

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS
Tuesday, January 30, 1990

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Cummings
Messrs. Burrell, Kozak, Maloway, Minenko,
Pankratz, Patterson, Praznik, Storie, Taylor

WITNESSES:

Mr. Harry Harapiak (MLA for The Pas)
Mrs. Bernice Heaman, Private Citizen
Mr. Lyle Heaman, Private Citizen

WRITTEN PRESENTATIONS:

Mr. Rick Wieler, Private Citizen

MATTERS UNDER DISCUSSION:

Bill No. 63—The Consumer Protection
Amendment Act (3)
Bill No. 64—The Business Practices Act

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Mr. Chairman: The Committee on Law Amendments is called to order. This morning we are going to be considering Bills Nos. 63, 64 and 83. However, as it is shown by the list of presenters, for Bill No. 63 there are approximately 12 people registered to speak. It would appear that we may not proceed with Bills Nos. 64 or 83 today.

I have a list of persons wishing to appear before this committee. Mr. Cummings.

* (1005)

Hon. Glen Cummings (Minister of Environment): On the statement you just made, if it is not anticipated that we would proceed with Bill No. 84 today, because that is the Bill I am responsible for, I would have some interest, could we give the presenters, some of whom are in fact present at this time, an indication of when the next committee meeting would be held? Therefore we would all be able to adjust our schedules accordingly.

It will be up to the House Leaders, I realize. If it is the agreement of the committee that 84 will not be called today—

Mr. Chairman: Eighty three, Mr. Cummings.

Mr. Cummings: Pardon me, 83. If that is the agreement, then the presenters may have more useful things to do with their time than to wait on us.

Hon. Edward Connery (Minister of Co-operative, Consumer and Corporate Affairs): If I could make a recommendation, Mr. Chairman, that we set another day and that day we would start with Bill No. 83. Therefore, those presenters who have been coming and waiting and coming and waiting would then know that they would be on and they would get theirs done. Then we would carry into Bill No. 63.

Mr. Chairman: The unfortunate thing to the Members of the committee is that it is the House Leaders who will decide at which date we will be calling these Bills for committee. I understand this is the only date that has been called to date. With that, Mr. Cummings.

Mr. Cummings: On that point, however, I believe the committee could recommend to the House Leaders that 83 would be heard first at the next sitting of this committee. That would give some assurance to the people who have been waiting for two days now to make presentations.

Mr. Connery: Can we have an agreement from the two Opposition Parties that we would recommend that to our House Leaders?

Some Honourable Members: Agreed.

Mr. Chairman: Is that agreement of all Parties?

An Honourable Member: It does not mean they cannot stay and listen to 63, but—

Mr. Chairman: The next date for the committee would be set then for Bill No. 83. That is the wish of the committee to recommend to the House Leaders? Very well.

An Honourable Member: That could be this evening or it could be any day. If you notify them as soon as we know—

Mr. Chairman: It would have to be agreed upon by the House Leaders. We will recommend that to the House Leaders. My next question that I would like to pose to Members of this committee is, are we going to put a time limit on our presenters? What is the wish? Mr. Patterson.

* (1010)

Mr. Allan Patterson (Radisson): There have not been any time limits placed to date, so we must continue that.

Mr. Chairman: Very well. The other point is, generally these committee meetings go until 12:30. Is that the wish of the committee? Agreed.

I will read out the presenters before us for Bill No. 63 today: Miss Lynn Martin, Alice Balsillie, Mr. Maury Bay, Mrs. Heather Lamontagne, Mr. Ken Clark, Ms. Patricia Morrison, Mr. Peter Gustavson, Mrs. Mavis Bleasdale, Mrs. Bernice or Mr. Lyle Heaman, Mr. Len Roy, Mr. Kevin Miller, Ms. Maryann Mihychuk and Mr. Len Sawatsky. That is the last person. He will not be on your list possibly, but it was brought to the attention of the Legislative Clerk.

Written presentations: Mr. Rick Wieler, Private Citizen. At this time I would also like to ask if any of you have written presentations that you would like to bring forward at this time or before you make your presentation. Maybe copies could be made so that everybody in the committee could have copies at the time when you are going to be making your presentation.

Is there anybody here today who should be—I would like to follow the order that I read them out, the way they have been presented here. Is there anybody who would wish that they would have to make their presentation this morning, who are in from out of town, and that they would have to be heard this morning, or they would not be able to make a presentation? Would they please identify themselves at this time? - (interjection)-

Mrs. Heaman is requesting that, she is from the Virden area and she came in this morning, we hear her. Would it be the wish of the committee that we would take Mrs. Heaman maybe first—Mr. Minenko.

Mr. Mark Minenko (Seven Oaks): I think we could agree on that, seeing that over the last several committee hearings we have only listened to the maximum, I believe, of four presenters at a sitting. So I think that would probably be advantageous to have any people who are from out of town go first then.

Mr. Chairman: If nobody objects then I would wish that we would call on Mrs. Heaman or Mr. Lyle Heaman. I understand that your presentation will be on Bills Nos. 63 and 64. If you come forward please at this time. Your presentations have already been distributed—Mrs. Heaman.

* (1015)

Mrs. Bernice Heaman (Private Citizen): I will speak on The Consumer Protection Act first. My submission is mainly going to deal with The Consumer Protection Act as it exists, and use examples of personal problems and situations of which I have knowledge.

I do a fair bit of work of going to help people out who are in financial difficulties, having their items seized and things like this. Consequently, I have access to numerous people's documents that, although I have referred to them as situations by number, I have not given specific names for reasons of confidentiality. I am interested in having The Consumer Protection Act enforced and having violations to The Consumer Protection Act prosecuted by the Consumer Protection Bureau and/or the Minister in charge of Consumer Protection.

The issues dealing with business practices I will deal with later. At the present time, they are included in The Consumer Protection Act, but they will carry a separate submission.

First of all, the definition of a collection agent as it presently exists excludes: (1) a chartered bank; (2) a credit union; (3) a trustee licensed under The Bankruptcy Act acting in that authority; (4) a duly appointed officer of the court; (5) a barrister or solicitor entitled to practice in Manitoba and acting in that capacity.

The definition of a collection agent needs to be changed to read: collection agent means any person who collects or attempts to collect money owing to others, or (b) is used by others to levy, distress or seize goods; (c) solicits accounts for collection or offers or undertakes to collect debts for others either immediately or at a future date; or writes letters or makes telephone or personal calls on behalf of others for the purpose of inducing the debtor to pay a debt.

Very often there is a loophole being used that an officer of the court is not liable under The Consumer Protection Act. Yet there can be documentation which shows he is working directly for a financial institution and directly with collection agents.

Situation No. 1: Lyle Heaman paid the Virden Credit Union according to terms agreed upon in an Interim Consent Order, agreement made by the lawyers Brian A. Langford and Randall Thomas Smith, by payment of a cheque to an interim receiver, Patrick J. Kelleher, on June 13, 1986. The receipt is Exhibit "A" to this submission.

On August 1, 1986, Patrick Kelleher, an officer of the court, wrote a letter to Jacob Janzen, solicitor for the Virden Credit Union, stating: at the request of Don Angus, loans manager of the Virden Credit Union, we have given our best estimate of the values we will realize. In the case of Mr. and Mrs. Clifford Heaman Sr., the total estimated values to date was \$255,045.00. In the case of Mr. W. C. Lyle Heaman Jr., our estimate of the values was \$186,660.00.

That meant that even though he had paid his indebtedness completely, Mr. Kelleher, taking protection of the court, was intending to realize on Lyle Heaman's assets even though there was no debt involved. This letter was six weeks after Lyle Heaman had discharged his indebtedness to the Virden Credit Union. The Virden Credit Union admit that Lyle Heaman does not owe them anything and that he discharged his indebtedness on June 13, 1986. However, the letter dated August 1, 1986, shows the intention of (a) an officer of the court, (b) a solicitor, and (c) an employee of the Virden Credit Union to realize or attempt to collect on the assets of Lyle Heaman. A copy of this correspondence is Exhibit "B" to this submission. There will be more on this situation in the part of the submission on "seizure."

* (1020)

Other situations of which I have knowledge of similar actions are: (1) the Virden Credit Union had released security of Ronald Gould, Pipestone-Melita area, in order that Mr. Gould could obtain a loan through the

Tuesday, January 30, 1990

Manitoba Agricultural Credit Corporation and the beef commission. After Mr. Gould had repaid the Manitoba Agricultural Credit Corporation, the Virden Credit Union sued the Manitoba Agricultural Credit Corporation for the amount of money that Mr. Gould had repaid the Manitoba Agricultural Credit Corporation, the Virden Credit Union using the lawyer Randall Thomas Smith.

The Manitoba Agricultural Credit Corporation instead of lodging a complaint against the Virden Credit Union for illegally attempting to collect a sum of money as per The Consumer Protection Act, added Mr. Gould as a third party, or sued Mr. Gould. This suit is 533/87 Brandon Administrative Centre.

Situation No.2: Robert Andrews had declared bankruptcy with Patrick J. Kelleher as the trustee in bankruptcy. These names I am naming are not confidential because it is open documents that I researched in the court files. The Virden Credit Union then seized cattle belonging not only to Robert Andrews but also to Grenville Bates, which were located on Mr. Andrews' premises—but were on his premises because of a lease agreement between Mr. Arnold Andrews and Mr. Bates—for Mr. Robert Andrews to care for the cattle for a period of time. Mr. Arnold Andrews was ill and unable to care for them. This suit is 802/86 Brandon Centre.

Situation No.3: A client of the Virden Credit Union had received his discharge in bankruptcy. The Virden Credit Union then attempted to obtain a quarter section of land which had not been secured by a loan at the Virden Credit Union and which had been retained because of The Exemptions Act.

