LEGISLATIVE ASSEMBLY OF MANITOBA
Tuesday, 29 July, 1980

Time — 10:00 a.m.

OPENING PRAYER by Mr. Speaker.

MR. SPEAKER, Hon. Harry E. Graham (Birtle-Russell): Presenting Petitions . . . Reading and Receiving Petitions . . . Presenting Reports by Standing and Special Committees . . . Ministerial Statements and Tabling of Reports . . . Notices of Motion . . . Introduction of Bills . . . Oral Questions.

ORDERS OF THE DAY

BUSINESS OF THE HOUSE

MR. SPEAKER: The Honourable Member for Gladstone.

MR. JIM FERGUSON: Mr. Speaker, I have one change on Statutory Regulations, Mr. Hyde for Mr. McGregor.

MR. SPEAKER: The Honourable Member for Logan.

MR. WILLIAM JENKINS: Mr. Speaker, I wish to make some changes on the Statutory Regulations. Unfortunately, I don't have the members that I am replacing with me right now . . . I can probably wait until this afternoon, Mr. Speaker, and make the changes at that time.

THIRD READING — AMENDED BILLS

MR. SPEAKER: The Honourable Government House Leader.

HON. GERALD W.J. MERCIER (Osborne): Mr. Speaker, would you call, under third reading of amended bills, Bills 56, 72, 95, 103, 105, 112 and 114?

BILLS 56, 72, 95, 103 were each read a third time and passed.

BILL NO. 105 — THE STATUTE LAW AMENDMENT ACT (1980)

HON. HARRY J. ENNS presented Bill No. 105, The Statute Law Amendment Act (1980), for third reading.

MOTION presented.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. SAUL CHERNIACK: Mr. Speaker, I'd like to make a comment in relation to the change that was made in 105 where The Local Authorities Election Act was brought into 105 to deal with the principle about Canadian citizens and its definition. As I understand it, both The Legislative Assembly Act — I'm not sure of that — but it and certainly The Statute Law Amendment Act made a change in what was proposed, apparently, and I'm not clear on just the nuances to what was proposed. In any event, as I understand it, it was suggested in the original bills that a Canadian Citizen included a British subject up to a certain period of time sufficiently long enough to enable a British subject to become a Canadian citizen, and apparently now the purport of these amendments is to make it that a Canadian citizen by definition for election purposes includes a British subject who has not become a Canadian citizen.

I wanted to make the point, Mr. Speaker, that I, in my mind, see a distinction between voting at the local level, municipal and school board, and voting in the legislative or parliamentary bodies. I do believe that a person should be a Canadian citizen in voting in the provincial elections or in the federal elections. I do believe that a person asserting the right to vote for a candidate should be a Canadian citizen. I recognize the traditional and historical reason for members of the Commonwealth, British subjects, to have had the rights that were given to Canadian citizens at a time when Canada was part of the Commonwealth in that sense, and actually earlier when it was a colony. I think it's high time that people who wish to be recognized as Canadian citizens should have taken out citizenship, and I think it's right. The important thing, dealing with British subjects, is that, as I understand it, becoming a Canadian citizen in no way removes any rights or obligations that a British subject has who comes from the United Kingdom.

There is certainly recognized that you can have dual-citizenship. You can be a citizen of two countries; you can be citizen of Canada and of another country; and in the case of British subjects, as I understand it, a person who has United Kingdom citizenship and is a British subject, coming to Canada, may become a Canadian citizen without in any way losing or derogating from that person's status as a British subject and as a citizen of the United Kingdom. That being the case, I really don't know why a British subject should not become a Canadian citizen as well. I think it's a step in the right direction, it's a recognition of direct loyalty to Canada, and I think that it is justified in provincial and federal elections.

As I understand it, the change as made in Law Amendments Committee, I can't say I agree with that change. I think that given sufficient time, ample notice, for a British subject to become a Canadian citizen, in the next three years or whatever period of time it takes, it ought to be so provided.

Dealing specifically, Mr. Speaker, with The Statute Law Amendments Act, I believe that when you deal with a municipality which provides direct services to property and to people at that level, and dealing with children who are at school, that not only should we recognize, as we are now doing, a British subject who is not a citizen has the right to vote, I think that a landed immigrant, a person who has come to

Canada and has been accepted by Canada, given all the rights of employment, of living in Canada, given the rights to pension and given the rights to equal rights with all others to live in Canada and enjoy Canada, should not be forced into citizenship, because I consider citizenship both a privilege and a right and I don't think people should be forced to be citizens if they don't want to.

I treasure too much the principle of citizenship to think that it should be compulsion. I think at the local level we should have broadened this description and definition of Canadian citizen, not only to include British subjects, but to include people who are resident in the municipality and comply with the resident requirements — they have to have been here for some period of time — and to have permanent residence in Canada, acquired by law, as a landed immigrant does. I think that that right should be extended regardless of whether that person originally came from the United Kingdom, or came from Jamaica, or came from any of the far eastern countries, who have shown that they are now part of Canada, have the right to work here, do work here and do participate. At the local level, I think they should all be treated alike.

I make this comment, Mr. Speaker, knowing that there are different approaches to it, different ideas — certainly within our own caucus there are different approaches to it; it's not a matter of party policy, it's my own feeling to broaden the base for the right to vote and I imagine that there may be many points of view. I just thought I'd like to express mine.

MR. SPEAKER: The Honourable Member for Kildonan.

MR. PETER FOX: Mr. Speaker, just a few brief words in respect to Bill 105. I have always been under the impression that generally bills of this nature, statute law amendments, are the ones that correct anomalies that have been discovered in statutes and typographical errors and things of this kind. This time, I believe, for the first time, I may be wrong, there were some policy changes, and one of them that occurred was in respect to the Employment Standards Act. I want to commend the government for changing its mind on this particular point and withdrawing that. There were a couple of others areas, but of course they weren't my own particular concern and I leave that for others to debate. But I wanted to indicate that I would hope that the procedures would be such that an omnibus bill, which may have 20, 30, sometimes 50 sections to it, should not include policy changes. I think it's unfair to the legislators to have to dig into a bill of this nature to debate this kind of an area, and I would suggest that the particular Minister responsible for any particular change of that nature should take the bill under his wing and shepherd an amendment through the House.

In that regard, I'd like to say that the Payment of Wages is one of these areas and I certainly hope that we'll hear from the Minister of Labour where he stands on this particular issue. Thank you, Mr. Speaker.

QUESTION put, MOTION carried.

BILL NO. 112 was read a third time and passed.

BILL NO. 114
THE MANITOBA ENERGY AUTHORITY ACT

MR. SPEAKER: The Honourable Minister of Finance.

MR. CRAIK: Mr. Speaker, I move, seconded by the Minister of Consumer and Corporate Affairs that Bill No. 114, The Manitoba Energy Authority Act, be now read a third time and passed.

MOTION presented.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, no member in the last week or so has to apologize for having been too busy to keep up to date on any particular bill, and I do not apologise for not knowing the extent to which there have been amendments on The Manitoba Energy Authority Act. It may even be that the blue copy is not readily available yet, because there may still be cutting and pasting. However, in this particular case there was a cut which has received wide prominence, which I think everybody is familiar with, and that is the — I was going to say wisdom, but it is the lack of wisdom of bringing in the emergency powers which required the government to pull back and to remove the emergency powers which were completely out of line with what should have been considered necessary and the government was compelled to and did pull it out. I don't want to provoke tremendous debate, although I'm quite prepared to spend all day, if necessary, reviewing the concept of a government taking onto itself and then delegating to somebody else these tremendous powers which are unjustified in my way of thinking.

My introduction about not knowing just what the amendments were includes the fact that I'm not really aware of the extent to which the other portions of the bill which are still before us in this Act have been changed. There were very important powers delegated to the authority, excluding the emergency aspects of it. I hope that they have in some way received some greater consideration and have reduced the powers given to the authority in its ordinary course of life. I'm not dealing with the emergency portion at all; I'm talking about other powers. They may have been taken out. If they have not, I would like to think they were going to give it another good look so that next year we'll be able to review what has been done. As I say, Mr. Speaker, I'm really not aware. I only know that the emergency power section Part II has been removed completely. I don't know what else has been adjusted and I hope that there have been some changes to reduce the impact of the powers given to the authority.

QUESTION put, MOTION carried.

THIRD READING

BILL NO. 113, The Manitoba Energy Council Act, for third reading.

REPORT STAGE
BILL NO. 107
THE PUBLIC UTILITIES BOARD ACT AND THE MANITOBA TELEPHONE ACT

MR. SPEAKER: The Honourable Government House Leader.

MR. MERCIER: Mr. Speaker, would you call Bill No. 107, An Act to amend The Public Utilities Board Act and The Manitoba Telephone Act, on Page 2?

MR. SPEAKER: Report Stage. Shall the report of the committee on Bill No. 107 be adopted?

The Honourable Minister of Government Services.

MR. ENNS: Mr. Speaker, the honourable members will recall that at committee we agreed to hold over two sections for amendments. I should inform the House Leader of the Opposition that I had an opportunity to discuss them briefly with the Honourable Member for St. Vital, who has a particular interest in this matter — I see the honourable member taking his seat at this time. I propose to move the amendments and let me simply indicate to honourable members that the amendments are to ensure that MTS, that is the Manitoba Telephone System, design, engineering and standards are reasonable. The amended sections will make the Public Utilities Board responsible for authorizing major changes in designs, engineering and standards for the coaxial cable plant and fibre-optics plant, and allow customers of the Manitoba Telephone System to apply to the PUB for determination of whether they meet these standards.

Mr. Speaker, therefore I move that the proposed clause 21(d.1) of The Manitoba Telephone Act, as set out in section 11 of Bill No. 107, be struck out and the following clause substituted therefor:

(d.1) subject to the authorization of The Public Utilities Board for major changes, shall design and engineer the coaxial cable plant and fibre-optics plant of the system and fix standards for the use of coaxial cable plant and fibre-optics plant of the system by persons using them for the provision of services;

A further amendment to section 21(2), THAT the proposed subsection 21(2) of The Manitoba Telephone Act, as set out in section 12 of Bill No. 107, be struck out and the following subsection substituted therefor:

Reference to P.U.B. re standards, etc.

