

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Tuesday, 12 August, 1986

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. C. Santos (Burrows)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Harapiak (The Pas), Harapiak (Swan River), Hon. Ms. Hemphill, Hon. Messrs. Lecuyer, Storie

Messrs. Connery, Ducharme, Johnston, Maloway, Pankratz and Santos.

WITNESSES: Bill 3

Mr. Normand Collet - La Federation des Caisses Populaires du Manitoba

Mr. Cecil Semchyshyn - Credit Union Central of Manitoba

Bill 5

Messrs. Don Penrose and P.G. Holliman - Esso Petroleum Canada

Mr. Wayne Hurlbert - Winnipeg Chamber of Commerce

Bill 40

Mr. Guy Jourdain, Executive Director - L'Institut Joseph Dubuc Inc.

WRITTEN SUBMISSION:

Bill 5 - The Trade Practices Inquiry Act, Retail Council of Canada

MATTERS UNDER DISCUSSION:

Bill (No. 3) - The Credit Union and Caisses Populaires Act; Loi sur les caisses populaires et les credit unions. (Hon. Mr. Cowan)

Bill (No. 5) - An Act to amend The Trade Practices Inquiry Act; Loi modifiant la Loi sur les enquetes relatives aux pratiques de commerce. (Hon. Mr. Mackling)

Bill (No. 8) - An Act to amend The Real Estate Brokers Act; Loi modifiant la Loi sur les courtiers en immeubles. (Hon. Mr. Mackling)

Bill (No. 35) - The International Commercial Arbitration Act; Loi sur l'arbitrage commercial international. (Hon. Mr. Penner)

Bill (No. 40) - An Act to amend The Corporations Act; Loi modifiant la Loi sur les corporations. (Hon. Mr. Mackling)

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CLERK OF COMMITTEES, Ms. T. Manikel: Before we can start this committee, we must elect a Chairman. Are there any nominations?

Mr. Maloway.

MR. J. MALOWAY: The Member for Burrows.

MADAM CLERK: The Member for Burrows, Mr. Santos, has been nominated. Are there any further nominations? Seeing none, Mr. Santos, will you please take the Chair?

MR. CHAIRMAN: The Committee on Economic Development please come to order. We are here to consider certain bills. The room has been equipped for simultaneous translation. If anyone has not registered yet to the Clerk if you want to make presentations, it's now time to do so.

We will consider the following bills in order. First, Bill No. 3, and then we shall hear presentations on that bill. Then Bill No. 5, and then we shall hear presentations on that bill, and then Bill No. 40 and so on.

**BILL NO. 3 - THE CREDIT UNIONS
AND CAISSES POPULAIRES ACT**

MR. CHAIRMAN: Bill No. 3, The Credit Union Act. How do the members of the committee wish to proceed? The Honourable Minister.

HON. J. COWAN: Mr. Chairperson, might I recommend that we hear the presentations in the order in which they're listed, going through the list, and then on each bill ask if there are others who might wish to make representations at the end of it before moving on to the next bill? That way, the members know when they would be coming up, starting with La Federation des Caisses Populaires.

MR. CHAIRMAN: Mr. Normand Collet, La Federation des Caisses Populaires du Manitoba.

MR. N. COLLET: Mesdames et Messieurs, Membres de l'Assemblée législative, il me fait plaisir, à titre de président de la Fédération des caisses populaires du Manitoba, de venir vous présenter ce mémoire concernant notre position sur le projet de loi no 3.

I am pleased to submit this brief in the name of the caisse populaire. Consistent with our tradition, I would like to make the presentation in French. And, if there are any questions after, I will attempt to answer the questions in the language in which the question is asked.

La Fédération des caisses populaires du Manitoba Incorporée est l'organisme qui regroupe les 23 caisses populaires du Manitoba et leurs neuf succursales. En tout, 29 localités différentes sont desservies en 32 points de services.

C'est en 1937 que la première caisse populaire pris naissance au Manitoba à Saint-Malo. C'est donc dire, que depuis près d'un demi siècle, nous offrons à nos membres des services spécialisés, au niveau de l'épargne et du crédit, en français. Nous célébrerons donc, l'an prochain, notre 50e anniversaire.

I'm sorry. We have some copies in English, the English version. Would that be of any help?

MR. CHAIRMAN: Are they available?

M. COLLET: They are available. Alors, je poursuis.

Il faut mentionner ici que les caisses populaires ont été fondées à une époque où il était très difficile, pour le petit épargnant, d'avoir accès à quelque forme de crédit que ce soit dans les institutions financières conventionnelles. Aussi, c'est avec acharnement que des poignées de francophones se sont regroupées afin d'établir des bases, au sein de chacune des communautés importantes, de ce qui s'avéra par la suite leur institution financière privilégiée. Il ne fallut pas beaucoup d'années avant de voir se propager un système financier, foncièrement démocratique, appelé à prendre rapidement une certaine importance dans les régions qu'il desservait. Les caisses populaires se sont effectivement solidement implantées à Saint-Boniface ainsi que dans la plupart des villages francophones tels Lorette, La Broquerie, Saint-Malo, Notre-Dame-de-Lourdes, Laurier, Saint-Claude, Sainte-Rose, Sainte-Anne, Saint-Georges et plusieurs autres.

Les caisses populaires ont joué un rôle très significatif pour les Francophones, surtout durant les années difficiles pendant lesquelles les autres services bancaires n'étaient pas disponibles à la population, et plus particulièrement en milieu rural. Nous représentons donc une force économique importante et la Fédération des caisses populaires du Manitoba est maintenant présente, non seulement au niveau provincial, mais aussi à l'échelle nationale puisqu'elle est en contact constant avec le mouvement Desjardins du Québec, le Conseil canadien de la coopération et la Société canadienne de crédit coopératif.

La Fédération et ses caisses populaires affiliées ont bien l'intention de continuer à jouer ce rôle, dans les années à venir, en offrant des services financiers de pointe, en français, à sa clientèle traditionnelle ainsi qu'à la plus grande quantité possible d'élèves qui vont graduer des écoles d'immersion. C'est d'ailleurs après avoir réalisé l'importance d'un bon service à la clientèle francophone que les banques à charte ont commencé à offrir leurs services en français un peu partout au Canada.

Aujourd'hui, en 1986, l'actif de l'ensemble de nos caisses populaires se situe à 180 millions de dollars répartis parmi plus de 31 000 membres. De plus, nous sommes plus actifs que jamais, au sein de notre communauté dans le but de contribuer, d'une façon tangible, à son développement économique et social.

Après ce bref historique, peut-être serait-il bon de revoir un peu les démarches qui ont été effectuées afin d'en arriver à la réalisation du projet de loi dont il est aujourd'hui question.

Il y a environ trois ans, un comité de travail a été mis sur pied par le gouvernement dans le but de refondre la Loi des caisses populaires et des credit unions. Ce comité a travaillé à identifier les points principaux qui avaient besoin d'être revus et, suite à cette étape, un document de travail a été distribué au mouvement des caisses populaires. Ce document identifiait la grande majorité des points saillants qui seraient inscrits dans la nouvelle législation. Une réunion

a ensuite eu lieu entre les représentants des caisses populaires et ceux du gouvernement. À ce moment des points de vue ont été échangés sur les points identifiés dans le document de travail. Suite à cet échange, le comité a, de nouveau, revu les différents points de vue avancés pour ensuite procéder à la rédaction d'une ébauche de loi qui fut ensuite déposée à l'Assemblée législative il y a un an. La session parlementaire a été prorogée quelques jours après le dépôt.

Ce document a été renvoyé à toutes nos caisses populaires. À l'automne, une lettre circulaire du ministre responsable, incluant mon message, a été envoyée aux membres des caisses populaires pour rappeler les principaux changements proposés. (Une copie de ces deux messages sont annexés au mémoire.) Au début de cette année, le comité législatif a, une nouvelle fois, révisé et corrigé le document pour produire ce que vous avez en main aujourd'hui.

Le point que j'aimerais faire ressortir, mesdames et messieurs, est qu'il y a eu un long processus de consultation à tous les niveaux pour arriver à ce qui est présenté aujourd'hui. Le comité formé par les représentants de la Fédération des caisses populaires du Manitoba, du Fonds de Sécurité, de Credit Union Central, du Stabilization Fund et du Gouvernement du Manitoba est arrivé à un consensus et à un compromis qui étaient acceptables à toutes les parties.

Nous croyons qu'il est maintenant temps de procéder à l'adoption de cette loi. Nous sommes d'avis que les changements proposés seront bénéfiques à ce mouvement et à la population manitobaine en général. À titre d'exemples, relevons ici quelques changements importants introduits dans le projet de loi: la nouvelle approche du gouvernement, d'intégrer les institutions du mouvement sous une même loi, l'augmentation du capital action, la liquidité statutaire, les membres associés, une loi plus définie au sujet des conflits d'intérêts et les comités de vérification.

Tout d'abord, nous supportons l'approche intégrée prônée par le législateur qui permettra de régir toutes les institutions du mouvement des caisses populaires et des credit unions à l'intérieur d'une seule et même loi. Ceci assurera un fonctionnement plus cohérent et permettra de définir plus précisément les rôles et responsabilités de chacun.

Au sujet du capital action, le changement permettra aux caisses populaires d'augmenter leur base d'équité. Nous croyons que les mauvaises années vécues dernièrement par les institutions financières ne peuvent que soutenir notre volonté d'augmenter notre base de capitalisation. Puisqu'une entité possédant de l'équité a un "cousin" protecteur pour l'aider à traverser les années difficiles, c'est ce que nous préconisons auprès de nos caisses populaires au cours des prochaines années.

Depuis trois ans, plusieurs banques et fiducies ont succombé aux effets néfastes du marché. Nous voulons par l'entremise des changements à la loi, prendre certaines mesures préventives, dès aujourd'hui, afin d'empêcher que cela se produise chez nous.

Cette augmentation de l'équité sera bénéfique à la fois à la caisse populaire et au membre, car ce sor

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les succès de la caisse populaire qui assureront un bon retour au membre investisseur. De plus, ce "cousin" lui assurera une confiance en la stabilité de son institution tout en lui donnant, par sa contribution à l'équité, un sens d'appartenance à l'entreprise.

De plus, il est évident que le mouvement doit en tout temps posséder une bonne liquidité pour rencontrer les besoins de ses membres. Avec une liquidité statutaire où les fonds devront être déposés à la Fédération, notre mouvement sera plus stable tout en étant en mesure de répondre positivement aux fluctuations constantes occasionnées par les différents facteurs économiques.

Pour les membres associés, le Projet de loi 3 allouera davantage de flexibilité aux mouvements respectifs ainsi qu'aux individus qui choisissent de transiger avec les caisses populaires et les Credit Unions. Le membre associé recevra les mêmes services, aux mêmes coûts, que les membres réguliers. Ceci nous permettra d'élargir le champ d'opération de la caisse populaire sans toutefois changer le statut particulier de la caisse. Cette formule est déjà utilisée par les caisses populaires du Québec depuis plusieurs années et fonctionne très bien.

D'autre part, la nouvelle loi définit beaucoup plus clairement l'aspect des conflits d'intérêts. La loi doit à la fois protéger clairement l'administrateur qui déclare les possibilités de conflits d'intérêts tout en protégeant la caisse populaire afin d'empêcher qu'un de ses administrateurs abuse de la position et, par ce fait, affecte gravement ses opérations.

Au niveau des comités de vérification, il faut dire que, par le passé, un travail dans ce sens se faisait, en partie, par l'entremise des comités de surveillance. Nous sommes d'avis qu'il doit toujours y avoir un suivi des opérations de la caisse populaire ainsi qu'un meilleur lien avec le conseil d'administration. Le comité de vérification permettra donc d'avoir ce lien entre la caisse populaire, les vérificateurs et leur conseil d'administration.

Il y a, de plus, une définition plus précise du rôle du comité de crédit central qui aura la responsabilité de revoir les prêts commerciaux. La loi prévoit aussi un suivi sur les prêts ratifiés par ce comité central. Le monitoring sera lui aussi plus accentué et permettra, entre autre, d'assurer un meilleur appariement de l'actif et du passif.

Voici donc, bien que donnés de façon très brève, les quelques commentaires que nous tenions à vous préciser en ce qui a trait au projet de loi no 3. Nous voulons réitérer, aux membres du comité, que nous appuyons ce projet de loi tel que présenté. Les caisses populaires rendent un service essentiel à la population manitobaine et nous croyons que cette législation nous donnera les outils nécessaires pour continuer à le faire dans les années à venir.

Je vous remercie, mesdames et messieurs, de votre bienveillante considération. Je suis à votre disposition pour toute information complémentaire.

Merci beaucoup. Thank you.

(English translation)

MR. N. COLLET: Ladies and Gentlemen, members of the Legislative Assembly,

It is my pleasure as President of La Fédération des caisses populaires du Manitoba to submit this brief regarding our position on Bill 3.

I am pleased to submit this brief in the name of the Caisse populaire. Consistent with our tradition, I would like to make the presentation in French. And, if there are any questions after, I will attempt to answer the questions in the language in which the question is asked.

La Fédération des caisses populaires du Manitoba Inc. is the central organization of the 23 Caisses populaires in Manitoba, including 9 branch offices that provide services in 29 different locations and with 32 offices throughout the province.

