



First Session - Thirty-Seventh Legislature  
of the  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
on  
**Law Amendments**

*Chairperson*  
*Mr. Doug Martindale*  
*Constituency of Burrows*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
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ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FILMON, Gary	Tuxedo	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren	Lac du Bonnet	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
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SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
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STEFANSON, Eric	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Wednesday, June 7, 2000**

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Doug Martindale  
(Burrows)**

**VICE-CHAIRPERSON – Mr. Jim Rondeau  
(Assiniboia)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Mr. Lemieux, Hon. Ms. Wowchuk

Ms. Asper, Messrs. Loewen, Martindale,  
Penner (Emerson), Penner (Steinbach),  
Rondeau, Smith, Mrs. Smith, Mr. Struthers.

**APPEARING:**

Hon. Jon Gerrard, MLA for River Heights

**MATTERS UNDER DISCUSSION:**

Bill 11–The Winnipeg Stock Exchange  
Restructuring and Consequential Amend-  
ments Act

Bill 20–The Farm Machinery and  
Equipment Amendment Act

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**Mr. Chairperson:** Good evening. Will the Standing Committee on Law Amendments please come to order. This evening, the Committee will be considering the following bills: Bill 11, The Winnipeg Stock Exchange Restructuring and Consequential Amendments Act; and Bill 20, The Farm Machinery and Equipment Amendment Act.

Members of the Standing Committee, the Government House Leader (Mr. Mackintosh) and the Official Opposition House Leader (Mr. Laurendeau) were advised by letter dated June 5, 2000, by the Clerk of the Legislative Assembly

that staff from Information Services may be in attendance in order to videotape some footage of this meeting for the purposes of *A day in the life of the House* video. As you will notice, Information Services are in attendance to videotape parts of this committee meeting.

Did the committee wish to indicate how late it is willing to sit this evening?

**Mr. Jack Penner (Emerson):** Mr. Chairman, normally in a process such as this, we have heard the presenters. We are here to consider the Bill, and once the consideration of the Bill is done, then the two of us will defeat it and then we can go on with life again.

In all sincerity, Mr. Chairman, I would hope that we could finalize the dealings of this bill and then adjourn.

**Mr. Chairperson:** Is that agreed? *[interjection]* Yes, there are two bills.

Is it agreed that we consider both bills clause by clause tonight? *[Agreed]*

There are no presenters registered to make public presentations on either of the bills this evening. Are there any other persons in attendance who wish to make a presentation? Seeing none, is it the will of the committee to proceed with detailed clause-by-clause consideration of Bills 11 and 20, and, if so, in which order do you wish to proceed? *[interjection]* I hear a willingness to begin with Bill 11.

**Bill 11–The Winnipeg Stock Exchange  
Restructuring and Consequential  
Amendments Act**

**Mr. Chairperson:** Will the Minister come to the table. Does the Minister responsible for Bill 11 have an opening statement?

**Hon. Ron Lemieux (Minister of Consumer and Corporate Affairs):** I am very pleased to have the opportunity to speak again about Bill 11, The Winnipeg Stock Exchange Restructuring and Consequential Amendments Act. This legislation will enable the Winnipeg Stock Exchange to implement its merger with the Canadian Venture Exchange, CDNX.

The stock exchanges across Canada were restructured in 1999 with each exchange focusing its operation on specific markets. The Toronto Stock Exchange now lists senior companies. The Montreal Exchange deals in options and futures, and the Vancouver and Alberta Exchanges merged to form the Canadian Venture Exchange with CDNX.

CDNX lists emerging companies and venture capital companies. The existing Winnipeg Stock Exchange Act does not contemplate the winding up of the Exchange or the divestiture of assets or operations. As a result, this bill repeals The Winnipeg Stock Exchange Act and will allow the Winnipeg Stock Exchange to continue as a private corporation under The Corporations Act, so that the Stock Exchange can be wound down and transfer its assets to the CDNX.

Then the amendments in the Bill to The Income Tax Act will allow Manitoba equity tax credit currently given to purchasers of share in Manitoba companies listed exclusively on the Winnipeg Stock Exchange to extend to shares listed on the exchange operating in Manitoba. CDNX will be establishing a regional office in Winnipeg. The Board of Governors and members of the Winnipeg Stock Exchange have requested this legislation.

I look forward to the swift passage of this bill so that the merger of the Winnipeg Stock Exchange with the Canadian Venture Exchange can be implemented. This merger will benefit Manitobans and companies in this province. Manitoba investors will have increased liquidity in their shares in Manitoba corporations, and the Manitoba companies will have a national market for their securities. Thank you.

**Mr. Chairperson:** We thank the Minister of Consumer and Corporate Affairs. Does the critic

from the Official Opposition have an opening statement?

**Mr. Jim Penner (Steinbach):** Mr. Chairman, back in March 1999, the briefing notes of then Honourable Minister for Consumer and Corporate Affairs, Shirley Render, indicated that a merger of all the stock exchanges was in the works. The four major stock exchanges—Toronto, Montreal, Alberta and Vancouver—after a lengthy series of meetings had announced their intention to specialize and merge for the purpose of forming a national stock exchange. I think we call that CDNX now.

A business plan was made to merge the Winnipeg Stock Exchange with this group as well, and the terms of the invitation offered to the Winnipeg Stock Exchange remain clear. The caucus of the government at that time had no objection to this merger. Access for people wishing to achieve recognition from this stock exchange in a new IPO, I understand, will not be diminished. People will still be able to market their companies or refinance their companies through the stock exchange, so we see no reason to delay this and we wish to pass this.

**Mr. Chairperson:** We thank the official opposition critic. During the consideration of a bill, the preamble and title are postponed until all other clauses have been considered in their proper order. If there is agreement from the Committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1(1) and 1(2)—pass. Clauses 2, 3 and 4.

**Mr. John Loewen (Fort Whyte):** I just have one question of the Minister regarding the Manitoba tax equity fund. I am not sure if it is an appropriate time to ask now?

**Mr. Chairperson:** Yes, you can ask now.

**Mr. Loewen:** I would ask the Minister: The Manitoba tax equity fund, I believe, is what it is called actually was a result of a task force set up

by economic development in Winnipeg a couple of years ago. The reason for the setting up for that fund, the logic behind it, was to make sure that companies that operated primarily in Manitoba had more access to capital to help them grow. I was not quite sure from your opening statement whether there will be a change to that, whether as a result of the amalgamation of these exchanges that the credits that are available for the Manitoba Tax Equity Fund will still be directed to businesses that primarily do business in Manitoba or will it be expanded to allow investment in businesses that are say headquartered in Alberta?

**Mr. Lemieux:** This particular tax credit was just to Manitoba companies doing business in Manitoba. It is certainly going to continue, and that was an important point in this. Actually, your own members should be congratulated for this, too, because I think everyone recognizes the importance of doing this, and certainly it is based on Manitoba companies.

\* (19:10)

**Mr. Chairperson:** Clauses 2, 3 and 4—pass; clauses 5, 6 and 7—pass; preamble—pass; title—pass. The Bill be reported. That concludes Bill 11.

### **Bill 20—The Farm Machinery and Equipment Amendment Act**

**Mr. Chairperson:** We will call the Minister of Agriculture to the table. Does the Minister responsible for Bill 20 have an opening statement?

**Hon. Rosann Wowchuk (Minister of Agriculture and Food):** Yes, Mr. Chairman. Just briefly, I want to go over the Bill and indicate that this bill contains a number of amendments to The Farm Machinery and Equipment Act. These amendments prohibit a vendor of farm machinery and equipment from terminating a dealership agreement without cause or without a court determination of whether the vendor has cause to terminate.

It also sets out a list of circumstances that constitute cause to terminate and a list of circumstances that do not constitute cause and

allows additions to each list by regulation. It also provides that a dealer may apply to court for relief if the dealer believes that his or her dealership agreement has been terminated without cause. It also requires a vendor to treat similarly situated dealers uniformly and prohibit a vendor from discriminating against a dealer who sells or services the product of another vendor. This bill also allows for financial leasing of farm machinery and equipment by financial institutes and financial leasing corporations to farmers and makes the statutory words provisions of the Act applicable to such machinery and equipment.

Mr. Chairman, I want to say that we have listened to the presenters and the information that they have put forward. We have also had lengthy discussions with the Manitoba Farm Machinery Board who are in support of the Bill, but as a result of the presentations, I will be bringing forward a few amendments.

**Mr. Chairperson:** We thank the Minister of Agriculture. Does the critic from the Official Opposition have an opening statement?

**Mr. Jack Penner (Emerson):** I do have a brief statement to make. First of all, I want to congratulate the Minister for recognizing the need to make some legislative changes in regard to the protection of the industry as a whole, namely, the dealer network, as well as, recognizing the need to ensure that our manufacturing industry in this province, as other provinces have, need the assurance that they will have a dealer network to work with without being restricted.

For that reason, our caucus indicated a number of months ago that we would be bringing forward a bill that would indeed do that. What we had intended to do was mirror the Bill that had been put forward in Saskatchewan, because we had taken a look at that bill and we discussed with the dealer association as well as numerous manufacturers that that bill was in fact something that they could all live with. Not all of them were in total support of the Bill, but it was a bill that they could live with and work with. We thought that, if we would mirror that, we would, in fact, present a position that would in essence relegate all of western Canada

under same law. When we saw the Minister's bill being presented, we recognized that there was significant difference. I was wondering whether the Minister might have wanted to marry the two bills under which Saskatchewan law operates, and using parts of the Bill to integrate into one. I am one of those people that always respects a person that says the less law we have the better off we are going to be, the less red tape we have, the better off we are going to be. Yet, when we started looking at the Bill, when we started discussing it with the industry, it became apparent that it would relegate the short-line manufacturers relatively to the same position as the mainline manufacturers.

For that reason, we thought that the Bill might in fact become an impediment instead of doing what the Minister intended to do. I am glad that the Minister has recognized that and is indicating now that she is willing to listen to amendments because we have, as a caucus, discussed this bill, and determined what amendments needed to be made in consultations with the industry. We have had significant discussion with the industry. We have letters on file, an additional 10 letters further to the presentations that were made here the other day, indicating their support for the position that we are going to bring forward in amendments to the Bill today.

With that, I would welcome the start of the discussion on the Bill, indicating clearly to the Minister that it is our intent to put forward some amendments which we truly think will relegate this bill a really workable bill. It is really an effort, I think, by our caucus to demonstrate to this government that we are willing to work together for the betterment of the whole industry. When the Government listens to our amendments, they will recognize the relevance of the proposals that we are making.

**Mr. Chairperson:** We thank the official opposition critic. During the consideration of the Bill, the preamble and the title are postponed until all other clauses have been considered in their proper order. If there is an agreement from the Committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses, for members who may have

comments, questions, or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2(1)—pass; clauses 2(2) and (3)—pass. Shall clauses 4 and 5 pass?

**Mr. Jack Penner:** We have an amendment in clause 5. The amendment proposes, basically, to identify clearly a mainline vendor and the definition that this bill speaks to.

We propose

THAT the section 16.1, as set out in section 5 of the Bill, be amended

(a) By renumbering it as subsection 16.1 (2) and adding "with a mainline vendor" at the end of the part before clause (a); and

(b) by adding the following as subsection 16.1 (1).

Further, we speak to the definition "mainline vendor defined" 16.1(1). In this section, the section 16.2 to 16.1(1) "mainline vendor" means a vendor who

(a) manufactures or distributes new combines, new tractors, with engine capacity of 100 horsepower or more;

(b) is a member of a related group of vendors

(i) at least one member of which manufactures or distributes new combines, and

(ii) at least one member which manufactures or distributes new tractors with engine capacities of 100 horsepower or more.

For this purpose two vendors are related if one is controlled by the other or they are controlled by the same person or group of persons.

**Mr. Chairperson:** Thank you, Mr. Penner. Just before we proceed, yours is an amendment to clause 5, is that correct? I would like to see if there is agreement to pass clause 4, and then we will deal with clause 5.

Clause 4—pass.

Now we are dealing with Mr. Penner, Emerson's amendment to clause 5.

***Motion presented.***

\* (19:20)

**Mr. Chairperson:** I am advised that the amendment is in order. Would you like to speak to your amendment?

**Mr. Jack Penner:** Mr. Chairman, we have heard extensively from the industry. We heard all the presentations here the other day, and it was clear to us in the presentations made that the Bill presented as written was simply an unworkable piece of legislation for the short-line manufacturers, many of whom are resident within this city of Winnipeg, and many of whom operate within small communities in rural Manitoba, providing a very significant employment base in all those communities. We think we need to give ear to those people because they are the industry. They know how they need to be able to operate and what laws need to be put in place in order for them to make it amenable to exist in this province. Similarly, we have discussed the issues that the short-line manufacturers raised in committee here the other day with the dealer network. The dealer network has given its approval to the amended version of the act that we are putting forward here today.

We would hope that the Government would recognize our sincerity in dealing with this bill and the sincerity in which the industry presented its case here the other day. Truly, this is simply an attempt to help the Government put forward a bill that will be a workable bill over the long term.

**Ms. Wowchuk:** Mr. Chairman, it appears that the Member is bringing forward an amendment that would exempt some shortliners who are very large and, in actual fact, operate, although they may not fall under the term of a mainliner—play a very significant part in the businesses of dealers whom this legislation is being proposed to protect. So I would ask the Member why it is that he thinks that people who pay a large part in

the agriculture industry should be exempt from this legislation.

**Mr. Jack Penner:** First of all, maybe I should ask the Minister for her definition of "large." When I look at any of the manufacturers that operate within this province, be they the former tractor manufacturing firm that was here, or be they swather manufacturers, or indeed auger manufacturers, or much of the equipment that is being manufactured by given companies in this province—when I look at the relevance of their capacity for manufacture in the general scheme of things within the machinery manufacturing industry. I would suggest that most of them are relatively small. I can name some of them. If you look at the John Deeres of the world, if you look at the Case IHs of the world and the New Hollands of the world and many other European manufacturers, surely one would have to recognize the relative insignificance in that sort of scheme of things.

