Time — 2:00 p.m.

DEPUTY CHAIRMAN — Abe Kovnats (Radisson)

MR. DEPUTY CHAIRMAN: Do we have a quorum? Bill No. 25, The Respiratory Technology Act. We're on Page 7, item under discussion is Clause 7(1).
Mr. Cherniack.

MR. SAUL CHERNIACK (St. Johns): I'm wondering if Mr. Sherman has reconsidered 6 and 7(2). I was thinking about it during the lunch hour and in the light of what Mr. Hall had said about some preamble that he thought could be inserted in recognizing, he said something like notwithstanding the foregoing, which I don't accept, I'm wondering that since No. 11 as I read it is the only one that creates any restrictions on the public generally, whether there wouldn't be some wording that would say something to the effect that "recognizing that 11(1) is the only restraint imposed on anyone under this Act then the provisions of this Act do not prevent, amongst others the following as to 6 and 7(2)." I wonder if Mr. Sherman understands the sense of what I'm saying and will think about that as well.

Then I could see leaving in 6 and 7(2) if they are signalled to be in addition to the general lack of restriction placed on anybody other than as set out in 11(1). I know what I'm saying is awkward and cumbersome but if the sense is there then I should think Mr. Hall and Mr. Balkaran could work out the refinement of that provision which I don't think anyone disagrees with.

MR. DEPUTY CHAIRMAN: Mr. Sherman.

HON. L. R. (Bud) SHERMAN (Fort Garry): Mr. Chairman. I have thought about it during the lunch hour break but not the point that Mr. Cherniack has just raised. I would prefer to leave 6 and 7(1) the way they are and certainly consideration can be given when we get to 11(1) to Mr. Cherniack's question.

MR. CHERNIACK: Okay. It's just that I think that Mr. Sherman misunderstood me because I think 11(1) there's no change that I would suggest in 11(1). However we've discussed it earlier. I don't want to press him and maybe by the time we deal with it at third reading or maybe I should put in an amendment for third reading. I'll consider that.

MR. SHERMAN: That's certainly reasonable. Mr. Chairman, the position at this point in time is that I think the best interests of the public would be served by leaving 6 and 7(1) in. I have said that I will consider certainly the questions that have been raised and I will do. I don't know that that implied an undertaking to have concluded those considerations and made any decision in an hour-and-a-half. I'm talking about the future. It may well be that in Statute Law Amendments in the future we decide that this is not necessary and it can be eliminated, or Mr. Cherniack may move an amendment on third reading but for the purposes of dealing with this bill at this stage I would prefer 6 and 7(1) to remain in, subject to the amendment we approved for 6(a).

MR. DEPUTY CHAIRMAN: 7(1) — pass; well, we'll have to go through each item. 7(2), (a) — pass; (b) — pass;
The Honourable Member for St. Vital.

MR. D. JAMES WALDING: Mr. Chairman, under 7(2) I wonder if there's not something missing at the end, certain Acts not prohibited. It said nothing prohibits a person who is, etc. from doing what? — (Interjection)—
It says a person who is duly licensed and qualified to practise medicine —(Interjection)— is not prohibited in doing what?

MR. ANDREW BALKARAN: Practising medicine and practising dentistry, that's what it says — (Interjection)— not respiratory technology.

MR. WALDING: Licenced and qualified to practise medicine. —(Interjection)— It doesn't say — don't you need something at the bottom from doing any of those things in each of those items?

MR. BALKARAN: I know what you're getting at. I raised the same point with Mr. Hall and he thinks that what 7(2) is doing is simply saying that the person can't practise medicine if his . . .

MR. WALDING: I don't think that's what it says. — (Interjection)— In other words, it says nothing prohibits a doctor, nothing prevents a doctor, within the meaning, etc. (Interjection)—

MR. BALKARAN: I raised it with Mr. Hall and he didn't seem to see the point. —(Interjection)—

MR. DEPUTY CHAIRMAN: Un moment. Would you kindly wait to be recognized before you speak.

MR. HALL: I'm sorry, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Mr. Hall.

MR. HALL: Thank you, Mr. Chairman. Nothing in this Act or in the by-laws of the association prohibits a person who is duly licenced and qualified to practise medicine for surgery within the meaning of The Medical Act. (Interjection)— In the first case you are not prohibiting a person who is duly licenced and qualified to practise, I guess from practising, is that — prohibit from practising medicine or surgery within the meaning of The Medical Act. You're not prohibiting him . . .

