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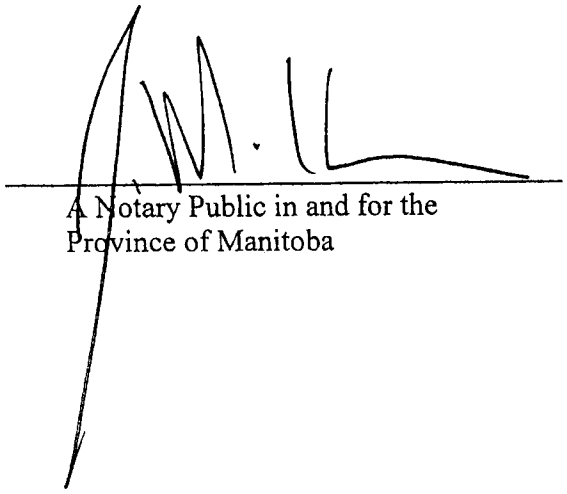

A Notary Public in and for the
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Proceedings of the Standing Senate Committee on Agriculture and Forestry

Issue 14 - Evidence

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The Standing Senate Committee on Agriculture and Forestry, to which was referred Bill C-4, to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts, met this day at 3:20 p.m. to give consideration to the bill.

Senator Eugene Whelan (*Deputy Chairman*) in the Chair.

[*English*]

The Deputy Chairman: We are one short of a quorum. However, according to the rules of our committee, we can hear evidence and ask questions without having a full quorum. I know several of our members are still in the Senate chamber, as they will be making speeches this afternoon. They will come here as soon as they are free.

Mr. Minister, did you want to say anything before we start this session?

Mr. Ralph E Goodale, P.C., M.P., Minister of Natural Resources, Federal Interlocutor for Métis and Non-Status Indians, and Minister Responsible for the Canadian Wheat Board: No, Mr. Chairman. I have had the opportunity to deliver statements to the Senate both verbally and in writing on several previous occasions. I would prefer just to get right into the questioning. As my office informed the committee, I am free this afternoon until approximately 4:15. I am looking forward to finishing the questions that were left outstanding at the end of our meeting last week.

The Deputy Chairman: I believe one member of the committee, who is acting as chair today, said that he wanted to ask you quite a few questions.

The two presentations that impressed me the most were those by SaskPool and the Manitoba pool. I felt compelled to go over them and read them again, and some questions arose.

One matter had been brought to my attention by the largest agricultural cooperative in Manitoba, the Manitoba pool. They had $1.2 billion worth of annual sales, 3 million tonnes of grain and oil-seeds, and they own 120 grain elevators. They support the bill almost in its entirety, but they make several

suggestions for amendments.

Some of the questions I have, Mr. Minister, are on the contingency fund. How can you fully justify the off-loading of guarantees onto producers? Perhaps you do not intend to do that. Their net incomes have already been hurt by government budget reductions, less $750 million in transport grants. If the government continued to guarantee initial price adjustments at virtually no risk, would this not nullify the need for a contingency fund?

Mr. Goodale: Mr. Chairman, the contingency fund is exclusively related to optional marketing and market development activities in which the Canadian Wheat Board, with its new board of directors, two-thirds of whom would be elected by farmers, may or may not decide to engage in the future. Among the representations that we received over the last two to three years about the board's operations were many that suggested the Canadian Wheat Board needed to have in this modern-day marketplace a variety of tools at its disposal to enhance its flexibility -- not that they would necessarily use any or all of them at any particular moment in time, but that they should have them available so that they could be as effective as anyone else in the marketplace. Bill C-4 provides those tools as options for the Canadian Wheat Board to pursue.

Three of them would entail some degree of risk. One is cash trading; the second is the early pool cash-out option; and the third is expedition of adjustment payments. The contingency fund, as it is presently structured in the legislation, would be necessary only when the board of directors made the decision to pursue those tools to enhance its flexibility and only in relation to those three tools specifically, and nothing else. Two of those tools would be brand new: cash trading and early pool cash-outs. The third is a provision that already exists in terms of the adjustment payments.

In terms of the comment about off-loading any responsibility, that expression would not have any application to anything that is brand new because you can only off-load a responsibility if you have had that responsibility in the past. The notion of cash trading and early pool cash-outs is brand new, so it is not in any way off-loading. It is a new innovation. Those are new tools that enhance flexibility that the Wheat Board believes it can use to advantage from time to time. However, like any new innovations, they carry some element of potential unforeseen risk. Therefore, there needs to be some vehicle like an insurance policy to protect against those unforeseen risks, and that is what the contingency fund is all about.

With respect to expedited adjustment payments, the idea here is to put the Wheat Board itself in a position to make its own decisions about when it is appropriate and timely to increase the initial payment. As you know very well from your long experience in this field, with the system of government guarantees that presently apply, it can be quite a time-consuming process to get all of the machinery of government geared up to pass the appropriate Orders in Council to extend the guarantees when an initial payment increase is deemed to be appropriate in the marketplace. Several weeks can go by. Indeed, I discovered when I first assumed this responsibility back in 1993 that, in some of the years immediately prior to 1993, it was taking not weeks but months for the decision-making process to go on internally within government about whether to extend the guarantee so an adjustment could be made. During that period of time, farmers' money was tied up. Administratively, we have managed over the course of the last four years to bring that timing down to a reasonably moderate period of a week or two, sometimes three when there are some difficult judgment calls to be made on the financial circumstances. Still, it is a delay. The idea of changing the rules with respect to adjustment payments is to eliminate that delay entirely so that no machinery of government in relation to guarantee extension would be required. The Wheat Board would be in a position to make its own judgment about when to make changes in initial payments and get that money into farmers' hands at the earliest possible date. I suppose it is a judgment call in the eye of the beholder as to whether that is off-loading risk.