Therefore I would strongly suggest that the Minister recognize the importance of the employment that these people create. Most of these, quite frankly, are family operations that have grown. That is, of course, what we as a government want to encourage, do we not? We want to encourage family farms. Even though family farms at times expand beyond our wildest dreams, they are, after all, still family entities. Whether it is the Buhlers of the world or the MacDons of the world, they are family entities. They have demonstrated a capacity of competitiveness and a capacity to cause economic development in this province which all of us, I think, enjoy, especially the people that work in these plants.

I think it behooves us as legislators to encourage that kind of growth, especially when it comes from within. I say to the Minister, before we want to start delineating success and put a relativity on that success, we should really, really strongly consider it. That is why we put this amendment forward the way it is worded, that it recognizes the industry for what it is and that we need those small manufacturers and the equipment that they provide to the general farm community, even though they distribute Canada-wide and some internationally, and recognize the importance of the efforts of those families that

have built the industries. That is why this bill is drafted the way it is. It differentiates from the huge multinationals to the local industry. It differentiates that.

**Ms. Wowchuk:** Mr. Chairman, I would not want the Member to give the impression that I do not recognize the value of family business and industry in this province, but he used the term some of the manufacturers are "relatively small." I guess I would have to say that some are relatively large as well, because he himself indicated that some of them distribute right across Canada, some of them distribute internationally. The goal of this bill is to provide dealer purity, to ensure that dealers can continue to provide service and a line of service to our farming community. I would ask him again why he would want to separate between those that are relatively small and those that are relatively large when we are here to bring a bill forward that would ensure dealer purity.

**Mr. Jack Penner:** Mr. Chairman, I am not sure what I should add that would lend any more to the debate than I already have. I hope that the Minister can differentiate between a multinational corporate body that has its tentacles enshrined all over the world from a relatively small large operation in Manitoba, that has not got even a close competitive capacity comparatively. The amount of money that some of these corporations take in in one day would probably almost equal the amount that these "large" corporations in this province take in in a year.

So when you asked me to define relativity, I think that spells it out. I do not know whether I can be any more clear than that. I would hope that we do not, by legislation, force those industries to reconsider the growth pattern that they have been in and maybe expansions that they have been considering to meet the market demands of their product simply because they build good products. They are efficient. They are good producers. They are good manufacturers. Their products are known, and if we can expand that and export it into, be it Australia or anywhere else, I think we should encourage them for all we are worth. I think our legislation should spell that out very clearly.

**Ms. Wowchuk:** I listened to the Member's explanation. I have to say to the Member that shortline manufacturers can make up a major part of a dealer's line, and that can have significant impact on the dealers and on the farmers. The purpose of this legislation is to provide dealer purity, and that is why I have to speak against the Member's motion. We had many discussions with the Manitoba Farm Machinery Board who said that what they want is a bill that will bring fairness and equity to dealers and to farmers in Manitoba, and want all manufacturers treated the same way. So taking into consideration the recommendations that we have had and the intent of the bill, which is to provide dealer purity, I would say that I cannot support the Member's amendment.

**Mr. John Loewen (Fort Whyte):** I must say that I am extremely disappointed to hear the Minister's position on this amendment. We sat through committee the other day and heard a number of local manufacturers, businesses that are some family businesses—in all cases, not all the presenters, but a number of the presenters—businesses that have head offices in Manitoba that are Manitoba companies. They explained very clearly to this committee that this type of delineation was not made. It is the same type of delineation that Saskatchewan has chosen to make, that this piece of legislation would make it more difficult for them to do business in Manitoba than prior to this.

\* (19:30)

Certainly there is an issue of dealer purity, and that is why the Agriculture critic has raised this issue. Certainly there has also got to be consideration given to companies that, in particular, are headquartered in Manitoba. I just remind the Minister that one of the problems that we have faced for a number of years in Manitoba is the fact that we are suffering from a shrinkage and a loss over the years of head offices. When we look at our economy, anybody in business will tell you that what you want in terms of a business is not the branch plant. What you want is the head office. It is the head office that spends the money. It is the head office that creates the jobs. It is the head office that creates the careers that people want to aspire to. I find it very difficult to sit here and listen to this



minister talk about dealer purity without at the same time recognizing the tremendous contribution that head office operations such as the ones that have made representations to this committee, the tremendous contributions they make to the welfare of Manitobans, to the economy of Manitobans and the spinoffs that result from these organizations.

I cannot imagine what people who are running these businesses must be thinking when they have a government that is so out of tune with the realities, economic realities of the real world that they are putting roadblocks in the way of Manitoba companies. We sat in room 254 and listened to the Finance Minister talk in his Estimates committee about the need for more jobs in Manitoba. His concern in his area, they are spending \$8.5 million on software from a U.S. company with a U.S. headquarter that does not have an operation in Manitoba. Yet here we are today looking at putting into effect legislation that is going to hamper the ability of Manitoba home-grown companies to grow their business across the world. I find it incredible that this government has not considered that in dealing with this legislation. I mean, we can drive all the head offices away. Our problem is not going to be that. Our problem is going to be attracting more head offices, growing more business in Manitoba, and I would plead with the Minister to not put into place legislation.

We have been told directly by presenters to this committee that it is going to impede their ability to grow their business. It is the type of business, it is diversification of the economy, it creates spinoffs in Manitoba. I will give a primary example of bus manufacturing. When we looked 10 years ago, bus manufacturing in this province was nearly dead. Look what that industry has done to this province. We have head offices here.

We need to be doing the same thing with the farm equipment suppliers. We have fairly large companies, and we have small companies, but they all need to be encouraged to grow as fast as they can and create the type of economic advantage that we need to encourage in Manitoba. So I would really hope that the Minister would reconsider her position on this statement and listen to the manufacturers, who

made representations to this committee, on the needs they will have to grow their business.

**Ms. Wowchuk:** Mr. Chairman, when I listen to the Member making his comments, he is saying that this legislation is going to impede or stop people from doing business in Manitoba. I would tell him there is no clause in here that is going to prevent them from doing business in Manitoba. I know his party was proposing to bring forward similar legislation that would result in dealer purity. But what is being proposed right now is you are advocating for a law that will treat people that are outside of Manitoba in a different way than you would treat people in business inside of Manitoba.

We have met with the Farm Machinery Board, we have listened to the presentations, we are bringing forward some amendments, but the recommendation of the Farm Machinery Board is that we have fairness and equity and that all manufacturers be treated the same. That is what this legislation does. It does not prevent anybody from doing business in Manitoba, and I believe that under this legislation business will grow in Manitoba.

**Mr. Jack Penner:** Mr. Chairman, maybe just one more time. When I grew up in this province, I grew up on a very small farm. It was always my desire to one day own a farm that was as big as my neighbour, and my neighbour was one of the largest farmers in the area. He farmed a half section of land. Maybe if I told you my age, I would date myself and that would tell you how far back that goes. But then, after I got married and started farming on my own, I started on 80 acres, which I borrowed the money for. I had worked in the bush and I had worked in the city here for four years. I saved enough money to put a down payment on 80 acres of land, but I could not support a family on 80 acres. So I did everything in my power, including working nights in town at an oil-crushing plant and taking that money and providing for my family, taking the money that I got off my farm to grow my farm.

My desire was always, later on in life, when my family started growing up, to one day have a farm as big as my next-door neighbour did. At that time, which was about 15 years later, that farm had grown to 1000 acres. It was a large

farm, and I wanted to own a farm that was as large as that farm.

Today, I spoke to one of my neighbours, and they are farming 8000 acres. They are a family operation. They are a family-owned operation. We would have said 20 years ago that that was a farm that you simply could not manage. But we buy equipment that is manufactured in this province to seed 400 acres a day today, and when I grew up, if you could seed 25 acres a day, you would have a big day behind you.

Those are the changes that we have seen come about because of local initiative: local manufacturers in co-operation with local farmers. I have seen some of the manufacturers in our yard that presented here the other day, saying: What do you need in order to make your life easier and more efficient on your farm? That is the kind of working relationship that we have developed with the small manufacturers in this province. We have a manufacturer sitting in this room today who developed a swather that cuts below the ground. Have you ever seen a swather that cuts below the ground, Madam Minister? They can show you one. We will use it to cut beans because bean pods grow right on the ground; and, if you want to seed beans overall, you have got to put those teeth in the ground that they can lift and cut at the same time. Well, there is a manufacturer in this province that recognized that need and spent time with farmers discussing what needed to be done, and they built it and it works.

There is no huge conglomeration or corporation that would have even listened to us. They would not have recognized that we were there, and when you develop a new industry—when this province lost its sugar beet industry, I mean, there was a detriment and then there was an opportunity. The farmers recognized the opportunity; they made the investments; and they made the huge changes. The Deputy Minister sitting there, he knows that, and he was part of it. We made the changes, and we made a huge economic change. It took huge amounts of investment; it took huge amounts of effort on both sides from the manufacturer right down to the primary producer and the seed producers. We got together with some of the processors in the

province that were seed cleaners and they became bean processors.

\* (19:40)

Now just look at the industry growth potential. Should we have said to those people, no, we want nothing to do with you, you are too big? See, they had the capacity, Madam Minister, to do the research, and they had the will to listen, to expand the market, and they are causing the growth to happen. They are making our job easier to diversify and add value to what we do on our farms.

Here we are going to say, we are sitting here today and saying—I cannot really believe what the Minister is saying. She is saying we cannot differentiate from the huge international corporations to our local manufacturers. We cannot make a distinct difference. It is just exactly the opposite of what I heard her say in the campaign. In the campaign she said we must protect our small producers.

What are those manufacturers? They are small producers. No, they do not produce wheat and barley and oats. They produce equipment that we use to produce beans. We produce all kinds of stuff, and it takes specialized equipment. There are a couple of manufacturers sitting here today that have recognized the need to create that diversity and help us along with that diversity. It could never have happened if we had not made the distinct difference, and if they had not recognized this distinct potential in this province. They had faith in the farmer, and we had faith in their capacity to bring a product to market that we can both utilize and afford.

Madam Minister, I sincerely hope that you reconsider what you just said because what you demonstrated here is a totally different philosophy than what I have seen in the NDP party until now. Here you are, as the Minister protecting a conglomerate that has tentacles that would consume even the biggest ones in this province without blinking an eye, and you are protecting them, giving them exactly the same relevant competitive protectiveness that we need to rail against. You have talked about your opposition to free trade. My understanding of what I have heard here today simply leads me to

believe that there is an agenda that I do not understand.

I say to you, Madam Minister, if you will not recognize the potential, you will cause the huge, huge disinterest in continuing the expansion of that industry and the employment opportunities. I know you are saying to yourself that they are not going to move, they are not going to go anywhere. God help us if they do because who is going to give sustenance to those people that work or did work there.

So I beg you, Madam Minister, I truly beg you, and I wish the Premier were here because I think the Premier might understand. I wish the Premier were here to listen to what is being said, and I wish he would have been here the other day to listen to the presentations because I truly believe he would have not hardened his heart this way, as this minister has.

Therefore, I suggest to you, Madam Minister, we will forget what we have heard here if you can reconsider accepting the amendment that we have put forward because it is a good one. It was done in respect of what the industry needs are, recognizing that we need to protect the dealer network, and it does this. This bill does that. It allows for it, and it conforms with the bill in Saskatchewan. It gives you the same kind of legislation, and people, manufacturers, dealers then can say: In western Canada, this is the law. The large corporations that have sometimes dealt in questionable ways will say this is the way we have to do business in western Canada.

Manitoba is no different, and it becomes part of a total, and we have talked many times and the Minister has been part of those discussions about how we should regionalize, at least, legislation, would it be in transportation, in trucking of goods, that we put in place a standard set of regulations and laws, that we all know under which we operate. This bill does that. It brings in place a very similar kind of law that Saskatchewan has, the only difference being that this allows banks to do leasing. I concur with that. Nobody has railed against that. That is the only difference that there would be.

So, Madam Minister, sincerely, I beg you to reconsider that you just said no to the amend-

ment because it truly gives us a uniform position all across western Canada.

**Mr. Chairperson:** I have a speakers' list which includes Mr. Loewen, Mr. Gerrard and the Minister of Agriculture.

**Mr. Loewen:** Thank you, Mr. Chairman, I am not sure, but did the Minister want to respond to that?

I would just like to echo the point that my colleague has made. I would like to correct a few comments that the Minister made on the record. I am not here to, and was not advocating that we treat Manitoba companies differently than others. I do not care whether they are from Manitoba or whether they are from Saskatchewan or where they are from, if they are small manufacturers looking for an opportunity to grow their business. I think that all of that is positive, and we should be giving that opportunity to everybody. There is a significant difference between those manufacturers, the MacDons of the world the Buhlers of the world and the others that made representation here, and the multinational companies that control the majority of the dealerships as they stand right now. I have no problem, and I think it would be in our best interest to do what we can to help these smaller Canadian manufacturers who have not reached the level that they can compete on the open market with some multinationals because of the size and the clout and the consolidation that has gone on in the industry.

There is nothing wrong with giving any of these companies, regardless of their origin, some protection that would allow them to continue to grow their business and hopefully, before too many years have gone by and before too many generations have passed, they might fall into the category where they in fact are dealt with the same as multinationals, as we have seen under this amendment and under the Legislation in Saskatchewan.

In my opinion, that would be a good thing, that would be a great thing, to have a manufacturer of that size that can compete in the world marketplace here in Manitoba or for that matter in Saskatchewan. I would much rather have it in Manitoba, but if it was in Saskat-

chewan, I think that would be good for western Canada and for Canada as a whole as well.

I do want to make sure that the Minister understands that what I am differentiating between are the large multinationals and the influence and the clout and the ability they have to manipulate and control markets. I would certainly have come here with the belief that the Minister and her colleagues on the other side of the table would have a clear understanding of that, given their political persuasion.

I also want to say that we sat here, and my belief of the purpose for this committee is to hear representation from people involved in the industry. These are people that know their industry, know it well, who have obviously taken the time to study the legislation not only in Manitoba, but also the Saskatchewan legislation. They have had the courtesy to come here and give us their opinion, clause by clause.

