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STANDING COMMITTEE

ON

PRIVATE BILLS

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The Honourable Harry E. Graham
Speaker

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVATE BILLS
Wednesday, 23 July, 1980

Time — 2:00 p.m.

CHAIRMAN — Mr. Jim Galbraith (Dauphin)

MR. CHAIRMAN: I bring this committee to order. We're dealing with Private Bills. At the present time we will deal with Bill 65. Is it the wish of the committee we go page-by-page and stop wherever there's concern? (Agreed)

BILL NO. 65
THE REGISTERED NURSES ACT

MR. CHAIRMAN: Page 1 pass — Mr. Sherman.

HON. L. R. (BUD) SHERMAN: Mr. Chairman, first of all there are a considerable number of amendments. They've been prepared by Legislative Counsel; they have to be distributed and moved. And they start right on Page 1 of the bill. Maybe we could go through those.

MR. CHAIRMAN: Mr. Kovnats.

MR. ABE KOVNATS: Mr. Chairman, I . . .

MR. CHAIRMAN: Just before we start, I've been asked by our recording staff that every member make every effort to speak as directly into the mike as possible as apparently these mikes do not pick up voices as well as they should.

Now what is the proper procedure? Do you want to be called by your name or do you want to be called by your constituency.

MR. SAUL CHERNIACK: Mr. Chairman, may I suggest we do it section by section. It will be just as fast as being interrupted, and in that way we won't hop around. Secondly, I think committee has accepted, from time immemorial, that you could address somebody by name or constituency. I think you should do whatever is more convenient for you.

MR. CHAIRMAN: Okay. Section 1(a) pass; 1(b) pass; 1(c) pass; 1(d) pass; 1(e) pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT clause 1(e) and (f) of Bill 65 be struck out and the following clause be substituted therefor:

(e) Member, unless the context otherwise requires, means a person whose name is entered in the register;

(f) Minister, means the member of the executive council responsible for the administration of the health matters in the province.

MOTION presented.

MR. CHERNIACK: Mr. Chairman, just a minor point. I think that the motion should say Clause 1(e) and (f) of Section 1. I assume, Mr. Balkaran will correct it.

MR. BALKARAN: It says Clause 1(e) the one that refers to the section.

MR. CHERNIACK: Of course. I'm sorry. See, here I was trying to be helpful and I wasted time. Sorry, Mr. Chairman.

QUESTION put, MOTION carried.

MR. CHAIRMAN: 1(g) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT sub-clause 1(g) sub (ii) of Bill 65 be amended by striking out the word "programs" therein and substituting therefor the word "problems".

MOTION presented and carried.

MR. CHAIRMAN: 1(h) pass; 1(i) pass; — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT Clause 1(i)(j) of Bill 65 be struck out and the following clauses be substituted therefor:

(i) Register, means the register established under Section 7.

(j) Registered Nurse, means a person whose name is entered in the register and in one of the rosters referred to in Section 7.

MOTION presented and carried.

MR. CHAIRMAN: 1(k) pass; 1(l) pass; 2 pass; — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I have an amendment. This deals with the point that was discussed at the earlier meeting dealing with the objects of the association. So while the amendment is being distributed let me introduce the subject.

The Licensed Psychiatric Nurses Bill, as I recall it, set out the objects of the RPN, again, Mr. Chairman, I think I gave you a misnomer. I'm talking about the Registered Psychiatric Nurses, the RPN's, which set out objects of the association, that would be Bill 66, and I not only liked what they said but also wanted to add a subsection. The RPN's indicated that they, I believe they indicated they would accept my suggestion and when the RN's objected to the statement of objects in their Act, the RPN's said, we can live with it but if there's good reason for the RN's not to have it, then that good reason might well apply to them.

So I want to raise the point. Bill 66 sets out the objects of the association which I wish to read, Mr. Chairman:

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

(b) To assist in the promotion of mental health and the prevention of mental disorders;
(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 education on practising standards of its members at the highest levels.

I wanted to add an (f) as follows:

(f) to carry out its activities in such a manner that the best interests and the protection of the public are ensured.

Now, Mr. Chairman, the objection as I understood it, posed by the solicitor for the registered nurses, was that setting out the objects of the association might in some way create a problem of litigation on appeals from decisions made by the board. Now it's not for me to elaborate on their argument, but as I understood it, they were concerned that decisions made by, say, the discipline committee or the board being reviewed by another authority — that could be the L.G and C. or it could be a court — having the objects before them, should go back to the objects and consider whether the decisions made were carried out with the objects in mind, and they had concerns that this could create problems.

Mr. Chairman, the more it concerns them that setting out the objects in the Act could create problems, the more I feel justified in pushing that the objects be set out, because the objects which I read, which the psychiatric nurses said they would like to have, I think are the finest objects and none that anyone could question. So the fear expressed is that they could be misused in some way — by whom? — by the authority like the Lieutenant-Governor-in-Council, or a court in appeal.

I would want them used, Mr. Chairman. I'm just not saying that they should be in the bill just as a token statement of what is believed to be the purpose, but they should be part of the bill so that whoever deals with the activities of the association under the bill would be reminded, as would the association itself, what their objects are. I say that, Mr. Chairman, knowing full well — I think the latest account I heard — that there are some 80 professional or pseudo-professional organizations in Manitoba, that's a number that was way beyond what I thought, and also we were told that there is only one that the solicitor for the RNs knew of that had a statement of objects, and this RPN one would have been the second.

Nevertheless, Mr. Chairman, I've had enough experience, which is not that great, but sufficient, with various professional associations, to feel that there are occasions when the delegated authority within that organization might forget the objects or might put the interests of the association, as such, ahead of the objects as such. I think that, just like we have laws that apply to one person but are made general for all, like criminal laws — we don't expect people to break laws but we make laws because on occasion someone does — by that same token I would think that all professional associations should have objects set out in them.

Now, Mr. Chairman, my first thought was that I should set out described objects for this bill, much as those that were prepared by the RPNs, varying them of course to relate to the general field of nursing rather than psychiatric nursing and mental health.

My second thought, Mr. Chairman, which was the most persuasive one — and the evidence of that is that you have it before you — is that I would take the word of the registered nurses for what their objectives are, and I took the publication of the Act and the bylaws of the Manitoba Association of Registered Nurses, and if you will look at the amendment which I have distributed, I will read to you a portion of their statement on Page 2 of it. Under Definition of Nursing Practice they say:

"Nursing in its broadest sense is caring." 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.

Mr. Chairman, I'm really not quite satisfied with this as a statement of the objects of an association. I would much prefer something along the lines of the RPN. But to avoide a debate, which I don't say I will avoid it, but to confine the debate, I took the nurses' own words and put them into the motion which I am now about to present. Well, we'll hear what the objections may be to that, but I believe that it is advisable, and there to remind everyone that the Legislature has given extraordinary powers to a group of people, trained, experienced, dedicated people, to operate their own organization, to have disciplinary powers, to have control powers, to have reserve of title, and we have learned, Mr. Chairman, during the briefs that were presented, that employer organizations, hospitals, such institutions, accept the fact than an RN is the kind of a person they want working for them.

So that just reserve of title is not descriptive enough of the power which we are giving to the registered nurses, and which I agree with. I agree that they should have that power and I agree that they should exercise the power in the light of the highest objectives of what is best for the public interest. That's why I've taken their wording and propose to add it at the end of Section 2. I would be glad to hear comments from drafters as to whether that is the best place for it, or whether it should be in another place. But the objective I think is clear, and I thought that where the section reads: "That the MARN as constituted, is hereby continued a body corporate, and has the capacity, rights, powers and privileges of a natural person", and I suggest the following additions "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".

That's the end of the motion. Mr. Chairman, I'd just add to that. If it belongs more suitably in some other part of the bill, I have no quarrel with that.

MR. LAURENT L. DESJARDINS (St. Boniface): Mr. Chairman, through you, I'd like to ask a question of Mr. Cherniack. It's a question at this time. Why is this needed when I see pretty well the same words on the first page under (g), which is the definition of a nursing practise. What would be achieved by this? Or why does the member feel that this is necessary?

MR. CHERNIACK: Because I feel that a definition of what is nursing practise does not set out the goals of the association. It is just a definition and what the difference would be is that when one comes through the Act and one talks about what is nursing practise or the practise of nursing, one will then go back to the definition and see what they mean. But I don't think this would apply if, for example, there's a discipline imposed on a member for something other than professional knowledge or capability. That whoever reviews that should be reminded, not of what is a definition of a nursing practise, but rather what are the objects of this association? And when the Lieutenant-Governor-in-Council has to deal with regulations, it shouldn't have to go back to what is the definition of the nursing practise, it should go back to what are the objects of the association, so that when they deal with the regulations that are presented, they will be reminded of what the purpose of this is, which is quite different from the objects of any ordinary, incorporated company. Where you look for powers, not objects, when you look at a company like, you know, General Motors, or the ABC car repair company, it's quite different; and that's my point.

MR. SHERMAN: Mr. Chairman, I certainly agree with Mr. Cherniack's motives and objectives in ensuring that the goals and objectives and ethics of the nursing profession are made known, are enshrined and are circulated but I can't accept the suggestion that they should be enshrined in legislation having to do with the establishment or authorization or re-enforcement of the association in this case, as a self-governing professional body.

The fact of the matter is, Mr. Chairman, and I know we're not dealing with Bill 66, but it's germane to the point so I have to mention it. That particular clause will be the subject of an amendment when we come to Bill 66, which amendment will propose that the objectives of the RPN Association be removed from their bill. The basic legalistic argument for are not enshrining objectives in a piece of legislation of this kind is that they do necessarily deal with ideals and are, therefore, subject to differences of perspective and intepretation which make them particularly vulnerable, in the view of the best professional advice that I have been able to muster, when exposed to examination during the judicial process, so we don't think that they should be subject to review by the courts.

Mr. Cherniack read the definition of nursing practice from the MARN handbook, by-law book, but I think he would concede that probably to spare the committee the time, he didn't read the entire Statement of Nursing, which is contained therein, and which does outline those ideals and objectives of the nursing profession.

Further to that, Mr. Chairman, the MARN has a code of ethics which is consistent with the guidelines that were developed and laid down by the government for self-governing associations. Their code of ethics outlines the very objectives and very ethics to which Mr. Cherniack refers and we don't feel that it is necessary to incorporate them in the bill. Therefore, Mr. Chairman, I will not be supporting the amendment.

MR. CHAIRMAN: We have a motion before the committee. All those in favor?

Mr. Cherniack.

MR. CHERNIACK: A couple of points. The Statement of Nursing that Mr. Sherman referred to, by all means, let's include it. I saw it as more descriptive than a statement of principles and that's why I left it out, but his pointing out that I omitted it, just suggests to me I should include it, because that does not change the point of view where we have separated, Mr. Sherman and I.

I believe it belongs for the reason he doesn't want it and let me just spell out: I believe it belongs because if there is a difference of perspective and interpretation, which seems to concern him, I would rather that perspective and interpretation were applied by an appeal body, and I think that would be either a court of the Lieutenant-Governor-in-Council, in the light of the changing circumstances of society and of the practice of nursing, and we've talked about changing circumstances.

I would rather rely, Mr. Chairman, on the review process to bear that in mind, than not to have it before them, because the great fear I have is the court would say, "Well, here's the legislation. The legislation says that this association" — I would like my argument to apply to all, not even just the three that are before us now — "the Legislature says they can pass by-laws on their own and they can pass regulations, subject to the approval of the Lieutenant-Governor-in-Council," and having that that authority, I would not like a review authority to close its eyes to the objectives of the association, which are primarily to serve the public, and that's why I say I think we have a clear difference of approach. I believe it belongs for the same reason that Mr. Sherman doesn't want it in. He does not want the difference of perspective and interpretation applied, I do want it implied. If I interpret him correctly, I think that is a very clearcut difference.

One other point, he says the nurses have a code of ethics. I haven't found it. Although it may well be in this pamphlet, I haven't seen it, nor is it in the bill, so I don't know what it is. I think that if there is a code of ethics, let's put it in the bill so it's known, so the public knows it, so review authority knows it.

MR. CHAIRMAN: May we have this motion before the floor?

A COUNTED VOTE was taken the results being as follows:
Yeas, 2. Nays, 6.

MR. CHAIRMAN: I declare the motion lost. 2 pass. Part II, Board of Directors, 3(1) — Mr. Kovnats.

MR. KOVNATS: I move

THAT subsection 3(1) of Bill 65 be struck out and the following subsection be substituted therefor:

Board of Directors.
3(1) The affairs of the association shall be managed by a board of directors, at least 25 percent of whom shall be persons who are not members of the association, and of the 25 percent who are not members of the association, two shall be appointed by the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: We have a motion before the floor. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, this I believe is an improvement over the original. The only point is, there could be five, there could conceivably be 10 people who are not members of the association on the association. You see, the way it's set out here, the association is self-regulating with all the powers granted to them, nevertheless, will by the way this bill is drawn and subject to those powers given to the Lieutenant-Governor to appoint two, as is proposed, they will have control over all the other lay persons that will be appointed.

Mr. Chairman, I don't see the sense to that. It seems to me that if you're going to have lay people on it, those lay people should in some way be representative of the community, maybe various segments of the community, maybe various segments of the consumer public, the clienteles they would be referred to, but who is best able to judge as to what their qualifications or their constituency should be? And I don't think it should be the body itself. I think there are other ways of determining what is a constituency. One way would be to name the various constituencies, like Council of Social Agencies, United Fund, the Manitoba Health Organization — I don't believe they should be on it, but that could be; it could be a union — I don't believe it should be on it, but it could be — that's one way of doing it.

The other way of doing it is what is proposed in this amendment where it says "two shall be appointed by the Lieutenant-Governor". So here the Lieutenant-Governor says, well we will at the time and from time to time bearing in mind what we know in the future, determine two of the members. I think that the two can be very meaningful if all we have are four lay people, but it can be meaningless if there are 10 lay people. There's no reason why there shouldn't be a board of 40, of whom 10 are lay people, and only two appointed by the Lieutenant-Governor-in-Council, I think, loses the essence of what is intended.

Therefore I would like to move an amendment to the motion at this stage — I'm not moving it formally — but what I'd like to do is to replace the figure "2" with the words "the majority." That would then mean, that regardless of the size of the board, and therefore regardless of the number who make up 25 percent of the board, that the Lieutenant-Governor-in-Council will see that the majority of those people are put on.

