



**Legislative Assembly of Manitoba**

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**HEARING OF THE STANDING COMMITTEE  
ON  
AGRICULTURE**

**Chairman**

**Mr. A. R. (Pete) Adam  
Constituency of Ste. Rose**



**THURSDAY, June 9, 1977, 8:00 p.m.**

**E: 8:00 p.m.**

**AIRMAN, Mr. A. R. (Pete) Adam**

**MR. CHAIRMAN:** Order please. We have a quorum, gentlemen, and we will proceed. There were a people from out of town who were not here this afternoon. I don't believe they are here this morning, either, but I will call out their names and if they are not here then we will start with the people who live in Winnipeg. There is Mr. Dunford, Mr. Robson, and there is Mr. Taczynski. They not being here I will call on Mr. Nemy. Mr. Fehr. Is Mr. Fehr there? Mr. Nemy. Proceed.

**MR. Morton H. NEMY:** Mr. Chairman, Honourable Minister, and gentlemen. I have had an opportunity to peruse Bill 56, being The Farm Lands Protection Act of the Province of Manitoba, which is now before the current session of this Manitoba Legislature, and I feel that in speaking before this Committee, being a cross-section of members of the Manitoba Legislature, that I come before you with more than just a passing knowledge of circumstances and events which have led into the drafting of this bill.

I am a practising barrister and solicitor in the Province of Manitoba and have been engaged in this capacity for approximately 20 years. I was a member of council of the Municipality of Assiniboia for seven years prior to citywide amalgamation, and during all of this time was Chairman of the Property and Planning Committee of the said municipality, and I have acted as solicitor for the Farm Credit Corporation for many years and am currently acting in that capacity and have had an opportunity to discuss farm matters with hundreds of Manitoba farmers, both large and small, from all areas of the province.

Of somewhat more importance is the fact that my law firm was probably one of the first firms to get actively involved with European purchasers buying farm land in Manitoba, and I am doing a large portion of legal work at this time for these people.

I have had an opportunity to visit Europe with each and every European purchaser of farm land in Manitoba that I have acted for, at their homes as well as at their places of business, on several occasions during the past four years, and have a personal insight as to their occupations, their living conditions, and their way of thinking, and their objectives with regard to land purchases in Manitoba.

In this regard, I would very much appreciate an opportunity to head a delegation of some of the members of this Committee, together with the Minister and staff for the Department of Industry and Commerce and the Minister of Agriculture in order to give them a first-hand knowledge of the facts which I am already aware of, and which are, to some extent, as follows:

(1) That the people who are purchasing land in Manitoba are not huge corporations and European syndicates, but in each and every case, that I am aware of, are individual families or brothers and sisters of one family.

(2) That the great majority of purchasers are now actively engaged in farming in Europe, and that their intention is to immigrate to Canada at their earliest opportunity, or at least to send their children here when they graduate from school. And many are now taking agriculture at European schools, and in fact there are four children at the University of Manitoba at the Agricultural College.

(3) Some of the owners of land in Manitoba have personally owned large industrial complexes and are very anxious to establish in Manitoba upon disposal of their European holdings. They have the know-how, the finances and the necessary worldly contacts with which to make their presence in this province significantly felt, and all they require is a little more encouragement than has been shown to date.

And I might say as a sidelight that right at this time, not knowing I was going to be here tonight, there is a family of Italians at my home who own 240 acres of land in this province, who manufacture farm machinery in Italy, and have come over here to see about establishing a plant in this province, and when they saw the climate of what is happening with this bill, they are leaving tomorrow morning without taking any further action.

I have been asked by many Canadians and given many reasons why Europeans purchase land in this and other provinces, but in discussing this aspect with Canadians and knowing first-hand the conditions which now exist in Europe, the following are the primary reasons for Europeans interest in Canadian farm land:

(1) Many of the land purchasers in Manitoba originally escaped from Eastern European countries now under Communist control, where they lost all of their land and personal possessions upon escaping to Western European countries. Most of these people escaped between 1946 and 1955 and now are deeply concerned at the possibility of Communist domination of several countries of Western Europe and wish to be in a position to move on very short notice with an established home to go to.

(2) Many European farmers who have purchased in Manitoba are faced with expropriation of their farm land by nearby cities and towns or by government on behalf of industry, and it is therefore virtually impossible to buy any farm land in Europe at a price that would make it an economically

viable operation for a family farm.

(3) Many families have children who are now graduating from high school or industrial agricultural schools and their land holdings in Europe do not allow them to transfer property to their children and afford the children and parents an adequate living. It is therefore their intention, over a period of approximately five years, for many of these children to establish themselves on Canadian farms now being purchased in advance of this migration.

(4) Some of the largest industrialists in Europe have purchased property in Manitoba and they in Winnipeg and the surrounding areas approximately twice a year. They hope to establish more than a single farming operation on land that they have purchased. And in this regard, several are making arrangements to move to Canada and most are already landed Canadian immigrants and are carrying Canadian passports, although they are still residing in Europe.

During the past several years Europeans who purchased land in 1973 and 1974 have settled their farms in Manitoba with their families and it has taken them at least two years to dispose of their European holdings. And therefore, I might say that a lot of your statistics are not correct because their titles in Manitoba still show them as residing in Europe, but in fact they are actually now here with their families.

The following are some examples of settlers now residing in Manitoba.

(a) Mr. and Mrs. Otto Wolf and family purchased approximately 1,186 acres in 1973 and 1974, and arrived in Canada in the fall of 1974. Mr. Wolf is also farming his brother-in-law's property approximately 1,010 acres and he intends to come in 1978.

(b) Mr. and Mrs. Klaus Wolf purchased 1,800 acres in 1973 and 1974 and they have been residing at Brunkild, Manitoba since the summer of 1975.

(c) Mr. and Mrs. Konrad Kuentzle and family purchased 834 acres and arrived in Canada in March of 1976. They were able to move here within six to eight months of purchasing their property.

(d) Mr. and Mrs. Ulrich Schmitz own approximately 120 acres and are farming 1,522 acres owned by their European friends who will arrive later.

(e) Mr. and Mrs. Willi Hesse own 160 acres, but are working all of the property purchased by the parents and other relatives for a total of 1,335 acres. Their property was purchased during 1975 and Mr. and Mrs. Hesse arrived in Manitoba in the spring of 1976.

(f) Mr. and Mrs. Ulrich Hiesinger purchased 480 acres at Lowe Farm, Manitoba and they arrived in October of 1976.

(g) Fellmack Holdings Ltd. is a company registered in Manitoba but having foreign owners and owns approximately 5,000 acres which were purchased in 1973 and 1974 and is now being farmed by the Company's own employees, one being the owner's son, single ownership.

(h) Hardwood Enterprises, also a foreign owned corporation registered in Manitoba, purchase 3,000 acres between 1974 and 1975 and now are being farmed by a Resident Manager from Europe with his family who is a shareholder of the operating company and is a Doctor of Agriculture.

(i) Iron Oxes Corporation, another foreign owned Corporation registered in Manitoba, owns 40 acres, also managed by a Resident Manager and family, who is a Doctor of Agriculture.

(j) Mr. and Mrs. Hans Stieffenhofer purchased 640 acres in 1975 and they are — I say in the process of moving, they moved here two weeks ago. They moved to Manitoba two weeks ago and are now residing on their farm.

(k) Mr. and Mrs. Kloeppel purchased 640 acres in 1975 and moved to Manitoba in 1976.

I guess I could go on.

All of the above purchased the land between one to four years before they arrived as it is virtually and absolutely impossible for any foreigner wishing to move to Canada to purchase the land after they are landed residents of Manitoba. It would be like asking a family to move to Toronto or Vancouver without any prospect of employment and without a residential home to move into. You are really asking these people to give up their citizenship or to move from a country, to apply for a Canadian citizenship, to sell all of their holdings, to move their children here out of school, with no land holdings here to move into, which, of course, this is what the Act, Bill 56, provides for.

Many of the parties moving here and occupying their land have been a real stimulus to the local communities in that they are replacing older retiring people or occupying farms which were not previously viable operations. They have young children in schools, they take an active part in community affairs, and most important they are buying a great deal of machinery, equipment, constructing new homes and farm buildings, and in general have been extremely good for the communities, e.g. Fellmack Holdings Ltd., who as I mentioned before, own approximately 5,000 acres have purchased \$1 million worth of equipment in the Town of Dauphin. They have also built a 100,000 bushel elevator on the farm and numerous machine sheds and buildings. They have spent \$200,000 in cleaning the land and in the process have burned down approximately 50 buildings that were really uninhabitable. This is not an isolated case as I could repeat this story over and over again and I suggest it would be worthwhile to check with residents of these local communities where these people reside, to better understand the substantial contribution that they are now making.

Obviously some of the younger Manitobans are complaining about the price of land, which has risen substantially since 1972. But I submit that this is not due to foreign purchases, but solely the result of an inflationary trend on just about everything during the past five years. There have been restrictions in Saskatchewan for some years now, but farm land around Regina has climbed at the same rate as farm land around Winnipeg although there have been no sales to foreigners in the Regina area. Farm land in North Dakota and Minnesota is approximately \$1,200 per acre and in Iowa and Wisconsin it is \$2,000 per acre.

The price of homes in the Winnipeg area, seen from my own personal records in my office, has doubled since 1970. A \$20,000 home would now cost \$60,000 or more. The land prices inside the perimeter have quadrupled in recent years, and I therefore grant that farm land has gone up, but again I would repeat that it is not because of the influence of European purchasers and I contend that farm land will not come down in price even when the purchases have ceased.

On the economic side it has been extremely profitable for the young Canadian farmer to rent the property rather than purchase it for the following reason:

Good farm land in southern Manitoba sells for approximately \$400 to \$500 per acre on the average. For a Canadian farmer to buy this property he would have to pay a minimum, and I say 10 but has gone down to about 8-½ percent interest through the Farm Credit Corporation, which would cost him approximately \$50.00 per acre interest annually. In addition he would have to pay from \$3.00 to \$5.00 on taxes making a total cost, without repayment of any principal, of \$53.00 to \$55.00 per acre. These farmers are now renting the property from Europeans at anywhere from \$18.00 to \$22.00 per acre. The farmer who is renting is saving at least \$30.00 per acre on costs alone which is going into his pocket and the Europeans have been happy to net between 1-½ to 2 percent on their investments, though some are netting approximately 5 percent where the purchases took place in 1973 and 1974.

Over the past three years I personally, on behalf of my clients, have paid various municipalities tens of thousands of dollars — I could add hundreds of thousands of dollars — in order to provide adequate drainage and culverts, which are something that was a major problem covering vast areas of prime farm land in the Red River Valley. I strongly suggest that the Provincial Government look to this problem, as I am now convinced that crop yields could be increased substantially through proper drainage and in addition, flooding, which is continually a problem, could be reduced which would eliminate the necessity of the Manitoba Crop Insurance Board paying out huge losses where it could, with some planning and expense, be eliminated permanently.

Some direct criticism of the present Bill 56, in addition to what I have already said, would be as follows:

(1) It is very unfair to expect anyone to come to Manitoba and purchase a quarter section of land with any expectations that they could move here in the future with that small a holding, as it is economically an unfeasible situation.

(2) The Act puts some valuation on timber and grazing land, which would be valued at \$75.00 per acre, the same as on farm land, and in fact there is no distinction between the different kinds of farm land, and therefore any restrictions should be based on assessment at the time of purchase and not on acreage as is now the case in Saskatchewan, which is on assessment.

(3) There are several Manitoba Corporations who own farm land for the purpose of operating viable industrial operations in Winnipeg such as cattle, chicken or hog operations, etc., etc., but certainly more than 40 percent of their income comes from manufacturing, processing or retail sales rather than farming.

(4) There are many farmers working at other occupations during the winter months and between the periods of seeding and harvesting whose income is primarily derived from occupations other than farming.

Many older farmers are unable to sell their property because of the very high capital gains tax and the gift tax restrictions in Manitoba. These older people wish to transfer the property to their children at a sum which in their estimation is adequate for their retirement purposes, but they do not wish to charge them the current market value of the land. By doing this they are exposing themselves to substantial gift tax and capital gains tax and any funds they would receive from their children would be consumed in both of these taxes.

And I don't know whether you gentleman realize that the Federal Government taxing authority comes — if you value land and transfer it to a son, where the father transfers to the son for \$200 an acre, the tax people come and say, "No, this land is worth \$500 an acre," and charges the father a capital gains tax on the basis of \$500 an acre, and charges the father a gift tax on the \$300 that he didn't charge his son. It is just an impossible situation to place the land in the hands of their children, and their only alternative is to give their children long-term leases. With this new proposed Act, and with the gift and capital gains tax, the farmers are being put in a box where they do not know which way to turn, as many of them own far in excess of one section of land.

I bring the above to your attention as I am constantly running into this problem as a Manitoba

lawyer and a lot of other lawyers in the province are in the same position. I would submit at moment that it is one of the most perplexing problems which I am facing in trying to advise retiring farmer in this province. I would also state that the situation is one of a very serious nature; should be given the utmost concern and priority.

I act for farming operations which are limited companies and where one shareholder is run the farm, but is a minority shareholder. I also act for limited companies where the farm is managed by non-shareholders on behalf of the shareholders. There are many family corporations where the father owns the majority of shares, and the sons who are actively farming the land or have a minority interest because of the gift tax and capital gains tax problem. Does that mean they can't now expand their farms because the father is not farming? The present Act does not cover these situations.

As active as I have been in this field, I am not against some limitations or rules and regulations governing the sale of farm lands in Manitoba, but would not want to see an Act passed that will cause great confusion, uncertainty and numerous legal and administrative problems. Would it not be much simpler on all land purchases in Manitoba, whether city or country, excepting certain categories buildings, to add on at the time of purchase say a 20 percent tax to be paid at the time of purchase and repaid to the owner should the land remain in his or his company's name for say a certain period of time - say 5 years.

I believe a tax penalty, whether it be on vacant city property or on farm land, would certainly curb speculation, which I think is the intent, but I do not think that people who own property for a long period of time should be put in the same category since the cost price and the selling price over several years have no relationship whatsoever because of the very high inflation in recent times.

I should point out that all monies collected for rents from European owners at the present time are kept in Canada and primarily in Manitoba, and in fact, there are large sums of money coming in from Europe into these accounts in addition to the land rentals and therefore, contrary to opinion that I've heard here, none of these moneys that are collected are leaving the province and certainly are not leaving Canada.

In closing, I believe that the bill, as now drafted, will cause numerous problems of administrative and unnecessary legal involvement by the province and certainly a great deal of hardship on vendors wishing to sell, and on new immigrants to this country wishing to buy. I would therefore urge the Committee to give this particular legislation much more careful consideration in the drafting of the Act, and it not be passed until this careful consideration is given, as I certainly wouldn't want to see it passed in its present form.