When you trace the experience of the Canadian Wheat Board over the last 60 years, more particularly since 1943 when the board acquired its major powers, to the best of my knowledge, there has never been an occasion where the Wheat Board has misjudged an adjustment payment. There have been occasions when the initial payment was misjudged, resulting in a deficit in one of the pool accounts. Significantly, in the relatively few cases when it has occurred, that has always been in a set of circumstances where there was a truly extraordinary event in the marketplace, such as, for example, the United States introducing its Export Enhancement Program, which totally distorted markets around the world and fouled up everyone's plans with respect to grain markets.

The Deputy Chairman: They still have that program.

Mr. Goodale: For the last number of years, they have not been using it. They still have the authority for it, and it is in their budget plan.

With respect to adjustment payments as distinct from the setting of the initial payment at the beginning of the crop year, my point is that there has never been an occasion where the Wheat Board has misjudged the circumstances. Therefore, there is virtually no risk in the Wheat Board assuming that responsibility on its own account, and they can speed up the whole process.

The Chairman: If there is no need, why would the government or the minister in charge of the Wheat Board not relieve some of this stress? We found that this worry and concern existed with farmers about not being under the so-called umbrella. Why could the minister not relieve some of that stress on farmers and the former contingency fund with a government grant?

Mr. Goodale: Hypothetically, that is legally possible under the terms and conditions of Bill C-4. The challenge, of course, is finding the necessary funds to make such a grant or contribution. There is a potential equity issue here in terms of whether a grant or contribution for this purpose would raise expectations in other marketing agencies or institutions that there would be similar kinds of grants or contributions made available to others.

As I explained at the last meeting, any amount of money required with respect to a contingency fund on adjustment payments would be very small because of this very strong track record on the part of the Canadian Wheat Board in making appropriate judgments that have not exposed the pool accounts to any deficit. Other devices have been suggested, such as capping the overall contingency fund, an idea to which I am certainly favourably disposed. It would be interesting to have the advice of the Senate as to the appropriate level for such a cap.

I believe the Manitoba pool, in its presentation, suggested $30 million. I would be interested to know if that is in accord with the Senate's view.

It would also be appropriate to consider whether, within the contingency fund, there should be one account or three. The contingency fund can be used only for three explicit purposes. It is very carefully circumscribed. Someone raised the possibility of cross-subsidization, that a risk incurred for one purpose or resulting from one particular type of activity might end up getting insured against by revenue from another kind of activity. There may well be a good argument that there should be three separate accounts so that there is no cross-subsidization among purposes.

One other point about the idea of a government grant or contribution is that there is a potential risk with our trading partners. That might be considered some form of subsidization. We would obviously have to take that kind of concern carefully into account before any such grant or contribution were to be made.

We are proposing to structure the arrangements with respect to adjustment payments. We would probably reduce the threat or the risk of trade actions or trade concerns because the arrangement on the Canadian side would then be very similar to the loan rate guarantee system on the American side. They could then hardly complain about our initial payment in the future because it would be very similar to the system they use in the United States.

The Deputy Chairman: Perhaps some of us are afraid that we are becoming too much like the United States.

Mr. Goodale: I see from the newspapers that the Governor of North Dakota has once again renewed his suggestion that North Dakota should be included in the Canadian Wheat Board designated area and should market its grain in conjunction with the Canadian Wheat Board. It is not the first time he has made the suggestion, but he is certainly persistent. It is nice to have an American fan of the Canadian Wheat Board.

The Deputy Chairman: We probably both agree on that. He sees the advantages of the Canadian Wheat Board.

With respect to the inclusion-exclusion clause, we talk about eliminating the Canadian Federation of Agriculture or the national farmers' organizations. We talk about producer groups. Do you think that should be broadened?

Mr. Goodale: That was a point of considerable contention among the farm organizations that made representations to me and the others who appeared before the House of Commons committee. The very clear majority opinion among all of the farm organizations was that if this type of provision were to be in the law, then the type of group that could trigger the provision would need to be closely and clearly defined. The language that now appears in Bill C-4 is very similar to the language suggested by the Manitoba pool. It is not the same word for word, but I think the net result is the same.

A request for inclusion could only be made -- and therefore trigger the process -- by an organization made up exclusively of the producers of the particular grain in question. The request must be truly representative of those producers, not just in one locale, but throughout the entire Canadian Wheat Board district.

The Deputy Chairman: I am sure that you and your officials have studied the Manitoba and Saskatchewan pools' recommendations. I agree with them 100 per cent. Some are minor amendments to the legislation.

I will put a broad question to you. How many of these recommendations do you disagree with, or do you agree with them all? We could bring in 12 amendments to the bill and have it all settled.

Mr. Goodale: The dilemma with all these proposals is that if one group comes up with a list of 12 good ideas, another group representing some aspect of Western Canadian agriculture will come up with a contrary list. If we had one consistent list that truly represented everyone, it would make life much simpler, but no such luck.

We have in fact analyzed the Manitoba pool recommendations, and a good many of them are now accommodated in the legislation. They make the point about accountability to producers. I pointed out in our last meeting the by-law-making power that attempts to address that issue.