I would remind the Minister, it was not just one manufacturer that came here and said we should be making this distinction between the multinationals and ourselves, it was a number of them. They did their homework. They are here asking simply that the Government of Manitoba recognize that they have special needs, that they are going to need to continue to build their business. I think it is imperative that we look at how we can remove roadblocks for their growth and for their success, as opposed to, as they have indicated to this committee, putting roadblocks in their place.

\* (19:50)

I would remind the Minister that we are not just here today, we are here throughout the year. If at some point in the future we have an issue with these types of manufacturers, we can always come back. We can always amend this legislation. We can always do it differently if we find that they are a problem. But I cannot believe that we are sitting here putting roadblocks in the way of these companies, these entrepreneurs, these organizations that are exactly the type of businesses that we want to see flourish in this province and all across Canada.

So again, my comment to the Minister is, I hope she will take the suggestions from myself

and from the Member from Emerson, and open her mind to them and think long and hard before she just indicates that she is not willing to accept this type of amendment.

**Hon. Jon Gerrard (River Heights):** I have several questions, if that is all right. The first would be to the proposer of the amendment, the Member for Emerson.

**Mr. Chairperson:** As long as your questions are on the amendment.

**Mr. Gerrard:** Yes. That is correct.

**Mr. Chairperson:** You can only address the Minister with questions.

**Mr. Gerrard:** All right, let me address the Minister with questions. I would ask the Minister to clarify the similarities and differences in the context of the amendment between the Bill with the amendment and without the amendment in comparison to the existing Saskatchewan legislation.

**Ms. Wowchuk:** Mr. Chairman, the amendments that have been brought forward by the Member for Emerson make it the same as the legislation in Saskatchewan. When we looked at this legislation, we wanted to ensure that we could protect against dealer purity, and the amendments that are put forward here will not have a negative effect on a manufacturer. They are very much welcome, the manufacturers, but I cannot see how it will help a manufacturer, whether they are shortline or mainline manufacturers, I cannot understand how having the right to terminate with no cause—they will not have this right to terminate—will impede on their business.

What we are doing in this legislation is protecting the dealers, ensuring that there are services in dealerships throughout Manitoba, but there are still other safeguards in the legislation to protect shortliners from doing business. All this does is it prevents them from having the right to terminate without cause, as it would with the other manufacturers, but to your question, the legislation is similar to the Saskatchewan legislation. However, we have had discussions with our Farm Machinery Board. Our Farm Machinery Board has recommended that we

bring in fair and equitable legislation that will treat all manufacturers equally and that we would bring in legislation that would protect against dealer purity.

**Mr. Gerrard:** It would seem to me that there would be major advantages in being consistent with Saskatchewan, unless in being different we had a major advantage to people in Manitoba, and I am not convinced, and maybe you can explain once more why you think there would be a major advantage in being different from Saskatchewan.

**Ms. Wowchuk:** Perhaps when Saskatchewan sees our legislation they may be making some amendments to their legislation that makes it equivalent to ours. In fact, I can tell you that there are other provinces that are looking at our legislation and looking at bringing in similar legislation to ours. So Saskatchewan brought the first legislation forward. We have made what we believe are some improvements to that legislation, and ultimately the goal is to protect against dealer purity. We do not believe that not having the right to terminate without cause will have a negative effect on shortline or mainline manufacturers.

**Mr. Gerrard:** I did not really hear a major advantage from the change, but let me pursue one of the aspects. I would suggest in the difference between shortline and mainline manufacturers, is it not true that there are at least a couple of significant differences in terms of shortline and mainline manufacturers, the first being that shortline manufacturers do not have the market power to coerce or to influence dealers in ways that they would rather not be influenced. So in this respect they would be quite different from a mainline manufacturer who would have that market power.

The second difference that it would seem to me exists between many of the shortline and mainline manufacturers is that of the shortline manufacturers in the kind of equipment that many of them have. It may be that it is needed in parts of Manitoba which are particularly wet one year but not needed in that area in another year and that in fact the requirements for leadership and the relationships between dealers and shortline manufacturers are in many ways quite

different from those relationships between dealers and mainline manufacturers just because of the very nature of the differences in the businesses.

**Ms. Wowchuk:** Mr. Chairman, the Member said that the shortliners do not have that much influence on a dealership, but the fact is that the shortliners can make up a major part of a dealer's line of equipment, and having one of them pull out without just cause can have a very serious negative impact on that particular dealer and the services to a particular area. There is the flexibility within the legislation to—I should say there are other safeguards.

You talk about a particular line not being needed in an area in a particular year because of different weather conditions. They still have that ability to negotiate between themselves, between the manufacturer and the dealer. A manufacturer is not going to want to be putting a whole bunch of equipment into an area if it is not the kind of equipment that is being used in the area. So I think the legislation does not prevent that. What it does is take away the right to terminate an agreement without just cause, which would hurt both the dealer and the farming community, and shortliners in many cases do have a major impact on a dealer's business.

**Mr. Gerrard:** I would extend the question. In many circumstances, we have seen that differences in legislation or approach between adjacent provinces, between Saskatchewan and Manitoba, have created circumstances where, for example, dealers on one side of the border might have an advantage relative to a dealer on the other side of the border. The net result is that the dealers on one side of the border who are at a disadvantage would suffer considerably in the economic basis of their business and be at a major disadvantage.

It would seem to me that one of the important questions here is whether in a community like Melita, which is stressed at the moment and is adjacent to Saskatchewan, you might provide a comparative advantage to a dealership in Saskatchewan because they have more flexibility than a dealership in Manitoba and put people in Manitoba at a significant disadvantage.

\* (20:00)

**Ms. Wowchuk:** Mr. Chairman, the Member talks about the protection for dealership. In fact, our dealers will have a little bit more protection under this legislation than dealers will in Saskatchewan, but he talks also about continuity across the west. Alberta is having some discussion about this legislation, and they could bring in the same legislation as Manitoba. There is no guarantee that Alberta is going to bring in the same as Saskatchewan or whether they are going to bring in the same as Manitoba.

I have indicated that there are other provinces that are looking at our legislation and wanting it, and the goal of this legislation is to protect against dealer purity. We want to look for fair and equitable legislation that will treat all manufacturers the same and ensure that dealers do have the protection that dealers have been lobbying for, for some time.

We heard representation from the manufacturers. We have taken into consideration their comments, but we have also taken into consideration the comments that have been brought forward by the dealers. That is where the lobby has been coming from, to protect against dealer purity and ensure that we can have the products that are needed for the farming community.

**Mr. Gerrard:** Let me take that it may be that in protecting the dealers in Manitoba you might create a circumstance where a shortline manufacturer would prefer to supply only the dealer in an adjacent small community in Saskatchewan and thereby put a dealership in Manitoba at a disadvantage.

**Ms. Wowchuk:** Well, Mr. Chairman, I have a lot of respect for shortline manufacturers. I know that they are very good business people and that they are going to want to go where the business is. They are going to want to go to parts of the province in Manitoba or in Saskatchewan or Alberta or around the world where there is business for their product. I do not believe that not having the right to terminate for no cause will prevent shortline businesses from doing business in Manitoba.

The businesses will go where the market is. There is a market in Manitoba for many agriculture products. We just want to, through this legislation, address the issue of preventing dealer purity and limiting the ability of dealers to provide the service to the farming community. I ask the Member to remember that there are other safeguards in this legislation that will be in place for the manufacturers as well.

**Mr. Gerrard:** Yes, given the concerns that have been raised, would the Minister at least commit to monitoring very closely the situation of dealerships along the borders and to being on top of and aware of what is happening and whether there are potential deleterious effects so that if these emerge the Minister would be ready to open up the bill again and to reverse her stand?

**Ms. Wowchuk:** Certainly we will be monitoring the situation. Our goal is to bring forward legislation that will enable the dealers to provide service to our farming community and in no way restrict the shortline manufacturers.

**Mr. Gerrard:** Thank you. That is all.

**Mr. Chairperson:** I have the Minister of Agriculture and then Mr. Penner, Emerson.

**Ms. Wowchuk:** Mr. Chairman, we have heard lengthy comments from the Member for Emerson talking about the importance of the manufacturing industry. I want to also say that I recognize the importance of the manufacturing industry in Manitoba, the importance of shortline manufacturers, and I recognize the importance of dealers and getting equipment out to the dealers. I want to say that I do not see how not having the right to terminate for no cause will impede shortline businesses.

There are other safeguards in the legislation that we will be dealing with as we get through the legislation, but we have to remember that this bill is brought forward to protect against dealer purity, and ensure that the dealers can provide services. Certainly the previous speaker talks about monitoring the legislation. Any legislation that is brought forward is always monitored. Certainly we will be doing that with this piece of legislation.

**Mr. Jack Penner:** I heard and I respect that the committee members cannot ask presenters at the table questions. I heard the question asked by the Honourable Member for River Heights (Mr. Gerrard). I want to indicate to him that the relevance for cause and access to the court is not prohibited by the amendment. I mean, clearly any dealer at any time in any agreement will have access under this bill to the final access to the courts. We are not proposing that that section be amended. There is nothing wrong in my view when a dispute is in progress that a shortline dealer or a mainline dealer should and could have access to the courts. That clearly will be reflected in this legislation. I did not hear any presentation made that would not respect that right of any individual in this province having the right of access to the courts. Therefore, I say to the Minister, if she truly understands the implications of her own bill, and what she is opposed to in the amendments that we are proposing, I say to her that all dealers will have that right.

\* (20:10)

What we are doing is making a clear distinction between the large corporate manufacturers and the smaller provincial manufacturers that operate within the boundaries of this province, and even in other provinces west of us, but they are local manufacturers. They are major employers, and we think that we owe them some respect in allowance to negotiate with dealers. I think that is what business is all about, that two parties sit down at a table and draft a dealership agreement and come to terms with that agreement. If there are inordinate circumstances that arise during the terms of that agreement, there is access to the courts under this agreement for both parties, and both the mainline and shortline, and so it will remain.

All we are doing is delineating, making the distinction between the mainline large corporate suppliers, manufacturers, distributors, the multi-nationals—we say they should be treated, or can be treated, differently in this province than we do treat our own manufacturers. If the Minister is saying that she does not agree with that, then I am not sure whom we truly represent around this table.

**Mr. Loewen:** I want to respond a little further to a couple of remarks that the Minister has made

and, in particular, her comment that Alberta may be looking at duplicating this legislation, and I find that absolutely incredible. One only has to look at Alberta—

**Mr. Chairperson:** We have a point of order. The Minister of Agriculture.

### Point of Order

**Ms. Wowchuk:** The Member just indicated that I said that Alberta could be duplicating this legislation. What I said was, Alberta is looking at bringing in legislation. They could duplicate this legislation, or they could duplicate Saskatchewan's. I did not say that they are duplicating ours. I said there is a possibility that they could go either way. If the Member misunderstood what I said, I would like to correct the record to indicate that I did say Alberta is looking at bringing in legislation. They could bring in legislation like Manitoba or Saskatchewan. I did indicate as well that there is another province that is looking at bringing in legislation like ours.

**Mr. Chairperson:** This is not a point of order. It is a dispute over the facts. Mr. Loewen.

\* \* \*

**Mr. Loewen:** Thank you, Mr. Chairman. I will give the Minister her point. To me, it is splitting hairs, and I am not about to enter into that type of argument, but surely she understands, and I think everybody at this table understands, the economic growth that has been enjoyed by Alberta over the course of the last 20 or 25 years, and how they have managed to diversify their economy from one that was primarily dependent on the oil fields, on oil and gas and the servicing, into an economy that has been robust for many years. Quite frankly, the reasons for its being so robust are that they have been able, to a great degree, not only to attract more business—and that is made again clear by the fact that just recently in this province most of the major financial institutions have moved their regional offices from Winnipeg to Alberta—but also by the fact that they have been able to grow business at an incredible rate in that province.

I remind the Minister that, just before looking at this bill, we looked at a bill regarding

the Winnipeg Stock Exchange, and we talked a bit about the Manitoba tax equity fund, which was brought into this province upon the recommendation of Economic Development in Winnipeg and the Winnipeg Stock Exchange, because we recognize that there was not as much funding for small start-up businesses in Manitoba as there had been for a number of years in Alberta. In that case, we pretty much mirrored the programs that were available in Alberta, and I believe they will suit this province well.

I can assure the Minister, given that Alberta could be looking at legislation, they will not be looking at legislation that will put any type of roadblock in front of manufacturers that are trying to grow business in their province, in fact just the opposite. They will look to remove roadblocks so that they can attract business. Mark my words, just like they have attracted the regional offices of major financial institutions out of Manitoba, they will be looking to see what else they can attract out of Manitoba. That will include the manufacturing sector. The Minister wants to tell us about other safeguards in this legislation for manufacturers.

I would like to remind the Minister of just the process of growing a business. I think it is critical that she understands this. When you start a business, you have an idea, you have a vision of where you want to go and hopefully have the temerity and some luck to get yourself off the ground. But what you look for when you start a business are some customers because, without customers, you can have all the financing and all the government grants in the world, you are not going to get anywhere. Typically where business looks for customers is close to where that business is.

That is what we have in Manitoba. We have a number of small farm implement manufacturers who have been innovative, who have built businesses on the basis that they have customers in and around the area of Manitoba. Then once you have that base, if you continue to want to build your business, you have to look further afield. So you look for customers that are maybe in a neighbouring province or in a neighbouring country or in a neighbouring continent. I can assure the Minister that your

chances of getting customers in a neighbouring province or in a neighbouring country or a neighbouring continent are virtually nil unless you have a strong customer base that will speak up on your behalf where you are. That is exactly how these Manitoba companies have grown.

What happens when businesses start to mature is that today they become free to move about. These people running these businesses are not threatening to leave Manitoba. They have ties to Manitoba. They will be here. They are not going to close their doors and move next week or in the next years. But there are other people who are going to come along and run those businesses one day, whether it is generations down the road or whether it is somebody who acquires that business.

At the end of the day, the people who run those businesses are responsible to their shareholders, their families to ensure that those businesses are as profitable as possible. If we keep putting roadblocks in the way, these people eventually will have no choice but to look at their alternatives. So they may not move their whole plant out of Manitoba, they may not move immediately to deal with dealerships outside of Manitoba, but slowly, inch by inch, these companies start to look elsewhere. When they are looking at expanding their business they look at the situation in Manitoba, they look at the legislation in Alberta, and they say, well, gee, maybe I will do that expansion in Alberta. That is the danger that we see here. Over the course of time, if as a government we continue to put these types of roadblocks in the way of business, that is the inevitable outcome.