21(2) Any person providing programming services or non-programming services, or wishing to provide programming services or non-programming services, through the coaxial cable or fibre-optics forming part of the system may apply to The Public Utilities Board to determine whether he meets the standards fixed by the commission for the use of the coaxial cable plant or fibre-optics plant of the system for the provision of the services, or whether those standards may be relaxed having regard to the protection, maintenance and preservation of the system, and upon the application, the The Public Utilities Board shall determine those matters and, where it determines the standards may be relaxed, may, by order, vary those standards.

MR. SPEAKER: The Honourable Member for Kildonan on a point of order.

MR. FOX: I believe we have two motions here. I think we should deal with them separately just in case there is debate.

MR. SPEAKER: Is there agreement to deal with them separately? (Agreed)

MR. SPEAKER: Motion number one, is it the pleasure of the House to adopt the Motion? The Honourable Member for St. Vital.

MR. D. JAMES WALDING: Mr. Speaker, I wanted to make just a very few remarks that I believe will cover both of the amendments proposed by the Honourable Minister. The difficulty that we both have I believe with this, is that it's a very technical and rather complex subject that I have no specialized knowledge of, and I suspect the Minister too, and it's a subject that the legislative counsel is not entirely familiar with. I am told there have been some problems in drafting and finding the right words to cover what is being intended. Apparently the industry itself is quite familiar with what it means, what it understands by certain words, and that has proved somewhat of a problem.

We on this side agree with the general intent of the bill and of this whole section dealing as it does with the concept of an electronic highway in cable and fibre-optics technology, and also with the concept of regulating the attachments which can be interconnected with the system. I understand from private discussions with the Minister that there was some drafting difficulty here and that is why we had one section in the bill, another amendment proposed in committee and another amendment again proposed today.

We are willing to accept the Minister's latest amendment on this, with the sincere hope that it indeed does what is intended, that is, that it will provide a function — that is the Public Utilities Board — for potential users of the system to appeal to. The Manitoba Telephone System, as perhaps guardians of the public electronic highway, is concerned that space be left available on that highway for anyone wishing to make use of it, and would not like to see it come about that one particular user, even a large user, should try to preempt certain areas of the spectrum to prevent other users from being able to utilize the facilities.

There is the other concern here of the effect that use of this electronic highway might have on the revenues of the system, and I understand that it's intended that because Manitoba Telephone System is one large utility covering many different areas in telecommunications, that there be a measure of cross-subsidization involved. In the same way that extension phones and long distance phones are used to keep down the basic rate to Manitobans, so it should be able to be put in place a method whereby the revenues from cable, microwave and fibre-optic should be able to be used to the benefit of Manitobans in keeping down its basic telephone rates.

I understand it is the government's intention that

policy be indicated clearly to the Public Utilities Board that this is the intent of public policy. The opposition agrees with that, Mr. Speaker, and would like to see that made quite clear. The Minister has explained to us that these sections will not be proclaimed until such time as the Public Utilities Board has the necessary expertise to make these sorts of judgments in the public benefit, and for those reasons we are prepared to go along with these amendments, keeping our fingers crossed, Mr. Speaker, that indeed it does what it is intended to do. If not, I'm sure that we'll be back next year with amendments to rectify the matter.

MR. ENNS: Mr. Speaker . . .

MR. SPEAKER: Order please. The Honourable Member has already spoken.

QUESTION put on the first amendment, MOTION carried.

MR. SPEAKER: The second amendment that was proposed by the Honourable Minister. The Honourable Minister of Government Services.

The Honourable Member for St. Vital on a point of order.

MR. WALDING: Mr. Speaker, I believe the Minister was rising to speak to the first amendment that he proposed and you pointed out that he had spoken on it. Perhaps if one of his colleagues would move the second one, he would then have the opportunity to make his comments on the second amendment. (Interjection)— Well, we're dealing one at a time.

QUESTION put on the second amendment, MOTION carried.

QUESTION put on that the report of the committee be concurred in, MOTION carried.

MR. SPEAKER: The Honourable Government House Leader.

MR. MERCIER presented Bill No. 107, with leave, An Act to amend The Public Utilities Board Act and The Manitoba Telephone Act, for third reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister of Government Services.

MR. ENNS: Mr. Speaker, it's always wonderful to me to note that, with patience, our system always does provide somebody an opportunity to say a few words if he persists. I certainly don't want to add to the debate, but simply to indicate to the honourable member and agree with the Member for St. Vital who, somewhat modestly, I thought, suggested that he wasn't fully apprised of the technology and the mechanics of the subject matter that we're dealing with, and I share that view with him as far as myself is concerned. However, I'm satisfied, Mr. Speaker, that the honourable member shares the intent and the philosophy of the bill and I am appreciative of the support that I received from members opposite on this bill.

I say this simply because, Mr. Speaker, we're dealing with one of our very important Crown agencies, namely the Manitoba Telephone System. I know that neither members opposite, nor certainly this government, would wish to in any way place in jeopardy the Manitoba Telephone System from providing and continuing the provision of the basic telephone system that so many Manitobans have grown to rely on. We are attempting, through these measures, to place both the private sector users, who will be introducing new and different services on the electronic highway, and put them in a position that they can deal with this in a more acceptable manner than has been in the past with respect to the Manitoba Telephone System.

Thank you.

QUESTION put, MOTION carried.

REPORT STAGE

BILL NO. 87

THE LICENSED PRACTICAL NURSES ACT

MR. SPEAKER: Shall the report of the committee on Bill No. 87 be adopted? The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, I sent a message to the House Leader indicating the order in which I would like to deal with the nursing bills, but I didn't know he was going to call it that quickly. Nevertheless, the amendment that I am proposing in Bill 87 has been distributed, and I will deal with that only, although I will take the opportunity later today to speak on the three nursing bills as a group and point out differences of opinion that we have had, and mainly to point out the great deal of understanding we arrived at and agreement we arrived at in all these bills.

I'm sorry the Minister of Economic Affairs isn't here, because — oh, good, he is here, Mr. Speaker — because I do recall so vividly an occasion when he was on this side of the House and he pulled out a bill that was cut and clipped and pasted, and he counted the large number of amendments and attacked the government for bringing in a bill and bringing it back. I remember so clearly how he stood there in indignation at the number of changes that were made. Of course, now we understand from the newspapers that the First Minister says that amendments to bills, a great number of amendments, are only an indication of good government. It's so funny to see the changes take place. There are close to 50 amendments in the bill that is now being discussed, Bill 87, and I have, and the Honourable Minister of Economic Development does not have, I believe, a copy of all the cutting and pasting that took place to the extent where we have a highly improved bill from the original, and that of course is the intent. I'm glad he is able to hear the large number of changes that have been made, many of a meaningful nature.

Mr. Speaker, speaking to the one specific amendment I wish to propose — I'll move it. I had better speak to it before I move it. No, the Speaker indicates that I can move it and then speak to it, so I move, Mr. Speaker, seconded by the Member for St. Boniface that Section 42(4) as amended shall be further amended by adding the following words at the beginning thereof:

"Although under subsection 2 the Judge may order, under any circumstances, that the appeal shall be a trial de novo,".

MOTION presented.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Thank you, Mr. Speaker. One of the matters that we did not arrive at agreement in committee was whether or not the courts, on appeal of a complaint or grievance by a member who is being disciplined or by a member of the public that has made a complaint, that on that hearing on appeal, my contention was that the court should have the — I believe that the court should have a trial de novo, that is, hear all the evidence itself all over again in order to come to a conclusion.

The way the bill is drawn, there may be a complaint lodged against a member. The investigating chairman investigates and then decides whether or not a hearing should be held. The discipline committee then meets in camera, except under very limited circumstances, but generally in camera. The discipline committee meets and deals with the complaint and arrives at a conclusion. There's an appeal from the discipline committee to the board and that is held in camera and all the board does is review the transcript of what happened in the discipline committee. Then there's an appeal to the Court of Appeal and, under section 42, the Court of Appeal may hear an appeal by reviewing all the transcripts. I argued that the Court of Appeal should have the opportunity to see the witnesses, to hear the witnesses, to arrive at its own conclusion.

I'll read now 42(2) which says, "the Judge hearing the appeal may make such order or give such direction as to the cancellation or suspension of the registration or as to the conditions imposed upon the continuation of the registration, or as to the refusal of admission, and as to the costs of the appeal including any award as to cost under subsection 41(6), as to him seems just."

I believed that this did not give the court the authority to decide on its own to have a trial de novo. legislative counsel, on the other hand, felt that the power was contained because the court could make such order as to him seems just. Under 42(4), Mr. Speaker, the amendment I am moving is designed to enforce the opinion of legislative counsel that the court may order that the appeal shall be a trial de novo. Now this, I believe, is consistent with the decision of the committee — I mean all members of the committee — to the effect that the court should have that power. It was thought that it did have the power under 42(2), and since I have certain doubts, and I hope I'm wrong, I hope the power is there, It seemed to me, and I discussed it with legislative counsel, that this amendment I am bringing in makes it absolutely clear that the court has the power in its discretion to decide to hear a trial de novo. But then as 42(4) goes on, there are certain circumstances where it must hold a trial de novo.

The intent of my amendment is to make clear what I believe was agreed upon in committee, and that is the court, on hearing the appeal, may decide at its discretion to have a hearing of the evidence before it. I trust, Mr. Speaker, that this will be acceptable to the House and that the amendment will be approved as being consistent with what the committee agreed ought to be the case.

MR. SPEAKER: The Honourable Minister of Health.

MR. SHERMAN: Mr. Speaker, I just want to make two comments, one with reference to the remarks of the Honourable Member for St. Johns referring to the number of amendments in the bill. I think it should be re-emphasized for the record, Mr. Speaker, that the process leading up to the stage at which these bills now find themselves was one that was agreed upon by both sides of the House in which the Honourable Member for St. Johns was involved and which of course integrally involved the associations, the professional associations and occupations to whom this bill and the two other nursing bills speak, and that was that in effect, in order to expedite the desirable and desired legislation for these three nursing professions and categories, that we would in effect be bringing what amounted to a draft bill before the Private Bills Committee and that we would be going through a preliminary exercise, similar to that which is done by intersessional committees when dealing with draft bills, before we reached the specific clause-by-clause examination process.