Let me point out that the only other legislation I'm aware of dealing with compulsory requirement of lay people on a board is the Law Society one, and in the case of the Law Society the lay people are appointed, not by government, not by politicians, not by a constituency that's described as I have attempted to describe constituencies, but appointed by a committee and the committee, as I recall it, is made up of the Chief Justice of Manitoba, the Chairman of the Mayors and Reeves Association, or Chairman of the Municipalities of Manitoba, and I think the Chairman of School Trustees — I'm not sure of that — there are four in any event, who are named officers, who are not on the board but who meet as the committee and appoint the board, and that to me makes sense.

But if you don't want to go through that mechanism, and if the government is prepared to accept the responsibility of the appointment, then don't make it meaningless by saying the government will put a conduit there, which is suggested to me by putting on two lay people so that that conduit will be able to report back and forth, but rather in the true sense of appointing members who will be dedicated to work on behalf of the board, that they be lay people and that their selection be that of the Lieutenant-Governor-in-Council, not as a conduit but as representatives of what I call the consumer public.

So I think that instead of two, it should be the majority, so that we know no matter how the board expands, the majority of the lay people will be appointed by the government — I thought maybe to say 13 percent of the 25 percent — wwll, in any event I thought that the wording would be best served by saying "the majority."

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I'd like to ask Mr. Cherniack whether he would be satisfied with a change in his proposed amendment that would make it read "no fewer than one-half." In other words, "Of the 25 percent who are not members of the association, no fewer than one-half shall be appointed by the Lieutenant-Governor-in-Council."

MR. CHERNIACK: Yes, that has the same effect I believe, maybe a difference of a quarter of a person.

MR. SHERMAN: Then I would certainly be willing to suggest to him that he frame an amendment and I'll vote for the amendment.

MR. CHERNIACK: Mr. Chairman, I'd be happy if Mr. Balkaran will frame the amendment and anybody can move it. I don't look for the credit, but I'm willing to . . .

MR. BALKARAN: Well, Mr. Chairman, the amendment as I understand it, would simply strike out the figure "2" of the proposed amendment . . .

MR. SHERMAN: And make it one-half?

MR. BALKARAN: Mr. Chairman, . . .

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: For simplicity's sake, maybe Mr. Kovnats would be willing to reword his amendment so we don't have an amendment to an amendment.

MR. SHERMAN: There's a point here, Mr. Chairman. Mr. Cherniack says it's the same thing, but it isn't the same. Let's say you're looking at four lay members. His amendment said "a majority," well, two would not be a majority of four, but it would be one-half of four.

MR. CHERNIACK: I said I'm not dealing with pieces of bodies.

MR. SHERMAN: You would only be dealing with pieces of bodies if it was an uneven number. So you take an even number and that's why I'm suggesting no fewer than one-half and the Legislative Counsel I think would suggest just the term one-half.

MR. CHERNIACK: Fine. I see the sense to it. I accepted it from the very beginning.

MR. CHAIRMAN: Okay, we have an amendment to the amendment. Can we have subsection 3(1) as amended? Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, the amendment would strike out the figure "2" of the proposed amendment of Mr. Kovnats in the first line thereof and substitute therefor the words "no fewer than one-half".

MR. CHAIRMAN: Agreed?

MR. CHERNIACK: "No fewer than one-half".

MR. CHAIRMAN: 3(2). Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:

THAT subsection 3(2) of Bill 65 be amended by adding thereto, immediately after the word "election', in the second line thereof the words "other than the members appointed by the Lieutenant-Governor-in-Council".

MR. CHAIRMAN: Pass? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, yes, I agree with that amendment. I have another point to raise on this subsection and that is the number of the board.

Mr. Chairman, I think we were told that there are 17 members of that present board. According to my reading of the by-law — my note says to be repealed, I'm not quite sure where I got the idea that that would be repealed but in any event it would have to be repealed — but as I see it the provision that had been made provided for something like 20 but I want to raise the question of the number.

I believe that an organization of 8,000 people, all members of the same one professional body, is inadequately represented by a small board unless it becomes an exclusive, elite power and I believe — and again I speak from some experience, I speak from my knowledge of the professional society of which I am a member — that too few a number creates too much of a happy clique and I don't suggest that that is the case with MARN because I don't know MARN but I'm saying that in principle.

There ought to be some sort of protection to ensure that there's a large enough board that is likely to be more reflective of the broad base of 8,000 members, plus — I hope it will grow and not shrink — and therefore I leave it open for the moment as to what is an optimum number as the minimum. My own feeling is that 40 is not too unwieldy and, if it were, I would rather opt for an unwieldy than a all too powerful small group. You know that government is most readily run by one person, all you need is one dictator and there's efficiency and the more people you have in the Legislature or in the committee such as this, the more likely it'll take longer to come to decisions but I think it's good that they should.

Therefore, my suggestion is that after the word "board" in the first line, we should say "shall be at least" and then put a number opposite it and I would think that the number should be a fairly good but workable size but not so small as to have the exclusivity that a very small group has. It may create problems for holding meetings but I think that in the interests of democracy — and that is what we're talking about here and I'm talking about the democratic right of the members — I don't that there should be too small a group.

A board which has certain matters to deal with that could be settled by a fewer number, can serve by having a committee of the board of a smaller number deal with any specific matter. But the board itself which meets from time to time dealing on behalf of a membership which may not meet more often than once a year should, I think, be more reflective of a larger base and that's why I'm not making the motion until I can get some kind of discussion as to the number and suggest that that should be in the bill.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: Thank you, Mr. Chairman. If we set a minimum number of members for the board, what would happen in a situation where today we have 8,000 members of MARN and some time in the future because of changing responsibilities, let's say some other technical or technological discipline takes on some of the responsibilities that nurses formerly had and they become say, perhaps more exclusive in a sense and there are only 4,000, then it requires a legislative change to reduce the size of the board because it may not be practical to have a board twice as large as you need under those circumstances. It seems to me that there are problems in setting a minimum number or a maximum number, for that matter.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I have two responses. One is that by law the Legislatuve meets once a year at least and he now has enough experience to know that you can bring matters into the Legislature. You can't always get them out as easily as you can put them in but a lot of it has to do with how early you bring it in. So I don't see any real problem. I don't see that an organization is stifled if it has a large board and 4,000 members.

But the other point I would gladly make, a concession I would gladly make, is that the number shall be determined by resolution. In other words, by the Lieutenant-Governor-in-Council or by concurrence of the Lieutenant-Governor-in-Council.

That creates a much easier way of dealing with a problem raised by Mr. Filmon and still the Lieutenant-Governor-in-Council may, and would, be influenced by the opinion of the board at the time of original and subsequent changes.

Mr. Chairman, my point is that I think really the size of a board is a very very important ingredient of how an association functions and I think the Lieutenant-Governor-in-Council and Mr. Sherman has agreed that it will assume responsibilities of reviewing resolutions. If it is felt that it's too much of a burden to come back to the Legislature to make a change where, in that portion where I'm making suggestions, then surely it's much easier to just go to the Lieutenant-Governor-in-Council and say, here's a new resolution and these are the reasons.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I don't feel that it would be too much of a problem to come back to the Legislature and make a change if necessary. That could be dealt with at a subsequent session through The Statute Law Amendments Act if we were only dealing with one item, such as that.

I think it's premature to fix the size of the board at this point in time. This legislation reflects a reorganization on the part of the association and I'm sure that if there is discontent in the membership over the size of the board, whether too large or too small, over the communication between the board and the membership, or whatever reason, that the Minister of Health will hear from the membership about it.

So I think that although there is merit in what Mr. Cherniack says, in the long run, in view of the fact that the MARN has indicated that they are studying now a method of representation that may well be based on a regional format of health regions or health units, or districts of the province, that it would be premature to prescribe firm parameters for the board at this point. If there are difficulties, it can be resolved after they have had a year or two to complete the reorganization in approach that they are going through as a professional association.

MR. CHERNIACK: Mr. Chairman, I am not going to repeat myself. There is no advantage to taking time when there is nothing to be accomplished.

I want to correct the word "fix" used by Mr. Sherman. I did not suggesting "fixing" the number, I suggested putting in a minimum number. That would not fix it, that would make it flexible beyond the minimum and I thought that possibly the easiest way would be to say we can fix the minimum as being the present number so at least we know it doesn't shrink.

However, it's okay, you know, Mr. Chairman, I have lost votes before.

I want to point out to the Minister that by-law, the Act, I'm sorry, not the by-law, the Act that we are repealing does have a formula, which takes into account each district association and does in fact set out the makeup and the number of the board. I called it a by-law; I'm sorry, I turned to the wrong page and I assumed I was dealing with a by-law of the board, which would be re-enacted by our bill, but we are repealing what I understand is the one existing requirement as to how the board is to be made up. And I now point out to you, Mr. Chairman, what I think might be a technical problem and that is that — it could be corrected, of course, by the fact that we have agreed to proclamation — but once we repeal the Act, then there is no requirement at all as to how many the numbers shall be and the new by-law that is passed can go back to saying the board shall consist of five people.

So when I was saying that 17 are too few, we are even leaving that open, because the present requirement in the Act that we are about to appeal, and members, if they like, can count how many there are, says that the immediate past president, the president, two vice-presidents, not three, a representative from each district association, and not more than 10 members at large, and then of course I think there is a conflict because it then says that there shall be three members of the board for the first 3,000 members and then one member for each additional 500 members, whatever that is. So we are repealing what is the present structure of the board and leaving it completely open to the organization and our job, Mr. Chairman, is to protect the public and, secondly, the individual member.

MR. SHERMAN: Mr. Chairman, I want to assure Mr. Cherniack that that will be watched with diligence and if it becomes necessary and obvious that there should be some parameter established, a minimum or whatever, that certainly we would be quite prepared to consider that in future adjustments to the legislation. But I think that it would be confining at this point.

MR. CHERNIACK: Mr. Chairman, I just have to comment that Mr. Sherman, I am sure, is well aware that his assurance as to what will be done only relates to the time whilst he is Minister of Health and there is no guarantee that he will be Minister of Health in the future, even under a continuing Conservative Government, because Cabinets change.

My concern is not to draw legislation bearing in mind who the people are that occupy the jobs, but rather the fact that the people may change from time to time and may not remember what was discussed or what was undertaken.

MR. CHAIRMAN: We have Part II, Section 3(2) as amended pass; Section 3(3) pass; Section 3(4) pass; Section 4(1) pass; Section 4(2) — Mr. Kovnats.

MR. KOVNATS: I move

THAT Subsection 4(2) of Bill 65 be amended by adding thereto, immediately after the word "board" in the first line thereof the words "after due notice."

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Thank you, Mr. Chairman. Of course this was a change that we have agreed to, but I think there is something else that has to be done and I want to suggest that the word "due", which is judgmental and open to interpretation and a different perspective — I'm using the words used by Mr. Sherman in another connection — that it ought

to say, and this is my suggestion, taking care of two things, both "due" and another important feature, that it should read: "after at least 30 days after copies of the proposal have been sent to all members".

What I have in mind is that not only should we decide what is "due" notice, as to whether "due" could be two days or 30 days, but I think we should provide that copies should be submitted to the members — again, I go back to the Law Society which does that — to make sure that people voting, especially 8,000 people scattered all over Manitoba and with a system with which I disagree but still exists, of proxies, that people, before coming to the meeting, should know what is going to be dealt with at the meeting so that they can either make a special effort or shrug their shoulders and say it's not necessary.

Therefore, I would like to suggest that we set out the minimum number of days of notice and provide that copies of the proposal shall have been sent to all members.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I might point out that this amendment was suggested by Mr. Cherniack in precisely those same words, that's why they are on the amendment sheets as they are now.

MR. CHERNIACK: That's why I complimented you in doing it. Mr. Chairman, I am glad Mr. Balkaran is even noting who suggested what, but the fact is that the reason we meet in committee is that we have another look at things and what I am suggesting is an additional precaution, which I think is advisable. The fact that I didn't mention it before certainly does not in any way preclude my bringing it up now, or at third reading, if necessary. I would like to hear some reaction; I believe it is logical.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Would Mr. Cherniack read the clause as it would read with his informal amendment in it.

MR. CHERNIACK: I will, and I'm not too proud of this wording. I am sure Mr. Balkaran can do a better job.

MR. SHERMAN: That's why I used the word informal, Mr. Cherniack.

MR. CHERNIACK: What I have written, or scribbled, "The board shall, after at least 30 days after copies of the proposal have been sent to all members, submit a by-law, or an amendment or repeal to the member.

Now I think that is clear as to what I intend.

MR. FILMON: No sooner than 30 days after, is that what you mean?

MR. CHERNIACK: Yes, no sooner than 30 days after, and I mean after the copies have been sent out. The members will have at least, say 25 days from the receipt of the copies before the meeting.

MR. FILMON: Mr. Chairman, I am informed that is current practise with MARN and that it was their intention to put something of that nature in the by-laws, as opposed to enshrining it in the bill, but if there is a feeling that it should be in the bill

MR. SHERMAN: I'm agreeable, Mr. Chairman. My colleagues are, of course, free to make their own decision on it, but I don't see any difficulty with that.

MR. CHAIRMAN: We have Section 4(2).

MR. CHERNIACK: Could Mr. Balkaran read to us the wording?

MR. CHAIRMAN: Could you read the amended section?

MR. BALKARAN: The amendment, as I understand it, Mr. Chairman, would read, up to the word "board" in the first line, the following words and figures added after "at least 30 days after a copy of a by-law or an amendment, or repeal of a by-law, submit the by-law, or amendment, or repeal, made under subsection 1 etc." It will involve almost a re-write of the subsection.

MR. CHERNIACK: Since I really don't like what Mr. Balkaran read to me I'd rather see a re-write. I'm sure he can do a much better job that I have suggested here. Could we just leave that, Mr. Chairman, and come back after we've had time to deal with it?

MR. CHAIRMAN: We have agreement here to leave that subsection and come back to it? (Agreed)

Section 4(3) pass; 4(4) pass; 4(5) pass; 4(6) pass; 4(7) pass; 4(8) pass; 4(9) pass; 5(a) pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT section 5 of Bill 65 be renumbered as subsection (1) thereof and that renumbered clauses 5(1)(f) be struck out and the following clause be substituted therefor:

(f) Prescribes standards of voluntary, continued nursing education for all persons registered under this Act.

MR. CHAIRMAN: I didn't get quite that far yet, I was still on 5(a). 5(a) pass; 5(b) pass; 5(c) pass; 5(d) pass; 5(e) pass; 5(f) as amended pass — Mr. Desjardins.

MR. DESJARDINS: 5(1)(f).

MR. CHAIRMAN: Oh pardon me, Mr. Desjardins. Okay we'll have a new section there then, 5(1)(f) pass. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, we're now dealing with regulations which must be submitted to the Lieutenant-Governor. Mr. Chairman, I'd like to read into the record portions of a document given to us by MARN, entitled Regulation 1, which is, as I understand it, is their proposed regulation which they propose to send to the Lieutenant-Governor for approval after this bill becomes law.

