

8:34 a.m.

[Ms Graham in the chair]

THE CHAIRMAN: Well, good morning, everyone. I'd like to call to order this regular meeting of the Standing Committee on Private Bills.

You have before you our proposed agenda for today, and unless there are any changes to that agenda, I'd entertain a motion to adopt it as circulated.

MR. STRANG: So moved, Madam Chairman.

THE CHAIRMAN: Moved by Mr. Strang that the agenda be adopted. All in favour, say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: All against, say no. The motion is carried.

As well, you have the minutes from the last regular meeting on March 24, 1998, and unless there are, again, any errors or omissions or discussion, I'll entertain a motion to approve those minutes. So moved by Mrs. Tarchuk. All in favour, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: All against, please say no. The motion is carried.

I believe this morning you will have received our revised schedule of hearings, for, as you know, last week we rescheduled this particular hearing for today rather than next week. So if I could have a motion adopting that revised schedule of hearings. You will see that we will meet again next week on April 7 to deliberate on Bill Pr. 3. On April 14 there will be no meeting due to the Easter break, and if necessary we will have a meeting on April 21, but we will decide that next week.

Is there a motion, then, to adopt this revised schedule? Moved by Mr. McFarland. All in favour, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: All against, please say no. The motion is carried.

All right. Our matter of business this morning is Bill Pr. 3, Alberta Wheat Pool Amendment Act, 1998. I'd like to indicate for the record that on behalf of the committee I contacted the Ethics Commissioner, Mr. Clark, about his position on the potential conflict of interest should a member of this committee also be a member of the Alberta Wheat Pool. He has responded by letter dated March 27, 1998, to me as chairman of this committee and indicates that his advice is that members of the committee who are Wheat Pool members would not have a private interest in the legislation, in other words Bill Pr. 3, as this bill involves a matter of general application and is one that affects a person as one of a broad class of the public, in other words all Wheat Pool members. So the effect of that is that there is no perceived conflict of interest.

Are there any other matters that committee members would like to raise before we call in the petitioners in this matter? All right. We'll call in our petitioners.

[Messrs. Mack, Palovcik, Pearson, Riddell, and Smillie were sworn in]

THE CHAIRMAN: Good morning, gentlemen. I'd like to welcome you all to this meeting of the Standing Committee on Private Bills. I am your chairman this morning. My name is Marlene Graham.

I will just briefly describe our proceedings here today, although I know Mr. Mack has perhaps more experience than I do in these matters. As you may realize, this is an all-party committee, so there are of course members of the opposition participating on the committee. Today we will hear your presentation as petitioners. Mr. Palovcik is here from Municipal Affairs and will be available to answer any questions. I understand that you're not making a presentation as such, but you are here for questions. Once the petitioner this morning has completed his presentation, then members of the committee are free to question you. We will be meeting a week today to deliberate on the evidence provided today, and you will be notified as quickly as possible after that as to the recommendation of the committee, which will be one of three options: either that the bill proceed, that the bill proceed with amendments, or that the bill not proceed.

At this time I will have members of the committee introduce themselves to you. If we could start with Mrs. Soetaert.

MRS. SOETAERT: Hi. Colleen Soetaert, Spruce Grove-Sturgeon-St. Albert.

MR. BONNER: Good morning. Bill Bonner, Edmonton-Glenarry.

MR. MacDONALD: Good morning, gentlemen. I'm Hugh MacDonald, Edmonton-Gold Bar.

MRS. BURGNER: Hello. Jocelyn Burgener, Calgary-Currie.

MR. MARZ: I'm Richard Marz, Olds-Didsbury-Three Hills.

MR. COUTTS: Good morning. Dave Coutts, Livingstone-Macleod.

MR. McFARLAND: Hello again. Barry McFarland, Little Bow.

MR. THURBER: Tom Thurber, Drayton Valley-Calmar.

MR. TANNAS: Don Tannas, Highwood.

MS KRYCZKA: Karen Kryczka, Calgary-West.

MR. PHAM: Hung Pham, Calgary-Montrose.

MR. STRANG: Good morning. Ivan Strang, West Yellowhead.

MRS. TARCHUK: Good morning. Janis Tarchuk, Banff-Cochrane.

MR. CAO: Good morning. Wayne Cao, Calgary-Fort.

THE CHAIRMAN: All right. Assisting us this morning at the table, we have Parliamentary Counsel Ms Shannon Dean and administrative assistant Ms Florence Marston.

Before calling on you to make your presentation, I'll just bring to the attention of the committee members that you should have in your materials an executive summary prepared and submitted by the petitioner summarizing the intent of this bill, which is to allow the Alberta Wheat Pool to undertake an export continuance to be continued under a new statute and cease to be governed by its original incorporation statute.

You should also have circulated to you this morning a draft of a proposed amendment to Bill Pr. 3. If any of you don't have that, perhaps we could get that to you right now. Are there any members that don't have that amendment? All right.

I would also like to bring to your attention that we have received letters from the Securities Commission, the department of agriculture, and Municipal Affairs. You should also have copies of those.

Just briefly to summarize the contents of those letters, the Alberta Securities Commission has advised that Pr. 3 does not have any Securities Act implications and is not incompatible with securities legislation or policies. Therefore, the Securities Commission has no objection to this bill.

As well, the Department of Agriculture, Food and Rural Development advises that it is in support of this bill and goes on to state that the amendments being sought "will provide Alberta Wheat Pool with the opportunity to change to a corporate structure that will allow the Pool to be a more competitive grain company in the future." The department is not attending this morning.

As well, the Department of Municipal Affairs has advised that the amendments in Pr. 3 are compatible with proposals that the department is considering "for co-operatives under the Co-operative Associations Act." There is no objection, but Mr. Paloveik is here today to answer any questions the committee members may have.