MR. CHERNIACK: Your grammar is bad. You mean duly licenced and qualified under The Medical Act to practise medicine or surgery. That's what you mean?

MR. HALL: Yes.

MR. CHERNIACK: That's not what you're saying and Mr. Walding is right. Since I'm opposed to it anyway I don't want to help you.

MR. HALL: Well, I talked about this with Mr. Balkaran, Mr. Chairman, just before we concluded. I thought the grammar was sound but we're certainly prepared to make whatever amendment is necessary to make the grammar sound —(Interjection)— I'm not able to suggest an amendment right now. I would, through you to Mr. Cherniack, Mr. Chairman, would it be appropriate to change the wording to read prohibits a person who is duly licensed and qualified "from practising" rather than "to practice"?

MR. CHERNIACK: Mr. Hall, since I don't agree with the whole section, I don't propose to help you.

MR. HALL: Mr. Chairman, through you then to Mr. Walding.

MR. WALDING: I don't give legal advice.

MR. HALL: But you're objecting to the grammar. I'm asking would that be acceptable?

MR. WALDING: I'm objecting to the sense of it. In certain Acts not prohibited, I don't think that it says those things are in fact, prohibited, unless perhaps you put some words at the end indicating that those Acts are — that the above-mentioned

MR. BALKARAN: You could simply add at the end, within the meaning of those Acts.

MR. HALL: In my opinion, Mr. Chairman, it doesn't need any further refinement other than changing the words "to practice" to "from practising".

MR. SHERMAN: I think the amendment suggested by Legislative counsel takes care of it. He may also want to correct the heading on the section to read, "Certain practices not prohibited" rather than "Certain acts not prohibited". But certainly the statement "nothing in this Act, etc., prohibits a person who is duly licensed and qualified from practising those following professions within the meanings of those Acts" is very clear in my view. I suggest we accept the amendment proposed by Legislative counsel. I'm not sure the heading is right. We're not talking about prohibiting — there's an ambiguity when you use the word "acts" because in one case you're talking about a performance; in the other case you're talking about a legislative statute. I think it's ambiguous to use it in the heading. It should be headed "Certain practices not prohibited".

MR. DEPUTY CHAIRMAN: Would you like to hear the amendment as proposed by the Legislative Counsel?

MR. BALKARAN: Mr. Chairman, the amendment as I have it would strike out the words "to practice" in the second line of sub-section 7(2) and substitute therefor the words "from practising" and by adding at the end of Subsection 2 coming out to the margin the words "within the meaning of those Acts."

MR. DEPUTY CHAIRMAN: Are you ready for the question?

Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I'm not clear on the latter part of Mr. Balkaran's suggested amendment adding within the meaning of those Acts, where? It's already in every subclause.

MR. BALKARAN: Those words would come at the very end of the subsection.

MR. SHERMAN: You mean after (l)?

MR. BALKARAN: Yes.

MR. SHERMAN: Oh, and apply to that one section which has to be amended anyway. That section is being amended anyway, when we get to it.

MR. BALKARAN: I thought, Mr. Chairman, that the amendments as I have them sort of went hand in hand?

MR. SHERMAN: Well, if you changed the terminology in (l) to The Registered Psychiatric Nurses Act instead of The Psychiatric Nurses Training Act, for example, and The Practical Nurses Act to the Licensed Practical Nurses Act. If that's done then (l) has been amended and I stand corrected. But I thought those amendments still had to be made. At that point in time you can add, "within the meaning of those Acts"; but we don't have to add, " within the meaning of those Acts" to the other subclauses because it's in every one of them.

MR. DEPUTY CHAIRMAN: Mr. Downey.

HON. JAMES E. DOWNEY (Arthur): I think there's a misunderstanding. The Minister, I believe, it's all in the procedure of how we'll proceed through it that it's amended down to the typed amendments that we have and the final addition would be what legal counsel has recommended after the (l). It's all in the procedure, that's all, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Fair enough. May we proceed.

7(2), Mr. Cherniack.