And I will skip portions of it. Section 2: Any person who furnishes such evidence to the board as it may require, that she (a) is a graduate of a nursing program within Manitoba that has been approved by the board; (b) is of good moral character; (f) has successfully completed any required refresher program prescribed by the regulations of the association.

I pause there, Mr. Chairman, to indicate that these regulations, nor any I'm aware of, do not set out the standards of the programs that will be adjudicated on by the board, does not set out the principles on which they will make their decisions, and therefore we can have a comfortable feeling that regulations of this nature, this importance, are subject to review by the Lieutenant-Governor-in-Council. In fact, if the Lieutenant-Governor-in-Council accepts these regulations, it is still passing back to the body, the complete authority on setting out what program "has been approved by the board." So you know, it's almost unnecessary for the regulation to be approved by the Lieutenant-Governor-in-Council if indeed, all it does is to pass the ball back and say okay, whatever you approve will be satisfactory. And that brings me directly to Mr. Ray Taylor's letter, which has been referred to, which is not part of the record, and I will not be presumptious enough to read the whole five-page letter into the record, which I think should have been done, because I think had Mr. Taylor been here it would be into the record, but it's not for me to decide.

Mr. Taylor points out that the present Act has Section 14, which Mr. Sherman referred to in the present Act, and he noted that it wasn't in the existing Act, makes provision that the board may dispense with compliance of the requirements for admission, on being satisfied that the person in whose favour a dispensation is made has acquired the same benefit knowledge as if the foregoing provisions of this Act had been strictly complied with, that a nurse trained outside of Manitoba may be admitted to membership, if it is shown that she has had equivalent educational standards. And then a paragraph of Mr. Taylor's letter reads: "Indeed there is nothing in Bill 65 which would tell any member of the public what qualifications are prerequisite to membership in MARN and therefore entitlement to practise as a registered nurse. Rather Bill 65 simply gives the board of MARN itself the power to make regulations, regulate the admission and registration of members and to prescribe the conditions of precedent to membership of persons applying therefor."

The point I'm making — I'm leaving the letter now — the point I'm making, Mr. Chairman, is that the proposed regulations don't do that either. So here we find Mr. Taylor saying but the bill doesn't show it, and I'm telling you that the regulations don't do it either, and that therefore we really have to fall back on one of the last of the amendments being proposed by Mr. Sherman as to the educational institutions. Without that we would really be no further ahead to be able to spell out to the public what are the expectations of the board, nor to any nurse coming from outside of Manitoba just what can she expect, because the regulations make a discretional with the board; the Act says nothing. Therefore, I again, express my agreement with Mr. Taylor that it is not a satisfactory way in which to deal with it.

Having said that, I am not prepared to make a specific amendment unless Mr. Sherman indicates a sympathetic approach to the concerns expressed by Mr. Taylor, and by me, in which case we could possibly work towards an amendment. But if he rejects the validity of bringing in an amendment, there is no use worrying about the wording of it, I wouldn't even bother.

MR. SHERMAN: Mr. Chairman, three points, and there may be more. I may be misinterpreting some of Mr. Cherniack's concerns, but let me deal with the three that I identified.

First of all, I assume we are talking about 5(1)(f) and not talking about (a) through (e).

MR. CHERNIACK: No, I'm sorry, we're talking about 5(1), because it's really (a), because (f) is only continuing education and I'm not concerned with that.

MR. SHERMAN: Then that is an originating point for confusion, Mr. Chairman, because I thought we had passed (a), (b), (c), (d), and (e).

MR. CHAIRMAN: No, we didn't pass 5(1).

MR. SHERMAN: So if Mr. Cherniack is talking about the whole section, let me say to him that I was certainly concerned about the points that Mr. Taylor raised, I thought he made them very effectively and I pointed that out at the time that his letter arrived here. I said to the committee that it was a very responsible presentation and it was imperative that it be attached to the material that every member of the committee had.

I believe that those particular concerns are addressed by the regulations of the MARN, which I don't have in front of me at the moment but I did have in front of me at an earlier meeting of the committee. With respect to the standards of voluntary continuing nursing education, if Mr. Cherniack is suggesting that that is really unnecessary in 5(1), I can't argue with that. I think, sir, that one would have to say in a clinical sense that it is unnecessary. It is somewhat cosmetic, but because of the interest of the community, in general, and professional associations, in particular, in continuing education nowadays, we wanted to acknowledge the concept and the MARN wanted to acknowledge the concept and that's the reason why it is mentioned and specified at all in 5(1).

On the last point, with respect to the actual, I suppose, mechanics of what is at issue here, I believe that Mr. Cherniack's concerns will be addressed through Section 48, but I know that that is asking him to take it on faith until we get to Page 20 of the bill. But I do believe they are covered and they will be resolved in that section and through the amendments that are proposed for that part of the bill, Mr. Chairman. —(Interjection)— And 49. Sections 48, and 49, very definitely.

In other words, Mr. Chairman, if I might have your persmission, Sections 49(1) and (2) now provide for the approval of the Minister. At least that is what the amendments propose.

MR. CHERNIACK: I said earlier, if Mr. Sherman did not indicate a willingness to consider an amendment of this, I don't mean a willingness, but a desire to consider an amendment at this stage, then I won't question that.

MR. CHAIRMAN: 5(1)(f) pass. Mr. Kovnats.

MR. KOVNATS: Are we finished with (1), Mr. Chairman?

MR. CHAIRMAN: 5(1) pass.

MR. KOVNATS: I move

THAT Bill 65 be amended by adding thereto, immediately after renumbered subsection 5(1) thereof, the following subsection:

Prior submission of regulation to membership.

5(2) Before submitting a regulation to the Lieutenant-Governor-in-Council, the board shall submit the regulation to the members of the association and the members may, by ordinary resolution confirm, reject or amend the regulation.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I would like members to consider an additional clause in that amendment and, Mr. Chairman, I appreciate the amendment. I can tell Mr. Balkaran I remember very well that I am the one who suggested it, so he doesn't have to remind me of that.

There is one additional idea I want to suggest and, that is, that along with submitting the regulations to the members, it should also make them aware of the recommendations of the Advisory Council. I think they should know that when they are considering because, again, Mr. Chairman, with 8,000 members, I am sure that a very small proportion of them turn up at a meeting; I would assume that.

So I think that they should have all the possible information available to them before they decide whether or not to make a real effort to go to the meeting, especially since we know they work on three shifts and many can't turn up.

My suggestion would be, then, that if you would look at the amendment of Mr. Kovnats, that after the word "association" in the penultimate line, the words be added: "along with the recommendations of the Advisory Council". By adding those words, it would provide that the regulation and thr recommendations will be submitted to the members in advance of the Lieutenant-Governor.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I wonder if Mr. Cherniack would consider adding those words after the word "regulation" in the third line? "Shall submit the regulation together with . . ."

MR. CHERNIACK: Of course.

MR. SHERMAN: ". . . together with the recommendations of the Advisory Council," right?

MR. CHAIRMAN: We have Section 5(2), as amended pass; 5 pass — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I'm sorry, the reason I said 5(2) is because I have a 5(3) to suggest, which would change the amendment to say, "add the following subsections."

Actually, I would like to suggest the following wording: "When the board submits any regulations to the L-G-in-C, it shall include a copy of the Advisory Council's recommendation and of the minutes of the association meeting which approved of the regulation."

I think the Lieutenant-Governor-in-Council must be made aware of all the background to a regulation because it is very important. I have read and agreed with the statement made by Mr. Taylor as to the danger of a perfunctory review by the Cabinet and without criticism, because I know how busy Cabinet is, and I have to tell you, Mr. Chairman, I have not seen Cabinet proposals for a long time, but when I used to see them every day and every week, I found that many times they were rather voluminous, but nevertheless they were pretty comprehensive and they always had a summary. Cabinet members normally would read the summary, unless they had a special interest to go beyond that. But it seems to me that at least when the Minister gets the regulation, he should also have, along with it, a copy of the recommendation of the Advisory Council and an excerpt of the minutes where some members may have proposed certain amendments or presented certain arguments which have been recorded and let him be aware of that. Because in the end, the decision as to regulations the burden is placed on the Minister and then on the Lieutenant-Governor-in-Council and I think he should be fully aware of it. I may have made too long a speech for what should be fairly acceptable.

MR. SHERMAN: Well, Mr. Chairman, I must say that I would consider that to be something of an encumbrance on the association, in view of the fact that there will be direct ministerial representation on the Advisory Council, both from the Minister of Health and from the Minister of Education and I might say, Mr. Chairman, that even that section is being amended to increase that representation. I recognize what Mr. Cherniack is saying about the voluminous amount of work and paper that crosses a Minister's desk and the necessity for a full background and knowledge before making a decision of this kind, but I think that is an automatic procedure that he carried out when he was a Minister and Ministers of the day today attempt to carry out, certainly a Minister cannot necessarily do it himself or herself, but I think that all who have been in that position have officials on whom they rely for that and I think that we come back to the basic question of recognition of a self-governing, professional association. And I do have some difficulty with continual injections into the legislation which reflect, and I don't mean in any critical way, but unfortunately have the effect of reflecting on the government's faith in the judgment and responsibility and maturity of the leadership of that kind of an association.

So I find the suggestion to be unacceptable, Mr. Chairman, and I would suggest that, at least from my point of view and the point of view of the Minister of Education, my colleague, that we would be prepared

to rely on our direct appointees to that council, plus our own departmental officials, for ensuring that the rationale for that regulation is provided to us at the same time the regulation is proposed.

MR. CHERNIACK: Mr. Chairman, I understand the Minister's proposed method of operation. I must say that I have a different concept of the Advisory Council's structure. And I believe that the Ministers shall and will put a member on the Advisory Council but I'm not comfortable with the thought that that member will be considered the Minister's go-between, between the Advisory Council. I really would like to think that once that person is put on the board, by the Ministers, or those persons are put on by the Ministers, that they blend in with the Advisory Council and do not stand out as embodying that, I use the word conduit which is as good as any that comes to mind, that representative of the Minister which will thereupon, after his or her point of view has been expressed and rejected, go back to the Minister and tell him what happened. I really don't think it should be like that. I really think that once the Minister puts the person on there, with confidence in that person's ability to present a point of view, that that person does not carry a label all the time "Minister's appointee, Minister's appointee". But the way he describes the function of that person they will, in effect, have that invisible label and I regret it.

Now, maybe the Minister will think that through again and change his mind. But we're really going to deal with that later on, not now. It's just that I felt I should respond to that.

Anyway the motion I wanted to make is not acceptable. I won't ask for a vote because our point of view is different.

MR. CHAIRMAN: Mr. Ransom.

HON. BRIAN RANSOM: Mr. Chairman, I just want to raise a point of procedure, a point of order. It seems to me that we're departing somewhat from the agreed upon procedure when we first met last week. It was my understanding that we were going to go through all three bills and have a general discussion, which we did, very constructive discussion; that we were going to identify those sections of the bills which would be considered for amendment, and that we would come back here and the members would be proposing amendments and discussion would take place on them and they would be accepted or rejected. I recognize members are attempting to be helpful in arriving at the best possible bill but it seems to me that we are perhaps reverting back to the general discussion more than was our original intention.

MR. CHAIRMAN: Thank you, Mr. Ransom, I'll try and keep the members of the committee more to the amendments that are before us.

Mr. Cherniack.

MR. CHERNIACK: I dislike very much having to discuss what was agreed and what was arranged but I'm prepared to do that. What is clear in my mind is that we said we would run through the bills in a co-operative effort to understand what changes would be proposed, we would not pass the sections, we would deal with the formal passing of sections subsequently, which we are doing right now.

Mr. Chairman, I don't whether Mr. Ransom thinks we are precluded from dealing with the sections as we see fit. If he does that may be another occasion when somebody will tell me that I'm not acting in accord with an understanding, but I do not believe that anything I've done to this moment is contrary to my understanding of how we were to conduct this portion of our meeting and I will not be too acceptable to your attempting to prevent my bringing in amendments.

MR. CHAIRMAN: Mr. Cherniack, that was not my intention.

Mr. Ransom.

MR. RANSOM: Well I wouldn't want to be misunderstood, Mr. Chairman, there was no intention to attempt to restrict Mr. Cherniack, or any other member, from bring in amendments. That was precisely the agreement, in my understanding, that we were going to do, was to deal with specific amendments and not to repeat the discussion of principle which, for the most part, were dealt with over the two or three days that the committee met previously.

MR. CHERNIACK: Well then do we clarify it. Mr. Ransom expects me to move an amendment and then debate it, rather than debate it before I bring in an amendment. If that's what he wants, that's all right. I think it's foolish because, as I've said a couple times, I can give you the exact wording, but why debate the exact wording if the principle is not acceptable and Mr. Sherman has worked very well on that and I think I have too. He has said, it's not acceptable for this reason and I have responded as to the reason and not pushed the wording. If he wants the wording, I can do that.

MR. CHAIRMAN: Okay, we will proceed. 5 pass; 6 pass; 7(1) pass; 7(2) pass; 7(3) pass; 7(4) — Mr. Kovnats.

MR. KOVNATS: I move

THAT Subsection 7(4) of Bill 65 be amended by adding thereto, immediately after the word "registrar" the words, "shall be given written reason for the refusal and the applicant."

MR. CHAIRMAN: 7(4) as amended pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Bill 65 be amended by adding thereto, immediately after subsection 7(4) thereof, the following subsection:

Discrimination prohibited.

7(5) No person shall be denied membership in the association because of the race, nationality, religion, color, sex, marital status, physical handicap, age, source of income, family status, political belief, ethnic or national origin of that person.

MR. CHAIRMAN: 7(5) pass. Mr. Cherniack.

MR. CHERNIACK: I am risking offending Mr. Ransom by saying that I think this is an improvement over the wording I suggested, but I realize that I'm not making an amendment, so Mr. Ransom may object to my saying this.

MR. RANSOM: That credit, Mr. Chairman, should go the legislative counsel, Mr. Balkaran.

MR. CHAIRMAN: 7 as amended pass. Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I wonder if we may go back to 4(2) of the bill now.

MR. CHAIRMAN: Do we have the permission of the committee? (Agreed) Go ahead, Mr. Balkaran.

MR. BALKARAN: I have 4(2) rewritten, Mr. Chairman, if I may read it.

4(2) Submission of by-law to members.
The board shall, at least 30 days before the next meeting of the members of the association, submit all by-laws, all amendments, or repeal of any by-law made under subsection (1) to the members of the association, and the members may at that meeting, by ordinary resolution, confirm, reject or amend the by-law, amendment, or repeal thereof.