The first Caisse populaire in Manitoba, was founded in 1937 in Saint-Malo. For nearly half a century, we have been offering financial services in French to our members and plan to celebrate our 50th Anniversary next year.

I'm sorry. We have some copies in English, the English version. Would that be of any help?

MR. CHAIRMAN: Are they available?

MR. N. COLLET: They are available. I continue therefore:

It should be mentioned that the Caisses populaires were founded at a time when it was very difficult for small investors to obtain credit from conventional financial institutions. Thus, it was here that a small group of determined Francophones united together to lay the foundation, within each important francophone community, for what would become their own chartered financial institution. Very few years went by before a fundamentally democratic financial system became established in those areas of service. The Caisses populaires became firmly implanted in Saint-Boniface as well as in most francophone villages such as Lorette, La Broquerie, Saint-Malo, Notre Dame de Lourdes, Laurier, Saint-Claude, Ste Rose du Lac, Ste Anne, Saint-Georges and many others.

The Caisses populaires played a most significant part for Franco-Manitobans during those difficult years when other bank services were not available to everyone, especially in rural areas. We, therefore, symbolize an important economic power and La Fédération des caisses populaires du Manitoba is now recognized provincially as well as nationally being continually in contact with organizations such as le mouvement Desjardins du Québec, le Conseil canadien de la coopération and the Canadian Cooperative Credit Society.

La Fédération and its affiliated caisses populaires have every intention of continuing this role in the years to come by offering up to date financial services in French to our regular clientele, as well as to a great majority of students who will be graduating from French immersion schools. Besides, it was after realizing the importance of providing service to a francophone clientele that the chartered banks began to offer their services in French in most cities across Canada.

Today, in 1986, our assets total approximately 180 million dollars, distributed among more than 31,000 members. We continue to be very active in our community in order to tangibly contribute to its economic and social development.

Following this brief history, perhaps we should review the steps that were taken to arrive at today's draft legislation.

Approximately 3 years ago, a committee was set up by the government to review the Credit Unions and Caisses populaires Act. This committee proceeded to identify the principal points to be reviewed and following this, a document was distributed to the Caisses populaires and Credit Union movements. This document identified the majority of the outstanding points which would form the basis of the new legislation. A meeting was then held between representatives of the Caisses populaires and the government to exchange viewpoints. Following this, the committee again reviewed the different points of view and brought forward a first draft which was presented to the legislative assembly a year ago. The legislature was prorogued a few days later. This document was sent to all our Caisses populaires.

In the fall, a circular letter from the Minister responsible, including my message, was sent to all members of the Caisses populaires to remind them of the proposed changes to the Act. (A copy of this letter is attached to my brief.) At the beginning of this year the legislative committee once again revised the document to produce what we have in hand today.

The fact I would like to bring out, Ladies and Gentlemen, is that it took a considerable amount of consultation at all levels to arrive at what is before you today. The committee, formed of representatives of La Fédération des Caisses populaires du Manitoba Inc., Le Fonds de sécurité, Credit Union Central, the Stabilization Fund and of the Government of Manitoba, arrived at a consensus and a compromise acceptable to all parties concerned.

We believe that it is now appropriate to proceed to the adoption of this Bill. We are of the view that the proposed changes will be beneficial to the movement and to all Manitobans in general. To mention some important changes introduced in Bill 3, we cite the following: the regulation of all institutions of the movement under one law, increase in share capital, statutory liquidity, associate members, a more clearly defined legislation regarding conflicts of interest and audit committees.

We support the approach of regulating the different institutions of the movement under one piece of legislation. This produces, we believe, a more coherent approach and defines more clearly the responsibilities of each.

Regarding share capital, this change will permit the Caisses populaires to increase their equity base. The difficult times experienced by financial institutions in the last few years demonstrated the need for added capitalization. We must increase our equity base in order to have a protective cushion to help us through difficult times. We will certainly encourage our Caisses populaires in the next few years to increase their level of capitalization.

Additionally, during the past three years several banks and trust companies have suffered through difficult times, and fluctuations in the market place. By taking steps today, we hope to avoid this happening to our Caisses populaires. This increase in equity will be both beneficial to the Caisses populaires, as well as to its members, as it is the success of the Caisses populaires which will ensure a good return to its members. This cushion will also instill a sense of confidence in the institution's stability and member involvement will be enhanced through additional financial participation.

It is also evident that the movement must at all times maintain adequate liquidity in order to meet the needs of its members. The statutory liquidity, will permit the movement to be more stable and to better face constant fluctuations in the level of deposits and withdrawals made by our members.

With regard to associate members, the bill provides added flexibility to the respective movements as well as to individuals who wish to transact with a Caisse populaire or a Credit Union. The associate member will receive the same services at the same cost as a regular member. This added flexibility allows us to broaden the scope of the caisse populaire without affecting the character or bond of association of a particular caisse populaire. This formula has been in existence in Quebec for a number of years and works very well.

The new legislation also defines much more clearly the matter of conflict of interest. Legislation must clearly protect the board member who declares the possibility of conflict of interest, and at the same time protect the caisse populaire in order to prevent one of its board members from abusing his position and thereby injuriously affecting operations of the Caisse.

As to audit committees, work has in part been carried out in the past by way of supervisory committees. We believe there should always be follow-up on caisse populaire operations as well as a closer link with the board of directors. The audit committee will provide this needed link between the Caisses populaires, the auditors and their board of directors.

There is also a more precise definition of the role of the central credit committee which will be in charge of the review of commercial loans. The bill also provides for a follow-up on loans ratified by the central committee. Monitoring will also be generally enhanced and matters such as matching of assets and liabilities will be more closely followed.

This therefore, though given in brief, provides the comments we wished to submit to you in regard to draft Bill 3. We wish to reiterate to the members of the committee that we support this bill as presented. The Caisses populaires provide an essential service to the Manitoba population and we believe this legislation will provide us with the tools necessary to continue doing so in the years to come.

Thank you, Ladies and Gentlemen, for your kind consideration. I am at your disposal if further information is required.

Thank you.

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

The Honourable Minister.

HON. J. COWAN: Perhaps, Mr. Chairperson, I could respond briefly to the presentation by thanking Mr. Collet and Mr. Therrien and the others in the Caisses Populaires movement for the past three years, as was indicated in the brief, many long hard hours helping to develop this legislation which, I believe, we all consider to be in the best interests of their membership.

Certainly from his presentation, we can indicate that we share the confidence and the optimism that this new legislation, which has been developed in that

consultative fashion, reflects the needs of the membership and, at the same time, builds a foundation for a stronger future for the movement.

So I would like the record to show very clearly that the government and all members of the House, I'm certain, appreciate the hard work, the effort, the creative solutions and the compromises that they have put forward as part of this process, and believe it aids their membership as well as the province as a whole.

MR. CHAIRMAN: Other questions? Comments?

Hearing none, the committee thanks Mr. Normand Collet.

May I call upon the Credit Union Central of Manitoba with Mr. Cecil Semchyshyn, who will introduce the members of his group?

MR. C. SEMCHYSHYN: Thank you very much, Mr. Chairman.

I would like to, at this time, introduce our Chief Executive Officer, Mal Anderson, our Corporate Secretary, John Gottfried, our first Vice President, Mr. George Sawatzky, and our second Vice President, Mr. Art Wardrop.

In addition, I am pleased that we have in our midst the Chairman of the Board of the Stabilization Fund, Mr. Stuart Anderson, with whom we've worked very diligently and cooperatively over the last number of years in preparation for this day.

Mr. Chairman, committee members, I would like to take this opportunity to thank you for providing myself, on behalf of the board of Credit Union Central of Manitoba, with this opportunity to share with you some thoughts on Bill 3, The Credit Unions and Caisses Populaires Act.

It would be my intention today to be brief but, at the same time, to give you some background on the Credit Union system's involvement in this act. I would intend to cover the process that was undertaken to achieve input from the Credit Union system and to make a few short comments on the content of the act. Then, I'd like to outline one or two of the areas that received special scrutiny from the Credit Union system.

Firstly, in dealing with the process, let me describe for you how the Credit Union system provided input into the development of this particular act. The government appointed a Law Review Committee, which has as members the Chief Executive Officer of the Credit Union Central of Manitoba, the General Manager of the Stabilization Fund of Manitoba, the General Manager of La Federation des Caisses Populaires du Manitoba, and the General Manager of La Fond de Sécurité du Manitoba. This group, along with representatives of the Provincial Government, discussed in great detail the requirements of a Credit Unions Act, and developed not only sections of the act, but a number of issue papers, highlighting particular areas of concern.

The credit union system itself, in July of 1984, received a discussion paper outlining approximately 40 major law review issues. This paper was circulated to all credit union presidents and general managers. This was followed up with a series of four one-day regional meetings to discuss every issue in depth. These meetings were attended by credit union officials and

representatives from Central, the Department of Co-op Development and the Credit Union Stabilization Fund. This document was then presented to a special general meeting of the credit union system in the spring of 1985.

The document was discussed in detail and each issue was individually voted on. It should be noted that these issue papers were voted on at the meeting, but that the document had been previously circulated to each of the credit unions in order that they might have ample opportunity to review the material. All input received from the credit union system at the special general meeting was then taken into account in finalizing our inputs into The Credit Unions and Caisses Populaires Act.

Subsequent to the April meeting of all credit unions, several more meetings of the Law Review Committee were held, at which time further input was provided by the credit union system through our chief executive officer and several more amendments to the draft were proposed. We believe this process has provided, in as reasonable a manner as possible, input from the credit union system which will help to ensure a strengthened act with greater commitment from the system to its various clauses.

In July of 1985, when the original act was presented to the Legislature, the system credit unions were provided a copy. In reviewing the content of the act, it is not my intention to go through a clause-by-clause review but rather to highlight our view of some of the significant changes.

We note that the act now covers the operations of the Centrals, and the Stabilization Funds, both of the English and French system, as well as the credit unions and caisses populaires themselves. We believe this is useful in that it provides one act which strives to bring together in a consistent manner, the operations of all of the integral parts of the credit union system.

The second point on content that I would like to mention is that the act provides options for the building of equity in the credit unions and the Central, through the provision of different equity-building options. Previously, however, the credit unions were restricted in the singular structure they have and the new act will provide for shares other than the common shares as outlined in Section 25 of the act.

While at this point in time, we do not have any specific plans to make wholesale changes to the share structures of credit unions, we believe it is important to have the flexibility provided in the act, in order to build and maintain equity in credit unions.

The maintenance of equity in a financial institution is extremely important for purposes of both public perception and ensuring the internal strength of the credit union itself.

Credit unions have not had many of the tax advantages that other corporations have had in terms of federal taxation provisions for dividend flow-throughs and we have discussed with the Federal Government, from time to time, the question of providing some tax incentives to credit unions for the building of equity through share structures.

We believe, by having the flexibility allowed for in the new act, that should the opportunity present itself we then would be able to continue to build and strengthen credit unions equities under a variety of different alternatives.

A third area I wish to comment on is the introduction of associate members. Credit unions have traditionally maintained the one-member one-vote concept and the intention in having associate members introduced into the act is not to part from that traditional value, but rather to enhance that value. Section 54(1) outlines the fact that the credit union system as a whole will have to vote on the issue as to whether or not they wish to provide the ability to have associate members in their system and then the credit union itself will also be required to have its membership vote on that issue.

We believe this is important because it highlights the fact that there must be commitment from the credit union system in total and then from the members in the particular credit union involved before they would allow associate memberships.

In addition, under Section 54(2), it highlights the fact that at no time should the number of associate members exceed one-quarter of the number of members of the credit union. The need for associate members will have to be reviewed from time to time by the system as there may be special cases for a particular credit union which would prove beneficial to have associate memberships. Our colleagues in the French system have already identified the need to utilize associate memberships to provide services to members of their community, while at the same time retaining their cultural identity. This same need may present itself in several of our closed bond credit unions and the use of associate memberships may then be determined to be appropriate.

However, it is important to point out that there are a number of checks and balances placed in the act, which I have mentioned earlier, which will ensure that this particular section is not used without: 1) approval of the whole system; and 2) approval of the membership of each credit union involved. It's often been said that one of the strengths of the credit union system is the fact of its member involvement. We believe this to be true and greatly appreciate the involvement of many thousands of volunteers and close to 300,000 members of credit unions in Manitoba. When involving this number of people, we are sure to discover many points of view on a lot of issues.

In reviewing the issues related to The Credit Union and Caisse Populaires Act, we were indeed gratified that most issues received unqualified support. There were one or two issues which the system discussed that did not receive unanimous approval. However, consensus was reached. The first of these is the question of establishing only one central to which credit unions would be mandatorily required to belong. While a consensus was achieved on this matter, several credit unions wished to keep their options open, that in the event the central to which they belonged was not performing in a manner they felt was consistent with the overall objectives of their credit union.

However, the system in general believes that it is important to have a focused direction and that this can only be achieved by having one central directed by the system. We believe that the act has been structured in such a way that it allows for thorough and adequate input by the various directors and delegates of the system, and that in the event there are concerns about the performance of central, there are adequate checks and balances to ensure there can be remedies effected in a timely, efficient manner.