Situation No.4: The Virden Credit Union had given Robert Jago a discharge in bankruptcy. After giving Mr. Jago his discharge in bankruptcy, the Virden Credit Union with the solicitors Thornborough, Johnson, Roy, the firm to which Jacob Janzen is now a partner, served a Statement of Claim on Mr. Jago, which Mr. Jago did not defend as he had his discharge in bankruptcy and had given all his assets to the Virden Credit Union. Consequently, the solicitor for the Virden Credit Union Limited entered a default judgment against Mr. Jago, which would entitle them for an indefinite future to collect in excess of \$350,000 on future earnings, inheritances, royalties, books, et cetera, of Mr. Jago.

Now the limitation period for a complaint, in The Consumer Protection Act C200, the time period stated: "A complaint or information charging any person with an offence under this Act shall be laid within two years from the time the offence was committed." Due to recent court decisions, for example, the litigation between Thomas Smart vs the Canadian Imperial Bank of Commerce—that was a case fought and there was a decision in June of 1989 in which Mr. Smart was given permission to go back more than six years—the bank appealed it, but they withdrew their appeal before the appeal was heard. They withdrew their appeal—I believe the end of December, is my information—which makes this a precedence for any cases which could involve interest overcharge or problems existing at a bank, that you can go back more than five years or more.

I know, I personally had the experience of sitting in a lawyer's office almost six years from the time that I had dealt with the Bank of Commerce and discovering that another gentleman held promissory notes that had been paid out, of my husband's, which had not been marked cancelled, that the bank had sent to this other gentleman. In that situation, without this precedence, I would have been out to lunch had it been a few days later.

Situation No.1: Cliff, Bernice and Lyle Heaman contacted the Ombudsman December 1985 with documentation that had been supplied by the Virden Credit Union to the Manitoba Agricultural Credit Corporation office in Virden by an employee at the Virden Credit Union. The Department of Co-operative Development then requested that the Virden Credit Union give all documentation to the Heamans as per The Credit Union and Caisse Populaire Act.

The documents were not all given, but material documents were withheld, for example, documentation surrounding a chattel mortgage to securing a line of credit for 45 cows which had been registered in the Personal Property Registration Branch as 820211-103903. There will be more on this under the submission on business practices; loan applications, including a consolidated loan application which was approved but not proceeded with December 1984 to March 1985, discharges of mortgages paid out on a mortgage of Lyle Heaman paid out in 1983 and documentation surrounding that mortgage, documentation surrounding a chattel mortgage for the purchase of land by Lyle Heaman, security of 100 cows put up as a guarantee by Clifford Heaman, the loans which had been discharged and paid out in 1983.

These documents were again requested by the lawyer, Brian Langford, in September 1986, by the Farm Debt Review Board consultant January 1987, requested to be supplied during an adjournment of the court June 13, 1988, to June 27, 1988, requested by the Heamans for the Manitoba Mediation Board/Farm Debt Review Board consultant to obtain the documents under the authority of The Family Farm Protection Act January 1989, requested under the Queen's Bench rules to produce document for inspection October 27, 1989. This has meant that if there were a limitation period of two years, we have tried for nearly five years to obtain documents which should have been available during any reasonable hour of any business day under The Credit Union and Caisse Populaire Act.

Situation No.2: Lyle Heaman had a mortgage with Manitoba Agricultural Credit Corporation which was insured, as per the requirements of the Manitoba Agricultural Credit Corporation, with the Empire Life Assurance Company underwriting the insurance. This insurance carried a disability clause. The insurance was activated due to an injury which resulted in a permanent disability to Lyle Heaman.

In March of 1989, even though the payments were the responsibility of the insurance company, the Manitoba Agricultural Credit Corporation applied to the courts with an application for leave to foreclose under The Family Farm Protection Act. Information given to the Manitoba Mediation Board by the Manitoba

* (1025)

Agricultural Credit Corporation admitted that payments had been omitted in the application for leave to foreclose and was contradictory to actual facts and documents of Lyle Heaman, as well as the information of the Manitoba Agricultural Credit Corporation's own documentation.

Some of the documentation shows communications between the law firm representing the Virden Credit Union and the Manitoba Agricultural Credit Corporation in January 1989.

* (1030)

The Manitoba Mediation Board was asked to investigate the discrepancies in the documentation, payments, insurance, et cetera, under the authority that the Manitoba Mediation Board holds under The Manitoba Evidence Act in regard to information and evidence received under The Family Farm Protection Act. A request to produce documents for inspection under the authority of the Queen's Bench rules was filed and served on October 13 and 14, 1989, respectively and served on MACC, its field man and/or insurance agent, Wayne Williams, and the Manitoba Mediation Board and the Minister of Agriculture, for informational purposes.

To date, all parties have refused to comply with the request to produce documents and ignored the requirement that they do so, so that again a limitation period would permit offenses to The Consumer Protection Act to go unpunished because documentation strengthening the proof of violations can be withheld and is being withheld even by the Government agencies themselves, for example, Manitoba Agricultural Credit Corporation.

Situation No.3: A client of the Canadian Imperial Bank of Commerce attempted to obtain documents from the bank to substantiate the overcharge of interest, because his records had been destroyed. He was given recaps by the bank. If his records were destroyed how could the bank claim that he owed X amount of dollars? Here again a time limit on The Consumer Protection Act would bring the protection to an annulity by the bank or financial institution being able to produce documents that were not the actual documents, but recaps.

As computer technology advances and advances and advances, time limitations and the removal of time limitations is going to become more and more important.

Collection Practices. The Consumer Protection Act as it now stands states Section 98, with specific reference to 98 (a)(d)(h)(i)(j)(k)(l)(n); Section 100(1)(2); Section 101(1)(2); Section 110, specifically (2)(3)(1).

Prohibitions - No person, whether on his own or on behalf of another directly or through others shall, with respect to any loan of money to which this Act applies or to any hire purchase or sale of goods or services, or both

- (a) collect or attempt to collect from a debtor, a greater amount than the sum of the amount actually owing by the debtor to the credit

grantor and the amount of fees allowed by any statute or regulation made thereunder; or

- (d) verbally or in writing collect or attempt to collect money or affect or attempt to affect seizure of goods by stating an intention or threat to proceed with any action for which he does not have lawful authority;
- (h) except with the leave of the court, remove any goods claimed under seizure or distress unless the debtor, his spouse, his agent, or an adult having possession and use of the goods with the consent of the debtor is present at the time and is aware of the removal;
- (i) seize or attempt to seize or levy distress against any goods other than those specifically charged or mortgaged or to which lawful claim may be made under any statute or judgment; or
- (j) make a telephone or personal call or attempt to make a telephone or personal call to or on a debtor to demand payment or negotiate for payment or seize or levy distress against goods (1) on a Sunday, or (2) on a holiday, or (3) any other day except between the hours of seven o'clock in the morning and nine o'clock in the evening; or

It is a favourite time for seizures to be made at approximately a quarter after four on a Friday afternoon, just before a long weekend when any lawyers that the person might try to get to say, look boys, this is what you can do, and that is what you can do, the lawyers, they are all away for their long weekend, and it is impossible to get legal help there, like PDQ. That is what they like to do.

- (k) make further demand for payment of an account or seize goods or levy distress if the debtor gives notice by registered mail to the credit grantor, his assignee or collection agent, of a claim for setoff as per attached sheet or counterclaim under this Act or any other statute or regulation or any right of contract, . . . ; or

I realize that the Conservatives do not have a great number of lawyers sitting as their Members. I also realize that there are not a great number of lawyers sitting in the House, so in case the membership is not aware of what setoff is, in a lawsuit usually there is a Statement of Claim filed and served. Then the other party serves a Statement of Defence and a counterclaim and usually a setoff of damages, putting their damages against the other guy's damages, so that in the end it can be all balanced out and determined how much is really owing. A lot of cases, it turns out that there is not anything really owing.

- (l) give, by implication, inference, or statement, directly or indirectly, any false information to any person or agency that may be detrimental to a debtor or his spouse; or
- (n) make telephone calls or personal calls of such a nature or with such frequency as to constitute harassment of any person in an

effect to determine the present whereabouts of a debtor, his spouse, or his family.

I have seen several situations where the people's phone would ring and they would go and answer it—nobody there. Then, after a little while, it would ring again, they go and answer it—nobody there. Then it would ring again, and they would go and answer it and it would be a crank call. Also people have phoned and given other people's names to determine whether a person was at that location, whether he was home, whether he was visiting or whatever.

It is a recognized fact when there are financial problems there is a lot of stress involved with it, that they are not supposed to try and make any contact on Sundays. They are certainly not supposed to follow you around type of thing.

Section 100(1) For the purposes of Clause 98(h) a person may apply to the court for leave to remove goods claimed under seizure or distress in the absence of the debtor, his spouse, or his agent. There is going to be a lot more on that.

Section 101(1) Where a collection agent or a creditor or any other person charges a debtor with any amount that is not rightfully collectable from the debtor by reason of any provision of Section 98, the debtor may (a) if the amount has been paid by the debtor, recover from the creditor an amount equal to three times the amount of the charge as a debt due to the debtor; or (b) if the amount has not been paid or partly paid, set off an amount equal to three times the amount of the charges against the amount rightfully owing to the creditor and, if the amount of the setoff is greater than the amount rightfully owing, recover the excess from the creditor of the debt due to the debtor.

Now, that is in effect awarding triple damages by statute. However, that is very good, but there is always, by the time it gets around to collection and seizure, there are two or three people or maybe four or five working in conjunction on the same person's behalf and you get the situation—I think of the situation as a verse that they said at day care centre where I worked, at child care. Who put the apple at teacher's desk? Who, me? Not me. That is the same situation you get in seizure. Who is responsible for the seizure? Who, me? Not me.

* (1040)

Section 101, Subsection (2): Where a collection agent or a creditor, or any other person, seizes or levies a distress against goods contrary to Section 98, the debtor, or any person claiming an interest in the goods through the debtor may take possession of the goods and recover the cost of taking possession from the collection agent, the creditor or the other person as the case may be.