I would just remind the Minister I am going back to a letter which was presented during the first sitting of this Committee from Scott MacDonald, who is a vice-president of MacDon Industries, a family member and somebody who has been involved in the growth of that business, which is proud to be celebrating their 50th year of operation and their 50th year of having a business home-grown in Manitoba and a head office still in Manitoba.

I think it is imperative that the Minister listens when these people come to committee and take the effort to go through the legislation



and give us their opinion. They are the ones that know the business. They are the ones that know their business. Mr. MacDonald, like his counterparts, were not here threatening. They were not saying, if you do not do exactly as we ask we are going to leave tomorrow. They were not trying to harass this government or harangue us about breaks that they needed in terms of financing. All they are looking for is a level playing field.

So I will quote from that letter: The North American agricultural industry as a whole has experienced phenomenal change and rationalization over the past 20 years. These changes, which continue today, have trickled down from the farming community to the dealer community and finally to the manufacturing and distribution communities. As each of these communities continues to shrink in size, it is increasingly difficult for the members of each of these communities to run their businesses at a profit. We are at a loss to understand or appreciate how hurting those of us that provide the equipment that farmers need to get their crops in and out of the ground will somehow assist those farmers and dealers. What have companies like Buhler, AG Shield, Valmar, Westfield, MacDon and many others owned and operated in Manitoba done to warrant the imposition of such damaging legislation, legislation which will restrict us from running those same companies which have successfully supplied Manitoba dealers and farmers and employed large numbers of Manitobans for over half a century?

That was not just one manufacturer that came to this committee and expressed that opinion. That was the opinion of a number of manufacturers, small and what the Minister would consider somewhat large, in exactly the same circumstance.

So, again, I would ask the Minister to take this advice seriously, to open up the possibility to MacDon and other companies like them that they can remain to be successful and provide the economic opportunities that Manitoba needs and, in fact, deserves.

**Ms. Wowchuk:** Mr. Chairman, the Member quoted from a letter and talked about the MacDonald family and the Buhler family. I have

certainly had the opportunity to meet Scott MacDonald and have indicated I would be very interested in touring his facility, as I would be interested in touring the other facilities. I think that these businesses are a very important part of the economy of Manitoba, but I want to tell the Member that he is implying that this legislation will restrict their ability to do business in Manitoba or somewhere else.

Bill 20 does not prevent any company to freely do business in Australia, in Canada or any other part of the world. There is no restriction on their doing business. The only thing it does is protect Manitoba dealers and protects against dealer purity, and there is still the ability for dealers and vendors to negotiate, to sign dealers' agreements. They have that ability. The purpose of the legislation is to protect against dealer purity and ensure that there are services in rural Manitoba.

For the Member to imply that this legislation does something to prevent people from doing business in this province, or restrict their ability to do business, that is not true. The Member knows full well that is not the intention of the legislation.

\* (20:20)

**Mr. Chairperson:** Mr. Penner, Emerson.

**Mr. Jack Penner:** Mr. Loewen, I think, wants to respond to the Minister, so I would wait till he has responded.

**Mr. Loewen:** Mr. Chairman, well, I would just like to respond to that by expressing to the Minister, once again, that these were not my words. These were the words of a manufacturer, of somebody who has been in the business for 50 years, that has grown a successful business in Manitoba. I would think it would behoove the Minister to listen to Mr. MacDonald and to listen to other manufacturers who know their business far better than I know it, who know their business far better than she knows it. Quite frankly, for her to sit here and say that she knows more about how this business operates than they, I find quite astounding.

It seems obvious to me that we are not making a whole lot of headway here, so maybe I

would offer another recommendation to the Minister. That is, if she really believes that Alberta could be looking at a piece of legislation like this, given the track record they have had in the last 20 years in terms of diversifying their economy and helping business grow, maybe she could hold off a little bit and copy the Alberta legislation.

**Ms. Wowchuk:** I am sorry I did not hear what was said.

**Mr. Chairperson:** Mr. Loewen, could you repeat your last sentence for the Minister?

**Mr. Loewen:** Yes. I was simply expressing to the Minister that maybe a better avenue, as opposed to trying to push this legislation through now in the face of criticism from local manufacturers, is that I always found in business that there is a lot to be said for looking at those of your competitors around you who are successful in putting their practices into place. Given the history of success that Alberta has had in attracting and in growing business over the last 20-25 years, maybe it would be useful to her to just pull in the reins for a little while and wait and see what Alberta comes out with, with legislation. Instead of ramming home a piece of legislation that obviously has got the local manufacturers upset, maybe she should just tight and when Alberta passes its legislation maybe she could consider copying it.

**Ms. Wowchuk:** Mr. Chairman, I think that I have put my comments on the record many times, and I will defer to others that want to ask questions.

**Mr. Jack Penner:** I wonder whether the Minister really might want to reconsider the comments she made in response to comments that Mr. Loewen put on the record from a letter that had been written by the MacDon manufacturing firm to the Minister. She said that is not true. I would truly ask the Minister whether she wants to reconsider that statement because it came directly from MacDon, and I honestly wonder, in fairness to the manufacturer, whether she is calling their integrity into question.

**Ms. Wowchuk:** Mr. Chairman, I have a lot of respect for Scott MacDonald, and I will have a discussion with him after his presentation.

**Mr. Jack Penner:** I want to, Mr. Chairman, read the last part of a letter into the record that was sent to the Honourable Ms. Wowchuk on May 15 from MacDon Industries and I will not read the whole letter, but it voices its opposition to the current legislation.

It says: As opposed to the Saskatchewan government's legislation, the Government of Manitoba has chosen to impose this new legislation on all vendors as opposed to a more limited range of vendors, and why is that? At this point we would urge you to seriously reconsider the passage of this very damaging legislation before the negative effects are felt not only by those manufacturers of farm equipment situated in this province but also those companies that bring their wares to our province to assist farmers to do their work. We do not understand how hurting those of us that supply farmers with the equipment that they need will somehow assist those same farmers. We would contend that this legislation will have opposite and very negative affects on those folks, particularly when small, local manufacturers are exposed to greater and greater legal and administrative costs to run their business. In our opinion, this legislation will serve to restrict the number of farm equipment manufacturers.

I want the Minister to listen to this clause. It is obvious the Minister does not want to listen to this clause. But I want the Minister to listen to this clause.

It says, and this is a direct letter from MacDon to the Minister: In our opinion, this legislation will serve to restrict the number of farm equipment manufacturers that start up in our province, the number that chose to enter our province to sell their wares and the number that chose to replace dealers that for any reason cease to carry on business. In conclusion, our question is, what have MacDon, Buhler, Westfield, Valmar, AG Shield, or any number of other Manitoba farm equipment manufacturers done to warrant the imposition of such draconian legislation which restricts us from running the companies which have successfully supplied Manitoba dealers and farmers and employed large numbers of Manitobans over the last half century. I await your response. I think we have heard the response today.

I want to also put on the record, Mr. Chairman, that I received a letter today from Thor Manufacturing, a shortline niche manufacturer of a conveyor grain vac located in Winnipeg. They simply say: We would like the Committee considering Bill 20 to know that we do not agree with the contents and to consider it to be damaging to our company and employees. Furthermore, we believe that it is in the best interest of our industry as a whole for any legislation passed to be harmonized with other prairie provinces. I want to also put on the record—and we have heard from virtually the dealers that presented here, their views. I want to, but there are some here that were not there.

\* (20:30)

The Groening Industries, they are from Treherne, Manitoba. Groening Industries Ltd. is a shortline niche manufacturer of agricultural equipment located in Treherne, which has been in business since 1984. Our company currently employs three people, and we would like the Committee considering Bill 20 to know that we do not agree with the contents of this Bill and consider it to be damaging to our company and employees.

Rea's Welding Limited from Rathwell: Rea's welding and steel supply is a shortline manufacturer of livestock equipment and trailers. We are located in Rathwell, Manitoba, and have been in operation since 1976. Our company currently employs 30 people within this province and provides a source of income to a number of Manitoba resellers. We would like the Committee considering Bill 20 to know that we do not agree with its intent and consider its contents to be damaging to our company and its employees. We also believe that it would be beneficial to the industry as a whole to have this legislation harmonized with other Prairie Provinces.

Similarly, we have Falcan Industries from Fort MacLeod, Alberta. The Minister just said that Alberta might be considering the same legislation that Manitoba is currently putting on its books. Falcan Industries Ltd. is a shortline manufacturer of agricultural equipment located near Fort Macleod, Alberta. We have been in business for 11 years and currently employ 20

people in Alberta. We would like to take this opportunity to express our concern over Bill 20. We do not agree with its content and consider it to be damaging to our company and our employees. We believe it is in the best interest of our industry as a whole for any legislation passed to be harmonized with other Prairie Provinces.

Westfield Industries Ltd.: Westfield Industries is in Rosenort, Manitoba. Westfield Industries is a shortline niche manufacturer of agricultural equipment located in Rosenort, Manitoba, which has been in business since 1951. Our company employs 125 people in rural Manitoba. We would like the Committee considering Bill 20 to know that we do not agree with its content. We believe it would be in the best interest of our industry as a whole for any legislation passed to be harmonized with other prairie provinces.

Morris Industries Ltd.: The same applies for Morris Industries. It is a shortline niche manufacturer of agricultural equipment located in Saskatoon, Saskatchewan, which has been in business since 1929. During peak periods, our company employs 150 people in Manitoba. It employs 350 people in Saskatchewan. We would like the Committee considering Bill 20 to know that we do not agree with its contents, and we would ask that it be harmonized with other prairie province provincial legislation.

Setter Manufacturing Division of Russell, Manitoba, the manufacturer of sprayer parts depot: Setter Manufacturing Division is a shortline manufacturer of agricultural spraying equipment located in Russell, Manitoba. This company has been in business since 1982. Our company currently employs three full-time and two seasonal people in Manitoba. We would like the Committee considering Bill 20 to know that we do not agree with its contents and consider it damaging to our company and employees. Furthermore, we believe that it is in the best interest of our industry as a whole that legislation passed be harmonized with other Prairie Provinces.

Madam Minister, these are some of the letters that we have received and a clear indication that small manufacturers believe that

this legislation clearly is damaging to their future prospects of doing business in Manitoba, and we would strongly ask the Minister to reconsider her position and allow the amendments to go forward which would harmonize the intent of the bill with other provinces.

**Ms. Wowchuk:** Mr. Chairman, I thank the Member for that information which I also received and have taken into consideration, but I am sure the Member would also like to hear about Keystone Agricultural Producers, a producer organization that he is well familiar with, and hear the comments that they have had to say, and I would read into the record as well: Manitoba Keystone Agricultural Producers would like to speak in favour of Bill 20, The Farm Machinery and Equipment Amendment Act, and commend the government for proposing this legislation. This amendment addresses the issue of dealer purity, which is a serious concern for our producers. Recently mainline farm equipment companies have been forcing their dealers to restrict their equipment lines to only those sanctioned by the mainline companies. This practice has some very disturbing implications for Manitoba farmers—and all of those are outlined.

Those have been read into the record once, but I want to read one particular section of the letter to the Member, and I go on to quote the letter: We believe that application of this legislation will also benefit the Manitoba economy beyond the farm gate. Manitoba is home to a number of shortline manufacturers which generate jobs and other economic activity in our province. This legislation will ensure that they have a network through which they can sell their products, helping to maintain their presence as an important component of Manitoba's economy. We are pleased to see this legislation is retroactive. Dealer purity has been written into a number of dealership agreements in the recent past, and this legislation makes it possible for those agreements to be revisited and for shortline franchises to be re-established in those communities which have lost them.

That is the specific part of the letter that I want to quote, where there is indication that this legislation will in fact help shortline manufacturers get into some of the dealerships that

they had been restricted to entering because of the dealer purity that some of the mainline manufacturers have been practising. The Keystone Agricultural Producers, an organization that the Member for Emerson was once the president of—the first president, in fact—is an organization that is supporting this legislation in support of the producers.

Mr. Chairman, I would also like to read into the record a letter that comes from Case Mayor Equipment in Neepawa and the letter says: Dear Madam Minister, I am writing regarding Bill 20, The Farm Machinery and Equipment Amendment Act, which was introduced in the Manitoba Legislature on May 1, 2000. I want to commend your government for addressing these important dealer issues. Bill 20 will allow competition within the marketplace and ensure dealers can offer products and services that customers rely on. Bill 20 will ensure dealership protections that are already in place in other jurisdictions. As this issue is of utmost importance to the farm equipment dealers of Manitoba, I urge your government to pass Bill 20 as quickly as possible. I would like to thank you for introducing these significant changes and for your support to the farm machinery dealers of Manitoba.

Mr. Chairman, there are many letters that have been written. I just have a few of them, from Neepawa, from Bayes Equipment in Ste. Rose, Shoal Lake Farm Equipment, who have also indicated their support for this legislation. We have had correspondence from dealers in Brandon, dealers in Swan River, dealers from the Member's own area where we have had dealers supporting this because they recognize that by bringing in these amendments there will be more—they will have protection, and they will have the opportunity to bring in those other lines of equipment that are manufactured by shortline manufacturers who, at the present time, are being restricted. Because of the dealer agreements that they have signed, they are being restricted. So I think that the Member should recognize that this legislation will in fact enhance the ability of shortline manufacturers to bring their equipment into other dealerships and enhance the services for Manitobans.

**Mr. Chairperson:** I have a speakers' list, which includes Mr. Rondeau, Mr. Smith (Brandon

West), Mr. Loewen and Mr. Penner. Mr. Rondeau.

**Mr. Jim Rondeau (Assiniboia):** No, I will pass.

**Mr. Chairperson:** Mr. Smith, Brandon West.

**Mr. Scott Smith (Brandon West):** Pass.

**Mr. Loewen:** Mr. Chairperson, I have just, for the first time, received the letter from Keystone Agricultural Producers. I would suggest, though, that maybe the Minister take the opportunity to read it a little more carefully, because there are two issues here.