The second area revolves around placing all liquidity of the various credit unions with the central. Again, we believe that it is important to act as a system and that as a safeguard to protect various members of the credit unions themselves, it is necessary to have a central liquidity pool. We believe this can be best effected through the utilization of the central and that the checks and balances in place will ensure that the funds are handled in a reasonable and efficient way.

To ensure that the regulations relative to liquidity are developed in an appropriate manner, a committee having representatives of credit unions has been established. This system committee has met on numerous occasions to recommend the liquidity rules to the Law Review Committee. These will be reviewed by the board of central before any final recommendations are made to the government.

In conclusion, we believe that the act before you contains a framework for the efficient and effective cooperation of credit unions in Manitoba. We believe that the credit union system of Manitoba has had thorough and adequate input from its members and that the best consensus possible has been achieved.

We would like to take this opportunity to thank the members on both sides of the House for their understanding in reviewing this act and we would also like to thank the representatives of the Department of Cooperative Development and the Minister for their ongoing efforts in working through a process to develop an act which will provide a framework for future inter-relationships of credit unions, the stabilization fund, the government and the centrals.

We also recognize that from time to time there will be need for changes in the act and the government has provided assurances that, through the necessary legislative processes, amendments can be introduced for debate and discussion by members.

Again, thank you for listening to our presentation and should there be any questions, we would be quite prepared to receive them and I would have our chief executive officer field those questions.

MR. CHAIRMAN: Thank you, Mr. Semchyshyn.

MR. C. SEMCHYSHYN: Thank you.

MR. CHAIRMAN: Are there comments or questions to Mr. Semchyshyn? - the Honourable Minister.

HON. J. COWAN: Again, Mr. Chairperson, I'd like to thank Mr. Semchyshyn and others from the Credit Union Central and the Stabilization Fund for their ongoing help, assistance, encouragements, proddings and constructive criticism from time to time.

As he indicated, it's been a very long process of consultation with the grassroots of the credit union system and the caisse populaire system through their central organizations. I believe it has provided some very good legislation and I know that all members of the central and the federation spent many long hours working on this. That's appreciated and I'm certain all members of the Committee share our optimism that we have the best amendments possible before us at this time.

MR. CHAIRMAN: Any other questions or comments?

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We have no other person registered under this Bill No. 3. If there are any other person who is prepared to make any presentation on Bill No. 3, The Credit Union and Caisse Populaire Act, now is the time to signify.

Seeing none - the Honourable Minister.

HON. J. COWAN: Perhaps, Mr. Chairperson, I can suggest that given that we have people from out of town on Bill No. 5, we ask for those presentations at this time and then continue on to see if anyone else has presentations to make on Bill No. 5, An Act to amend The Trade Practices Act.

I might indicate that the Minister responsible, Mr. Mackling, cannot be at this committee hearing right now because he is involved in another committee hearing just down the hall. I've asked the Deputy Premier, Ms. Muriel Smith, to attend to hear the representations from the groups so that she can advise Mr. Mackling directly and the Premier directly upon his return from Edmonton as to the comments which were made here.

BILL NO. 5 - THE TRADE PRACTICES INQUIRY ACT

MR. CHAIRMAN: We shall therefore proceed to hear presentations on the next bill which is Bill No. 5, An Act to amend The Manitoba Trade Practices Inquiry Act.

May I call upon the Esso Petroleum of Canada, Mr. Don Penrose, who will introduce the members of his group.

MR. D. PENROSE: Good morning, Mr. Chairman, and honourable members of this Committee.

As you know, my name is Don Penrose and I'm Vice-President of Esso Petroleum Canada. I've been responsible for our company's submissions in recent years to the petroleum inquiry which recently reported by the Restrictive Trade Practices Commission.

With me today are Tim Hearn, Vice President of our Retail Sales for Canada on my immediate left; and Graham Holliman, our Retail Sales Manager for Western Canada.

Mr. Gordon Thompson, President of Esso Petroleum, had hoped to be here today, but unfortunately he had a prior engagement and he just couldn't break it, so he sends his apologies.

We welcome this opportunity to address you on the matter of petroleum marketing in this province. We believe our industry is very competitive, and the provisions being considered in Bill No. 5 to amend The Manitoba Trade Practices Inquiry are unnecessary.

Esso Petroleum is a division of Imperial Oil Limited and manages its petroleum products business. It is responsible for providing consumers with fuels, asphalts, lubricants and specialty products through the purchase and refining of crude oil and through product purchases and exchanges. In addition, we market a wide range of complementary products.

The brief I shall be submitting to you this morning is intended to make three major points. First, we want to demonstrate to this committee that, in the recent price changes that have taken place in the gasoline

market in this province, our company has acted responsibly and in the interests of consumers of Manitoba, who of course are the people who keep us in business in this province and they're most important to us.

Secondly, we want to take this opportunity to draw to your attention some of the recent findings of the Restrictive Trade Practices Commission's inquiry into our industry. We believe that much work was done by this inquiry which took five years to complete and is probably the most extensive and exhaustive study ever undertaken of the Canadian petroleum industry. We believe it can be of assistance to you in your study of industry practices in this province, particularly in the area of government-industry interface.

Third, we hope that the facts we place before you today will persuade you, as we are sincerely persuaded, that a regulated price structure for petroleum products is not in the long-term interests of the Manitoba consumer. Our experience, derived from operating in both regulated and non-regulated circumstances, is that ultimately the consumer pays higher prices in a regulated situation. We are very concerned that Esso Petroleum's Manitoba customers should not be obliged to pay higher prices for their petroleum products than they need to.

So far as any commodity is concerned, the consumer benefits most when competition flourishes. The more intense the competition, the better off the consumer is. I can assure you, as our inadequate returns will demonstrate, that competition is alive and well in the petroleum business.

I will now present our submission for your consideration. It's quite detailed as you will see. Perhaps as I'm speaking, you might keep your eye on the various charts that I'm referring to, because there's a lot of detail and a number of points that I'd like to make. As we complete this, we'd be very pleased to answer any questions that you may have with respect to our submission or, hopefully, any other related matters.

The Canadian petroleum industry has, for a number of years, been going through a period of very significant adjustment. In the past five years, we have witnessed an ever-increasing over-capacity in both refining and service station facilities with which to supply and serve a shrinking marketplace.

Since the 1979 "energy crisis," Canadians have become acutely aware of the need for energy conservation, encouraged to a large degree by higher real prices, and by various governments through a number of "off-oil" incentive programs. Consumers in great numbers reduced their demand for heating fuels through conservation, and switched to alternate heating sources such as wood, natural gas and electricity, while the car manufacturers of course began to produce smaller, more fuel-efficient automobile engines.

The result has been that, between 1980 and the end of 1985, total industry petroleum sales have dropped 30 percent in Eastern Canada and 15 percent in Western Canada. The sales of furnace fuel during the same period decreased by 50 percent in the east and 45 percent in Western Canada, while gasoline sales declined 16 percent in the east and 14 percent in Western Canada. In Manitoba, the demand for gasoline declined 9 percent, diesel fuel oil grew by 13 percent, and total petroleum products declined by 6 percent during this same period.

The petroleum industry had to adapt quickly to these dramatic changes in demand as refineries were running below capacity and marketing facilities were under-utilized. Therefore, individual companies implemented restructuring programs which saw some 12 out of a total of 39 refineries being closed between 1979 and 1986. Several others were downsized, while others invested in facilities to produce more high-quality fuels such as unleaded gasolines, diesel fuel and turbo fuels.

The table shown on Page 3 shows refinery utilization for 1980, 1984 and an estimate for 1986 for Eastern and Western Canada.

Due to rapid growth in demand during the latter half of the 1970's in Western Canada, refineries were operating at capacity. Consequently, various companies including Imperial were developing and building additions to their refineries in anticipation of demand that unfortunately did not materialize.

During 1983, Gulf shut down small operations at Calgary and Kamloops and Shell closed its Winnipeg refinery in advance of opening a new synthetic crude oil refinery near Edmonton about a year later. Texaco also closed its Edmonton refinery. Overall, the industry has had substantial spare facilities since 1982. Product prices and earnings have reflected this fact, as wholesale and retail prices have fluctuated extensively as the companies competed for a share of a diminishing market.

Manitoba consumers benefited from this competition, as illustrated in Chart I and Table II on the following page, which show retail gasoline prices in Winnipeg and Brandon over recent years. The Winnipeg chart also illustrates the margin received by our dealers (which has been essentially constant), the increases in federal and provincial taxes and the cost of crude oil to refiners that you'll recall was controlled by governments from September 4, 1973 until June 1, 1985. If the retail prices had been equivalent to the implied prices illustrated on this chart, our company would have received about a 13 percent return on its marketing and refining capital employed. However, as shown by this chart, there were many periods of time when total costs were not recovered in the retail price, and overall returns never reached the desired level due to the competitive forces in the refining and retail gasoline markets.

Table II on the following page shows that the average retail price for regular gasoline at Esso outlets in Brandon similarly responded to market conditions prevailing at the time, rather than to changes in the price of crude oil itself. In 1984, retail prices increased from March through December, while the cost of crude oil used to manufacture the product remained constant. Conversely, from March to September 1985, crude-oil costs and taxes increased but product prices remained the same. By the end of 1985, product prices had risen sufficiently, in response to market forces, to recover increased taxes of 3.3 cents/litre and most of the increase in the cost of crude oil.

Throughout this difficult period for the industry, the Canadian consumer has been well served by a highly competitive market. Quality products, well adapted to the Canadian climate and environment, have always been available. For example, Esso's new introduction of "No-Trouble" gasolines provides motorists with new products designed to cope with performance difficulties now being experienced in Canada with fuel-injection

engines. New additives were developed to clean fuel injectors on new cars and to do a superior job of cleaning the fuel systems of older carbureted vehicles.

Increased demand for diesel fuel, coupled with the higher-quality needs of new diesel engines, has placed considerable demands on refiners. Much development work is under way to ensure that industrial, commercial and farm consumers are assured of a continuous supply of these fuels appropriate to the climatic conditions that exist in various parts of the country. An outstanding supply system is required to move crude oil to refineries, process it into many products, ship it via pipelines, rail truck and marine facilities, and to deliver these products to our customers where and when they need them.

Even during periods of tight supply of crude oil and products and unforeseen refinery closures or refinery upsets, Imperial and other members of the industry have been able to maintain supplies of products offered at very high costs to the companies themselves. The consumer has been able to purchase these products at competitive prices from a wide number of marketers whether they're major integrated companies, national or regional resellers, local retail chains or single station operators.

More recently, other important events have occurred requiring further adaptation by the industry. On June 1, 1985, for the first time in over 12 years crude oil markets were deregulated and the Canadian oil industry had to compete on an international basis. We at Imperial fully support the decision by the Federal Government to deregulate crude oil markets and to allow for basically free international trade in refined petroleum products. The availability of products from other countries has a direct bearing on the prices of products in Canada and are carefully monitored by our company.

Finally, a few months ago, international crude oil prices started to decrease dramatically as some foreign crude oil producers decided to increase their production. As this lower priced crude oil was processed and moved to market, prices declined by varying amounts in the various product markets around the world and in Canada.

For a refiner and marketer of petroleum products, vigorous competition can have a very high cost. Witness the dismal financial performance of the refining and marketing sector in recent years.

Table III shows earnings after tax for the petroleum industry and for Imperial, Shell, Texaco and Gulf, split between the upstream, which is the exploration and production side of the business, and the downstream, which is the refining and marketing and chemical side of the business, for all of Canada from 1983 to 1985. The impact of poor refinery utilization, low prices in all classes of trade and excess retail facilities is evident by these results for the downstream. Improvements in the upstream occurred primarily from more favourable exploration and production terms between the companies and governments which were put in place after the disastrous effects of the introduction of the National Energy Program in 1980.

In the petroleum product business, earnings after tax and the returns on capital employed have been and are today too low. In Imperial's case, in 1985, our after-tax earnings were \$93 million, representing a return on average capital employed of only 3.7 percent. These earnings after tax amount to only one-half cent per

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litre. At the same time, we've collected or paid more than \$1.5 billion in taxes and charges to various levels of government.

So far this year, results have been even more dismal. Our after-tax earnings for the first quarter of 1986 were \$10 million, a decrease of \$18 million over the same period last year. In Western Canada, our February and April earnings were just positive with losses experienced in March. More normal results were experienced in May and June as the effect of lower cost crude oil, purchased two and a half months earlier, flowed through to our product supply costs.

Overall earnings for the company's petroleum products business for the first six months of 1986 amounted to \$28 million after tax as shown in the table following, Table IV. This represented a decline of \$12 million from the corresponding period of last year. These earnings amount to only .4 cents per litre on sales of the company's fuel products.

For Esso Petroleum, acceptable levels of return on capital employed have not been achieved since 1981. For example, our return on capital employed in Western Canada was about 8.5 percent in 1985, and averaged 10 percent over the past three years. Excess refining and retail capacity, due to reduced demand and depressed prices, contributed to these results.

Table V shows return on capital employed for Imperial and the company's petroleum products operations compared to other industries since 1977.

Clearly, improved profitability is essential for the long-term survival of the Canadian refining industry. While cost-savings programs, including staff cutbacks and productivity increases, will contribute to this improvement, product price contributions are essential to return the industry to good financial health. And only profitable businesses, of course, can provide jobs and opportunities for Canadians and investments for Canada.