That is all very well and good. However, if they have come and seized your goods in your absence, how in heck are you going to find where those goods are to take repossession of them? It is just like looking for a needle in a haystack. When they seize your goods in your absence, they do not leave receipts. It is very

possible, and it has happened in several situations, where not all the goods seized reached the destination. Some were lost in transit, or disappeared in transit.

Accounting for Seized Goods or Chattels. Section 110, Subsection (2): Without notice or demand therefore every collection agent shall provide (a) within four days after the goods or chattels have been seized a written notification to the client and to the person from whom the goods were seized listing all goods or chattels seized by the collection agent; and (b) within 30 days after the end of the calendar month in which the goods or chattels are seized pay the client the amount obtained from the sale of any of the goods or chattels so seized and return all unsold goods or chattels to the person entitled to receive them.

Section 110, Subsection (3). Liability for Care of Seized Goods or Chattels: While seized goods or chattels are in the custody of a collection agent, the collection agent shall be liable for loss of, or injury to, goods or chattels caused by his failure to exercise the care and diligence in regard to them that a careful and vigilant owner of similar goods or chattels would exercise in the custody of them in a similar circumstance.

Have any of the committee Members ever seen or witnessed a seizure, an actual seizure? Well, it is not a very nice question to ask, but, as late as four years ago, if anyone had told me what goes on I would have called them a liar. There is no care taken to prevent damage to machinery. There is no care taken to prevent animals from being killed in transit, being trampled. It is almost like a bunch of ravens coming down, I guess, swooping in.

Situation 1: As per Exhibit "A", Lyle Heaman had paid his indebtedness to the Virden Credit Union Limited on June 13, 1986.

As per Exhibit "B", Patrick J. Kelleher, had valued Lyle Heaman's assets, at Don Angus' request, and stated in the correspondence to Mr. Jacob P. Janzen, solicitor for the Virden Credit Union, an intention to realize on Lyle Heaman's assets on August 1, 1986—which was contrary to The Consumer Protection Act 98 (a).

On March 23, 1989, agents and employees of P.J. Kelleher attended the premises of Lyle Heaman and removed or seized 143 head of cattle which included 44 head of cattle belonging to Lyle Heaman. The seizure was started in the absence of any person or member of the Heaman family present; no manifest or receipt was given. Only 109 head of cattle reached the stockyards at Brandon, which meant that 34 head of cattle disappeared in transit, thus putting into effect that which the stated intention of the correspondence of August 1, 1986, showed intention of seizure being contrary to Section 98(a), (h), (i) of The Consumer Protection Act.

A cattle sale was held on April 6, 1989, by Mr. Kelleher. 18 head of cattle were returned to the premises of Lyle Heaman on April 12, 1989, by employees-agents of P.J. Kelleher, resulting in a loss to Lyle Heaman of (a) 30 head of cattle; (b) the offspring from the cows that were

not returned; (c) the cream quota income from the dairy cows and dairy cross cows that were not returned, because a person, P.J. Kelleher, had seized cattle belonging to Lyle Heaman.

A complaint was put into the Consumers Bureau with the answer that the consumers protection bureau could not intervene because it was before the courts.

Now, The Consumer Protection Act is all about collection practices, even though it is before the courts. There is very, very seldom that there are seizures and collection practices unless there is a claim of some kind that has been put before the courts. So the consumers protection bureau was really sloughing things off. When we cannot do anything, they can come in a take your cattle. You do not owe anything, but that is not a big problem with us.

Situation No.2 (same seizure): There were six cows belonging to Colleen Robertson and one cow belonging to Wayne Robertson in the cattle herd being boarded on Lyle Heaman's premises. Although Colleen Robertson presented registration papers—they were registered cattle—before the trucks left the premises, with proof of ownership, these cattle were seized or taken at the same time.

On April 12, 1989, four of Colleen Robertson's cattle were returned, with two head of cattle not being returned and Wayne Robertson's cattle beast not being returned. This resulted in a loss of three head of cattle to the Robertsons, neither person having ever been clients of, or having loans at Virden Credit Union. Again, the answer to the complaint before the consumers protection bureau was, it is before the courts, and we cannot intervene.

Situation No.3 (same seizure): Although there was no order permitting the seizure of the cattle in the absence of any of the Heamans, the cattle seizure was in progress, resulting in no count being taken of the cattle seized, no receipt was given for the cattle taken. There was a shortage of 34 head of cattle reaching the livestock yards at Brandon. Whether they were removed from the premises by the collection agency before the Heamans arrived, or whether they disappeared in transit, has not been determined. A complaint was put in under the seizure of cattle under Section 98(h) by Bernice Heaman and again the answer of The Consumer Protection Act: it is before the courts and we cannot intervene.

If you will remember, I emphasized Section 98(h) which says: No goods may be seized except with leave of the court in the absence of a debtor or any person.

Situation No. 4 (machinery seizure): Took place on Easter Monday, March 27, 1989. Seizure again began when no party representing the Heamans was present within the time limit to file an appeal. During the seizure the employees seriously damaged the cultivator, the 4-wheel drive tractor was started and moved with no oil in the transmission and the machinery was taken and placed at Fraser's auction mart, the seizure contrary to Section (h)(i?) and (j) of The Consumer Protection Act.

* (1050)

Situation No. 5 (seizure): On May 10, 1989, seizure commenced in the absence of any of the Heamans being present, seizure of an A II Gleaner combine belonging to Clifford Heaman. One of the neighbours saw them on the highway. They asked them where they were taking it. They said it had been sold to a combine wrecker. However the order in our situation is for the monies to be placed in a trust-bearing account until the validity of the security documentation is determined. We have not heard what he did with it, what Mr. Kelleher did with it, whether he sold it, whether he gave it away. We do not know what became of the combine.

However there has been no indication from Mr. Kelleher as to whether this is the case or not, and Mr. Kelleher and his lawyer stated under oath that there had been nothing sold except the cattle as of June 8, 1989. Attempted seizure of hydraulic harrows belonging to Lyle Heaman and attempted seizure and substantial damage to the 960 CCIL combine belonging to Lyle Heaman. I realize of course that a lot of the Members are farmers or have a knowledge of the farm situation, maybe have a background, even if some of them do happen to be in the city. I also realize that in similar circumstances they would be very upset to have their business damaged. To have a combine damaged is a major catastrophe on a farm.

This damage meant that Lyle Heaman was without the use of his combine during the 1989 harvest season and was videotaped so that there is proof of damage. There were also two trucks owned and registered to Lyle Heaman, one including a 350 gallon water tank used to haul water to Lyle Heaman's premises, again although Lyle Heaman had proof of registration at the time of seizure, and this seizure meaning that the premises of Lyle Heaman has been without safe drinking water and household water since the 10th of May, 1989.

Without the use of two of his trucks, water truck and farm repair truck, and being without water at Lyle Heaman's premises, without safe water. We have some water wells there that if a person was an enemy, you could get rid of them, because they will kill a person, they told us, in half an hour to an hour, the levels of some of the toxic substances in the water wells is so high. As the Speaker indicated, I am from the Virden area. There is a lot of sulphur in the waters in the Virden area.

Situation No. 6 (mobile home seizure): On January 4 and 5, 1990, there was a seizure of a mobile home, 12 foot by 60 foot Bowes model, from a lot located in Elkhorn, Manitoba. This mobile home belonged to Bernice Heaman, myself, and had been secured by a term deposit. The term deposit securing the mobile home had been seized, even though the loan was not in arrears, in September 1985 at the time of the collapse of the Canadian Commercial Bank.

There was a stove and fridge belonging to Shelley Heaman, Lyle's wife, drapes and other items such as a used washer. There was also a porch and fuel tank. The mobile home was hooked to the town's sewage system and a water well. The seizure was discovered after it was completed by Lyle Heaman and Wayne Robertson. There was no member or person of the Heaman family present at the time of seizure. It is not

Tuesday, January 30, 1990

known where the mobile home was taken, nor is it known whether or not the mobile home was sold, given away or the amount obtained for the mobile home if it has been sold. Again this seizure is contrary to Sections (a), (d), (h) and (i) of The Consumer Protection Act. When its location is not known the debtor cannot enforce the section or his protection under Section 101(2) This is also contrary to Section 110(2) and (3) of The Consumer Protection Act.

Situation 7 (seizure): A client of the Credit Union had her machinery and vehicles seized in her absence, the seizure beginning upon her departure to Winnipeg on legal business, the legal business happening to be for settling her husband's estate—something about the will on her husband's estate.

Situation 8 (seizure): Grenville Bates had his cattle seized from the premises of Robert Andrews, even though Mr. Bates' cattle were not the security of the Virden Credit Union. Mr. Bates had his cattle at Robert Andrews' leased to Arnold Andrews, and Arnold Andrews taking ill, and the cattle being put in Robert Andrews' care, so that is almost similar to you lend a car to a friend and somebody comes along and seizes it.

Situation 8 (seizure): On December 1, 1989, Mr. Curtis (Wayne) Small working for a collection agency employed by Manitoba Agricultural Credit Corporation attempted to seize cattle that he had seen on the premises of Lyle Heaman, which cattle were actually the property of Lyle's uncle, and Lyle's loan is the obligation of the Manitoba Agricultural Credit Corporation's insurance company, the Empire Life Assurance Company, following Lyle's injury and permanent disability activating the disability insurance clause of the insurance coverage required by the Manitoba Agricultural Credit Corporation. Mr. Small having 'inspected' the cattle on behalf of Manitoba Agricultural Credit Corporation on October 2, 1989 under the ruse of 'hunting'.

Accounting and Liability, Sections 110(2) and (3) of The Consumer Protection Act state that (a) within four days after the goods or chattels have been seized a written notification to the client and to the person from whom the goods were seized listing all goods or chattels seized by the collection agent; and Section 110(1) without notice or demand therefor, every collection agent shall account to the client for all moneys collected by him within 30 days after the end of the calendar month in which the moneys are collected.

Situation: Since the Order of March 23, 1989, was for Patrick J. Kelleher to seize the assets of Cliff and Bernice Heaman, which were secured at the Virden Credit Union—this is what the Order said: and not in their absence—and place the monies received from the sale of any assets, in a trust account until the final determination of the lawsuit.