**MR. CHAIRMAN:** Thank you very much Mr. Nemy. Are there any questions? Mr. Uskiw. Before we start the question period I would advise Committee members to pull the mikes close to them as the equipment here, the microphones are not as powerful as in Room 254. In order to get a good transcription speak loud and into the mike please. The Honourable Minister.

**MR. USKIW:** Mr. Chairman, I would like to deal with a couple of points on page 3. It seems to me that before anyone can migrate to Canada one has to go through the legal processes of the Department of Immigration, and having done that then of course this legislation does not restrict the kind of an individual. Yet you make reference to it here to the extent that you feel they are restricted. You refer to immigrants, landed immigrant status, that are being affected by this legislation, which they are not.

**MR. NEMY:** I think the Act provides that they be a Canadian resident.

**MR. USKIW:** Or a landed immigrant, which is the same thing isn't it?

**MR. NEMY:** No it isn't. You can have landed immigrant status and still be living in Europe, and carrying a Canadian passport, Mr. Minister, and still be living in Europe.

**MR. USKIW:** Yes, a Canadian is also restricted if he doesn't live in Canada applies equally to both.

**MR. NEMY:** Well, a Canadian would be living overseas because of job. His domicile would still be considered Canada just like a serviceman who is serving in Egypt. His domicile is considered wherever he chooses in Canada. So I don't think the two are applicable.

**MR. USKIW:** The point I'm making is, if the intent is to migrate then the bill does not restrict a landed immigrant providing they are taking up residence and are operating those lands as farms. So, I'm trying to pinpoint from your point of view wherein lies the problem. Why is it impossible to migrate first and buy after the point of arrival?

**MR. NEMY:** Because I don't think anybody is going to give up their European holdings and sell their home and sell their farm and move to Canada with the expectation of not knowing where he's taking his family.

**MR. USKIW:** No, but I raise the question on immigration, sir. How can they assume that they can come into Canada, buy a block of land, how can they assume that they would have approval by the Department of Immigration for the purposes of migrating. They could be locked out too.

**MR. NEMY:** They seem to have, Mr. Minister, no problem if they are coming over here to farm Canadian farm lands. It seems that this is one of the categories that is wide open for Europeans as

as they can show that they have enough funds to carry on a viable farming operation and this has not been a problem at all with Canadian immigration, either at the Embassies overseas which I have spoken to, with these people or with Canadian immigration in this country.

**MR. USKIW:** Are you indicating, sir, that they are getting some pre-clearance through the Department of Immigration when they make these investments?

**MR. NEMY:** Well, I might say that they have talked to them then they go back and they then make their official application. If they decided to live here and they bought land they then go back and start liquidating their assets over there, applying for Canadian immigration and it takes usually two or three years to really get the family over here.

**MR. USKIW:** As a legal person, wouldn't you think that's rather a risky proposition, to invest money in another land in the hopes of moving to that investment and running the risk that you would not get a landed immigrant status ever?

**MR. NEMY:** It's a far bigger risk to sell everything over there and move here without any land or anywhere to bring his family to.

**MR. USKIW:** But, sir, I think we're going in a circle here. They are buying the land first before they dispose of their own holdings, so presumably they must have capital with which to buy the land in Manitoba, so they're not risking anything except that capital.

**MR. NEMY:** Or a loan based on the sale of their farm overseas, you know, I'm aware of many instances in which this has happened.

**MR. USKIW:** They use their credit in other words, in the interim period?

**MR. NEMY:** That's correct, Mr. Minister.

**MR. CHAIRMAN:** Mr. Enns.

**MR. ENNS:** Mr. Nemy, I'd like to advantage of your appearance before the Committee as a person, as a lawyer who has some background in dealing with the transfer of lands. We've heard a great deal in this past few hours about the problems of land from the point that potatoes should be grown on my acre, to the fact that the whole Jewish problem is that they bought land in Israel and that's caused that problem. And my question to you is, as a lawyer, the one who has been in the business of advising clients, from the day that we pass this Act, how will you advise clients to circumvent the Act?

**MR. NEMY:** At the moment that may be a lot of trade secrets . . . what we know and what we might do. I might say that the people I am acting for. . . .

**MR. ENNS:** I'm sorry, the purpose is not to put you on the spot, but I think you just raised some of the questions of what is the status of landed immigrants and what isn't. These are some of the implications that I know will take place under the legislation that we're passing.

**MR. NEMY:** Many of the Europeans are landed Canadian immigrants in the eyes of Canadian immigration, still still residing in Europe using Canadian passports. They might be here in the next year and they might be here in the next three or four years, but there is really no urgency as far as the Department of Immigration is concerned that they get here within a certain time. They are a landed Canadian immigrants and as such could be subject to Canadian tax, depending on where their money is being earned, rather than European tax.

**MR. ENNS:** One further question, Mr. Nemy, has to do with the definition or the approach that the legislation takes towards a farm corporation as distinct from the other business corporations. It's only been really in the last 15 or 20 years that farmers have for reasons of their own found it from time to time expedient to incorporate, and the corporation, as such is not a fixed thing. The nature of that corporation can change even though the initial incorporation involved maybe say two brothers or three brothers or something like that. And yet this act doesn't distinguish, it kind of tars everybody by the same brush. A two brother dairy farming corporation in my constituency in Rosser Exxon all of a sudden becomes the same as or Texaco or a multi-national corporation. The fear that I have is that that distinction is not being made in the Act.

**MR. NEMY:** This is correct in that most people who incorporate, incorporate usually because of the ability to retain some of the earnings within a corporation and lower their tax rate, which everyone has the right to do; and secondly, in order to make it easier to hold a property if there are say a father and children, it makes it a much easier situation for gifting, it makes it a much simpler situation for estate purposes. And when we incorporate foreign ownership, we are doing it for exactly the same reasons as any Canadian farmer would be incorporating his land in the name of a corporation for the same economic reasons and to distinguish as between an individual and a corporation, and a farm corporation seems to me to be a ludicrous situation, that you spell out that on one hand there's going to be a \$1,000 fine and if it's a farm corporation there's going to be a \$50,000 fine, yet it could be an individual, it could be one man owning a corporation which you are allowed to do now in Manitoba, and having a \$50,000 fine against him and if he had left it in his own name, which he would foolishly taxwise, he would be fined a \$1,000 under the Act.

**MR. ENNS:** Mr. Nemy being the point that I'm trying to make is that you do see a kind of unfair emphasis or discrimination being placed in the definition of the word corporation as it applies to farm corporations as you by experience know them because you have undoubtedly been party to, in fact

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have helped incorporate many individual or two or three individual farm groups into incorpora

**MR. NEMY:** Very much so and also in addition you have family farms who have incorpor where as I mentioned in my brief that the father can't divest himself of his interests because of the laws, certainly in this province, and he is in a situation where the sons, because of being a corpora and owned by the father who is living in the city and owns the majority of shares, they are prevented under this Act from buying any further land into the name of the Corporation.

**MR. ENNS:** Well, one final question, which I really don't expect Mr. Nemy to answer, but I w suspect, sir, that you as a lawyer involved among other legal practices, in a certain amount of experiences, you could entertain and hope to make considerably more money if we passed this

**MR. NEMY:** I would say that everybody in every type of occupation have some sort of ve interest. I listened with some amusement that the people who spoke all during the day other thar Farm Bureau, which I thought their brief was excellent, but it's really pitiful to hear some of the b that were presented today and to hear what they had to say, dating back to a hundred years ago, a wonder how many people in this room who are forty and over whose fathers didn't come from Eur and settle on farms. Very few I would think under the same type of conditions only the thing was things were a little different then, we were pulling plows with horses which were eating up most of crop to pull the plow.

**MR. ENNS:** You didn't answer my question.

**MR. NEMY:** I'd say that certainly I have an interest. I have an interest in this Act because it portion of my legal practice. I have an interest in the Family Law Act that's going through too, a v great interest in that Act and I'm disappointed a lot more people don't have a great interest in that

**MR. CHAIRMAN:** Mr. Patrick.

**MR. PATRICK:** Mr. Chairman, I have a question for Mr. Nemy. Of all the people that you acted or had transactions with, the European buyers, can you indicate to the Committee how many farming and in your opinion how many will definitely be coming to Canada or Manitoba and will farming. Can you give us say percentages, in your opinion, will most of them be coming or are so of them strictly investors or looking for a place to put money in a safe place.

**MR. NEMY:** I would say that all of the farm people who have purchased property, Europe farmers who purchased property in this province, will either be here themselves or their children v be here. I would venture to say that it is in the area of 75 percent of all purchasers are Europe farmers. The other 25 percent are business men, some industrialists. Some very very lai industrialists. In fact some of the largest industrialists in Europe own land in this province and ha been looking over this province for investment purposes for establishing plants here. I might say in honesty that I've had them before the Minister of Agriculture and before the Minister of Industry a Commerce and that after some meetings they establish established their plants in Quebec a Ontario, which was certainly to my disappointment.

**MR. PATRICK:** Mr. Chairman, I have another question to Mr. Nemy. Have you acted for a professional people from Europe because from my own experience I know there have been some th were looking to invest their money in Manitoba, that you acted for who strictly came here to b property to invest their money, not really to have their family or themselves farm. Would there be small percentage of those or . . .

**MR. NEMY:** No I have not acted for any professional people *per se*. They are professional in tl sense that they are graduate chemists, Doctors of Chemistry, Doctors of Agriculture, Doctors Industry. They have a lot more doctorships over there than we have, so when you read their titl you'll see that a lot of them are Doctors of Industry. But professionally, as far as dentists or doctors lawyers, I might know one individual that is a Doctor of Dentistry that bought land in this provinc

**MR. PATRICK:** Mr. Nemy you did not raise it in your brief but most of the other people th appeared before the Committee so far have raised it and there has been very strong opinion that th legislation should not apply to any Canadian citizen; that the Canadian citizen should have any lim at all to buy any number of acres and so far many of the people who have appeared before th Committee said so. Can you give us your opinion. In your opinion would you feel a person from Plu Coulee or Chicago or New York or somewhere in Europe should have the same right to buy the sam amount of land as anyone living say here, as living in Europe or anywhere else, or do you think ther should be different legislation pertaining to Canadian citizens?

**MR. NEMY:** I think that any Canadian citizen should absolutely be able to buy any land in thi province that he wishes. If you are going to cut off Europeans and the Canadian who is not farming you could create a situation in this province where the land prices say stay at \$300 or \$400 an acre and throughout even other parts of Canada and certainly in Europe and the United States, where lanc prices have just skyrocketed, land prices could be going up tremendously. I would think that ther what would happen is that the American and the European will sell out and come in here with jus suitcases full of money as a Canadian farmer, as a landed resident immigrant, and buy up thousands of cheap acres in this province, if you don't let the market look after itself.

**MR. PATRICK:** Thank you.

**MR. CHAIRMAN:** Mr. Einarson.

**MR. EINARSON:** Mr. Chairman, I would like to embark with Mr. Nemy . . . some of this has been covered, but I was interested in your comments in regard to this Bill pertaining to the penalties as it relates to an individual and a corporation. I was wondering what your views — I mean you did give me an explanation of that, but where a farmer who chooses to operate as an individual farmer on a family farm, and then maybe tomorrow — and I pose it to you as I did this afternoon, to a farmer who decides he wants to form a corporation, do you feel that the clauses that we have in this Bill are justified insofar as the penalties are concerned, where it concerns a farmer on an individual basis, and why he decides tomorrow to become a corporation?

**MR. NEMY:** I say you would have to be very careful in who you are going to incorporate, and you would have to make sure that the incorporators of the company, because you can't have sort of a frontier type of a situation, you would have to be very careful that the shareholders who own this corporation are actively engaged in farming to the lease of 60 percent of the shareholdings. This would cause tremendous family problems as I mentioned. You know, there are all kinds of problems with this legislation and I don't know whether other lawyers behind me, who aren't maybe even as actively involved in the foreign ownership, but I am sure that they will have to agree with me, that I think that the Act is very poorly drafted.

**MR. EINARSON:** Well, then, Mr. Chairman, through you to Mr. Nemy, is it not a fact that legislation has been changed recently that one person can be a company?

**MR. NEMY:** This is correct.

**MR. EINARSON:** So therefore, my point is this then, if a farmer is operating as an individual non-corporation the family farm, and suddenly decides, for various reasons, that he wants to form a corporation on an individual basis, I am wondering, that's why I am asking you the question in regard to the legislation that we have before us as it effects the individual and the corporation in that respect?

**MR. NEMY:** Well he could still incorporate. This Act would not prevent him from incorporating as long as he is actively engaged in farming and as long as 60 percent of the shareholders of that new corporation are actively engaged in farming that farm. But if it isn't that way, of course, instead of having a minor penalty imposed on them at the discretion of the Minister of say \$1,000, they could be exposed up to \$50,000 penalty, because they happen to be a family corporation rather than an individual operating and owning this farm.

**MR. EINARSON:** Mr. Chairman, then as a layman could I ask Mr. Nemy if this is not discriminatory insofar as the penalty is concerned under the basis in which I have posed the question to you?

**MR. NEMY:** I don't know whether it's — to me it is just poor legislation. When you are preventing people from taking advantage of the Canadian tax laws, you are preventing people from taking advantage of all kinds of inheritance laws and passing gifts — it is very difficult to give 20 acres to your son, but it is very easy to give him 100 shares of a corporation, so that he owns a portion of that farm. This is what this legislation is really preventing.

**MR. EINARSON:** Mr. Chairman, I ask Mr. Nemy, and I found your brief very interesting — because of the fact of your position as a lawyer in having dealt with so many transactions of people from other lands coming to Canada to purchase farm land, to your knowledge have you had any agreements or sales of agreements that have been drawn up between European people and Manitobans, that have not been adhered to or there has been any problems insofar as the Manitoban getting his money for his land?

**MR. NEMY:** Not one single agreement in four years has the farmer ever not received his full consideration in a contract. There has been one case where a farmer changed his mind even after the agreement was signed and we didn't press the situation.

**MR. EINARSON:** Mr. Chairman, in other words then Mr. Nemy, what you are saying is you allowed the farmer to change his mind, you didn't hold him to the agreement. Is that what you are saying?

**MR. NEMY:** I found that the attitude of the European purchaser, and this is the truth, is that where a farmer had discussions with them and where he can't decide whether to sell his land to a foreign purchaser farmer or turn it over to his children and pay the tax, the penalty, I have found on several occasions, and the agents will bear me out, that the European, not us, will say, "We don't want the farm. We don't want the farm. We think it should go to the children." That is all I can say about that.