With that, then, I'll invite the petitioners to make their presentation.

8:44

MR. SMILLIE: Madam Chairman, hon. members, good morning. I guess I've been picked to start the ball rolling here this morning. My name is Gord Smillie, and I'm a full-time farmer. My wife and I operate a dryland grain farm at Bassano, about 75 miles east of Calgary. I've been a member of the Alberta Wheat Pool since 1970 and have represented my area as a delegate since 1989.

I'd first off like to thank you very much for inviting us to appear this morning on this Alberta Wheat Pool Amendment Act. Also present with me are, to my right, Mr. John Pearson, Alberta Wheat Pool director and first vice-president. To his immediate right is Mr. Cam Mack. He's our external legal counsel for Alberta Pool, and he's with the firm of MacKimmie Matthews in Calgary. To my left is Dale Riddell, director of corporate affairs for Alberta Pool out of Calgary.

Our last appearance before this committee was in 1996 to accommodate a new equity plan that involved the pool issuing preferred shares. The new plan and the share program have had great success and have been enthusiastically received by our members and by the financial community. These changes have assisted Alberta Wheat Pool in maintaining our competitive ability in the domestic and the international grain industries, and we'd like to thank the committee for assisting us and making those changes to our act at that time.

The new amendment that we place before you today is fairly simple. It would only permit the Alberta Wheat Pool delegates to pass a resolution at a duly called meeting which would allow the Wheat Pool to become governed by another statute in Canada in place of the Alberta Wheat Pool Act. I think I have to point out that the amendment itself does not change anything at this time, but it would only enable the delegates to make such a change if and when the need to do so did arise. The Alberta Wheat Pool Act will continue to apply until such time as the delegates decide otherwise.

At this time I'd ask Mr. Mack to make some brief comments regarding the technical aspects of our amendment.

MR. MACK: Thank you, Mr. Smillie. Good morning. The executive summary that was made available through Parliamentary Counsel's office explains in general terms what the purpose of the amendment is. In corporate law circles this type of a provision is referred to as an export continuance. The effect of it is to permit a corporation through a resolution process to take itself and become subject to another governing statute which would then apply to it as a corporation, dealing with its essential characteristics as a corporation: things such as its capital structure, its name and its ability to change its name, and its internal operations.

If the amendment is passed, as Mr. Smillie said, it would change nothing insofar as Alberta Wheat Pool is concerned at this time. What it would do is give them the potential in the future, through a resolution of its delegates, to undertake this action which would have the result that the Alberta Wheat Pool Act would cease to apply from that point forward and that the Canadian statute continued under would from that point forward govern Alberta Wheat Pool.

The power to undertake an export continuance of this nature is a feature that is commonly available to corporations and in fact many co-operatives throughout Canada. To my understanding, in Canada it really first became available through the Canadian Business Corporations Act, which in turn became a model for most of the provincial corporation statutes.

Many features of that act have also been included in what I would call the modern-style, generic co-operative legislation. An example of that is the new Bill C-5 federally, the Canada Cooperative Associations Act. These statutes generally do permit a corporation subject to it to undertake an export continuance of this nature. The very general structure of the amendment that we have before you, the inspiration for it, is taken from these other statutes.

There are two safeguards in the statute that I would like to bring to your attention. The first Mr. Smillie touched upon, and that is to say that the continuance under the amendment could occur only if it's approved by three-fifths of the delegates.

I might just digress for a second. For those members who may not be familiar with Alberta Wheat Pool structure, I would point out that the delegates of Alberta Wheat Pool represent its members in the same way that the hon. members represent the citizens of the province. It's a delegated voting structure, so generally speaking, the votes of delegates are the votes of members. So if one were to draw an analogy, a resolution of the delegates is comparable to a resolution of shareholders in a corporation.

The second safeguard can be found in subsection (5) of the amendment. It provides for a certain number of what I might call flow-through characteristics. What it in effect says is that a continuance cannot occur no matter what the delegates say unless certain essential rights and liabilities of Alberta Wheat Pool are preserved coming through; in other words, Alberta Wheat Pool couldn't continue. A result of that would be to deny a third party rights of, for example, a lawsuit against Alberta Wheat Pool. The continuance would leave those things unaffected, or it wouldn't be authorized. So that's really a safeguard in the public interest.

The last thing I would like to mention, again to emphasize, is that this amendment itself gives the pool an ability to do something in the future but at this point changes nothing. The change would occur only if and when the matter is approved by a delegates resolution, and then there's a procedure in the amendment for certain filings to be made so that the continuance would become a matter of public record.

Madam Chairman, I don't propose to go through each feature of the bill itself, but I would be pleased to answer any questions that the members may have.

MR. SMILLIE: Thank you, Mr. Mack. This basically completes what we had for a presentation on the amendment together with the material that you have received.

We'd like to thank the committee for the opportunity to appear. We would like to give a special thanks to Mr. Reynolds, Ms Dean, and Ms Marston of Parliamentary Counsel's office for the pleasant assistance that they've given us in connection with this amendment.

I think that as broad and general as the amendment is, we're best just to field some questions and try and respond with appropriate answers for that.

THE CHAIRMAN: All right. Thank you, gentlemen.

Just before we get into questions, I understand you provided counsel with a certified copy of your delegates resolution, and I'll just have Ms Dean perhaps put that on the record.

MS DEAN: I just wanted to state for the record that the legal counsel for the Alberta Wheat Pool provided me this morning with a certificate certifying a resolution of Alberta Wheat Pool delegates confirming that these amendments have been approved by the delegates in accordance with section 18 of the Alberta Wheat Pool Act.