We talked about the mechanism for selecting the chief executive officer, which will necessarily involve collaboration and partnership between the Government of Canada and the board of directors.

I have already talked about the issue of adjustment payments, and I think that is a good and valid response to the matters raised by the Manitoba pool.

On the business of who can trigger the potential inclusion procedure, the language currently in the act follows quite carefully the kind of language that the Manitoba pool suggested. They made the proposal that any such process should be thoroughly public, with due notice to the public. That, too, is provided for in the legislation.

In a great many ways, the proposals from the Manitoba pool have been accommodated in the draft as it presently stands. Their advice has been helpful.

The Deputy Chairman: When Mr. Hehn, the head of the Wheat Board, was here, he explained the subsidies that farmers in France, Germany and the United States are getting. When we were conducting hearings in the west, it was my impression that some people felt that perhaps we were too harsh in cutting subsidies in Canada, thereby creating hardships for farmers.

The Wheat Board is being blamed for world conditions, et cetera. I felt that Mr. Hehn agreed that Germany and France still receive high subsidies and are increasing their production, while they were supposed to stabilize it according to the agreement. I got the impression from him that we were too harsh and that they were not adhering to the agreement.

Mr. Goodale: There are two aspects to this issue; both equally important. One aspect is what we do within our own country, and the other is what our competitors around the world do.

There is no question that Canada has been meticulous in honouring its obligations under the new WTO. I believe we have every right, and indeed we have a duty and an obligation, to ensure that our trading partners do the same.

Over the last number of years, there have been some modest improvements in the application of the common agricultural policy within the European Union and within the so-called Farm Bill in the United States.

The Deputy Chairman: It has been said that we have been the Boy Scouts of the World Trading Organization.

Mr. Goodale: Certainly no one can point a finger of blame at us for not following through on our obligations.

The Deputy Chairman: However, farmers can point a finger at you and say that you have been too hard on them, compared to German, French and American farmers.

Mr. Goodale: As I said, there are two aspects to this. One is what we do; the other is what others do.

In terms of what we have done, we have been scrupulous in honouring the WTO commitments. There were a variety of reasons why those commitments had to be honoured. The first, of course, is to live up to the obligations of the WTO. I will give you a practical example of the consequences of not doing so.

The WTO required, over a period of time, that trade distorting export subsidies be reduced, in terms of dollar amounts and percentages, according to a certain schedule over a five- to seven-year period. If we had not taken the actions we took in 1993, 1994 and 1995 to live up to the letter of that obligation, the consequence could well have been that in certain key markets, particularly in Asia and Latin America, we could have found doors shutting to us in terms of market access. That would not have happened entirely, but we certainly were at risk of seeing our access to those markets reduced, beginning as early as the fall of 1996. Therefore, it was important for us, for trade reasons, to take the approach we did.

With respect to a subsidy program such as the Crow Rate, for example, there were also some other important reasons having to do with the encouragement of value-added and diversification on the Prairies, and also having to do with the progressive elimination of certain inefficiencies in the grain handling and transportation structure.

It is an on-going process, though. We need to do two things. We must be very vigilant about inequities or anomalies that emerge as this process goes forward, and we must be particularly vigilant and aggressive in working on our trading partners to ensure that they honour their obligations as well.

I have had many occasions, in speaking to American grain audiences, to point out what we have done in Canada and to make the point bluntly -- although perhaps they would rather not hear the message -- that on the issue of trade distorting export subsidies, we in Canada, on the grain side, are squeaky clean. I have asked those American audiences what they have done lately to clean up their act, at which point there is usually a lot of nervous shuffling, looking at the floor, clearing of throats and coughing. We must remain vigilant to ensure that they live up to their obligations, too.

Senator Spivak: You mentioned the inequities and anomalies that the subsidies might create. This morning in the Senate Transportation Committee, we heard about some of that from Prince Rupert Grain Ltd. We heard how that northern route is being threatened through a shift in the north-south transport of grain and also by certain other inequities.

The inclusion-exclusion clauses, a key area of this bill, is not as clear in my mind as it should be. I have read your amendment and I think it is pretty reasonable. However, I wish to ask you a hypothetical question. If inclusion and exclusion were excised from this act, and if a producer group wanted to come under the umbrella of the Canadian Wheat Board, would the procedure be that the board of directors, hearing that request, would ask the minister to bring forth legislation to make that happen?

In other words, if inclusion and exclusion are not included in this act, that does not mean that the doors are forever closed, does it? There are alternative ways to get the same result. This question has been raised in this committee many times.

The goal posts may have moved by now and perhaps people want opting out. That was one of the key political issues. The fear is that the election of the board of directors will be skewed by having some for inclusion-exclusion and some opposed to it. In elections, slogans always come ahead of rational, informed analysis and perception. Could that be removed? If so, what would the alternatives be?

Mr. Goodale: Senator, the clauses that relate to inclusion and exclusion could most certainly be removed. That was the essence of the proposal that I made at the end of the House of Commons debate.

I will back up for a moment to explain why, as a policy matter, a procedure for inclusion or exclusion was included in the bill in the first place.

Representations were made before the House of Commons Standing Committee on Agriculture and Agri-Food when it was considering the predecessor piece of legislation, Bill C-72, in the last Parliament. A number of witnesses across Western Canada argued before that committee that if there was to be a procedure in the law for an exclusion process, then there should also be, as a matter of fairness and balance, a procedure in the law for an inclusion process. One of the rationales was simply to maintain that balance.