**MR. EINARSON:** Thank you, Mr. Nemy.

**MR. CHAIRMAN:** The Honourable Mr. Uskiw.

**MR. USKIW:** Mr. Chairman, on Page 2 you have three enumerated statements, and it seems to me there is a contradiction between (1) and (3).

**MR. NEMY:** What page Mr. Minister?

**MR. USKIW:** Page 2 of your submission you say, "in each and every case are individual families or brothers and sisters of a family." And then on Item (3) you say, "Some of the owners of land in Manitoba have personally owned large industrial complexes. . ."

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**MR. NEMY:** Yes, but they are still individuals. There are men who own large industrial complexes in Europe by themselves or with their children and they have individually come over here and purchased farm land. They are not large corporations. They are not large syndicates of people who are speculating on land. I would venture to say that if anyone in this room tried to buy the land for \$800 an acre, you will not be successful.

**MR. USKIW:** My next point is on page 3. I find it difficult to believe your underlined statement (4), page 3, where you indicate that these people, or some of them, are already landed Canadian immigrants and are carrying Canadian passports although they still reside in Europe. My understanding of the law is that you can't get a passport until you have had three years of residence in Canada. How could these people who have not taken up residence indeed get a passport from the Canadian government?

**MR. NEMY:** I don't know where you have your information from, but they have . . .

**MR. USKIW:** Perhaps I am wrong and you might clarify for me.

**MR. NEMY:** They are carrying Canadian papers, Canadian visas, that is the way they come through Customs with Canadian visas.

**MR. USKIW:** Isn't it the law of the country, doesn't it require that one have three years of residence status before you can even apply for citizenship and until you are a citizen you cannot get a passport?

**MR. NEMY:** Yes, that should be, they are carrying Canadian visas, not Canadian passports.

**MR. USKIW:** There is a substantial difference there, is there? That should be visas?

**MR. NEMY:** Visas.

**MR. USKIW:** The rules applying to visas are different then, are they, from those applying to passports?

**MR. NEMY:** Yes. Yes.

**MR. USKIW:** I see, okay. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Johnston, Portage la Prairie.

**MR. G. JOHNSTON:** When you act for foreign buyers — and you have specialized in this area for some time, is that not right?

**MR. NEMY:** I have become very knowledgeable in the area.

**MR. G. JOHNSTON:** When you conclude a deal, do you find that the experience that you have had is that you have paid over the going market price to conclude the deal?

**MR. NEMY:** We have been trying to do just the opposite.

**MR. G. JOHNSTON:** Well, can you perhaps elaborate on that answer. Have you out-bid others on some of the occasions?

**MR. NEMY:** I can't ever truly recall us ever bidding against a Canadian farmer, not that we wouldn't, but I can't ever recall the situation ever happening where we were up against some Canadian who wished to purchase this property. I heard this mentioned this afternoon from certain areas of the province. I am sure I've done a good majority of the sales in this province, I have never run into it.

**MR. G. JOHNSTON:** Another question relating to one of your statements. You said, and I thought with some pride, that some large German industrialists had purchased land in Manitoba, and some of them who had been here decided later on to establish a business in Quebec or Ontario. Now these industrialists that you may have acted for, what was their reason for purchasing land in Manitoba?

**MR. NEMY:** Well, one of the major reasons that they are purchasing land in Manitoba is that some of the largest industrialists wish to move to Canada. Several have already moved to Canada. There is an electronics factory going up in Hull. They own land in Manitoba and they were going to build here but because of problems that arose in the construction of the plant here they went on. There is another plant going up in Ontario, a big magnesium factory. This person has spoken to the Minister of Agriculture about a year and a half ago and to the Minister of Commerce and they had several letters from the Ambassador to Italy. They were very well known people. But they finally established somewhere else.

**MR. G. JOHNSTON:** Well, through you Mr. Chairman to Mr. Nemy, I am getting a little bit confused here. I thought that the large industrialists that you had acted for had purchased farm land and now you are talking about industrial sites. Is it an allied industry where they need farm land?

**MR. NEMY:** Well, for instance, there is an Italian family that owns land in Manitoba and have a very large industrial complex in Italy and, in addition, have a very large farm where there are 2,000 milking cows on this farm with a round turntable that milks eight or twelve cows at one time. I've been on the farm and have seen the whole operation.

**MR. G. JOHNSTON:** In Italy?

**MR. NEMY:** In Italy. This is the type of thing that they were wanting to establish here.

**MR. G. JOHNSTON:** Mr. Chairman, on Page 8, the last paragraph on Page 8, and I quote from the brief, and this is your words: "As active as I have been in this field, I am not against some limitations or rules and regulations governing the sale of farm lands in Manitoba but would not want to see an Act passed that will cause great confusion."

Later on you mentioned that you wouldn't mind seeing a 20 percent tax. I'm sure you're aware that Ontario has a 15 percent tax on foreigner's buying farm and recreational land there, and it has been in operation for two or three years now. It has already been found that Ontario residents have been forming corporations and acting as fronts for people from other countries and avoiding this tax. Under our present laws, could that not happen here?

**MR. NEMY:** Yes, I guess it could. I don't know whether I personally would want to get involved in that type of situation. I think you are putting yourself in a very precarious position. But what I am really saying to this committee is that the people who are buying land in Manitoba are coming here. So, fine, make them post a bond. Make them pay 20 percent more for their land and have the Provincial Government hold it in a trust account. You know, do something. I know they are coming here but they cannot pick up and move here without some preparation and this is what you are asking them to do. You are asking them to move here without any preparation and then make their investment. Well, no right-thinking person, whether he is a farmer or anybody else and whether you are moving from here to Regina, is going to act that way unless you are a transient.

**MR. G. JOHNSTON:** Mr. Chairman, to Mr. Nemy, I find that answer fairly reasonable and I cannot quarrel with it. One last question, on the last page of your brief you make the point that all moneys collected for rents are kept in Canada, and primarily in Manitoba. I suppose one could say that this shows good faith on the part of the people, they intend to come here and use the money at a later date. But I understand that in some countries, such as Italy, there are strict laws for taking money out of the country, and . . .

**MR. NEMY:** This is correct.

**MR. G. JOHNSTON:** . . . therefore your point doesn't necessarily mean that those prospective citizens are acting in all that good faith. I don't say they've got "hot" money here but they certainly don't want a return on their investment to show; is that correct?

**MR. NEMY:** The first thing that happens with this money is they have to pay 25 percent tax (income tax) on all moneys collected on rent, regardless of what the expenditures are. In other words, before expenses 25 percent of the gross rent of an individual European holder is paid in taxes to the province and to the federal coffers and the last thing the European wants to do, whether it's from a country where you can freely get money out of — the majority of purchasers probably come from Germany, and there is no problem getting money out of Germany — the last thing they want to do is take the money back to Europe. And I know of nobody that is doing this.

**MR. CHAIRMAN:** Mr. Johnston, any more questions?

**MR. G. JOHNSTON:** Well, Mr. Chairman, another question to Mr. Nemy. Obviously your interests lie and your client's interests lie in keeping our present laws the way they are. Do you think that legislators, whether Federal or Provincial, should not have a duty when they foresee a problem of unrestricted foreign ownership, that they should not do something about it?

**MR. NEMY:** Mr. Johnston, I'll tell you that there is no problem because foreign purchasers, way before this Act was drafted, last fall when the price of grain went down and the land kept going up, they stopped purchasing here and so there may be only one-eighth of the sales in Manitoba in January, February and March of this year, as there were in January, February and March of last year. What has happened is that everybody is still living with that \$5.00 wheat which is now down to \$3.10, I think, it's fallen 50 cents in the last three months. So what happened is farm land went up and everybody was excited and the people who wanted to get out, the retiring farmer who, in trying to get out and have enough money to retire on he sold and the Europeans who wanted to get out of Europe, he was starting to buy. But this is all finished. The price of land now is prohibiting the European from coming in here and this Act won't make one iota of change because if he wants to come in here and buy, he still will. But the price of grain and the cost of farm land has stopped him.

**MR. CHAIRMAN:** Mr. Johnston.

**MR. JOHNSTON:** That's all.

**MR. CHAIRMAN:** Mr. Ferguson.

**MR. FERGUSON:** Yes, Mr. Nemy, I have only one question. During your transactions, have you found that any or a portion of this land has been bought on the speculative basis? What I'm saying is, has it been resold within a period of one year, eighteen months, or something.

**MR. NEMY:** Not one acre.

**MR. FERGUSON:** Okay.

**MR. CHAIRMAN:** Mr. Henderson.

**MR. HENDERSON:** Yes. I would like to ask Mr. Nemy about on Page 5, 10(1), there's a clause in there about if you're not satisfied with the decision of the Minister, where you can take it to a judge and it says the decision of the judge is final. Now you with your legal background and experience, would you think that that's right or do you think that there should be the right to take this to a Supreme Court?

**MR. NEMY:** I think that any legislation should have the general course of the provisions of the law, I think that if you are unhappy with certain legislation, you should be able to use the full process of the

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law and I think that the Minister is putting himself in a position of real criticism, to put himself in position where he makes a decision. Because whatever party is in the House, regardless of what party happens to be the party in power, regardless of who it is, they are going to say, whatever decision is, he's either against or it's favoritism because of his political leanings, whether that's or not.

**MR. CHAIRMAN:** Mr. Henderson.

**MR. HENDERSON:** Yes. Do you know of any other cases that come before just a judge and decision is final. Is there any other procedures like this in Manitoba or have they all the right to before the Supreme Court if they so choose?

**MR. NEMY:** Well, I've run into some bad situations with the Marketing Boards.

**MR. HENDERSON:** Can they not go before the Supreme Court if they want?

**MR. NEMY:** Well, yes, you could take it into court. There is no such thing as it stops, you know, judge with no appeal and I gather that there is no appeal from the decision of a judge — what court that might be.

**MR. HENDERSON:** In this case?

**MR. NEMY:** In this particular case. At least with the Marketing Board you can take it and go to due process of law, you know, if you're unhappy with the decision.

**MR. HENDERSON:** Are you familiar with Saskatchewan's regulations? And you sold land in Saskatchewan, are you familiar with them?

**MR. NEMY:** No, only to the extent of the \$15,000 assessment which I would say that assessment is certainly a much more realistic way of approaching evaluation.

**MR. HENDERSON:** Do you know, is it not in Saskatchewan's regulations that if land is bought in Saskatchewan and if the person doesn't come in within three years, he has to resell it or dispose of it that he's given a three year option within which to come in or to dispose of the land. Is that not right have you ever heard that?

**MR. NEMY:** I think that's correct in that people who own in excess of this amount of farmland with a \$15,000 assessment, I think they have until 1992 to dispose of their property but I can't be sure.

**MR. HENDERSON:** Well then do you think it would not be a good clause to have in legislation if there were to prepare it, and maybe with the posting of this 20 percent bond, so if he didn't come in, he would forfeit this, that that way it would leave it free for him to buy the land and have a number of years to come in and if he didn't come in, he'd forfeit this 20 percent you're talking about?

**MR. NEMY:** Well, my dealings have been with mostly people who definitely intend to move here and the people that I deal with would certainly want to see this type of legislation and would have nothing against it. They would have nothing against spending the extra 20 percent knowing in the back of their minds that they are definitely going to move here and if they are not, they wouldn't buy.

**MR. HENDERSON:** Well I think everybody around this table is, and I hope everybody around this table is in agreement with the fact that a man could come over here as long as he was going to farm and I think this is a sensible idea to give him a certain length of time to come with this penalty clause. I think this is what people are worried about is non-resident owners who do not intend to become resident; this would be a good penalty clause for them, the way I look at it.

**MR. HENDERSON:** I'm against that too. I'm against somebody sitting in Europe for the next 3 years and owning farmland in this country just as much as anybody who drafted this Bill.

**MR. HENDERSON:** That's all, thanks.

**MR. CHAIRMAN:** I have no one else who wishes to ask questions. I thank you, Mr. Nemy, for your presentation.

**MR. NEMY:** I wish to thank this committee for giving me the opportunity.

**MR. CHAIRMAN:** If I may have the attention of the committee. I still have one presentation from Carman and I will seek your guidance as to whether we should allow this person from Carman, who has to travel quite a distance, to go back home — Mr. Klassen. Is it the wish of the committee that we hear . . . it's been the usual practice that we listen. Then I would call Mr. Paul Klassen to come forward please.

**MR. KLASSEN:** Thank you, Mr. Chairman. As you see, I have not brought my notes with me. Usually when I have them with me it's quite a bit lengthier than when I haven't got them with me. I would like to speak to you gentlemen for a few minutes and express some of my concerns. I am a real estate salesman, working for a real estate company. I have been involved in selling farms for three and a half years. The first farm we sold was my father's farm and really what I want to try to do is put a human face on these European buyers that are coming here, whom I deal with everyday. I can see the concern that we have of people who think that money that comes from Europe — I've heard this expressed many times — the money you are using here is not clean money and so shouldn't be allowed here.

The first point I'd like to make is that the money that used to come out of Italy has slowed down considerably and very little bit trickling through. I would also like to say that I think that a lot of this prejudice that we have is of an ethnic nature and which I think is deplorable in our society. I think that

ople who despise the people of the Jewish, the Negro, and perhaps even the Mennonite faith, are ople who are, to say the least, very bigoted, and also people who have never met people of this faith d discoursed with them.

And another thing is peoplesay to me often, well, you know, we beat the Germans in the War and w you're getting them to come and take over our country . I've spoken to some of these people out this and hear the same thing over and over — that we were doing what we were told as were ur people. So I think that we should let this thing die, 30 years ago.

I would like also to underline one thing that I would like to very strongly suggest and that is that we ve the people an option to come and buy the farms and if they do not farm them, to tax them or take bond so that we can rectify the situation. I think that the Saskatchewan laws are very progressive in is regard and I would like you gentlemen to seriously consider some of these things. I myself as a lesman, am not particularly worried about this law either way. There are very many landed migrants here. They are buying land , but I think to be fair to them, we should somehow try to reach ome kind of accommodation.

As far as speculation is concerned, one of my legal people told me this week when I offered him other chunk of land to some buyers in Europe, he said, well, they phoned back that they didn't want ie land and that they actually would like to sell theirs, what they had bought , and believe me at yday's market they will not be making any money on this speculation. Thank you, gentlemen.

**MR. CHAIRMAN:** Thank you, Mr. Klassen. Are there any questions of Mr. Klassen? Hearing none, want to thank you very much for your presentation, Mr. Klassen, and I would call on Mr. J.K. Knox, PR. I would like to ask you, Sir, is this a joint presentation?

**MR. KNOX:** Yes.

**MR. CHAIRMAN:** Are there going to be two speakers or just . . .

**MR. KNOX:** No, I will present our presentation. This is a joint presentation of the Canadian Pacific Group and Canadian National Railway Company. Mr. Antymiuk is here from Canadian National.