THE CHAIRMAN: All right. That being a condition precedent to your hearing this morning.

All right. Mr. Tannas.

MR. TANNAS: Thank you, Madam Chairman. I just wanted to ask a couple of questions with regard to the procedures that you outline in your amendment. At the delegate gathering is the vote by secret ballot?

MR. SMILLIE: Yes, it is by secret ballot.

MR. TANNAS: Okay. You're having at least 60 percent of the delegates. Now, is that the delegates attending or all of the delegates?

MR. SMILLIE: In this instance 60 percent is of the delegates that are registered. At the present time we have a system with 72 delegates, and for a couple of reasons we have two inactive positions. So the number would be based on the 70 total delegates that there are in the body.

MR. TANNAS: Sure.

What's the timely notice? Like, if you're going to have one of these resolutions at a meeting, what's the timeliness of your notice of the meeting and the purpose of the meeting or part of the purpose of the meeting?

MR. SMILLIE: I believe with any act amendment or bylaw amendment – and if this enabling legislation was put through to where a change like this would be under our bylaw structure, we would have to have a 15-day notice given out to the delegates of the upcoming bylaw change.

8:54

MR. TANNAS: And that's in terms of from the time you mail it or the perceived time that they're going to receive it?

MR. SMILLIE: I'm not sure.

MR. RIDDELL: I believe it's – maybe Cam can find it – the date

of mailing. There are two options: one, the 15 days that Gord talked about, or approval of the delegates 24 hours prior to considering it.

MR. TANNAS: Okay. At the meeting itself. Thank you.

THE CHAIRMAN: Mr. Thurber.

MR. THURBER: Thanks, Madam Chairman. Along the same lines as Mr. Tannas's question. I guess there's always a question in my mind, and there has been for many, many years. The delegates are thus informed of a meeting, but what about the general membership? As you're aware, probably better than I am, you have a lot of inactive members on your roll, and I'm wondering what the process is to go out to the general membership. I mean, you're saying you have about 70 delegates across the province. How do they, then, perform their duties as a delegate to the general membership to make sure that they're fully informed before this comes back as a delegate vote?

MR. PEARSON: Maybe what I'll add is just some comments on the process that has happened leading up to this amendment that we propose.

We've, of course, published notice in the *Alberta Gazette*. That was part of the first notice that was published. We held 35 delegate report meetings during the past winter session where we made mention of that to extensive numbers of private members. Plus, just recently in the month of March we've held committee member meetings. It's an advisory sort of committee where members come in and advise the local delegate. We've mentioned and discussed that briefly with them at that time. There appears to be no concern expressed so far to us on this, or we have not heard of any.

MR. THURBER: I was more concerned about the general membership giving the delegates the direction, you know, making sure that it gets right from the grass roots as opposed to kind of from the top down.

MR. PEARSON: Well, that's the process that I've just talked about, where we have gone out extensively to membership and talked to them about it and asked for feedback on it.

MR. THURBER: Okay. So if this amendment is approved here and then you decide to do some other things in the future, you'll be following that very same process to make sure that not only the delegates but the membership are well informed before you move on to another process under federal legislation or other legislation.

MR. PEARSON: We've counted strongly on the loyalty of our members to the organization. If we stop communicating with those members about important issues like this, I think it does severe harm to the organization, and we're committed to keeping that communication up. Gord may have some additional comments.

MR. SMILLIE: We have two small provisions in our bylaws for having a major change in the organization and requiring a vote of the general membership. Most issues that we are faced with today we deal with as delegates, similar to how the parliamentary system would operate in our country. Similar to where you would have a plebiscite on a very important issue, we would have a general membership vote on a very important issue.

We've got a little incentive to try and keep our membership happy because our membership is also our customer. For that reason there is even more incentive for us to make sure that the grass roots knows about this and what changes are going to be made and wherever possible to get as much input from them as we can on these decisions that we have to make.

MR. THURBER: Okay. Thank you, Madam Chairman.

THE CHAIRMAN: All right.

Mr. Pham.

MR. PHAM: Thank you, Madam Chairman. To the members of the panel: what you're asking us to do today is to give you the export continuance thing to allow you to be governed by another act. Can you be a little bit more specific as to exactly what statute you have in mind, what statute you are planning to bring the Alberta Wheat Pool under? If we pass the bill as it is right now, we are giving you a blank cheque. You can go back and try to bring the Alberta Wheat Pool under any act that you see fit and you recommend to the delegates, and the delegates would vote on it. Can you share that idea with us, as to what act you are planning to put the Alberta Wheat Pool under?

MR. RIDDELL: Currently, Mr. Pham, what we're trying to do is be in a position where if we did want to make a move on to another piece of legislation, we would go back to the delegates, as has been explained, to get that right, and we also would see in our normal process communicating with membership.

Currently there is no plan to move under the federal act or to move under an amended provincial act, which we understand is possibly coming. So we do not have a current plan. We're simply asking today to have the right, and the reason we're trying to move this right into position is because of the very competitive nature of the grain business today. It is moving very quickly. There are changes being made, and if a competitor has an option under the federal statute, for example, that we would not have under our current one, we would want to move to be competitive. That's really what is driving this proposed change.

MR. PHAM: That is where my question arises. You say that you need this thing because of the competitiveness of your competitors. You tell me that they have some rights that you don't have. What I'm asking you is: what act are they governed under now? Are you planning to move the Wheat Pool under the same act that your competitors are being governed by? You seem to ask us to give you this right so that you can go to your members and decide at that time to move the Wheat Pool under an act somewhere, whether it's federal or provincial, but you don't have a clear idea yet as to what act you are going to move it under.

MR. RIDDELL: Yes, that's true in the latter part of what you say.