The other rationale was to fill an absolute void in the Canadian Wheat Board legislation as it stands at the present time. It is unclear in the present law how one goes about amending the jurisdiction of the Canadian Wheat Board.

If honourable senators think back to fairly recent experience, Mr. Mayer, when he was Minister of Agriculture, amended the jurisdiction of the Canadian Wheat Board to remove oats, and did so successfully by means of an Order in Council.

On another occasion, he attempted to adjust the mandate of the Canadian Wheat Board, in part in relation to barley, using essentially the same technique, an Order in Council. That was unsuccessful. It was challenged in the courts and struck down.

An Order in Council approach worked on one occasion but not on another. The courts drew some fine distinctions about what was and was not appropriate.

Earlier in history, there was a discussion at one time 20 years ago about whether or not rapeseed, as it was then called, should be brought under the jurisdiction of the Canadian Wheat Board. The minister of the day did not feel comfortable in dealing with that issue until the producers voted on the subject. Nothing in the law required that. However, he took the view that first and foremost, farmers needed to express themselves one way or another. As you recall, farmers voted down the idea of bringing rapeseed under the jurisdiction of the Canadian Wheat Board.

Back in the 1970s, there was a very intense discussion about domestic feed grain policy. The mandate of the Canadian Wheat Board at that time was adjusted, if memory serves me correctly, partly by legislation and partly by Order in Council to accomplish an objective. Mr. Whelan may have a more accurate recollection of the exact procedure.

I cite those four examples: the rapeseed vote; the argument about domestic feed grain; the case of oats; and the case of barley; to demonstrate that there is a bit of a dog's breakfast out there in terms of how you go about adjusting the jurisdiction of the Canadian Wheat Board. Part of the thinking behind the inclusion and exclusion clauses was to clarify the situation, not to say that it should happen this or that way, but to say that, if this is what farmers wish to happen, these are the steps to achieving the ultimate objective.

Those provisions in the proposed legislation have caused concern. Some groups and organizations think that they are preordaining a certain consequence, that to have the provisions in the law, even though they are entirely permissive and not mandatory, they are options for farmers to pursue if so desired. No one is changing the mandate of the Canadian Wheat Board. They are spelling out the process by which that might be accomplished if that is what farmers want.

Despite all those words of comfort, there are still groups and organizations that are apprehensive. My proposed amendment at the end of the debate in the house would be to remove from the bill the detail about inclusion and exclusion. Therefore, the way one goes about changing the mandate of the Canadian

Wheat Board remains unchanged.

The bottom line on inclusion is that the only certain way to accomplish that would be by parliamentary legislation. In other words, if someone were to have the bright idea that something should be added to the jurisdiction of the Canadian Wheat Board, it would take an act of Parliament to accomplish that.

The amendment that I proposed said that, in addition to removing the detail about inclusion and exclusion, there would be one more condition attached if this idea came up, and that is farmers must be consulted in the first place by means of a vote.

Senator Spivak: Your explanation is very helpful. Does this mean that if, God forbid, Larry McGuire were to be future Minister of Agriculture, that by an Order in Council he could alter the mandate of the Canadian Wheat Board and absent a challenge in court, that would stand?

Mr. Goodale: The amendment, Senator Spivak, would require that if any future minister responsible for the Canadian Wheat Board decides that it is appropriate public policy to change the mandate of the board, to make it either bigger or smaller, it would be up to him to make that policy determination. But he would be required to conduct a vote in advance to obtain the consent of farmers.

Senator Sparrow: It is not clear in that proposal as to whether or not parliamentary approval will be sought. The question I have, is that, if you take both inclusion and exclusion out of the proposed legislation, it would then effectively change the Wheat Board Bill. If you tried to put other products in or take products out; it would require parliamentary approval in any event. I need to clarify that. If inclusion-exclusion is removed from the bill, it will then require parliamentary approval to take a product out or put it in. Second, the minister responsible will consult the board of directors and vote among the affected persons. What will happen then?

Mr. Goodale: That is where the amendment stops, Senator Sparrow. It would be up to the government of the day to avoid this argument about what is the right policy decision. This amendment says that if a minister is to make a proposal to Parliament to either increase or decrease the Canadian Wheat Board, the first hurdle is to have your vote among farmers.

Senator Sparrow: It is not clear that you are referring to Parliament.

Mr. Goodale: I believe it is. We could make it clearer in the language of the actual amendment that it would specifically refer to Parliament.

Senator Sparrow: The question was whether it could be done without an Order in Council. It must be clear to the agricultural community that it would still have to come back to Parliament.

Mr. Goodale: Yes. In the language of the appropriate amendment, along the lines of what I proposed in the House a few months ago, it would be very clear that we are talking about the introduction of a bill in Parliament, and that a vote would need to be held before that.

Senator Stratton: Mr. Goodale, I am sure you can give those answers in your sleep, and you probably do. I would like to refer back to this question of choice. It does not seem to go away. I got a note this morning or late last night that the Western Producer published an article on Thursday, April 30, about a former Blood tribal chief in Alberta, around Lethbridge, charged with exporting grain he grew on his Alberta reserve to the Blackfoot reserve in Montana without a Wheat Board export permit. He had obtained all the permits necessary to section 32 of the Indian Act to sell agricultural goods off the

reserve. A councillor for the James Smith band near Melfort was quoted as saying that a successful battle to override the Wheat Board restrictions and free natives to sell their wheat and barley to anyone they choose would change the face of farming on reserves.