MR. CHAIRMAN: Section 4 pass.
I return now to Section 8. 8(1) pass; 8(2) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Subsection 8(2) of Bill 65 be struck out and the following subsection be substituted therefor:
Recovery of fees prohibited.
8(2) No person shall bring an action in any court to collect fees, compensation or other remuneration, for services performed as a registered nurse, unless she is registered under this Act.

MR. CHAIRMAN: Section 8 pass; Section 9 pass; Section 10(1) pass; Section 10(2) pass; Section 11 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Section 11 of Bill 65 be amended by striking out all the words of the subsection immediately after the word "Act" in the fourth line thereof.

MR. CHAIRMAN: Section 11 pass; 12 pass; 13 pass; 14 pass; 15 pass; 16(1)(a) pass; 16(1)(b) pass; 16(1)(c) pass; 16(1)(d) pass; 16(1)(e) pass; 16(1) pass; 16(2)(a) pass; 16(2)(b) pass; 16(2) pass; 16(3) pass; 17 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT clause 17(a) of Bill 65 be amended by adding thereto, immediately after the word "person" in the first line thereof, the words "at the time of employment."

MR. CHAIRMAN: 17(a) pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT clause 17(b) of Bill 65 be amended by adding thereto, at the end thereof, the words "and provide a copy of the report to the person whose employment is terminated."

MR. CHAIRMAN: 17(b) pass; 17 as amended pass; 18 pass; 19 pass; 20 pass; 21 pass; 22(a) pass; 22(b) pass; 22(c) pass; 22 pass; 23(1) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT subsection 23(1) of Bill 65 be amended by adding thereto, immediately after the word "member" in the second line thereof, the words "in writing."

MR. CHAIRMAN: 23(1) pass; 23(2) pass; 24 pass; 25 pass; 26(a) — Mr. Kovnats.

MR. KOVNATS: I defer to Mr. Cherniack.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: On 25, when I suggested that to be consistent with the wording, and I was not facetious, that it might be a good time to start saying "chairperson," the Executive Director of the MARN, I don't remember what words she used, but she agreed, and the Minister said, "but the government may not." I move that the word "chairperson" replace the word "chairman."

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, at the risk of being unpopular, I am not in favor of that amendment. I think the term "chairman" is a term like ombudsman and many others in the English language that are accepted as being all-embracing. It would make for enormous technical difficulty throughout all the statutes of the province if we were to make that change at this juncture. I don't think it is a substantive kind of thing that the MARN has asked for, nor do I feel — certainly they have never conveyed to me that they feel demeaned in any way by having their chief officer in any of these functions referred to as a chairman. I don't intend to influence anybody, but I will be voting against the amendment.

MR. CHAIRMAN: 25 as amended lost; 25 pass; 26(a) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Section 26 of Bill 65 be struck out and the following section be substituted therefor:
Reference to investigation chairman.
26 Where a member, after she becomes a member, is convicted of an indictable offence, or where the complaints committee has reason to believe or is of the opinion that a member
(a) is guilty of professional misconduct or conduct unbecoming a member; or
(b) has demonstrated incapability or unfitness to practise nursing or is suffering from an ailment which might, if she continues to practise, constitute a danger to the public;

the committee shall refer the matter to the investigation chairman.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, is this a trade-off here, because you didn't agree with chairperson, that you have a member, when "she" becomes a member?

MR. CHAIRMAN: Section 26 as amended pass; Section 27 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Section 27 of Bill 65 be amended by adding thereto, immediately after the word "shall" in the second line thereof, the words "conduct a preliminary investigation or."

MR. CHAIRMAN: 27 pass as amended; 28(a) pass; 28(b) pass; 28 pass; 29 pass; 30 — Mr. Sherman.

MR. SHERMAN: Mr. Chairman, just for the information of Mr. Cherniack and the committee, we had made the notation that a clause on confidentiality was required at that point. It appears under Part X of the bill.

MR. CHAIRMAN: 30 pass; 31(a) — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, if you will give me a moment. I have an amendment. I'm afraid, not having secretarial help to the extent I would like to have, about which I made a speech yesterday, I would like to distribute an amendment in my scribble, and will read it.

MR. CHAIRMAN: We are on 31.

MR. CHERNIACK: I have a problem here, Mr. Chairman, with my own notes, and I'll just say that my note has that there ought to be an amendment to conform to the amendment of Section 27. My notes read, Mr. Chairman, for 31, to replace the first three lines preceding the (a), are: "Upon conclusion of a preliminary investigation, a written report shall be prepared and thereupon the investigating chairman shall" (a), (b), (c).

The point, Mr. Chairman, now I recall, and I appreciate your permitting the delay: The point is that now that we have provided that the chairman shall conduct, or someone else shall conduct on his behalf, under 27, then 31 does not read to recognize that the chairman himself may have done the investigation.

So I took this wording — I think I took it straight out of the RPN, and I think it is more applicable, because then it says regardless of who conducted the investigation, a report shall be prepared and then the investigating chairman shall decide.

I hope I make it clear, because I think that this is just a matter of drafting. —(Interjection)— 31, which I think is in conflict, or confusing in relating it to the new 27. —(Interjections)— May I repeat it, Mr. Chairman?

In 27 we made a change that was agreed to, that says that the investigating chairman shall conduct a preliminary investigation, or direct someone else to do it. Bearing in mind that change, then if you read 31 it says the person conducting investigations shall report, in writing, to the chairman, well the chairman would then be reporting to himself.

MR. BALKARAN: Except where the chairman is conducting investigations.

MR. CHERNIACK: Well, my suggestion was a wording which I took out of the RPN bill, which reads "upon conclusion of a preliminary investigation, a written report shall be prepared and thereupon the investigation chairman shall: (a), (b) . . . Mr. Chairman, it's a drafting matter only I'm drawing to your attention and whatever Mr. Balkaran thinks should be done, or if nothing is to be done, okay.

MR. SHERMAN: I have no objection to that, Mr. Chairman, if Mr. Balkaran agrees on the argument in favour of drafting conformity, it appears that the way the section is drafted in Bill 66 is clearer and more direct and fits better with the foregoing sections.

MR. CHAIRMAN: Can we just leave Section 31 for the time being? (Agreed)

We'll go on to Section 32 pass; Section 33 pass; 34(1) — Mr. Kovnats.

MR. KOVNATS: I move;

THAT subsection 34(1) of Bill 65 be struck out and the following subsection be substituted therefor:

Composition of Discipline Committee

34(1) The committee shall establish one or more discipline committees, each comprised of:

(a) a person recommended by the Minister

(b) four individuals whose names are entered in the roster of active, practising members, of whom four shall constitute a quorum.

MR. CHAIRMAN: 34(1) as amended pass; — Mr. Sherman.

MR. SHERMAN: Mr. Chairman, correct me if I'm wrong on this but I thought that, of course it's covered later on, I thought we were going to have a clause in there saying that they should not include any persons who were involved in the investigation. Is it covered later on?

MR. CHAIRMAN: Pass. 34(2) pass; 34(3) pass; — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT subsection 34(3) of Bill 65 be struck out and the following subsection be substituted therefor:

Associations Representation at Inquiries.

34(3) The association solicitor may participate in an inquiry before a committee but shall not vote thereat, or have participated in the investigation of the matter before the committee.

MR. CHAIRMAN: 34(3) as amended pass; Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, you might go back to Section 31. In lieu of the first two and half lines of

that section, I wondered if the following words would suffice to the committee.

It reads as follows: "Upon conclusion of a preliminary investigation a report of the findings shall be prepared and thereafter the investigation chairman shall . . .".

MR. SHERMAN: Well, Mr. Chairman, why would the Legislative Counsel suggest omission of the term "written"? At least in both bills it was a written report and Legislative Counsel is now suggesting just a report.

MR. BALKARAN: We could add the word "written" Mr. Chairman. Can I read it again? "Upon conclusion of a preliminary investigation a written report of the findings shall be prepared and thereafter the investigation chairman shall . . ."

MR. CHAIRMAN: 31 as amended pass; — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, we're proceeding after 34(3) at this point?

MR. CHAIRMAN: I believe that's the one we're at.

MR. KOVNATS: Fine. Mr. Chairman, I move;

THAT Bill 65 be amended by adding thereto, immediately after subsection 34(3) thereof, the following subsection:

Members of discipline committee not to investigate matter

(34(4) A person who is a member of a discipline committee shall not participate in, or carry out, an investigation of any matter that will be referred to that discipline committee for consideration.

MR. CHAIRMAN: 34(4) as amended pass; 35(a) pass; 35(b) pass; 35 pass; 36(1) pass; — Mr. Kovnats.

MR. KOVNATS: I move;

THAT subsection 36(1) of Bill 65 be amended by striking out all the words of the subsection immediately after the word "shall" in the third line thereof and substituting therefor the words and figures "within 30 days from the date of the direction or decision, fix a date, time and place for the holding of an inquiry, which shall commence no later than 60 days from the date of the direction or decision".

MR. CHAIRMAN: 36(1) as amended-pass; 36(2) pass: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT subsection 36(2) of Bill 65 be amended by striking out the figures "31" in the fifth line thereof and substituting therefor the figures "30".

MR. CHAIRMAN: 36(2) as amended pass; 36(3) pass; 36(4) pass; 36(5) pass; 36(6) pass; — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;

THAT subsection 36(6) of Bill 65 be amended by adding thereto at the end thereof the words "and the board is satisfied that none of the parties to the hearing would be prejudiced by the holding of a public hearing".

MR. CHAIRMAN: 36(6) as amended pass; — Mr. Cherniack.

MR. CHERNIACK: This is another one of what I think are a few differences that have turned up at the earlier meeting, and I think this is, of course, an improvement over what is there now. I assume that the interpretation to the wording in the original of 36(6) is interpreted to mean that when there is an application there shall be a public hearing, unless the board is satisfied that . . . Do you follow me, Mr. Chairman? The first time I questioned whether an application was sufficient, since it appears to me that maybe the board could, on application, refuse to grant it, but the wording of this amendment seems to accept a principle that if the member wishes a public hearing it shall be held, unless — and then the wording — "unless the board is satisfied that none of the parties would be prejudiced by the holding of a public hearing". That's the way I interpreted it, and I think I'm right and if I'm wrong I wish I could be corrected before I proceed with the amendment that I've already had distributed. And you'll see that what I've done, I think, is to make clear what is the intent, but it also swings the onus and I believe it establishes the principle of open, I could even use the word government, open government by the association, except under certain justifiable circumstances.

So, if you don't mind and maybe for the benefit of those who can't read my — I was told by a penmanship teacher that I still have a Grade 6 standard handwriting — Grade 6 standard. That was few years ago.

MR. KOVNATS: Mr. Chairman, just for a moment, if you don't mind, Mr. Cherniack. I always believed that Mr. Cherniack was a member of the legal profession but after reading his amendment I believe that he is a member of the medical profession because it appears that it seems to be a subscription or a prescription of some kind.

MR. CHAIRMAN: Order please. I think we're veering just a little bit from the topic at hand here.

MR. KOVNATS: If Mr. Cherniack will excuse me for the interjection.

MR. CHERNIACK: Of course, it's an honour to be given credit for being a member of either profession.

MR. CHAIRMAN: Mr. Cherniack, may we have your amendment.

MR. CHERNIACK: I move;

THAT the following replace 36(6):

All hearings of the discipline committee shall be held in public unless the person whose conduct is the subject of the inquiry requires a private hearing; or unless the board has given written reasons to the effect that one or more

parties to the hearing would be prejudiced by the holding of a public hearing.

As I said, Mr. Chairman, it establishes a principle. A public hearing, but it says, wait a minute, there may be some very good reasons that this should be in private and it sets out the reasons. (1) That the person affected might object; (2) that anybody else affected might convince the board that it would be better that there would be a prejudice of some kind if it is a public hearing.

MR. SHERMAN: Mr. Chairman, as Mr. Cherniack has pointed out, what it does is it shifts the onus precisely to the other end of the equation and that's not acceptable to me. I think the onus should be precisely where it is, that hearings before discipline committees, particularly in the health field where you might be dealing with somebody who is suffering from a mental disorder, you might be dealing with somebody who had been subjected to some kind of sexual abuse, you can be dealing with a whole range of unfortunate and, to a considerable degree, unsavoury possible situations and I think the onus should be on the private hearing, that is where the emphasis should be, to protect, to ensure that everybody knows that they are protected, unless that person has applied for a public hearing and the board agrees that nobody is going to be prejudiced.

I think Mr. Cherniack reads the unamended section, the original section, the way I read it, correctly, and that's why we wanted the amendment. He wanted the amendment for a different reason, and a perfectly legitimate reason, but the reason I wanted an amendment was because the way it reads all you had to do was apply for a public hearing and the board had to make it public. In the health field, I suggest, Mr. Chairman, that verges into very dangerous territory.

MR. RANSOM: On a point of order, Mr. Chairman. Do we have two amendments proposed here now on the floor?

MR. CHAIRMAN: Yes, we do. I was just going to deal with Mr. Cherniack's right now.

MR. CHERNIACK: Mr. Chairman, Mr. Ransom is quite right. I was precipitous. I think what we ought to do is deal with Mr. Kovnats' amendment, for which I intend to vote, and then deal with mine as a replacement of the one that was amended by Mr. Kovnats.

MR. CHAIRMAN: We have two amendments before the floor. We'll go back and deal with Mr. Kovnats' amendment first.

Mr. Filmon.

MR. FILMON: Mr. Chairman, just to throw another monkey wrench in the works. I'm more than satisfied that the bill as it appears, Mr. Chairman, gives the right weight and emphasis that the hearings would be held privately, unless the person who is the subject of that hearing chooses to have it in public and it would seem to me that that person has the most to lose by having it in public, in terms of their professional reputation and everything else, and therefore it should stay as it is. I can't see that there should be anything else to amend it.

MR. CHERNIACK: Mr. Chairman, it so happens that was my point originally and all I wanted to make sure is that an application was equivalent to a mandatory requirement. I agree with Mr. Filmon, but I understand clearly the point made by Mr. Sherman. I understand that there may be a witness involved even whose health, whose mental health, might be adversely affected if such a matter is in public. I still would opt for Mr. Filmon's choice. I do understand Mr. Sherman's point of view and that's why I drafted my amendment. But I would like to suggest that if the board makes the decision — we're still dealing with Mr. Kovnats' amendment — if the board is satisfied that any one of the parties may be prejudiced by the holding of public hearings, I really think that ought to be a decision in writing, with reasons, so that when, as and if it goes to appeal, somebody up there, like the board of the association or the Court of Appeal, can look back and say, why did they make that decision contrary to the request of the members?