I think it's important to acknowledge and to record that that was the agreement, that is why there is an exceptionally large number of changes in the final form of the bill in comparison to the original draft form which appeared before Private Bills Committee for the preliminary run-through.

I acknowledge that considerable contributions were made by both sides in that first process in order to arrive at some specific and final decisions to be looked at in the clause-by-clause process and in the clause-by-clause process it was not necessary to make very many additional amendments.

Speaking to the specific amendment that has been proposed by the Honourable Member for St. Johns, I find it unnecessary, Mr. Speaker. We dealt with that precise subject at committee stage. Committee was satisfied that Section 42(2) of Bill No. 87, laying out the legislative provisions with respect to an order of the Judge, takes care of the problem referred to by the member. As a consequence, I think the proposed amendment is redundant and therefore unnecessary.

QUESTION put, MOTION defeated.

MR. SPEAKER: Shall the report of the committee on Bill No. 87 be concurred in? Are you agreed? (Agreed)

The Honourable Government House Leader.

THIRD READING

MR. MERCIER presented Bill No. 87, The Licensed Practical Nurses Act, for third reading.

MOTION presented.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, there are comments I would like to make relating to all three nursing bills and to the work of the committee and this is a good opportunity I believe so to do. I'm now going to speak, Mr. Speaker, on Bill 87, The Licensed Practical Nurses Act, Bill 65, The Registered Nurses Act, Bill 66, The Registered Psychiatric Nurses Act, and they were treated altogether and therefore, I think it will be unnecessary for me to repeat myself on the other bills and that's why I take this first opportunity.

Mr. Speaker, the committee reviewed all the three bills and it became readily apparent that there was certain lack of agreement amonst the nurses associations involved, mainly dealing with the degree of competency and the standards, and the most obvious and apparent, wide difference of approach was that that was discernible between the registered nurses and the licensed practical nurses, and for good reason. But, Mr. Speaker, it made it more than ever apparent that members of two nursing teams, who work side by side, both concerned with the same sincerity and integrity with the health of the people for whom they are performing their services, are in such a position that one is considered superior and the other inferior and setting up what would, in my way of thinking, be a sort of hierarchy of the top of the line and those following behind them, and I think that it is not the best way in which to practice the needs of the health professions, as part of a team, and indeed a team it is. I don't think there ought to be that kind of pecking order set up in that team.

I believe that a team consists of medical practitioners, and within the medical practitioners, it deals with specialists in various areas of that medical practice, the technicians, the lab technicians, the therapists, the physiotherapists, occupational therapists, audio therapists, whatever therapists are needed, and the various teams in degrees of nursing, all of whom have to form a team in order to provide the service, and I don't think that it adds to the team concept, to have different Acts, different authorities, different degrees of responsibility and of power within the organizations.

Now the government has followed the traditional separation of these health professions. I do support the fact that the government at least, has set up a fairly uniform set of guidelines to involve them, but, Mr. Speaker, I have yet to see a copy of the guidelines issued by the department. I imagine they are available, but several times during the committee I kept saying, I haven't seen this yet, and I was not invited to receive it, I suppose I could go and knock on the door of the Department of Health and get a copy of it.

So, to the extent that there's a common set of guidelines in some form proposed for the legislation, that's good, but I believe that it is the wrong approach, although it is the traditional approach. And it is no longer the acceptable approach in several other provinces of Canada, which have made tremendous strides forward in the concept of working within the team approach and trying in some way to set up a manner in which the authorities given to these professional bodies can be under one mantle.

Mr. Speaker, last night we heard more attacks on the Law Society than I've heard for quite a while. And I participated in that. Mr. Speaker, the Law Society in may way of thinking, with my experience, is one of the most democratically operated professional bodies, and one which has that sense of dedication that we want professions to have. But the Law Society can, and has faltered, and so will other professions do so from time to time, and my regret is that this government has not been prepared to look at it, in no revolutionary or radical way but in a sensible approach, such as we have seen developed in different ways in Quebec, in Ontario and . . . I cannot speak with authority on what has been done in Alberta, but they've certainly made strides in that direction.

My own approach, Mr. Speaker, was not accepted by the government, my approach is that there should be an umbrella council which makes full provision for the health team and which clearly shows that all health professions are working in the interests of the public good, both as to the financial capacity of the public, to be able to provide the best service to the people of Manitoba in the health field, and also from the standpoint of efficiency and availability and to ensure that those people with special skills are using their special skills and not doing tasks which lesser trade people can do. And in developing my approach, Mr. Speaker, I did prepare a lengthy paper on my suggestions, not that I said that they were rights, but that I hoped that they could be discussed and worked upon, and last year, after the government had refused, for some period of time, to publish the report which I left with it and which had been authorized by the previous government, I took the opportunity to bring a resolution in, in admittedly the dying days of the last session, actually on June 14, 1979, where my report in abbreviated form was presented. And that report was not necessarily the final word but I think it was a step in the direction of opening up discussions and I regret that it wasn't . . . Mr. Deputy Speaker, I may even say I resent — and you are the one who told us what that word really means — the fact that it was not dealt with because I think it would have been helpful. However, be that as it may, there's no doubt that since I worked on it with others, I have a special feeling for it and I may certainly have a biased approach to its validity. Nevertheless.

The committee met, dealt with three bills and I believe worked very well. We had a number of briefs and there was ample opportunity to discuss each of the three bills with various of the persons who came to present the briefs. I appreciate the fact that the committee dealt sensibly with these bills, there was a great deal of informal and detailed review, as mentioned by the Minister. There was a comparison review, and it was done in the presence of the interested parties, that is, there were occasions when we dealt with any one of the three bills and found representatives of each of the three nursing professions sitting at the table with us. This is unusual, it is a very good practice and one which I think governments should always consider as being the practical way of dealing with legislation of this kind of detail. There were changes suggested, there were many agreed upon and there were others on which it was agreed that there was no agreement

and they were noted and set aside, as the Minister said. And after that informal review, there was a great deal of reconsideration given and preparation of amendments and then we dealt with them section by section in a formal way, passing them in a consecutive form. But, Mr. Speaker, the other sensible thing that was done is that final approval of each of the bills, that is, of the "Bill be reported" was withheld until all three have been dealt with, so that if changes that were advisable became apparent at any stage of any of the three bills, it could be related to the other two. That was well done and good changes were made.

I, for one, Mr. Speaker, am well aware of the fact that I took a great deal of time of the committee and I appreciate the fact that I was given every opportunity to express my point of view. I appreciate the fact that I believe I was listened to and I appreciate the fact that after consideration was given there was a response, many times in agreement, certain times not in agreement, but that's part of the collective endeavour and a good one. The committee seemed always open to consider suggestions and I appreciate the fact that there was no sign to me of impatience on intolerance or any effort to stop debate by any member of the committee. I think that was healthy and good and I believe it resulted in good legislation. I have expressed disagreement about the overall approach but, nevertheless, what we have before us in my estimation is pretty good legislation.

Mr. Speaker, there are some larger issues that were not agreed upon and I want to touch on those, just pointing out my point of view and what was not accepted by the government's side as being something that I hope will yet be considered in future bills. One is an amendment which I have yet to make in the other two bills and that was an interesting discussion. We found, Mr. Speaker, that the registered psychiatric nurses in their bill contained under Section 2 a list of the objects of the association. In other words, the ideals or the objectives of the association in a form which could be considered a code of ethics or, indeed, a manner in which they wish to approach the work set out to them. I will be dealing with that under the amendment stage. We found that the registered nurses did not have such a statement in their bill and seeing it and comparing the two, it came to my mind immediately that just as the RPNs had set out their objects, I thought the nurses, too, should set it out. I think a code of ethics, which is the principles on which a professional society claims the right to regulate itself, I thought that should be right in the bill,

Mr. Speaker, the important point I make is that the reason it was not wanted was lest it be used on an appeal review and the decisions of the organization might be stacked up against the code of ethics or the objects of the organization as set out in the bill. The fear was expressed that the setting out, the objects in the bill, might in some way give a review authority — be it the board, be it the Lieutenant-Governor-in-Council or be it the Court of Appeal — would look at the bill, the objects of the code of ethics in the bill, and say, well, now, the decision made on any particular occasion was not in accord with what was set out in the bill as the objects and, therefore, might upset the decision of the organization from which an appeal was being launched. My reason was strengthened on the very same basis. I believe that the desire of the lawyers for the association not to have it in the bill made it necessary that it should be in the bill, so that, indeed, anybody looking at the Act of any of the professional bodies would say, these are their objects and judge their actions on the basis of the basis of the objects. I regret it was not accepted under the report stage on the other bills. I will be bringing an amendment in and we will have a vote on that issue and I hope a debate on that issue.

So I move on to another matter. Each of the organizations has agreed that 25 percent of the board shall consist of lay people. My idea, Mr. Speaker, is that those lay people could well be professionals in the health field not belonging to that organization, but I did question and I do question whether or not the organization itself, this professional body, should decide which lay people it wanted on the body. I felt that the Lieutenant-Governor-in-Council or some other bodies in the health field should have the right to appoint the lay people onto the boards. The government brought in an amendment agreeing or stating that one-half of the lay people shall be appointed by a Lieutenant-Governor-in-Council. I would like to think that the other half, that all of them, should be appointed by a Lieutenant-Governor-in-Council, or even better, that there should be some criteria established in the bill indicating which professions or which field of service within the community, be it community clubs, be it the Chamber of Commerce, be it social workers, whatever, indicating the kind of people that would be of greatest assistance to the board. I don't believe in self-perpetuating boards and I do not believe that the board should decide which lay people shall be on it. I point out to you that The Law Society Act sets up a committee which shall appoint the lay people and that committee is not a committee of the benchers of the law society.

Another matter on which we disagreed was the extent to which the by-laws of the professional societies would determine the size of the board and the extent of the many powers of the board. There are dangers, Mr. Speaker, and I point that out as firmly as I could, that the membership may not be alert enough to require democratic procedures and complete accountability by the board to the membership. The most exteme of the three bodies we're dealing with is the registered nurses' organization consisting of 8,000 members and the indication that now there are some 17 members of the board. I believe that there are too few members. The body has said that they plan to set up regions to make it possible to deal in smaller groups within Manitoba, but I do believe, Mr. Speaker, when you give the tremendous powers that you give to a professional body, that those powers should be limited in some way by legislation or by review or by accountability to its membership. I do not believe that giving the organizations in each of these three cases the power to pass by-laws, and by doing so, the only review is a meeting of the membership. Imagine, Mr. Speaker, 8,000 members to meet once to review by-laws, and once having passed them, the by-laws in themselves will determine the manner in

which the membership will have an opportunity to review, reconsider or amend the by-laws.