I know you cannot comment on the case, but again it is another straw that is being added to this choice question.

I am not trying to elicit an answer from you for this, but my biggest concern throughout this whole debate is that the push for this choice is coming very strongly from Alberta, and choice has been obtained in Ontario. I worry about the election of the board. We are dumping everything on them. They will carry the entire can. My concern is that the election of this board will become very highly politicized based on this choice issue. How should I respond to this?

Mr. Goodale: Senator, this is a very tough issue because, among other things, farmers are deeply divided on the issue. What some farmers would consider to be just a normal, routine, matter-of-fact marketing choice and the legitimate exercise of their freedoms and rights, others would regard as a policy straitjacket that in some way constrains them. The whole argument can be applied vice versa as well. This is a very difficult circle to square when opinions among producers are so polarized.

The process that recently started in Ontario, under the Ontario Wheat Producers' Marketing Board, to have a designated, off-board marketing alternative is an interesting process. I know some Western Canadian farmers are watching very closely. What is perhaps most instructive is the question of how Ontario farmers came to this decision to try to enact this marketing option. The answer is that under their legislative authority under Ontario law, they have a democratic voting procedure within the structure of the Ontario Wheat Producers' Marketing Board. Some, including Mr. Whelan, might make the argument that there may be some defects in that democratic procedure, but nonetheless the legislation provides a way for farmers to express their opinions and to vote.

In this case, opinion has been expressed that this option should be tried, and the process is now going forward to try to fulfil that.

Under Bill C-4, a procedure would be established by which farmers could pursue, and ultimately vote upon, different marketing options. I simply make the point that Ontario has been able to accomplish this greater degree of flexibility because producers there have that root right, if I might describe it that way, to express their democratic preference within the terms of how the Ontario Wheat Producers' Marketing Board functions. Presently in Western Canada, that ability is not there, but Bill C-4 would create that ability. It would provide that democratic ability for farmers to shape their marketing agency and change its jurisdiction, according to what they see fit for the future.

You make the point, senator, that as desirable as democracy is in all things, it imposes some serious responsibilities. It can be a complex and controversial process from time to time. That is no doubt correct, but I think in these circumstances, we are faced with the rather difficult choice of having a democratically elected board of directors and farmers making these decisions about jurisdiction, or of having governments and bureaucracies make them. There will be people lined up on both sides of that question, but as messy as democracy can sometimes be, it seems to me it is better than any of the alternatives that I have heard described.

Accordingly, yes, there will be an overlay of serious responsibility here. Some important decisions will have to be taken, but better that those decisions be taken by farmers by some democratic means, rather than imposed by governments or bureaucracies.

Senator Stratton: I understand that. I am just worried that there will be something like Gunfight at the OK Corral with the election of these board members.

With regard to the maps for the election of members, concerns have been expressed that Saskatchewan dominates, and predominates, to the point that the other two provinces, Manitoba and Alberta, do not have a say. If Saskatchewan votes one way, then they pretty well control things. The concern is with the mix, or the way the boundaries are defined. I know it is by soil types and by populations of farmers, around 11,000 in each district, but nevertheless, there is that division along borderlines from province to province as well. That is a real concern. I know you will say that the appointed board members can balance that. However, the democratically elected members will hold great sway in the debate on this.

Did you look at the possibility of having five members elected from Saskatchewan, three from Alberta, and two from Manitoba, so that there is a balance on the elected side? While Saskatchewan may dominate in wheat, Alberta dominates in barley. Despite the fact that Alberta dominates in the production of barley, it is outnumbered on the board by Saskatchewan. That concern is being expressed.

Mr. Goodale: Senator, from my perspective, the various draft maps that have been produced of how to divvy up the Prairie region into 10 sensible districts are by no means written in stone. I sense from your line of questioning that you would want to see a fair, legitimate, proper electoral process that would yield a credible and respected result every bit as much as I do.

Quite frankly, if you or this committee or others can come up with a better configuration for these boundaries, I would be more than happy to have that advice. That need not be constrained by the timing of Bill C-4. This matter would be handled by means of regulation after the legislation is in fact enacted.

It is critical to get this electoral process right. It is the pivot around which everything else turns. It is exceedingly important that those 10 people be duly and properly elected. Part of that is the definition of the constituencies that they will represent. If there is a better way of drawing the lines, I would be more than happy to entertain that advice.

Senator Stratton: Briefly, in looking at this aspect of it, we are trying to find a way to defuse this choice question. If we have the mix that is currently shown by those electoral boundaries, I am afraid that all hell will break lose.

Mr. Goodale: Are you making the point that there is a difficulty with Wheat Board boundary lines crossing provincial boundary lines?

Senator Stratton: Yes. If you look at the maps, the vast majority of grains are grown in the southern parts of Alberta and Manitoba, particularly. The Manitoba farmers may be of an entirely different opinion than farmers in Saskatchewan. Saskatchewan projects much further north, as we know, and produces most of the wheat, but not the barley.

We are here representing regions. I represent Manitoba, and other senators represent Alberta and Saskatchewan. We are not just looking at the democratically elected aspect but are also trying to arrive at an equitable way of appropriately representing the regions.

Mr. Goodale: Senator, I have consulted farm organizations on the general theory behind this point. Their considered advice, and I think it was unanimous, was that it would be a healthy thing to have Wheat Board districts crossing back and forth over provincial boundaries. They saw it as a way to potentially modulate some of the differences and varying points of view.