Certainly on the issue of dealer purity, particularly as it relates to mainline manufacturers, we have no argument. In fact, we are arguing the same argument that she has. We need some legislation to be put into place to ensure that these mainline dealers do not have too much of an upper hand on their dealers to the detriment of the dealer network across the country and particularly across Manitoba. I believe that is exactly what Keystone is saying: make sure that you ensure, through legislation, that there is a viable dealer network.

But I would advise the Minister that, even in its letter, KAP distinguishes between mainline and shortline so they are not saying treat mainline and shortline the same. What they are saying is make sure that you treat the mainline manufacturers in such a fashion that they do not have control over the dealer operation and they do not do anything detrimental to the dealer network. If you do that with the mainline manufacturers, the spill-off effect will be that there will be room for the shortline manufacturers to continue to prosper. I believe that is exactly what this committee heard from the shortline manufacturers in Manitoba.

This amendment speaks to that. It delineates, as KAP has delineated, between mainline manufacturers and shortline manufacturers. I hope the Minister has an appreciation for the fact that we are not here to argue one against the other. You can do both. Saskatchewan has done both. They have dealt with dealer purity. They have protected the dealer network from the mainline, multinational manufacturers who,

obviously, through consolidation, have gained too much power and control over that dealer network. But they have also dealt realistically with the shortline manufacturers and given them the opportunity to continue to grow, to continue to build their business.

What they need for that are not restrictive covenants from legislation; what they need for that is a viable dealer network, and you can solve that problem by dealing with the mainline manufacturers, not by putting roadblocks in the way of the shortline manufacturers. That is the point.

\* (20:40)

**Mr. Jack Penner:** Mr. Chairman, the longer I listen to the Minister, the more surprised I become. To try and represent the organization that represents the majority of the farmers in this province in a manner that is different from what the letter actually states is nothing short of surprising. I have appeared many times at that lectern at the end of the table representing farm organization around this table, and never have I heard a minister try to misrepresent what was actually stated in a letter by even deleting part of the letter that she put on record.

I want to read the whole letter into the record so that people clearly understand what is contained in the letter because this letter clearly explains what the intent is. That is to ensure that there would be a proper dealer network to serve the farm community in this province. Let there be no mistake. And the Keystone will make that kind of representation every time because they speak in the best interests of the farm community.

This letter says: "The Keystone Agricultural Producers would like to speak in favour of Bill 20"—as we spoke in favour of Bill 20, Madam Minister, before we had a full appreciation of what the Bill really did, and until we had a look at what the Saskatchewan legislation was all about, and then we said to ourselves, let us be careful what we pass in this province compared to what other provinces had, and let us ensure that there be a network of legislation that would allow for proper competitiveness to take place—"The Farm Machinery and Equipment

Amendment Act, and commend the government for proposing this legislation. "This amendment addresses the issue of 'dealer purity' which is a serious concern for our producers. Recently mainline farm equipment companies have been forcing their dealers to restrict their equipment lines to only those sanctioned by the mainline companies. This practice has some very disturbing implications for Manitoba farmers."

Clearly indicating they are addressing the mainline manufacturer dealership agreements. Let us not be mischievous in reading letters.

"The equipment manufactured by shortline companies and offered for sale through the network of Manitoba farm equipment dealers is an alternative to mainline equipment."

Again making the delineation between the shortline and the mainline.

"Having alternatives in farm equipment choices puts the competition into the system which helps to keep farm equipment prices more affordable than they would be otherwise."

And this Minister is saying, no, she does not want that.

"The dealers who carry short line equipment also provide parts and services for that equipment. If dealer purity was to be forced on them, producers would have no access to parts or service for the equipment they presently own."

Clearly indicating again addressing the mainline manufacturers.

"The farm equipment business is a competitive and demanding business. Loss of short line equipment franchises"—now listen to this Minister—"would remove a component of a farm equipment dealer's business which helps to keep him viable in a very tight economic climate."

Again addressing the mainline, making the distinction between the mainline and the shortline. Surely, Minister, you and your staff have had a good look at this letter and knows what it means.

"Because of the limited number of implements produced by short line manu-

facturers, a dealer dealing strictly in those products would not have enough business to make him viable. Having the shortlines of equipment handled through mainline dealerships is the most effective way of making those equipment alternatives available to producers."

Again identifying the mainline dealerships.

"Many of the short line implements were manufactured on the Prairies for our soil, climate and production conditions. They are more ideally suited to our type of agriculture, and limiting their availability would have a detrimental effect on our ability to manage our crop and livestock production in the most effective and economical manner.

"It is for those reasons that we support the component of this legislation which prevents equipment companies from applying dealer purity restrictions in their agreements with farm equipment dealers."

They support that.

"We believe that application of this legislation would also benefit the Manitoba economy beyond the farm gate. Manitoba is home to a number of short line manufacturers which generate jobs and other economic activity in our province. This legislation would ensure that they have a network through which they can sell their products, helping to maintain their presence as important components of Manitoba's economy."

Again speaking to the importance of ensuring that they are able to market through the mainline dealerships.

"We are pleased to see this legislation is retroactive. Dealer purity has been written into a number of dealership agreements in the recent past, and this legislation makes it possible for those agreements to be revisited, and for short line franchises to be re-established in those communities which have lost them"—again speaking to the shortline manufacturers.

"We also welcome the inclusion of a mediation process in the legislation. Any time disputes can be settled by mediation, all parties

benefit, including producers who ultimately bear the cost incurred by farm equipment manufacturers and dealers.

"KAP also support the component of this legislation which makes it possible for banks to enter into equipment leasing agreements with producers, and still maintain the equipment warranty provisions. This amendment gives a producer an additional financing operation for his farm equipment needs, and an additional financial management tool.

"We would encourage all Manitoba political parties to regard this proposed legislation as beneficial to Manitoba agriculture producers, our manufacturing sector and our economy, in general, and to support a swift and smooth passage through our legislative process."

\* (20:50)

Nowhere did they say that they want the same kind of purity passed and legislated to small shortline manufacturers in this province. I find it absolutely deplorable that you would try and represent this organization as anything other but what was represented here, and their presentation clearly delineates the shortline and the mainline manufacturers. I am appalled.

**Mr. Loewen:** Mr. Chairman—*[interjection]*

**Mr. Chairperson:** Order, Mr. Penner. *[interjection]* Mr. Loewen, please. Will the Committee come to order.

**Mr. Loewen:** Thank you, Mr. Chairman. I would like to take this opportunity—and I must say, as with my previous comments, I agree that the letter from KAP is being misrepresented. Again, the Minister spoke earlier and talked about how much in favour the dealers are of this legislation. The Minister, to a certain degree, is accurate. The dealer organizations and the dealers, in fact, do want to see protection.

I would remind the Minister that she got a letter and we had a presentation from I believe the pronunciation is John Schmeiser from the Canada West Equipment Dealers Association, and I believe that she understands that this association speaks for the dealers across western

Canada. While they are somewhat supportive of her bill, I would like to read back to her—in case she missed it—a paragraph near the end of their letter, in their conclusion, which states, and I quote: "Ideally, the Canada West Equipment Dealers Association would like to see amendments to the existing legislation that are consistent to other jurisdictions, specifically to that of what Saskatchewan introduced in December. We feel it is to the benefit of the industry (for dealers, manufacturers and farmers) to have legislation as consistent as possible."

So even the dealers, who recognize the need for this type of legislation, are urging the Minister to amend her legislation. We have the dealers, we have the farm community, we have the manufacturers come to this committee and ask the Minister to amend her legislation. Now I do not know who else she needs to hear from in order to open her mind to what these people are asking for. Certainly, it should be what they deserve.

I can appreciate the fact that her department and she have gone to a lot of effort to draft this legislation. Certainly, when you get down the road after having put the time and effort that they have likely put into this piece of legislation, they would like to sit here and think it should just be passed. Well, I would urge the Minister to rethink that because everybody makes mistakes, and the best thing to do when you make a mistake is to take a look at it, take some time, listen to people who know the business, who know the industry, and maybe adjust, maybe be willing to adapt to what they are suggesting, what the manufacturers are suggesting, what the shortline manufacturers are suggesting, to what the dealers as individuals as we have heard, to what the dealers as an organization are asking of her: simply to amend the legislation, to make the delineation as has been done in Saskatchewan, as no doubt will be done in Alberta, because it makes sense, to delineate in this piece of legislation between mainline manufacturers and shortline manufacturers to the benefit of everybody—to the benefit of everybody. I would urge the Minister to reconsider.

**An Honourable Member:** But surely the NDP administration in Saskatchewan is similar to what you guys are. I mean in philosophy.

**Mr. Chairperson:** Order. Mr. Loewen has the floor unless he has concluded.

**Mr. Loewen:** I have concluded.

**An Honourable Member:** But why do you want to cause a difficulty for our own manufacturers? We are their representatives. Speak for them.

**Mr. Chairperson:** Mr. Gerrard

**Mr. Gerrard:** Yes, a couple of questions for the Minister. One of the significant differences, of course, between mainline and shortline manufacturers is the size. The mainline manufacturers, as they would be defined here, would have—

**Mr. Chairperson:** Excuse me, committee members, I am having trouble hearing Mr. Gerrard. Thank you.

Mr. Gerrard, please continue.

**Mr. Gerrard:** The mainline manufacturers as defined in the amendment would have sales, on an annual basis, of \$3 billion and up, whereas the shortline manufacturers would have sales of under \$250 million annually.

It raises what I think is a significant issue. That is to what extent the Minister has looked at whether the burden of having the court process, what would be the cost of that burden in terms of small operators in particular, where it would be a significant fraction of their cost? Has an analysis been done to date to know what potential impact this might have on business of the shortline operators?

**Ms. Wowchuk:** We have had discussion on this issue. Certainly going to court is costly, but there is still the ability for a dealer and a manufacturer to terminate an agreement without going to court by mutual agreement.

**Mr. Gerrard:** You are indicating that there is the potential for significant costs to shortline manufacturers under the Bill if it proceeds without the amendment.

**Ms. Wowchuk:** Certainly when there are court cases there is the potential for costs. That is why

we have introduced the clause to allow for a mediator, where cases could be resolved without going to court.

**Mr. Gerrard:** Again, in the framework of shortline manufacturers, given that we are dealing with potentially a large number, whereas mainline companies, we are dealing with a relatively small number, indeed the potential for not only a need for mediators and for a court process when you open it up to the large number of shortline manufacturers, it would seem to me that there could be a significant burden both in terms of the time on our court system and mediator.

I would ask: What would be the extra cost as a result of this legislation in terms of provision of payment of mediators, the court costs potentially and what her plans are for allocating the necessary budget?

**Ms. Wowchuk:** The process that we have right now is that should there be difficulties, it is the dealer that will have to go to court. What will happen now is that the manufacturer will have to go to court. So there is a court process that is in place now if a dealer and a manufacturer cannot resolve their agreement. It will now be the manufacturer. We have also added the mediation process, and there is still the ability for people to resolve their differences out of court.

**Mr. Gerrard:** But what you are indicating is that the shortline manufacturers and dealers would be responsible for the full costs of the court and the mediation process.

**Ms. Wowchuk:** Mr. Chairman, that is no different than it is now. Should they go to court, they are responsible for the costs at this point.

**Mr. Gerrard:** Nevertheless, when we are dealing with, I think a large number, as I have said, of shortline manufacturers, this may provide indeed an extra cost, an impediment, certainly a burden, potentially, for shortline manufacturers in Manitoba and make it, for example, less likely that new businesses would start here as opposed to Saskatchewan.

**Ms. Wowchuk:** Mr. Chairman, there is the process that is in place, that we have right now,



that could result in a dealer taking a shortline operator to court. The legislation would change it, that it would be the manufacturer that would go to court. The purpose of this legislation is to protect against dealer purity and ensure that services are available and that there is not an extreme burden put on dealers. The result is that, should a manufacturer want to terminate an agreement without cause, then they would have to go to court if there was no cause. There is the mediation process that is added into this legislation that we feel will decrease the number of cases that will have to go to court.

**Mr. Gerrard:** The framework of the legislation provides that you do not terminate an agreement without the involvement of the court. The question that I would have is: How many, in the course of a given year in Manitoba, manufacturer-dealer relationships are terminated? Do you have the statistics to know what the numbers would be and what the potential impact would be?

**Ms. Wowchuk:** No, Mr. Chairman.

**Mr. Gerrard:** It would seem to me that this might be important to be able to establish what would be the cost impact and the potential, both impact on the court system as well as on the shortline manufacturers, to know what the impact of the Bill would be.

I have one other sort of line of question, as it were, and that deals with the statement that one should not or that agreements cannot be terminated without cause. With the shortline manufacturers, it is my understanding that at the present time the contracts between dealers and shortline manufacturers have pretty good stipulations of what would be appropriate processes and that it would be very rare for shortline manufacturers to terminate without cause, partly because of the market power of the shortline manufacturers, and partly because of the nature of the agreement.

Can you give me some examples of where there have been problems in Manitoba, of dealers who have had their contracts terminated without cause by shortline manufacturers, which has caused major difficulties?

**Ms. Wowchuk:** Mr. Chairman, there are specific cases. I am advised that I should not put

those specific cases on the record, but I could share them with the Member later. There have been cases in Manitoba where shortline manufacturers have terminated.

**Mr. Gerrard:** Perhaps at least the Minister could share with us whether this is one in ten years, or ten in one year. What is the incidence of the problem?

**Ms. Wowchuk:** My understanding is that there have been two or three in the last year.

**Mr. Gerrard:** The question that I would have is: Would this legislation, which is sort of a sledgehammer approach, be really necessary to deal adequately or to address those two or three instances?

\* (21:00)

**Ms. Wowchuk:** Mr. Chairman, over years a dealer builds up a customer base and provides services in a region. When a vendor, whether it is shortline or mainline, pulls out their service, then that dealer's business is put at risk, as is the service to the region. So this legislation is legislation that has been called for by producers, and this legislation will prevent a vendor from terminating an agreement without cost.

**Mr. Gerrard:** I wonder if the Minister, given that there may be substantial extra costs to shortline manufacturers associated with this legislation and the court requirements and the mediation requirements and so on, would put in place some process when the Bill is passed to have an analysis done of the impact of this, from a cost perspective both on the court system and on the shortline manufacturers.