**MR. CHAIRMAN:** That will be fine. Proceed then, Mr. Knox.

**MR. KNOX:** All right. I am appearing on behalf of the Canadian Pacific Group of companies to address to you some of our concerns about Bill 56 as that Act is presently drafted. As their concerns are not dissimilar, the Canadian National Railway Company joins with Canadian Pacific in this presentation and except where I have made specific references to one company or the other, my remarks may be taken as applying to both.

Our understanding of the purpose of this bill is t at its intention is to endeavour to insure that agricultural land in Manitoba, in the main, remain in the hands of farmers living within the province. We at Canadian Pacific and Canadian National think that the draftsman of this legislation may have inadvertently encompassed within this Bill provisions which would curtail or restrict business endeavours within the Province that may occur now or in the future that this government or, indeed, any government, would be interested in seeing developed so as to increase employment and enhance the prosperity of all Manitobans. It is in this context that I propose to outline some of the business activities that we see that could possibly be inhibited or restricted by this legislation in its present form.

Canadian Pacific Limited has two operating divisions that I believe you are all familiar with: CP Rail and CP Telecommunications. Canadian National Railway Company is similarly structured. These business enterprises operate under federal authority and, of course have the power of expropriation. While I doubt that the provincial legislation could, in the end, be said to inhibit the acquisition of farm lands by these business enterprises to carry out their authorized powers of building rail lines, railway yards, microwave relay sites and the like, it does seem to me that it would be unfortunate if any legislation was passed which could possibly lead to someone reading this proposed Bill in such a way as to create a potential conflict between federal and provincial authority.

Further, the Federal Railway Act is already in place dealing with the taking of such land by either CP or CN to not only protect the public interest, but to also provide the owner of any land so taken with compensation.

I think it should also be noted that under Section 14 of the proposed Bill, Crown agencies, which would include Manitoba's telephone and hydro companies, are exempt from the provisions of this Bill. They, too, would likely acquire arable lands from time to time for their facilities. I would assume that it is the intention of the government to treat all legitimate business enterprises which provide a public service, whether they be owned by government or private sector, equally under the law.

I would therefore ask that the telecommunication and railway operations of both Canadian Pacific Limited and Canada Canadian National Railway Company be included in those enterprises that are exempt from the provisions of this Bill under Section 14.

I would also like to bring to your attention the definition of land set out in Section 1 (1) (c) of the Bill. Again, I assume that that definition inadvertently includes more than farm land to which the Bill is directed. For example, it would include sand and gravel pits and timberland. It would affect the

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locating in this province of enterprises requiring such resources. Both CP Rail and Canac National now have, for the purposes of providing ballast for their rail operations, considerable acreage in sand and gravel pits. I don't think that it was the intention of this bill to restrict the holdings of any person, save with respect to farm lands intended to be used for farm purposes.

Now there are other inhibitions on development within our province that can be affected by the definition of land. This is particularly so when the land definition is considered in concert with sections 3(2) and 3(3) of this Bill. The purposes of section 3(2) and 3(3), as I understand them, is to prevent related corporations or shareholders from circumventing the 160 acre limit on their farm land holdings. To illustrate possible inhibitions, I confine myself here to activities in which the Canadian Pacific Group or Canadian National is engaged in. I am sure that there are others.

I have already brought to your attention that both Canadian Pacific and Canadian National telecommunication and rail divisions are part of the same corporate entity. The effect of the aforesaid provisions, that is land and taking the associated companies together in this Bill, would be that the telecommunication divisions of these companies could acquire no further land to enable them to provide their services to the public because the rail divisions already occupy in excess of 160 acres.

Canadian Pacific Investments Limited holds all the shares of Marathon Realty Company Limited, Canadian Pacific Hotels and several other enterprises. Because of this, corporations so controlled by Canadian Pacific Investment Limited would together be treated as a group under sections 3(2) and 3(3) of the proposed bill. As a group according to this proposed legislation, they could not cumulatively hold after April 1, 1977, any additional land within the purview of the Act in excess of 160 acres. Again, none of these enterprises are engaged in acquiring farm land for the purposes of farming's sake. Instead if they acquire such land it is for the purpose of developing industry or manufacturing, residential housing or hotels, or any number of things that would provide jobs for the development of our province and last, but perhaps not least increase the tax base.

Marathon Realty is a land development company. It is not unusual for shopping centres or other developments to occur on the periphery of cities, towns or villages. Indeed the actual land in which such a development is located may in fact be within adjoining municipalities and thus at the time they are desired be land within the definition of this bill.

Similar development could occur with respect to our hotel industry, particularly motor inns, such as the Red Oak Inn at Brandon. Not infrequently, so as to minimize the effect upon residential locations already in place, enterprises such as rendering or fertilizer plants are located slightly outside the city, and again at the time such land is desired, they too would be acquiring land within the definition of the bill. Again, I would not imagine that it is the intention of this government to hold that within such a group of companies, that because for example, Marathon Realty owned a 160 acre tract of land, another segment of that same company, perhaps the hotels, could not build a resort hotel within the province, or the Canadian Pacific Investments Limited, through a wholly-owned subsidiary could not locate a rendering or fertilizer plant, or similarly enter the forest industry.

I'm not of course suggesting that the Canadian Pacific Group is immediately contemplating any of these activities. What the Canadian Pacific Group is simply trying to do and Canadian National too, is by relating to their own present and future endeavours to show to this Committee that in the view this Act goes beyond its stated intention and could inhibit development in this province by an group of companies or individuals similarly constituted — that is that are made up with the same corporate structure as Canadian Pacific.

Now, I realize that in answer to part of our submission, some might refer to section 13 of the Act and say that much of what I have said is near conjecture and that if circumstances did arise such corporations could apply to the Minister for an exemption as envisioned under section 13. They might also say that the problems related to land located immediately adjacent to a city, town or village and not already zoned under the Planning Act could be secured by option and a zoning change applied for with the effect that the land would then be without the definition of land within the bill. All these things are perhaps possible, but I would point out that the uncertainty as to the final acquisition of the land desired, together with the likely increased costs that could result in the acquisition of the land itself may well discourage businesses from locating in the province.

Further the Planning Act, dealing as it does with Land Use, as distinguished from Land Acquisition per se is already in place. What we question is why? In the circumstances we have outlined, the acquiring of the land by business for other than the use of land as farm land should be fettered by this bill.

We submit that further and better consideration be given both to the definition of land and to the provisions of sections 3(2) and 3(3) so that the types of development which I have outlined are not fettered by this Bill.

Lastly, there is another part of this Act which I think should be brought to your attention and that is particularly in the case of Canadian Pacific Limited. There are occasions when, for the mutual convenience of both, CP will create small portions of land with a municipality or perhaps an individual. Canadian National Railway Company, I'm informed, engages in similar transactions.

tain' they are not acquiring land for land purposes and they are not acquiring more land, or perhaps should say land of greater value than they previously owned. However, under the restricted provisions of this legislation, such exchange of land for corporations that now hold 160 acres or more could be prohibited. We would, therefore, suggest the limitation of acreages of land within this bill be limited so that exchanges of land, such as I have outlined, are not prohibited by this legislation.

Now we didn't think it appropriate at this time for us to offer suggestions as to precisely how the actions of concern should be amended since doubtless several others will be appearing before you with other recommendations of substance that would have to be considered before any precise change in terminology could be drafted.

This, then concludes the joint presentation of Canadian Pacific and Canadian National with respect to Bill 56. We hope that our submission and the suggestions therein will receive your favourable consideration.

**MR. CHAIRMAN:** I'd like to thank you Mr. Knox. Are there any questions from the Committee? Mr. Johnston.

**MR. G. JOHNSTON:** Mr. Knox, I think the Committee appreciates the problems that you have pointed out by the two companies you represent. Could you tell the committee what are the land holdings of the CPR and the CNR in Manitoba?

**MR. KNOX:** Canadian Pacific Limited, which is the Railway and Telecommunication Company would hold — I don't know precisely, sir — but they would hold quite a few thousand acres I would think, because each mile of railway track requires for its right-of-way, 12 miles.

**MR. G. JOHNSTON:** Other than right-of-way.

**MR. KNOX:** I don't have those precise figures with me but I don't think they're overly significant any longer.

**MR. G. JOHNSTON:** Well, does CP Limited have any farmland that could be for sale or be held for future use other than sites for telecommunication and the like that you have described.

**MR. KNOX:** Not that I'm aware of. I don't believe, sir, . . . if the question you're asking me is whether they hold any farms in Manitoba, I think the answer would be no.

**MR. G. JOHNSTON:** What I'm really asking is under the terms of the CPR original charter they were given large grants of land in the provinces. So what I'm asking is, in Manitoba does the CPR have any of this land left that could be suitable for farming and they're holding for future sale?

**MR. KNOX:** Not that I'm aware of. There might be some portions that are near the right-of-way or were station grounds or things of that likelihood but they're not operating in any farms.

**MR. G. JOHNSTON:** And I ask the same question with respect to CNR.

**MR. KNOX:** I'm advised that the answer is the same.

**MR. CHAIRMAN:** Mr. Enns.

**MR. ENNS:** Mr. Knox, you represent the most interesting witness that we've had perhaps in front of this Committee. You are representing the CNR and the CPR Telecommunications group.

**MR. KNOX:** I'm representing the CPR. Mr. Antymiuk is here for the CNR and I'm presenting the briefs.

**MR. ENNS:** But inasmuch as you're making the briefs, you're representing their joint brief. It would not therefore be unfair for me to say that you are acting as a senior civil servant on behalf of the Federal Government making this brief, in representing CNR's interests, as one of the major Crown Corporations of this country.

**MR. KNOX:** I'm sure the CNR is a major company in this country.

**MR. ENNS:** And so we have the situation where a senior Federal Civil Servant is making representations against legislation being proposed by the Manitoba Government.

**MR. KNOX:** We're making specific comments on Bill 56, which I've just delivered.

**MR. ENNS:** Well, Mr. Chairman, it's the incongruity of it that strikes me, that perhaps the CPR corporation which often is identified as the arch international conglomerate, you know, private enterprise group, in association with one of the major Crown Corporations that this country's proud of, the CNR, should be both combined into one representation, making comments of a critical nature pointing out some deficiencies in this bill. That's really the interest that I have in addressing you at this time. I'll let it pass.

**MR. CHAIRMAN:** Are there any further questions? Hearing none, I wish to thank you, Mr. Knox for appearing in front of this Committee.

**MR. KNOX:** Very well, thank you.

**MR. CHAIRMAN:** I'll now call on Mr. WUALTER J. Kehler, Barrister. Will you please take the stand.

**MR. WALTER J. KEHLER:** Thank you, Mr. Chairman, my name is Walter Kehler, and I'm a legal attorney by profession and a senior partner in one of the larger Winnipeg law firms. It seems to me almost as though, first of all after having sat through other presentations throughout the day, I will be saying things that you have already heard. Secondly, that coming around the second time with Bill 56 — I think the very last time that I appeared - a before committee such as this was the previous Bill 56 when I appeared as an insurance lawyer. I have since become a commercial lawyer and I am prepared

to become whatever other lawyer is necessary. But in all events I should have thought that you might have retired the number to the Hall of Fame by this time.

**A MEMBER:** It's become very respected.

**MR. KEHLER:** In all events I am engaged in the practice of commercial law and have been a good number of years and number among my clients a great many Manitoba farmers. I might also come from several generations of Manitoba farmers so that I have a little bit of first-hand experience in the past at least. I am probably one of those young would-be farmers who never there.

In recent years I have also acted in a very substantial number of transactions where lands have been purchased by corporate purchasers and particularly non-resident purchasers, both individual or corporate, and I think I can fairly say that I have had a broad ranging experience with the agricultural developments in that particular field. I want to hasten to stress, however, that I appear before you entirely on my own behalf. I carry no brief either for any political group or for any public or private organization or for that matter for any client. And my personal views as I express them are individual only that.

Now, my brief as I prepared it was expected to go before the Law Amendments Committee and perhaps you will find that it is rather specific on individual sections of the bill. However, I also have some general observations that I might have stressed more if I had known I was appearing before the Agriculture Committee as such. However, I appreciate that while your Committee is still primarily interested in dealing with proposed amendments to a specific bill that has already been introduced that there is some room for some general observation based on the experience I have had. I trust that will help also to put some of the details into perspective.

Now I'm assuming firstly a sincere attempt on the part of the Legislature to direct itself to consideration of restraints involving farm land as distinct from other types of land. I deal with that more specifically in my brief but I am assuming the intent to be to consider what restrictions should be placed upon non-farmers in the ownership of land that is or can be used for farming. My specific comments are relevant largely only if that is indeed the intent. Perhaps this does not really come in question by your committee, but it immediately appears so by reason of the present definitions with the bill. If those are changed then the matter becomes much more sharply focused.

Based on my experience, I am especially opposed to the attempt to control through this bill, land that is not now in use in some form of agricultural activity. The way the bill now reads it appears to me the result could be much more far reaching and to the extent that that is unintended, I presume the amendment will be easy. To the extent that it is intended, it can hardly be associated with the protection of farmers at all, while at the same time giving them a peculiar advantage in respect of other types of land that is completely irrelevant to their occupation.

My professional experience has exposed me to a second major area of concern that in part flows from the above comments but nonetheless is more closely related to land use as farm land. I have been involved in a number of transactions that deal with undeveloped land which has never been used either for agriculture or for that matter for any other specific purpose. With the use of technology and equipment now available, some of these parts of Manitoba can be successfully converted into farm land. There is equipment now available for the clearing and breaking of land which will render it quickly useful for the growing of crops. There are now fertilizer blends and grain derivatives that can make soil productive that was not previously thought to be so. Development of this type, however, is a very expensive venture that must be carried out essentially on a cash basis. This is not a prospect that is open to the ordinary farmer because he simply cannot accumulate the cash to undertake the development and I know of no sources from which it can be borrowed. Moreover, I know of no real interest on the part of present Manitoba farmers in that type of activity. At the same time, I think it can hardly be treated as a priority item for the expenditure of public funds; either, particularly when one considers the cost as against the benefit. Consequently such land would continue to lie dormant indefinitely if not developed through other sources of capital. I can see no interference with the farming industry by this type of development since it will take neither land nor jobs from anyone else. At the same time the capital injection, the jobs created by the clearing work and by the subsequent farming, and the economic activity generally generated by the farm operations on such land itself, must all be beneficial to the province. I am concerned that in the desire to protect farmers from the leverage of non-farm capital, that you be aware of at least this one major type of development which, to me at least, would appear to have only positive results.

