resources of the agriculture community of Manitoba, and

e) To preserve the existing lifestyles of farm communities in Manitoba and the tradition of locally owned and managed family farms.

These objects are honourable and to the extent humanly and financially possible, the credit union system of Manitoba would as well wish:

1) to see that the farm communities of Manitoba continue to thrive and exist, and

2) that the human resources, management skills and the agriculture land base of Manitoba is preserved and is as carefully managed as possible.

However, we also believe this act acknowledges that there are circumstances where operators currently managing valuable farm assets will not be able to continue as has been the case in the past. The credit union system of Manitoba does not wish to foreclose on assets and to displace in an untimely or inappropriate way the occupant of any farm land if there is any possible solution. We pride ourselves on the fact that our boards of directors are all local personnel and that they have a strong base in the community where their credit union has been established. They understand the local economy and the individuals in the area and decisions are not taken lightly where it involves their neighbours and friends. However, I must emphasize again there are situations where there is not a possibility for a work-out of an existing farm debt situation, and in these cases, unfortunately, the very drastic and final action of foreclosure is sometimes necessary.

I would now like to go through the questions that were asked of the attendees at our recent meeting with credit union officials and staff and to discuss the answers. The first question that was asked after having gone through the process described earlier in our presentation, was "Do we support review panels?"

As I mentioned earlier, we believe we are unique in the financial industry in Manitoba in that any decision taken which brings with it the finality of foreclosure is done so by a group of people who live, work and play in the community where the borrower, who they may have to take action against, also resides. This may not be the case in 100 percent of the situations, but it certainly is in the majority of cases. We believe that we have acted judiciously in these matters in the past. However, we also recognize that often an independent third view may be useful in either confirming the action taken or suggesting an alternate course of action. While we do believe we make every attempt to try and develop work-outs in all of our credits, there may be situations where we have missed another viable alternative. For this reason, it is our belief that the credit union system of Manitoba can and will support review panels to ensure that any action as final and absolute as foreclosure on an individual who may have occupied farm land for generations is given one last careful look. We, therefore, provide this committee with our unequivocal support to the process of review panels, be they through Bill C-117 or through Bill 4.

The next question asked was "Do we support the moratorium?" I would like to preface this by explaining

that we took a great deal of time to ensure that all members to whom this question was posed understood that the moratorium is not on debt but rather on the foreclosure process. The answer to this question was an unequivocal "No." The credit union system does not support any moratorium, be it on foreclosure or be it on an absolute debt repayment.

The reason we do not support any moratorium follows the logic that a process which will affect the ability of the lender to ultimately realize on his security will place us in the difficult situation of having to judge our loans so carefully that any loans which might otherwise be granted will be passed over by any prudent lender.

When a loan is granted, the lender understands the process which provides recourse to ensure collection of that particular loan and recognizes the attendant risks when granting the credit. The moratorium creates uncertainty relative to that lending process and we believe it will ultimately result in tighter, more selective credit granting in the farm community. This will hurt both our farm borrowers and our farm depositors in the long run.

We acknowledge that similar legislation as to that which is being proposed exists in the Province of Saskatchewan and that the moratorium is renewable on an annual basis. We have analyzed the impact of this legislation as carefully as we can through our sister central in Saskatchewan and believe it has indeed had the effect we described earlier. That is, credits are being advanced in a more cautious way than they were in the past. These results were also confirmed in a recent Saskatchewan Wheat Pool study published in the Western Producer. In addition, in the Province of Saskatchewan, the provincial government has assisted the farmer with in excess of \$1 billion in the form of funding programs to compliment their farm legislation.

The next question asked was "Do we support the premise that we are prepared to operate with Bill C-117, Bill 4 and The Farm Machinery and Equipment Act?" Each of these acts places constraints upon the lender and possible uncertainty and confusion. We are aware that the federal and provincial governments are making a very sincere effort to coordinate these three pieces of legislation, but at this point in time we have received no assurance that we will not find ourselves in a situation of having to deal with three separate pieces of legislation.