I think, Mr. Speaker, there are too many powers given to the board itself, in my opinion, without adequate review and without enough checks and balances. I believe that it is accepting the establishment of the professions as being the ones that should continue to run the organization and I believe there are establishments in every profession. I think there must be checks and balances because their powers over each other, over their membership, the powers are very great and to a large extent are not carried out in public. Therefore, they are within the organization itself and I need only refer to the fact that we've already had, in this very session, discussions of the powers asserted by various professional bodies, executives or boards, over their membership. So, I believe, they are too broadly given over to the board to decide and, I think, they should be either limited, either by a greater spelling out within the bills or by an umbrella organization such as I previously indicated, which would overview the activities and the board. So I disagree with that.

The trial de nouveau aspect: I believe that there is disagreement, but the Minister says that the amendment I brought to this very bill is unnecesary. So we will explore that in the next two bills we discuss.

And, finally, Mr. Speaker, I believe that there is too great a responsibility in these bills placed on the Lieutenant-Governor-in-Council, because regulations of the associations are subject to approval by Lieutenant-Governor-in-Council, initially. Mr. Speaker, I contend, having been a member of a Cabinet for five years, and based on that information, and based on what I've learned about other Cabinets in other governments, I believe that a Cabinet does not have the opportunity to review carefully, on its own, and to be able to accept full responsibility on its own for reviewing all the regulations that come before it and passing on them.

The result is that Cabinet relies on the Minister who relies on bureaucrats or other advisors — and I say bureaucrats in a positive and approving sense of the use of the word, I'm not critical of it — relies on them to approve of it. Mr. Speaker, there is nobody in this government that I am aware of, in any government, in Manitoba, former or present, no one person who is charged with the responsibility of reviewing the powers of professional bodies, the regulations that are proposed and capable, in my opinion, of advising the Lieutenant-Governor on all the aspects of what the Lieutenant-Governor will rubberstamp.

One step further: I believe that the way the bill is drawn the Lieutenant-Governor cannot, on becoming aware of some weakness in the regulation, the Lieutenant-Governor does not have the power to call back the regulations onto the desk of the Lieutenant-Governor-in-Council and make changes in them, even though it believes the changes are necessary. What would have to be done is for the Minister to get in touch with the professional body and persuade them to come back with suggested changes, and the only power which is a great power, I recognize, but it is delayed power, is to say, if you don't do this we may have to change the Act at the next available session. I don't think that should be necessary, and usually it is not done. We have seen here what happens when legislation that is brought in hastily or poorly prepared or at the end of a session or in too great a volume to be dealt with. I think the Lieutenant-Governor-in-Council, being given the responsibility of approving regulations, should have the continuing responsibility of monitoring the regulations and enforcing changes where it proves advisable. That's not in the bills and I think that is a weakness in the bills.

Mr. Speaker, subject to these few disagreements I have expressed which, although I believe them to be important, are not vital to the operation of responsible professional bodies who, I believe, each of these bodies is responsible, I would say that there have been few disagreements. These are good professional Acts and I am pleased that I had an opportunity to help to review and pass them.

One other comment that should be brought to the attention of the members, is that this Bill 87 creates a body which is much weaker in power than the other two. In this case there is a council appointed which has a majority of members that are not members of the organization, The Licensed Practical Nurses. It has great powers over the operations of the organization. I am not saying that I disagree with the decision that was made by the Minister in this respect but I am pointing out that the powers given in the other two bills are much more extensive than that given to the LPNs and in some way derogates from their burden of responsibility, and derogates from their own feeling of controlling their own profession to the extent the other two do. It even casts doubt as to the extent to which the LPNs can call themselves a profession. Nevertheless it is an important step in the right direction and, although I pointed out to them that they were conceding matters for which I thought they would fight, I found that they felt that whatever they got was a step forward and, therefore, I accepted their judgment in that respect.

Mr. Speaker, I appreciate the time that I was given to make these comments.

QUESTION put, MOTION carried.

MR. DEPUTY SPEAKER: The Honourable Government House Leader.

MR. MERCIER: Mr. Speaker, would you call Bills 65 and 66?

BILL 65
THE REGISTERED NURSES ACT

MR. DEPUTY SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Thank you, Mr. Speaker. I have two amendments which have been distributed.

The first amendment, Mr. Speaker, is the same as the amendment I proposed on Bill 87 which was rejected by the government and by the Minister on the basis it was not necessary. This, Mr. Speaker, gives me the opportunity which I want to take, of commenting on his comments.

Section 42(2) of this bill says, and I will only pick out those portions which I think are relevant to my

argument: "The judge hearing the appeal may make such order, or give such direction, as to the cancellation" — Mr. Speaker, this reads "cancellation of suspension of the registration." I wonder if legislative counsel has the bill in front of him. I think it should read "cancellation or suspension," 42(2) of 65. Yes, the Minister agrees with me.

I'll start again. "The judge hearing the appeal may make such order or give such direction as to the cancellation or suspension of the registration or as to the conditions imposed upon the continuation of the registration, or refusal of admission, as to him seems just." My interpretation, which may be not as broad as that of the Minister, and more specific, is, I am concerned that the judge hearing the appeal may make such order as to the cancellation, in my way of thinking, as to reverse the decision, as to send it back for reconsideration, as to change the conditions imposed. But I don't think that this section reads that the court may decide to hear the evidence from the beginning, what is called a trial de novo. I agree the legislative counsel thought it did have; I don't think it does. "The judge hearing the appeal may make such order as to the cancellation or suspension as to him seems just." I don't think that includes the order that is a procedural one to say "I wish to hear all the evidence myself, rather than reviewing the transcript which was brought to me." I don't think it does. If the Minister believes the court should have the power, and if he believes that it does have the power under this section, as I read it, then it seems to me that he still should not be objecting to my proposal that we reiterate that power by my amendment, because there is nothing in my amendment that takes away from the stated objectives which I think the Minister has accepted, that the court shall have the power.

Mr. Speaker, I believe that in this stage we can still call on legislative counsel to advise us, and I wish it were possible, because if we agree that the court should have the power at its discretion to indeed decide to hear the evidence afresh, if we agree it should have the power, then my thinking that it doesn't have the power convinces me that we should make sure that if it should have the power we should should say so. In my amendment I am attempting in some way to confirm the fact that that is the case, and that's why 42(4), the amendment I am proposing would say that although under subsection (2), which I just read, the judge may order under any circumstances that the appeal shall be a trial de novo. Then 42(4) goes on to say that where there is no transcript available there shall be a trial de novo. My point is that if a transcript is available, the court should the right to have a trial de novo in any event.

I reiterate, if the government agrees that the court should have the discretion to hear the evidence afresh, and even if it doesn't agree with me that it doesn't have that power, but agrees it should have the power, then it should accept my amendment because all the amendment does is to repeat the opinion expressed by legislative counsel, which the Minister has accepted.

Mr. Speaker, I know this is my second "go" around. I failed the first time. Nevertheless I want to move this on this occasion and hope that on reconsideration the Minister can see that there is a point to my proposal, which is, I believe, not contentious. He is not opposed to the principle.

Mr. Speaker, I move, seconded by the Honourable Member for St. Boniface,

> THAT Section 42(4) as amended shall be further amended by adding the following words at the beginning thereof: "Although under subsection 2 the judge may order under any circumstances that the appeal shall be a trial de novo."

MOTION presented.

MR. DEPUTY SPEAKER: The Honourable Minister of Health.

MR. SHERMAN: Mr. Speaker, I appreciate the point raised by the Honourable Member for St. Johns, and as I noted in speaking to the amendment when he moved it on Bill No. 87, the essential principle is one that was discussed during committee stage and has been examined both by me and the sponsors of the bills in this case and members of our caucus. It is not something that is being dismissed lightly or summarily. But we have looked at it.

We did conclude during the course of the committee hearing that section 42(2) of Bill No. 65, and the corresponding sections in Bill Nos. 66 and 87, which lay out the legislative provisions pertaining to the order of the judge, do provide for the carriage of natural justice, and that where one is relying upon natural justice, and I believe we should and must rely on natural justice, and intend that there shall be through the courts, through natural justice, there is no danger of the kind of situation arising that the Member for St. Johns refers to and attempts to address in the amendment that he has proposed.

I suppose it comes down to a question of confidence, of faith in the judicial system, perhaps even of philosophy, Mr. Speaker. I can only say that the principle was addressed in committee; that the amendment that the Honourable Member for St. Johns has proposed has been available to us for two or three days, or perhaps not quite that long, but certainly in terms of the legislative days under speed-up, it's been a couple of days. My caucus colleagues and I have looked at it and we have decided that the position that we took in the committee is the position that we intend to maintain on third reading, that 42(2) takes care of the honourable member's concerns.

If it proves otherwise, Mr. Speaker, we are not doing something here that is cast in stone for all time. I am prepared to examine the events that should arise, that should transpire in relation to these particular sections of these particular acts in the future. I am sure that my colleagues are, and I am sure the Honourable Member for St. Johns and his colleagues are, and if there appears to be the need for some corrective action, it can, I'm sure, under the government of the day, be taken. I'm sure it will be taken, through amendment, either direct amendment to the bill by opening up the bill, or through some such procedure as the Statute Law Amendments Act, but at this point in time we are relying on our confidence in the courts and in the process of and the carriage of natural justice as referred to under 42(2) to provide that where it is

necessary the protection sought by the Honourable Member for St. Johns is assured through the legislation as it's written and that no such amendment as proposed by him at this juncture is necessary, Sir.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: I wonder if the Minister would permit a question or two. I would like the Minister if he would state specifically whether he agrees that the court should have the discretion to decide to hear the case afresh, de novo?

MR. SPEAKER: Order please. I wasn't available for all of the debate. Is the honourable member asking a question of clarification of something the member has said? The Honourable Minister.