It is generally my view that in your consideration of restrictions upon land ownership, you should act so as not to discourage the injection of capital investment into the farm industry. I fear that Bill 56 in its present form will bring that result. I KACT FOR A GREAT MANY FARMERS IN Manitoba and virtually without exception the ones who continue to be successful are the ones that are expanding. The farm business has become so capital intensive that it has become virtually impossible for one individual to finance all parts of it. This is particularly so for the younger farmer whom you have been indicating throughout the day to be your principal concern. I suggest that the time has come to

scard the concept that a farming business must consist of both land ownership and farm operation. I suggest that the two should be regarded as separate matters and that today's economic conditions state that the farmer be considered as a farm operator who may either own or lease the land from which he makes his living as a farmer. This would only apply to the farming industry the same approach that has been used in most other industries for years. I submit that it has, for some years now, been a bit of a mistake to think that one is not really a farmer unless one owns the land that he has under cultivation.

If the concepts of farm ownership and farm operation are separated, then I submit there should be much less concern as to the source of the capital of the farm ownership. Indeed, as to farm land ownership, the farmer should be considered in the same way as any other investor would be. He would, in that aspect, be, after all, only an investor who is looking to preserve his capital to hedge against inflation, to achieve a return on his investment and perhaps experience long-term growth. As a farm operator, the farmer takes the risk of production and the risk of the market and that is quite a different matter.

Perhaps if I can interject another illustration. I practice law for a living but nobody would consider that I must own the offices from which I work. I must work from a law office but it has never been considered part of the practice of law that I must own the building or the land that I practice my law in. I see no special reason why the farmer must be considered also to be a land owner and I submit that it has become even more sharply focused throughout the course of today that what is really needed is a control upon land use and some insurance that those people who are the users are protected from the caprice of the owners or from failure of tenure or things of that nature. To me, the way to control that is an entirely different way. To do that, one should control the leases. I, in my experience with European investors, at least, think they would find no difficulty with this. One of the major concerns that I find them expressing to me is that the lease be one that be sound and workable. They are not interested in short-term leases in my experience. The leases that I prepare are ordinarily five years; a number of them have been ten years; some have been even longer. They are as concerned as the farmer who enters into them from the other end that that farmer remain in business. If he doesn't, it becomes a problem for both parties. I suggest that if the farmer has a concern, that concern is that that lease protect him as well as he would be protected as an owner. I think that that can be achieved but it would require a much different kind of a bill than this one obviously is.

Now, if viewed in this light, I suggest that the types of controls that are placed upon farm land ownership are much different from those that are needed if one wishes to force the farmer to be both land owner and farm operator.

I am suggesting simply that in all events, this is no longer a practical goal, particularly for the younger farmer. Restriction of ownership will at best only hold land available at current values for people who cannot afford to buy it at half the price. Even if the result were to reduce market values by half, it would still not help the younger farmer. Let me illustrate by example. The better farmers that I speak to now maintain that they require in the neighbourhood of 1,000 acres to operate a truly viable farm and obviously it varies a bit from area to area. To operate that acreage would require at least \$150,000 worth of farm equipment and probably more. The bigger the farm gets — and I understand when it gets upward of 2,000 acres, the rough guideline currently is about \$100 an acre — very few farmers would ever be in a position to finance \$450,000 in order to get into the farming business. Considering the actual return along with the risk, almost none of them would do it. In practical fact, there is no way they can begin to borrow that amount from any source. Usually as much as they can hope to do is to finance the equipment costs that they have to have to operate at a size that is viable at all. Now, if we cut the land cost in half — let's suppose that were the result of ownership control — and I submit it wouldn't be — the young farmer would still need \$300,000 to get into business. For someone who is 25 to 30 years old, this is equally impossible from a practical standpoint. At best, therefore, I suggest that any depressant effect on land prices that either the farmers who have appeared before you might anticipate, would end up being a benefit only for the largest and best established operator who, I gather from the comments I have heard, is probably of equal concern to people in the farming industry.

It is my submission that if your purpose is to advance the farming industry, your principal purpose should be to assist the young person wishing or desiring to get into this occupation or the one who is newly in it. I have seen many cases where such persons have received an opportunity to become established in the farming business through lease arrangements where they would have had no opportunity via ownership. That, in turn, implies a non-farmer source of investment capital that this bill will curtail.

In consideration of specific sections of the bill, I also propose to point out that, in my opinion, there will be a negative effect upon the credit facilities available to farmers if the bill passes in its present form. I submit that financial institutions must logically be forced to reduce their lines of credit once the market prospects are curtailed, particularly since there are restrictions imposed in the event of realization upon a security.

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Finally, it is also my expectation that the bill in present form would tend to fragment the productive land and exacerbate the problems we already have with under-developed land. For these reasons, and against this background, I propose that there should be a number of specific amendments as outlined hereafter. In suggesting these, I again wish to point out that they are my views only but they are based upon pretty broad ranging experience in this field in the last few years.

Now, to the bill specifically as it now reads — and I refer to it on a section by section basis chronologically in respect to those sections that I feel warrant another look. It is suggested that the bill should firstly make clear whether under Section 1(1)(a) where you define a corporation the parts are intended to be in the alternative or if both criteria must be met. That's a simple little drafting problem but it should be made clear, I think.

The definition of a corporation in my view creates two further problems at least. Firstly, the word farming — while the word farmer is defined, the word farming is not defined in the bill. Secondly, the definition has serious implications in my view for the family farm corporations that now exist. I noted that by Section 13 there is provision for establishing further definitions, however, since such basic words as corporation and farmer are defined, it is submitted that the word farming is broad enough to also require a definition in the Act itself so as to make clear which persons can safely be included in a company's shareholdings and which ones cannot. For example, people engaged in ranching are called ranchers. Are they included as farmers or are they not? Similar questions might arise about poultry raisers, egg producers, dairy men. It is submitted that some specific definitions should be included so that the parameters of who is intended to be affected by the bill can be a little more closely determined.

It is my view that the restriction upon stock holdings under the second part of the definition could seriously affect the family farm corporation. This has been referred to already but, again, most of the people that I act for have incorporated in recent years. In many cases this is required by lenders other times because they're brothers or partners acting and farming together. In other cases, the farmer has been a specific desire to involve members of the family, particularly younger ones by converting them into a corporation.

Last, but not least, the incorporations have also taken place as part of estate planning programs and I might add very often the tax legislation is a major consideration. The result of this is that the father as the original farmer may no longer hold a majority interest, even though the company is primarily engaged in the farming business. He exercises his control through a minority of redeemable preferred voting shares. He would not meet the criterion of having more than 60 percent of the holdings in the company. The remaining shares would normally be held by his wife and his children. In the classic case, the wife's principal occupation ordinarily would be construed as a housewife rather than farmer. The children would probably be students rather than farmers and, in my experience, this is the classic family farm corporation case. Since these are almost the rule more than the exception, they would presumably be prevented from adding to their farm holdings unless there was either a complete corporate restructuring or else if you amend the bill. To require restructuring would hardly be in the interest of the present farmers. It is my experience that a farmer will very often try to interest their children in staying with the family farming business by taking them into participation in its ownership at an early age before their career choice has been finally settled.

You have defined the word farmer and I have already commented that you should then also define what farming is so that one can determine what a farmer indeed must do.

Now, let's go to the definition of land and again I think that's been referred to. The bill purports to be designed for the protection of farm lands but, in fact, the definition includes practically all of the land in Manitoba except urban lands which are already subject to a specific restricted zoning or land actually involved in mineral extraction. There may be differing views about the prudence of expanding governmental control upon all types of land but, whatever the merits of that may be, I am submitting that this bill is not the right vehicle for dealing with the other types of land that could be affected. Let me illustrate with two main examples already mentioned. Firstly, recreational land and secondly, undeveloped land.

Assuming one wanted to control the use of recreational land and determine who should be entitled to hold it, the considerations to be applied would obviously be entirely different from those that would apply to grain growing land. Moreover, it would seem a peculiar approach to permit farmers to acquire unlimited holdings of recreational land whereas all other persons would be limited. For that matter, the limits upon other individuals, if Canadian, would be like having no limit at all if one were referring to lake front cottage property. On the other hand, this legislation might well exclude the possible development of a large resort hotel if one wanted to include such amenities as golf courses or riding trails and the like. No part of the remainder of the bill directs itself in any way to recreational land use and very obviously that is a type of land use which should not be related to farmers at all, except perhaps, in the few instances where land now being used for growing agricultural crops is converted.

Another illustration of the wideness of the definition is its relationship to undeveloped land. I have

eady referred to that in part. I have had a number of instances of clients who made land purchases involving land that had been of no productive use previously. This means the land which was perhaps covered by scrub bush and/or contained a lot of rock or something of that kind. No real value for its timber; no real value as ranch or grazing land because there was bush and no grass; no value for growing grain because there were too many rocks and too much bush. In these instances, however, the soil itself, with the aid of the correct combination of soil nutrients would allow for good agricultural possibilities. It is submitted that corporate and/or non-resident investors ought to be encouraged to acquire this type of property and develop it rather than being prevented from doing so. I say this because I am certain that there is no other way which such land will be developed in the foreseeable future.

Land clearing and development costs presently run from \$100 to \$200 an acre. I know fairly well what the costs of this are if one wants to do a careful job because I happen to act for probably the largest land clearing contractor in this province, and the largest in Canada. I submit that it would not be economically viable to clear land in very small portions because the type of equipment that is necessary to do a proper job doesn't allow for it. This is the type of work that must necessarily be done on a larger scale in order to be economically feasible. Moreover, the cost of land clearing is rising very rapidly, primarily because of rapidly escalating fuel costs. I know of no source of financing within Canada for this type of project and in this type of situation the additional problem is that the actual land cost is low so it may be possible to obtain financing to assist in the purchase of the land itself. Beyond that, however, the cost of the land clearing would, in virtually every case, have to proceed on a cash basis. I know of no local farmers who would even entertain the thought of such development of agricultural land on a larger scale basis. There probably are a few but I have certainly not met them.

Yet, I can cite a number of examples from my own practice of non-resident land purchasers who have been in a position to finance this type of development and have been prepared entirely on their own to accept the risks of doing so. Let me illustrate by three examples.

Client "A" has purchased a larger parcel of land. About one-quarter of that land has never been properly cleared. It contains scrub-bush interspersed with usable farm land. The scrub-bush was of no value for any other purpose. I might say the land that had been under cultivation had been in use for some number of years. The soil underneath the scrub-bush, however, is reasonably good. My client, at his own expense, has arranged to have this land cleared for the benefit of Manitoba tenants who will be converting that new land as well as the old additional land from use as marginal grain land to very promising land for the growth of corn and/or potatoes. The result is that the province has gained a good many acres of farm land that it did not previously have and which no one had developed or appeared interested in developing. The actual operation of the farming business on that land will still be undertaken by Manitobans. It is difficult for me to see why that type of development should be discouraged.

Client "B" is a somewhat similar example but at even greater magnitude. This client purchased a large tract of land, virtually none of which had ever been used as farm land before. I might also add that it had for some years been in the hands of non-resident owners, prior to my client's purchase, but that is an merely incidental. This land also had no other use because it was covered with scrub bush and contained a lot of rocks. There has never been any significant amount of farm activity carried out in this immediate area and indeed the province's record keeping for agricultural purposes excludes the area all together as agricultural land.

My clients, at a cost of several million dollars to themselves alone, are bringing this land into agricultural use. In doing so, they have worked closely with the best agricultural consultants available in this province, as well as elsewhere, and they are optimistic of creating a viable farming operation. However, they are taking the entire risk themselves.

Again, in that case, the Province of Manitoba stands to gain thousands of acres of farm land which did not exist before and in which no local farmer, or even resident Canadian, had expressed any interest. The clearing work is being done by a Manitoba contractor, so that the many hundreds of thousands of dollars involved in that aspect are being invested into the Manitoba economy. The land is under rental contract to Manitoba resident farmers. The crops grown will be marketed in the same way as all other crops that are grown in Manitoba. Again, it is difficult to see why that type of development should be discouraged but it would be expressly forbidden under the provisions of this bill, except by Ministerial order, upon which I want to comment further.

Client "C" is a similar example. In this case, Client "C" is presently a non-resident. He is young but with considerable training and experience in the field of agriculture and he desires to immigrate to Canada to engage in the farming business. In his case, he is in a position to purchase a larger tract of totally undeveloped land and cover the cost of converting it into farm land. However, he does not wish to take all the steps necessary to secure landed immigrant status in Canada and the residency requirements, without knowing with certainty what he is able to buy if he should come here. And

moreover, the problems about lining up the land clearing to get this kind of land are such that unless he can determine it in advance, he is in the position where there are a lot of other places he can go. Unless he is clearly permitted under this type of bill to come to Manitoba, he just won't consider it. His money, his talent for the future, will go elsewhere.

These illustrations are again indicated to underline a particular problem area that perhaps involves a fairly limited potential. However, at the same time, I suggest that these types of transactions could not possibly be regarded as harmful to the people already in the farming business in the province. In the illustrations I used, it happens that the land, in most cases, was already in the hands of non-residents but that is of no particular concern, I should think for it really doesn't matter. No interest had ever been shown by local resident farmers in this type of land, nor would any of them, to my knowledge, have been in a position to achieve the kind of result that is being achieved by the fact that these transactions have taken place.

On the other hand, the province has had a large injection of cash and, for the longer run, the farm land inventory has been increased. At the same time, new business enterprises have been created from which the province will be in a position to collect tax dollars.

I am submitting that the definition of land should be narrowed to bring it into line with what the rest of the bill appears to intend. To me that should rule out land that either has a different type of use altogether, that does not relate to farming by whatever definition one applies, or to land that perhaps has a potential for agriculture but where that potential cannot reasonably be expected to be realized in the foreseeable future without the use of outside capital.

Finally, on the definitions, the words "resident Canadian" I suggest could be defined simply as a Canadian citizen or a landed immigrant with no other provision as to periods of residency. To me, the way the thing now reads, it just clutters up the bill because what you're saying now is that one must have resided in Canada for at least 183 days in each of the years during which he has resided in Canada. But if he has resided for less than that number of days and is a landed immigrant, then he still qualifies if he has been here for at least half the number of days in that period of residence. That's firstly, very confusing, but, as I get it, if I'm a landed immigrant — and I agree with Mr. Nemy that there are people who are not now what I would call "resident" in Manitoba but who have landed immigrant status — they presumably could come to Manitoba for two days, one of which they spend in the United States. Then they could comfortably buy their land and next week they could be gone again and the bill wouldn't have done anything.

I'm suggesting that the residency requirements help the bill in no way and they could simply be left out and you would avoid confusion and litigation.

Section 1(2). I appreciate the problems of interpretation involved in determining a person's principal occupation. I would object less to the Ministerial discretion created in this subsection if the mandatory penalty provisions in Section 12 were less severe. However, as the bill now stands, the discretion lies entirely with the Minister to decide either positively or negatively in respect to a particular subject person. If the Minister decides negatively, then it would presumably involve a case where there would be an immediate breach of Section 2, that is, the controls on the amount of land ownership. The result would be that a person who might well have thought that he was primarily a farmer is deemed by the Minister not to be a farmer and can be subjected to a fine of up to \$5,000, or even imprisonment up to six months.