There again maybe I had better explain a little bit about how Orders get made. The judge, he stands up there and he says, this is what I Order. Then sometime following that, the lawyer for one party or the other types up an Order, supposedly of what the judge said, but a lot of the times, the Order does not match what

the judge says. If he can get away with it, fine. If he does not, if somebody stands up to him, well, you are just griping, but a lot of the time it does not say what the judge really ruled in court. An Order is what the lawyer types up, not necessarily what the judge says.

—and place the monies received from the sale . . . including the validity of all security documentation including land/mortgage security, the Heamans have a right to know (a) the locations of their assets; (b) the amount received for the sale of all assets sold; (c) the rate of interest being obtained; and (d) the location of the trust account in which the monies are being held. However, Mr. Kelleher has stated under oath (a) that he does not feel that The Consumer Protection Act 'applies' to him and (b) that he will give an accounting but that "he does not believe an accounting at this time would be of little value."

Now, I doubt very much if there is any Member on this committee who would feel at ease knowing the money from his assets which could be his at the end of a lawsuit, not knowing what is being received for them, not knowing what interest rate is being received, not knowing where the bank account is, whether it is in Manitoba or whether it is over in Italy.

* (1100)

The document such as the correspondence Exhibit "B" to this submission show that Mr. Kelleher, although acting 'under the authority and guise of an officer of the court,' is in reality acting as an employee and/or agent of the Virden Credit Union. Exhibits "C" and "D" to this submission are: (a) a page out of an affidavit of Patrick J. Kelleher which states that Mr. Kelleher feels that he is beyond the law, The Consumer Protection Act; and (b) a page out of an affidavit of Patrick J. Kelleher in regard to the providing of accountings as required by any person who (a) collects or attempts to collect money owing to others, or (b) is used by others to levy distress or seize goods.

The protection offered by The Consumer Protection Act is only authentic protection if: (a) The Consumer Protection Act is enforced; (b) violations to The Consumer Protection Act are prosecuted; and (c) and heavy fines—very heavy fines—are available for those in authority who fail to abide by The Consumer Protection Act or enforce the legislation.

It can be made stronger by expanding the definitions of a collection agent to remove the loopholes of: (a) an officer of the court; (b) a credit union. It can be made stronger by removing the clause which states that "a person may apply to the court for permission to seize in the absence of any person having possession or control." Section 100(1) to read 98 (h): "No person shall remove any goods claimed under seizure or distress unless the debtor, his spouse, his agent or an adult having possession and use of the goods with the consent of the debtor is present at the time and is aware of the removal."

The submission was prepared by myself. As I indicated before, I have done a lot of work with various people, when the wolf gets to their door, trying to help them find an avenue, trying to help them find a lawyer

Tuesday, January 30, 1990

to go and talk to, trying to help them keep going, I guess. Are there any questions that you would like to ask on the consumer protection one?

Mr. Chairman: Thank you, Mrs. Heaman, for your presentation. Do the Members have any questions—Mr. Taylor.

Mr. Harold Taylor (Wolseley): Thank you very much, Mr. Chairperson. It sounds, Mrs. Heaman, that you have been through quite a trial here.

Mrs. Heaman: Well, as I indicated, not only—

Mr. Chairman: Mrs. Heaman, I would like to indicate to you that I would like to recognize the speaker before so that Hansard can pick it up. Mrs. Heaman, please.

Mrs. Heaman: I beg your pardon. I realize that it seems from the presentation that only I have been through a very difficult time, but as the situations that I also referred to and, as I said, that they involve documents of people that I cannot give out names or specific financial institutions, specific branches, because of the confidentiality that I must keep their names confidential so that there is no danger of further retaliation.

Mr. Taylor: Mr. Chairperson, this unfortunate situation that developed for yourself and your family and some of the other people that you had business dealing with, was the situation where you had this confrontation with the Virden Credit Union considered a very exceptional case in your district? Were there other cases which you were aware of, of similar things taking place, of a credit union going back after the fact that there had been a settlement and taking this type of action?

Mrs. Heaman: There are many, many cases. I would say in the neighbourhood of 20 to 30 that I have talked to, examined their documents. When I get into the submission on business practices, I believe you will probably see a little bit more reason why.

Mr. Taylor: These 20 to 30 cases that you mentioned, Mrs. Heaman, were they all in recent years? In other words, not going back 10 or 15 years but in, say, all within the last year to 5 years and was there quite a similar nature to your own experience or were there other circumstances that were quite different from yours?

Mrs. Heaman: The majority of them are in the last eight years, however, they do date back. The earliest one that I have researched was a situation that became a court case in 1973, where two gentlemen had guaranteed a promissory note for a third gentleman. The third gentleman had paid off the promissory note. The credit union then tried to collect the total amount of the promissory note from both gentlemen that had guaranteed it, and the gentleman that it had been for, and that had been paid.

Mr. Taylor: Have you heard through friends or family, agricultural organizations, whatever, of cases like this of any financial institution carrying out similar activities in other parts of Manitoba?

Mrs. Heaman: I gave several situations in my submission. They were not all from the Virden Credit Union. Some of them ranged to the north, some of them ranged to the south.

Mr. Taylor: The role of the Manitoba Agricultural Credit Corporation seems to be in real question here as well. This is the first time I have heard of them having an involvement of quite this nature. Is that something that you were surprised at when you saw the role that they played in your problems here?

Mrs. Heaman: Not under these circumstances. Lyle's disability is not apparent to the naked eye. I was not really surprised, given the circumstances. Computer crime is what often happens, and I am not saying that this is what has happened, but computer crime is what often happens when accounts are created, loans are created, and with the age of the computer there is nobody's name behind the transaction. If there is a withdrawal, there is nobody's name behind a withdrawal. There is nobody's name to say who put the money in. If the insurance company paid in \$25,000 and only \$10,000 showed up, there is nobody's name to say who, on a computer transaction, it is just punching numbers.

Mr. Taylor: You are not attributing this litany of unusual circumstances though entirely to the computerization of lending institutions and Government institutions, and mistakes within that are you?

Mrs. Heaman: I am not attributing entirely. I am saying that there is a very strong possibility of this type of thing going on that are not all mistakes. There again, when I get into business practices there will be more on that. MACC is not the only financial institution that I have heard of with difficulties in the insurances, with trying to collect, even though the insurance should have paid.

* (1110)

Mr. Taylor: There are a number of people that you reference in your document here that you submitted this morning. People who are officers of the institutions involved, people who are involved on the side performing as agents, employees of those agents. To the best of your knowledge—and I mean quite accurately now, not on hearsay but on evidence, for example, newspaper reports, things that you have seen in local courts or things like that—have any of these people had a record of problems with the law in the way that they have conducted themselves previously?

Mrs. Heaman: Indirectly—and I cannot say that it is complete with the law, however. Mr. Kelleher was the business consultant for Bill Moore under the MacKenzie Seed, who was one of the parties charged under the MacKenzie Seed fraud trials. As a business consultant and an accountant, I think it would be very strange that Mr. Kelleher would not know about Mr. Moore's businesses, about his business activities. There again, when I get into the submission to The Business Practices Act, I will be referring to other things that might almost

sound unbelievable. But I have the documentation to show what I am saying.

Mr. Taylor: Mrs. Heaman, you have certainly displayed a propensity to dig into an issue and research it thoroughly, and get the proper assistance, and, I also must say, a perseverance in proceeding through the civil court system although it would appear that many of your initiatives, if not most of them, have been thwarted. Can you tell me why you never considered—or did you consider and were not aware of—recourse to the criminal system and bring in the RCMP and lay complaints of various types of theft on these different occasions?

Mrs. Heaman: I will let him answer this.

Mr. Lyle Heaman (Private Citizen): Right now the entire police force in Virден, the entire RCMP police force is under investigation from Ottawa, from the public's complaint commission down there, because they did nothing to prevent the theft of my cattle. They did nothing to prevent the theft of my trucks. It was a theft. When I sit back and listen to Mom, I think it may have come across a little bit confusing.

In Mom and Dad's situation—I am totally separate. I am a legally separate businessman. I live on one side of the road; they live on the other. It is no different really than if your father lives 200 miles from here and you live here.

When they came into my yard and took my trucks, I went to the RCMP right there and then, and I produced my registrations. The RCMP said they would not do anything about it; that is civil, you have to go through civil process, which is a bunch of garbage. I then laid complaints with the public police complaints commission in Ottawa. I also laid complaints to the Consumer Protection in here. Consumer Protection, they do not prosecute, that is the answer I got. They say they do not prosecute; you have to prosecute. As far as I am concerned, the Government has these agencies, they make these laws, they have these agencies to enforce these laws. If they are not going to enforce these laws, they might as well not have the laws at all. They might as well close this whole building up and they might as well all go home.

When I took it into court—there is also a complaint against the judge in Brandon. We are taking steps right now to have all the legal suits move into Winnipeg. The judge in Brandon said that if I would show them my bill of sale that he would have them bring my trucks back because registration is not proof of ownership. That is a bunch of garbage. I can show it to you, I have it right in the court transcript where he stated that. That is a bunch of garbage. If you go in to register a vehicle you have to have something to prove that you own that vehicle before you can ever register it. Registration is proof of ownership.

The Consumer Protection Bureau, as far as I am concerned at this point, I mean they have no problem, there is a lot more covered besides just a farm situation or a business situation in that Act. They have no problem if somebody is coming around and putting siding on

old people's houses and charges them three times what they should be, they have no problem doing something about that, but as soon as it gets to be somebody who is an accountant or a lawyer or a bank—oh, we do not want to get into that. That is a little too messy for us, we will just brush that off. That is the exact attitude that the Consumer Protection department takes.