We recognize that Bill C-117 is not as firm a piece of legislation as the provincial government would like to see and that it also does not involve the courts. We believe that Bill C-117 will provide a sober last review of the particular farm situation and that the review panels and experts being provided under Bill C-117 will ensure that no unnecessary foreclosure actions are taken. For this reason, the credit union system would recommend that Bill C-117 be given a chance to operate and that after an appropriate period of time, perhaps a year, the provincial government review the impact of this legislation with a view to determining whether it had met the required need as articulated in the objectives of Bill 4.

The next question that was asked was "Can the credit union support the inclusions of sections on farm machinery and other chattels when there is an uncertainty as to whether or not the legislative authority exists to act on these particular areas in a matter

equitable to all lenders?" Again, the view was held that Bill C-117 dealt with all areas of farm lending and that it should be given an opportunity to work as described earlier and, if the objectives were not met, then that legislation tailored to meet the needs which are not being met and complimentary to Bill C-117 could then be enacted.

The final two questions that were asked were the most difficult questions for us to deal with. They were difficult to deal with because they affected both our farm borrowers and depositors in a very significant way. Our fiduciary obligation to our farm depositors could be severely impacted if we did not deal with the two questions properly. The first question was, "Would the credit union system be more cautious in its credit granting with the introduction of Bill 4 and/or Bill C-117? With regard to Bill 4, the answer was an unequivocal "Yes". Bill 4 would place the onus of going through the courts on the credit union where the ultimate realization on the asset which was borrowed against could be denied, either through the process of time and diminution of assets or through its physical erosion. We recognize that Bill C-117 also places an onus on the lender to go through a review process if the borrower so desires. It should also be noted that the results of this review process are not ultimately binding on the parties unless there is mutual agreement and therefore, the normal processes, as understood today, could be continued and the ultimate realization on the asset which was pledged as security could be finalized.

The second question was "Would credit unions raise interest rates if Bill 4 was passed?" Again the answer was an unequivocal "yes", with the primary reasons being that Bill 4 would place new administrative burdens on the credit union system which would cost money and must be recovered.

Additionally, the credit risk as described earlier would be higher and it would therefore be necessary that an appropriate risk/interest rate relationship be developed. The additional risk would require a higher interest rate because ultimately there would be certain assets which would either be eroded or would not be able to be realized upon as described in the first question. Again this situation will occur with Bill C-117 but we believe to a lesser degree.

These last two questions were particularly difficult to deal with. I'd just like to stop to emphasize how difficult they were to deal with because we don't want to impose higher interest rates or to tighten credit. We felt that they were difficult to deal with because the credit unions wish to ensure the farm borrowers in the community in which the credit union is located are given every opportunity to continue their operations and are treated as fairly as possible in this regard. We do not believe Bill 4 will enhance the abilities of the farmer to continue to operate and to maintain the family farm tradition as outlined in the objects of the act under Section 2, for the reasons described above and for the very real situation which we believe will occur with the passage of Bill 4, and for that matter, with Bill 117, to a lesser degree.

Example: We have analyzed files to determine what the application of Bill 4 would do to assist with some troubled farm credits we have. In over 90 percent of the cases, we find that the farmer requires further

injection of cash to carry on his operation. Even if the creditor is not allowed to foreclose, the farmer will be sitting on a piece of land and machinery that he is not able to operate in a productive manner, because he will not be able to obtain that needed final credit in order to allow him his inputs for fuel, fertilizers, etc. which may be needed either to sow a crop or to take a crop off. We perceive this situation happening because under Bill 4, once a proceeding under the act is commenced, then under Sections 9(1) and 13(1), details of the application will be a matter of public record through the courts. In many cases today, when a particular difficult farm credit situation exists, the practice in the credit unions is to do everything possible to attempt to work out the situation. Given that Bill 4 will require a lengthy process through the courts, it is unlikely that a credit union will be able to spend as much time trying to work out the credits as they have been in the past.

We believe that once the knowledge of the difficult farm situation becomes a matter of public record, that any available credit to the farmer will dry up and the farmer will therefore be placed in a situation, earlier than he would have been, where he is no longer able to obtain either trade credit or credit through a financial institution. This, we believe, would have a negative effect on the farm community. Bill C-117 will also create a similar ripple effect which we are equally concerned about.