I would like to take a few minutes now to address the question of recent changes made by Esso Petroleum in its pricing policies for petroleum products.

During the latter half of 1985 and early this year, Esso Petroleum revised its pricing system for a number of its products. Before commenting on the reasons for the change, I will just say a few words about our old system as more detailed information can be found in Appendix A and B which include portions of submissions made to the Restrictive Trade Practices Commission Inquiry into the petroleum industry from the 1973 through to 1985 period.

During the days of crude oil regulation, our posted prices for products reflected Federal Government mandated changes in the cost of crude oil as well as non-crude costs and market factors. Increased crude oil costs could not be passed on in posted prices until 60 days after the increase in the cost of crude oil. These posted prices were generally sufficient to cover typical refiner/marketer costs and provide a satisfactory return on the capital employed. However, the controls had the effect of often escalating posted prices above their market values as established by competition. Consequently, an increasingly complex form of selling price allowances and discounts was introduced to ensure the company's prices were competitive in the market place.

Under Esso Petroleum's new pricing system, a series of lower posted prices was established for five major

market segments, broken up into geographic zones, at levels that reflect current local market conditions. These posted prices are intended to be competitive and to respond to market conditions in a timely manner. Over time, these competitive prices should yield profits that are just sufficient to provide in an efficient manner the level of output and the kind of products and services desired by consumers.

Although deregulation of crude oil prices and product export controls were two of the key reasons for the change in our pricing system, there were a number of other business drives.

One of these was that the "old" tank wagon posted price system, based on regulated crude oil price changes and a cost pass-through concept, did not appear to be as dynamic as would be required in a deregulated environment.

Another was that the price-support programs, such as consignment and temporary competitive allowances, offered by Esso to its branded retailers and small commercial consumers, such as farmers, were becoming increasingly burdensome and costly to maintain. In addition, there was a general desire by Esso service station dealers to assume their own price, volume and management responsibility.

A final factor promoting these changes was the irrationality in pricing that seemed to become the norm in recent years in many markets. It is Esso Petroleum's belief that over time prices should be responsive to changes in both the costs of the seller and the purchasing preferences of the buyer. Simply put, one would expect that a customer with short credit terms, purchasing millions of litres of product at the loading rack, would pay less than a motorist buying 10 litres of product or gasoline or diesel fuel on a credit card at a retail outlet some distance from the primary supply point.

The need for pricing support mechanisms for Esso retailers were also eliminated, which means that competitive wholesale prices are posted in response to actual market conditions and that our retailers, according to their own wish, are now setting their own retail prices. Also, for large industrial and wholesale customers, the posted prices are now made available for publication in trade journals so that these customers may be constantly aware of changes in product price postings.

We believe that this new pricing system has many advantages for our customers, our retailers and ourselves. It is simpler and includes a series of lower posted prices for different types of customers. Prices are established at levels that are responsive to local market conditions, thus reducing the need for customer specific discounts.

Although we have altered our mechanism of posting prices, our fundamental marketing principle remains unchanged. Before all else, prices must be competitive. If we're not competitive, our customers will go elsewhere. It's really as simple as that.

While on the subject of product pricing, I'd like to take a few minutes to try and shed some light on the subject of gasoline pump prices. A lot has been written and said in the media on this subject with increased emphasis since last January when crude oil prices started to decrease rapidly. Undoubtedly, they are of concern to this committee and likely have had some

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influence on the amendments to The Trade Practices Inquiry Act as proposed in Bill No. 5.

As I suggested earlier, crude oil markets and product markets are quite separate. At times they track each other and at other times they move differently. Market conditions in general establish the price of gasoline and the cost of crude oil is only one factor. The recent report of the Restrictive Trade Practices Commission, published after five years of hearing into the conduct of the petroleum industry, noted the following, and I quote:

"Regional price differences and swings in prices over time are due largely to variations and competitive conditions caused in part by the number of refineries, the number and types of marketers, the degree of excess refining capacity and the availability of imports. Tax differences and other government interventions also affect prices on a provincial basis".

In addition to these factors, inventory levels of particular products, operating circumstances of domestic refineries and, to some degree, raw material costs also affect product prices.

We have heard some asking for immediate lower gasoline prices because crude oil prices were falling. The length of the supply lines and the extent of inventory carried of different products has an influence on how quickly these prices will change. For Manitoba, for example, in excess of 75 days of crude oil and product inventory is required by Esso Petroleum to ensure continuing supply from the wellhead to the average consumer. Thus the current cost of our product in the supply system includes the price paid by us for crude oil 75 days ago. However, the extent and the cost of inventory does not establish prices.

Other competitive forces set the pump price for Esso regular gasoline in Manitoba which decline more rapidly than the price paid by refiners to producers for the crude oil used to manufacture the product. This is illustrated in Chart II for the Winnipeg market, which shows the retail price paid by consumers, the posted wholesale dealer price before federal and provincial taxes and the cost of crude oil process. Between January 1 and April 1, the retail price declined 9 cents a litre. The wholesale posted price, excluding taxes, for Esso dealers was reduced by 12.6 cents per litre, and the cost of crude oil was 5.7 cents per litre lower. A similar pattern is shown on Chart III on the next page for diesel fuel sold to small commercial accounts and to farmers through our Esso agents.

Table VI on the following page shows that the wholesale posted prices before federal and provincial taxes for sales to Esso retail dealers in various Manitoba communities declined from between 10 cents per litre and 14.4 cents per litre from January 1 until July 1. Table VI also shows that the company's wholesale price, excluding taxes to its dealers, changed according to both general and local competitive conditions. For example, prices are lower in some communities adjacent to the U.S. border than in Winnipeg because of the impact of U.S. retail prices.

Also shown are prices for Northern Manitoba communities, the differences in prices relative to Winnipeg, being directly attributable to higher transportation and distribution costs.

The revenue available to the company from the sale of a litre of regular leaded gasoline at a full-serve station

in Winnipeg is shown on Table VII on the next page. This shows that the pump price declined 9 cents per litre from January 1 to April 1 and remained constant up to July 1. During this time, dealer margin increased by 0.7 cents per litre after our discontinuing consignment selling on January 20 of this year.

The Canada sales tax increased 0.4 cents per litre on April 1, 1986, and the price paid by refineries for crude oil purchased 75 days before the product was sold declined 5.7 cents by April 1 and by 12.3 cents per litre by July 1 compared to January.

The combined effect of these changes reduced the company's revenue available for refining, transportation, marketing, distribution and profit from 11.7 cents per litre in January to 7.3 cents per litre in April. This margin over crude oil costs subsequently improved to 13.9 cents by July 1. However, this margin was insufficient to cover the company's costs for much of the first half of 1986.

Gasoline prices generally stabilized in April and May as supplies of lower priced product from the U.S. disappeared from the market due to increased demand and an increase in price of about 5 cents a litre. The interprovincial pipeline system, which is used to move both crude oil and refined products from Edmonton to various markets in Canada and the United States, experienced capacity constraints until expansion work was completed by the end of April. This resulted in smaller volumes of products being shipped by pipeline and other higher cost methods being utilized. This also contributed to a firmer market during the spring months.

However, as noted previously, some retail prices continued their downward trend since April 1 in some markets outside of Winnipeg. This clearly demonstrates that in the short term the cost of crude oil has little to do with the price of gasoline and that the raw material costs are not the only force at work in the market today.

Another important component in the retail price of gasoline is of course the various taxes and royalties levied by the Federal and Provincial Governments. Reference to this table shows, for example, that the retail price of regular gasoline in Winnipeg of 45.8 cents per litre on July 1 included 16.4 cents in taxes. These were made up of federal sales tax of 4 cents, federal excise tax of 3.5 cents and Manitoba road tax of 8.9 cents.

In addition to these taxes, other government charges included in the price of crude oil, such as the petroleum gas and revenue tax and the provincial royalties, contribute to the retail price of gasoline and other products. As most of these charges are fixed, the percentage of tax on a litre of gasoline increases as the pump prices go down.

Competition in the market for petroleum products plays a large role in fluctuations in pump prices on a month-to-month and even a day-to-day basis. The level of competition can vary substantially over time as a result of such factors as an oversupply of product, individual marketing strategies by the various sellers in the market, and attempts by individual companies to increase their market share.

The effects of such factors on pump prices are illustrated in Table VIII, and I apologize, it's turned the wrong way in your book, which gives the prices for regular leaded gasoline for Winnipeg and other major

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prairie markets on January 1, April 1 and July 1 of this year.

The table lists prices at the retail level, including all taxes, the posted wholesale price, excluding taxes, for sales to dealers and the dealer margins. While comparing the retail pump prices for these cities, it should be borne in mind that neither Alberta nor Saskatchewan levy provincial taxes on gasoline while the Winnipeg prices reflect the Manitoba road tax of 8.9 cents a litre.

The reductions in retail price from January to July reflect the intensity of competition at different times in these markets as well as changes in taxes and dealer margins. The reductions in wholesale posted prices to dealers, which exclude all taxes, are a direct reflection of market conditions, including reductions in crude oil prices, and reveal drops ranging from 11.5 cents to 13 cents a litre.

Clearly, the first half of 1986 witnessed a further cost price squeeze on the company's earnings from its petroleum products operations. As noted earlier, the \$28 million after-tax earnings from this segment of the company's operations during this period was \$12 million less than the first half of 1985 when returns were already at uneconomical levels.

Appendix C, which I won't go into, includes an excellent article which discusses the forces affecting both crude oil and refined petroleum products markets which was published by the Lundberg Letter, a highly respected and authoritative industry publication, on December 20, 1985, and I would commend that article to you.

It has been Esso Petroleum's experience over many years of marketing, in both regulated and unregulated situations, that consumers are better served by the market system rather than by a system of administered prices.

Bill 5, which is designed to provide for price regulation at various stages of production, distribution and marketing, including retail prices, would present a substantial challenge to regulators who are more accustomed to dealing with readily identifiable costs and rate of return on capital employed for a utility. Such is not the case in refining and marketing, where costs vary extensively depending upon the scale of operations.

In the refining and marketing area, fixed costs of operation are high in relation to total costs, thus providing incentives for companies to seek added sales at the wholesale and retail levels. The refining of crude oil produces a variety of products: gasoline, diesel fuel, heating oil, turbo fuels, and so on, for which individual production costs are indeterminate and for which the costs of incremental supply are low. Marketing facilities such as service stations have similar cost characteristics depending on the volume of sales, which is often a function of the size of the market, the number of competitors and customer offerings.

The usual result of price controls is reduced incentive to improve operations and the least efficient company often determines the prices established by the regulator. For example, both minimum and maximum margins are sometimes regulated at the retail gasoline level. Frequently the result is that the maximum margin allowed becomes the fixed margin taken, thereby protecting small inefficient retail facilities. This tends to stabilize prices but at a level higher than competitive

forces would likely dictate. The whole process of administering prices at the many levels and customer channels creates a major administrative burden, both for the government and the companies, none of which are of benefit to consumers because inevitably, they pay higher prices.

When costs go up, it is the least-efficient company that is squeezed the hardest. In a regulated system, it is that company that presses the hardest for higher prices so that it can remain viable. But in an unregulated market, the most efficient company tends to be the price-setter because it can afford to pass on the benefits of its efficiency along to consumers, at the expense of its less-efficient competitors.

A regulated system also tends to be less responsive to market changes than an unregulated one. Regulators usually consent to increase prices after companies can justify such increases on the grounds of increased costs. Conversely, when costs go down in a regulated system participants are unwilling to apply for lower prices because of fears that they will not be able to recover future increases quickly enough. There's a lead and a lag effect.

We would like to invite this committee's attention to some of the findings of the recent report of the Restrictive Trade Practices Commission that we regard as relevant to this matter. The Commission, after a five-year inquiry into the conduct of the petroleum industry from 1973 to 1985, published its findings and recommendations on June 13, 1986. Hearings were held in eight Canadian cities, including Winnipeg, in 1982. All interested parties, including provincial governments, were invited to make submissions.

With respect to government policies and programs the Commission found a need for improved understanding at all levels of government of the effects of government policies on the petroleum industry. It also identified a need for improved consultation regarding the purposes and implementation of government policies affecting the industry.

The report went on to express concern about the dangers inherent in market regulation and it noted, and I quote: "The maintenance of open competition and healthy markets is surely a major dimension of Canadian public policy, and yet it is a truism that frequently as much damage, distortion and cost of serious and long-term nature is inflicted on the operation of markets, and on the public, by government programs . . . as by any private sector conduct that contravenes the competition laws."

The Commission also expressed similar concern about provincial regulation of the petroleum industry and its effect on the consumer, and I quote: "As to retail marketing, regulatory regimes in Nova Scotia and to a lesser extent in recent years in Prince Edward Island, and also in several municipalities in British Columbia, restrict the establishment of self-serve outlets, full-service gas bars and various forms of cross merchandising and thereby deprive consumers in those jurisdictions of lower-cost options available to consumers elsewhere in Canada. Such restrictions cripple the ability of the industry to adjust to meet consumer demand, and to charge lower prices made possible by lower cost distribution of gasoline and induced by competitive pressures. The variety of offerings across the country by independent marketers

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and by integrated firms illustrates the value of allowing each business the freedom to meet consumer needs as it best sees fit in order to strive at all times to maximize its appeal to members of the public by giving them what they want."