So I have to say to Mr. Filmon, I agree with him, nevertheless, I accept Mr. Sherman's concern and for me it's sort of a compromise because I didn't get a clear indication that the wording, as it originally was, a requisite was mandatory.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, we have three different points. The 36(6) as it is now, protects the person that is being disciplined or investigated but not anybody else and I believe that's the concern of Mr. Sherman and I agree with it.

But I do believe though, however, that Mr. Sherman's point is well protected with this compromise resolution of Mr. Cherniack's. I can't see anything wrong with that. I read it and reread it again and it gives the protection to the person being investigated and anybody else. But it's just suggesting well then just to make sure that this is done in writing. I can't see where that's going to interfere with anybody or will not give the proper protection to all those that might be concerned, where it might make it that difficult. I would certainly suggest that we adopt this amendment of Mr. Cherniack's covering, I think anyway, the points that I'm concerned with and that Mr. Sherman has brought up.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I agree with Mr. Desjardins that there isn't really much difference. Mr. Cherniack's amendment and Mr. Kovnat's amendment essentially say the same thing but they say it in a different way with a different emphasis and that is where I have my difficulty with Mr. Cherniack's amendment. It puts the emphasis on the fact that hearings of this kind are expected to be public hearings and you have to make a pretty good case to have a private hearing; whereas the amendment proposed by Mr. Kovnats puts the emphasis on the fact that these are expected to be

private hearings and you have to make a pretty good case to have it public.

So Mr. Desjardins is correct when he says he doesn't really see any clinical difference, I would agree with him. It's a matter of a difference of emphasis.

But I want to just try to salvage Mr. Filmon here before he slips over the edge on me, Mr. Chairman. I put to him just a hypothetical case involving sexual abuse or child molestation, for example, and that happens. Why should the inquiry be public simply because the doctor or nurse who is the subject of that inquiry asks to have it public and put the child, and his or her family, through the anguish of a public inquiry, in which there is identification of the individual and all the traumatic fallout that results from that sort of thing? We're not talking here just of protecting the person, as Mr. Desjardins has pointed out, who is the subject of the inquiry but protecting those persons who were touched by the alleged professional misconduct that gave rise to the inquiry in the first place.

So the clause as it is presently written I find unacceptable because it makes it mandatory to hold it in public as long as the person who is the subject asks for that.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: Well, I certainly concur that I would not like to have the emphasis switched so that all inquiries are public unless a strong case is made in writing because it seems to me that that would deter the public and the interested people in the profession from ensuring that they do expose and investigate all potential areas of non-professional conduct that should be investigated fully, because people would be reluctant if they knew that any time they laid a complaint it was going to be in a public hearing. They would be reluctant for perhaps the reasons that Mr. Sherman has indicated and might be reluctant as well if they were laying a complaint against a fellow worker, that they're going to be destroying that person publicly when, in essence, they want to call into question their professional malpractice, shall we say.

I would rather see the onus being the way it is in the present section or, failing that, Mr. Sherman's suggestion, but I do not accept Mr. Cherniack's position on it.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I'm completely befuddled now. The member is saying that his first choice is still 36(6) but I clearly heard him say that he wouldn't want somebody that is making the complaint, somebody other than the one that is being investigated, well, under 36(6) they have no say in it at all. It is the one that's being investigated just states that he or she wants a public hearing and that's it. So that's the concern of the Minister, I think and myself, that these people are not protected at all.

Now you say you don't want where the onus is on somebody to make a strong case. It doesn't say this in the amendment of Mr. Cherniack. It says, "unless the person whose conduct is the subject of the inquiry requires a private hearing" period, then I think the other people, if there is a reason, fine and this is what we're suggesting, a written reason. These people after all are making, in most cases, serious allegations. So if something happens that it's better that it will prejudice these people, it will be stopped, there's not a stronger case than that. But this gives protection to both parties, the accused and the people doing this. How often does that happen? I would imagine that if I'm being investigated I'll say, okay, I don't want an open meeting and that's easy.

The written reason is for the other people to make sure those who are making the accusations, if they're going to be prejudiced, and if not there's no reason in the world why they should not come forward and be able to say that these people are accused of doing something wrong. But in 36(6) there's no protection for those people whatsoever.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: Mr. Chairman, just in response to that, it's my feeling and I stand to be persuaded, that the person who's being accused of a sexual offence or sexual molestation would be far more reluctant to have that held in public than the one to whom it happened, and the victim. That's why I'm saying the protection is there, that person is surely not going to ask for that investigation to be held in public if they're being accused of sexually assaulting somebody.

MR. DESJARDINS: Then why are you so much opposed to Mr. Cherniack's amendment?

MR. FILMON: Because he says all of them are in public unless written reasons are given.

MR. DESJARDINS: I don't see — maybe I'm not reading it right — but I don't see there has to be a written reason by the person who is being disciplined —(Interjection)— "or unless the board". The one that's being disciplined can just say, I don't want an open meeting; final. But then to give added protection to the other people they're saying, all right, the board is saying this is going to prejudice these people. Like you say, there'll be very few of them where the person says, yes, I want an open meeting, to the person who is being disciplined or under investigation, only in that case. But if that person says no, I don't want an open meeting, period, then nothing else is needed.

MR. CHAIRMAN: I think we'd better get back and deal with one of these amendments at a time.

MR. DESJARDINS: Mr. Chairman, excuse me, but I think that the committee are free to decide how we conduct this and I think we're doing it the best possible way. If we start having a vote on every single one, I think we might be close to getting some kind of a compromise or . . .

MR. CHAIRMAN: I recognize Mr. Cherniack.

MR. CHERNIACK: Oh, thank you, Mr. Chairman. Listening to the discussion that's taking place I am not swinging completely to Mr. Filmon's position because we are dealing with the livelihood of a

person, the professional integrity of a person, the right to continue in the professional association. To me that's more important than the feelings of another individual.

Our law generally is that a person adversely dealt with — and I mean a complainant in this case — has to have enough justification in his or her own mind to make a complaint and to support it publicly. Mr. Chairman, I have now swung completely in favour of Mr. Filmon's position. Should he fail and should the amendment here go through, then I will argue my other position as being closer to that position than the amendment.

So if we're dealing with Mr. Kovnats' amendment, I am now opposed to it.

MR. CHAIRMAN: Question? Okay, we'll deal with the amendment as proposed by Mr. Kovnats.

A COUNTED VOTE was taken the results being as follows:

Yeas, 4. Nays, 3.

MR. DESJARDINS: Mr. Chairman, if I may. I'm opposed only once if this doesn't go through, but I much prefer it to the one that's 36 now. I'm very much opposed to 36(6) the way it is now. But this would be my first choice and this my second choice.

MR. CHAIRMAN: Now, 36(6) as proposed by Mr. Kovnats is passed, now can we deal with . . . Mr. Cherniack.

MR. CHERNIACK: Now, Mr. Chairman, I want a slight refinement on 36(6). It says, "and the board is satisfied that none of the parties would be prejudiced". That to me is not quite enough, Mr. Chairman. I've accepted the fact that the motion is passed and I'm no longer debating whether or not we should pass it.

It seems to me that the board has to be more than satisfied. I think the board has to find that none of the parties would be prejudiced and if it finds otherwise, that it should give written reasons for that finding, and that's where I got into trouble. The real reason I drew 36(6) is because it was a reverse onus and I felt that if the board decides that it shall be in private, even though the person affected wanted it in public, then the reasons for that decision should be recorded because then I think it is a proper subject for the board of the association to review and for an Appeal Court to review.

I stand on the premise that we all agree that there shall be trials and justice shall be seen to be done, well then we hedge on certain things. So I'd like to ask the Minister, and Mr. Kovnats will forgive me for stating my opinion that the Minister drew the amendment and it's his wording, or I'll ask Mr. Kovnats whether accepting this wording we cannot add an amendment, an addition, or elaborate on this to provide that when the board is not satisfied that no one would be prejudiced — and that's sort of like a double negative — my point is, it shall give written reasons when it refuses the request for an open trial. Can that be accepted?

MR. DESJARDINS: You mean, "in such instances" and whatever else?

MR. CHERNIACK: When the board does not concur with the request "it shall state written reasons" for that decision. And if we agree with that, Mr. Chairman, and I'm so conscious of Mr. Ransom feeling that we mustn't go beyond what he thinks is our agreement. Nevertheless, if we can agree with that then Mr. Balkaran may be able to draw an amendment along the lines.

But the reason I am prepared now to propose 36(6) is because I could not easily yesterday come up with this point that I wanted to bring out and that's why it was easier for me to reverse it and therefore to change what I thought was a double or even a triple negative, in a positive way in the wording of 36(6), excluding what is in the brackets in the second and third line.

So unless the committee is prepared to consider my proposal about giving reasons, written reasons for the rejection of the application, I would move 36(6) as I have distributed.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: If I understand Mr. Cherniack correctly, what you are proposing is that 36(6), as just amended, would stand in essence, but added to it, and obviously we don't have the wording worked out, but added to it would be a clause roughly along the lines of the following, "and where the board is not so satisfied, it shall give written reasons."

MR. CHERNIACK: Yes. And then I don't care about my 36(6).

MR. SHERMAN: I think that that is acceptable, Mr. Chairman. Can we just leave this for a second and let Mr. Balkaran write it up?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: The amendment would be, Mr. Chairman, to add to 36(6), as amended, the following words: "but where the board is not satisfied that the public hearing would be prejudicial to any of the parties, it shall give written reasons therefor."

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, it would be something like this: "but if the board is satisfied that there will be prejudice, then such reasons should be given in writing." That's the meaning of it and the intent of it.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: May I suggest: "but where the board determines that there may be prejudice, it shall give written explanatory reasons."

MR. SHERMAN: Just "written reasons."

MR. CHAIRMAN: Mr. Cherniack, would you repeat your clause again.

MR. CHERNIACK: I am satisfied that the first part of it is clear. But where the board determines that there may be prejudice, it shall give written reasons for the decision.

MR. BALKARAN: Would you say "to any of the parties to the hearing?"

MR. CHERNIACK: Yes, of course, if you want to add that.

MR. CHERNIACK: I think maybe it is still better to say "shall give written explanatory reasons."

MR. SHERMAN: Just "written reasons."

MR. CHERNIACK: "written reasons" for a determination; okay, if that's satisfactory.

MR. BALKARAN: These words will be added on now, Mr. Chairman. "Where the board determines that there may be prejudice to any of the parties to the hearing, it shall give written reasons therefor."

MR. CHAIRMAN: Agreed? Pass.
Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I then withdraw the motion I proposed to make on 36(6) and I move the addition as suggested by Mr. Balkaran.

MR. SHERMAN: So it becomes a subamendment to the amendment.

MR. CHAIRMAN: 36(6) with the subamendment to the amendment pass; 36(7) pass; 36(8) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Subsection 36(8) of Bill 65 be amended by adding thereto, at the end thereof, the words "and the person or her counsel or agent has the right to examine all documents and records to be used at the inquiry, prior to the date of the inquiry."

MR. CHAIRMAN: 36(8) pass; 36(9) pass; 36(10); 36(11) pass; 36(12) pass; 36(13) pass; 36(14) pass; 36(15) pass; 36(16) pass; 36(17) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Bill 65 be amended, adding thereto, immediately after Subsection 36(17) thereof, the following subsection:
Rules of Procedure.
36(18) A discipline committee for the purpose of holding an inquiry may prescribe its own rules of procedure.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I think this is worse than the point I had made before. I had suggested that we follow the wording in Bill 66, the RPNs, which said that evidence shall be in accordance with the Queen's Bench rules.

Mr. Sinclair objected to that, and I think his reason was that it not being a court and being made up of people who may not be so well trained in the rules of evidence, that they should not be bound by those rules. When I objected, I think he said, well, the rules of natural justice would prevail, something like that.

I am concerned, Mr. Chairman, that when the disciplinary committee makes its own rules of procedure, and I realize that we're not talking about evidence, we are talking about procedure, that if the rules are such as may be considered unfair, a court or the board, in reviewing the Act and finding that the discipline committee is entitled to make its own rules, may then say, even if the rules are not fair, it had the power to make them that way.

I think I would rather not have this at all than have it. If we have to have it, then it seems to me that either the Act, or at least the board, should, by regulation, set out rules of procedure that will be conducted. Because the way I read this, is that from time to time, from occasion to occasion, from case to case, the discipline committee holding an inquiry may prescribe its own rules, and now I am offended at the thought that it might have different rules at different times and in different cases. I am not suggesting that's the intent; after all, this is a re-draft.

I would like to suggest that in place of this proposal, we should go back into the regulations and say that the regulations may prescribe rules of procedure of committees of the board, or of the discipline committee, but at least make it done in advance, done by somebody who is going to have really a serious look at it, and not the committee itself at the time.

What reaction does that concern produce?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, we had considerable discussion last Saturday, I believe it was, on the point that Mr. Cherniack has raised — perhaps it was last Friday. I understand it, and I took it back for consideration, as I told him I would, and I might say to him that 37(16) in Bill 66, which is the comparable section on Rules of Evidence, is the subject of a proposed amendment that will be forthcoming when we come to that bill, which will say precisely what this amendment says.

I did investigate it, Mr. Chairman, and I am advised that across the spectrum of boards and commission, that this is the normal practice, that they establish their own rules of procedure, that it is considered impractical to expect lay persons to conform to the rules of procedure followed in the Court of Queen's Bench, and that the Highway Traffice Board, the Civil Service Commission, the Marketing Boards and Commissions, a number of others, the Labour Board, all have this provision that they shall establish their own rules of procedure. As a consequence, we are moving an amendment to make that change in Bill 66, as it would seem sensible to have the bills conform in that respect.

MR. CHERNIACK: I wonder if Mr. Sherman could react to my point about the rules being determined in advance to apply to all, and in that way, I would think that it should be the board. I don't care then who draws the rules, but I think the board should have the responsibility of approving the rules and they should not be done ad hoc during a hearing, but in advance so it is known.

Mr. Chairman, I have to, for my own conscience, report to you of an occasion when I appeared before

a discipline committee — actually, I think it was an executive of a board — of a professional association in the health field. I was acting on behalf of a member who was being investigated for discipline on exactly the same charge as another person, both of them having been charged with the same offence relating to the same occurrence.

The board, sitting with a lawyer, whom I will not name because I still think he's a nice fellow, in spite of what I am about to tell you — on the advice of that lawyer, the board refused to let me or my client be present while the evidence was given against the other person charged, and then refused to permit him or his lawyer to be present when my hearing was taking place, all of which was being conducted by the lawyer of the board as the prosecutor, and at the conclusion we were sent out and he, with the board, drew their decision.