You have now quite eloquently put the other side of that case. For the purposes of subsequent consultations, when we get into the nitty-gritty of regulations, the House and the Senate, in consultation with farm organizations, should prepare various potential draft maps that cover every conceivable method for drawing these boundary lines. For the purposes of that conversation, I would ask the officials to take a cut at a map that would basically follow your thesis -- approximately five members in Saskatchewan, three in Alberta, two in Manitoba -- and see what that map would look like in terms of how it would or could fit with soil zones, and how balanced it would be, in terms of producer numbers, in one region compared to another. It would perhaps be instructive to just run a computer model and see what came out of the process. I will ask the officials to do that.

Any subsequent advice on this topic would be most welcome.

Senator Sparrow: What do you see as the financial obligations of the Government of Canada to the Canadian Wheat Board for the future? You may have covered this previously. I am looking for the areas where the obligation might fall on the Government of Canada.

Mr. Goodale: Senator, that is laid out very clearly in the section of the act -- I will get the number for you -- that creates the guarantee provisions.

Historically, these guarantee provisions would have been essentially automatic because the Canadian Wheat Board carried with it the status of a Crown corporation acting as an agency of Her Majesty, that latter phrase being the important one for the purposes of the Financial Administration Act. When it becomes a more democratic institution, with a board of directors and the majority on the board elected by producers, it no longer carries automatically the status of an agent of Her Majesty. Therefore, we had to create in legislation the same financial backstop that would have been there before with this agency status.

The operative clause is on page 10 of the bill, in proposed section 19, that talks about plans, borrowings, and guarantees. That describes the kind of information the Government of Canada would require from the Canadian Wheat Board. It is virtually identical to the kind of information that the Canadian Wheat Board now provides. There is nothing particularly new in that, but it is spelled out explicitly, rather than being an automatic thing, because it was an agency of Her Majesty. The section goes on to provide the Canadian Wheat Board with its borrowing power. It specifically says that once those spending and borrowing plans have been filed with and approved by the Minister of Finance, then the borrowings shall be approved. The operative word is particularly contained in proposed section 19(3).

That clause places the Canadian Wheat Board in the future in the same financial position that the Canadian Wheat Board is now in as an agent of Her Majesty. The provisions with respect to initial payment guarantees and credit grain sale guarantees are continued as well, the only difference being, as Senator Whelan and I discussed at the beginning, that the guarantee on initial payments would apply to the initial payment established at the beginning of a pooling period. Subsequent adjustment payments during or after the pooling period would be on the Canadian Wheat Board's own responsibility, there never having been a case in history where the Canadian Wheat Board misjudged that situation.

Senator Sparrow: Is it only the guarantee of the shortfall in the initial payment that is required by the act?

Mr. Goodale: No, it is much more than that.

Senator Sparrow: Let me finish then. The Governor in Council may make loans or advances to the

Wheat Board, which presumably means a payback. The guarantee payment, with the interest amounts the corporation may require on the sale of grain, would be like an individual guarantee for the payment by a foreign government, or whatever it would be, the same as is done for any other industry. It is not necessarily only true for the Wheat Board. It is only a judgment call, is it not?

Mr. Goodale: The difference is that for other marketing agencies that may be selling their goods or their services on the international marketplace with a credit guarantee provided by the Government of Canada, they would obtain that credit guarantee through an agency like the Export Development Corporation (EDC), for example. The Canadian Wheat Board is provided with that authority right within its own structure, through the Credit Grain Sales Program.

The principles are the same, but the Canadian Wheat Board is one of those rare institutions that has that authority internally, whereas others would have to go externally to the EDC to get their approval.

The principle you are describing is the same. In the case of the Wheat Board, it is internal. In the case of most everything else, it is external, through the EDC.

Senator Sparrow: It becomes external when you must have the Minister of Finance's approval before you do that.

Mr. Goodale: In terms of the financing guarantee, that is correct.

Senator Sparrow: That means everything except the advance payment guarantee. Am I correct there?

Mr. Goodale: Do you mean cash advances or initial payments?

Senator Sparrow: I mean initial payments.

Mr. Goodale: Cash advances are entirely separate.

In the case of the initial payment, the approval of all of that is required every year. Every time there is an adjustment payment proposed during the year, there is a full-blown Order in Council process, which means the Canadian Wheat Board recommends to me what they consider to be appropriate. That is reviewed by me and by the financial experts in the Department of Agriculture. The Minister of Finance is advised to see if he has any problem or concern, and his officials and agriculture officials discuss that back and forth. When we are all agreed on what is appropriate in terms of the guarantee, it goes through cabinet for an Order in Council.

Senator Sparrow: That is a guaranteed obligation of the government. According to the act, that is the only guaranteed obligation. I believe you made the statement that it has never been triggered before. I think the government has had to make up a balance.

Mr. Goodale: The government has had to make up an initial payment. It has never triggered a deficit in the pool account.

There is an important distinction between the two. As I say, to the best of my knowledge, never in history has the Wheat Board incurred a deficit upon the making of an adjustment payment.

Senator Sparrow: That is confusing for the people who do not understand the Wheat Board. There is a difference between the initial payment and subsequent adjustments. The federal government has

contributed to the initial payment in the past. They needed to make it up.