I'd just like to stop for a moment and give a very real example where we have a situation under Bill C-117, where an individual is doing everything to try to work with us so that we don't serve him and then have him have to come back in his 15 days because then all creditors will be aware because he has to serve back on all creditors and he does not want that situation, so we're working very hard to try and work that out. So we have some substantive feeling that this is what's going to happen, be it Bill 4, be it 117 or whatever, there has to be some relationship and some discretion in the community where the farmer is not faced with this difficult situation.

Under Bill C-117, the act is not binding on either party and there is, therefore, a strong likelihood that actions under this bill would not commence as early under actions under Bill 4. In either case, our objective is to try and minimize the impact on the farm operation.

As we indicated, many of the situations - in our view over 90 percent - which need a work-out require further injection of cash and Bill 4 was not drafted with this objective in mind. We do recognize the government has proposed \$6.5 million for farm assistance, and we hope to work with the government to suggest constructive ways of employing these funds.

We believe that through a carefully planned legislative and funding program supported by both government and the financial institutions, that there is a better chance of success for continuation of marginal farm enterprises through these difficult economic times than there will be with the passage of Bill 4 in its present form.

When the rise in interest rates and the tightening of credit occur cannot be predicted, we've indicated that they possibly would occur, we feel that way based on our review of Saskatchewan and what's happened there but we couldn't say when. We're not going to say that

it's instantaneous or when that will occur. But what we do say is that tough times have already tightened credit. Things are tough out there. It's not just Bill 4 or any of the situations that we see facing us, it's a long history. We perhaps have been some of our worst enemies in the lending industry, in lending against farm lands at high values when those values start to decline we find ourselves and the farmer finds himself in a very difficult situation.

So what I want to emphasize is that we can't say when these things are going to happen. We don't want them to happen overnight. But we believe that further tightening of credit and rises in interest rate will occur as conditions dictate. This will be determined in the marketplace. There's a lot of lenders out there. It's not going to just be something that magically occurs. It is not likely an overnight occurrence. All the economic factors combined will dictate the timing. These are not threats by the credit union system and we do not expect you to take them as threats, but rather they are carefully thought out positions as to what the ramifications of Bill 4 will be on both the farmer and on the lender.

As indicated at the outset of our presentation, the credit union system is very heavily involved in rural Manitoba and it is in the credit unions' best interests to ensure continuation of as many farm enterprises as is practicably possible. Will Bill C-117 help preserve these farm enterprises? We cannot say, but we believe that Bill C-117 should be given a chance and that, if necessary, complimentary legislation should be brought in to prop up those areas where Bill C-117 appears not to be working.

In addition, the credit union system believes that every effort should be made to help the farmers manage in these difficult times through educational support programs. We believe the credit union system takes time to work with its farm members in the majority of cases, to try and develop work-outs which will be beneficial to both the farm borrower and the credit union. We do not wish to seize assets for which there's no market. We do not wish to have assets on our books that would be devalued significantly because the marketplace collapses. We do not wish to see people displaced from their family farm homestead; we do not wish to see undue suffering in the community; we do not wish to see friction in the community as farm borrowers are pitted against farm depositors. We believe that the suggestions that we have made here today relative to assisting the farm community through the use of Bill C-117 will give us a chance to work through as many situations as possible and to try to save all the farm operations that appear salvageable.

It was indeed a very difficult decision to make to appear before this committee today. We have indicated throughout the course of this presentation we, like the Government of Manitoba, support the family farm concept. Therefore, if we felt the legislation had a chance of assisting the family farm entity, we would be upfront and center in supporting such legislation. However, we believe while this legislation is well intended, that it creates such uncertainty in the whole lending/borrowing process that it will not have the desired effect of ensuring survival of the family farm unit. It would be of little comfort to all of us to see farmers sitting idly on the land for which lenders could not foreclose, but for which farmers could not sow

crops nor harvest them because the ready cash necessary to continue their farm operations was unavailable because, as described earlier in our presentation, creditors were forced to take a different view of farm lending by the passage of Bill 4 than they might today. By making this presentation today, we tried to ensure a balanced view which would assist government in its deliberations on this legislation and hopefully help them to develop a strategy or to set out a process to develop a strategy which would ultimately result in saving as many family farms as possible.