I can only say that the other lawyer and I, he now being Mr. Justice Peter Morris, and I appealed the case to Mr. Justice Rhodes Smith, who threw it out of hand, which shows that justice does play a role. But they determined their own rules and they did it right at the time. They said, "You get out and we'll hear this and then you come in and the others will get out." The same set of facts.

So that supports my concern that a committee should not be able to make rules as it goes along and from time to time. I would like to clarify it and if you want to — I don't agree with this at all — but at least to say a discipline committee may prescribe rules of procedure, subject to approval by by-law, you can say, so that it goes to the board. Something like that, Mr. Chairman. I think that that's a reasonable suggestion.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: I wonder if the government and Mr. Cherniack would agree to this, that if the proposed 36 amendment, this new clause 36(18), if we just tacked onto the end "providing these rules have been approved by the board." This is not the government involved; it is still self-discipline and it is the board, at least there is that protection.

Would that be acceptable to the Minister and government?

MR. SHERMAN: Mr. Chairman, let me ask Mr. Cherniack and Mr. Desjardins whether it would be acceptable to them if the clause read that a discipline committee, for the purpose of holding an inquiry, may prescribe its own rules of procedure, not inconsistent with the provisions of this Act.

MR. CHERNIACK: Mr. Chairman, I'm sorry. I don't think there's anything in this Act which sets out protections. Because that's one of my complaints about the by-laws and regulations, and your refusal to accept my suggested objectives, that there is nothing in the Act that would determine that there is something contrary to it. I'd rather buy Mr. Desjardins on the subject of the approval of the board, I would much prefer it set out in regulations, then I know we've got Legislative Counsel, we have the Advisor to the Minister, who has reviewed them and approved them. So I would rather have nothing. I would rather then have regulations, then I would rather have by-laws but not a general phrase like "consistency with the Act".

MR. DESJARDINS: Mr. Chairman, my reason for making the suggestion is that I think I can see the intent and the purpose of the Minister and I go along, certainly in many ways, that we are trusting these people, we are saying, okay, we're saying its your responsibility to discipline your members. But now to make sure, so therefore I wouldn't want anything conforming to the wish of the Minister of saying, but we're looking over your shoulder all the time, like we'll decide or the Minister will decide. I'm not suggesting that but I'm suggesting their own board then may prescibe its own rules and procedure and have those approved by the board. I can't see where this needs a lot of debate but it's still leaving it up to them and leaving it up to the board which is supreme.

MR. SHERMAN: Well, Mr. Chairman, Mr. Desjardins is suggesting then that 36(18) would read "subject to the approval of a board, a discipline committee . . ."

MR. DESJARDINS: Right.

MR. SHERMAN: Well that's acceptable, Mr. Chairman.

MR. CHAIRMAN: Mr. Balkaran can you read that into the record then.

MR. BALKARAN: The amendment as amended?

MR. FILMON: Mr. Chairman, I was just going to say, in support of that, it seems to me that the board and the discipline committee have the most to lose if they set rules that aren't acceptable in a court of law because whatever action they take could be just thrown out of court, as Mr. Cherniack has mentioned, simply because they didn't follow proper rules of procedure, as opposed to the essence of what was being argued in the case. And so I think that it's in their interest that the rules be set properly and that's enough protection as far as I'm concerned.

MR. BALKARAN: Mr. Chairman, I hope I may be excused for saying what I'm going to say now. I'm not satisfied it's a legal point that the rules of procedure, if they found that court to be contrary to the principles of natural justice, I would think that the court would act to overturn their decisions, I'm not worried about that. But I bring to the committee's attention one other point. We are dealing only with rules to be prescribed by the discipline committee and I want to suggest that you may the board itself holding hearings, making inquiries and indeed the complaints committee may also be involved in that type of an exercise, and I was going to suggest an alternative to 36(18) that would cover all three groups, and it reads as follows:

"The board may, by regulations, subject to the approval of the Lieutenant-Governor-in-Council, prescribe the rules of procedure to be followed by the board or the discipline committee or the complaints committee in any hearing, or inquiry

before the board, discipline committee or complaints committee."

MR. CHERNIACK: Of course I accept that.

MR. DESJARDINS: Well, Mr. Chairman, I think we were just about to accept 36(18) except the last suggestion of Mr. Balkaran, I agree that these things might be protected. But now we are saying to the board, to the association, okay, you run your own business, but we want to make sure that if you're going to pass this on, or give rights to different committees, you accept the responsibility. So you approve, this is all I'm saying. We're not interfering we are saying, but you accept the responsibility and therefore they have to approve the procedures.

MR. SHERMAN: I appreciate Mr. Balkaran's suggestion and his effort but I can't accept that, Mr. Chairman, it puts up right back to square one really and I think that it is, to a certain extent, unfair and, in any event, unreasonable to expect that precise rules of procedure, with respect to a discipline committee hearing can be laid out in advance and laid down in regulations. In other words, enshrined in legislation, when one does not know what it is precisely that one is going to be dealing with. I just don't find that that prior codification for a professional association is acceptable. I can accept Mr. Desjardins proposed amendment and I think that since the board really doesn't become involved here until the appeal process is launched, which is the next stage of the process, at this point we're dealing with the rules of procedure of a discipline committee and I think that the board would be in a position to approve those rules and procedures. So I would favour Mr. Desjardins proposed amendment.

MR. CHAIRMAN: Mr. Balkaran has another proposed amendment.

MR. BALKARAN: If Mr. Desjardin's amendment is accepted, Mr. Chairman, 36(18) would read: "The discipline committee, for the purpose of holding an inquiry may, subject to the approval of the board, prescribe its own rules and procedures." And with that suggestion, Mr. Chairman, I point out to you that you've left the complaints committee on its own.

MR. DESJARDINS: Well, we're dealing with the discipline committee, now is there any other area where we're dealing with the complaints committee and you can make the same reason in that.

MR. CHERNIACK: If I understand the function of the complaints committee properly as being one that hears the investigation chairman's report and decides whether or not to lay a charge, I'm not that concerned really because it is informal.

MR. SHERMAN: We weren't concerned when we went through the bill the first time. I'm not saying we shouldn't be now but we did feel it was at the discipline committee hearing level that this needed to be laid out in some recognizable form.

MR. CHAIRMAN: 36(18) pass; 37(1) pass; 37(2) pass; — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I have an amendment. After the word "committee" in the first line and the reasons therefor", so it should read the "decision of the discipline committee and the reasons therefor shall be embodied in the formal order of the committee." I don't think I have to argue with that. The decision and the reasons therefore.

MR. SHERMAN: Again, Mr. Chairman, we looked at this and our position on it was that we didn't think that written reasons were necessary in this function. The decision is embodied in a formal order and the person has presumably been through the discipline committee hearing and we feel it is unnecessarily restrictive to impose a condition of written reasons on the committee. So we had not prepared any amendment for that section, although I know I agree with Mr. Cherniack that it was one of those that was identified and questioned on the first run-through. But he will have to sell me again on the reasons why they should be required to provide written reasons.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, after all, the important thing here is this person who is being disciplined, and I think that these people should have protection also. Surely, if somebody is going to tamper probably with your livelihood and so on and if they are going to make a decision, you should be informed why that decision has been made. Sure, they are going in front of this discipline committee, which is not making a decision; there is questioning and so on and they make up their minds and then they say, here, this is our decision.

But surely these people are entitled to find out why that decision was arrived at, especially if it is going to prevent you from exercising your livelihood. I don't say — the Minister used the word "restricted" — that is not restricting anybody. It is serious enough that they should be able, and I am sure that if they are going to arrive at some decision to discipline a member, they certainly should, and they would have asked themselves, "Why are we doing it?" If not, there is something wrong in our whole system. I don't think that that's asking too much, Mr. Chairman, and the Minister, being a reasonable man, says that he wants to be convinced. I think that if he stops and thinks a minute, that it is not restricting anybody; it is not causing any hardship on anybody but it is saying to somebody, well, all right, this is the decision and this is the reason why we have done it. I think that's the least that you are entitled to.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, just consider the position of the person disciplined. Here is an order; the discipline committee decided something and whatever they decided, it is adverse to the health and welfare of the member. The member now has a choice, she accepts the discipline or she decides to appeal it. On what basis does she decide to appeal it? Well, she'll go to her lawyer, if she has a lawyer, or her adviser, and they'll say, well, now, what was wrong with the decision of the discipline committee? Other than the fact that they are hurt by it, how do they decide whether or not to launch an appeal if

they don't know what the reasons were? Should they then automatically launch an appeal every time in order to find out the reason? Some may do that, but others may say, you know, I don't think we can go in on those reasons, there is a precedent.

Again, I know nothing about the Dr. Schwartz case, but from the newspapers, I gather that Dr. Schwartz did not appeal the decision of the College of Physicians, and I am pretty sure that his decision not to appeal it is that he felt the reasons were such that he would fail. I don't know, I am just guessing, but as a lawyer, I would say that when I decide to advise a client on whether or not to appeal, the very place I'd go to, what are the reasons? That's one of them.

Number two: Read 41(1): "The board shall, at a meeting held for that purpose," that's for the appeal, "consider the decision of the discipline committee and shall hear any representations that the member concerned and the complainant, or their counsel or agent, wish to make respecting the findings and the order of the discipline committee and the record of proceedings."

There is no provision that the court must have a trial de novo. Now, how is the board going to be able to come to a conclusion without knowing why it was that the discipline committee made its decision? It is going to look at the transcript; it is going to hear arguments. Now, for all we know, the arguments will be on two conflicting or opposing impressions as to why the discipline committee made the decision it did. But if we have the reasons for . . .

Mr. Chairman, I don't think I'm going to try much harder to persuade the Minister. I just think it is really obvious that you have to have the reasons in order to decide whether or not to appeal, and when you are sitting on appeal, in order to decide whether or not the discipline committee was right. Otherwise, Mr. Chairman — I will not use the analogy that came to mind that had to do with a very drastic decision made in other parts of the world — but you have got to have a reason for what you are doing and it is your reason that is subject to review, not necessarily the decision itself.

I am not going to try any more, Mr. Chairman. I really think that

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, it seems to me that the reasons for the action and the order, the action taken by and the order handed down by the discipline committee will be made perfectly clear to the person who has gone through the exercise. Further to that, simply by the discipline committee hearings themselves.

Further to that, there are, I submit, provisions in Part VII which do provide for that kind of factual recorded information. There is an amendment to Section 42, and I know that Mr. Cherniack perhaps is not aware of that yet, which does provide for a trial de novo if there is not a complete record and documentation and transcript of the proceedings that occurred.

The suggestion that the person who was the subject of the discipline committee hearing is not protected in this case, I think is exaggerated.

However, the clause in question was the subject of debate at an earlier meeting of the committee. I told Mr. Cherniack that we would review it. We have not changed our minds about the wording of the clause, but I don't intend to be arbitrary about it or delay the work of the committee. Members are free to vote as they wish to vote, and if the consensus of the committee is that we should put in a clause specifying the provisions that Mr. Cherniack has called for, naturally I will accept that decision.

I would like him to re-read his proposed amendment, if he would.

MR. CHAIRMAN: Could we have Mr. Cherniack read his proposed amendment.

MR. CHERNIACK: The amendment, Mr. Chairman, is

> THAT following the word "committee" in the first line of 37(2), the words "and the reasons therefor" shall be inserted.
>
> So it will read that "the decision of the discipline committee and the reasons therefor shall be embodied in a formal order."

Mr. Chairman, the proposed changes to Section 42 deal with a subsequent appeal before the court. I am now talking about the appeal to the board, and I point out to you that the member may not know what the reasons for the decision were because the member will not be allowed to be present during the deliberations of the complaints committee, nor do I believe that that is part of the transcript of the evidence.

There will be evidence, there will be cross-examination, informal, hearsay evidence, affidavits, whatever will be brought in will be considered. Then the discipline committee will exclude the party and will sit as a discipline committee, probably with an advisory lawyer, and will say, "Now, how do we feel about this." Then they are going to decide how they feel about it. But nobody is going to know their reasons unless they go out and divulge them, which I don't think they — I mean individually — go around and have different reasons.

When it goes to the board, the board won't have the discipline committee there justifying its decision. The board will have two contending parties, probably represented by lawyers, each one suggesting what he thinks the discipline committee, what its reasons were. And I really don't even know what the problem is here. I really thought that this would be automatically accepted as being logical, but if it isn't, we are going to have to fight it out, I guess.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, it is inconceivable to me that a person could appear before a discipline committee and be involved in a disciplinary hearing and not know the reasons why there was a disciplinary order imposed against him or her.

But I do not intend to see Bill 65 founder on this point. I concede Mr. Cherniack's point and Mr. Desjardins' point, and unless you want to call for a vote, there is no need to vote on it, the amendment is acceptable, Mr. Chairman.

MR. CHERNIACK: Thank you very much.

MR. CHAIRMAN: 37(2), agreed to as amended pass; 37(3) pass.

MR. KOVNATS: Mr. Chairman, would you be disposed to allow the committee a five-minute break . . .?

MR. CHAIRMAN: Is that the wish of the committee that we break for five minutes or less? (Agreed)
I call the committee to order.

MR. RANSOM: Mr. Chairman, what is the plan? Are we not meeting tonight as planned?

MR. SHERMAN: We are going to go as far as we can between now and 5:30 on 65; if we don't finish it, we will be back in here on 65 at 8:00 o'clock tonight. If we do finish it, we won't be back in here tonight.

MR. DESJARDINS: We will have the amendments and finish 66 and 87 during the same sitting.

MR. CHERNIACK: Mr. Chairman, as far as I understand it, we are supposed to be back here at 8:00 regardless of anything; I think we are supposed to be in the House at 8:00.

MR. SHERMAN: Right.

MR. CHAIRMAN: I call the committee to order. We are now dealing with Section 38.
38(1) pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Subsection 38(1) of Bill 65 be amended by striking out the words and the figures "15 days from the date of the date of the order" in the fourth and fifth lines thereof, and substituting therefor the words and figures "30 days from the date of service of the order."

MR. CHAIRMAN: 38(1) pass; 38(2) pass; 39(1) — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it seems to me there is probably an oversight in 39(1). Now we are dealing with an appeal going to the board from the discipline committee. It seems to me that we left out the decision itself going on. I think probably it's a technical oversight. But what I said is after the word "obtain" in the fourth line and the order referred to in Section 37(2). Maybe Mr. Balkaran can check it. It seems to me it's an omission because what you're appealing from should be before the board.

MR. DESJARDINS: Do you think we should add the word "decision" is that it?