MR. SHERMAN: Mr. Speaker, I am prepared to answer that question. It may not be an answer that is satisfactory to the Honourable Member for St. Johns but I am prepared to answer it. I believe where the evidence, the transcripts, the documentation such as are necessary for an appeal to be heard and a judgment to be rendered is not available, that there should be the process available to the judge to the Appeal Court to order a trial de novo, and I think that's provided.

MR. SPEAKER: The Honourable Member for Inkster.

MR. SIDNEY GREEN: Mr. Speaker, I don't have a serious position on this question, but I can tell the Honourable Minister that what he is suggesting and what the Member for St. Johns is suggesting are two different things. A trial de novo may take a completely different course, and I am not suggesting that that is a better way than a trial where the evidence is available; the evidence may be available, the records may be complete, and yet the person who is seeking the appeal may feel that the way in which his appeal was put in the first time, for one reason or another — perhaps he was unrepresented, perhaps he was represented and the appeal proceeded on grounds which he thought were the main ones and then later learned were the wrong ones — he will not have it open to him on the Minister's position to start again, which was the way — and there are some changes now with regard to appeals from provincial judges, we used to call them police magistrates, to the county court. You had a trial de novo, which meant you started again, the record was there to make sure that counsel could cross-examine as to whether you were saying the same thing or taking a completely different position, but the trial was a different trial. Therefore, if the Honourable Minister is saying that he is satisfied that the trial should be on the record, that is one thing. If he is saying that there should be a trial de novo, if the record is not complete, I'm not even sure that, because I haven't been dealing with the question — (Interjection)— Well, the Member for St. Johns says that there can be a trial de novo, if the record is not complete. That would preclude a trial de novo if the record is complete, because if you express that there will be a trial de novo if the record is not complete, I think you'd negative a trial de novo if the record is complete, in which case the trial will be on the record. Now, I'm not even sure whether that shouldn't be the case, but I can tell the Minister that what the Member for St. Johns has suggested — and he has not the opportunity to speak again, I gather, I hope that what I'm saying does not find disfavour in his eyes — but what he is suggesting is something different and therefore there is not what I thought there was when the Member for St. Johns got up, apparent agreement on the principle. There is a difference of opinion.

QUESTION put, AMENDMENT lost.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, I have a second amendment, of which notice has been given. I mentioned when I was dealing with the third reading of Bill 87 that the registered psychiatric nurses in Bill 66, had set out their objects of association. Those objects, Mr. Speaker, were of a nature that I will summarize them: to promote and maintain an enlightened and progressive standard of psychiatric nursing; to assist in the promotion of mental health and prevention of mental disorder; promote the maintenance of properly constituted schools; co-operate with other persons or organizations; maintain ethical, educational practising standards of its members at the highest level.

I thought that was very commendable, Mr. Speaker, I thought it was really worthwhile for them to set out in their bill what they thought were their objectives and why they were asking to be a professional body in order to promote and enlarge on the service that they can give with the highest standards. Mr. Speaker, for that reason, I asked why the registered nurses didn't have something like that, and the reason I was given by the solicitor for the RNs was that, and I paraphrase, that by putting it in, it may create the possibility of an appeal body reviewing a decision made by the board in the light of the objectives. And they thought that might create litigation and problems.

Mr. Speaker, I do not believe that litigation is a bad thing. I do not believe our courts, dealing with natural justice are bad; I believe they are good and right. I believe they are there to protect all members of society and therefore I reject the thought that putting something in may create a ground on which someone can launch an appeal, that that's a bad thing to have. Therefore, Mr. Speaker, although I wanted to be able to bring in a code of ethics similar to what the psychiatric nurses had, I thought that I would get greater favour from the nurses association, the RNs, MARN that is, and from the Minister, if I took it straight out of their own book.

So, Mr. Speaker, I went back to the publication of the Manitoba Association of Registered Nurses, which contains their Act and their various by-laws, and I turned to the first page, after the list of contents, and I found there a statement of nursing and a definition of nursing practice. I saw that the RNs in their own publications say, and I quote "The practice of the profession of nursing is defined as

those functions which, in collaboration with a clientele and other health workers, have as their objective, promotion of health, prevention of illness, alleviation of suffering, restoration of health, maximization of health capabilities." I thought, Mr. Speaker, isn't that in itself a fine statement of the purposes of every person who decides to become a nurse and lend all her abilities and efforts and energies to the nursing profession and to the health profession. And I thought that that statement, being a statement of the Manitoba Association of Registered Nurses, should be not forced into the Act, but desired in the Act, as a statement of their objectives. When I heard that they didn't want it lest it create a problem, the more they didn't want it, the more I felt they should have it, to ensure that there was always a reminder as to why they were there.

Mr. Speaker, I hearken back to the debate we had last night about the Law Society and the delinquency that I thought they were guilty of in regard to their dealings of a member, and I say that it is desirable and important that a professional association should know, not only its powers, but also its limitations and the parameters within which it must work. And therefore, Mr. Speaker, I prepared an amendment that takes in a portion of this statement of the Manitoba Association of Registered Nurses. I think it's word for word, what they have done, and I am proposing that it be inserted in their Act, so that indeed it will be a yardstick against which their activities can be measured, and the only excuse that it could create a problem, is to me, a reason for having it in, not an excuse for taking it out.

Mr. Speaker, I suggest that the Minister is just a little bit too too concerned about what the petitioners want, and I can harken back to a statement he made yesterday about a completely different matter. He said, well, if Mr. and Mrs. Hawes want it this way, why are we trying to change it. And I have to remind the Minister — I shouldn't have to, but I do remind him, that his obligation is to serve the public of Manitoba and not the vested interests of any petitioners in any bill. I say that, because I know, Mr. Speaker, in my own mind that the Minister is listening to the lawyers, and listening to the association which wants to have broader and less restricted powers; and I say that the amendment I've brought, which is only one of a great number of matters on which I disagree, that that should be accepted, just as a matter of logic, if nothing else, and I think should be a matter of pride for the nursing profession to have it in their bill.

So, I move, seconded by the Member for St. Boniface, that Section 2 of Bill 65 be amended by adding thereto, at the end thereof, the words "and has the objective in collaboration with the clientele and other health workers of promotion of health, prevention of illness, alleviation of suffering, restoration of health, and maximization of health capabilities."

MOTION presented.

MR. SPEAKER: The Honourable Minister of Health.

MR. SHERMAN: Mr. Speaker, I want to put a case to you in connection with the proposal just made by the Honourable Member for St. Johns. He has moved an amendment outlining what he suggests should be the stated objectives of the registered nurses of Manitoba, and proposed that that should be in Bill 65, laid out clearly for everyone to see and use as a guideline; that Section 2 be amended by adding the words "and has the objective in collaboration with the clientele and other health workers of promotion of health, prevention of illness, alleviation of suffering, restoration of health, and maximization of health capabilities."

I want to read you subsection 1(1) of Bill 65, Mr. Speaker: "nursing practice" or "the practice of nursing" means representing oneself as a registered nurse while carrying out the practice of those functions which, directly or indirectly in collaboration with a client and with other health workers, have as their objective, promotion of health, prevention of illness, alleviation of suffering, restoration of health and maximum development of health potential and without restricting the generality of the foregoing includes" — and then some other specific responsibilities are included. And I put the case to you, Mr. Speaker, whether or not the very thing that the Honourable Member for St. Johns is asking for, as a new section, an additional section to Bill 65, is not already contained therein, under the definition section of the Act and the specific, precise, measurable definitions of nursing practice laid out herein, Sir.

Now with respect to his overall position, that some of these suggestions seem to have been turned aside by virtue of the positions taken by the associations themselves — in the case of Bill 65, Manitoba Association of Registered Nurses; in the case of Bill 66, the Association of Registered Psychiatric Nurses, and in the case of Bill 87, the Licenced Practical Nurses and their respective solicitors — that the Minister has been listening too much to the associations and their respective solicitors — I want, Mr. Speaker, to disabuse him of any concerns he may have that the Minister has not been doing his utmost, together with the sponsors of the bills in this case, and our colleagues in government, to ensure that what is achieved here is two-fold in all three bills — and I can speak for 65, 66 and 87 together, as he has done, Sir — and those two objectives, Mr. Speaker, have been the objectives of recognizing and conferring upon health professions and occupations — in this case, nursing professions and occupations — self-governing authority, while at the same time, doing everything possible, necessary and reasonable, to ensure the protection of the public.

That has been the objective of the work that has done on these bills by this government, and by the associations concerned, for the past two and a half years, and I sincerely believe that it was the objective of the work done by the Honourable Member for St. Johns and others, for some five, six or seven years, when they were in government. The fact of the matter, Sir, is, that they worked on it for some time and didn't achieve legislation that was either acceptable to the associations concerned or to the government of that day, or to the other components of the health spectrum of that day. This administration has, and I say this at the risk of immodesty, this administration has worked with those associations and has succeeded in producing that kind of legislation; legislation that confers on

them a recognition of the responsibility that they have earned, of the track record that each of those associations has compiled, of the service that each of those associations has performed and will in the future perform, while at the same time protecting the public interest, and at the same time taking into account the necessity of a accommodating the legitimate competing interests of different components in the health care spectrum. That has not been an easy objective to achieve, or series of objectives to achieve, and I know the Member for St. Johns would be the first to concede that, because as I say, he worked on it himself. But, Sir, there has been no acquiescence of an irresponsible nature or an unreasonable nature with respect to positions taken by the associations themselves or their solicitors. There has been a search for accommodation, reasonable responsible accommodation, balancing those objectives to which I have referred. That's what has been achieved in these bills and my colleagues and I, and the sponsors of them, stand firmly behind them in the form in which they have come out of committee and find that this amendment, Sir, is not necessary.

MR. SPEAKER: Are you ready for the question? Question on the second amendment proposed by the Honourable Member for St. Johns.

QUESTION put, MOTION defeated.

MR. SPEAKER: Shall the report of the committee on Bill 65 be concurred in? (Agreed)

THIRD READING

MR. MERCIER presented, by leave, Bill No. 65, The Registered Nurses Act, for third reading.

MOTION presented.

MR. SPEAKER: The Honourable Member St. Johns.