Mr. Chairman, committee members, I would like to take this opportunity to thank you for listening to us today and we would ask that you accept our presentation in a constructive manner in which it was given and we would hope that consideration might be given to allowing Bill C-117 to proceed unimpeded and to judge it within a year and then to introduce necessary support legislation if required.

Just on that point again, we believe there are some aspects of Bill 4 that may be required if Bill C-117 doesn't work, but we'd like to give Bill C-117 a chance.

At this time, I'd be prepared to answer any questions the committee might have, Mr. Chairman.

MR. CHAIRMAN: Any questions?
The Minister of Agriculture.

HON. B. URUSKI: Mr. Chairman, I thank Mr. Anderson and members of the board of directors and staff for the brief. Throughout your brief - and I want to understand that it is your hope and see if I'm reading your brief basically correctly - that it's in the credit unions' best interests to ensure continuation of as many farm enterprises as is practically possible.

MR. M. ANDERSON: Yes.

HON. B. URUSKI: That would be the basis of it, okay. The credit union movement acknowledges that individuals who may be subject to foreclosure proceedings should have the right to review by an impartial third party.

MR. M. ANDERSON: We support review panels 100 percent.

HON. B. URUSKI: And should be given that look, okay. But in your brief you also state that Bill C-117 panels will ensure that no unnecessary foreclosure actions will be taken. Do you believe that?

MR. M. ANDERSON: We believe that given the open climate where a farmer understands that he's entitled to file his objection when he's given notice and that he's entitled to have a review process and will have assistance from the farm review panel in understanding his case, we believe that it should open up an avenue where he sees it as a help, rather than being intimidated to go forward to that board. We understand that is the concern that if the farmer becomes intimidated and says, I'm not going to that panel because I'm not represented, or I have to go through a special process after I'm served, that's why we suggest that we need to look and see if Bill C-117 works. At this point we

think it will work. If it doesn't work, and because we believe strongly that there should be review panels, then we say we're going to have to go into almost a mandatory mode.

HON. B. URUSKI: Is it possible that in cases where farmers who are in fact under stress in terms of workload and the like, given the nature that they have to initiate the action, that it's possible that within the 15-day period that they may not initiate the action?

MR. M. ANDERSON: I would concede that it is possible, Mr. Minister. In our case we're hoping that if we go forward with that kind of a situation, as we have done once already, that we would encourage the application of that review panel.

HON. B. URUSKI: Could you tell me - there are certain provisions under the act of review under non-moratorium procedures and there are certain conditions or criteria to deal with the applicants under moratorium provisions - can you tell me what concerns you? what are your concerns dealing with the moratorium period if a moratorium should be put into place?

MR. M. ANDERSON: Through the Chairman to the Minister, the sections of the act which put, as has been described to us, a different test under the moratorium are the things that we believe are realistic perhaps to be considered. But I think when we come to that point and those two tests that are different from under the normal non-moratorium process are as follows: What are the climatic conditions when the judge is looking at the moratorium and you're applying for an exemption? He would take into consideration very heavily, economic conditions and climatic conditions. Those two tests, I think by the time we come to where we have to have a moratorium and they're considering those, we're going to be all in very serious situation so that the aspect of having the moratorium not declared, but having it sitting there that could be declared by the L.G. in C. at any time, puts us in a quandary as to well, if it's there and it's declared, it changes how we have to deal - and one of the suggestions we had made at one time was - have it so that it could be declared only a certain period of time after the L.G. in C. declares it, so that we then have time to talk about it and work it out.

Our concern is that it could be such a serious situation and when you're analyzing these two additional tests, that is, the climatic conditions and the economic conditions, that indeed anyone in evaluating will say yes, world grain prices have fallen off; we had a drought; we had all sorts of things; where our situation that we're looking at may be one of, not the quality management that we would hope on the situation and we really don't see that there's a chance for survival, so we think it will all get confused at that point.