**Ms. Wowchuk:** Mr. Chairman, we have a farm machinery board in place in this province, and the Farm Machinery Board will be following the impacts of this legislation. I want to tell the Member that it is at the recommendation of the Farm Machinery Board that we decided to include all manufacturers under this legislation. It was their recommendation.

**Mr. Gerrard:** I think that is the end of my questions. Thank you.

**Mrs. Joy Smith (Fort Garry):** Mr. Chair, could the Minister please clarify? The Minister was

explaining her concern about dealer purity. You mentioned a little earlier—correct me if I am wrong here—that the dealer purity aspect of it was very important. Could you expand on that a little bit? Why do you feel that it is a major part? My understanding of this legislation when we went through it is that The Farm Machinery and Equipment Amendment Act dealt with farmers, with dealers, with mainline, shortline. Could you explain to me what you mean by dealer purity because you have mentioned it several times, that you need to protect dealer purity? What is meant by that?

**Ms. Wowchuk:** What I said is that this legislation protects against dealer purity. I want to remind the Member that her colleagues also indicated that, if we were not bringing this legislation forward, they recognized this as an important issue and, in fact, have indicated in the House their support for legislation that prevents dealer purity. What happens under dealer purity is that, when a dealership is selling one particular line of product, the vendor can restrict that dealer from bringing in another line of product or can require that if a dealer wants to carry another line of product they have to build another building to put those products in. It restricts the dealer from providing that kind of service. In fact, the dealer agreement can be written in such a way that it would prevent a dealer from allowing shortline equipment into their facility. This legislation is being brought forward to ensure that we have proper protection for dealers, so they, indeed, can provide the type of service that farmers are looking for.

**Mr. Jack Penner:** Mr. Chairman, clearly, after we have heard everything around the table here today, I cannot see how the Minister would still be convinced. All the letters that she has received from the dealer association right on down through the smallest shortline manufacturer in this province—when I say the smallest, three employees is a very small one to the so-called large shortline manufacturers that she refers to. Everybody is saying: Let us make this legislation very similar to Saskatchewan's legislation.

All the amendment does that we have brought forward—it will see that the legislation that we are proposing to put on the record here

would be very, very similar, with a few minor changes, very similar to Saskatchewan's. I truly ask the Minister to reconsider her position. If she wants some time to discuss this with her colleagues in her caucus, I would propose that we move adjournment here today, and give her that time to debate and discuss the issues that have been brought forward today. Debate it and discuss it with her caucus, and then come back and see if we cannot find some way to see if we can make this legislation more amenable to the people of Manitoba, and especially those that are employed in the industry, and the industries that operate and make their home here—and also to the dealers because it is very clear that the dealers would find it difficult to live with this kind of legislation.

All I am asking is, Madam Minister, as we have talked about here before, we have all had to reconsider things that we have done from time to time. It is, I believe, no retribution to the Minister or to the Department that we would take a little time and reconsider the drafting of this bill that would make it more amenable to the people that manufacture, that distribute, that sell this equipment in this province. I would move a motion. I would suspect that it would be seconded by Mr. Loewen, that we adjourn today and give some time for reconsideration of this bill and maybe the Minister wants to redraft part of the bill herself. If she would prefer that, we would certainly be amenable to that, we have no opposition to that.

I would move adjournment of the Committee.

**Mr. Chairperson:** I am informed that we cannot deal with your motion until we deal with this amendment. The Clerk would like to take a minute to go to her office and get a precedent. So we will recess for one minute.

*The Committee recessed at 9:10 p.m.*

*The Committee resumed at 9:32 p.m.*

**Mr. Chairperson:** I am calling the Committee to order. First of all, if we are going to entertain a motion, we need it in writing.

It has been moved by the Member for Emerson (Mr. Jack Penner), seconded by the Member for Fort Whyte (Mr. Loewen), that we adjourn to give the Minister time to reconsider the wording and contents of Bill 20 and allow for consideration of a redraft. The motion is in order.

#### Voice Vote

**Mr. Chairperson:** All those in favour, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

\* \* \*

**Mr. Chairperson:** We are going back to the amendment from Mr. Penner, Emerson. We have an amendment before the committee. Oh, Mr. Penner, Emerson.

**Mr. Jack Penner:** I am wondering whether during the course of the recess the Minister might have had time to reconsider, whether she might have instructed her caucus to support the amendment that we are proposing in light of the fact that the three major groupings in the province have indicated their desire—and when I say groupings, I mean that the agricultural community, the manufacturing community, as well as the dealer network have indicated clearly their desire to have legislation put in place in this province that would reflect the legislation in Saskatchewan or mirror as closely as possible the legislation in Saskatchewan.

If she has, then I would propose that if the Minister wants to redraft the bill to reflect that, then I would propose, truly, that we adjourn and give her time, and we will give her full credit for the redraft of the bill. We do not need the credit on this side of the table. It will be her bill, and it will be her redraft.

So, truly, I would ask whether she has had that discussion with her colleagues.

**Ms. Wowchuk:** Mr. Chairman, we have brought forward legislation that people have put a lot of work and thought into. I have indicated that we have listened to the people who made presentations, and we are bringing forward some amendments. I have listened to the comments from the Member and was questioned by the Member for River Heights (Mr. Gerrard) on some of these issues. I have listened to comments from the Member for Emerson (Mr. Penner), but I want to ask the Member: We know that there are three cases in Manitoba where there have been shortlines who have pulled their business out of dealers without just cause. Is he saying that he supports dealer purity legislation, but he wants shortlines to continue to be able to have that ability to not give dealers any of that protection from shortlines?

I tell him that we have listened to the Board, and the Board has recommended that we bring forward fair and equitable legislation that will treat all manufacturers and all dealers equally and bring forward the protection that dealers have asked for to allow for the protection against dealer purity. Although we have some recommendations, I cannot support his amendments.

**Mr. Stan Struthers (Dauphin-Roblin):** Mr. Chairman, I want to begin by thanking the members opposite for their advice and some of the good points that they brought forward here this evening. I want to indicate that I have listened to the points that they have made and that I am ready to vote on this amendment.

**Mr. Chairperson:** Mr. Penner, Emerson. I am sorry, I think Mr. Loewen had his hand up first.

**Mr. Loewen:** Mr. Chairman, the Minister has mentioned about three situations where shortline dealers have chosen to not continue to do business with a dealer, but she has not indicated whether those dealers are still in existence or whether, in fact, they went under. Does she know?

\* (21:40)

**Ms. Wowchuk:** Mr. Chairman, what I have indicated is that there have been agreements that have been terminated without just cause, and those dealers are still operation.

**Mr. Loewen:** I guess that further highlights the point that we have been trying to make this evening from this side of the table as well as the points that have been made by the various groups that appear before this committee. The point is that there is a distinct difference between the mainline manufacturers and the shortline manufacturers. When a shortline manufacturer, either for reasons of lack of market share penetration, for what could be a case where they have not been paid for their equipment, when they find it necessary to take action to remove their product from dealers, the dealers survive because it is a small part of their business. When a mainline manufacturer pulls their business, they pull the dealership. That is the dealership. Again, this is not a clause that the shortline manufacturers are asking for. It is not something that the dealers are asking for. They understand the need to differentiate. So why the Minister is so determined to try and group all of the manufacturers into one classification when there is such an obvious distinction between the power that is wielded by the mainline dealers and what little power the shortline manufacturers have, I find it incredible.

Business is done every day, and when you are in a situation when you do 90 percent of your business with one supplier or with one customer, your business is at risk. Your business is at risk of that supplier cutting you off; your business is at risk of your customer going away. No business, if they had the choice, would be that reliant on one manufacturer, one supplier, or one customer. But we have that situation in this province and in this country, not by choice, a lot of it by consolidation. So we agree that there needs to be protection for the dealer network against those large multinational manufacturers. We have the dealers association, we have the manufacturers, we have their producers telling us that there is a difference, a difference between the mainline manufacturers and the shortline manufacturers.

All we are asking the government to do is to take a look at their legislation, take some time and look if there is not a reasonable amendment. The Minister's own argument has been negated by the fact that she has given the example to this committee of three shortline dealers that have decided for one reason or another that they had

to pull their business from a dealership. The dealerships are still there; the dealerships are still operating. If it had been the mainline manufacturer that pulled that business, the dealers would be out of business. I think that furthers the point that we have been trying to make on this side of the table.

There are so many industries that fall into the same category. Car dealers are totally reliant on one multinational. If we had a situation in this province where we had some small car manufacturers or some small manufacturers that were supplying dealerships, would the Minister be telling us that they would be bringing in legislation on dealer purity to try and deal with the Fords and the GMs of the world at the expense of local manufacturers? I think not. I think everybody realizes how little sense that would make. The same argument applies here. It makes no sense not to differentiate between the shortline manufacturers, particularly those that are local, that provide the economic benefit of having a head office here, that provide opportunities for growth, that provide opportunities for businesses that are deemed unnecessary, or in the case of a recent merger, Ford New Holland was deemed that it could not remain under the same ownership. If we had not had shortline manufacturers in this community who had been successful, we would not have had anybody to take over that plant. Buhler Industries was the only one that stepped up to the table after much hardship, negotiating an agreement. What is their reward? Their reward is, and Mr. Buhler was here to explain to this committee that their reward is obtrusive legislation that puts roadblocks in the way that they want to do business and continue to build their business not only in Manitoba but, in fact, across Canada, across North America and around the world. I cannot, for one instant, believe or understand why this minister and this government thinks it is productive in any way to put roadblocks in the way of people like Buhler Industries, people like MacDon and the others that have been mentioned here tonight.

There is a simple solution to this. The simplest solution to this tonight would be to take some time. My colleague has already indicated that he would be willing to withdraw his amendment, give the Minister some time to

work with her department, to work with her Cabinet and the rest of her colleagues to make sure that we are doing the right thing. At the same time, it would give a further opportunity for the shortline manufacturers, particularly those in Manitoba who want to make this point clear to the Minister and to her staff that there are other alternatives here that will suit the industry better.

I cannot understand why the Minister will not agree to just take some time. Let us not push this through. There is opportunity here to make the right decision through input from the community, through input from manufacturers, through input from the dealers and their association representatives, through the Government and, hopefully, some input from the opposition parties. It all goes to naught if the Minister just steadfastly sits there and says we are going to pass this legislation because it is what we brought before you. I think the Minister is making a big mistake and one that will do irreparable harm to this province, to this economy and, in particular, to the shortline manufacturers and the rest of the agriculture industry that is not only dependent on them for jobs, but is dependent on them for product, for service and for opportunity to build business in this province. So, again, I have said it before, I am not too proud to plead, to beg with the Minister to allow us to take some time in order for her to take some time with her colleagues and let us rethink this thing.

**Mr. Jack Penner:** Well, Mr. Chairman, I suppose we could sit here and talk all night as we have done on occasion, as opposition members have done on occasion. At the end of the day, if the Minister clearly is determined to take an approach that she is not accepting any amendments—I wonder whether she believes that she is, in fact, going to be a loser if she accepts the amendments. The people would be the winners. Manitobans would be the big winners if she did. If Manitobans are big winners, they will remember, and they will let the Minister know of their appreciation that they have for a government that is, in fact, willing to listen.

I would suggest to the Minister that the exact opposite is going to be true if she demonstrates that she is willing to take a

dictatorial approach to passing legislation that is not amenable to any one of the sectors involved here, including the farm community, the dealership network, the manufacturers and, indeed, to conform to have a motion of conformity where a piece of legislation conforms throughout western Canada would appear to be the right way to move with this legislation. Yet the Minister indicates clearly an unwillingness to even listen. I think that does not speak very highly of the Minister's perception of the reality and the seriousness of the contents of this bill the way it is drafted.

\* (21:50)

So I would suggest to you, Mr. Chairman, that we should again strongly reconsider the motion of adjournment that I had put forward and allow the Minister, maybe the Minister has had a bit more time to rethink her position now and reconsider this bill.

If that is not possible, then I can only hope that the industries that currently operate or are looking at expanding their operations and maybe even going into business in new ventures oversee the mistakes that the Minister is making here today and reflect seriously on an ability to be able to retain their operation within the next three short years. Then we will seriously have to have an opportunity to reconsider legislation that has been put in place by a government that is clearly demonstrating here today, and we are really setting the agenda here for a future and demonstrating to Manitobans that we have no will to listen. This government, this NDP administration, is simply on an approach of dictatorial manoeuvres that will force upon people unwanted procedures in doing business in this province.

I say to the Minister that many will look even upon this exercise here tonight, many businesses will look upon this before looking to Manitoba to make it a home and look at this kind of legislation that has been described by some of the presenters here as draconian legislation before they will come to visit here to consider whether they should in fact establish here and do business.

**Mr. Chairperson:** We have an amendment before the Committee as follows:

THAT the proposed section 16.1, as set out in section 5 of the Bill, be amended

(a) by renumbering it as subsection 16.12 and adding "with a mainline vendor" at the end of the part before clause (a); and

(b) by adding the following as subsection 16.11 "mainline vendor defined" 16.11 in this section and section 16.2 to 16.11.

Mainline vendor means a vendor who

(a) manufactures or distributes new combines and new tractors with engine capacities of 100 horsepower or more; or

(b) is a member of a related group of vendors

(i) at least one member of which manufactures or distributes new combines; and

(ii) at least one member of which manufactures or distributes new tractors with engine capacities of 100 horsepower or more.

For this purpose, two vendors are related if one is controlled by the other or they are controlled by the same person or group of persons.

Shall the amendment pass?

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please respond by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please respond by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

#### Formal Vote

**An Honourable Member:** A recorded vote.

**Mr. Chairperson:** A count out has been requested. The Clerk will count.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.*

**Mr. Chairperson:** I declare the amendment defeated. I think we are going on to the next clause now.

**Ms. Wowchuk:** Mr. Chairman, I believe we are on clause 5 now. I have several amendments under clause 5. My first amendment is: I move

THAT the proposed section 16.1, as set out in section 5 of the Bill, be amended by striking out 16.11 in the section and substituting 16.12.