MR. CHERNIACK: The principle of 7(2), what I say will necessarily apply to 6, seems to me to bring into question 11(3) and I don't know whether you would rather discuss ll(3) in its consecutive order or here; because 11(3) suddenly shoves in an additional exemption and frankly I don't know why it belongs because it implies to me that a person employed by a dentist is denied performing any act of respiratory technology and it's not true. I mean what I am inferring from 11(3) or from 7(2) is that there are restraints on others which there aren't.

And having said that and still thinking about the earlier concern which I said I wouldn't press at this stage, I'm wondering whether at the end of 6 or at the end of 7 we could say, "or any person performing any therapy and not in conflict with 11(1)". I'm still trying to accommodate to that doctors' concern about special people not denying a service and at the same time recognizing what the Act says. So, suppose we leave all that is here, 6 and

7(2) and even 11(3) which I think doesn't belong; but add at the end of 7(2) or at the end of 6, "or any person performing any therapy and not doing so in conflict with 11(1)". Would that take care of both Mr. Sherman's concern and mine?

MR. SHERMAN: Yes, that would be acceptable, Mr. Chairman. The wording would not — I know that Mr. Cherniack wasn't suggesting the exact wording — it will have to be worded either written as an additional subsection or worded somewhat differently but the sense of it is acceptable.

MR. CHERNIACK: That would withdraw my objections to 6 and 7, in the sense of saying . . .

MR. WALDING: Mr. Chairman, let me ask Mr. Cherniack and Mr. Sherman, if 11(3) stopped at the end of the word "technology" in the second line . . .

MR. CHERNIACK: Yes, that's fine but then that should . . .

MR. WALDING: Then that's a blanket exemption and it covers all that we've put in 6 and 7.

MR. CHERNIACK: Well, then maybe it should be moved around to 6 and 7 instead of where it is.

MR. WALDING: Which would make it clear that the exclusivity is of a title and not of practice.

MR. SHERMAN: Then you're suggesting that should just be amended in 11(3) and remain there or should it be moved to 6 or 7?

MR. WALDING: That would make, I think, your concern clearer but . . .

MR. BALKARAN: I think Mr. Walding's suggestion could be accommodated in 6(c) by putting a period after the word "technology" in the first line.

MR. WALDING: That suggests a certain element of emergency or in time of need.

MR. BALKARAN: No, it stands by itself.

MR. SHERMAN: It could be done by amending 6(c). It doesn't destroy the reinforcement of the right that I want in there. Could we go back and amend 6(c), Mr. Chairman, on Mr. Walding's suggestion? It would be his amendment to delete all the words in 6(c) after the word "technology" in the first line thereof.

MR. CHERNIACK: And change the heading; delete in time of need.

MR. SHERMAN: Change the heading; delete "in time of need."

MR. BALKARAN: Okay.

MR. DEPUTY CHAIRMAN: Are you ready for the question?

MR. WALDING: Is that not saying the same thing?

MR. CHERNIACK: Yes, he's right there that (a) is included in (c) as is (b), but if there's a concern, then it should be clearly spelled out. Then there's nothing wrong with that, is there? It's just repetitive.

MR. SHERMAN: Well, Mr. Chairman, it's the principle that I'm concerned with and as long as the principle is protected, now that we've been sort of fine-tuning these sections, I think we should be able to conclude that we don't need unnecessary verbiage. The principle I'm concerned about is that no person be intimidated in terms of giving necessary respiratory therapy. As long as Section 6 says that, I'm happy. So I think we could do that in (a) — we don't even need the term "in case of urgent need" — it could just read, "The provisions of this Act do not prevent any person from giving necessary respiratory therapy," or "(b) the domestic administration of family remedies." We might not even need (b).

MR. CHERNIACK: I'm sort of backing away from falling into the agreement which I was initially inclined to do if what Mr. Sherman just said, (a) provides that anyone can just step right in and give necessary respiratory therapy in case of urgent need; (c) is practising respiratory therapy and that is really for hire and that is holding out, which is legal under this Act, but it does go beyond the thought of anybody stepping in and doing something quickly. I can see a distinction in cases maybe of negligence actions. Somebody who practices respiratory therapy is open to damages if they do something negligent, if they're practising, but if somebody steps in and gives necessary therapy in case of need, then I think the onus is not that great on them. They can make mistakes and they're still trying. I'd be inclined to think we should leave (a), (b) and (c) as we've already changed them because they do sort of describe it a little better.