HON. B. URUSKI: Well the two points basically are: is the farmer dealing in a satisfactory or an upfront manner and basically honesty in terms of client, and of course if his management is reasonable. Given the circumstances that you've put forward as to where we might be at that point in time, would you feel as a

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lending institution that it's still incumbent on you to move with foreclosure if given those two terms as being logical in view of the consistent approach that we want to continue with as many farmers on the land as possible.

MR. M. ANDERSON: It would be in nobody's interest at that point in time because there will be no market for land, there will be no market for machinery, it will be indeed a very difficult time for everybody. And for us to build up a land bank or build up an equipment bank serves nobody.

HON. B. URUSKI: I guess I ask the question then, what is really the great concern?

MR. M. ANDERSON: The concern, Mr. Minister, again is that if you pass the bill with the moratorium there when these conditions don't exist, we have no assurance as to when the imposition of that moratorium will be. That's why we made some suggestions earlier in discussions with staff and so on, that there be some time frame so we know what we're dealing with.

I mean, the question was asked of somebody last night; did they know when if that act were passed, how long it would take to impose the sections whether they were proclaimed or not? And the answer is as fast as you can run across and find the L.G. in C. so you could then proclaim those sections of the act once you've passed the act. Our concern would be then you have the moratorium in place which has very critical tests; tests which may be necessary when the whole economic situation, the economy grinds down. But while that section sits there and if we know that it could be passed at any point in time without a breathing period or a consultation period, that it would cause us to be overcautious in how we examine credits.

HON. B. URUSKI: Given that I have made statements that there will be consultation and discussions before there is any move to impose a moratorium in terms of the conditions in the farm community, do you view that period of time of consultation as a step in the right direction?

MR. M. ANDERSON: Certainly, Mr. Minister. Again, it would be necessary I think for us to have an understanding, and we haven't pursued that this year other than having some discussions about it, as to how long would that period be and what would be the criteria for making that decision. I think those are important things for us to understand in judging that particular section.

HON. B. URUSKI: How long a period of consultation should be undertaken before a decision is reached?

MR. M. ANDERSON: Our view, Mr. Minister, and we have only discussed this internally and it's not something that I took out on the system to discuss so it would be more of a personal view, it would be something in the order of a six-month period to a year.

HON. B. URUSKI: If that kind of a period was committed to, would you disagree with the provisions dealing with moratorium?

MR. M. ANDERSON: It would certainly make it more palatable, Mr. Minister, in dealing with it. We would have to give careful consideration to, as I said, the two things; the time frame and the criteria. I think if we could work on that, that would certainly be helpful.

HON. B. URUSKI: In your brief, you talked about the whole area of the drawing up of credit and you said you did an assessment on files. How many files did you review dealing with troubled accounts?

MR. M. ANDERSON: We believe we reviewed about 60.

HON. B. URUSKI: 60?

MR. M. ANDERSON: 60. We took the current flow that we had and we applied the provisions of Bill 4 to see where the assistance would come on those 60 cases, Mr. Minister.

HON. B. URUSKI: You also commented that in fact there will be an additional cost dealing with Bill 4. Have you done any assessment - and I'd like to know your comments - because you're also saying that there will be an additional cost with Bill C-117? What assessment have you done in terms of what incremental costs you see to Bill 4, as opposed to the process under Bill C-117?

MR. M. ANDERSON: Mr. Chairman, through you to the Minister, what precipitated this and it might be helpful, was a case under the voluntary review panels that presently exist, where one of our credit unions went out, prepared a case and so on, and we had to get outside help for them to help prepare that case, and they indicated that it cost them in excess of \$1,000 additional just to deal with that one case, and then the person withdrew from the Voluntary Review Panel.

We cannot extrapolate that would be the necessary incremental costs. I know you've asked two questions: what is the cost and what is the difference between Bill 4 and Bill C-117. In dealing with both bills, what we've done at this point is we have gone to our board and we've requested the addition of two new staff and we've transferred one staff, not just to deal with these bills - I want to make that very clear - to deal with the difficult agriculture situation facing us.