In the area of government intervention into any aspect of the industry, the Commission went on to note that quote: ". . . The Commission's examination of provincial and municipal regulation of gasoline retailing persuades it that the public would be better served if any government licensing decisions regarding new entry and proposed new offerings were guided by a test of "fit, willing and able", instead of "public convenience and necessity".

In sum, the Restrictive Trade Practices Commission found that the petroleum industry was competitive and that there was no evidence of collusion in any sector. It recommended that government become less involved with the industry.

The Commission recommended to governments the following principles recently set out for the transportation industry, which has been substantially regulated for years:

Firstly, less regulation leading to less government interference, will encourage innovation and enterprise; secondly, greater reliance on competition and market forces will result in lower unit costs, more competitive prices, and a wider range of services to shippers and the public; and thirdly, inflexible, restrictive regulation is an obstacle to growth, innovation, and competitiveness.

In conclusion, Esso Petroleum offers the following recommendations:

Firstly, prices are most responsive in a competitive market, a fact borne out by the fact that Manitoba consumers have paid less for petroleum products in recent months than if cost reductions had been passed on to the consumer when these reductions were available to refiners. In fact, because of competition, refiners have been forced to reduce the price of products before reductions in crude oil prices had worked their way through the system.

Secondly, the Restrictive Trade Practices Commission, after long and careful study, has advanced some powerful arguments against further regulation of the petroleum industry as being not in the interests of the consuming public. We recommend that the Commission's findings be carefully studied in this regard.

Thirdly, we are strongly concerned that Bill 5, if applied to petroleum products, will result in Esso Petroleum's customers in the province paying more for our products than they should.

Fourthly, Canada now has a new Competition Law - Bill C-91 - that has been developed over a number of years of consultation and effort by the Federal Department of Consumer and Corporate Affairs, which provides for the protection of consumers. Imperial Oil Limited supports the changes incorporated in the new act and the principles espoused by the Minister of Transport and by the Restrictive Trade Practices Commission. Lastly, we respectfully request that this committee reconsider the necessity for Bill No. 5.

Thank you very much for your attention, Mr. Chairman, members of the committee. If you have any questions, my compatriots and I would be happy to try and answer them.

MR. CHAIRMAN: Are there any questions or comments from members of the committee?
The Member for Riel.

MR. G. DUCHARME: Could you explain on Page 9, the use of the capital employed?

MR. D. PENROSE: Capital employed? Yes, that would be all of our . . .

MR. G. DUCHARME: The comparison?

MR. D. PENROSE: Pardon?

MR. G. DUCHARME: The capital employed comparison that you used.

MR. D. PENROSE: Surely.

MR. G. DUCHARME: What do you mean by a return of capital employed comparison?

MR. D. PENROSE: It's our after-tax earnings, divided by the total capital employed in our business, which would include all of our physical assets, our accounts receivable less accounts payable, the total dollars that we have employed in operating the business on a capital side.

MR. G. DUCHARME: Yes, you mentioned that the crude oil prices do not affect, in your brief, that drastically. The recent announcement that there is an increase in crude prices, how long will it take effect to that recent announcement that they've made?

MR. D. PENROSE: I don't know, Mr. Chairman. The market will determine what happens just exactly the same way the market determined what happened in prices as they were falling. As I've pointed out in my submission, they don't track each other very directly in the short term. This is not a new phenomena. It's something that if you went back over the years and looked at prior to the time we had price controls, you would see exactly the same result.

MR. G. DUCHARME: Just one further comment. I'm surprised you haven't used Nova Scotia as a comparison of prices and how they've stayed very stable.

MR. D. PENROSE: Mr. Chairman, yes, I directed my remarks specifically to Western Canada but there's no doubt that in Nova Scotia prices have been much more stable over the years. In fact, my example of minimum and maximum margins comes directly from Nova Scotia where the maximum margin taken, with the margin taken, rather, is in fact the maximum one that is allowed. We have recommended continuously to Nova Scotia that they depart from these practices. Just recently they have made some changes that will move away from the extensive controls that they have had and allow the market to do its job to a fuller extent.

MR. CHAIRMAN: The Member for Sturgeon Creek.

MR. F. JOHNSTON: Thank you for your submission, Mr. Penrose. It's very explanatory. Just to follow up on what my colleague mentioned, one of the things that came up continually with the gasoline prices was the saying "when they go up, we sure get it; when they do down, it takes a long time." You just mentioned that the new price increase that we're speaking of at the present time of crude is going to take a while, well, whatever time, and you presented your reasons for your lowering of your price and your structure.

People get the idea that when these things happen it goes up in a hurry, but, traditionally, has it always gone up in a hurry or have you taken time to get your prices up or same as the time taken to get them down?

MR. D. PENROSE: Mr. Chairman, I think the media, for example, and some people have conveniently forgotten that over the last 13 years when we've been under price controls, we were restraining from increasing the price until 60 days after the price of crude increased, so in fact there has been a delay in Canada on those increases.

If you look at what happens in world markets, which in fact we are in today because we no longer have those controls, product prices will move in some cases quickly, in some cases it will lead crude oil market and in some cases will lag in crude oil market.

Our experience is that they move differently at different times in the short term. Over a long period of time, of course, if crude oil prices drop to the level of say that they're at today, you would see that reflected in the level of product prices at that time.

I think the best example I can give you, sir, is if you look at the two-year price chart that I showed from Winnipeg, you will see there that there were times when crude oil prices were increasing during a period of controls and after and the product prices in fact dropped in Winnipeg. That was strictly a function of the competitive market in Winnipeg at the retail gasoline level.

I can assure you it is very competitive because there is less demand today than there was. There are more facilities still on the market and we're all competing to get as much of that as possible. That inevitably results in a good benefit to the consumer.

MR. F. JOHNSTON: This particular bill was certainly derived because there was an election campaign on just at the time that the - I might say, Mr. Penrose, I say that and I believe that - because of the election campaign, I would like to ask you what controls are in place at the present time in Canada, or I shouldn't say controls - let's say legislation - that can keep oil companies and other companies, but you're specifically concerned with the oil companies, in line to protect the consumer at the present time.

There are federal departments, there are provincial departments. As a matter of fact, I haven't got the other bill in front of me; I just have the amendment at the present time. I believe it was four complaints in Manitoba that would start the ball rolling on any product, really. Out of a million people you would think that was very tough. But what other areas of regulation are there to make sure the oil companies, specifically your industry, maintain a price structure that's fair to consumers?

MR. D. PENROSE: I think the best answer to your question is it's the federal competition bill which has just recently been passed and put into place. There are a number of changes that have taken place in that bill which has had its primary interest, the protection of consumers. I might say that as far as the petroleum industry is concerned, and I made considerable reference to the restrictive trade practices inquiry in my submission to you - that was a lengthy inquiry, over 200 days of hearings - anyone who wished the opportunity could be heard.

In my own personal experience, in attending 90 percent of those hearings, what I saw was a great deal of competition in our business and, of course, the findings of the inquiry was just in fact that. They've made some recommendations. I think most of the recommendations that they've made have been included in the new competition bill and they were in effect being considered both by the industry and government officials as that new bill was being put forward.

I think that's the best answer I can give you with respect to the protection that's there for consumers. They are very watchful people and they have a job to do and I can assure you they do it.

MR. F. JOHNSTON: Thank you.

MR. CHAIRMAN: The Honourable Minister of Education.

HON. J. STORIE: Yes, thank you, Mr. Chairperson. I have a number of questions based on Table VI on Page 16.

First, the reference is to Esso wholesale dealer price. I'm wondering whether it's possible or whether Esso sells wholesale to other than its own agents, its own dependent/independent contractors, whatever the term may be.

MR. D. PENROSE: We participate in every aspect of the market; that's the first answer. We supply private brand resellers. We're a major supplier to private brand resellers across Canada. In the Winnipeg market, we are a partial supplier to one of the major private brand operators here. We sell into the industrial commercial market extensively. We've had a large share of that market both in fuels and lubricants. We're in the aviation rail and marine business. And, of course, we sell into the farm, fishing, those kinds of markets across Canada through our Esso agents. And last but not least, we're in the retail gasoline business. Retail gasoline accounts for about 25 percent of our total sales.

HON. J. STORIE: From that answer, then, I would assume that if for example a co-op gas bar, for it to establish itself in any community in Manitoba, and they wish to purchase gasoline from Esso at the Winnipeg wholesale dealer prices quoted here, that they would be able to do so.

MR. D. PENROSE: Mr. Chairman, the prices that I have shown here are the prices that our Esso branded dealers would pay. The price that would be paid by a private brand reseller would be what's generally termed a rack

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price, which is the price for the product to be picked up at a major terminal by the purchaser and, subsequently, moved to his own retail outlets. That would be a lower price, generally speaking, than this price.

HON. J. STORIE: So, if I understand you correctly then, the rack price would be in effect a pickup price at a specific point, a bulk plant, in Winnipeg, and it would be lower than the dealer price that's quoted in this table?

MR. D. PENROSE: Mr. Chairman, that is essentially correct. There are occasions when our dealer price might be equivalent to that rack price because of competitive conditions in a particular zone or community. But by and large, that is correct.

HON. J. STORIE: Mr. Chairperson, assuming that the price would be marginally less or somewhat less most of the time, have there been occasions when independent, private, non-profit groups have approached Esso and made a request for such a purchase on a regular basis, and that request has been denied?

MR. D. PENROSE: Mr. Chairman, not to my knowledge, Sir. We're very interested in selling to private branders. The only instance that I can recall when we were unable to supply a private brander was in Eastern Canada in 1979 when supplies were extremely tight and we had no capacity available, and we were unable to meet that customer's request. We're very interested in this kind of business and, as I mentioned earlier, we're a large supplier in the private brand business across Canada.

HON. J. STORIE: Would any other factors, such as the potential competition with private branders or non-profit retailers, be considered in a decision to sell or not sell? I'm thinking in particular where there's a limited market. You have an agent, and an alternate retailer was considering establishing itself. Would that be a factor in deciding whether or not to sell at the wholesale?

MR. D. PENROSE: Mr. Chairman, no, that is not a factor. We sell into the wholesale market to people such as private brand resellers, and we sell into the retail market through our brand at Esso dealer chain. We have two separate organizations that deal with those sales, and I can assure you they compete with one another.

HON. J. STORIE: A couple of other questions, the wholesale dealer price quoted at July 1, 1986, there are substantial differences, 20 percent differences in the prices quoted. Is the explanation that is a result of transportation costs? Do these prices reflect the delivered price to your dealers?

MR. D. PENROSE: Mr. Chairman, they reflect the delivered price, first of all. They also reflect some transportation differences to the extent that we were able to recover them in the market at that time. Most importantly, they reflect the local competitive situation that exists in that market.

Since January, as I mentioned, we've gone to a new system of providing delivered prices at the wholesale level, which we believe our dealers can buy at and set their own retail prices at a competitive level. Previously, we had used a system of consignment selling where that kind of price support was necessary. We've discontinued that practice, and part of the reduction that you see from January through to July is a reflection of moving from an old posted price system on the 1st of January to what we believe is a competitive posted price system, subsequent to the 20th of January. So there are a number of factors that contribute to the differences that you see in those prices.

HON. J. STORIE: Thank you, Mr. Chairman.

MR. CHAIRMAN: The Minister of Environment.

HON. G. LECUYER: Thank you, Mr. Chairman.

The new approach that you referred to in your study on Page 12, which states that. . . the retailers, according to their own wish, are now setting their own retail prices. Further, on Page 16, you're saying that in reference to Northern Manitoba communities, you're saying that the difference in prices relative to Winnipeg are being directly attributable to higher transportation and distribution costs.

After having made the case for the market factors and competitive competition being factors which determine in the final analysis the price the consumer pays, do you really believe that these additional costs imposed on the North are purely distribution and transportation costs? Have you done any studies to verify that this is true?

MR. D. PENROSE: Mr. Chairman, first of all, let me just point out, Sir, that the prices that I'm referring to there are our wholesale prices delivered to our dealers. They are not the retail prices that are sold at the pump. The difference between the wholesale price between Winnipeg and Flin Flon, for example, in fact reflects the transportation and handling costs to move the product from Winnipeg or from supply source to Winnipeg versus to the Northern communities.

Yes, we have closely looked at that from a cost standpoint and can justify that difference.

HON. G. LECUYER: But, as you have said yourself, that is not the retail price at the end of the line. The retail price itself may not simply only reflect transportation and additional costs.

MR. D. PENROSE: Mr. Chairman, that is correct. It reflects the dealer's home environment that he's operating in. For example, in some Northern communities volumes are smaller, costs are substantially higher to retail gasoline, and margins can be higher.

HON. G. LECUYER: And the fact that there may be reduced competition may also contribute therefore. The market factors that are there will significantly affect also the retail price.

MR. D. PENROSE: Mr. Chairman, that's absolutely correct. The market factors have a major bearing on

this, and it's interesting that it's not always the large communities that have the greatest amount of competition. Sometimes we find in small communities, a dealer will decide that he can get more business by dropping his price. Very quickly, there's a scramble for retaining of the business that the other people have had, and prices will spiral down to very low prices and then, subsequently, will be restored.

HON. G. LECUYER: And vice versa as well.

MR. D. PENROSE: That's correct, Sir.