MR. CHERNIACK: Mr. Speaker, the one point that I want to make is the apparent difference in approach on the appeal process, of which I was not aware until the Minister spoke in answer to my amendment that I brought in on that point. I honestly believed that when Mr. Balkaran, Legislative Counsel, stated an opinion that that subsection (2) gave the court the power, that the Minister had accepted that purpose and believed that it was covered. And not until he spoke on this last occasion after I did, did it become apparent to me that he was, let me use the word "double-talking" on the question of natural justice and relying on the system of justice, I started to realize that that one point I was making, that is to give to the court a discretionary power was not one he was prepared to give. He was not prepared and I realize that, that's why I asked the question whether or not he believed it and his answer may it obvious that although he didn't want to say it, he did not agree to give them that power. I thank the Member for Inkster for making it so clear, where I thought we were in agreement, where I believe the Minister gave the impression when he said it's unnecessary under Bill 87, unnecessary is not disagreement and the Member for Inkster made it so clear that there is no point in my repeating it, except to point out that the government, the Minister, is denying to the Court of Appeal the right to decide that the evidence should be reheard.

Now let me just tell you what the law as proposed to us now says. It says a complaint in writing may be made. The Complaints Committee shall decide whether or not to review it. The investigating chairman shall have it reviewed, that is, the complaint, and then may decide that the discipline committee should have a hearing. Now the discipline committee consisting of, I think, five people sits and shall hear the matter, in-camera, unless the person charged requests an open hearing and the discipline committee or the board decides that no person is adversely affected by an open hearing. Which means that the hearing is closed if the person affected wants it to be closed with which I agree; it is also closed if the board in its discretion and with written reasons indicates why it believes that somebody would be prejudiced.

So I suggest, Mr. Speaker, that in most cases — let's not say most, let's say in many cases — the hearings will not be open to the public. They will be transcribed; there will be a reporter reporting the evidence. Then it goes on appeal to the board and the board does not rehear it; the board reviews the evidence and makes its decision, the board makes its own rules as to how to hear it, and now that person for the first time says I want to take it to a Court of Appeal. I want an outside body, a judicial body, to review what was done to me unfairly. That's the position they take. So they go to the Court of Appeal and they take the transcript and they bring it to the Court of Appeal. The Court of Appeal, which is the Court of Queen's Bench in this case, the judge of the court appealed to, which is Queen's Bench, will sit and look at all the evidence transcribed, lifeless to the extent that he cannot decide who is telling the truth, who is lying, new evidence that may have come that was inadequately presented, as the Member for Inkster described, could be the case otherwise. But the court can only look at the transcript, listen to arguments and then the court has to make a decision based on the transcript and the argument, and cannot — that's the point I was making all along — and cannot say we would like to hear this case from the beginning. We would like the witnesses to be brought in; we would like a review; we would like new evidence brought in.

Mr. Speaker, do I have to refer to the Hawes' case again? We changed the law yesterday for the sake of one person to permit, not just new evidence, but updated evidence to be presented . . .

MR. SPEAKER: Order, order please. I would hope the honourable member stays with the subject matter at hand.

MR. CHERNIACK: Mr. Speaker, if ever I could think of a better analogy, it happened last night and the Minister for Health spoke on it, and is an analogy which is valid, and I'm not even disagreeing with the decision that was arrived at last night. But, Mr. Speaker, we have to learn from what we do and what we did yesterday was to change the law for the betterment of one person and changed the law in

such a way that that person can bring in brand new evidence that has just come to light. And I tell you, Mr. Speaker, that this refusal to permit to give the court the discretion —(Interjection)— the Member for Rock Lake, whom I like very much, is an old colleague, need not speak from his chair if he wants to say something that's meaningful.

MR. SPEAKER: The Honourable Member for Rock Lake.

MR. EINARSON: Mr. Speaker, I think you drew to the attention of the Member for St. Johns that he was slightly out of order and not dealing with the subject matter at hand, by dealing with a case that we dealt with last night which is not germane to the Professional Acts that we're dealing with here this morning.

MR. CHERNIACK: Mr. Speaker, I wish the Member for Rock Lake listened with both ears and would know that you did not tell me I was out of order but, indeed, you asked me to stick to the bill, and I pointed out immediately how relevant it was. If the Member for Rock Lake doesn't understand the difference, I wasted my breath as far as he is concerned. I hope I did not waste my breath as far as other members are concerned. So he cannot understand the analogy, that's unfortunate. He just feels sensitive because I'm pointing out to him that he voted for something last night which his Minister will not let him on vote on today. That's my point.

Mr. Speaker, the point I was making is that the judge should in his discretion have the opportunity on listening to a preliminary argument where some person on behalf of a person who may have been thrown out of a livelihood by a decision of the discipline committee, that that representative should be able to say to the court, my Lord, there is evidence that was not brought before the discipline committee which ought to be heard. There is consideration I'd like you to give to the validity of the evidence, the weight of evidence, I would like you to hear this case afresh, and I believe that there is no power in this legislation to give the judge the discretion to say I want to hear it. Furthermore, I now believe that this Minister doesn't want to give him that power.

Let me just step to the other section, subsection (4) does say that where the transcript is not available or word is inadequate then the court "shall" hear the trial de novo. Again, the point made by the Member for Inkster is the reason why I brought the amendment. The mere fact that the court shall hear it where there is inadequate transcript is an indication that the board shall not hear a de novo where there is a full transcript. I think it's wrong, Mr. Speaker, that's all. I think it's wrong.

I think that when the Minister glibly says, but we all know that if it becomes apparent that it is an error, then we can change the law, this Act, and we can bring in Statutory Law Amendments next year, a harm may have been done, a harm may have been done by the fact that it isn't there now, and all I was asking for is not a compulsion on the judge but a discretion to the judge, and I believe it was denied, and on that basis I would be inclined, Mr. Speaker, almost to vote against the bill, but I don't want to, because I said earlier it's a good bill. It is one that is better than what we've had before. It is a step in the right direction. But there is that inadequacy and there will be one more amendment of the same kind and, of course, I don't expect the Minister to change his mind in the matter of minutes.

QUESTION put, MOTION carried.

REPORT STAGE
BILL NO. 66 — THE REGISTERED PSYCHIATRIC NURSES ACT

MR. SPEAKER: Bill No. 66, the Report Stage. Is it the pleasure of the House to adopt the report on Bill No. 66?

The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, it is not my intention to repeat myself, although I wish that the Honourable Minister would confirm and make it absolutely clear that he understands that he is denying the judge the discretion I just spoke about.

I move, seconded by the Member for Burrows, that Section 43(4), as amended, shall be further amended by adding the following words at the beginning thereof:

"Although under subsection (2) the judge may order under any circumstances that the appeal shall be a trial de novo."

MOTION presented.

MR. SPEAKER: The Honourable Minister of Health.

MR. SHERMAN: Mr. Speaker, I just want to half a minute because I'm not going to permit the Honourable Member for St. Johns' remarks and challenge to remain on the record the way they are. He says he would like to have the assurance from the Minister that he understands that he is taking away from the judge the discretion that the Honourable Member for St. Johns is asking for.

Mr. Speaker, I want it clearly on the record that I understand no such thing and I don't agree that any such thing is being done. I have pointed out, Mr. Speaker, that we looked at it in committee, this principle, in another form, that we believe that in this case, I think it would be Section 43(2) but it depends on what bill we're talking about, 42(2) in 65. I think it's 43(2) in 66. In any event, it's the section having to do with the order of the judge. We discussed that in committee and on the advice of legislative counsel were told that that provides for the natural justice that is necessary, and I will not permit the remarks of the Honourable Member for St. Johns to remain on the record in connection with these bills on which all of us have worked so hard that distort my position. I believe, indeed, that where 42(2) lays out or whatever the corresponding section is, 43(2), lays out those rights of the court and of the judge, that that provides for the very discretion, the very natural justice of which he speaks. If it proves to be otherwise, then I assure him that I will join with the efforts of others in this Assembly to have it changed, but that was the advice we received from legislative counsel. On that basis, his proposed amendment is redundant, Sir.

MR. SPEAKER: The Honourable Member for Inkster.

MR. GREEN: Mr. Speaker, I don't want to prolong it, except that there again seems to be what is an evident difference of opinion. A moment ago the Member for St. Johns read a provision about where an appeal court "shall" order a trial de novo, and that is where the record is incomplete, which is somewhat different than I understood before, but still leaves the possibility that they may order a trial de novo. But if they may order a trial de novo, and that's what the Minister is relying on, then there's absolutely no harm in the amendment. If the Minister is saying that natural justice will prevail, the rules upon which a court will start a new proceeding because natural justice has not prevailed are different from those which permit of an appeal as of right. If legislative counsel did not explain that, then I am making my respectful submission, that a natural justice proceeding, which sets aside, or which stops an order on the basis that it was not given under natural justice is not the same as an Appeal as of Right. In order to prove that natural justice was not done, and thereby get a new trial, you have to show other things; you have to show that the first court conducted itself improperly.

Now, for an Appeal as of Right, you do not have to show that the court conducted itself improperly, you are entitled to an appeal, and what the Member for St. Johns is saying, is that on that appeal the judge should have the option of awarding a trial de novo. If the Minister wants to give the judge that option, then, from what I have heard, and I will have to concede that I have not looked at the specific provisions, but from what I have heard as to the date between them, he is not giving the judge of right to order a trial de novo and is relying rather on the principle of natural justice being the basis upon which such a trial will be granted. And in order to obtain such a new trial you have to show things other than what you do for an Appeal as of Right.

QUESTION put on the Amendment, MOTION defeated.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, in Bill 65 the Minister pointed out the coincidence, literally, of the definition of nursing practice as having the same wording as the objects that I proposed to insert into the bill. I believe there is a difference of interpretation and principle between setting out objects and the definition. That is why I wanted it in. I don't know what argument will be used now, but I point out that Bill 66, as presented by the Member for Rhineland, did contain both an extensive definition of psychiatric nursing and the objects of the association. And all I am proposing in this bill, without any further debate, is an amendment that would reinstitute, bring back into the bill, the objects which the drafters of the bill, and the mover of the bill, had put into it in its first stage, its original form, and I say put it back. They wanted it then and I think they were talked out of it on the basis of the reasons that I have quoted under Bill 65.