I suggest that this is much too harsh a result and consequently needs amendment, both from the standpoint of how a principal occupation is determined, and from the standpoint of the enforcement and penalty provisions of the bill. Determination of principal occupation is not necessarily that easy, in practice, as can be illustrated by the following examples of persons personally known to me.

Mr. "A" has his head office in a major downtown building. From that office he operates one of the largest farms in the province. I think it's the largest grain farm. In addition, he functions as a consultant to industry and other farmers on agricultural matters. He has also been involved in the teaching of agriculture at the university level. He engages heavily in commodities trading. He would seldom actually operate a farm machine personally and, indeed, would likely spend by far the majority of his time away from the actual land that he either owns or leases.

The question arises whether he would be considered a farmer, for the purposes of this Act. I might add that he is still a younger man, who I anticipate would want to add to his farm holdings. If he did so, and the Minister decided he was not a farmer, he would immediately become liable for a sizeable fine, and perhaps imprisonment.

Mr. "B" is both a highly respected agricultural consultant as well as the head of his own farming operation. There is no question that he is actively and substantially engaged in farming in Manitoba. His farming operations involve a large number of acres.

However, I am not sure he would actually spend more than half of his time in the direct operation of his machines or the specific management of his own farming business. The rest of his time would be involved in acting as a farm consultant for others. The question arises whether he would, for the purposes of this Act, be regarded as a farmer.

Mr. "C" is an older man who has very substantial land holdings in Manitoba as well as a ranch in British Columbia. In addition, he has urban commercial holdings in British Columbia and other investments in other parts of the world.

Certainly, within Canada, he spends most of his time in respect to management of the farm and ranch. However, that is still not all of his time.

Two questions arise. Firstly, does the ranching get included in the consideration of whether he is farmer or, secondly, in his case as in many others, when does a farmer become a businessman, or is he indeed ever anything other than a businessman? While it can be argued that this is a matter for interpretation by the courts, it seems to me that the bill should be much more specific so that there can be a predetermination of whether one qualifies under the Act or not.

This raises the whole problem about how close to the land a person must be to be counted as a farmer. In my experience, the best farm operators are those who perhaps spend the least amount of time actually operating their farm machines. Farming has become a very sophisticated and demanding business, and the most productive and efficient and profitable farmers are the ones who are most adept at doing such things as buying successfully and selling successfully in the commodities market, finding the best deals on equipment, seeds and fertilizers, and keeping their accounts in best order, and arranging the best financing and cash flows. The farmers who do these things successfully are the farmers who are succeeding, whereas the ones who are not good at these activities are becoming increasingly marginal.

All of this has nothing to do with who owns the land but has a lot to do with the ability to operate successfully what has become a very demanding business. To leave the entire discretion with the Minister — and I cast no aspersions upon whatever Minister it will be — but nevertheless for one person to determine who should be classed a farmer or should be classed a businessman would I submit, in effect, penalize the best farm managers, because they would run the largest risk of being rejected from the classification of the person whose primary occupation is farming. This would place them in immediate contravention of the Act, if they acquire more land.

Section 2 is the heart of the bill, obviously, and I'm suggesting that the Act should be amended to change the restrictions from a straight acreage basis to some other more equitable and workable basis of restriction. I submit a restriction as to size does not best protect the farming industry from outside incursions, nor does it create the best results for the community at large. By restricting as to size, I suggest, a premium is placed upon the most expensive land. The most expensive land, in turn, is usually the most developed and the highest quality that the province has. That is the land most desired by the local farmers and the type of land that they would be the more concerned to see fall into the hands of non-residents, or of corporations, than would be the case with less choice property.

For example, I, as a lawyer, could purchase a section of grassland, marshland, or bushland, for perhaps as little as \$5,000.00. Alternatively, I could purchase a section of choice farm land for, say, \$350,000.00. Both are treated exactly the same under the Act. I submit that no farmer in Manitoba would feel threatened by my purchase of the bushland, nor would the province likely be injured but, by purchasing the choice farm land, I might very well interfere with the farming industry itself. I have had much experience with non-resident investors. I find that they invest in this country primarily for the purpose of capital preservation and long-term gain. They specifically do not purchase for purposes of short-term speculation. They repeatedly stress that they are not interested in short-term speculation because they do not know the market well enough and they are too distant to be sensitive to changes in the market. They say that they can do their speculation at home where they can watch it most closely. Their purpose in coming here is long-term investment of a safe nature that hedges against inflation, exactly the type of thing that real estate investments, whether they be farm or other type, provide.

If they are restricted by size only, then the obvious answer is to buy the best quality of land possible in order to invest the most dollars. I predict that the result of the type of restriction provided in this bill will result in the fragmentation of the choicest farm land, particularly that located closest to urban centres.

On the other hand, land that really needs more developing and is not the most highly productive, will be probably reduced in value by this same reasoning. That, in turn, will lessen the chances of its upgrading.

The examples I have previously illustrated of undeveloped land will be of absolutely no interest to a corporate or a non-resident investor on the basis of a quarter section. The investment of funds, however, will continue to be of interest and all that will happen is that the money will be invested in exactly the type of land that the local farmer who has become concerned about the non-farm investor is more fearful of losing.

A number of possible alternatives could be suggested. One of these would be to place a limit, based on either market value or assessed value. Another way of restriction would be by way of some special form of taxation. Most sensible of all, I would suggest, would be to provide for a review system on an individual transaction basis so that the real equities of individual transactions could be taken

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into account so that those transactions which are cause for concern could be prevented and those which are not can be permitted.

My next concern is with Section 4, which deals with the exceptions to Section 2. The exceptions created by this section create problems relating to the retroactivity provisions. This has already caused considerable problems for both vendors and purchasers, and their advisors, myself included.

The problem is that there were transactions in progress at April 1, 1977. Until the bill is finalized, it is uncertain whether the exceptions apply to those transactions. If they do, then the failure to close to complete the transaction gives rise to breach of contract claims. On the other hand, if the exceptions do not apply, then there is a contravention of the Act along with the very stiff penalties imposed. At present, on the one hand my clients are running the risk of claims for damages for breach of contract and, on the other hand, they are risking fine and/or imprisonment.

I appreciate that the retroactivity provisions were inserted to prevent a flood of transactions if the bill was introduced but before it became law. No doubt, the removal of the retroactivity provisions would permit a few more transactions. However, 12/3 percent of all the available land in the province has been transferred to non-residents in the last 100 years and it is unlikely that much of the remaining 98 percent would really be affected by the matter of a few weeks.

In point of fact, a great flood of transactions has not resulted, even though there was a long warning in the Speech from the Throne that some kind of legislation was coming. Rather, there has been a sharply decreased interest in farm purchases in Manitoba until such time as some form of legislation is finalized. And that is exactly what one should expect from prudent investors. Those people who are in a liquid position and consequently are able to go to any number of different locations with their investment dollars. Prudent investors will naturally hold back to see what the new rules of the game will be, particularly with something like land which is not a liquid type of investment at all. Hence, they have been and will simply wait to see or, if they are not prepared to wait, they have already been going elsewhere.

I would suggest in the alternative a better approach would be to see such legislation as the Legislature deems fit, and then affix a specific date thereafter beyond which transfers of land will be processed through land titles offices without a specific approval, which could then deal with the whole matter of when the transaction was actually made and when the right to title arose.

Section 5. The exception provided here relates to acquisitions by corporations. That is lending essentially who end up owning in excess of the limits by reason of realization on its securities, banks and other lending institutions. I would point out that a much more flexible arrangement is needed if the farming industry is not to be seriously affected in the longer run. Obviously, this exception would most affect banks and other lending institutions.

Undoubtedly, lending institutions would, in all events, want to liquidate any land they would have acquired by realization upon the security, within much less than two years. In practical fact, however, I suggest that they may not merely always be able to do so, particularly when there is an ownership control which is known to the potential buyers.

In my experience, most farmers borrow heavily from banks or credit unions and the like. Farming is extremely capital intensive and very few farmers are able to self-finance beyond a very small margin. In the majority of cases, the best security that the farmer can offer is the land he owns and is referring now to operations financing much more than to the term financing for the purchase of land. Hence, in nearly all cases where the farmer owns land, you will find that his banker will have either a first or a second mortgage. The mortgage security is very often not taken for term financing but rather for operations financing. If the farmer falls into default, it is most usually because of adverse crop or market conditions. Those ordinarily affect not only the individual but also his neighbour. The result is that there is a lower rate of realization upon security by way of mortgage sale proceedings and a higher rate of actual foreclosures resulting in the lender obtaining title than would be the case for urban properties. It then follows that if a lender is under a time limit to sell the land, they will tend to discount the offers that are made upon it. I outline this to you, not from any intent to lay blame before you the plight of the lenders, but rather to point out that the lenders are sophisticated enough to realize that this restriction means a reduction in their security value. Consequently, it would only be prudent for them to reduce both the proportion that they will lend against equity as well as the rate at which they will lend. I suggest that that's exactly what you will see happening.

An adjunct to the effect upon credit, I would also point out that if I am right in my expectation that the bill in its present form will tend to enhance the value of highly developed land and decrease the value of underdeveloped land, then I would expect those Manitoba farmers now operating the lesser developed lands to suffer even more. Again, the lending institutions will base their lines of credit upon current market values. I expect that market values of the very land that requires the most help will be the first to drop with the concurrent result of reduced borrowing capability and hence a compounding of the development and efficiency problem.

My next concern is with Section 9 and we're now into the enforcement and penalty sections. I submit that Section 9(1) is much too broad in terms of the discretion which it leaves with the Minister.

ere is no requirement that the Minister must have reasonable cause to believe that there has been a contravention before he is entitled to investigate. This leaves it open to the Minister to investigate a corporation or an individual whether that corporation or individual has made any manifest recent acquisitions or not.

Subsection (2) places no restriction upon which books and records may be demanded. There is restriction to the effect that only such books and records which would actually pertain to the acquisition of land shall be produced. When read together with subsection (1), it permits the Minister, with or without cause, to conduct an investigation of anyone so long as he purports to do so for the purpose of determining whether or not the person or corporation has acquired land in contravention of the Act. Further to this, he can demand the production of all of the corporate or individual records whether they have any relationship to land acquisition or not. This appears to me an incredible invasion into the private affairs of citizens for this type of statute. One does not find this type of thing here than in respect to taxation statutes or the criminal law and, even there, there is generally the saving provision that there must be reasonable cause to suspect an offence.

These provisions are particularly a problem for corporate directors, solicitors, or registered agents and the like. Suppose, for example, that I act for a major Canadian corporation whose offices, however, are in a province other than Manitoba. I may be the registered agent in the province since our company's legislation requires that there be one. I may, for example, even be a director of that corporation. Under the provisions of this bill, the Minister would presumably serve his demand pursuant to Section 9(2) upon me as registered agent. By Section 9(3), if I fail to comply with the demand, I am perforce guilty of an offence and liable on summary conviction to a fine even though a demand to produce all of the corporation's records might involve a building full of documents, all of which are located elsewhere than in Manitoba. I say this, not in any capricious sense, because it is a very real problem when one has corporate entities holding land because, while the majority of corporations are small and tightly owned, some certainly are not. So when one is talking about the reduction of records, that can be a pretty onerous thing and surely the bill, and even the intent of the bill, could be maintained by tightening up those enforcement provisions to deal with what is really intended to be dealt with.

The problem becomes even greater if one is dealing with a corporation owned by non-residents, whether that corporation has made or is suspected to have made a land acquisition or not. For example, I can have a non-resident, say hotel owner in the City of Winnipeg, as a client, a corporate agent. Under the provisions of this bill as they now read, the Minister — and I am not suggesting that his Minister would do that but any Minister of Agriculture hereafter — can force me to produce all of that corporation's records when those records may not even be in the country and have nothing to do with farm land. I am submitting that that surely could not have been the intent and consequently the bill should be corrected.

To go on with the problem, under present Manitoba and Canadian corporations law, the majority of directors of a company must be resident in Canada. I suggest that unless the provisions in respect to offences and penalties are tightened up, at least to the point where the Minister must act in good faith and upon reasonable and probable grounds, the majority of directors of non-resident companies will be forced to resign. This will create all kinds of chaos. The result would be that while firstly they might find their Canadian directors in places remote from Manitoba which could hardly help, or they might simply dispense with Canadian directors. That might cause them to lose their status as companies within Canada but, as I understand our Real Property Law in Manitoba, that, curiously, would not affect the right to title of the land which they now hold to continue. So I am suggesting that this is a part of the bill that simply needs a little more thought.

Section 12. It is submitted that the penalty provisions under the proposed bill are much too severe for the nature of the subject matter. Since the bill already provides for machinery to require disposition of the land acquired in contravention of Section 2, it is suggested there is no real need to provide for jail terms or large fines. It is suggested a more sensible approach would be to provide some form of penalty that would relate itself to the cost to the Province of Manitoba of determining the contravention and obtaining the necessary orders to going about a disposition of the breach.

There may be a case to be made for the situation where there has been fraudulent activity or where there have been multiple offences knowingly made. However, this Section at present makes no distinction between a fraudulent breach or a purely accidental one. It also makes no distinction between the small breach and the large one. To illustrate, I am entitled under Bill 56 to purchase 640 acres of land. That is one section' however' not all sections consist of exactly 640 acres. If it turns out that the farm I buy has 642 acres, I am immediately in breach of Section 2 and subject to the sanctions under Section 12. To me, that is a far different situation from a case where I attempted to acquire 6,000 acres and fraudulently attempted to conceal that purchase from the Crown. I am submitting that amendments should be made to the penalty provisions to moderate them in their entirety but also to make their application a little more equitable in the individual case. It's fine to say that there is a range of fines but I suggest that in my case if I end up with a section that has an extra acre or two in it,

even \$1,000 as a minimum fine is a pretty big penalty for that kind of a situation. I suggest there are other ways of drafting this section that would allow for much more equitable provisions.

Now, in conclusion, Section 13 of the bill already provides for the Lieutenant-Governor-Council to make regulations which, among other things, would exempt persons and classes of persons, or land and classes of land, from this bill or from any of its provisions and subject to its terms and conditions as the Lieutenant-Governor-in-Council may specify. That provision is really quarrelled with but I suggest it recognizes the great inequities and unwanted results that can come from a strict application of the bill as it now stands. I submit that is really the problem with the bill as a whole. I have already indicated that I do not feel this bill best serves the farm industry because it cuts that industry off from a vitally needed capital source. Beyond that, however, there are bound to be a certain number of transactions which would create apprehension in the farming industry and indeed, perhaps in the province generally. No doubt the intent in introducing this type of legislation is to create machinery to prevent such transactions from occurring. I suggest that there will be a good number of transactions which would create no apprehensions on the part of the farming industry and would indeed be welcomed. There are also a good many which would appear to have only beneficial results for the province as a whole and I think we should not attempt to prevent those from occurring. What this illustrates to me is that flexibility is needed which is not provided by the bill in its present form.