MR. CHAIRMAN: The Minister of Natural Resources.

HON. L. HARAPIAK: Mr. Chairman, I've always had an interest in price differentials between provinces, particularly with my background as a farmer where you see the differential between gasolines and diesel fuels.

At the bottom of Page 20, you make reference to the different variety of products. There's a statement there which says: "For which individual production costs are indeterminate." I'm not sure if I'm understanding that, but that leaves me with the impression that there isn't a clear separation or there isn't a cost of diesel fuel to gasoline, that there is in fact sort of a blending of production costs. Is that correct?

MR. D. PENROSE: Mr. Chairman, we're in the business of joint product manufacture. It's like the meat business. How much does a pound of hamburger cost versus a pound of sirloin steak? We have that problem.

We know what our total costs of refining are. We know what some of our added costs in processing are, for example, additives that we would add or subsequent pieces of processing in a total sense. But we cannot cost, for example, what a gallon of gasoline actually costs. We can estimate that and we do, and we try out in the marketplace to see if we can get those kinds of prices. But the market will determine what we can get and what we cannot get.

Generally speaking, I guess I could say over in some previous years perhaps the prices of gasoline and diesel fuels were relatively the same in terms of costs. What we've seen experienced in recent years - that is in estimated cost terms.

In recent years, we've seen an increasing demand for unleaded gasolines. Something greater than 50 percent of the demand today across Canada is for unleaded products. We get fewer barrels or gallons or litres of unleaded gasoline out of a barrel of crude. There is increased demand for higher-quality diesel fuels, low-pour diesel fuels that will perform well in cold climates. There's increased demand for turbo fuels for aviation use of the distillate type for safety reasons.

All of those kinds of things have placed great stress on the refinery's ability to meet those demands. They have the effect of adding to the total cost of manufacture, but I can't tell you exactly what it is against any individual product.

HON. L. HARAPIAK: Excepting that you can to estimate the cost of these, would you say that the historical relationship of your estimated costs of gasoline and

diesel fuels is the same, or is there a variation in that relationship over time?

MR. D. PENROSE: Mr. Chairman, I'm not sure I can give you a factual answer because I don't have the information in my head, but I would hazard a guess that it has changed over time because of the factors I just mentioned.

HON. L. HARAPIAK: Would that change in your estimation reflect a closing of the gap between diesel fuel and gasoline?

MR. D. PENROSE: Mr. Chairman, I must take this as an answer off the top of my head, if you may. My intuition is that he would see a widening between them because of increased demand for unleaded gasoline and lower demand for regular leaded gasoline. So I must assume that it's against regular leaded gasoline that we're speaking and the demand for higher quality distillates which puts a stress on refining. But I would have to go and do some research in order to answer your question more precisely, Sir.

HON. L. HARAPIAK: I would appreciate if that information might be forwarded to me at some point, because what I've seen out in the marketplace makes it - at one time it was relatively easy to establish that relationship that there was a certain price differential between diesel fuel and gasoline - but that relationship to me doesn't seem to be as clear at this point in the marketplace so that if there was some information available in terms of your cost and what is happening in the marketplace, I would appreciate that information.

MR. D. PENROSE: Mr. Chairman, we'll look and see what we can do in that respect. One thing I would just like to reinforce is that unfortunately the costs don't set the price and there are many other factors that result in what the market price is.

HON. L. HARAPIAK: One final question on my part and, again, this arises out of my representing in the area that borders the Province of Saskatchewan. There is an impression amongst the consumers in that region which borders Saskatchewan, that if you take fuels which have no provincial tax in either jurisdiction, Manitoba or Saskatchewan, that generally the product is priced somewhat lower in Saskatchewan than it would be in Manitoba.

MR. D. PENROSE: Mr. Chairman, my compatriot tells me, and he's more familiar than I am, that that is not the case. I beg your pardon.

MR. CHAIRMAN: Does anyone wish to answer the question?

MR. D. PENROSE: I'll let Mr. Holliman answer the question, Mr. Chairman.

MR. CHAIRMAN: Mr. Holliman.

MR. P. HOLLIMAN: Thank you, Mr. Chairperson. The specifics I'm not familiar with. Obviously on occasion when we do compare prices between

provinces, there are some discrepancies, tax being the normal one. But I have no knowledge at this time of any specific differences between the area you're talking about, Manitoba versus Saskatchewan.

HON. L. HARAPIAK: The products that I was referring to would be farm fuels which are untaxed in Manitoba and, of course, not taxed in Saskatchewan. The impression that consumers have, and it is often referred to me, is that why is there this differential? So would I be fair in saying that there is no difference in the wholesale price, it is simply a reflection of the differences in the market?

MR. P. HOLLIMAN: First of all, assuming that there is a difference and I'm not specifically aware and I haven't looked at the information to establish that there is a difference.

Certainly in the wholesale price there would be some transportation cost difference. But again, how that would get reflected into the marketplace, there's a question on the market force that's in a particular area.

HON. H. HARAPIAK: I just wanted to ask what role Imperial Esso had in setting retail prices because, at the time in the remote area of Grand Rapids when the prices were coming down in other parts of the province, they were not coming down in Grand Rapids by any amount and, when the retailer was asked why the prices weren't coming down, he said they couldn't until Winnipeg gave him the authority to lower the prices.

Is this a factor or was the retailer just continuing to charge the higher prices which were previously in place before the reduction in price?

MR. D. PENROSE: Mr. Chairman, assuming for the moment that this was prior to January 20th.

HON. H. HARAPIAK: No, it was after April.

MR. D. PENROSE: After April? No, after April, I stand corrected, but we have been selling at a wholesale price to our dealers and the dealers have been setting their own retail price.

Prior to January 20th in parts of Manitoba, we set the retail price at the pump as best was our judgment of what the market forces were at that time and we sold under a consignment arrangement whereby we paid our dealers a commission and we took whatever was left over. However, we have changed that practice since January.

HON. H. HARAPIAK: Could you tell me how the different zones for the price of gasoline is established? Going North, how the different zones are established and what's used as a criteria? Is it strictly the distribution costs?

MR. D. PENROSE: Mr. Chairman, essentially it's distribution costs and both direct in terms from the primary supply source to the area and then through agency operations in an area and usually what we try to do is set a zone that would have, let's say, roughly the same distribution costs in that area, average it out with an average price in the zone. So we have a number

of zones in southern Manitoba, southern Manitoba being north and south of Winnipeg and a few price points in the far northern areas.

MR. CHAIRMAN: The Member for Riel.

MR. G. DUCHARME: Do all oil companies now operate similar to yours since January? In other words, set the wholesale price?

MR. D. PENROSE: The best answer I can give you, Sir, is I don't know. I understand that some are still selling on a consignment arrangement and I've heard that some may be moving to the system that we're using, but I honestly don't know.

MR. G. DUCHARME: Do you have any company owned, what would you do in that case? Who would set the margin of retail price?

MR. D. PENROSE: Mr. Chairman, we have a couple of arrangements where we own the facilities and lease them to a dealer. Then that dealer will set his own price. Where we own the facilities and operate it on an agency arrangement which we do in some cases then, of course, Esso Petroleum's people will set the price as they see the market. In that case, we would pay that individual a commission.

That's a relatively small proportion of our total sales. Most of our business in Manitoba is done through dealers and we have had in the past some operations where we company-operated our own facilities, a large service centre, for example, and in those cases we would set the price.

HON. L. HARAPIAK: Earlier you were talking about your market and just where you sell and I think you indicated about 25 percent of your sales are to the public through retail outlets.

Just to give me a better understanding of production and distribution, is there exchange of product between the major manufacturers, for example, would Imperial Oil provide Shell or Texaco, or would they get products from those firms?

MR. D. PENROSE: Mr. Chairman, yes, we have exchange agreements with our competitors in some places across Canada, relatively little in Western Canada because of our full distribution system that we have here. But we have supplied one or two of our competitors with products, on occasion, on an exchange arrangement.

HON. L. HARAPIAK: Would that be when some unusual circumstances arose with that particular firm, or would it be because there were some price - given the amount of product that you had in a region at a given time - Shell rather than bringing it in from somewhere, would take your product?

MR. D. PENROSE: Mr. Chairman, both would be the case. We would exchange product on a spot basis where there were emergencies, to make certain that the consumer isn't out of product, so we work those arrangements. But we also have longer-term exchange

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arrangements where we would supply another company with their requirements in a given area, and in return for which they would supply us with a similar volume of product in another area.

As I mentioned, in Western Canada that's a fairly insignificant activity. It's more important to us in Eastern Canada where we've closed down our Montreal refinery and the most efficient way of obtaining products in the Montreal area is to exchange it with another refiner who's in that vicinity.

HON. L. HARAPIAK: I'm not sure how your regions are divided and whether you have figures for Manitoba as a region, but if you looked at Manitoba or something that encompassed Manitoba, what percentage of the product that you handle would in fact go to another major supplier? You spoke of it as being insignificant.

MR. D. PENROSE: Mr. Chairman, I'm advised that at the moment we don't have any exchange agreements with another company in Manitoba but we do supply some on a sales basis to one of the private branders here.

HON. L. HARAPIAK: If you took it on a sales basis, then how significant a part of your business would that be?

MR. D. PENROSE: Mr. Chairman, I'm not certain I understand the question. What percent of what business?

HON. L. HARAPIAK: I'm not sure if you can define, say, Imperial Oil business in selling petroleum products in Manitoba; of your sales of petroleum products in Manitoba, what percentage shall we say, would be sales to other major distributors? Again, what I'm talking about, not of the independents but I'm talking about, let's take Shell, Texaco, whoever.

MR. D. PENROSE: Mr. Chairman, I understand the question. None, sir.

HON. L. HARAPIAK: Thank you.

MR. CHAIRMAN: The Honourable Minister.

HON. M. SMITH: I want to thank Mr. Penrose very much for a very thorough and thoughtful brief.

I just have really one question of a very general sort. I can understand, from a public policy point of view where we might want to look at some time at petroleum as a utility, but I can understand the company wanting to look at it from the market perspective.

What I'm wondering, is there ever a situation where you would welcome a trade-off to get stability of price over against flexibility? I guess I'm trying to weigh it because of the general debate about subsidy or tax expenditure to the companies when times are really difficult.

MR. D. PENROSE: Mr. Chairman, the answer to your question is no, we're never tempted but every now and again we might wonder about it. Quite seriously, no, our principle is that we think the market serves the

customer best, always has and always will. That's why we're here today.

HON. M. SMITH: Thank you very much.

MR. CHAIRMAN: Unless there are any more questions, the Chair wishes to thank Mr. Penrose and Mr. Holliman.

MR. D. PENROSE: Mr. Chairman, thank you very much for having us here today. We appreciate it very much.

MR. CHAIRMAN: The next on our list of presenters will be the Winnipeg Chamber of Commerce. The spokesman will be Mr. Wayne Hurlbert.

MR. W. HURLBERT: Mr. Chairman and Members of the Committee, the Winnipeg Chamber of Commerce represents over 1,500 member companies in Winnipeg and over 86,000 employees. The Winnipeg Chamber of Commerce has also been authorized today to speak on behalf of the Canadian Manufacturers' Association, and the Retail Council of Canada.

The Winnipeg Chamber of Commerce supports freer trade practices in the marketplace and has always been in support of deregulation of price, as the Chamber believes that the free marketplace is the best determinant of price.

First of all, I would like to look at some specific sections of the act with which we are in disagreement.

5. Section (1): While the old act may have been little used, the Chamber does not feel that the provision of Section 3 that requires four persons providing corroborating evidence of unfair trade is unreasonable.

The new proposed amendment, however, permits the Minister to request an inquiry on more tenuous grounds. This is unfair to both the public and to business.

The present legislation then, provides adequate protection and opportunity to lodge complaints and to request government action.

Because of the encompassing nature of the bill, public complaint is no longer required and the consumer is no longer considered. The Government of the Day may simply go ahead with investigation without substantiating public initiative. The Chamber believes that this is unfair to consumers and to business.

The changes made in Section 11 are of great concern.

(2) Subsection (b): The old act specified some conditions that could hamper competition in distribution. The proposed amendment assumes that the system of distribution limits competition. There is no need for such legislation, given that the Federal Government, with its new Competition Act, C-91, and the present act as it stands in Manitoba, and also the move to deregulation within the system of distribution, that this new amendment is not required.

Subsection (d): The old act provided that a 10 percent guideline increase over 12 months would be required. Because this benchmark has been considered for elimination, the proposed amendment opens up opportunities for unnecessary and expensive inquiries that may or may not be necessary.

There is also a subtle change in the final clause of Section 11 that permits government intervention at any and all stages of production, distribution, or marketing. Such intervention will only hamper the competitive

marketplace to the detriment of producers, distributors, marketers and ultimately harm the consumers of Manitoba.

11(3) Subsection (b): The new proposed amendment permits government regulation of price at any or all stages. This is an unnecessary intrusion into the marketplace, given that little substantiation may be given by public input. This is unfair and is not required.

Subsection (c): This clause has the potential to effectively eliminate new and innovative marketers from the marketplace. This will result in less economic activity in Manitoba, far less choice for consumers, fewer tax dollars for use for all Manitobans, as well as lost job opportunities.

Subsection (d) permits discrimination against any region of Manitoba. The opportunities for manipulation of price and regional discrimination does not consider regional disparities or efficiencies.