MR. DOWNEY: If I understand the Minister of Health correctly, and I think I do, on this particular point he wants to be assured that if a person were called upon to administer it in a situation that was not normal or on the spur-of-the-moment type of situation, he wouldn't be restricted from carrying out that particular out-of-the-normal practice. I would read it as if he is protected in that he's able to do that, the way it is; this Act would not restrict that from taking place.

MR. SHERMAN: Well, that's my concern, but Mr. Cherniack has raised the distinction now between emergency therapy at the roadside in the event of an accident or somebody's physical collapse and the practice of respiratory technology. I wonder, Mr. Chairman, if Mr. Balkaran could read the clause as he had previously planned to amend it under the instructions for amendment up to a point on the clock of about two minutes ago. We had eliminated some phraseology.

MR. BALKARAN: Section 6.

MR. SHERMAN: Including the heading, the headline on it.

MR. BALKARAN: Heading: Right to administer respiratory or respiratory therapy. 6. The provisions of this Act do not prevent (a) any person from giving

necessary respiratory therapy in case of urgent need or; (b) the domestic administration of family remedies; or (c) any person from practising respiratory technology.

MR. SHERMAN: Well, that's all right. Now, I don't know that we need the phrase "in case of urgent need" in the first line, but that's all right, acceptable, agreed.

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I'm really trying to be helpful, though people may doubt it. I don't see why 7(2) is not made part of 6 or attached to 6, because there we're talking about rights to do something, rights not prohibited. 7(1) is a prohibition and just for the placement of it, it seems to me that 7(2) could be either a subsection of 6 or be tied into 6. The provisions of this Act do not prevent (a), (b), (c), or any person who is duly licensed, qualified from practising, you know, 1, 2, 3, 4, 5, just draftsmanship, nothing else. But I am talking about a prohibition in 7 and rights, and non-prohibition in 6, but I don't care.

MR. DEPUTY CHAIRMAN: Mr. Hall.

MR. HALL: Thank you, Mr. Chairman. I agree with Mr. Cherniack. I think you have to tie 7(2) to 6 through the words, "to the extent permitted by the acts enumerated in Subsection 7(2)."

MR. BALKARAN: Mr. Chairman, in looking at 7(2) a moment ago, we were considering the addition of the words, "within the meaning of those Acts," and from a drafting standpoint, I think it's going to make the incorporation of all of what you have in 7(2) onto 6 a bit awkward.

MR. CHERNIACK: How about making it 6(2)?

MR. BALKARAN: Well, I don't particularly care but then you'll have to move 7(1) down . . .

MR. CHERNIACK: Well, make it 7(1), but make 7(2), 6(2).

MR. DEPUTY CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, we were not that happy about 7(2) before but we didn't make a big fuss about it. I'm wondering if, since we've made that change now to 6(c), that the whole of 7(2) does not become redundant?

MR. SHERMAN: Mr. Chairman, just on a point of clarification. I would just like to remind the Committee that as Minister of Health, I'm concerned with whether or not I can live with this proposed legislation. That is my primary concern, or whether or not anyone else around this table, who may become Minister of Health, can live with this legislation. If the sponsor of the bill and the association would agree that it's redundant, then it can be taken out of the bill. I, frankly, Sir, do not care as long as I can live with what's on these pages.

MR. DEPUTY CHAIRMAN: I think I'd better throw the question at Mr. Hall then.

MR. HALL: Again, Mr. Chairman, we don't feel that it is redundant but I think it could be easily moved to Section 6(2).

MR. DEPUTY CHAIRMAN: All right, I think in the spirit of co-operation, I think it would be acceptable that 6 be renumbered 6(1), and 7(2) be renumbered as 6(2). Agreed? (Agreed) And 7(1) be renumbered 7.

6(1) — pass as amended; 6(2) — pass as amended.

Mr. Anderson.

MR. ANDERSON: I move that Section 7(2)(l) of Bill 25 be amended by striking out the words, "Practical Nurses Act" in the second line thereof and substituting therefor the words, "Licensed Practical Nurses Act."

MR. SHERMAN: Further to that, Mr. Chairman, while we're in the process of amending this subsection, I would like to ask the legislative counsel, it's my impression that The Registered Psychiatric Nurses Act is the proper title of the second Act in this sub-clause but I may be wrong. (Interjection)

MR. DEPUTY CHAIRMAN: Un moment, we're just checking out a couple of things.