MR. CHERNIACK: Well, it's called "order" in 37(2).

MR. BALKARAN: "In the order of the discipline committee"?

MR. CHERNIACK: Formal order. Well, I said, "the order referred to in 37(2)" but it's the same thing as saying "the order of the discipline committee".

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Those words to be added after word " obtained" in the fourth line, "and the formal order of the discipline committee".

MR. SHERMAN: In the fourth line.

MR. BALKARAN: In the fourth line.

MR. SHERMAN: It's only those two or three lines in sequence there.

MR. CHAIRMAN: Can we have this amendment read then again? Mr. Balkaran.

MR. BALKARAN: It's after the word "obtain" in the fourth line of 39(1) add the words "and the formal order of the discipline committee".

MR. CHAIRMAN: 39(1) as amended pass; 39(2) pass; 40(1) pass; 40(2) pass; 40(3) pass; 40(4) pass; 40(5) pass; 41(1) pass; 41(2) pass. Mr. Kovnats.

MR. KOVNATS: I move
THAT subsection 41(2) of Bill 65 be amended by adding thereto, immediately after the word "committee" in the second line thereof the words "or the complaints committee".

MR. CHAIRMAN: 41(2) as amended pass; 41(3) pass. Mr. Kovnats.

MR. KOVNATS: I move
THAT subsection 41(3) of Bill 65 be amended by adding thereto at the end thereof the words "or have participated in the investigation of the matter before the board".

MR. CHAIRMAN: 41(3) as amended pass; 41(4)(a) pass; (b) pass; (c) pass; 41(4) pass; 41(5) pass; 41(6) pass; 42(1) pass. Mr. Kovnats.

MR. KOVNATS: I move
THAT subsection 42(1) of Bill 65 be amended by adding thereto, immediately after the word "board" in the fifth line thereof the words "including any order as to costs".

MR. CHAIRMAN: 42(1) as amended pass; 42(2) pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT subsection 42(2) of Bill 65 be amended by adding thereto, immediately after the word "appeal" in the fourth line thereof the words and figures "including any award as to costs made under subsection 41(6)".

MR. CHAIRMAN: 42(2) as amended pass; 42(3) pass. Mr. Cherniack.

MR. CHERNIACK: All right, (3) is okay.

MR. CHAirman; 42(3) pass; 42(4) pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT subsection 42(4) of Bill 65 be amended by striking out the words "Court may hear the

appeal on consideration of such material as may be available or may order a new hearing" in the third and fourth lines thereof and substituting therefor the words "appeal before a judge of the Court of Queen's Bench shall be a trial de novo".

MR. CHAIRMAN: 42(4) as amended pass. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I may have misread this amendment. I'd like to reread it and maybe I can save a lot of time for the committee if it reads as I now think it does.

I wonder if Mr. Kovnats could read the whole section as it would appear when amended.

MR. CHAIRMAN: Mr. Kovnats. Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, 42(4) in its entirety would read as follows:

"Where the evidence of the hearing or inquiry was not reduced to writing otherwise mechanically recorded, or why it was so recorded, but a transcript thereof cannot be obtained, the appeal before a judge of the Court of Queen's Bench shall be a trial de novo".

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I'm sorry, I don't find that adequate in my way of thinking. What it means, this is the way it will work. The discipline committee will meet, possibly in private, with its own rules of evidence, approved by the board; will hear a case; will make a decision and now we know it will give written reasons; then the appeal will lie to the board; the board will not hear any of the evidence, will not hear any of the witnesses, unless it decides to, but is not expected required to, will read the transcript and will read the reasons for the decision and will make a finding. Now it goes to the Court of Appeal.

The Court of Appeal gets a transcript of what went on; has no opportunity to see the witnesses; has no opportunity to come to its own conclusions as to whether everything was properly explored; has no opportunity to judge as between the impression of truthfulness presented by any of the witnesses; is confined to the written word in making its decision. And the only time it's not confined, and that's the amendment, is that if the — let me use the word correctly I think — if the discipline committee was so "sloppy" as not to have the evidence reduced to writing or mechanically recorded, then the court shall hear it again.

Now that to me isn't good enough because my — well may I say my training, it's rather extensive in law — is that a court does have the need to hear evidence in accordance with proper laws of evidence and arrive at proper conclusions based on what it hears and sees, and here we are back to the discipline committee which probably — and I mean that advisedly — probably met in private, arrived at a decision and only the decision and what was produced at that time is available to the court for review.

Now I am assuming that the Minister has thought this through enough so that I cannot succeed in my efforts to determine that there shall be a trial de novo. On that assumption — I'm making a concession in advance — that I think that the least we ought to do is to have the court have the discretion upon the application to decide whether or not to hear the old evidence itself or hear part of it or hear new evidence, or the court should decide whether or not there shall be a trial de novo. That way they can have all the transcripts before it and the parties can argue that the court, because of certain alleged inadequacies in the transcript, the court shall determine to hold a trial de novo.

That may have been the intent but it isn't the interpretation of the amendment. The amendment says "it may only have a trial de novo if the transcript is not there" and I would say that the least ought to do is to rely on the court to determine whether or not it believes there ought to be a trial de novo. Otherwise, Mr. Chairman, you haven't got a trial at all. You may have a closed committee of five people who determine the future of a professional person and I consider this a very serious approach and, as I say, I can only accept, as a compromise, the thought that the court will have the discretion to determine whether or not to have a trial de novo. But as I read it the court is not given the discretion.

Might I point out the other side? It may be that a decisin of the discipline committee was right; it may be that there was some carelessness in the way in which they followed the rules of evidence; it may be that a Court of Appeal, hearing a trial de novo, might agree with the discipline committee. But it may also be that not hearing the evidence afresh, it might say, but there was something sloppy that went on in the hearing itself and grant the appeal and reject the reverse of the decisions of the committee when maybe it shouldn't have happened.

I am trying to make the case, although primarily I want to protect the individual involved, I also want to talk in terms of what is fair and just and it may even be that a court will reverse a decision of the discipline committee which it would not have reversed if it heard the trial de novo. So I am suggesting a compromise, which is a compromise from my part because I believe in a trial de novo, but my compromise would satisfy me because I would then leave it to the judge at the time, considering what the judge hears of the argument at that time, for the judge to make the decision and not for us to make it today in July of 1980 for the future, that a judge may not hear it unless the evidence isn't there.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, the three sections, 40(2), (3), (4) and (5) are based on the premise that one would expect, and I think society would expect, that natural justice will prevail in procedures of this kind up to and through the disciplinary committee to the point of appeal and that if the court believes that there has not been justice and natural justice has not been assiduously pursued, they would order another hearing in any event.

I recognize the point that Mr. Cherniack is making but I just want to give him the rationale for the sections as they reappear simply with the

amendment in 42(4) on the basis of our earlier discussions and that is the rationale, Mr. Chairman.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I point out to Mr. Sherman 42(2) which we passed, in my opinion, does not give the court the right to order a rehearing. In my opinion —(Interjection)— Well, read it. "The judge may make such order or give such direction" — what kind? — "as to the cancellation of suspension or as to the conditions imposed upon the continuation of the registration or as to the refusal of admission and as to the costs, etc." The court is not given the right to refer back or to hear evidence and I'm suggesting that if you insist on your amendment, which we're now discussing 42(4), this is contrary to what I really think should happen, but as a compromise to my own approach, go back to 42(2) and give the court the power to order a rehearing or to determine to hear it itself.

MR. SHERMAN: Mr. Chairman, I would have to defer to Mr. Cherniack's legal experience but I think that's precisely what 42(2) does give the judge: "And make such order or give such direction as to him seems just." That order and that direction could be an order and direction that went beyond the cancellation or suspension of the conditions imposed; it could include a re-examination and a new hearing.

MR. CHERNIACK: Mr. Chairman, although I defer to Mr. Sherman's goodwill and knowledge of English, and use of English, on that opinion I would defer to Mr. Balkaran and to Mr. Tallin who happen to be here, and let them — if they confirm with Mr. Sherman and interpret this to mean, then of course I shouldn't have a big problem about it.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, 42(2) in my opinion will give the judge hearing the appeal the power to make an order which could refer it back to the committee for a re-hearing, because it would be an order that relates to the cancellation or suspension, or whatever qualifies "order;" it may conclude that for some reasons the matter was not heard properly and he could send it back for re-hearing. I don't see any limitation on the judge's authority.

MR. CHERNIACK: I'm not quarrelling with Mr. Balkaran on it. I seldom do — sometimes — I reserve the right to.

MR. BALKARAN: Certiorari is also open at any time.

MR. CHAIRMAN: 42(4) as amended pass; 42(5) pass; 43 pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Section 43 of Bill 65 be amended by striking out the words "or any member of the association of the board, or the" in the first and second lines thereof, and substituting therefor, the words "or the complaints committee or any member of the association or the board or a".

MR. CHAIRMAN: 43 as amended pass; 44 pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Section 44 of Bill 65 be amended by striking out therefrom in the second line thereof the words "in any newspaper."

MR. CHAIRMAN: 44 as amended pass. Mr. Cherniack.

MR. CHERNIACK: I just ask the question, what does it mean?

MR. SHERMAN: It merely I think softens the — if there were any Draconian edges to the clause, and I think Mr. Cherniack had some concern that there were, although I believe that he accepted our defence of the principle embodied in the clause earlier in the committee hearings — it softens the edges a little bit by taking out the reference to newspaper publishing. It would be satisfactory if it were it confined to a publication of the association or some such vehicle, Mr. Chairman, but its not a major substantive change.

MR. CHERNIACK: I almost wonder whether I wouldn't have an advertisement that a news story based on a public statement — now mind you, I don't think I can prevent a news story on a public statement.

MR. SHERMAN: Mr. Chairman, this doesn't prohibit that. Published is published, but it removes that specific reference which conjures up an impression of putting messages, either paid or news messages, in daily newspapers that some people may have some difficulty with, but the discretion is left to the board to use a newspaper if they feel that it is justified.

MR. CHERNIACK: I would like to ask, probably Mr. Balkaran, what would be the effect of the rights of the association if there were no 44? What does 44 do that is needed? In other words, does it limit or grant a right that otherwise exists or does not exist?

MR. BALKARAN: I'm not so sure, Mr. Chairman. I just throw this out as something that just occurs to me off the top of my head. It could conceivably ward off any defamation suit if the board should choose to publish a suspension, revocation, or dismissal in the newspaper, and perhaps the member might want to allege . . . mind you, probably based on fact, I don't suppose there would be a very strong claim, but perhaps that is one reason.

MR. CHERNIACK: Isn't that what 43 is?

MR. BALKARAN: The question of good faith might arise, Mr. Chairman.

MR. CHERNIACK: Again, I have to defer to Mr. Balkaran, but surely 44 would not ward off a defamation action if the statement made is not true.

If it is not true, and in good faith, then I don't think 44 would protect them from defamation action.

MR. BALKARAN: I was saying, Mr. Chairman, that 43 would prevail with respect to something done in good faith, but there might be some question as to whether the publication was done in good faith.

MR. CHERNIACK: Wow, Mr. Chairman, don't you think that if, by passing 44, we are relieving anybody of the element of good faith, then we shouldn't be passing 44? Surely, if they don't have good faith, they shouldn't have a law that gives them the right to pass them.

I'm beginning to think we really oughtn't to have that section, because it seems to me that — for one thing, I don't think it's necessary, Mr. Chairman. It seems to me the board surely has the right to make public a finding, a decision of the board, providing it is in good faith, and if it's not in good faith, they certainly should not be permitted to do it. And if it is not true, they should be liable for defamation, but a statement of truth, surely you don't have to pass a law saying you can tell the truth.

I'm inclined to think we shouldn't have Section 44. The amendment is certainly an improvement over the section, but I would like to see the amendment passed and then I would like to vote against the section.

MR. SHERMAN: Mr. Chairman, I think, as was noted earlier, this is a clause providing absolute discretion, both in terms of the first phrase in the clause and the last phrase in it, and really, the salient part of it is the reference to the stating of reasons for such suspension, revocation or reinstatement, which is the point, I think, on which some dispute, hypothetical as it may sound at this stage, could arise.

Further to that, I think the clause acts as a further reinforcement of the fundamental principle of the bill, which is that we are dealing with a self-governing professional association which is determined to take whatever steps are necessary to protect the public.

MR. CHERNIACK: I can't help but point out to the Minister that the fundamental aspect of this bill is the granting of the right to a professional body to control its own discipline, in the interests of the public. And that you refused to permit happen under the objects; you wouldn't let me put in the objects.

MR. SHERMAN: But it's in the code of ethics.

MR. CHERNIACK: Which isn't before us and which I have never seen.

MR. SHERMAN: But the guidelines, you have, and they specify they have to be widely circulated and distributed.

MR. CHAIRMAN: We are dealing with 44; can we get back to that clause? 44, as amended pass.

MR. CHERNIACK: No.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I just voted. You said "pass," and I said "no."

MR. CHAIRMAN: 44 pass.

MR. CHERNIACK: No, I am opposed to that; I want to vote.

A COUNTED VOTE WAS TAKEN, the results being as follows:
Yeas, 5; nays, 2.

MR. CHAIRMAN: 44 pass; 45 pass; 46(1) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Subsection 46(1) of Bill 65 be amended by adding thereto at the end thereof, the words "and any failure by a member or associate member to comply with this subsection shall be deemed to be professional misconduct."

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I wonder if Mr. Balkaran can explain the difference, if instead of "shall" we have "may." Suppose we change "shall" to "may," what would be the impact?

MR. BALKARAN: I think "shall" makes it a little stronger, Mr. Chairman, doesn't it? "May" might leave the discretion to the association to determine whether or not it is in fact professional misconduct.

MR. CHERNIACK: The mere finding of professional misconduct under the "shall" portion does not necessarily bring down the discipline feature, or any discipline. It would still have to go through a hearing.

MR. BALKARAN: That's right.

MR. CHAIRMAN: 46(1) as amended pass; 46(2) pass; 46(3) pass; 47(1) pass; 47(2) — Mr. Kovnats.

MR. SHERMAN: There is a new amendment on 47(2).

MR. KOVNATS: Mr. Chairman, I move
THAT Subsection 47(2) of Bill 65 be struck out and the followig subsection be substituted therefor:
Composition of council.
47(2) The council shall be composed of
(a) two persons nominated by the Minister;
(b) two persons nominated by the Minister of Education, and;
(c) six persons appointed by the board.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, this means then that the Faculty of Medicine has no right to be represented. Is that right? You are withdrawing your original (a), or the proposed amendment?