My wife is an accountant. She has one course left of her fifth level CGA to get her designation. She has gone over these documents. There is no way the stuff that is going on there should be allowed to go on. The credit union itself—the manager of the credit union himself has admitted under oath, he has admitted it himself, that he changed their documents after they were signed so that he could have security on a larger volume of assets. He has admitted that but nobody wants to do anything about it. Nobody in the Government wants to put their hands in there because it might get a little bit too messy. Nobody wants to do anything about it.

I think for The Consumer Protection Act or any Act to be effective there has to be enforcement of it and there has to be a situation where the Ministers who are in charge of those Acts are responsible. Right now you can sue a Minister if you have to, if he does not do his job, but it is very hard to do. They try to make sure it never gets through to them. They put you to deal with this assistant or that assistant. I have had documents into Connery for over two months and I cannot get through to Connery. I have to go to Ron Arnst or somebody just at the Cabinet office to make sure that my documents even get to him. I have tried to phone in.

An Honourable Member: We have the same problem.

Mr. Heaman: I can appreciate where probably anybody would. There are steps being taken in the criminal court system, but it is a slow process when you get a situation like that with the RCMP. It is not only the Virден RCMP. There is another situation at Ste. Rose where the RCMP actually assisted in seizing hay and they assisted in seizing grain. Last Friday they assisted in seizing grain while the people were in here and the master ordered that they could not do it. So when they got out there they had already done it.

That is the kind of stuff that Consumer Protection should be stepping in. It is an RCMP problem too which has nothing to do with consumer protection but the consumer protection itself should be stepping in there and prosecuting that. That is a violation. That is an illegal seizure. If they are not going to prosecute it they might as well not have that part in the Acts.

Mr. Taylor: Mr. Heaman, your question had mentioned about a problem with the judge and his interpretation of the law and that you are trying to move the cases into Winnipeg, I assume to try and get a fairer trial by a change of venue. Who was that judge and has he had any investigations commence?

* (1120)

Mr. Heaman: Mr. Miller is the judge. Mr. Oliphant is the resident judge out there.

Tuesday, January 30, 1990

Mr. Taylor: Could you repeat the name of the judge, please?

Mr. Heaman: Mr. Miller—Clive Miller. Mr. Oliphant is the resident judge. He disallowed himself from sitting on the case though. Mr. Miller, he spends quite a bit of the time out there. He is actually the other main judge out there. If they are busy the odd time they have another judge go from Winnipeg or something like this.

The experience that we have had in there—he admitted the last time I was in court that he had a meeting in the backroom with the two lawyers from Manitoba Agricultural Credit Corporation. They came walking out of his office, he came walking out of there, sat down and he made an order in a contested court without me having a chance for any representation at all. That was just sent to the judicial council just the other day. There is no way that can be done. That is exactly the same thing as what happened here at ticket fixing only it is a lot more serious.

It is one thing for me to have a lawyer and you to have a lawyer and both our lawyers to go and sit down and have a meeting with the judge. There is nothing wrong with that, because you are represented and I am represented. If you and me have a court date today at ten o'clock there is no way that your lawyer or my lawyer should go by himself to that judge and sit down and hash out what the order is going to be and then can walk into the courtroom and that is the order. That is in the transcripts.

Mr. Taylor: You anticipated me, Mr. Heaman, in the sense that you said this Judge Clive Miller incident has now just gone before the judicial review council. That was going to be my question.

The other question I have for the moment here is on the RCMP detachment at Virden. You did attempt to lay a criminal complaint against—

Mr. Heaman: We have made several attempts.

Mr. Taylor: —right, several attempts against what you suggest are unfair seizures. At that time did you display to the police in any way, or was it displayed in any other fashion that you are aware of to the police such as by the agents doing the seizures, what they had an order to seize as compared to what was existing stock or existing equipment, or whatever it might be on the farm, and compare the two and see the discrepancy?

Mr. Heaman: Yes, I did. There have been several complaints made to the police commission. I made a complaint when the cattle were seized and then I made a complaint again when the trucks were seized. At the time that the trucks were seized they also hooked onto my main combine and they were all ready to take it away. There was one of the officers out there who was the second guy in command, and he managed to convince the head guy that they should not be doing that. You could not tell the head guy nothing, but he managed to convince him that they should leave it there.

I could not use it this fall because of damage that occurred to it. They bent it up—(interjection)—pardon?

An Honourable Member: What was that?

Mr. Heaman: My combine. I do not know whether you know anything about farming, but it would be almost the same thing as if you were a storekeeper and somebody came in and broke your freezers in half or something like that. It is a high cost. It is \$10,000 to me and that is a lot of money to me. I cannot—I need about \$2,000 to fix it and I did not have the money to do that this fall.

Most of the things with the RCMP date back—it is not just recently. We went in when this all started three, four years ago, and we did not get any satisfaction at Virden. We went to the Brandon City Police. They felt that there was fraud there. They set up a meeting with a Crown attorney by the name of Ed Sloane. Ed Sloane looked over everything and he thought that there was a possibility of fraud, so he sent a letter to the Virden RCMP asking them to bring in their commercial crime division out of Winnipeg. That was never done. That never got past the Virden RCMP.

Virden is a fairly small town, it is not like in Winnipeg here. There are a couple of the—well at that time—what were the higher up officers that are very good friends of Don Yanks (phonetic). Don Yanks, at that time, was a magistrate in the juvenile division of the courts. This is the head man that said that he changed these documents after they were signed. It is a lot more tighter knit community, legal community, than what you find in a larger centre.

We have tried since that time to get something done. The last time we were in to see the RCMP, we were told by their one corporal if we made any more complaints on their actions that we would never bring that commercial truck. They would see to it they did not get in, and that was told to us by Randy Daly.

Mr. Taylor: I wonder if the delegation could repeat that last statement, please.

Mr. Heaman: We were told by Randy Daly that if we made any more complaints against the actions of their department, that they would never bring in the commercial truck.

Mr. Taylor: Mr. Chairperson, we have a rather unusual situation here to say the least in something that may not be just limited to this one case or this one location, given the comments that have been coming out by Mrs. Heaman and her son, Lyle Heaman.

There seems to be problems at the police level if even a half of what is said here is corroborated. There seems to be some sort of a problem with the judicial system locally. The Consumers Bureau has shown to be not one that can work at least in this context. With the Consumer Minister not available, my question to the delegation is, has an attempt been made by yourselves directly or your solicitors to bring this to the attention of the Attorney General who is also from Brandon.

Mr. Heaman: Yes, there has been documentation sent to Mr. McCrae. Ron Arnst was suppose to get in touch

with him yesterday or today and get back to me whether they have been doing anything. It is not fair for me to say that they have not done anything, because I do not know. As is the case in a lot of investigations of that nature, you probably would not know until there was something already done. You would not know about it till you read it in the papers I do not imagine.

Mr. Taylor: Mr. Heaman, have you been able to brief then the assistants, the AG's assistants. At what stage is it at and when did this aspect start?

Mr. Heaman: We have put information into Mr. McCrae's assistants for some time. First would be probably right after they came into Government, but the latest packages that we have sent to Mr. McCrae have been through Ron Arnst in Brandon and he has assured me they are getting directly to him now. Ron Arnst I believe is making sure they are getting directly to him.

I think the biggest part of the trouble has been for a lot of the stuff that is going on, if you told me that was going on I would have an awful hard time believing it. I would not want to believe that. I think it has taken a tremendous amount to convince them exactly what is going on.

Ron Arnst I think now is very, very concerned. I think the turning point for him was when I took the transcript in for the judge a couple of weeks ago and I showed him where the judge admitted to having a meeting in the back room. Then he sat down and had a hard look at all the documentation. If you came to me and told me that this was going on in the paper industry in Winnipeg, I would not believe that unless you showed me and you would have to show me awful direct proof to convince me. I can understand from the other side of the table. It is the same, I am sure, to this whole committee. We can sit here and tell you what we know, but there is a lot of it that maybe does not make sense sitting on the other side of the table. We have lived it. It is easy for us to make points and not make it clear without realizing that is the case.

* (1130)

Mr. Taylor: It seems really an unbelievable story, I have to admit, Mr. Heaman.

Mr. Heaman: We have documents.

Mr. Taylor: Incredulity is my reaction to this whole thing being a reality in Manitoba.

Mrs. Heaman: Can I speak for a moment, Mr. Taylor?

Mr. Taylor: Yes, please go ahead, Mrs. Heaman.

Mrs. Heaman: The thing is, as I indicated before in my submission, not being able to produce the documents of the people. I have investigated their documents and gone over them to see what was going on in their situations as well. Not being able to produce those documents because of confidentiality reasons also deters the situation from being resolved and able

to be brought out. Not everybody has the ability to go into court, and go through the court files.

Mr. Heaman: The allegations we have made, we have the documents to prove. When I say it is in a court transcript, it is in a court transcript. When I say they have admitted to it, they have admitted to it. The documents are there to prove it.

I guess that kind of puts you in perspective the way we look at things now. I have a brother-in-law there. There is no way he would go to the RCMP with anything; no way. There is no way he would come forward with anything. If he saw somebody run you down on the road, he would not come forward with it because of the way the legal system and the Government seems to work from out there. I do not think I would if it was not my own situation.

Mr. Chairman: I would at this time like to interrupt the committee meeting and ask the committee for your guidance in this. We have a few people here that want to make presentation to Bill No. 63.

Mr. Taylor: Please could we hold this until the end of this delegation?

Mr. Chairman: Yes, just wait a minute. Are we as a committee going to hear their presentation on Bill No. 64 right after? Okay. Then I would like to ask you—I think the morning will be taken by this presentation. For the members here who would like to make presentation to 63, that they are aware of this. If they would like to identify themselves, I would like to suggest that they be the first on the list for the next meeting.

I am trying to be fair with the presenters that are in the audience here today. With the co-operation of the committee, I would wish that you would identify yourself to the legislative Clerk, and you will be put on the list as numbers 1, and 2 and 3.

An Honourable Member: Is there not already a list that we will follow after outside ones?

Mr. Chairman: I think for the next meeting. I think some of the presenters have been sitting through numerous meetings and are waiting to make their presentation. In fairness to them, I think this is a procedure that we should follow with the agreement of the committee. Agreed? Would you like to identify yourself?