#### [French version]

Il est proposé que l'article 16.1, énoncé à l'article 5 du projet de loi, soit amendé par substitution, à "16.11", dans le titre et le paragraphe, de "16.2".

#### Motion presented.

**Mr. Chairperson:** The amendment is in order.

**Ms. Wowchuk:** Mr. Chairman, this amendment as proposed is to correct an internal reference. In addition, section 16.2 to 16.11, section 16.12 is meant to be applied to all dealership agreements, so that the reference to 16.11 is being changed to 16.12.

**Mr. Jack Penner:** Mr. Chairman, before we deal with this amendment, I had my hand up a little while ago, and if we pass this amendment, that does not preclude me proposing another amendment.

**Mr. Chairperson:** I am informed that, yes, you can still propose an amendment to this clause. Is there any further debate on this amendment? We have an amendment before the Committee as follows:

THAT the proposed section 16.1 as set out in section 5 of the bill be amended by striking out—

**An Honourable Member:** Dispense.

*a) sans motif valable;*

**Mr. Chairperson:** Dispense.

*b) sans obtenir une ordonnance du tribunal en vertu du paragraphe 16.5(3), sous réserve du paragraphe (2).*

Shall the amendment pass?

**Some Honourable Members:** Pass.

**Exception**

\* (22:00)

*16.3(2) N'ont pas besoin d'une ordonnance du tribunal les vendeurs qui résilient un contrat de concession dans les cas suivants :*

**Mr. Chairperson:** I declare the amendment passed.

*a) le concessionnaire a fait une cession de faillite ou a fait l'objet d'une requête de mise en faillite et n'a pas été libéré de sa faillite;*

**Ms. Wowchuk:** Mr. Chairman, I have another amendment under section 5. Can I proceed with it now? I move

*b) le motif de la résiliation est un des motifs précisés aux règlements.*

THAT the proposed section 16.3, as set out in section 5 of the Bill be repealed and the following substituted:

**Motion presented.**

**Mr. Chairperson:** The amendment is in order.

**Prohibition on termination of dealership agreement**

**16.3(1)** No vendor shall terminate a dealership agreement

**Ms. Wowchuk:** This motion repeals proposed section 16.3 and replaces it with two subsections. The first subsection is virtually the same as the existing section 16.3, but it is simpler to replace it rather than renumbering it and amending it. The amendment adds the phrase "subject to subsection (2)" to clause (b). The new subsection 16.3(2) provides exceptions to the requirement for the court before terminating a dealer agreement (a) if a dealer is bankrupt and has not been discharged from bankruptcy, or if the cause for termination is a cause set out in the regulation for the purpose of this section.

(a) without cause; and

(b) subject to subsection (2), without an order of the court under subsection 16.5(3).

**Exceptions**

**16.3(2)** A vendor does not require a court order to terminate a dealership agreement if

(a) the dealer has made an assignment in bankruptcy or has been petitioned into bankruptcy and has not been discharged from bankruptcy; or

(b) the cause for termination is a cause prescribed in the regulations.

**Mr. Jack Penner:** I am wondering whether this precludes me from making an amendment to 16.3. If this is voted on and passed, does that preclude me from amending 16.3 or proposing to amend 16.3?

**[French Version]**

*Il est proposé que l'article 16.3, énoncé à l'article 5 du projet de loi, soit amendé par ce qui suit :*

**Mr. Chairperson:** Mr. Penner, Emerson, I am informed that you will have to move a subamendment, and we will deal with the subamendment first and then the amendment.

**Interdiction de résiliation**

**16.3(1)** Il est interdit aux vendeurs de résilier un contrat de concession :

**Mr. Jack Penner:** Thank you, Mr. Chairman. I thought that was the process, having sat at where you sit for many years, but like I say, I am not a lawyer. I thought maybe even those things might

have changed when government changed, but I suppose they would.

I would move then, Mr. Chairman, seconded by the Honourable Member for Steinbach (Mr. Jim Penner),

THAT I propose a subamendment that would propose that section 16.3 as set out in section 5 of the Bill be amended in part before clause (a) by adding "mainline" before "vendor."

**Mr. Chairperson:** Committee members, we are going to pause for a minute while we get the subamendment ready for a translation.

We have an amendment before the Committee as follows:

Moved by Mr. Penner, Emerson

THAT the proposed amendment to the proposed section 16.3, as set out in section 5 of the Bill, be amended in the part before clause (a) by adding "mainline" before "vendor".

The amendment is in order.

**Mr. Jack Penner:** Mr. Chairman, it is simply again an attempt to clearly delineate from the large international corporate conglomerates and their ability to cause termination and/or to cause, some might even call it a cleansing of their dealerships. I think that we need to very carefully reconsider the ability for our manufacturers in our province to be able to stay in business and cause them a degree of comfort that would allow them to maintain their operations and operate with the additional comfort of assuring that this bill will truly reflect what everybody in this province wants. It is clearly an attempt to ensure that shortline equipment will be able to be sold by all dealerships not only those directed by the large corporate conglomerations.

**Mr. Chairperson:** We have a subamendment to the amendment before the Committee, moved by Mr. Penner, Emerson.

Sorry, Mr. Loewen.

**Mr. Loewen:** I thought you had me on the list there, Mr. Chairman. I would also like to speak to the subamendment just to make it perfectly

clear to the Minister that once again this in response to requests that were brought before this committee by the manufacturers in particular. I want to state clearly that this contemplates a different scenario than the amendment that was defeated already, but I think a very valuable scenario, particularly for small businesses in Manitoba and anywhere that hope to grow.

The situation could very easily arise where we heard from a manufacturer tonight who had three employees and probably does not produce much equipment. So they put that equipment in the hands of a dealer. The dealer sells that equipment, and the dealer does not pay them. Well, if they do not have a very quick remedy, it is quite likely that that manufacturer is out of business. That is clearly distinct from a case of a large manufacturer, a multinational, who when dealing with a case of fraud where a dealer does not pay them for selling some of their equipment, it is clearly a very, very small part of their business. A loss like that might sting a large multinational manufacturer a little bit, but it certainly would not put them out of business.

\* (22:10)

So what we are looking for here, again, is to draw the distinction and to give the shortline manufacturers, those small manufacturers in Manitoba and in other places, some protection against fraudulent activities by dealers.

The Minister may believe that in her amendments that by including a bankruptcy situation that she has dealt with it, but it is a very expensive and it can be a very drawn-out process to put any company in bankruptcy. It does not happen quickly.

So once again, even with her amendment, she has put the small manufacturing companies in Manitoba at a very great risk. She has put upon them a process that could virtually see them bankrupt before they have any opportunity to take action against a dealer who acts fraudulently and does not pay them for equipment that that dealer has sold.

So we do not have to deal with one versus the other. This is not a case of dealer purity



versus protection for the small manufacturers in Manitoba and in Canada. Both can be accommodated by simple amendments to her legislation. Once again I would urge the Minister to look at the ramifications this legislation will have on small manufacturers and to listen to what those small manufacturers have told this committee and make some amendment in her legislation to allow for small manufacturers to have immediate recourse, instantaneous recourse, in the case where they are treated fraudulently by a dealer.

**Mr. Chairperson:** We have a subamendment before the Committee as follows, moved by Mr. Penner, Emerson.

THAT the proposed amendment to the proposed 16.3, as set out in section 5 of the Bill, be amended in the part before clause (a) by adding "mainline" before "vendor". Shall the subamendment pass?

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the subamendment, please respond by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, respond by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

#### Formal Vote

**An Honourable Member:** Recorded vote.

**Mr. Chairperson:** We have a request for a count-out vote.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.*

**Mr. Chairperson:** I declare the subamendment defeated.

\* \* \*

**Mr. Jack Penner:** Mr. Chairman, I would like to propose another amendment to section 5 of the Bill.

**Mr. Chairperson:** Excuse me, Mr. Penner, Emerson, we still have the main motion to deal with.

**Mr. Jack Penner:** Okay. Sorry about that.

**Mr. Chairperson:** I am advised that we should do that now. We have an amendment before the committee as follows:

Moved by the Honourable Ms. Wowchuk

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

*THAT the proposed section 16.3, as set out in section 5 of the Bill, be repealed and the following substituted:*

#### ***Prohibition on termination of dealership agreement***

***16.3(1) No vendor shall terminate a dealership agreement***

*(a) without cause; and*

*(b) subject to subsection (2), without an order of the court under subsection 16.5(3).*

#### ***Exceptions***

***16.3(2) A vendor does not require a court order to terminate a dealership agreement if***

*(a) the dealer has made an assignment in bankruptcy or has been petitioned into bankruptcy and has not been discharged from bankruptcy; or*

*(b) the cause for termination is a cause prescribed in the regulations.*

**Mr. Chairperson:** The motion is in order.

**Mr. Loewen:** Mr. Chairman, I have asked the Minister in the Exceptions in 16.3(2)(b) "the cause for termination is cause prescribed in the regulations." Can she supply us this evening with the regulations?

**Ms. Wowchuk:** Mr. Chairman, the regulations that are mentioned in this legislation will be developed by the Board after they see how the existing legislation is working.

**Mr. Loewen:** Excuse me for not maybe following this as it is a little bit convoluted for the first time going through it, but am I to understand correctly that these regulations would allow other reasons for terminating the agreement, that would allow manufacturers to terminate agreements without going through the lengthy process of forcing the dealer into bankruptcy?

**Ms. Wowchuk:** Once the legislation is in place and the Board sees how the legislation is working, they will have the ability through regulation to make other exceptions.

**Mr. Loewen:** Once again, I do not think this serves the smaller, the shortline manufacturers in Manitoba, particularly those with head offices here at all, and I would urge the Minister—she does not seem to be willing to listen to their advice in terms of the drafting of this legislation—to look closely at their advice, and listen to the predicament that they are trying to express to her in terms of their ability to continue to build their businesses. I would ask her to work closely with her department and the Board to ensure that the needs of shortline manufacturers, particularly those in Manitoba and Canada, are dealt with so that they can have comfort moving forward, that if they run into a case where a dealer treats them fraudulently, they have immediate recourse, because it is only immediate recourse that will allow them to continue their business. Quite frankly, if they do not have the recourse needed to continue their business, I think the only advice that they would get from other business people is not to set up their business in Manitoba.

These shortline manufacturers, as they have expressed to this committee on a number of times, need some protection, and so just as we are trying to protect the dealers against the whims of large multinational manufacturers, we need to ensure that there is the proper protection for the small shortline manufacturers against dealers which are much larger and carry much more weight and have much more financial clout

than they, particularly in a case where they are dealt with on a fraudulent basis.

**Ms. Wowchuk:** Mr. Chairman, I thank the Member for that advice. We have a farm machinery board that is appointed by government, and that board will see how the legislation is working. Once it is implemented, I trust the Board to then come forward with necessary regulations as they see will be required. I would remind the Member that the Board is the one that has made these recommendations for this legislation. They will want to follow it closely. They will have the ability to bring forward regulations.

**Mr. Loewen:** Just a final comment on that. The Minister is suggesting that she has listened to the Board. I think it is unfortunate that she has not paid as much attention. She may have listened to but she certainly did not hear the requests of the shortline manufacturers that have come to make presentations towards this bill. I would urge her to pay as much attention to the local business as she does to the members of this board which they have appointed.

**Mr. Jack Penner:** I wonder whether the Minister would be able to give us the names of the Farm Machinery Board.

**Ms. Wowchuk:** The Chairman of the Board is Chuck Balmer. The board members are Greg Perchaluk, Gerald—

**An Honourable Member:** Slower, slower.

**Mr. Jack Penner:** Mr. Chairman, where would Mr. Balmer be from?

**Ms. Wowchuk:** He is from Winnipeg.

\* (22:20)

**Mr. Jack Penner:** Could the Minister tell us what Mr. Balmer's background is?

**Ms. Wowchuk:** Mr. Chairman, I would have to get that, but I would want the Member to know that this is not a board I have appointed. This is a board that was appointed by the previous government. So I do not have full detail on their background, but I can get you full detail on

theirs, and I would give you the other names that the Member asked for. It is Greg Perchaluk, Gerald Grandmont—

**Mr. Jack Penner:** Gerald?

**Ms. Wowchuk:** Gerald Grandmont, Della Klippenstein and Bernie Murray. If the Member is interested in more details on the background of those board members, we are going to be back in Estimates tomorrow. I can provide him with full details at that time. I want the record to show that this board is a board that was appointed by the previous government. It is this board that is recommending the legislation that we are bringing forward.

**Mr. Jack Penner:** Mr. Chairman, I would put as much substance in that statement as I put substance in the attempt by the Minister to read part of a letter of the Keystone Agricultural Producers into the record and deleting the part that clearly delineated the mainline dealers and the shortline dealers.

I am wondering what the Minister has indicated to the board her intent was and what the purpose of the Bill was. It would clearly be my view that the members of this board had no idea what the final draft of the legislation would look like, what the Bill would finally do.

I think that this Minister owes it to herself, to her department, to her government, to her Cabinet, to go back to Cabinet and explain the absolute opposition that the total industry has demonstrated, from the agricultural community right on through to the manufacturers, from shortline dealers and mainline manufacturers to this bill, and then come back here to this committee and give us the comfort that, and quite frankly, if she has portrayed the Bill to her own Cabinet the way she portrayed the Keystone presentation to her, then I would sincerely wonder whether her own government or her own Cabinet even knows—

**Mr. Chairperson:** Excuse me, Mr. Penner, we have a point of order. Mr. Struthers.

#### Point of Order

**Mr. Struthers:** Well, I am wondering what relevance there is with the rant that we are just

receiving from the Member for Emerson (Mr. Jack Penner). I do not like to sit here and see the kind of abuse that that member is heaping on a minister who has consulted, who has in an honest and fair way brought this bill forward, who in an honest and fair way has indicated to this House the reasons for her bringing this bill forward and in an honest and fair way has portrayed the material that has come to this committee, the letters, the letters of support, the letters saying that this legislation is good. I do not want the Member for Emerson to leave on the record that the whole industry is against this bill. I wish, Mr. Chairman, you would call the Member to order and make sure he is relevant.