Mr. Goodale: On a very limited number of occasions, that is true. As I pointed out to Senator Whelan, virtually in every case it has been the result of some extraordinary external factor such as, for example, in the mid-1980s when the United States suddenly introduced its Export Enhancement Program; and then about 1990 or 1991, when they accelerated the Export Enhancement Program; and one earlier occasion when the Americans decided to withdraw from the International Wheat Agreement.

Those are the rather extraordinary circumstances that have triggered deficits in pool accounts.

Senator Sparrow: It has happened.

As the contingency fund is set up so that the wheat producer pays any shortfalls, it would tend to let the government off the hook to make lower initial payments.

Mr. Goodale: Say that again, senator.

Senator Sparrow: The total obligation was with the federal government. You would set the initial payment by recommendation of the Wheat Board, by the Minister of Finance, by the Governor in Council, and so on, because the obligation was with the government. There is now a provision to trigger money to be deducted from the farmer by the contingency fund. Would that not mean that the government can say that it will set the initial price at 50 cents a bushel, because we are then sure that there would be no shortfalls?

Mr. Goodale: The provisions on the guarantee of the initial payment in Bill C-4 would in fact have no practical impact on the judgment call that the government would make at the beginning of every crop year as to the appropriate level for the initial payment.

The judgment calls later on in the crop year, about whether or not to adjust that initial payment, to increase it, would be entirely a Canadian Wheat Board responsibility. As the legislation is structured, I cannot see it having any practical impact on that judgment of what the initial payment would be. Nothing changes there.

Senator Sparrow: In the past, it often was a political decision -- and I use that term loosely. No one knew what the market would be, and whether to make the payment $2 or $3 a bushel. The Order in Council would come down, and it would be $2.50 a bushel. That guesstimate was wrong on two or three occasions. The government made up the shortfall. There was no provision for the farmer on a contingency plan to do anything about it. Now there is a provision. If you set the initial payment low, where it would be unreasonable to expect it would ever be sold lower than that, then any subsequent payments if they overpaid would come out of that contingency fund, not from the federal government.

Am I making that clear?

Mr. Goodale: I see the point you are trying to make, but quite frankly, the objective of the government and the Wheat Board would continue to be to return to farmers the maximum proceeds from their grain sales at the earliest possible date.

When I go through these discussions internally with my officials or with my cabinet colleagues, the argument is always aimed toward establishing the price at the highest possible level without incurring an unreasonable risk. There is never a discussion about suppressing the price. The emphasis and the focus

is entirely the other way around and that would obviously continue to be the case. My desire, in making these judgment calls on prices, is to return the farmer's money as fast as possible without exposing the treasury to an unreasonable risk. Make it as high as you can.

Senator Sparrow: In the last year or two, three or four subsequent payments have come into play. That happened because the initial price was low. Someone made a misjudgment on the value of that product. The money was held back from the farmers when the initial price actually could have been much higher, but because of some decisions made, it was kept low. I am saying now that the incentive to keep it lower still now, with the contingency fund, would be greater.

Mr. Goodale: I see your point. I do not think that would be the government practice. Certainly my orientation as minister would be to get that price at the highest possible level at the earliest point possible, that is, at the beginning of the crop year.

Ultimately, the whip hand would be in the hands of the board of directors with its two-thirds majority.

Senator Sparrow: They do not set the initial price.

Mr. Goodale: No, they can decide whether they want to expedite adjustment payments. They may come to the conclusion that they would rather not.

I can see the kind of concern that is in the back of your mind. Quite frankly, setting initial payments is a judgment call. You have to balance the need to get the money to farmers as rapidly as possible against the risk of a deficit in a pool account. That is a problem for the Minister of Finance, and it immediately becomes a trade problem. If you over-estimate an initial payment, and there is ultimately a deficit in a pool account which is paid by the government, that is very quickly construed as a trade-distorting export subsidy.

There is a discipline on this process, not only from the point of view of the Minister of Finance, but also from the point of view of trade policy. You want to be as accurate as possible without going over. Going over incurs a deficit as well as a trade risk.

Senator Sparrow: If you paid out something and it caused an international incident, there would be no sense in having it there. To offset that, in turn, the initial payment is set low.

Senator Robichaud (Saint-Louis-de-Kent): If the initial payment is set low, that money is still in the account. There would be no need to go into the contingency fund when all the operations are done.

Mr. Goodale: Senator Sparrow was asking who carries the risk in the meantime. Is it a risk to the Government of Canada, or is it a risk to the contingency fund? Ultimately, apart from the gradual accumulation of the contingency fund over time, the ultimate result to the producer is the same. But it, too, carries the risk in the meantime. That was Senator Sparrow's point.

One benefit of this flexibility is that the Wheat Board can make its judgments faster without waiting for the official public service process to dot every "I" and cross every "T."

The other advantage, which I mentioned briefly before, is that this would diminish the risk of an American complaint about an unfair trade subsidy. The system would be not unlike the U.S. loan rate system, which is their broad equivalent of an initial price guarantee. Second, the obligation, if there was ever to be one, would come from a producer-funded contingency fund and not from the government. It

could not therefore be portrayed as a subsidy.

There are costs and benefits. There are advantages and disadvantages. On balance, it is valuable for the Canadian Wheat Board to have this flexibility.

Ultimately, it is the producer-controlled board of directors that makes these judgment calls. In terms of funding the contingency fund and in addition to capping it -- which could be a government decision by regulation -- the board could decide to pursue techniques other than the check-off. One of those might be to dedicate a portion of their earnings from monetary transactions to the purposes of the contingency fund.