Floor Answer: Clark, CKY Television.

Mr. Chairman: Anybody else? Peter Gustavson. Very good. The Clerk has made note of that. You will, in this order, follow the next committee meeting if you are going to be here at this time.- (interjection)- That is the order for today. In fairness to the Members that are sitting in the audience today, I feel this is the procedure that we should follow for next time if that is possible.

An Honourable Member: That is appreciated. Do we know when that next meeting is?

Tuesday, January 30, 1990

Mr. Chairman: I am sorry, it is the co-operation of all three House Leaders that will decide the date and that. You will be notified. Mr. Maloway.

Mr. Jim Maloway (Elmwood): Mr. Chairman, I think that of the three presenters, we should let Mrs. Lamontagne be first when we next meet. In fairness, she has been here all of our meetings from the first minute.

Mr. Chairman: Is that okay with the other two gentlemen?

Mr. Ken Clark (CKY Television): I have no difficulty with that. We also have been here for the previous evening meeting. I guess the difficulty is, these are obviously important matters and need the attention of the committee. The difficulty is the sitting and waiting two or three hours while another very important presenter makes their case.

Mr. Chairman: Very good. Mr. Patterson.

Mr. Patterson: Thank you, Mr. Chairman. I am just going to say if we take them in the order that they are here, Mrs. Lamontagne, Mr. Clark and—

Mr. Chairman: Mr. Patterson, every committee meeting has a different order, as they were formed and put their names on here. This is the order that they were for today. I am just stating that if we could get them in an orderly fashion for next committee meeting, then—

Mr. Patterson: I am fully aware of that, Mr. Chairman. I am just saying the three that are here that are going to come back, if they be taken in the order of precedence that now exists within this list.

Mr. Chairman: Is that the will of the committee? Agreed. Mrs. Lamontagne is No. 1, Mr. Clark, No. 2 and Mr. Gustavson, No. 3. That is the order that will be followed the next committee meeting.

Thank you very much. I am sorry for the delays and for the times that you have been here before and have not been able to make your presentation.

Mrs. Heaman, you may carry on, Bill No. 63. Did you have anything more to say? Mr. Taylor, you have a question.

Mr. Taylor: Yes, I do. I would like to pick up on something, Mr. Chairperson, that Mr. Lyle Heaman mentioned that he has been conveying facts in this situation to our Attorney General through his Brandon Assistant, Mr. Ron Arnst since just after the new Government was elected. Is that correct?

Mr. Heaman: No, that is not quite correct. We have been conveying to the Attorney General since shortly after he was elected, but through his assistants in here. The office and Ron Arnst out there, they did not get in there until middle of last summer. Ron Arnst actually is a kind of go-between for Mr. McCrae, Mr. Findlay, Mr. Connery and Mr. Downey. It is like a regional office that the four of them kind of work through.

Mr. Taylor: I appreciate that clarification, but in any case, the senior Justice Officer of the province has known about this for at least a year and a half. Is that correct?

Mr. Heaman: Yes, some of the other Ministers, the Agriculture Minister (Mr. Findlay) and Jim Downey have known since it pretty well started. A lot of this is in Mr. Downey's constituency. We are just out of Mr. Downey's constituency. We are in Mr. Findlay's constituency. There is a Virden Credit Union, Melita Credit Union and Reston Credit Union are all together. A lot of these problems fall within Mr. Downey's constituency, a lot of the people that are involved in that credit union. Just by chance that happens to be where that credit union is. We had a meeting with Mr. Downey in December 1985. A lot has gone under the bridge since then.

Mr. Taylor: I just wanted to clarify that last point. Since the change of administration in April-May 1988, the new Government has not been in the know on it. On top of that, one of the local Ministers that would be involved in this, Mr. Downey from Arthur, has been aware of this since 1985. Is that what you are saying?

* (1140)

Mr. Heaman: Yes, he has been to several meetings, actually, not just with ourselves but with a group of three or four people that are having similar problems with that credit union. He has attended our farm houses, or my apartment, at one time for meetings.

We also came into the Party Whip—who is that in the Conservatives?—we also came into Driedger, just before the NDP Government went down and Driedger thought that it looked like there was fraud there, but once they came into power there was nothing—nothing came of it.

Mr. Taylor: Mr. Chairperson, to pick up on that comment from the delegation is nothing came of this matter after the Conservatives assumed power, notwithstanding at least two senior Cabinet Ministers were in the know. Do you feel you have had any satisfaction to date on this thing?

Mr. Heaman: No, I do not.

Mr. Taylor: Mr. Chairperson, this is a rather complex, convoluted story that goes back a number of years. Could Mr. Heaman or Mrs. Heaman tell us whether they had any contact with the previous administration and, if so, in what way and with what results?

Mr. Heaman: I think Mom could answer that better. It was them that had most of the meetings with the NDP Government when they were in power.

Mrs. Heaman: I had meetings with Mr. Pawley's assistant, a Jeff Parr. I had meetings with Greg Lacombe, who was, at that time, the Deputy Minister of Agriculture; Mr. Harapiak, himself. I believe Mr. Harapiak, himself, was just starting to get his feet wet when he lost out.

I believe it was a shame that he was one of the Members that did not make it back in. We had a meeting with Mr. Uruski. I was present in the committee meetings just before The Family Farm Protection Act was passed, and if you had told me then that I should have been giving a submission and researching it then I would have told you you were crazy as a bedbug.

I should not have been apathetic to the situation that was going on around me, I should have been taking more notice. When I heard rumours of what was going on I should have paid more attention to it. I am at the same fault that many citizens and many people are at, that they allow a situation like this to increase by not checking into it and saying, hey, this has got to stop—because it was not happening to me.

Mr. Taylor: Mr. Chairperson, to Mrs. Heaman: so you did have some contacts with the previous administration at a senior level, the Premier's Office, Deputy Minister of Agriculture, two of the Cabinet Ministers. What sort of satisfaction did you get, or how far did you get into the issue?

Mrs. Heaman: As Lyle indicated, there has been an awful lot of information come out since then. However, he mentioned Jim Downey having meetings with us since December of 1985. Glen Findlay has had full knowledge of what is going on since November of 1986 and we have tried, consistently, farmers in his riding, farmers in his constituency, farmers in other constituencies to meet with him and to get some of this brought out before the Manitoba Mediation Board, which as I mentioned has a power and a duty under The Family Farm Protection Act to look into all factors. Because it makes a big difference if a bank or a financial institution is ripping a person off, whether you are a farmer or whether you are a businessman or whether you are in trouble.

Mr. Heaman: Maybe I could just clarify what Mom is trying to get at right there. When Mom and Dad started having the financial problems they are having, in the spring of that year the credit union lent them money to buy an additional quarter section of land, they owned only approximately 50 percent of their net worth. At that time they were considered to be some of the better customers in the credit union.

In the fall when they decided to call on Dad's loans, Mom and Dad had their payments all made up, they were not behind in payments, but the credit union itself, when we went to their annual meeting in that spring, we found that the credit union itself that year had lost three hundred and some thousand dollars. They had—what?

Mrs. Heaman: \$350,000 general reserve.

Mr. Heaman: \$350,000 general reserves left between three branches. In other words, they were just about broke themselves. As far as I am concerned, the reason that those loans were called is because the credit union was pretty well under itself; it needed the money to keep going.

Well, I took them to my bank—I deal with a different bank—to look at trying to buy out some of Dad's land.

My banker told them that he was not interested at the time but to come back in the spring. At that time, that was right when all this debt legislation, like farm debt review and all this was just on the verge of coming in. He said to come back in the spring after they knew exactly what was going to be in that legislation and he also told him that his biggest problem was he had not borrowed enough money, they could still get their money out of him, if he had borrowed more money, he would be okay.

Mr. Chairman: Mr. Taylor, no more questions?

Mr. Taylor: I just have one or two, Mr. Chairperson. You mentioned, there are two things I want to get into, but the first one I want to get in is this thing. You made mention of the fact that our now Agricultural Minister, the local Member, Mr. Findlay, was made aware of numbers of similar problems that other local farmers were encountering. Did I hear you understand that was just conveyed to him or where there actual meetings held, or what is the way that this message got across?

Mr. Heaman: It was conveyed to him at different functions that he was at, there has been papers sent to him, there have been phone calls made, but he will not have a meeting, he will not sit down and meet with people.

Mrs. Heaman: He has not met with us since the election.

Mr. Heaman: No, he will not sit down and have a meeting.

Mr. Taylor: Mr. Chairperson, the point made some time back by Mr. Heaman that the Virden Credit Union Manager, under oath, admitted that he had changed documents after the fact to change the appearance I guess, the financial appearance of his lending institution, possibly for his board, possibly for the Government watchdogs.

Do you think that much of what you have encountered in this situation and other people that are in the rural areas and running into very severe financial problems because of drought and other things and then have lending institutions jump in in a fashion that would appear to be not only unethical but probably illegal and possibly criminal? Do you think it has anything to do with lending institutions, like credit unions in particular, having overextended themselves, having lent beyond their capability and having not been able to maintain reserves?

I understand that your forte is not as a financial planner or a financial advisor. I am asking you as a layperson who has used credit unions over the years, and your family has, to give me an impression, and that is what I am asking.

* (1150)

Mr. Heaman: Yes, I think that is a pretty fair impression. To go a little bit further into that, we had—or one of the loans officers of the credit union during court

Tuesday, January 30, 1990

proceedings put an affidavit into court, included the net worth statement as supposedly what they are supposed to be holding for security. That is not what they hold for security.

It is no different, if you go to buy a car today and you own your house, and maybe you have \$50,000 of RSPs in the bank, that is all listed under your net worth statement. If you buy that car and you only put that car up for security, you put your down payment down of a quarter or half, whatever you put down, and that car is the security for that loan, all that financial institution actually holds is that loan.