Maybe just to help understand the logic somewhat, the federal amendments to the national co-operatives act, for example, allow certain provisions for share-held structures and how you manage the equity of business which are very different and much more flexible than we currently have. Although that bill, I believe, has not passed the federal parliament, when it does, we may want to move quickly under it, for example. I assure you there is currently no definite plan to do that. What would drive us is the nature of the competition and what we're trying to do in our business. Of the competitors who are moving into the province now, some are share held, some are privately held, and there are other structures as well. Believe me, it's day to day, where you move quickly to be competitive.

MR. PHAM: My next question to you is: how many of your competitors have this kind of power if this bill is passed?

MR. MACK: Madam Chairman, I can answer that question in reference to the two other large prairie pools. Saskatchewan Wheat Pool is governed by a private act as is Alberta Wheat Pool. As some of the members may know, the Saskatchewan Wheat Pool a couple of years back underwent a public share offering. In the course of that, they wound up with what I might call a hybrid piece of legislation, which is a private act incorporating by reference many of the provisions found in the Saskatchewan Business Corporations Act. The Saskatchewan Wheat Pool under the terms of its private act has an ability to continue either under a piece of federal legislation or, alternatively, under another act of the province of Saskatchewan. So the Saskatchewan Wheat Pool, being a major competitor of Alberta Wheat Pool, does have the same power in substance that we're asking for.

Manitoba Pool Elevators, which is the large pool operating out of Manitoba, currently is subject to the Manitoba Co-operatives Act. That act contains an export continuance provision available to Manitoba Pool plus all other co-operatives under it, permitting an export continuance as well. So these other two co-operatives have the export continuance power that Alberta Wheat Pool is asking for this morning.

MR. PHAM: My last question to the presenter. When you bring the Wheat Pool under another act, I assume that you have to assume all the responsibilities, and if there are any rights that your members have under the old act, they could be carried over. Is that correct?

9:04

MR. SMILLIE: Yeah, that's correct. The thing is that depending on whether it's a federal statute or another provincial statute or what kind of legislation we would continue under, the delegates first have to be made aware of what that is and what the terms and conditions of it are. There are some differences from the federal act with regard to – actually, they have better delegate and member rights under the federal act, I think, than we do under our own Alberta act. There are some other things in terms of business nature that are different under the federal act. But the delegates would have those things available to them. The information would go out to the delegates and the membership before there was a decision made to continue under that act.

MR. PHAM: You did not answer my question. My question was very specific. If a member, not a delegate, has some right under the Alberta Wheat Pool Act now and at some later date the delegates decide to move the Alberta Wheat Pool under another act, will you guarantee me that all the rights that a member currently has will be transferred over under the new act?

MR. MACK: Madam Chairman, in the interests of a complete answer to the question, I would like to bring the member's attention to subsection 7 of the section being added through the amendment. In simple terms this section does permit the delegates to effect a continuance even though that might affect a member's rights in some way.

I should explain why that section is there. When you take an organization like Alberta Wheat Pool, which has a very custom-tailored act, and bring it under a piece of generic legislation, it is foreseeable that the existing package may not exactly fit within the four corners of the new legislation. Were that so, Alberta Wheat Pool would have no choice. It would either have to make

the continuance and then be faced with complaints possibly on frivolous bases or not do the continuance at all.

To give the members some comfort on this, I would like to remind them, if I may, that the continuance section only permits a continuance under another Canadian statute. The co-operative legislation in Canada has in the last several years – I expect Mr. Palovcik's experience would be like mine – followed the modern corporate model, which frankly tends to expand members' rights and be much more specific in areas that older legislation such as the Alberta Wheat Pool Act was silent on.

To give an example, under most modern corporate and co-operative statutes even nonvoting shares do have certain limited voting rights. So if a voting right of a shareholder were given in certain limited cases, that comes at the expense of member control. Even though the continuance overall may be a good thing – and it may bring Alberta Wheat Pool under a piece of legislation that generally is regarded as good workable legislation – there will be necessarily some adjustments of rights for lots of pragmatic reasons. I'm sure Alberta Wheat Pool would want to manage that and minimize it as much as possible, but the act being continued under would not be the same as the one that exists currently. There would be some changes, and that's simply the reality of the matter.

MR. PHAM: So the brief answer is no.

MR. MACK: The answer is no. We cannot guarantee that rights would remain unaffected, Madam Chairman. The reasons for that are as I explained.

THE CHAIRMAN: Mr. McFarland.

MR. McFARLAND: Thank you, Madam Chairman. Fellows, I have two questions for you. The first one would deal with the total membership. How many active and how many inactive members out of a total of how many do you currently have?

MR. PEARSON: I believe about 57,000 total members. Active members . . . Dale?

MR. RIDDELL: Actually, if you don't mind me correcting you, in 1997 the annual report states 56,273 total members. If we judge the active members on the basis of those who received a patronage dividend – in other words, they had to do up to \$100 of business with us – it would be between 25,000 and 30,000, and I'm guessing a little bit at this.

MR. McFARLAND: Okay. Very good.

The second question goes back to the first question that Mr. Thurber had asked. I can understand and I appreciate where you're going with the overall intent. The specific question doesn't deal as much with what you're proposing here as the membership question that's come up before. If the delegates go back out to the membership in the future, how much information will they actually be able to share with the membership? The reason I ask that is that in the past when you've had to close different locations, I'm not sure that the delegates from each area were actually able to go out and tell members which one of their communities were going to lose all their elevators. I'm sure, had they been able to do that, you would have had all kinds of lobbying from the various communities themselves saying: why us; why not them? If you can put it in context, I guess that's what I'm asking. If you do something substantive, how much information will the grassroots members actually be able to obtain from their delegates?