MR. SHERMAN: That's right. The answer to Mr. Cherniack's question is, yes, Mr. Chairman, they

ıave no right. That doesn't say they won't be one of :hose four or even ten persons appointed.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: One of the difficulties is that there is no Faculty of Education at the University of Winnipeg, for instance, and so the way it is worded, it doesn't work.

MR. CHERNIACK: Mr. Chairman, I threw out a suggestion to Dr. Newman of the College of Physicians, saying that maybe it would be a good idea to get some integration or co-ordination between all the health bodies to work together, and although I think their physical presence is together when they are working, I am not sure that I can have complete confidence that they work together in their common purpose in terms of their planning and professional association powers.

I wondered, not that it means very much, I wondered — I don't mean it that way, Mr. Chairman, not that it's meaningful for future Ministers — but I am wondering whether there is any idea that could be thrown out on the part of the government as to the kind of people that would be nominated by the Ministers; and I am wondering also if the MARN had given some suggestion as to the kind of people they would put on this. In other words, there is a difference between appointing, let's say, in the case of the MARN, members of the board, which wouldn't have much point to my way of thinking, on the case of the Minister as members of the MARN board, and whether we shouldn't have some indication, and maybe in legislation, to indicate who these people would be.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, I have no problem with this amendment. I don't think that you can legislate co-operation between the different groups. I think that these people are certainly capable of choosing six persons. They don't necessarily have to exclude a member of the medical profession if they wish and I am satisfied, especially with (a) and (b), that the two Ministers involved have representation of the public or the government also, so I don't see any problem with it.

MR. CHAIRMAN: 47(2) as amended pass; 47(3) pass; 47(4) pass; 47(5) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Subsection 47(5) of Bill 65 be amended by striking out the word "he" in the first line thereof and substituting therefor the word "she"; and by striking out the word "his" in the third line thereof and substituting the word "her."

MR. CHAIRMAN: 47(5) as amended pass. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, there may be some objection to that.

MR. DESJARDINS: They can call them "them" or "they," I don't care.

MR. SHERMAN: It is certainly agreeable; I just thought there might be some rumblings from somewhere.

MR. CHAIRMAN: 47(6) pass; 47(7) pass; 47(8) pass; 47(9) pass; 47(10) pass; 47 pass; 48 pass; 49(1) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Subsection 49(1) and (2) of Bill 65 be struck out and the following subsections be substituted therefor:

Operation of nursing education programs subject to approval of the Minister.

49(1) No person shall, alone or in concert with others establish, maintain, conduct or participate directly or indirectly, other than as an employee, in the ownership or operation of a nursing education program without the authority and consent in writing of the Minister.

Minister may withdraw consent for certain programs.

49(2) The Minister may refuse or withdraw his authority and consent for the establishment or continuance of any nursig education program whenever he has reason to believe that the regulations are not being, or have not been, adequately complied with.

MR. CHAIRMAN: 49(1)— Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, Mr. Kovnats reads so quickly and effectively that I was unable to see whether there was any change between this motion, as it reads, and the motion that was formerly given to us. I am guessing that there is only — is there a change or is it just the full wording that is replaced.

MR. SHERMAN: There is a change, Mr. Chairman. What is proposed here is that the final authority for certifying and decertifying schools of nursing rests with the Minister, not with the board.

MR. CHERNIACK: The other 49(1) is wiped out; your amendment to 49(1) . . .

MR. SHERMAN: There is an amendment to 49(1), Mr. Chairman, which everybody agreed on, and that terminated 49(1) after the word "board" in the fourth line.

MR. CHERNIACK: That does replace that?

MR. SHERMAN: And that last clause was taken out.

MR. CHERNIACK: So that's taken out of your new . . .

MR. SHERMAN: Right.

MR. CHAIRMAN: 49(1) as amended pass — Mr. Cherniack.

MR. CHERNIACK: Just out of consideration for those of us who are a little slow, give us a moment, please.

MR. CHAIRMAN: Maybe this would be a good time to let the committee recess while Mr. Cherniack reviews the situation.

MR. SHERMAN: Mr. Chairman, I would certainly like to finish this part before we recess.

MR. DESJARDINS: Is it still your understanding that we go into 66 and 87 at another day or what?

MR. SHERMAN: I am going to put that to the committee. The amendments to 66 have just been distributed so perhaps we could have a minute at the end to discuss that.

I also have to ask committee's concurrence, Mr. Chairman, to go back and re-open Section 3(2). I am sorry, but there is a controversial form of wording there that I think we have to re-examine; it will only take a minute.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: The motion before you, I asked you to hold it for me to read the proposed 49(1) and (2). I am ready for the vote on that.

MR. CHAIRMAN: All right, we will go back to 49(1) as amended pass; 49(2) as amended pass; 49(3) pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move — (Interjection)

MR. SHERMAN: 49(3) is passed and 49(4) is unnecessary.

MR. CHAIRMAN: 50 pass; 51(1) — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Subsection 51(1) of Bill 65 be amended by adding thereto, immediately after the word "Act" in the second line thereof, the words and figures "other than the provisions of Subsection 46(1).

MR. CHAIRMAN: 51(2) pass; 51(2) pass; 51(3) pas; 51(4) pass; 51(5) pass; 52 pass; 53 pass.

Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Bill 65 be amended by adding thereto, immediately after section 53 thereof, the following section:

Confidentiality of information.

54 Except for the purposes of a prosecution under this Act, or in any court prceedings, or for the purpose of the administration and enforcement of this Act and the regulations, no person acting in an official or other capacity under this Act or the regulations shall

(a) knowingly communicate or allow to be communicated any information obtained by her in the course of administering this Act or the regulations; or

(b) knowingly allow any other person to inspect or to have access to any document, record, file, correspondence or other record obtained by her in the course of administering this Act or the regulations.

MR. CHAIRMAN: 54 pass.

Mr. Kovnats.

MR. KOVNATS: I move

THAT Sections 54 to Section 58 of Bill 65 as printed be renumbered as sections 55 to 59.

MR. CHAIRMAN: 54, as renumbered 55 pass — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Section 54 as printed (section 55 as renumbered) of Bill 65 be amended by adding thereto, at the end thereof, the words and figures "or until December 31, 1981, whichever first occurs."

MR. CHAIRMAN: 55 pass; 56 pass; 57 pass; 58 pass.

MR. DESJARDINS: Excuse me, you had better pass 55.

MR. CHAIRMAN: I did pass it.

MR. DESJARDINS: You passed 54, not the old 55 — I'm sorry, I didn't think you had.

MR. DESJARDINS: It is 54, as printed, then we jumped to 56.

MR. CHAIRMAN: I'm sorry, Mr. Desjardins, I renumbered them, as amended.

55 pass; 56 pass; 57 pass; 58 pass; 59.

Mr. Kovnats.

MR. KOVNATS: I move

THAT Section 59 of Bill 65, as renumbered, be amended by striking out the words "the day it receives the Royal Assent" therein and substituting therefor the words "a day fixed by proclamation."

MR. CHAIRMAN: 59 pass.

Mr. Sherman.

MR. SHERMAN: Mr. Chairman, with the indulgence of the committee, could we go back to Page 2 of the bill, Section 3(1) Board of directors. The amendment, as amended early this afternoon, read that "the affairs of the association shall be managed by a board of directors, at least 25 percent of whom shall be persons who are not members of the association and, of the 25 percent who are not members of the association, no fewer than one-half shall be appointed by the Lieutenant-Governor-in-Council."

It has been pointed out to me, Mr. Chairman, that the wording "no fewer than one-half" is not acceptable and not really fair because it can have the effect of meaning that the Lieutenant-Governor-in-Council could appoint all of the lay members. It simply says that he will appoint no fewer than one-half.

So the phrase there needs to be altered, with the indulgence of the committee. What we are getting at is that we want to ensure that the Lieutenant-

Governor-in-Council appoints half of that lay representation.

Whether it could be addressed simply by deleting that phrase with reference to new fewer than one-half and amending the section to provide for a simply majority to be appointed by the Lieutenant-Governor-in-Council, I have to leave to the legislative counsel for a moment because, in the case of four, half would be two, and that doesn't represent a simple majority. So the phrase "a simple majority" which has been suggested, may be as confining in its own way as the other phrase.

What we are trying to achieve here is a phrase that ensures that the Lieutenant-Governor-in-Council shall appoint half of that lay membership.

MR. DESJARDINS: Mr. Chairman, I'm not ready to accept the Minister's opening statement that this would be unfair. I don't think there is anything wrong. If the Minister is satisfied to name not more then the protection is there; there is half. I don't think it would be so bad if he did name the whole thing. What's the point of having the association, there's only 25 percent that will be lay people. What would be wrong if the Lieutenant-Governor named them all? What's the point? Certainly there is no reflection on this particular association but it doesn't mean much to mean, if they say, "We're going to name them," but great thing, "We've got lay people." It might be their mother or their sister; it doesn't mean a thing to me.

So I think that the amendment that we looked at earlier, there is nothing that forces the Minister to have more than two, in this case, but it is open. But it's not the whole membership, it is only the membership of the lay people, and if the government is satisfied with that, fine, I would imagine that this would be the case. But I don't accept that this wouldn't be fair. I think in fact it would be fair if the Minister named them all. If you're talking about lay people, it's just to open it up to the public. I would imagine that even those two, the Minister will discuss it with the association. So I don't think it's unfair and I don't think there's anything wrong with the amendment that we had earlier which the Minister has not forced to name four. He's just forced to name at least two.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, the phrase though, "no fewer than one-half" does provide that opportunity to appoint more than one-half or the whole number as Mr. Desjardins has suggested, and that doesn't conform in any way with other professional acts of this kind. In fact, in the case of the council of the College of Physicians and Surgeons, it is precisely specified that of the lay representation, which shall be four, two shall be appointed by the Lieutenant-Governor-in-Council. I think that there are legitimate concerns on the part of the association that that phraseology is open-ended. Perhaps it should simply read "one-half of whom shall be appointed by the Lieutenant-Governor-in-Council."

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, all through this exercise the Minister made a point which I concur with, that we trust this organization, and in turn, surely to God they can trust the Minister or the government — and we're talking about lay people — and just because the College of Physicians does certain things, I don't think it's right. I think that at one time there was only their own members, all these associations, and now there's been enough pressure. Remember the public is saying, through the Legislature you are giving rights that other people are privileges, you might say, that these people don't have, and it was felt, well, let's open it up so we don't have these concerns of people that think it's a closed shop. So they have lay people, and that could be — and again I'm not aiming this at any association at all, but it could be that it doesn't mean a darned thing. You can have your executive director, or you can have your father or your mother, or somebody like that, I don't think it means anything.

Now, that amendment that we did today I think is quite proper. It doesn't in this case — this is the government — and I would think that most Ministers and most governments would be satisfied to go with, say, appointing two — but the opportunity is there, and we are dealing only with 25 percent. If we were dealing with the whole thing then I wouldn't speak in this way. We're dealing with 25 percent that's open to the members of the public; it says that the Minister "may," and I don't think the association should distrust the Minister that much that they're afraid that he's not going to have the proper people in there. In this case I think you make it quite clear that you don't want any more than two. So I don't think there's anything wrong with this thing at all. Why should we limit the Minister? It might be we should review the other associations.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I just want to say that what's involved here is a point of integrity, and I know that the member . . .

MR. DESJARDINS: And trust.

MR. SHERMAN: But there's a point of integrity vis-a-vis my relations with the Manitoba Association of Registered Nurses, and I know the Honourable Member for St. Boniface will respect that we did come in with an amendment that said, "no fewer than 25 percent, two of whom shall be appointed by the Lieutenant-Governor-in-Council." That got changed in the course of the work of the committee and I have not ever said to the MARN that that phrase is going to read, "no fewer than one-half," which is open to this open-ended interpretation. So that's my point of concern. It's really a point of personal integrity, not having a chance to discuss it with the association. But I'm not going to hold the bill up on that point. I just want the committee to know that that's my reason for raising ir, Mr. Chairman.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it's a quarter to six. We're not reporting the bill out of committee. I understand the Minister's concern about his integrity in relation to the MARN. In the end he will do as he sees fit. I would think that there are sections in this bill, as amended, which are not quite in accord with the MARN's wishes, and I think that if we adjourn now that gives him a chance to clear his integrity — which I agree with him, he should discuss it with them and then come to a conclusion, then the next time we meet we can deal with this. There's no rush really for this bill.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, unless you want to force the motion, put it through, but I thought that the bill had been completed and should be reported. Are you suggesting that the bill not be reported?

MR. DESJARDINS: Well, the Minister requested that we go back, and in all fairness we said yes, it's open.

MR. KOVNATS: I'm just following the rules.

MR. CHERNIACK: May I just clarify what Mr. Kovnats has said. I believe that when we come to discuss it, that we should hold all bills back until we send all three bills in, because although I think this RN bill will act now as being sort of the master document from which the others will be done, it is possible that we come up with something in Bill 66 which might want us to reopen 65 just the way the Minister just did. So I think all bills should be reported at the same time. That's another principle we've not yet discussed. All I'm suggesting is, we're going to meet again, we know that, so why can't we give the Minister time to review the wording — at least the wording — of Section 3(1) agreeing that we've reopened it and deal with it the next time we meet, as soon as we meet?

MR. KOVNATS: Well, the bill hasn't been closed yet because it's been . . . Unless you insist on it, we put it through.

MR. SHERMAN: I'm not going to argue. We have covered the whole bill and are agreed on everything other than Section 3(1). I would appreciate time to review that and reassess that. I think we can, at the next meeting of the committee, complete that very quickly and do Bill 66 and 87 together. So I would suggest that we terminate our considerations at this point.

However, the amendments to 66 have been distributed, and I would hope that members of the committee will have a chance to look at them fairly quickly. I know that there is a disposition on the part of some. There was a committee to sit tonight at 8:00 o'clock but I'm not going to force that on members who haven't had a chance to study the amendments. So I assume, Mr. Chairman, that this committee will not be sitting at 8:00 o'clock tonight.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, may I just point out that just today I left the house and I spent two hours — I went over all of these amendments — I think it saved time. I will do the same, but I will do it during House hours regardless of where it is. So are we agreed then that this committee will not meet this evening?

MR. SHERMAN: Agreed.

MR. CHAIRMAN: Could I, as Chairman, make the suggestion that we meet at 9:00 tonight after we've had a chance to . . . ?

MR. DESJARDINS: No.

MR. CHAIRMAN: Okay. Committee rise.

MR. CHERNIACK: The committee will meet tomorrow after tomorrow's decision by the House Leader. That's the normal.

MR. SHERMAN: And it would be my hope that all three bills would be reported out of committee at that time.

MR. CHAIRMAN: Committee rise.