I believe if that particular credit union there was looked into, most of their money on paper is the result of just exactly that, of taking, instead of the actual \$10,000 for security they got there, the \$75,000 security that is shown on that statement. Honest to God, I believe that, especially in light of him putting that into the court as supposedly what they held for security. That is just an opinion.

Mr. Maloway: Mr. Chairman, to Mr. Heaman, you made reference, or your mother made reference, in the presentation to one Robertson, who lost some of his cows in the seizure procedures. I thought that rustling was illegal and did not occur much any more in our current environment. Are you suggesting that in fact the credit union has assumed the role of a rustler?

Mr. Heaman: I am afraid that I have to almost say so. There is another very interesting situation out there with Mr. Kelleher and a credit union. It shows in the court documents going back over the last 10 years; this is not just our case; this is the cases they are involved in. There are different places where that credit union has had to sue Mr. Kelleher because he did not do his job right and yet they turn around and they keep hiring him. They will hire him and then they will sue him. They will hire him and then they will sue him. It is right there, where they have done that four different times, where they have hired him and then they have sued him.

If you hired me to do something today and you were not happy with what I did, would you hire me again two years down the road to do the same thing? I kind of doubt it.

Mr. Maloway: To Mr. Heaman, in following up on some of the questions that the Member for Wolseley (Mr. Taylor) asked, in fact a couple of them, one of was almost an exact question, but in any event he did a very good job in asking questions. I applaud him for that. What I would like to know from you, in your opinion, I would like to know what the following people knew, when they knew it, and what they did about it. The first one I am interested in is Ed Connery, the Minister of Consumer and Corporate Affairs. What did he know, when did he know it, and what did he do about it?

Mr. Heaman: Actually, I should maybe let Mom address this, because the only dealing I have had personally with Mr. Connery is I have personally made sure that there have been documents sent to his office, addressed

to him. I cannot swear that those documents got through his aids, but Mom, I believe, has had personal contact with him.

Mrs. Heaman: That is not quite correct either, because the closest I have got to him are phone calls to his assistants. He has known about it since he became the Minister in charge of the Department of Co-op, Development and Consumer Protection. They were delivered papers the day that they were taking over that office.

Mr. Maloway: What did he do about the situation?

Mrs. Heaman: As far as I know, at the present time, absolutely nothing.

Mr. Maloway: To Mrs. Heaman, could we follow the same formula here for Mr. McCrae, the Attorney General?

Mr. Chairman: Who is going to respond?

Mr. Heaman: I think, to be fair, the documents have been sent to Mr. McCrae. I have spoken personally with Mr. McCrae over the phone to try to get meetings and stuff. He told me, put each complaint separate in writing and forward to his office, and then somebody from the office would deal with it. I have done that.

To date, as far as I know, nothing has been done, but it is as I said before, with Mr. McCrae's office it is conceivable that he might be doing something without me knowing about it, or you knowing about it, or anybody knowing about it, except for the people who are involved in that investigation, and probably that is the way it maybe should be. You know it is almost like, if he has asked the police to look into this, or asked something, the police should not tell you or me until they have done their investigation. It could jeopardize such investigation.

I do not think it would be fair—as far as we know nothing has gone on, but I do not think it is fair to come right out and say that Mr. McCrae has done anything, because I do not know that for sure.

Mr. Maloway: Mr. Heaman, when did he know about the situation, like what month or what year did you inform him?

Mr. Heaman: It would be shortly after, right after he came into office, he should have known.

Mr. Maloway: To Mr. Heaman. Albert Driedger was another name mentioned, who is a current Minister in the Government. What did he know? When did he know it, and what has he done about it?

Mr. Heaman: We had one meeting with Albert Driedger just before the NDP Government went down. He looked over the documents, and he figured that what was there was not right and there was possibly fraud. He was going to go to talk to, was it Jay Cowan, was he in charge of the Consumer—there were a couple of guys he was going to go talk to anyways, the Ministers, to

Tuesday, January 30, 1990

try to get something done. If he could not get something done, he was going to bring it out in the House. Before that came about—like that was just a day or two days before the Government—yes, that was just a day before the Government went down. I do not know who he talked to.

Mr. Maloway: To Mr. Heaman. I understand that you had some conversations or some dealings with Mr. Glen Findlay, the current Agriculture Minister. Could you tell me what he knew, when he knew it, and what did he do about it?

Mr. Heaman: My dealings with Mr. Findlay, I have delivered papers to his office, including the lawsuit that I have against MACC. I have a lawsuit against MACC for my insurance.

I have three discs in my back that are ruptured outwards; they are actually collapsed. It prevents me from doing any amount of heavy work at all. Some days I am just fine, the next day I might have to use my walking stick to get around. It is that type of an injury. The insurance policy that MACC had, it kicked in and it made some payments. Some of those payments—I have the slip showing the payments being made, but they do not show up on MACC's ledgers. My dealings with Mr. Findlay have mostly been involved with that, although there have been packages of documents in regard to the Credit Union Centre, Mr. Findlay.

Once again though, I do not know whether they get through or not. Jason Hodson, the last day we were in there, he guaranteed that they were going to get through to Mr. Findlay. I think Mom has had more direct dealing with that.

Mrs. Heaman: Mr. Findlay has known about it since November of 1986. We have tried, as I indicated before, to get a meeting with Mr. Findlay, not only on the Credit Union problem but on the problems that MACC are giving to various farmers as well as now Lyle. We have not been successful in obtaining a direct meeting with Mr. Findlay since the day of the election.

* (1200)

Mr. Chairman: Any more questions, Mr. Maloway?

Mr. Maloway: Mr. Downey—my final question—what did he know about the situation and when did he know it?

Mrs. Heaman: Mr. Downey knew about the beginnings of the situation in December of 1985. However, as Lyle has indicated, there has been a lot of information coming out since then.

Mr. Heaman: Jim Downey tried to make some meetings and stuff for us. He tried to get meetings set up with Mr. Findlay and Mr. McCrae, different things like that, but there was never any success.

Mrs. Heaman: There has been a lot of information coming out since then. Mr. Downey has been present

at some of the meetings with some of the farmers in his constituency. There again, I am not at liberty to give the names of the farmers. He has been at meetings and looked over discrepancies that I found in their papers and the problems that I found in their papers, including the one farmer. I do not think I am giving out confidentiality, but he discovered that he had an extra bank account that he did not know about. When he would make a payment on something, he would put the money in here and they would take it out of this bank account sometimes, and sometimes they would take it out of this one, whichever one they wanted to. He did not know he had two bank accounts; but he did.

Mr. Maloway: Mr. Chairman, a final question to Mrs. Heaman. Are there any other current Conservative Cabinet Ministers that were involved in this situation with you over the last two years?

Mrs. Heaman: Gary Filmon's own office has been contacted and taken papers to show what is going on, but he sometimes seems kind of useless.

Mr. Heaman: It almost seems with the Government—it is almost like a little kid that tells a lie and then he has got to tell another lie to cover that one up. It almost seems like, to start with, they either do not believe you or do not think it is too serious, and they just kind of slough it off. It has got to a point, I think now, where they just keep trying to slough it off so it does not come out.

It has gotten to where if they had done something about it when they should have done something about it, they could have handled the situation properly. Once they just turn their blind eye to it to start with, I think they are in a position where they do not have any choice but to keep doing it from their own personal standpoint.

Mrs. Heaman: About Mr. Findlay too—I do know of other farmers in his constituency, and not only involved with the credit union, but who have gone to him about their problems with their particular financial institution. One of the farmers—and there again, I am giving out confidentiality—has mortgaged, carries a small business bond. The farmer did not have a small business bond.

Mr. Maloway: I think, Mr. Chairman, I will defer to my colleague.

Mr. Parker Burrell (Swan River): Mr. Chairman, I would be very interested in hearing the other presentation. I really should, at this time, be glowing like Mr. Maloway and doing a little witch hunt on the NDP Cabinet Ministers that these people were involved with - (interjection)- Yes, that was before.

Anyway, I heard Premier Pawley mentioned; I heard Bill Uruski mentioned, but I am not going to get into that. I would be very interested to hear what these people have to say on The Business Practices Act. Maybe we can look to the future a little bit and see if there is some way we can help to sort of clean up their problems.

I think if it is the will of the committee, we should get on with it. They only have half an hour to give us their presentation on The Unfair Business Practices Act.

Mrs. Heaman: Fortunately this one is shorter.

Mr. Heaman: There is some stuff I think kind of overlaps.

Mr. Burrell: Well, maybe this would give us a little insight on how you think we can correct some of these problems.

Mr. Harry Harapiak (The Pas): I just wanted to ask one question, and that was about the executive council office in Brandon which Mr. Ron Arnst was occupying. Do you feel that he was any assistance to you at all seeing this is a provincial executive office for the Government? Was Mr. Arnst any assistance to you at all in resolving the issue?

Mr. Heaman: I think he has been lately. It took quite a bit of convincing actually to get him to sit and listen, but once he started to realize what is going on I think he has been trying to do something. It was he who dug up—we did not know where to send the complaints on the Queen's Bench judges, it was he who dug all that information and stuff up for us and recommended that is what we do. He has also sat down with us a couple times and taken a portion—the file itself is like that, I mean, nobody can sit and go through the whole thing and understand it.

He has sat down a couple of times and taken portions of the complaint—something that he can understand, maybe 10 pages or 15 pages—and he sent them in to Mr. McCrae now and I believe he contacted Mr. Connery last week. I think he is trying to do something. Once again though he is a Minister's assistant, it is actually the Minister who has to do something.

Mr. Harapiak: I would just like to ask Mr. Connery how does he see this office. Is it strictly a centre to control the political office or is it meant as a working office?

Mr. Chairman: The questions are to be addressed to the presenters and that is what we are reviewing at the present time.

Mr. Patterson: I too think we should be getting on to Bill 64. There is just one short question I would like to ask to Mrs. Heaman and her son. As a result of all this, what situation are you in presently? Have you lost everything, your livestock, your equipment, your house and land? Just what are you left now?