As the latest Canadian Wheat Board annual report shows on page 30, the board had interest earnings during the 1996-97 crop year on its currency transactions of something in the order of $65 million on the wheat account only. It earned additional amounts of interest on other accounts. That is simply because of its astute management of money in its transactions. It has nothing to do with the sale of grain. That money was earned on interest transactions.

The amount accumulated on wheat was only $65 million in the last crop year. The Wheat Board might decide that is partially the source of revenue for the contingency fund and thereby try to avoid a check-off, something which farmers do not like as a matter of principle.

Senator Robichaud (Saint-Louis-de-Kent): There is nothing in the present bill that would prevent them from doing that.

Mr. Goodale: That is correct. They could make that decision if that is what the board of directors thought was appropriate.

The Chairman: I know we are way over our time, Mr. Minister, but we should put on the record at some point, although perhaps not in this meeting, the real facts concerning the Ontario wheat producers' position. There is so much misunderstanding.

I could relate the opinions of a great westerner from Prince Albert, Saskatchewan, who used to write me letters. He would say that this was on the verge of being very fraudulent. When they compare, he would say that this was like apples and oranges, and he knew of no Western farmer that would sign up what he was making. He knew of no Ontario wheat farmers that would sign up. When farmers plant in the fall, no matter what their acreage, their only option is to export that wheat. They cannot sell it in the domestic market and if they do not meet the American grades, they cannot bring it back into Canada to try to put it on the market in Canada. Their agreement is very restrictive. Again, the facts of democracy taking place leave a lot to be desired, too.

Senator Taylor: Did I miss it? I thought we were going to talk about the cap on the contingency fund.

Senator Stratton: We did.

Senator Taylor: I will have to read the minutes.

The Chairman: We had a discussion. We have another meeting on Thursday.

Mr. Goodale: Senator, various points of view were discussed.

Senator Taylor: Did we come up with a limit? I am trying to politely ask if someone has come up with a limit.

Mr. Goodale: No, I do not think anyone has settled on a number. There have been suggestions. The Manitoba pool brief, and also the Saskatchewan pool brief I believe, suggested that $30 million would be an appropriate cap.

Others have suggested different amounts. There is a range of opinion on this. I would welcome the advice of the Senate on it.

Senator Taylor: At $30 million, how many years would it take to build it?

Mr. Goodale: That would depend on the rate at which it accumulates. Hypothetically, if the board of directors were to decide to accumulate that from its interest earnings, it would be less than one year. It would be over and done with. If it is done a few cents a bushel over time, obviously it would take longer.

You might also want to consider whether there is a need for any contingency fund with respect to adjustment payments. With the track record of never having a mistake on an adjustment payment, do you need a contingency fund at all, or is it sufficient to have a nominal fund of $1? Under the terms of the legislation, the contingency fund can be in either a surplus or deficit situation. It does not necessarily mean that a pot of money must be sitting there. It can, in fact, be in a deficit position for a period of time, provided that it is repaid within a reasonable window.

The board of directors could decide that, for the purposes of a contingency fund account which relates to the adjustment of initial payments, a nominal amount of $1 is sufficient because, historically, there has never been a mistake. That is a possibility.

With respect to cash buying and pool cash-outs, there might well be a requirement for some amount to be in the account. It is a judgment call as to how far it is appropriate to allow the tool to enhance flexibility to be exercised.

I will emphasize one point that may have been lost in this discussion about the contingency fund, and the worry that the creation of a contingency fund would somehow lead to a gradual erosion of other guarantees.

In response to that, the contingency fund in the draft of Bill C-4 is very carefully circumscribed to certain specific purposes only. There may well be regulations, which we have just been discussing, that would circumscribe that contingency fund even further. So the law itself will make it clear that the contingency fund cannot get out of control and be a threat.

On the other side, the law is equally explicit that the Government of Canada shall provide these other guarantees. It is not permissive. The word is "shall" in terms of these general borrowings. Therefore, it is a very unique and powerful guarantee. I think it is unique in all federal legislation.

Senator Sparrow: You refer to there having historically never been a mistake made on adjustment payments. Obviously that is true because adjustment payments are not made until a sale is completed, whereas the advance payment is made before any sales are made. There would certainly be some bookkeeping errors if there was an adjustment payment.

Mr. Goodale: The adjustments are made as the crop year progresses so that the Wheat Board has better knowledge about what the price trend is. The more inventory they have already priced, the less risk there is for what is left.

Senator Sparrow: My question is whether the adjustment factor is on sales already completed or on agreements made. It is not on what the market might be.

Mr. Goodale: It is a bit of both. The Wheat Board made an adjustment a week or so ago on durum and spring wheat. That judgment call on how much to make that initial payment increase was based partly upon the fact that a significant portion of last year's crop was already sold and priced at a certain level, but there are still three or four months left in the crop year. There is still volume to be sold into a marketplace that some people think is either flat or declining. So there is still a risk factor in terms of an unpriced volume over a period of time.

An adjustment payment is always a combination of the certainty of knowing what has been sold up to this point in time and the uncertainty of having some volume still to market at a price that you can guess at but are not sure of. There is both certainty and uncertainty in the judgments made about initial payments.

Obviously, the further you get through the crop year, the less uncertain it becomes. When you get into May and June, with the crop year ending at the end of July, you know pretty well where you stand. However, adjustments and initial payments made in November, December or January carry a significant risk factor because the crop year is only about one quarter of the way through at that time.

Thank you once again for the opportunity to appear before you.

The committee adjourned.