MR. PEARSON: I think maybe I'll make a brief opening comment and ask the other members of the group to add some. Under our model where the delegate basically is the representative member, very similar to the legislative model that you folks operate under, I think it's the delegate's responsibility to be sure that he is aware and has consulted with members in a way that maybe doesn't always allow him to give the exact details but at least allows him to understand the grassroots feelings of his members so that he knows the direction they need to take. We count on that kind of consultation process extensively to give us the direction this organization needs.

We use – in particular, the example you give for elevator closures – a consultation process that can include grassroots members from the local area that's being affected by any kind of closure or change in operating structure where they can have input into it. We require that kind of process to be worked through before the board of directors will even accept any kind of motion to make any change. So from that perspective, we think it's a pretty good working consultative model to use with the local delegate and the local committee members that are representative of members within their own community.

MR. RIDDELL: If I can add to that, Madam Chairman. We had an experience in your constituency, Mr. McFarland. I believe we had early communication with you. We had early communication with the delegate. There are business reasons why you don't go and tell everybody what you're doing sometimes a year in advance and they all begin to position themselves with the opposition before you're able to have your nearby point up and running. I'll be quite honest with you. You know that happens, and it does happen with us.

The other circumstance that would have a bearing on how we communicate is who we are dealing with if we are looking at a proposed business deal. If we were looking at a proposed business deal with a share-held company, for example, do you give 56,000 farmers insider information? Obviously, you probably can't.

MR. PEARSON: We can't do that. In fact, the law of confidentiality would forbid us from doing that. It may forbid us from even completing or considering a transaction like that if the other party insists on a confidentiality level.

MR. McFARLAND: Thanks.

Madam Chairman, I just want to pass on this experience that Mr. Riddell mentioned. I wouldn't want to be the delegate in any particular area especially when it comes to further reductions, as an example, if you happen to be a delegate hauling to one of two sites that are left to decide the future of, because undoubtedly the members are going to say: well, the delegate is from that community; of course he's going to go to bat for that community. It's going to put them in a precarious situation. That has nothing to do with your amendment here, but it's something I just thought of with the response you gave that delegates are privy to a lot of information, but on the other hand, they're also boxing themselves in and subject to a lot of ridicule if the membership doesn't like the decision that's been carried forward.

9:14

MR. RIDDELL: Madam Chairman, my response would be: is it any different for an MLA? Sorry, this was maybe another project, but secondly, I would say we have counseled with our membership and our delegates extensively on this elevator and where you're going to be and where you're going, and I'll tell you

that in the last three to four years the message is: get on with it; the world is changing. I'll tell you honestly as a person in management that we were taken aback, because for years we've been fighting the status quo element, and, I'll tell you, it's very different out there now. Farmers know what's going on, and they want us to be successful and to change.

MR. McFARLAND: Thank you. I'll be helping you in any way I can, Madam Chairman, and I hope that also includes doing something with the Canadian Wheat Board.

MR. PEARSON: Madam Chairman, the comments of Mr. Riddell really were mine, and I want to just close those comments by saying that there have been extensive changes in our business in the past two and three years. You know, we've closed considerable elevators, and we're surprised at how supportive the local communities are. You get the odd person that isn't quite prepared for the change, but certainly in today's changing environment we are all facing changes like that. We're almost overwhelmed by the response we get from our membership.

THE CHAIRMAN: Mr. Marz.

MR. MARZ: Thank you, Madam Chairman. I find it a little difficult to ask questions, not knowing which act you want to move to, which act you want to be governed under, how it's going to affect the membership, how it's going to affect your competitive edge or advantage over other companies in the industry. Why are you coming forward with this amendment now instead of waiting until you've decided which act you would like to be governed under?

MR. RIDDELL: I'll take a crack at that one. The reason we're coming forward is that we observed that last fall you didn't have a sitting, and we tried to guess whether there would be one this fall. Our best advisers said: probably not, but you probably know more about that than we do. So to us as a business that means if we decide next month that we want to do something major or this bill does pass through the federal House and creates opportunity, we would have an extra year to wait, and that means we're not as competitive as we might want to be in the business field for another year until we could come back before you. So we saw this spring session, with all due respect, as an opportunity or a window, and we wanted to try to get into it.

MR. MARZ: But passing this doesn't give us the opportunity to question you or put further questions to you as to what act you want to be governed under, when that happens, unless that would come back to us at some time or unless we put a year deadline on this amendment, that if you haven't moved within a year, you'd have to come back again.

MR. RIDDELL: Probably the other part to the answer would be: would you support taking the authority to do that back to an elected group who are very similar to you, elected by all the membership, and they essentially hold the hammer in making that decision, or should we leave that decision solely with the government of the province?

MR. MACK: Madam Chairman, if I may. Just a couple of comments to add to what's been said on that point. It is also important to recall that there are a number of legislative changes happening that make this a timely topic. The federal Bill C-5 is one. We understand that the Alberta government at some point will be looking at replacement legislation for the current

Cooperative Associations Act, keeping it more in line with comparable statutes in Saskatchewan and Manitoba. So this is a trend that seems to be gaining momentum throughout Canada.

The other thing I think I should mention is that it would be of course inappropriate for these people, or me for that matter, to indicate which act it would be continued under, because that would be the decision of the delegates and we would be out of turn to speak for them without having consulted with them and obtained their authority to look at one particular piece of legislation.

THE CHAIRMAN: All right. Thank you.
Mr. Cao.

MR. CAO: Thank you, Madam Chairman. I have the position from the interests of the wheat farmers and also from Albertans' perspective. You have positioned yourself so as to become more competitive or words like that. So my question, as far as the wheat farmer, is: what is the benefit when you position yourself in this? Also, I guess you buy and also help to sell, so what is the advantage you have positioned yourself in for the Alberta economy, you know, selling wheat and so on?