If you are satisfied that some type of legislation is necessary, I would submit that the best approach would be to treat these transactions on an individual case basis. This may seem like an alarming administrative problem. I suggest, however, that it would not be any more onerous than the administration of Bill 56 in its present form. The statistics which you have will indicate that in all of the recorded history of Manitoba, only a very small percentage of the total available farm land has actually been affected by the classes of persons and/or entities which this bill proposes to restrain. I submit that this can always be expected to be the case and that the number of transactions that might be called into question on a year-to-year basis would be relatively small.

I would suggest that if the bill were amended to provide for some form of a review board, perhaps made up of three or five members, such a board, with a very small staff, could easily process applications from would-be vendors and purchasers on an advance basis to obtain the ruling as to whether the transaction would be permitted or not permitted. What I have in mind is something very similar to the operation of the Foreign Investment Review Agency of the Government of Canada. Such an approach would permit flexibility to deal with transactions on the basis of their particular facts. They would allow investigation and inquiry before all the parties were committed. Such an approach would also allow for easy adjustment to the criteria to be applied as time went on in relation to the actual experience. Hence, for example, if there was a lot of activity by non-farmers in a particular geographic area, the board could begin to apply curbs that might not be needed, for example, in another geographic area. In all cases, the net benefit to the province could be weighed and there would be some opportunity for the affected local community to present its views and, even for that matter, to learn what the individual transaction was about.

I suggest that the establishment of such a review board should require no more administrative bureaucracy than what will result from the bill in its present form. Moreover, if the cost of the administrative machinery were a factor, it would seem possible to apply some form of a user fee to the applicants. I suggest the result would be much greater equity, coupled with much greater understanding both by the people of Manitoba and those without. I suggest that both the farmers of Manitoba, as well as the corporate or non-resident investors, will easily accept rulings that are made upon the merits of their individual case, but are far less willing to accept arbitrary impositions that, in their individual facts, may be manifestly unsensible.

I might also add that — it is not in my brief but what has become clear to me during the course of the comments made by various people today — that I am convinced that what is really much more urgent than land ownership control is some measure of certainty to be applied to the leasing arrangements where there is not ownership by the operator. To me, that seems a very small problem to resolve. I think that vendors or landlords and tenants, for the most part, in this industry would welcome a relatively standard set of provisions. I think those would need to remain pretty flexible as to their time length, as to the return that they provide to the landlord and perhaps some other provisions as to how and who will pay for certain things — like taxes, insurance, fertilizers, things of that kind — to allow people to make it workable for their individual circumstances.

If, for example, the concern is that people not be dispossessed after they have been tenant farmers for some years, I know none of my clients that I have acted for who would have any objection to having a right of first refusal provision in a lease in favour of a tenant, so that if they ever do want to sell the land, the tenant has first crack at it. In fact, most of the leases I have prepared have this kind of provision in them. The more sophisticated farm lease that we have been using — and I am sure my friend, Mr. Nemy, who has already appeared before you has had the same experience — really,

ause it is long-term, has to address itself to the long-term survival of both the landlord and tenant), consequently, the risks are divided up and, I think, are recognized by the people who enter into these arrangements.

Those risks are three: there is the risk of the land investment — that is where the land that is being chased will gain or lose in value with time — whether it really is productive enough, those kind of things, the investor takes that risk in all of these arrangements. Then there is the risk of production which is traditionally the farmer's risk — whether the weather will be good, if there will be a lot of wild ts or few, or if the cost of machinery will go up too much, or if the price of grain will come down too much. Well, I shouldn't say the price of grain, I shouldn't include that. But the risk of production is assumed by the farmer; he assumes that just as well if he owns the land. Then there is the third risk that is the risk of the market. Through the best efforts of the land owner and the best efforts of the farmer, they may produce a splendid crop on a good piece of land but if the grain prices are bad, there is still a loss on the part of somebody and characteristically in the leases that I have drafted at least, at the behest of both landlord and tenant, the risk of the market tends to be shared. For example, what you get is a lease that calls for an agreement, it calls for a certain amount of return on the land investment as a starting point. Then you relate that to the price of the type of crops that are grown here — generally spread over an indexing period of years so that you take into account the range of fluctuation and you don't catch the market at either a high or a low. Then, from there, you relate that price to the price per acre that would result in a certain return and from there on in, the rent fluctuates up and down in each year depending on what happens to the grain prices. So that if grain prices go up, the rent goes up, but the farmer is also better able to pay. And he gets part of the extra return and the owner gets part of the extra return. If grain prices fall below the base, then the owner gets less return than he started off looking for and the farmer is also suffering. This has become — in my experience at least — the standard type of lease where there are leasing operations. I think that that shares the risk of the market between landlord and tenant and it can come to grips with the kinds of statements that were made by some of the people in the farming industry before your committee today, who perhaps have not encountered this kind of thing before.

I thought I perhaps should refer to that one specific thing because it does come from my specific experience and I think it is perhaps part of the solution for you.

In all events, I have suggested some pretty far-reaching amendments as well as some specific ones. They are made as being my own views in the hope that we should have, in what is for the long-term, a very far-reaching piece of legislation, a workable and equitable law rather than a bill that I think if hurried through, and without any question of what political philosophy one has about its application, seems to me to have a lot of problems connected to it which will unquestionably involve you in immediate litigation upon its validity and will involve you in litigation for years as between parties as to what the interpretation is. I suggest that a lot of work could be done. I thank you, gentlemen, for your kind consideration of what has been a bit of a lengthy brief and I'm sorry that I took so much of your time but when one gets the thing prepared it is a little difficult to know where to cut off and where to continue.

**MR. CHAIRMAN:** Thank you very much, Mr. Kehler. Mr. Uskiw.

**MR. USKIW:** Mr. Chairman, first of all let me say to you, sir, that this is obviously a brief that has been put together after a great deal of thought and study. Therefore, it covers the broadest perspective of legislation on land ownership and even deals with the possibility of lease arrangements by law. So it is certainly well covered from many angles and I want to compliment you on giving us that kind of depth. Because of that, I don't think that it would be all to productive, at this point try to follow-up on each of your suggestions — at least I don't intend to here this evening — but would commit to you that we certainly are going to go through this with a very fine-tooth comb in order to determine the amount of suggestions in the brief that might be acceptable to us.

I have one small point, though, that I would like to ask and it's the only one I am going to deal with this evening and that has to do with your expectation that we are really past the stage where we can logically continue to think in terms of ownership of land, that the lease arrangement is really what is the going and coming thing on a much larger scale, and therefore that we should be attacking the situation from that aspect of it or from that direction.

If that were the case — and of course our position has been that we would prefer to do it this way so that we don't have to do the other ultimately. But in any event, if we were to follow your suggestion and allow any amount of purchases by any group of people, provided there were decent lease arrangements provided for in statute, what do you have in mind in terms of security of tenure? Because that is the nub of the problem, most farmers want to have security of tenure whatever their land arrangement is. Certainly through ownership they have it, although they may have a lot of risk tied in with a very hefty mortgage. But a tenant who, according to your brief, may have to invest a couple of hundred thousand or more in machinery and buildings certainly is away out on the line, on the block — so to speak — if his lease was to be interrupted prematurely. He'd be in a very vulnerable position. I'm reminded of another industry in that context, namely the gasoline distribution system,

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where the large oil companies own the gasoline stations and they have tenant operators. Us what happens is they gauge their rents on the expectation of the volume of business and if the volume goes up, the rents go up, and the tenant virtually could become a slave to the company. His work, his solicitation of business, does not necessarily result in added wage or salary or profit to the operator, but rather is consumed — so to speak — by the lessor. How do you protect against that? How do you envisage a law that would guard against that kind of exploitation?

**MR. KEHLER:** Clearly whatever you do is not without some problem. I would be the first to admit that. But I think there is quite a difference from the example you cite and what happens in the agricultural industry.

The agricultural industry, I think, is peculiar in a certain way that is different from most others in that the marketing, for practical purposes, is entirely controlled. So that I think you can legislate if you will, enshrine provisions for a formulation of rentals leaving still open room for negotiation between the individual landlord and tenant. Because I think it would be wrong, equitable, to apply one firm type of lease that says you must pay the landlord five percent return on investment or you must give him six bushels an acre, or one-third crop share. Because the fact of the matter is your farm land isn't all the same and what works in one area does not work in another, just on a practical basis so you have to leave that open. But I think you can provide for some kind of indexing principle that ties the rent, to at least an extent, to what happens in the marketplace because that marketplace is equally beyond the control of the landlord and the tenant. That isn't true in the gasoline industry so much.

**MR. USKIW:** I wonder if I could interrupt you because we use that system in the Crown land-lease program. We have an economic rent formula and if there is zero economic rent, we forgive the rent that year. You're not anticipating that a private owner of land would be prepared to accept laws that would say where there is no profit in the production of a certain commodity that he, too, has to suffer zero income on his investment in that year.

**MR. KEHLER:** No, I doubt whether it would go quite to zero, which may always leave your public land-lease system with an advantage. My guess is it won't, because my experience with farmers has been that they have been very reluctant to accept a public program, and that may have something to do with the kind of people that farmers are rather than the program. I don't comment on that. But I suggest that while it is unrealistic to expect a landowner, for that matter if he is the same farmer who operates, he is going to be very unhappy if he makes no money in any year. He will go out of farming that happens more than one or two years, even if he could afford to continue with his capital reserves. He will just say, "This is a bad business for me to be in."

But I have acted for non-resident investors who have been prepared to agree to a formula that would cut their expected return, which is already modest by lending standards, in half, if need be. They say, in effect, there must be some basic amount that you should be able to pay in even a poor year because you would have to do that if you were in business for yourself with your own land. But we will take a little as half as much as we expect, on our base agreement. I would find that that would not pose difficulties.

**MR. CHAIRMAN:** Thank you very much, Mr. Kehler. If there are no further questions, I would thank you for your presentation. It was a very lengthy one but a presentation in which there was a lot of research involved with it. Thank you very kindly. I would call on Mr. John Palamarchuk, if he is still here.

**MR. PALAMARCHUK:** Mr. Chairman, Minister, and Members of the Committee.

**MR. CHAIRMAN:** I know you can speak a lot louder than that, John; I have heard you many times. Can you just raise your voice.

**MR. PALAMARCHUK:** For the first time in my life, my heartfelt sympathies are with each and every one of you. However, we have got an issue down here that needs to be studied and I'm rather glad, even at this very late hour, of the opportunity to say what I have to say today on this issue of land use and protective legislation which has been my personal concern over the years when there was no attempt, on the part of any government, to consider a formulation of land use or protective farm policy.

Comparatively speaking, we have a new country and so we thought in terms of an enormous abundance of land and whether it was properly used, or for that matter abused, was not our primary concern. Neither was anyone concerned about protecting farm land. It was not until after the Second World War, and really only in the last decade, that our awareness of lack of land use policy and farm land protective policy became apparent.

In our fast-moving age, we find ourselves handicapped in the formulation of an adequate, responsible, far-reaching, long-term policy. We are handicapped by a backlog of irresponsible attitudes developed over the years of "Don't fence me in," and "I want it all and I want it now," and freedom and civil rights.

We also have today to contend with a number of powerful pressure groups who are defensive of their own particular interests, mainly because they do not intend to lose any ground from the

portable status quo of the lax situation re land and its use in the not-too-distant past.

Today's materialistically inclined society poses difficulties also of its own variety in the formulation of meaningful protective legislation for farm land. Inflated land prices and demand for land are fanning the age-old greed to overheated temperaments, helped most naturally by politicians in Opposition for purposes of their own.

All these and more are creating conflicts of interest regarding land ownership legislation and it is a courageous government of any level to stick its long political neck out far enough to create a policy which would take into account the unborn generations of Canadians and their rights to enjoy God-given heritage of a beautiful land and its bounties.

I didn't hear very much of that today. There was dollars, cents and what's there in it for me and I am here since ten. I congratulate the present government of Manitoba for its attempt to protect farm lands at this time although I do not consider Bill 56 as being the ultimate in that direction. It has to be strengthened in order to be meaningful. It will require statesmanship of those charged with that responsibility. But anything less will be a failure on the part of the government to live up to its obligation of leadership and that applies to any government, no matter who would be sitting here today.

Now, what are those concerns? What is it all about? Well, let's just go over it and headingwise it's the depopulation of rural areas. That is a concern of people. That's no good and it's leaving the farm by the youth of the country and that is not desirable. And there is a tendency towards contract farming; and very soon we will have a lot of it. The modern version of feudal system land use, that's what I call it and that's a concern.

There is the old cost-price squeeze; an old and tried tool of how to get rid of the rest of the farmers and that's a concern. There have been prices quoted right here by the last speaker. He was taking that into consideration.

There is fragmentation of good agricultural land for purposes of developers and that's a concern. There is pouring asphalt wherever the developer feels like . . . in towns and in cities without restraint or responsibility on any land, no matter, asphalt goes on,—that's gross they call it—and that's a concern.

There must be a reason for all these concerns and it may pay for us to just bide a moment to look into these reasons. Well, Canada in relation to the rest of the world is, comparatively speaking, a new world and it could be said that its sociological development has been handicapped by the influence of the industrial revolution which, by concentrating on the vast resources and exploited material resources available here, failed to balance Canada's development culturally. They are still complaining about we have no Canadian culture. Hence, the cultural development of social order was forced into a secondary catch-as-catch-can situation.

This situation was further aggravated when the sinners of the old world translated the concept of industrial revolution into a systematic organizational blueprint of industrial society. This concept was especially adapted to economic growth in exploitation of vast resources of the new world but it does not consider the necessity of balancing materialistic conditions with moral conscience. In fact, it negates it. The industrial society cannot deal with individualistic qualities of mankind. It can only function *en masse* and would rather prefer a society of blithe, carefree, leisure-prone people, though even perhaps a bit moronic. Such a society is not a sound foundation to build a national concept of long-lasting solidarity of human endeavours based on moral principles of self-respect which would lead to emancipate the human race to its full potentials in the responsibility of stewardship of this planet. This has been made abundantly clear by the multitudinous problems of our day which require solutions — problems predominantly of sociological order which relate to attitudes, lacking the necessary balance of moral conscience in the pursuit of materialistic gains to enable achievement of the so-called standard of living or, in broader parameters, the goals of growth. Both objectives could well be questioned under a rationale of how big is big, and that uncontrolled growth may be dangerous.