We need to spend more time on every file now. We can't just come in and say yes and no anymore. You have to come in and say, no but here's some alternatives as to how to deal with the situation. We have to try to be constructive in dealing with each of these, so we have on an incremental basis - and I would suggest to you that that's in the main due to the agriculture situation - brought more staff on.

How would we evaluate what Bill 4 or Bill C-117 requires? We will only know with time, but we have taken steps to try and deal with all of these credits in a constructive way - we felt we've dealt with them in a constructive way in the past but to be able to put a little more effort into them as well - so I can't give you a firm answer. I would try to conjecture that on Bill C-117 given that it's not mandatory, that we believe the cost would be less than Bill 4, but I can't give you

an answer because under Bill 4 every case should have to file with the Court of Queen's Bench and go through some process; whereas with Bill C-117 it is only in those cases where the farmer feels he wishes to continue. Again, that was an area where we discussed with staff if there was a voluntary foreclosure - if there is such a thing - could we . . .

HON. B. URUSKI: That would be a quit claim, wouldn't it?

MR. M. ANDERSON: Well, it could be that you could start under foreclosure and then the guy says, forget it - and that's happened to us - and we could just go around the process. We were given some assurance that something may be able to work out again.

But at this point we believed there would be more of an onus under Bill 4 than there would be under Bill C-117.

HON. B. URUSKI: But given that you really can't quantify - and I agree you can't - because hearing from what you said in terms of additional costs being imposed on the system because of the tightness of markets and the lower incomes, that you've had to do a number of things over the past four or five years that this has been a gradual approach in terms of what I would call the credit crunch, and I don't think I'd be mis-stating that.

Then how can you come and say that, in fact, interest rates will rise as a result of the additional process being put into place under Bill 4?

MR. M. ANDERSON: Mr. Minister, again, we've indicated that under Bill C-117 and Bill 4, we believe those costs will rise. We're not going to try to predict when. The very fact that there is additional processes to be gone through and that there is uncertainty relative to collection of the asset which you lend on, now under Bill C-117 that uncertainty is not as firm as it is under Bill 4.

Under Bill 4, for example, while the judge under 9(1) does not have, or it's our understanding that amendments and so on would be in place, that he doesn't have any right to do anything other than grant procedurally he does have the right to adjourn, but adjournment could take a fair element of time and that

time has a money cost to it, and in addition to that - and I know that the courts will make every effort - in going through the Court of Queen's Bench, it has a fairly long docket right now.

There would be another element of time there, but we're prepared to say, and we did discuss this at Brandon - I raised the issue - I said what's another 120 days if that be the case, and our people were prepared to say, fine, we can work with that we can live with that, it's the uncertainty elements; and if the judge could adjourn in a summary manner the particular situation and say, come back in a year and see me to see if the things worked out, those would be the kinds of concerns we have that increase the absolute realization on the asset and, therefore, at some point - and you'll please recall in our presentation - we said we don't know when these costs are going to go up.

The marketplace dictates as well. You can't just go jamming costs up and it doesn't do us any good to do that, because a lot of people can't handle the debt load. And that again doesn't do us any good because we're sitting now with them trying to work out what debt load can you handle, and how can we put this whole cash flow together to make sense.

So those things will dictate how we handle these situations but we believe if it was to continue the way that we envision it - maybe we've incorrectly envisioned it - that it would bring additional costs to us.

HON. B. URUSKI: Well, Mr. Chairman, I have a number of other questions that I'd like to raise and we're past the adjournment hour. Perhaps would it . . .

MR. CHAIRMAN: Sure, can you come back?

HON. B. URUSKI: . . . could you be back at eight o'clock? I'm sure there are other members that would like to raise a number of points. Is it possible?

MR. M. ANDERSON: Sure. Okay.

HON. B. URUSKI: Thanks very much.

MR. CHAIRMAN: Committee rise.

COMMITTEE ROSE AT: 12:30 p.m.