Mr. Heaman: I have a section and a quarter of land of which three-quarter sections are in no danger. One-half section is tied up with MACC. I have 120 sows. Dad works for me. My brother-in-law works for me. I have a full line of machinery. My combine is damaged and I have two trucks that are still in seizure. I could get my trucks back if I just showed my bill of sale, but I am not going to give them that easy a way out. As

far as I am concerned, there should something a lot more done than just that.

Mom and Dad live in my house on the farm. They have a quarter section of land left and they have outstanding suits on the remainder of the land. The main suit that all of this has come about on was started in 1986. It has sat and done absolutely nothing for two years. They sued Mom and Dad. As soon as it came out in the suit—they never actually came out in the courtroom with Mr. Angus admitting he changed documents, that came out in cross examination which is before a court reporter, not before a judge but it is still sworn oath—as soon as that came out and as soon as the loans officer they dealt with admitted that the one document the credit union was trying to lie on was not supposed to be there, it was supposed to not have been released. They let that suit sit and have done absolutely nothing with it. That is actually the suit that all these seizures are taking place on, it is a stale suit.

The land was tied up in that suit. As soon as their lawyer, as soon as the loans officer from the credit union admitted that those documents were not to be there, he went downstairs. He put in for foreclosure through Mediation Board, and that is another animal all in itself right there, Mediation Board. He put in for foreclosure and they held a mortgage sale and then they sold the land, but they did not go through the proper channels. It requires, under the foreclosure, it requires that they are served with what is called a final order for foreclosure. It gives them an opportunity to come forth in court and say, wait a minute, there is this suit outstanding and that land is tied up in the suit. So what is going to become of that, I do not know.

My Dad, right now, is in a position where he has to sue his own brother because his own brother bought some of the land. I think that was a deliberate part of the credit union to try to keep Dad from suing him for it.

Mrs. Heaman: But under the Criminal Code, as well, when there is litigation chosen as an action against an interest in land, it is an offence under the Criminal Code to knowingly buy land or knowingly sell land that is in litigation.

Mr. Heaman: You see, with the lawsuit that is there and the nature of what they have done with the documents, when that suit is eventually litigated there is a very good possibility that Mom and Dad will not owe the credit union anything and the credit union will owe them money. The credit union has not litigated the suit, they have let it sit. If you sue somebody, you are supposed to litigate. If I sue you, I have an obligation to litigate it, not to leave it sit there for a year and a half, two years.

* (1210)

Mr. Minenko: I just have one short question. You had mentioned that—or one of the witnesses has mentioned that Mr. Downey had been attending a number of meetings out in his constituency with farmers and so on. I was just wondering if you could tell me what the purpose of those meetings were.

Tuesday, January 30, 1990

Mr. Heaman: It was to try to get a meeting set up with Mr. Findlay, with Mr. McCrae, to get something done. Mr. Downey—we are not in his constituency so our own case is sort of a situation where he has to step on a fellow MLA's toes, but the credit union and a lot of the other people are in his constituency.

We know that Mr. Downey did try to set up meetings with Mr. McCrae and Mr. Findlay. There are copies of letters that we have that he sent to them to try to set those meetings up, but they would not have a meeting as such. Mr. Findlay just out and out refused. Mr. McCrae was—put each complaint in writing and sent it in, which as far as I am concerned, it is very difficult to do. It is like I explained about trying to tell it to somebody. If I am sitting here and he is sitting there, I go over the documents with him and he has a question about it, he can ask me and I can say, well, no that is wrong, you have the wrong idea or, yes, that is right. To send it in on paper is awfully difficult to do, but that is the only way that we can get anything to him so that is what we are trying to do.

Mr. Minenko: The whole purpose behind those meetings Mr. Downey had over the last year and a half, or two years, was simply to listen to the concerns that various people brought to him, and him saying, well, listen, let me try to set up some meetings with some people in Cabinet.

Mr. Heaman: I do not believe—most of the meetings took place before the election of the Conservative Government, but most of them—I think there was only one since, was there not?

Mrs. Heaman: Yes.

Mr. Heaman: There has only been the one meeting since they actually came into power. Most of them took place when they were the Opposition—

Mrs. Heaman: That was a constituent of Mr. Downey's. The man had contacted him and I contacted Mr. Downey on the man's behalf as well.

Mr. Minenko: So most of these meetings about contacting various officials would have been between Downey and the farmers, and contacting the NDP Ministers.

Mr. Heaman: No.

Mr. Minenko: Before the election.

Mr. Heaman: What they were trying to do before the election was, like, we were trying to get a meeting with the ones before the election. We were trying to get a meeting with Mr. Findlay and himself and Mr. McCrae so that they could go and do something. It involves several areas and several departments. Mr. McCrae at that time was not the critic as such for the Attorney General, but he is not very far from the area. He is actually—the three MLAs for that area, that is the three.

Mr. Chairman: Do you have a question, Mr. Minenko? No more questions?

Mr. Heaman: We are not trying to shoot down any particular political Party. The NDP—Mr. Harapiak sat down and had a meeting with us not very long before the Government went down. I think if he had a chance, something could have come of that, but it went down right afterward. Myself, I have always actually been a Conservative. I do not know if I will be ever again, but that is beside the point. It is just that the man who is in power should be doing something about these situations no matter who they are, no matter what Party they are.

Mr. Chairman: Thank you very much. No more questions on Bill No. 63? Very good. I should first of all ask the will of the committee. Is it that we go into Bill No. 64?

Mrs. Heaman, I would like to indicate to you that we will be cutting it off sharp at 12:30. That is the time limit you have.

Mrs. Heaman: Okay. As I said before, fortunately this one is not quite as long, but I think it has got more meat in it.

Mr. Chairman: I would wish—Mrs. Heaman, I will indicate to you, if you intend to read all of this, you will have no time for questions.

Mrs. Heaman: I will not; I will just point points out.

Mr. Chairman: Okay, very good. Mrs. Heaman—Mr. Maloway.

Mr. Maloway: Mr. Chairman, on a point of order. I wonder whether the presenter would be interested in coming back at a future meeting and having an adequate amount of time to make her presentation. In other words, if you cannot come back, then make it now; but if you can come back, then I would like to give you an opportunity to use as much time as you wish to get a full explanation as opposed to rushing it to try to get it all in a 15-minute period. So if it is no problem with you coming back, I think we should hear you.

Mr. Heaman: We have no problem coming back. I will make the time to talk to people if they will listen to what is going on. I think it should be at some other time though than the other people who are here. I think that would be unfair to them not to get their opportunity. I have no problem with that.

Mr. Chairman: Okay. Is it the will of the committee then that we would defer hearing the Heamans on Bill No. 64 until a later date? I would wish, also with consent of the committee, that we would do it in such a time that we would not have 10 people waiting at the same time for their presentation. I think it needs quite a bit of time; committee Members want quite a bit of time on this issue. So—Mr. Kozak. Mr. Minenko.

Mr. Minenko: Mr. Chairman, if I could maybe offer a suggestion. Looking at the last few hearings, I think we have maximum heard four people at a thing. I think

Tuesday, January 30, 1990

that as we are going along, there are obviously things that are coming up. I am just wondering whether yourself and the Clerk's Office could maybe possibly make arrangements and advise people that there will be groups of four people, say, making presentations, so we do not have an unduly large number of people waiting for the presentations.

Mr. Connery: Well, you are going under the assumption that they will all be long presentations, and some of them—let us face it, if we schedule a meeting for eight o'clock and there is four presenters and they all take five minutes, then we do not want to have a committee coming back for 20 minutes. I mean this would be rather ridiculous. So if the Clerk's Office wanted to see how long the presentations would be and then an adequate question time, I think that would at least allow us to put in a full hearing.

Mr. Chairman: So then I am under the impression then that our next meeting will be called for Bill No. 63. We have got other—we indicated to them that the next meeting—63, pardon me.

An Honourable Member: 83 is the next one.

An Honourable Member: We want to go to 83 next because that was the agreement, to allow those presenters. We will meet tonight on 83. We will meet tomorrow morning on 63 and tomorrow night on 64.

Mr. Chairman: Did we not agree that these people who were here to present to Bill No. 63, on 63—

An Honourable Member: When we call 63.

Mr. Chairman: All right.

An Honourable Member: You called 83 next and then 63.

Mr. Chairman: That is right.

Mr. Heaman: Could I just say something in fairness to the committee's Clerk? When they contacted us, they did tell us there were quite a few people on the list today; it is not as if they did not tell us quite a few people were on the list. We told them we would come in anyway and hopefully—we did not realize that it would be that time consuming. We were also very

concerned, we did not realize, we thought there maybe would be only three meetings, that is why we were so insistent on coming in today. They did tell us that there were quite a few on the list; it is not as though they did not tell us that.

Mr. Chairman: Very good. All right. So then, just to clarify for the committee, the next meeting will be on Bill No. 83 and then following the people in their order will be called on Bill No. 63. When we have Bill No. 64, we will contact the Heamans and notify them for their time as well. Is that the will of the committee? Agreed. Okay.

Mrs. Heaman: Thank you very much.

Mr. Chairman: Committee rise.

COMMITTEE ROSE AT: 12:18 p.m.

PRESENTATIONS SUBMITTED BUT NOT READ

Written presentation of Rick Wieler

Standing Committee on Law Amendments
Bill No. 63 - Consumer Protection Act

I would like to first off thank the committee for allowing me to address some issues of concern regarding Bill 63.

As an operator-manager of a fitness centre, I feel better consumer protection will benefit our industry.

We would like to see a trust fund provision added to this Bill regarding consumers option for full prepayment or earlier payment of installment commitments.

At times, 35 percent to 50 percent of our customers prefer to not have payment obligations added to their already full budgets. We can eliminate accounting and collection costs, in turn saving these customers carrying and finance charges.

The utilization of these funds would have to follow Section 125(2) procedure and would give our customers the satisfaction of knowing their funds are protected.

Yours truly,

(Signed)
Rick Wieler
Operator/Manager
Arizona Fitness