MR. PEARSON: Madam Chairman, if I could respond, and some of the other members may have further responses. I think you recognize that in today's changing business environment there are many changes occurring. One of the things we see that this organization clearly needs is the need to move faster and be able to be more flexible in the business environment that we serve our farmers in. What this new amendment is asking for is to make the act more enabling for Alberta Wheat Pool to operate under. Then we've got the other reporting structure through delegates and board members where we go back to the membership and talk to them about any further changes we'd have. In any event, we'd be able to do that much faster than we would be able to do under the old act.

MR. RIDDELL: The other thing I'd like to add to that is just for clarification. We deal with more than just wheat producers. You may have just mentioned that as an example. We deal with people in cereal grains, oilseeds, special crops, so it's beyond just the wheat producer, just for information. Why would we want our business to be more competitive? I think that was the question. The key reason would be so that we would have the ability to have capital, to make investments, to expand the business, to build new facilities that were referred to, so we can provide different services and so on. Also, as a co-operative, we pride ourselves in having money left over that we can allocate back to the members. That has been going up very substantially each year in the past few years, and that too makes us more competitive.

MR. SMILLIE: Mr. Cao, as a producer and as a farmer and as a delegate, I can tell you that we have to deal with our organization in two different ways: the business avenue for what we distribute off the farm, whether it be wheat or barley, and there is also an organization that we own a part of. We have to kind of balance both of those roles out in what we do and how we're going to treat this legislation in the future. I know we do a major portion of our business with our own organization wherever possible, and I know as a delegate that there's nothing the delegates would do that would infringe on what the members expect out of the organization. The members in the last few years, with the changes we've had in the industry, have really focused on how the pool operates as a business as well because they've had to focus

on that on their own farms, and that's been a big change in the last 10 or 15 years in the whole industry.

THE CHAIRMAN: Mr. Pham, you had a final question.

MR. PHAM: Thank you, Madam Chairman. Actually, I have quite a few questions, but I was trying to give other members of the committee a chance to ask their questions first and waiting for the last person to continue with my line of questions. So I may have more than one.

With your presentation you indicated that half of the members you currently have are inactive. I want to continue the point that I stressed before and that was re-emphasized by Mr. Mack. Many of your members today are still under the belief that they are governed by the Alberta Wheat Pool Act, and when you say you need to have this amendment in order to be more competitive, when we ask you as to exactly what act you think will help you be more competitive, you come back with a very vague answer. You say you may decide that in the future.

Mr. Riddell, you also mentioned that you would have an elected body, i.e. the delegate, to make that decision. We also have the responsibility to members of the Wheat Pool to ensure that, you know, the trust they put in us will be kept. Many of the inactive members, for example, today are not even aware of this idea being put forward. If for some reason you find an act somewhere saying that you have to force every member of the Wheat Pool to sell and buy only through the Wheat Pool – if an act like that is being developed somewhere in the federal jurisdiction or another jurisdiction – and then you decide with a delegate to move the wheat pool under, it will affect those inactive members. I feel you should try to bring some clear idea as to exactly what act you are trying to bring it under.

9:24

Your comment earlier, when you talked about how in 1997 we didn't have a fall session and therefore you have to do this, assuming that we don't have a fall session this year. I was a member on the committee in 1996, and when you brought forward a change at that time, you put us in the same position. You also tried to make the Legislature do something before you got the approval of the delegates at that time. I was a member of the committee at that time. Therefore, I just want to ask you now: can you give us a better idea as to what act we are trying to bring it under? It would help us make a decision a lot easier.

MR. RIDDELL: If I may respond to the many points you've made. First of all, we can't even come here without the approval of our delegates. Please understand that happened previously every time we've been here, and it also occurred before we came here today.

On the communication with the member-at-large, the point that not all our members are active: being a member of Alberta Pool is simply having a membership, but you still have the right to deal wherever you like, and there's lots of competition in the field. It doesn't mean because you're a member you're obliged to do business with Alberta Pool. We think that's good. It gives the farmer the right and choice. We do communicate with all members. We have a publication that we send out quarterly dealing with corporate issues, and it goes to every member, all 56,000, not just the active members. When we go out to the country and invite people to our community meetings, which Mr. Pearson made reference to, we invite all members. Many come that do no business with us. They come to talk about business outlooks and so on. They're welcome, and we talk to them as well, so they are very much included in the whole process.

I'm looking at my notes to see what points I've missed. I think

you are trying to narrow it down to – I'd like Mr. Mack to add to this – what is our future intention? I swore before I came here that there is no hidden agenda. Obviously, when we look at the bill that's coming through the federal House, we think it could give us options, and we do not want to be caught without having the right to move under that federal bill as one option, and I believe Mr. Mack said it must be a Canadian statute that we would consider. So that is the full case as far as I'm concerned.

Mr. Mack, did you want to add to that?

MR. MACK: Perhaps just a couple of points. Madam Chairman, just to clarify for Mr. Pham, when we came back in front of this committee in 1996, that was under the authority of a resolution that had been passed by the delegates in I believe it was either late November or early December of the preceding year. The only thing that is different this time is just because of the timing in which this came up. It came up after the fall meeting of the Alberta Wheat Pool and before the spring meeting, so we were in the unusual position of proceeding with a lot of the preliminary steps before the delegate approval. As Mr. Riddell and others have indicated, that approval was obtained yesterday at the Alberta Wheat Pool meeting. The text of this proposed amendment was placed before the delegate body and approved by the necessary majority, or we would not have been here this morning.