So, without any further debate I move, seconded by the Honourable Member for Seven Oaks,

THAT Bill 66 be amended by adding thereto, immediately after section 1 thereof the following section:

Objects of association.

2. The objects of the association are

(a) to promote and maintain an enlightened and progressive standard of psychiatric nursing;

(b) to assist in the promotion of mental health and prevention of mental disorder;

(c) to promote the maintenance of properly constituted schools for the preparation of qualified psychiatric nurses;

(d) to co-operate with other persons or organizations interested in the promotion of mental health and the prevention of mental illness;

(e) to maintain the ethical, educational and practising standards of its members at the highest levels.

MOTION presented.

MR. SPEAKER: The Honourable Minister of Health.

MR. SHERMAN: Mr. Speaker, I would say, essentially, that the point I made with respect to Bill 65 applies in very large degree to Bill 66, that the interpretation section of the bill, Part I, Subsection 1(g) lays out very clearly the interpretations of psychiatric nursing and the practice of psychiatric nursing and their definitions. They do not complement or correspond as precisely to the objects of the association proposed by the Honourable Member for St. Johns, as was the case in connection with Bill 65, but nonetheless the definitions are there and they specify very clearly what those ethical aims and objectives of the Registered Psychiatric Nurses Association are with respect to their patients, their clients and their profession.

I can assure the Honourable Member for St. Johns that the President and the Executive Director of the Registered Psychiatric Nurses Association of Manitoba was not talked out of having their objectives in the bill. I think they reconsidered it on the basis of the studies that were given in the preliminary examination that I referred to, the draft bill examination undertaken by the committee where all three of these bills were concerned. There was no question of their being talked out of that position, or any position to which they are committed. Having had some experience with the officers of that association I can assure the Honourable Member for St. Johns that they are not easily talked out of commitments to principle. They adhere to them very faithfully. In this case they reconsidered on the basis of general discussions, on the basis of a general consensus, that the legislation that we are dealing with here, in all three of these cases, does not require, nor is it indeed desirable, to have within it objects specified in a section or a clause headed "objects of association", when they are, in fact, dealt with under "the definitions" and in implicit form through almost every section of the bill.

Further to that, all these associations provide for objects and ethics to be laid out within the Code of Ethics which they must observe under the guidelines for self-governing health professions and associations. So, again, Mr. Speaker, I must reject the proposed amendment.

QUESTION put on the Amendment, MOTION defeated.

MR. SPEAKER: Shall the report of the committee on Bill No. 66 receive the concurrence of this House? (Agreed)

The Honourable Government House Leader.

THIRD READING
BILL NO. 66 — THE REGISTERED PSYCHIATRIC NURSES ACT

MR. MERCIER presented, with leave, Bill 66, The Registered Psychiatric Nurses Act, for third reading.

MOTION presented.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: May I just conclude this rather extensive discussion by saying that, in spite of my disagreements about certain issues, I think the bills are good; I like the way the committee worked; I wish all committees could work as co-operatively. Of course, there was no real political or partisan difference, and that makes a big difference. But it was a worthwhile exercise and I think it augers well for all the other professional bills that I believe are intended to be brought into the next session. The only thing I have to say, Mr. Speaker, I say to the government bring them in early so they can get the same kind of detailed attention they will require.

QUESTION put, MOTION carried.

REPORT STAGE
BILL 55 — AN ACT TO INCORPORATE BRANDON UNIVERSITY FOUNDATION

MR. SPEAKER: Shall the report of the committee with respect to Bill No. 55 be adopted?

The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, may I reassure members of the House that, as far as I know, this is the last bill on which I have an amendment to make and I hope I won't be taking up much of their time hereafter today.

Mr. Speaker, there is a fundamental problem that I see in this case, and I hope again this is what I consider a non-partisan and non-political issue, but one which I think is rather important from the standpoint of legislators and the powers of a Legislature to delegate powers to others. This bill is designed to create a foundation whose purpose it is to raise funds to be able to contribute in some way to the growth and development of Brandon University. The purpose is highly commendable, it should be encouraged, and the people who are behind this move should be commended. Having said that, Mr. Speaker, I insist that powers we give should be reviewed.

Now, the proposed name of this organization is Brandon University Foundation. What does it mean, Mr. Speaker, to you? Brandon University Foundation. It means a foundation which is affiliated, associated with Brandon University. I don't see any other meaning. I think any person you meet and you say, I am representing the Brandon University Foundation, I want money to contribute to the university, the people will say, well this is a body of the Brandon University; the title says so, Mr. Speaker.

The truth is that the person who spoke on behalf of the petitioners said, we want to be clearly independent of the University, and that is the important thing. I don't question their wish. They want to be, as he put it, business and professional people who are independent of the university. And when one looks at the structure of the board of directors of this group, we see that the board shall be not more than 21 or less than 8 persons and the board will decide how many they shall be. And if there are 8, there are only 3 people of the 8 who are officers of the university; 3 out of the 8. And if the board is 21 then there are only 3 out of 21 who are officers of the university.

But, Mr. Speaker, they are only officers of the university, they are not from the Board of Governors of the University. They are the President, the senior Financial Officer and the Director of Development. All three employees of the university; they will be members of the board, 3 out of a minimum of 8 persons, or if the board expands to be 21, they are 3 out of 21. All the rest will be independent of the university.

Mr. Speaker, under the Act, for whatever reason — the lawyer claims it is for income tax purposes; I don't accept his argument — Section 4 of the bill says: The purposes of the Foundation are to promote the advancement of higher education in the City of Brandon and surrounding areas, and to improve the quality of the facilities and activities of Brandon University. My interpretation of that section is that they are not limited to benefit the university alone.

Section 5(b) says that the Foundation may, in furtherance of its purposes, pay, or otherwise distribute the income of and from any property of the Foundation. I contend it is not limited to the Brandon University.

Section 10 says that on dissolution of the Foundation the distribution of its net assets shall be to a recognized charitable organization whose objects most closely accord with those of the Foundation, as determined by the members of the Foundation. That doesn't mean the Brandon University necessarily.

So, Mr. Speaker, on reviewing the bill one finds that their purposes are admirable, their objectives are commendable, their powers are, to use the name Brandon University Foundation, and at the same time they are not limited in giving the benefits to the Brandon University alone.

Now, certain officers of the faculty, that is the President of the Faculty Association, the Secretary of the Faculty Association, and the Past President of the Faculty Association, presented a brief to the

Clerk which was distributed to members of the committee, and I will only read a portion thereof.

They say the title implies that the Foundation is being created by Brandon University to raise funds for Brandon University. In fact item 4 states that the funds can be used for almost any purpose which comes under the rubric of higher education. Moreover, 10 states that rights, property and assets shall be transferred or assigned to a registered charitable organization; not stated to Brandon University.

In short, the implication of these items is that while the name of the Brandon University is being used to raise funds, Brandon University need not in fact be a beneficiary in such funds. It is apparent from the proposed organization of the foundation that it would be outside the control of the board of governors, senate, alumni, and other components of Brandon University. What is more, because the foundation is outside the control of the board of governors it would also be outside the control of the provincial government and the University Grants Commission. And their proposal, Mr. Speaker, was that the purposes of the foundation should be to improve the quality of facilities and activites of Brandon University, and in the event of dissolution the net assets should be turned over to Brandon University, and then they suggest that the directors of the foundation shall include a member elected by each of, Board of Governors of Brandon, Senate of Brandon, University Faculty of Brandon University, students of Brandon University, alumni of Brandon University, and I would add, from the department of education.

Mr. Speaker, the lawyer who presented this brief to the committee brought in three acts as his examples of preceding legislation that were comparable, and, Mr. Speaker, let me refer to what he brought in as his example. In 1971, the Legislature passed an act, The Manitoba Mental Health Research Foundation Act, and the incorporation was by, and I'll read the names: Mrs. Howard Murphy of Winnipeg; David Orlikow, MP; Donald Rogers, Physician, of the RM of Fort Garry; John Zubek, Professor of Winnipeg, and each other person as become members shall be the board.

One would think well here is the same thing as we had in the bill before us, but then — I don't the lawyer who brought it to us read that far — under membership of the board, section 5(2) of the act says, "the membership of the board shall be composed of not more than 18 persons, one-third retiring each year who shall be appointed as follows: One person by the Senate of the University of Manitoba; one person by the Manitoba College of Physicians and Surgeons; one person by the Psychological Association of Manitoba; one person by the Manitoba Institute of Registered Social Workers; one person by the Manitoba Association of Registered Nurses; one person by the Manitoba Society of Occupational Therapists; not more than six persons by incorporated voluntary agencies interested in the mental health field; not more than six persons by the Lieutenant-Governor-in-Council."

A completely appointed board, Mr. Speaker, representative of all those agencies of the community that are concerned with the mental health of the people of Manitoba, and unlike the impression I received when I first saw the bill, it is not a self-perpetuating board of people who are named initially. And there is a section which — yes, here it is. 5(7), "the person's named in section 2, constitute the provisional board until the members of the first board are appointed under subsection 2." So that the argument giving this as an example is completely unacceptable because in fact it supports my contention that there should be a direct relationship between Brandon University and this body, this foundation.

The other example he brought was the Lutheran Campus Foundation of Manitoba, which has as its corporating bodies, four or five people by name, all of Manitoba, and then it says, "the executive committee of the Lutheran Student Foundation of Manitoba, and their successors in office, are hereby constituted." In other words, Mr. Speaker, again, and confirmed in section 2 of that act, again, the board of the Lutheran Campus Foundation of Manitoba is indeed the executive body of the Lutheran Student Foundation and unlike the argument given to us in committee, is a board which is not self-perpetuating.

The third one, Mr. Speaker, is the St. Johns College Endowment Foundation, enacted in 1962, which indeed is to a great extent self-perpetuating; 1962, 18 years ago. There are people who group together and, Mr. Speaker, I think I know everyone of them and have great respect for everyone of those people, and they were created to be able to contribute to St. Johns College, as that corporation, in its sole and absolute discretion may decide. Which corporation? St. Johns College — as it decides on the use of the funds. But it is true that in 1962 the legislation — Mr. Speaker, I'm excused, I was not a member in 1962, only the First Minister and the Member for St. Boniface are the only people of this Legislature who were there when this was enacted. It says the first governors of the foundation shall appoint or elect as governors such other persons as in their sole discretion may deem proper and advisable. It is self-perpetuating except there is a section that says, if the governors or the foundation do not appoint or elect new governors then the vacancies shall be filled by the Archbishop of the Diocese of Rupertsland, Chancellor of the Diocese of Rupertsland, and chairman of council of St. Johns College.