**Mr. Chairperson:** Thank you, Mr. Struthers. Mr. Penner, Emerson, on the same point of order.

**Mr. Jack Penner:** It is clear that members have not been listening, or else they would clearly know that the Minister—*[interjection]*

**Mr. Chairperson:** Order, please. Please allow the Member for Emerson to complete his point of order briefly. I am recognizing Mr. Penner, Emerson, to continue.

**Mr. Jack Penner:** Thank you, Mr. Chairman. I would clearly ask the Honourable Member whether the Minister read in its entirety into the record the presentation by the Keystone Agricultural Producers to the committee hearing on Bill 20, and if that was not done, why was it not done? Was there intent there or was there not? I clearly want to bring to the attention of the Chairman a process in this committee that wants to stymie the debate on this piece of legislation, and I think it is absolutely imperative that members of this committee be allowed to state their case as should be stated, and we have that right as members of this committee.

**Mr. Chairperson:** Thank you, Mr. Penner, Emerson. I am going to rule that this is not a point of order. It is a dispute over the facts, and if other people want to enter into the debate, they should do it on the amendment.

\* \* \*

**Mr. Chairperson:** I think Mr. Penner, Emerson, had the floor.

**Mr. Jack Penner:** Thank you, Mr. Chairman. I think we need to clearly assess the opposition that we have heard to this bill, and this committee needs to reflect clearly on the Minister's persistence to proceed with a bill that nobody that I have heard at this committee, including the farm organization, including the dealership organizations, including the manufacturers, both shortline and mainline, that they have expressed complete support for this bill. I think we should make it very clear that the attempt by this government to stymie progress by legislation simply because there is a will to show that they govern with a majority and a heavy hand. I think, Mr. Chairman, that this committee will reflect that, and the general public will see the process that we have embarked upon here and had to endure this evening.

**Mr. Chairperson:** We have an amendment before the Committee as follows:

Moved by the Honourable Ms. Wowchuk:

THAT the proposed section 16.3, as set out in section 5 of the Bill, be repealed and the following substituted:

**Prohibition on Termination of Dealership Agreement**

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

*16.3(1) No vendor shall terminate a dealership agreement*

*(a) without cause; and*

*(b) subject to subsection (2), without an order of the court under subsection 16.5(3).*

**Exceptions**

*16.3(2) A vendor does not require a court order to terminate a dealership agreement if*

*(a) the dealer has made an assignment in bankruptcy or has been petitioned into bankruptcy and has not been discharged from bankruptcy; or*

*(b) the cause for termination is a cause prescribed in the regulations.*

\* (22:30)

**Mr. Chairperson:** Shall the amendment pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, please respond by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please respond by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

The amendment—

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Jack Penner:** Yes, I have a further amendment to propose to section 5, and I move, seconded by the Member for Steinbach (Mr. Jim Penner),

THAT the proposed section 16.4, as set out in section 5 of the Bill, be amended.

(a) In the part before the clause (a) by adding "mainline before vendor"; and

(b) by striking out "or" at the end of clause (b) and by repealing clause (c) and substituting the following:

(c) do anything to prevent a dealer from, or penalize a dealer for, carrying on business in any facility, as a dealer or agent for another

vendor, or selling or servicing the product of another vendor; or

(d) except for new warranty purposes require a dealer to deal exclusively in the parts line of the vendor or any other vendor.

**Mr. Chairperson:** We have an amendment before the Committee as follows, moved by Mr. Penner, Emerson,

THAT the proposed section 16.4, as set out in section 5 of the Bill, be amended—

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

*(a) In the part before the clause (a) by adding "mainline before vendor"; and*

*(b) by striking out "or" at the end of clause (b) and by repealing clause (c) and substituting the following:*

*(c) do anything to prevent a dealer from, or penalize a dealer for, carrying on business in any facility, as a dealer or agent for another vendor, or selling or servicing the product of another vendor; or*

*(d) except for new warranty purposes require a dealer to deal exclusively in the parts line of the vendor or any other vendor.*

The amendment is in order. Shall the amendment pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Ms. Wowchuk:** Mr. Chairman, we have been debating this issue all evening about separation between mainline and shortline. The Member brought the same amendment forward under 16.3, and he is bringing the same amendment forward here to designate only mainline vendors in this legislation. It is just a continuation of the debate that we have been having all evening. We have indicated that we have listened to producers and we have listened to the board and we are

looking to bring forward fair and equitable legislation that will treat mainline and shortline vendors in the same way. This amendment would not be in keeping with the rest of the legislation.

**Mr. Loewen:** Mr. Chairman, again I think the Minister is not accurate in her statement on the record. Again, there is a separate and distinct issue here. It is an issue that was brought forward to this committee by manufacturers in this province, by people with head offices in this province. What they wanted was clarification on clause 16.4, in particular section (a), where it is a very loose clause in terms of prices charged for product, and in particular to define what similarly situated dealers are. Is it a dealer that is similarly situated geographically? Is it a dealer that is similarly situated by size? There are many examples of business, and indeed it happens every day where incentives are passed on to dealers who sell a certain amount of product. It is one way that manufacturers have to incent dealers to provide good service, to provide good sales exposure for their products.

Once again, when one looks at the intent of this legislation it can get to the point where it puts another roadblock in the way of business doing business as business should do business. It should be between the dealer and the manufacturer to work out arrangements with regard to pricing, with regard to what a manufacturer charges a dealer for their equipment to allow them to incent the dealer to not only provide good service for that equipment, but to provide an opportunity for that manufacturer to reach the type of market share that the manufacturer would like to see.

Quite frankly, as government, we have no business getting in the middle of it. It is simply a business-to-business transaction between manufacturers and dealers. It is something that is done all the time. To put this type of restriction on it, and it was brought to us by the manufacturers themselves, again is I think another indication to manufacturers in this province that they may want to think twice before they either start a business here or continue to expand a business here. That part of the amendment is fairly simple. I cannot understand why this government would object to it.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, please respond by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed please, respond by saying Nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it. The amendment is defeated.

**Formal Vote**

**Mr. Chairperson:** A recorded vote has been requested.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.*

**Mr. Chairperson:** I declare the amendment defeated.

**Ms. Wowchuk:** Mr. Chairman, I move

THAT the proposed subsection 16.5(1), as set out in section 5 of the Bill, be amended by adding ", if clause 16.3(1)(b) requires an order," after "shell".

**[French version]**

*Il est proposé que le paragraphe 16.5(1), énoncé à l'article 5 du projet de loi, soit amendé par adjonction, à la fin, de « s'il est nécessaire d'obtenir une ordonnance en vertu de l'alinéa 16.3(1)b ».*

**Motion presented.**

**Mr. Chairperson:** The amendment is in order.

**Ms. Wowchuk:** Mr. Chairman, the amendment proposes that subsection 16.5(1) be amended so that the requirements to obtain a court order do not apply to the exceptions.

**Mr. Chairperson:** Amendment—pass.

**Ms. Wowchuk:** Mr. Chairman, I have one more amendment under section 5. That is

THAT the proposed subsection 16.8(1), as set out in section 5 of the Bill, be repealed and the following substituted:

**Mediation**

**16.8(1)** At the request of the dealer or vendor, the court shall by order appoint a mediator, unless it is satisfied that the purpose of the request is to delay its determination under section 16.5 unnecessarily or that mediation is not in the interests of justice. The mediator shall try to facilitate a settlement of the dispute.

**Lengthening the mediation period**

**16.8(1.1)** The court shall fix the length of the mediation period and may shorten or lengthen the period at the request of the dealer or vendor.

**[French version]**

*Il est proposé que l'article 16.8(1), énoncé à l'article 5 du projet de loi, soit remplacé par ce qui suit :*

**Médiation**

**16.8(1)** À la demande du concessionnaire ou du vendeur, le tribunal nomme, par ordonnance, un médiateur pour tenter de résoudre un litige sauf s'il considère que la demande ne vise qu'à différer inutilement la décision prévue à l'article 16.5 ou qu'il n'y va pas de l'intérêt de la justice de procéder à une telle nomination.

**Période de médiation**

**16.8(1.1)** Le tribunal fixe la période de médiation et peut en raccourcir ou en prolonger la durée à la demande du concessionnaire ou du vendeur.

**Motion presented.**

**Mr. Chairperson:** The amendment is in order. Shall the amendment pass?

**Mr. Loewen:** Thank you, Mr. Chairman. Again I would like to draw to the Minister's attention the fact that we had a number of representations at this committee which expressed concern with this clause and the fact that there are occasions, particularly in the case of fraud and in particular with shortline manufacturers, where they have to act quickly in order to ensure that their business remains viable. I do not think it is in anybody's

interest, particularly in their interest, to allow a dealer or in certain cases a vendor to request mediation. Certainly the court can decide that on its own.

**Ms. Wowchuk:** I believe that the Member's concerns are addressed under 16.5(2) Order to protect parties' interests. At the request of either the dealer or the vendor at any time after the application is made, the court may make an order imposing any conditions on either or both of them that the court considers necessary to protect their respective business interests until a determination is made under subsection (3).

So I believe that his concerns are addressed in that clause.

**Mr. Chairperson:** We have an amendment before the committee as follows:

Moved by the Honourable Ms. Wowchuk—

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

Shall the amendment pass?

#### Voice Vote

**Mr. Chairperson:** All those in favour of the amendment, please respond by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please respond by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The amendment is passed.

#### Formal Vote

**An Honourable Member:** Recorded vote.

**Mr. Chairperson:** A recorded vote has been requested.

*A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.*

**Mr. Chairperson:** I declare the amendment passed.

Clause 5 as amended—pass; clauses 6, 7 and 8—pass.

Shall clauses 9.1, 9.2, 10 and 11 pass?

**Ms. Wowchuk:** Mr. Chairman, I move that section 10 of the Bill be struck out and the following substituted.

**Mr. Chairperson:** Excuse me, Madam Minister. If you are amending section 10, we are going to pass 9.1 and 9.2 first.

Clauses 9.1 and 9.2—pass.

The Minister has an amendment to clause 10.

\* (22:40)

**Ms. Wowchuk:** Thank you, Mr. Chairman. I move

THAT the section 10 of the Bill be struck out and the following substituted:

10 Section 62 is amended

(a) by adding the following after clause (k):

(k.1) for the purposes of clause 16.3(2)(b), providing for circumstances that constitute cause to terminate a dealership agreement without a court order;

(k.2) for the purposes of clause 16.6(g), providing for circumstances that constitute cause to terminate a dealership agreement.

(k.3) for the purposes of clause 16.7(e) providing for circumstances that do not constitute cause to terminate a dealership agreement.

(b) by renumbering it as subsection 62(1); and

(c) by adding the following as subsection 62(2):

**Retroactive regulations**

**62(2)** A regulation made under any of clauses (1)(k.1) to (k.3) may be made retroactive to a day not earlier than the day on which sections 16.1 to 16.12 come into force.

**[French version]**

*Il est proposé que l'article 10 du projet de loi soit remplacé par ce qui suit :*

**10** *L'article 62 est modifié :*

*a) par adjonction, après l'alinéa k), de ce qui suit :*

*k.1) pour l'application de l'alinéa 16.3(2)b), prévoir les circonstances qui constituent des motifs de résiliation d'un contrat de concession sans qu'il ne soit nécessaire obtenir une ordonnance du tribunal;*

*k.2) pour l'application de l'alinéa 16.6g), prévoir les circonstances qui constituent des motifs de résiliation d'un contrat de concession;*

*k.3) pour l'application de l'alinéa 16.7e), prévoir les circonstances qui ne constituent pas des motifs de résiliation d'un contrat de concession;*

*b) par substitution, à son numéro, du numéro de paragraphe 62(1);*

*c) par adjonction, après le paragraphe 62(1), de ce qui suit :*

**Règlements rétroactifs**

**62(2)** *Les règlements pris en application des alinéas (1)k.1) à k.3) peuvent être rétroactifs. Leur entrée en vigueur ne peut toutefois être antérieure à l'entrée en vigueur des articles 16.1 à 16.12.*

**Motion presented.**

**Mr. Chairperson:** The amendment is in order. We have an amendment before the Committee as follows:

Moved by the Honourable Ms. Wowchuk.

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

*THAT the section 10 of the Bill be struck out and the following substituted:*

*10 Section 62 is amended*

*(a) by adding the following after clause (k):*

*(k.1) for the purposes of clause 16.3(2)(b), providing for circumstances that constitute cause to terminate a dealership agreement without a court order;*

*(k.2) for the purposes of clause 16.6(g), providing for circumstances that constitute cause to terminate a dealership agreement.*

*(k.3) for the purposes of clause 16.7(e) providing for circumstances that do not constitute cause to terminate a dealership agreement.*

*(b) by renumbering it as subsection 62(1); and*

*(c) by adding the following as subsection 62(2):*

**Retroactive regulations**

**62(2)** *A regulation made under any of clauses (1)(k.1) to (k.3) may be made retroactive to a day not earlier than the day on which sections 16.1 to 16.12 come into force.*

Shall the amendment pass?

**Mr. Loewen:** I wonder, just for clarification, could the Minister explain what she is attempting to accomplish?

**Mr. Chairperson:** Thank you, Mr. Loewen. That is a very good suggestion.

**Ms. Wowchuk:** Mr. Chairman, the motion repeals section 10 of the Bill and replaces it with virtually the same section but with an additional regulation making power to prescribe causes for termination that do not require a court order. For drafting reasons, it is preferable to repeal and replace the section rather than amend it.



**Mr. Chairperson:** Amendment—pass; clause 11—pass.

Shall the preamble pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The preamble is accordingly passed. Shall the title pass?

**Mr. Jack Penner:** No, we will not pass the preamble.

**Mr. Chairperson:** The question before the committee is: Shall the title pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour, say please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The title is accordingly passed.

\* \* \*

**Mr. Chairperson:** Shall the Bill as amended be reported?

**Some Honourable Members:** No.

**Some Honourable Members:** Yes.

**Voice Vote**

**Mr. Chairperson:** All those in favour of reporting the Bill as amended, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The Bill will accordingly be reported as amended.

\* \* \*

**Mr. Chairperson:** That concludes the business of the committee. Committee rise.

**COMMITTEE ROSE AT:** 10:45 p.m.