It could, however, be said that the hierarchy of the industrial society planning sector encourages the attitude of the masses into acceptance of eat' drink and be merry and leave everything to the planners, who assure us that we have the know-how, we have been doing this all along.

This attitude is not at all in keeping with the ethno-cultural composite society of Canadian people who through the ages of cultural development were nurtured in the tradition of the sanctity of human life, centred about the necessity of balancing and disciplining their ambitious pursuits for personal materialistic gains with the principles of moral conscience, resulting in a quality called "self-respect."

Therein lies the problem, where people, because of economic pressures from the well-planned and organized industrial society, are forced to submit to changes they are unaccustomed to. These changes are imposed upon them with the intent of destroying the individualistic qualities traditionally nurtured by an agrarian society but which are not acceptable by the planners of the industrial society.

In order to counteract the already established blueprint of the rural areas which in effect enable the corporate giants to gain control of food production — a very important economic factor and one growing in importance — and in the process depopulate and destroy rural life and institutions, a radical change in attitude has to take place. This new attitude must be built on a criterion that people are important, a criteria built on self-esteem and self-respect and this is being ignored today, all along. Canada can become an example for the rest of the world in establishing a sociological and economic order based on the above stated criterion but, again, it will require statesmanship, a quality not held in proper high esteem by the present-day society or electors. Ironic as it is, sanity today is looked upon as a radical stand but anything less will be a failure or part of democratic government to live up to its obligations of leadership.

It may well be said that rural lifestyles and rural people are just about the only genuine elements in today's society who still adhere to the basic real values in life. If we destroy that, by all means, with foresight, we would compound the multitude of present problems, both sociological and economic, for which we have no ready solution.

The issues confronting the farmer today are apparent. They are issues of dollars and sense (spelled s-e-n-s-e) and also the way of life in a cultural and economic sense. To place it in proper perspective, the farmer's concern is more than just a dollar concern; he does not farm to become rich, he farms tragically. He farms because he likes to farm and he only dies rich. It is really a concern about his civil rights. To him, it is important to be what he is — not what he is programmed to be by some unknown power which says that in the name of progress, he has to go through a change of life prematurely. He likes his way of life in his community setting. He likes the sanctity and security of his home. He likes to build up his community interests. He loves the land on which he works and cherishes it rather than exploits it and takes pride in his achievements. At this point, I am going to tell you it is a myth that you have to be mighty big to be a viable unit. It is a lie, in fact. His family, when he raises a surplus, the farmer — and he is well known for surpluses in all his production — are eagerly snapped up by the asphalt jungle dwellers as the most dependable and eager workers in all capacities. And that is true, as you, each and every one, know. He, in general, maintains a balance of materialistic ambitions, disciplined by moral conscience. He lives in a setting close to nature's laws and has learned to respect them and adjust himself to obey them. He is a desirable citizen. By what right then is he now to be deprived of the privilege of being himself?

In the pursuit of technological adaptations and a frantic race for profiteering economic growth in themselves questionable as to whose advantage — are all his civil rights to be held as of no importance and he to be treated only as a disposable resource to be computerized under a computer number into obscurity? If someone has the answer, it needs to be scrutinized very closely for falsity in the light of sanity.

Canada's rural area should be settled by people who love the land. That is the primary objective, Mr. Minister, and I congratulate you on your courage to attempt to ascertain that in terms of law. Not businessmen out to get the last ounce in money using efficiency as their justification and creating a feudal manor system with all its social injustice and deprivation. Have you ever thought of that? What's the difference whether it is a corporation of any kind or a system that is in existence in Russia today? What the devil is the difference? You are getting rid of the people; you are telling people what to do; they have no rights. Is this what we are creating because of its growth? Cancerous growth, gentlemen.

All right, modern Russia is a prime example of that. They have a social problem which will grow eventually to unmanageable proportions — believe you me.

I will leave you tonight — I am going to shorten this — I will leave you tonight with this particular recommendation to the government. You stick with your attempt; you have the people behind you. We have to have people in rural areas settled in rural areas; we have to do something about it, as I said even if it is radical, because we have already made that mistake of depopulating the rural areas of people. We have to take a stand that every square foot of class one, class two, even class three, arable land shall not be used for anything else but for farming by actual farmers.

**A MEMBER:** Here, here.

**MR. PALAMARCHUK:** And we have to legislate some kind of a concept that will enable the farm youth to be able to settle those lands and I don't care what you call that concept, whether it is the lowering of rates, whether it's subsidy, whether it's what the devil you want to call it. But this is what I am leaving you with and I believe, gentlemen, if we accomplish that, then on either side of the House, you who ponder over this legislation should have the satisfaction that you are not only a blinking politician but you are also a statesman. Thank you very much.

**MR. CHAIRMAN:** Thank you very much, Mr. Palamarchuk.

**MR. PALAMARCHUK:** Oh, here, here, maybe somebody wants to say something.

**MR. CHAIRMAN:** I am not sure if there are any questions. Mr. Uskiw.

**MR. USKIW:** Yes, Mr. Chairman, I wanted to find out — I perhaps missed it in your presentation — whether there is, in your mind, any difference between legislating against foreigners or other land

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ers, Canadians, be they Canadians. Is there a difference in your mind or do you believe that they all the same in terms of the effect in the rural community?

**MR. PALAMARCHUK:** All right, there is no difference in greed, whether it is domestic or foreign. That's just about the way I look at it.

**MR. USKIW:** Okay, that's the point.

**MR. CHAIRMAN:** If there are no further questions, thank you very much, Mr. Palamarchuk, for your presentation.

**MR. PALAMARCHUK:** Thank you.

**MR. CHAIRMAN:** We have one more presentation tonight. Mr. William Martens. Somebody has to last and unfortunately it has to be you.

**MR. WILLIAM MARTENS:** You will be glad to hear a rather short brief, not nearly as long as Mr. Nemy or Mr. Kehler. I'm just touching a few points. I think it is unnecessary to go through all the details and maybe I will just emphasize one or two points or corroborate them.

I have been practicing law for some 20 years. I grew up in Sanford, a farming community, and my brothers are still farming there. I have acted for a few foreigners but not nearly as many as Mr. Nemy has. In the year 1976, I acted for exactly six people and perhaps I can tell you a little about them, which I think is rather indicative of the type of people who have been purchasing land.

One party, as a matter of fact, sold and the other five bought. The first party that sold were a party of three who had bought about 1,900 acres near St. Francois Xavier — I guess two of them were small industrialists, the other man was a retired gentleman — and one of them wanted to get out so they sold. Their original reason for investment because this was a safe haven. People in Europe are usually quite worried about the political and economic situation. You speak to them, they say, "Well, one weekend when our soldiers are on leave, they'll march to the Rhine. We don't want to lose our property; we don't want to lose our cents." So there is a real fear there and that is one reason people are investing here.

Another party bought 1,900 acres near Niverville, in 1976 again, and he's renting it back at \$27.00 an acre for three years and he intends to come over here within the next three to five years.

The third party bought about, I think it is 880 acres at Brunkild and leased it back to the farmer at \$2.00 an acre with the understanding that at any time he can use ten acres to build his house and over the five years, or during that time, sometime, he intends to immigrate.

The fourth party, bought 240 acres near Beausejour. He hopes to buy more when he disposes of his property in Germany. He has three sons and he is concerned about them, they are learning English and they are prepared to come here. As a matter of fact, they will be coming here on June 15th at least for the summer and the sons he expects will be staying here.

The other two parties bought a section each near Eriksdale which is sort of marginal land, there's a slough, there's slough, it's for agriculture. It's really not very good but another foreigner bought land there before and he's broken the land; he's putting up a . . . plant and he's said to his countrymen, come over here, I think there's an opportunity. They are paying \$100 an acre to break this land. A bit of a gamble I would say but they are developing land that I don't think too many Manitobans would have ventured into. One of them is working it himself during the summer and the other two parties, I'm not exactly sure what their plans are. Anyway, those were the six parties I acted for in the year 1976. There were not so many others before that.

I would like to refer specifically to Section 1(e) which provides that a landed immigrant must arrive in Canada before he can purchase land. Mr. Nemy has already talked about this but I would just like to cover it very briefly. For any person, and especially a family to move from one country to another is quite an emotional upheaval and, among other things, usually requires the sale of his property and the approval of the Canadian authorities, which does not come all too easily. I understand that he has to get 50 points — 20 points if he has enough sufficient money or assets here, 5 points for an extra language, 5 points for being under 35 and so on. At any rate, it's usually not too difficult to get 50 points if you can start off with 20, having \$100,000 or investing a certain amount of land.

Further, it has been my experience that under the circumstances, the normal procedure for an immigrant is that he must first come to Canada, look around, and satisfy himself and finally put a deposit on the farm. Often it takes immigrants a year or more to make all the necessary arrangements.

I would like to refer to Section 15 of the Saskatchewan Farm Ownership Act which states that a non-resident who intends to become a resident within three years may apply for, and the board may, in writing, grant exemption. In case he does not immigrate within the three years, he will be forced to sell so there you have recognized that particular situation.

Section 2(1) of the proposed Act provides that a non-resident can purchase only 160 acres of farm land. In my opinion, this is possibly a little bit too small. Possibly there should be some control but I think it is too small and I would like to give some of the reasons.

(1) It is not an economic unit. (2) It is difficult for a local farmer to sell only 160 acres and obtain his

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best possible price for himself. (3) There is, I think, undue fear of a so-called foreign take-over, I wish to use that expression. The experience of the past has shown that foreigners purchasing are at a bit of a disadvantage that in due course land, since it cannot be moved, reverts back to Canadians for various reasons. Be it death or be it due to the fact that property is so far away and income is not so high at times, that eventually they will get rid of it and maybe lose their shirts. It happened in southern Manitoba. In Sanford there were American landowners when I was a young man and I don't think there are any there now.

In some instances, the purchasers move in and, as I mentioned these two people in Eriksdale, improved land that Canadians will not touch. The people in Eriksdale bought this 1,900 acres. It was quack grass on it when they moved in, there is none now. They put up buildings worth close to \$80,000.00.

Five. Needless to say, any purchase by foreigners would bring in additional capital and it seems to me we are always looking for capital when making loans. I don't think we are paying any interest on it and somehow it will rub off.

Sixthly, there is probably undue fear of the price of farm land being driven up unduly. It appears to me that since the introduction of the Farm Lands Protection Act that there has been very little fall in the price of farm land.

Furthermore, I would like to point out that just across the border farm land is somewhat more expensive. Previously, the Minister asked a question as to whether or not the foreigners paid too much for the land. Of the six, I would say possibly three paid a little bit too much. People see them coming and ask a little bit extra price. They have only so much time to spend here. They want to invest, so they pay a little extra.

Finally, I would like to refer to sections 1 and 2 of subsection (2) of the Act. 2(1) states that a corporation can buy more than 160 acres and 2(2) states that no resident Canadian can buy more than 160 acres. I would like to ask the question, why? Just because it is a corporation? It is an individual, maybe one, maybe two, maybe three or more that own this corporation. They are doing this so that they can put their affairs in the order they would like to. So I would say, why the difference?

That is my brief, gentlemen. Thank you for listening. I'm amazed at the time you people spend here. I hope you don't do it too often.

**MR. CHAIRMAN:** Thank you very much. Mr. Uskiw.

**MR. USKIW:** Mr. Chairman, I appreciate the comments presented to us by Mr. Martens. We, in the House of Commons, do not want to inhibit immigration. Now, you have made some suggestions, as well as others, which would lead me to believe that we should look at them very seriously to determine whether or not the present wording, in fact, does do just that. From my point of view, if it does do that then we have no problem in making some changes. The intent is not to prevent immigration. So that's what I think we can satisfy you that that is not our objective. We welcome immigration, people who invest here and who want to come here to become Manitoba citizens or landed immigrants. That's always been the case. So we really don't take issue with you on that score.

With respect to the point you make on Section 2(1), the distinction between corporations and Canadian citizens, I raise the question with you, sir, whether you do not believe that there is some social value for society to make a distinction in terms of human rights; rights to property in this instance; between a corporate entity and the individual. Is the individual not something more special than a corporation, just from that point of view alone?

**MR. MARTENS:** That could well be argued. So an individual farmer wishes to incorporate, would you take that right away from him to incorporate to set his affairs in order where he might pay less taxes, or he might be able to pass the farm over more easily, in part or in whole, to his sons, or whoever?

**MR. USKIW:** No, but corporations are a body that can be created and disbanded in a matter of moments. Human beings are something different than corporations. At least, I regard it that way. I don't look at a corporate structure as equating to that of an individual. I always would prefer legislation that would favour the individual over any other arrangement. Now, maybe that's a hang-over on my part; I don't know. But it seems to me there is some value to that distinction.

**MR. MARTENS:** Maybe you should distinguish between an international corporation, which has no real feeling for the individual who sees profit and loss, but the individual ordinary farmer. . . there is a difference.

**MR. USKIW:** In terms of the legislation being proposed here, you appreciate that farming corporations are not restricted.

**MR. MARTENS:** So you say you can't distinguish between the farmer having a corporation and perhaps some international . . . It may be a problem.

**MR. CHAIRMAN:** Are there any further questions? Mr. Einarson.

**MR. EINARSON:** Mr. Chairman, just quickly to ask Mr. Martens, do I understand you to say in your brief that you were engaged in the experience of negotiating purchases or sales of land to foreigners in Manitoba in 1976 only?

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**MR. MARTENS:** In my opinion, 160 acres is too little. It's not an economic unit.

**MR. EINARSON:** No, I meant to say, were you engaged in negotiating sales foreign purchases of in Manitoba in 1976 only?

**MR. MARTENS:** Oh no. I used 1976 as an example. I had six different deals with . . . Before that I don't think they amounted to six, and I have had one since then. No, I was just using the year 1976 as an example.

**MR. EINARSON:** One more question, Mr. Chairman. I would like to ask Mr. Martens — if it's a fair question to pose to you in the time element since you negotiated these sales — have all the sales of agreement that you have transacted been done in good faith and are all farmers in the Province of Manitoba involved getting the money for their land?

**MR. MARTENS:** There has never been any problem. They each have a lawyer and you don't give your documents unless you protect your client, in any case. No, I have never had any trouble.

**MR. EINARSON:** Mr. Chairman, my point is, it's very important, and I'm talking about the way a sales agreement is drawn up. That's the point I asked; if there was no clause in any sales agreement

**MR. MARTENS:** Oh, I had one . . . The real estate salesman drew it up very sloppily and there was a case started but they settled out of court.

**MR. CHAIRMAN:** I don't think there is any further questions. Thank you very much for your presentation, Mr. Martens. That's all the briefs that we have here so I think Committee will rise. Committee rise.