Insofar as the statute of choice is concerned, again, if we had something specific to say, we would certainly say it. But that's a decision of the delegates to make, and they've not made that decision. We've simply asked them if they thought this would be a good thing to have in the future, and at the meeting yesterday they did ask what were the pros and cons insofar as the members were concerned. I was asked to answer that question, and my answer was that that will depend on the statute you tell us to continue under. When you're asked to make that decision, you would be entitled to receive a full explanation about what the consequences are and then make a decision based on that.

What I can also add for the committee's benefit, if this helps, is that we've been asked to look at the federal statute Bill C-5. We've been asked to take a look at the co-operative statutes in Manitoba and Saskatchewan so we understand what the current model for co-operative legislation is. I think the Alberta provincial government is a bit earlier in the stage there, so at this point we've not looked at any Alberta legislation.

The Alberta Co-operative Associations Act as it currently stands I do not think would be a piece of legislation of choice, simply because it doesn't offer the modern features available elsewhere, notably under the federal act. But, again, I have to say that that's a decision ultimately of the delegates. That's as much as I can add to the discussion.

THE CHAIRMAN: Thank you.

Mrs. Burgener.

MRS. BURGNER: Thanks very much, Madam Chairman. I have just a couple of observations perhaps you can clarify for me. I don't have a farm. I've lived in Saskatchewan, so I think I have just a sense of the intricacy of the issue you're dealing with. My sense is that in order to modernize and facilitate the opportunities for your membership, you're compromised by two or three levels of government with differing options and perhaps not the most effective means of moving into the future marketing and production strategies. So I believe that what you're trying to do here is provide some options in law that will reflect the needs of the agricultural community that you represent. I'd like to clarify that that's your intent.

Secondly, I also firmly believe that when you become a member in an organization and there's a structure that you pay dues into or membership fees or whatever, you have an obligation to respond to that and consequently respect the fact that if your delegates have these options in front of them, they're obligated to make the appropriate decisions based on what recommendations come forward. So I just want to clarify that that's the gist of your issue.

MR. PEARSON: Yeah. I think you've described it very well actually. That's exactly where we want to move to. We recognize that the changes that have occurred in our business environment over the past decade have caused us to need more flexibility in the way we serve our members. I'm not saying there's anything under consideration right now, but certainly the changes we may need to be more competitive in the future are exactly as you suggest.

MRS. BURGNER: My final question is: will the delegates consider any other recommendations to government that improve this process so that you're not stuck dealing only when we're in session?

MR. SMILLIE: Pardon me. I'm sorry; I didn't hear that.

MRS. BURGNER: My question is: I'm frustrated by the fact that you're having difficulty doing business because the flexibility you need to respond to the changing marketplace is tied to our legislative calendar. So I'm wondering if you're considering any recommendations in the future that can streamline this process so you can maximize your economic interests in the agricultural community.

MR. SMILLIE: Thank you. Madam Chairman, I was part of the group that made the last presentation on our equity change to our act, and at that time we had the feeling that the legislative process, both for us and on behalf of the government Alberta, was an arduous process. While it existed and had done a good job for many, many years, it was perhaps tough for you people to administer and tough for us to try to facilitate changes. I believe this would enable us as delegates to do what we feel we need to do, and we were looking to have that power back in our own hands so we can do what we need to do to keep up in the business world today.

MRS. BURGNER: Thank you. That's all I have.

THE CHAIRMAN: It appears there are no further questions from members of the committee, but the petitioners might want to highlight the intent of the proposed amendment to the bill that was circulated. Perhaps, Mr. Mack, you'd like to do that.

MR. MACK: Thank you, Madam Chairman. Perhaps just a couple of points in conclusion. The members through several of the questions have pointed out that Alberta Wheat Pool has a large degree of self-determination available to it through its delegates. You're asking the right questions about: is it safe to trust you with this; is this good government? If this lends the members any comfort, I would point out that Alberta Wheat Pool has been trusted with a fair degree of self-determination through its bylaws, most recently through the issuing of new shares.

9:34

In the several times I've had the pleasure of representing the Wheat Pool in a hearing of this nature, this is the first time it's

been unopposed. We've almost always had somebody show up unhappy about something. Most typically it had nothing to do with why we were here, but those people were listened to courteously by your committee. That, I believe, should lead you to have some comfort that the process is being properly handled and the right messages are being sent out to the members. Much of it is informal in its nature. That is how Alberta Wheat Pool has always operated. But as it moves into the 21st century, it recognizes that it needs to present a corporate profile that is recognized in the broader community in which it now does business. It also has to have a corporate vehicle that the members, who like everyone else are becoming more sophisticated in this area, will recognize. The legislative options available in Canada do provide for a broad range of member rights and protections. So I would respectfully suggest that the decision to give this power to Alberta Wheat Pool is a step in the interests of good government.

Again, I will remind the members that no change in the status of Alberta Wheat Pool occurs through this amendment. That would happen only once the delegates are satisfied that it is the right thing to do and pass the resolution making that possible.

Those are my comments, Madam Chairman.

THE CHAIRMAN: I'm just wondering, and maybe Mr. Palovcik could help here: the current provincial legislation, which I believe is the Co-operative Associations Act . . .

MR. PALOVCIK: That is correct, Madam Chairman.

THE CHAIRMAN: At this time there are no provisions allowing for an export continuance for a co-operative regulated by that act, I take it?

MR. PALOVCIK: No, there are no provisions at the present time.

THE CHAIRMAN: But you're considering including such a right under a rewritten act or an amended act; are you?

MR. PALOVCIK: That's correct. The plans currently are to rewrite the current legislation. Tentatively this schedule calls for 1999, and that is one of the proposals: that there would be export continuance provisions included in the rewritten legislation along the lines of Bill C-5, the new federal co-operatives act, and proposals in New Brunswick for changes to the New Brunswick legislation.