Of a more general nature, the Chamber opposes Manitoba's Bill 5 as the restrictions placed on the marketplace in determining price, would have a detrimental effect on the Manitoba business community.

While the Chamber recognizes that there may be some problems with certain firms regarding pricing, the Chamber feels that the overall result of the bill will be higher prices for consumers and less economic activity and choice in the marketplace. The Chamber supports an efficient effective marketplace. Price regulation tends to result in little downward pressure on retail prices, causing inefficiencies in existing firms and, at the same time, preventing new and innovative firms from entering the marketplace.

Because the maximum margin of price becomes a fixed margin of price the consumer is harmed in the long run. Because the market price will become fixed wholesalers may be hesitant to offer lower prices, maintaining the price at the higher regulated price. Also the cost of the bureaucracy required to regulate prices, both in the implementation and administration will have to be absorbed by the taxpayer or passed along to the consumers.

Restrictions in Bill 5 inhibit the ability of the retail sector to adjust to meet new consumer demands, resulting in greater efficiencies in the marketplace. The Winnipeg Chamber of Commerce feels that the consumer and business will be hurt in the long run, and that business activity will decline. The Winnipeg Chamber of Commerce recommends that the Manitoba Government withdraw Bill 5, An Act to amend The Trade Practices Inquiry Act, and allow prices to be determined in the marketplace in the long term interests of both business and consumers in Manitoba.

MR. CHAIRMAN: Are there any questions from members of the committee.

The Member for Elmwood.

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

You made several references to intrusion in the marketplace and obviously you consider this bill an intrusion in that marketplace. I'd like to know what you feel, or what your views would be, with regard to the oil industry's position in accepting super depletion allowances and other government incentives and

handouts over the past few years, and do you have a consistent view on this?

MR. W. HURLBERT: The Winnipeg Chamber believes that the marketplace is the best determinant of price, and that we have always taken the more broad term that subsidies and tax incentives may be needed at times because of certain instances within the marketplace, however, as a blanket statement that is somewhat unfair in that you are requiring a statement on the oil industry, where we represent all businesses of many types.

MR. J. MALOWAY: What you are telling me is you want the best of both worlds, though. You want a free market where you can charge what the market will bear, in terms of pricing of a product; but, by the same token, you also want the government to give you tax breaks and other incentives to help you out. Is that not correct?

MR. W. HURLBERT: If it came to a choice between tax breaks and incentives and so on, and having the market operating, we would opt for the market each time; however, the nature of the tax structure may have to be altered as well.

MR. F. JOHNSTON: Of course, increased taxes do the same thing, and they affect the marketplace, as well.

MR. CHAIRMAN: Any other comments or questions? If not, the Chair wishes to thank Mr. Hurlbert for his presentation.

MR. W. HURLBERT: Thank you for your time.

MR. CHAIRMAN: There is a written presentation, a submission though not orally presented from the Retail Council of Canada. It is available and it is received by the committee, copies of which are available from the Clerk of Committees. (Written presentations inserted at end of sitting)

Are there any other persons prepared to make presentation on Bill No. 5, An Act to amend The Trade Practices Inquiry Act. Now is the time to signify.

BILL NO. 40 - THE CORPORATIONS ACT

MR. CHAIRMAN: Hearing none, we proceed to Bill No. 40, An Act to amend The Corporations Act. We shall hear from L'Institut Joseph Dubuc Inc.

Mr. Guy Jourdain.

M. JOURDAIN: Mesdames et Messieurs les membres du comité, je me nomme Guy Jourdain. Je suis directeur général de l'Institut Joseph-Dubuc Inc.

Avant de m'attaquer au vif du sujet, j'aimerais vous fournir quelques renseignements sur l'organisme que je représente. L'Institut est un organisme sans but lucratif qui s'est donné pour mandat de favoriser la présence réelle du français dans tous les aspects de la vie juridique au Manitoba.

Du point de vue pratique, l'Institut se veut d'abord un centre de ressources qui met à la portée des juristes d'expression française les outils de travail dont ils ont besoin dans l'exercice quotidien de leur profession.

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Ainsi, notre organisme joue un rôle principalement technique et résolument apolitique. Ces précisions étant faites, je peux maintenant passer aux questions de fond.

De nombreux organismes franco-manitobains ont été constitués en personne morale par la délivrance de lettres patentes. À l'époque où ce mode de constitution en personne morale était en vigueur, c'est-à-dire avant le 1 novembre 1976, seule la langue anglaise était reconnue au Manitoba aux fins de la rédaction des documents de nature juridique et, par conséquent, les lettres patentes des organismes en question ont été rédigées en anglais.

Compte tenu de la jurisprudence récente de la Cour suprême du Canada, les organismes mentionnés ci-dessus désirent que leur acte de constitution soit rédigé en français. Au moins deux solutions semblent exister pour résoudre cette difficulté. La première consisterait à faire traduire les lettres patentes par l'État et à remplacer, dans les dossiers de la Direction des corporations, le texte original anglais par le texte français. La seconde consisterait à permettre aux organismes constitués en personne morale par la délivrance de lettres patentes d'obtenir leur prorogation sous le régime de la Loi sur les corporations.

Nous croyons que la seconde solution serait celle qui créerait le moins de difficultés d'ordre pratique et qui coûterait le moins cher, car les organismes pourraient simplement déposer des clauses de prorogation (soit une formule déjà traduite) et obtenir un certificat de prorogation.

Les lois applicables en matière de corporations, qui sont en vigueur dans d'autres provinces et au niveau fédéral, prévoient d'ailleurs un mécanisme de prorogation semblable à celui que nous demandons. Par exemple, le paragraphe 261(3) de la Loi sur les sociétés commerciales canadiennes rend obligatoire la prorogation des corporations commerciales constituées par lettres patentes. Les paragraphes 123(131) à 123(139) de la Loi sur les compagnies du Québec prévoient un mécanisme de prorogation volontaire des compagnies commerciales constituées par lettres patentes. Le paragraphe 126(1) de la Loi sur les corporations commerciales du Nouveau-Brunswick prévoit un mécanisme de prorogation volontaire qui s'applique à toutes les personnes morales qui exercent des activités commerciales. Permettez-moi de vous citer le paragraphe 126(1), dont le texte bilingue figure en annexe:

- 126(1) Tout corps constitué peut demander un certificat de prorogation au Directeur, s'il est
- (a) constitué en corporation en vertu des lois d'une autorité législative autre que le Nouveau-Brunswick et s'il est autorisé à le faire en vertu des lois de son lieu de constitution, ou
 - (b) constitué en corporation ou prorogé en vertu des lois de la province.

Comme au Manitoba, la Loi sur les corporations s'applique à la fois aux corporations avec capital-actions et aux corporations sans capital-actions, nous croyons qu'il serait facile d'adapter le texte néo-brunswickois précité de manière à créer un mode de prorogation volontaire applicable à toutes les corporations.

La mise sur pied d'un mécanisme de prorogation volontaire, qui serait d'application générale, permettrait la disparition de la plupart des corporations constituées par loi spéciale ou par lettres patentes et favoriserait une plus grande homogénéité du droit manitobain des corporations.

Je n'ai pas terminé encore, M. le président.

Je regrette, M. le président, je n'ai pas terminé la présentation de mon mémoire.

Pour conclure, le paragraphe 181(1) de la loi actuelle permet la prorogation des corporations constituées sous le régime d'autres autorités législatives. L'article 3 du projet de loi no 40 prévoit l'ajout du paragraphe 181(1.2) de manière à permettre la prorogation des corporations constituées par lois spéciales et nous vous demandons d'aller un pas plus loin en permettant la prorogation des corporations constituées par lettres patentes. Nous vous demandons de rendre service à l'ensemble de la population et à l'état en permettant en quelque sorte un nettoyage des anciennes corporations et de rendre service à la population francophone en permettant à ces organismes d'obtenir un acte de constitution rédigé en français.

Je vous remercie. Je suis prêts à répondre aux questions.

MR. CHAIRMAN: The Minister of Environment.

HON. G. LECUYER: Est-ce que vous avez rédigé une clause qui pourrait satisfaire au besoin à ce sens?

M. JOURDAIN: Je crois, M. le ministre et M. le Président, que le texte du Nouveau-Brunswick pourrait être adopté tel quel pour remplacer le paragraphe 181(1) de la Loi sur les corporations. Cependant, nous recherchons simplement l'effet désiré et nous ne voulons pas imposer au comité une rédaction particulière.

HON. G. LECUYER: Alors quand vous dites que le texte Nouveau-Brunswickois, vous faites allusion donc à la clause 126(1)(a) ou (1)(a) et (b)?

M. JOURDAIN: Les deux pourraient remplacer, M. le ministre et M. le président, le paragraphe 181(1) de la loi actuelle.

MR. CHAIRMAN: Are there any other questions? Merci beaucoup.

M. JOURDAIN: Merci beaucoup, M. le président. Nous sommes très reconnaissant d'avoir pu présenter notre mémoire aujourd'hui.

(English translation)

MR. G. JOURDAIN: Ladies and gentlemen, members of the committee, my name is Guy Jourdain. I am the executive director of the Institut Joseph Dubuc Inc.

Before turning to the substance of the discussion, I would like to provide some information concerning the organization which I represent. The Institut is a non-profit organization with a mandate to promote a real presence of the French language in all aspects of legal life in Manitoba.

From a practical point of view, the Institut is above all a resource center which provides French speaking lawyers with the tools they require in the daily practice of their profession.

Thus, the role of our organization is principally technical and resolutely apolitical.

With that, I would like to go on to the substance of the discussion.

Numerous franco-manitoban organizations have been incorporated by letters patent. At the time this method of incorporation was in effect, that is to say up to November 1, 1976, only the English language was recognized in Manitoba for the purpose of drafting documents of a legal nature, consequently, the letters patent of the organizations in question were drawn up in English.

Given the recent decisions by the Supreme Court of Canada, the above mentioned organizations would like to have their instruments of incorporation drawn up in French. There seem to be at least two solutions to this problem. The first solution is to have the letters patent translated by the province and to replace the original English versions with the French versions in the records of the Corporations Branch. The second solution is to allow the organizations incorporated by letters patent to be continued under the new Corporations Act.

We believe that the second solution would create fewer problems of a practical nature, and would be less costly, because the organizations in question could simply file articles of continuance, using a form which has already been translated, to obtain their certificates of continuance.

The statutes relative to corporations which are in effect in other provinces as well as at the federal level, provide a system of continuance similar to that which we are calling for. For example, subsection 261(3) of the Canada Business Corporations Act makes mandatory the continuance of business corporations established by letters patent. Subsections 123(131) to 123(139) of the Quebec Companies Act provide a system of voluntary continuance of business companies incorporated by letters patent. Subsection 126(1) of the Business Corporations Act of New Brunswick provides for a system of voluntary continuance which applies to all corporations that carry on business activities. I would like to take a moment to quote subsection 126(1) of the New Brunswick act, of which a bilingual version is appended:

- 126(1) A body corporate
- (a) incorporated under the laws of any jurisdiction other than New Brunswick may, if so authorized by the laws of the jurisdiction in which it is incorporated, or
 - (b) incorporated or continued under the laws of the Province may, apply to the Director for a certificate of continuance.

1983, c.15, s.20

Since in Manitoba, the Corporations Act applies to both corporations with share capital and those without, we believe that it would be easy to adapt the New Brunswick text cited above, so as to establish a system of voluntary continuance applicable to all corporations.

The establishment of a system of voluntary continuance which could be applied to all types of

corporations would eliminate the majority of corporations established by special act or by letters patent, and would create greater uniformity in Manitoba's corporate law.

I haven't finished yet, Mr. Chairperson.

I regret, Mr. Chairperson, I haven't completed my presentation. To conclude, subsection 181(1) of the present statute allows the continuance of corporations established under the laws of other jurisdictions, section 3 of Bill 40 provides for the addition of subsection 181(1.2) so as to provide for the continuance of corporations formed by special act, and we ask you to go one step further by allowing the continuance of corporations established by letters patent. We ask you to assist the population as a whole as well as the government by allowing a type of "cleaning up" of the older corporations, and to assist the francophone population by allowing its organizations to obtain instruments of incorporation drafted in French.

Thank you very much, I am prepared to answer any questions you might have.

MR. CHAIRMAN: The Minister of Environment

HON. G. LECUYER: Have you drafted a clause which could solve the problem you have just raised?

MR. G. JOURDAIN: I believe, Mr. Minister and Mr. Chairperson, that the New Brunswick text could be adopted as is to replace subsection 181(1) of the Corporation Act. However, we would simply like to achieve our goal, and do not want to impose any particular version on the committee.

MR. CHAIRMAN: The Minister of Environment.

HON. G. LECUYER: When you say the New Brunswick text, are you referring to subsection (1)(a) or (1)(a) and (b)?

MR. G. JOURDAIN: Mr. Minister, Mr. Chairperson, both could replace subsection 181(1) of the present act.

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

MR. G. JOURDAIN: Thank you very much Mr. Chairperson. We are very grateful to have been given the opportunity to present our brief today.

MR. CHAIRMAN: Are the committee members now ready to go through the bills? We shall proceed as indicated in the order . . .

The Member for Sturgeon Creek.