Mr. Speaker, the three examples that were presented to us, each differs in important degrees; differs from the bill that we are now considering. So, Mr. Speaker, what is my approach? It's really a simple one. I recognize the value of the foundation. I honour the people who want to dedicate their time, money and effort to it. I believe that what they want to do is good. But, Mr. Speaker, I don't like to give them the self-perpetuating power, at the same time as giving them a name, Brandon University Foundation, which makes it appear that indeed they are the body which are affiliated with, associated with, or integral part of, the University.

For that reason, Mr. Speaker, I have distributed two amendments. I am hoping one of them will be acceptable to the government side. If they would indicate to me which one I should bring in first as being acceptable to them, I would be glad to bring in that one first. Hearing nothing, I will do what I think makes more sense and that is a very simple change

in title, to say that it is the Foundation of Friends of Brandon University. The only distinction I make, Mr. Speaker, is that they are the friends of Brandon University rather than make it appear that they are representative of Brandon University, and that I think should be acceptable. It doesn't in any way take away from the powers, the authority, the wishes, the objective; all it does is clarify that they are not part of Brandon University, indeed they are truly friends of the Brandon University.

Therefore, Mr. Speaker, I move, seconded by the Member for Brandon East;

Where the words "Brandon University Foundation" appear in Section 1(b), Section 2, and the Title and anywhere else in the Bill, they shall be replaced by the words "Foundation of Friends of Brandon University".

MOTION presented.

MR. SPEAKER: Are you ready for the question? The Honourable Member for Brandon East.

MR. LEONARD S. EVANS: Thank you, Mr. Speaker. I wasn't sure, I didn't realize the Member for Brandon West, or the Minister without portfolio wanted to speak. At any rate, I think the Member for St. Johns has outlined what I consider to be a legitimate dilemma.

I would reiterate what he has said, that the intentions of the people who are wishing to have this bill passed are most admirable and we wish them the very best, we want to see them proceed to obtain as many dollars as they can for higher education for Brandon University, as possible. Therefore there is no quarrel with the intent behind the legislation and I trust that this is not a matter of any political, philosophical debate in any way. But the Member for St. Johns has brought up a very important matter. in essence, he has explained to us that we are being asked to set up a Brandon University Foundation which does clearly imply that this is a foundation controlled by the Brandon University Institution, particularly I'm speaking of the Brandon University Board of Governors which in turn of course, the majority of which is appointed by the Government of Manitoba and therefore you have the natural tie in from the government, the representatives of the taxpayers, through to the control of the University, because as we appreciate, the bulk of the University operating funds is clearly provided by the taxpayers of Manitoba.

What has bothered the Member for St. Johns and myself is that it is quite clear from the bill as it now stands that the foundation that this bill sets up could obtain funds and not expend those funds on Brandon University. Those funds may be spent on higher education. As it's referred to in section 4, the purpose of the foundation, to promote the advancement of higher education in the city and surrounding areas. This is apart from the reference to improving the quality of facilities and activities in the Brandon University itself.

So it is legally and tehnically possible, it would seem to me, Mr. Speaker, that this particular foundation could raise funds in the name of the University and then at some point proceed to spend those funds in a way that helps higher education but not directly assisting Brandon University. Of course another clue is in, to me at least, seems to be in Section 10, on the distribution of the assets in the case of dissolution. Reference on the dissolution of the foundation; after the payment of all debts and liabilities, the remaining assets, rights and properties, be transferred or assigned to a recognized charitable organization whose objects most closely accord with those of the foundation as determined by the members of the foundation on the date of dissolution. That bothers me. I'm not a lawyer, I'm not sure whether there is some particular hidden meaning here or maybe it doesn't present a problem, but as far as I'm concerned it is legally possible for this foundation to give those funds raised in the name of the University to a charitable organization other than the University of Brandon. I don't consider the University of Brandon to be a charitable organization.

As the Member for St. Johns has very eloquently explained, the way the Bill now is before us, there is no control by the board of governors. That is clearly the case. And, Mr. Speaker, while it can be argued that these are all people of good will and we are talking about people who have mutual interests and mutual objectives, we can perhaps sit back and say yes we have no worries to bother our heads with because these are all people of good will and good nature, but, Mr. Speaker, we are passing legislation which becomes part of the statutes of Manitoba, and I can foresee in the years ahead when people will come and people will go as is always the case, and there could be a case, you could envisage a situation where the board of directors of the foundation may have a different set of priorities from the board of directors or board of governors of the Brandon University. It may be a legitimate difference in priorities. The board of the foundation may wish to expend funds on priority (a) as opposed to (b) and (c), whereas the board of governors of Brandon University may wish to expend those funds, or see those funds spent on priority (c) or (b) or what have you, and this may be a legitimate difference, but the point is that we are concerned about and as has been well explained by the Member for St. Johns, the funds were raised in the name of Brandon University and yet it is not truly a foundation controlled by the Brandon University board of governors, and indeed it may not spend its money on Brandon University. So therefore, I think one way around it, Mr. Speaker, and a very simple way around it, is this amendment that is before us, that we simply change the name, and for the life of me I can't see how it would take away from the ability of these people to raise funds for their purposes. I think it is an excellent compromise. It meets our objections and it does not detract from the objects and purposes and desires of the people involved, and I think if the mover of the bill would be prepared to accept that amendment, that we will satisfy the others who have expressed some views, people from the Brandon University faculty association and indeed other members on that committee, the committee on private bills that considered this matter.

MR. SPEAKER: The Honourable Minister without Portfolio.

HON. EDWARD McGILL (Brandon West): Mr. Speaker, I'd like to comment briefly on the specific proposed amendment by the Member for St. Johns. This matter of his objection to the title of the bill, that is, the name of the foundation, which this bill would incorporate, was dealt with rather extensively during the committee stage of this bill's consideration.

Mr. Speaker, at that time, it was pointed out to the Member for St. Johns that the linkage which he felt was absent from the board of governors of Brandon University and the directors of this proposed Brandon University Foundation, was there, in that the first-named in the first directors of the foundation, Mr. George Gooden, is chairman of the board of governors of Brandon University; the next named is the president of Brandon University; the next named is a member of the board of governors, is the governor of Brandon University; the next named is the controller of the University, and the final name is the university administrator and secretary of the board of governors.

So, Mr. Speaker, I think these directors are somewhat more than friends of Brandon University; they represent very directly Brandon University. But, Mr. Speaker, in order to deal with the Member for St. Johns' objections to the title, the name of the foundation, it was agreed that this bill would be amended so that it would come into effect, not on the day it receives Royal Assent, but on proclamation, and it was also agreed that proclamation would not be made until a letter had been received from the board of governors of Brandon University indicating that they agreed and supported completely the use of the name Brandon University Foundation, by this group, so, Mr. Speaker, I feel that we cannot support the amendment that is proposed by the Member for St. Johns. I think, quite clearly, that the title and the name, when it is officially reported to us that it is accepted and supported by the board of governors of Brandon University, that the Act will be proclaimed and that there will be no misunderstanding as to the name of the foundation.

MR. SPEAKER: The Honourable Member for Brandon East.

MR. EVANS: On a point of order or clarification, with regard to the matter on exemption from taxation . . .

MR. SPEAKER: Order, order please. The honourable member has no point of order on that. The question before the House is the amendment dealing with the change of name only.

The Honourable Member for Kildonan.

MR. FOX: I have no desire to enter into this debate, except to put a question to the Honourable Minister. Should the board in its wisdom not reply to the request in respect to the objects, what then becomes of the bill? Will it not be proclaimed? Would it not be prudent to change the name now? And then if the compliance becomes a reality, the name could be amended at a future date. At least the bill would become a reality with the amended name now.

MR. SPEAKER: The Honourable Minister.

MR. McGILL: Mr. Speaker, I would like to reassure the Member for Kildonan, that the chairman of the board of governors attended the private bills' committee meeting, was present during all of the discussions and was able to give us his assurance and complete support for the use of this title and that a letter will be forthcoming from the board of governors.

QUESTION put, AMENDMENT lost.

MR. SPEAKER: Shall the report of the committee be concurred in?

The Honourable Member for Brandon East.

MR. EVANS: Mr. Speaker, I wonder if the original mover of the bill could now give the House assurance that the section 9, what we considered to be an offending section, whereby property would be exempt from taxation, the property owned by this foundation, whether it be real or personal, would be exempt from taxation; also the exemption of business and income from taxation by any municipality or by the government of Manitoba. Could either the mover of the bill, or someone who has supported the bill, assure the House and put in on the record that this is removed?

MR. SPEAKER: Order please. We're not dealing with an amendment here, we're dealing with the bill and the report.

The Honourable Minister.

MR. McGILL: Mr. Speaker, I imagine from the nature of the question from the Member for Brandon East that he did not attend the committee stage, where that clause was deleted. So the bill has been amended to delete that clause, also the amendment to the final clause, the commencement of the Act.

MR. SPEAKER: Shall the report of the committee be concurred in? (Agreed)

BILL NO. 55, by leave, was read a third time and passed.

MR. SPEAKER: The hour being 12:30, the House is accordingly adjourned — order please.

The Honourable Member for Logan.

COMMITTEE CHANGES

MR. JENKINS: Thank you, Mr. Speaker, I wish to make some changes to the committee on statutory regulations and orders. The Honourable Member for St. Boniface in place of the Honourable Member for Wellington; the Honourable Member for Rossmere in place of the Honourable Member for Point Douglas; the Honourable Member for Lac du Bonnet in place of the Honourable Member for Churchill.

I also wish to make some changes on the committee of privileges and elections: the Honourable Member for Seven Oaks in place of the Honourable Member for Lac du Bonnet, and the Honourable Member for Brandon East in place of the Honourable Member for The Pas.

MR. SPEAKER: Are those changes agreeable? (Agreed)

The hour being 12:30 the House is adjourned and stands adjourned until 2:00 this afternoon (Tuesday).