Bill C-5 is a modern statute that's somewhat modeled on the federal business corporations law that is being used basically as a model for co-op statutes across the country. We are trying to co-ordinate any changes in provincial legislation with not only the federal statute but statutes in other provinces.

THE CHAIRMAN: In your opinion are the proposals contained in Bill Pr. 3 consistent with what you know to be proposed in Bill C-5 and other modern forms of legislation?

MR. PALOVCIK: Yes, they are.

THE CHAIRMAN: And are they similar to what the province is considering for the co-operative associations?

MR. PALOVCIK: Yes. As a matter of fact, as I think Mr. Riddell and Mr. Mack have indicated, we have discussed with the pool and others who are incorporated under private bills the possibility that not only would there be continuance provisions under the rewritten act but perhaps at this time consider requiring continuance under

other legislation and doing away with some of the private bills. So there's also that aspect of it that would be discussed over the next period of time – you know, whether there is a need for an Alberta Wheat Pool Act down the road.

THE CHAIRMAN: I take it from your comments, then, that Municipal Affairs is supportive of Bill Pr. 3. It's something that you have been encouraging bodies incorporated by private act to in fact do.

MR. PALOVCIK: That's right. Those are our recommendations, that this proposal be supported.

THE CHAIRMAN: Thank you very much.

MR. PALOVCIK: You're welcome.

THE CHAIRMAN: I just have a couple of other questions myself. I note in the proposed Bill Pr. 3 that there is no provision dealing with repeal of the current private legislation. Was that contemplated to perhaps take effect once everything was complete on a continuance under another statute?

MR. MACK: Madam Chairman, when I was considering how this bill should be framed, I did think of that issue. My reaction to it – although I had not discussed this with Parliamentary Counsel's office – was that I felt it was probably best to let the continuance take effect, and then I expect government would want a little time to pass until it decided to actually repeal the legislation. The reason I think that may be your decision – although that certainly is your province to do so if you wish – is that there may be questions between Alberta Wheat Pool and its members that will depend on the act as it was up to the point of continuance. I don't know if repeal would affect that. That's something that would need to be looked at. You are quite right, though, that the Alberta Wheat Pool Act would cease to be relevant to the pool going forward after the continuance. It would only have relevance to anything that might have arisen prior to that time.

THE CHAIRMAN: All right. The proposed amendment to the bill affects section 40.1(8), and the effect of this amendment as I read it is to first require three-fifths of your delegates to authorize by resolution the substance of orders in council by the Lieutenant Governor in Council. What is being contemplated there, or is this just a sort of preventative or proactive kind of provision?

MR. MACK: This came up in our discussion with our delegate consultants, Mr. Smillie included. There was some concern expressed at the section as it was previously written. It really gave no guidance to government as to the sorts of things you would want to respond to. If you have a single member who is unhappy with whatever is being done, that member would then be able to bring a matter before cabinet. There is no restriction on that, and unless it was entirely coincidental, that wouldn't represent the will of the organization as expressed through its delegate body. We felt that in the same way an amendment to the act had to be authorized by three-fifths of the delegates, so should something like this be similarly authorized.

I will mention that there is legislative precedent for this sort of thing, Madam Chairman. The Certified Management Accountants Act does permit certain types of regulations to be passed only if approved by the governing council of that organization. I believe there are some more provisions in the

Chartered Accountants Act and also the Certified General Accountants Act, and I'd be happy to leave a section reference with Ms Dean after the session is over.

THE CHAIRMAN: All right. That helps, but I guess what I was getting at were the kinds of regulations you might be seeking from cabinet. I suppose you don't even know the nature of them at this time. It's just a sort of catchall provision; is it?

MR. MACK: Thanks, Madam Chairman. That's exactly it. As several of the members have pointed out, we can't come to you today and say we're looking at this act. So we don't know that we're going to get an exact fit between the two. We think that because this section in its general structure follows other continuance sections, we're going to be okay. But if the day comes that we need to do a continuance, and looking at this specific legislation as it may be changed between now and the time we do it, we find there's a discontinuance between the two and there's something else we think we need to have to do the job properly, we would like to have the ability to do it through a regulation process rather through an amendment of the act, as we lawyers say, out of an abundance of caution, perhaps, not knowing what the future may hold.

THE CHAIRMAN: All right. Very good.

MR. MACK: Thank you.

THE CHAIRMAN: Thank you.

If there are no other questions from committee members, and if there are no other submissions from the petitioners and Mr. Palovcik . . .

MR. PALOVCIK: No, Madam Chairman.

THE CHAIRMAN: Okay. Mr. Smillie, did you wish to say something?

MR. SMILLIE: Madam Chairman, just to close, we want to thank the committee very much for giving us this opportunity to appear today. I know we're leaving this up in the air a little bit as to exactly what we want to do. The delegate body of Alberta Wheat Pool is firmly committed to the fact that we are going to still provide the service to our members that we have provided in the past. We're just appreciating this opportunity to be able to make some business decisions in the future that we need to do to provide that service to our members. That's the intent of what we're doing today.

Thank you very much for your time.

9:44

THE CHAIRMAN: Gentlemen, on behalf of the committee I wish to thank all of you for your excellent presentation and the very thorough answers in response to members of the committee. We will now conclude the hearing, and we will notify you after April 7 as to the committee's recommendation on this bill. Thank you.

Returning to our agenda then, item 5, is there any other business?

I will just remind you that our next meeting is next Tuesday at 8:30 a.m. It will most likely be our last meeting. That's April 7.

Without further ado, does anyone wish to move that we adjourn. Mrs. Burgener so moves. The motion is carried.

[The committee adjourned at 9:45 a.m.]