MR. F. JOHNSTON: Mr. Chairman, I am of the understanding that because the Minister is not here, and because previously, earlier this morning, it was mentioned that the presentations that were given would be brought to the attention of the Minister, that we will not be doing Bill 5, clause-by-clause today.

MR. CHAIRMAN: That is the wish of the committee? (Agreed)

So, except for Bill No. 5, we can proceed with the rest of the bills.

We will start with Bill No. 3.

The Member for Sturgeon Creek.

**BILL NO. 3 - THE CREDIT UNIONS AND
CAISSES POPULAIRES ACT;**

MR. F. JOHNSTON: Mr. Chairman, Bill No. 3, we have no objection to Bill No. 3, I don't know about the government members. We have studied the bill, we have had communications with many of the people that have been here this morning and, as far as the Opposition is concerned, we have no problem with Bill 3 whatsoever, so if you want to pass it as a full bill it will be quite agreeable to us.

HON. J. COWAN: I would seek some direction from Counsel. We have a number of amendments of a technical nature which have been shared with the Opposition Critic. By referencing them page-by-page as we go through, would that be the fastest way? — (Interjection) — The amendments have to be read into the record.

MR. F. JOHNSTON: We suggest that you just refer to the page the amendment is on, read it out, and then go to the next page there is an amendment and read it out, if that is satisfactory.

MR. CHAIRMAN: It will be more efficient if we have an understanding that we will only focus on those pages where the amendments are.

HON. J. COWAN: Great.

MR. CHAIRMAN: Okay. Can we have an indication of the pages where the amendments are, otherwise implicitly we are passing everything.

Page 3.

The Member for Elmwood.

MR. J. MALOWAY: Mr. Chairman, I move, seconded by the Member for The Pas

THAT section 1 of Bill 3 be amended by adding at the end of the definition of "creditor" the words "and includes, as the context requires, the creditor's heirs, executors, administrators, successors or assigns."

MR. CHAIRMAN: Is that agreed to? (Agreed) Page 3, as amended—pass. Any other page?

MR. J. MALOWAY: Page 4.

MR. CHAIRMAN: Page 4.

MR. J. MALOWAY: Mr. Chairman, I move, seconded by the Member for The Pas

THAT SECTION 1 OF Bill 3 be further amended by adding immediately after the definition of "member" the following definition:
"minister" means the member of the executive counsel charged by the Lieutenant-Governor-in-Council with the administration of this act.

MR. CHAIRMAN: Is that agreed? So ordered. Any other amendment on Page 4?

Page 4, as amended—pass.

Page 28. The Member for Elmwood.

MR. J. MALOWAY: Thank you, Mr. Chairperson. I move, seconded by the Member for The Pas

THAT subsection 34(2) of Bill 3 be amended by adding immediately after the words "surplus shares of" the words "loan of a patronage refund to".

MR. CHAIRMAN: Is that agreed? So ordered. Page 28, as amended—pass.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas

THAT subsection 58(6) of Bill 3 be amended by striking out the words "shall be re-submitted to the Registrar for approval" and substituting therefor the words "is void".

MR. CHAIRMAN: Is that agreed? So ordered. Page 41, as amended—pass. Page 65.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas

THAT subsection 95(4) of Bill 3 be further amended by striking out "subsection 88(1)" and substituting therefor "section 88".

MR. CHAIRMAN: Is that agreed? So ordered. Page 65, as amended—pass. Page 57.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas

THAT subsection 88(1) of Bill 3 be amended by striking out the number "29".

MR. CHAIRMAN: Is that agreed? So ordered. Page 57, as amended—pass. Page 91.

MR. J. MALOWAY: I don't see any proposed amendments in the space here, although it is on the sheet.

HON. J. COWAN: I think that's a continuation of the previous . . .

MR. J. MALOWAY: I see. In that case, Page 92.

MR. CHAIRMAN: Page 92.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas

THAT SECTION 132 of Bill 3 be amended by adding immediately after subsection (3) the following subsection:

Shareholders not entitled to vote.
132(4) Notwithstanding subsection (3) of Bill 3, the holders of any class of shares shall not be entitled to vote if, as a result of the dissolution, they would receive all moneys owing to them by the credit union.

MR. CHAIRMAN: Is that agreed? So ordered.

Page 92, as amended—pass.
Any other amendment on the same page?

MR. J. MALOWAY: Yes, there are two more. I move, seconded by the Member for The Pas THAT section 132 of Bill 3 be amended by renumbering subsections (4) to (11) as subsections (5) to (12) respectively; and also seconded by the Member for The Pas THAT renumbered clause 132(8)(c) of Bill 3 be amended by adding immediately after the word “members” the words “and shareholders”.

MR. CHAIRMAN: Is that agreed? So ordered.
Page 92, as amended—pass.

MR. J. MALOWAY: Page 93.

MR. CHAIRMAN: Page 93.

MR. J. MALOWAY: Mr. Chairman, I move, seconded by the Member for The Pas, THAT renumbered subsection 132(12) of Bill 3 be amended
(a) by striking out the symbols and the figure “(7)” and substituting therefor the symbols and figure “(8)”; and
(b) by striking out the word “prepare” and substituting therefor the word “send”.

MR. CHAIRMAN: Is that agreed? So ordered.
Page 93, as amended—pass.
Any other page?

MR. J. MALOWAY: Page 95.

MR. CHAIRMAN: Page 95.
The Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT subsection 134(4) of Bill 3 be amended by striking out the number “203” and substituting therefor the number “202”.

MR. CHAIRMAN: Is that agreed to by the committee?
So ordered.
Page 95, as amended—pass.
Any other amendments on the same page?

MR. J. MALOWAY: Page 97.

MR. CHAIRMAN: Page 97.
The Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT subsection 137(4) of Bill 3 be amended by adding immediately after the word “member” where it appears in lines 2 and 6 thereof in each case the words “or shareholder”.

MR. CHAIRMAN: Is that agreed to by the committee?
Any other amendments on the same page?

MR. J. MALOWAY: Yes, one more.
I move, seconded by the Member for The Pas, THAT subsection 137(5) of Bill 3 be amended
(a) by adding immediately after the word “members” in the third line thereof the words “or shareholders”; and
(b) by adding immediately after the word “member” where it appears in clauses (a) and (b) thereof in each case the words “or shareholder”.

MR. CHAIRMAN: Is that agreed to by the committee?
So ordered.
Page 97, as amended—pass.

MR. J. MALOWAY: Page 98.

MR. CHAIRMAN: Page 98 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT subsection 138(2) of Bill 3 be amended by adding immediately after the word “debt” the word “to”.

MR. CHAIRMAN: Is that agreed to by the committee?
So ordered.
Page 98, as amended—pass.

MR. J. MALOWAY: Page 120.

MR. CHAIRMAN: Page 120 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT subsection 194(4) of Bill 3 be struck out and the following subsection be substituted therefor:

Duty of directors.

194(4) Where an order made under this section directs an amendment of the articles or bylaws of a credit union or central,
(a) in the case of an amendment to the articles, the directors shall forthwith comply with subsection 128(4); and
(b) in the case of an amendment to the bylaws, the directors shall forthwith send to the registrar the amended bylaws together with a certified copy of the court order;
and no other amendment to the articles or bylaws shall be made without consent of the court until the court otherwise orders.

MR. CHAIRMAN: Is this agreed to by the committee?
So ordered.
Page 120, as amended—pass.

MR. J. MALOWAY: Page 124.

MR. CHAIRMAN: Page 124 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT clause 202(b) of Bill 3 be amended by striking out the word “it” and substituting therefor the words “the Registrar”.

MR. CHAIRMAN: Is this agreeable to the committee? So ordered. Any other amendment on the same page? Page 124, as amended—pass.

MR. J. MALOWAY: Page 127.

MR. CHAIRMAN: Page 127 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT Clause 209(b) of Bill 3 be amended by striking out the word "surplus" and substituting therefor the word "common".

MR. CHAIRMAN: Is this agreed to by the committee? So ordered. Page 127, as amended—pass.

MR. J. MALOWAY: Page 130.

MR. CHAIRMAN: Page 130 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for The Pas, THAT subsection 214(2) of Bill 3 be amended by striking out "Section 215" and substituting therefor "Sections 215 and 216"; and THAT section 216 of Bill 3 be amended by striking out the word "its".

MR. CHAIRMAN: Is this amendment acceptable to the committee? So ordered. Page 130, as amended—pass.

MR. J. MALOWAY: Page 143.

MR. CHAIRMAN: Page 143 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for Logan, THAT section 234 of Bill 3 be amended by striking out "C300" and substituting therefor "C301".

MR. CHAIRMAN: Is this acceptable to the committee? So ordered. Page 143, as amended—pass.

MR. J. MALOWAY: Page 144.

MR. CHAIRMAN: Page 144 - the Member for Elmwood.

MR. J. MALOWAY: Mr. Chairperson, I move, seconded by the Member for Logan, THAT section 237 of Bill 3 be amended by striking out "An Act to Incorporate La Centrale Des Caisses Populaires Du Manitoba Lté., being Chapter 51 of the Statutes of Manitoba, 1975, and".

MR. CHAIRMAN: Is this acceptable to the committee? So ordered. Page 144, as amended — pass; Title — pass; Preamble — pass. Bill No. 8 — the Honourable Minister.

HON. J. COWAN: We've agreed that we'll leave Bill No. 5 and Bill No. 40, clause-by-clause consideration, until a later committee meeting, and for that reason, Mr. Chairperson, we'll proceed with Bills 8 and 35 at this time.

BILL NO. 8 - THE REAL ESTATE BROKERS ACT

MR. CHAIRMAN: Bill No. 8. What is the pleasure of the committee?

HON. J. COWAN: Bill-by-bill.

MR. CHAIRMAN: Is that the pleasure of the committee that we proceed bill-by-bill? Bill No. 8, as a whole—pass; Title—pass; Preamble—pass.

BILL NO. 35 -THE INTERNATIONAL COMMERCIAL ARBITRATION ACT

MR. CHAIRMAN: Bill No. 35, The International Commercial Arbitration Act, what is the pleasure of the committee?

Bill as a whole—pass; Title—pass; Preamble—pass. The entire bill is passed.

All bills, Bill No. 3, Bill No. 8 and Bill No. 35, shall be reported—pass. Agreed to and so ordered.

What is the pleasure of the committee? Committee rise.

COMMITTEE ROSE AT: 12:25 p.m.

WRITTEN SUBMISSION PRESENTED BUT NOT READ

Submitted by: Retail Council of Canada.

Chairman and Members:

Bill 5: An Act to amend the Trade Practices Inquiry Act.

Retail Council of Canada is pleased to have this opportunity to comment on Bill 5 - An Act to amend The Trade Practices Inquiry Act.

The direct member companies of Retail Council include the entire spectrum of independents, large and small chains in all specialties, supermarkets and department stores operating in the Province of Manitoba. Approximately 100 specialty and regional retail associations are affiliated with Council whose direct and indirect members account for approximately 75 percent of retail sales by volume in Manitoba. These members are concerned with the implications of this sudden and all-encompassing intrusion by the Manitoba Government, to control the price of any article or product anywhere in the province at any stage of the production, distribution or marketing cycle.

It is our understanding that under the existing legislation, amended in 1976, there have been no complaints registered with the Minister. The proposed

Tuesday, 12 August, 1986

amendment to give the Minister full discretion, whether a complaint has been made or not, to set up an inquiry is very similar to recent changes to the Federal Combines Investigation Act. However, as the Federal Combines Investigation Act has now been implemented and covers all of the concerns which the current Manitoba legislation proposes to cover, we question whether the current Manitoba Trade Practices Inquiry Act is necessary.

Retail Council's major concern is with the proposed amendments to Section 11(2) - Regulation Respecting Prices. There are significant changes in the conditions under which a board recommendation to control prices can be entertained.

Subsection 11(2)(b) is the same as in the previous legislation;

Subsection 11(2)(b) has been significantly broadened to cover distribution systems in which there are many distributors and the qualifying term "effective" pertaining to competition has been dropped

Subsection 11(2)(c) is the same as the existing legislation

Subsection 11(2)(d) respecting recent price movements for the province has been dropped.

These amendments are without justification and cast the interpretive powers of the Lieutenant-Governor too broadly. Credit charges as well as a host of other current trade practices could be easily caught up and included in this vague terminology.

The new section 11(3) is strongly opposed by Retail Council as it provides for arbitrary interference by the

Government at any or all stages of the production distribution, and marketing of any article or product in all or any parts of the province.

Retail Council questions why the Government of Manitoba finds it necessary to significantly expand the powers whereby it can, at the Minister's discretion completely control any trade, business, industry, pursuit occupation, calling or profession or activity of any kind whatsoever carried on by any person or through the support or patronage of the public is sought for any purpose.

I have provided the above information to the Minister of Consumer and Corporate Affairs and sought his concurrence to withdraw this bill from further legislative consideration.

Indeed The Trade Practices Act as it now exists is not necessary since the Federal Combines Investigator Act now covers the same areas as the current Manitoba legislation.

Meanwhile, at the very least, we ask your committee to amend the existing bill in the following ways:

- (1) Section 11 be returned to the existing wording:
- (2) Other sections of the act be amended to remove the excessive power of government to unilaterally investigate trade-related activity without cause.

K.R.D. Mundy
Manager, Western Region