MR. BALKARAN: You're right, it's The Registered Psychiatric Nurses Act. Can that correction be made rather than an amendment?

MR. DEPUTY CHAIRMAN: Yes, I would accept it as a correction rather than as an amendment. (Agreed)

Then I am going to ask for 7(2)(l) — pass as amended; 7(2) — pass.

MR. SHERMAN: It's now 6(2).

MR. DEPUTY CHAIRMAN: Now we will revert back to 6(2) because now that is 7(2) moved up. 6(2) — pass as amended; 6 — pass; 7 as amended — pass; that's just the change in the number.

We are now at 8. 8 — pass; 9 — pass; 10(1) — pass; 10(2)(a) — pass; (b) — pass; (c) — pass; (2) — pass; 10(3) — pass.

MR. CHERNIACK: I ask you to hold back a bit, please.

MR. DEPUTY CHAIRMAN: I will go as quickly or as slowly as the Committee wants, so just give me any indication if you want me to slow down. I'm at 10(3).

MR. CHERNIACK: You can carry on.

MR. DEPUTY CHAIRMAN: 10(3) — pass;

MR. SHERMAN: 10(3) — pass is fine but before you go on, I want to go back to 6(2)(l) and ask whether in that amendment to 6(2)(l), that you added "within the meaning of these acts" at the end of (l)?

MR. DEPUTY CHAIRMAN: That was included.

MR. SHERMAN: I don't think it's necessary, Mr. Chairman, because (l) is written "nursing within the

meaning of the . . . " and then it specifies the three Acts, so it's not necessary to say it twice.

MR. DEPUTY CHAIRMAN: For the sake of eliminating redundancy, I will accept that and if it's acceptable, then it will just be eliminated.

MR. WALDING: What is it we're eliminating, Mr. Chairman?

MR. DEPUTY CHAIRMAN: The words "within the meaning of the Act," which is redundant, obviously, because it starts "nursing within the meaning of The . . . " It's the wording "within the meaning of the Acts."

MR. WALDING: Mr. Chairman, that was, as I recall, the original complaint, that the whole sentence is incomplete without those words at the end of all of them. That's why put it in.

MR. SHERMAN: Well, it's in the beginning of this one.

MR. CHERNIACK: That's why we made this change. Is there a comma after the word "qualified" in the second line?

MR. BALKARAN: No, but we can put it in.

MR. CHERNIACK: Isn't it needed there for the grammar? And then it's from practising so-and-so within the meaning of the Act. Isn't that right?

MR. DEPUTY CHAIRMAN: I'm waiting for some indication from Mr. Walding as to whether we can proceed, and I won't until I get that indication.

MR. WALDING: I'm waiting for Mr. Balkaran. It was his wording originally.

MR. DEPUTY CHAIRMAN: Fair enough.
Mr. Balkaran.

MR. BALKARAN: All I had, Mr. Chairman, was striking out the words "to practise" and substituting therefor the words "from practising." Mr. Cherniack suggests a comma after "qualified" and I have no objection to that.

MR. WALDING: But when you first gave us the change, you also added the words "within the meaning of those Acts" at the end of all of those figures.

MR. BALKARAN: There's a certain amount of redundancy in that phrase now because if you look at each of those clauses, it already refers to medicine or surgery within the meaning of The Medical Act; that is true within the meaning of The Dental Association Act and so on. So to repeat "within the meaning of those Acts," it's already covered in each of those clauses.

MR. WALDING: Okay. So you're saying it's now not needed.

MR. BALKARAN: Not needed, no.

MR. DEPUTY CHAIRMAN: Agreed? (Agreed)

MR. SHERMAN: I think we can pass 6(2), Mr. Chairman.

MR. DEPUTY CHAIRMAN: I've already passed it; we just made the correction, that's all.
10(4) — pass; 10(5) — pass; 10 — pass; 11(1) — pass; (2) — Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move that Subsection 11(2) of Bill 25 be amended by striking out the word "No" in the first line thereof and substituting therefor the words and figure, "Subject to Subsection (3), no . . . "

MR. CHERNIACK: Mr. Chairman, I don't see it but I thought we were going to vote down (3). I thought we were going to eliminate (3) because of 6(2) amendments. I don't even see it on this list, not that it has to be on the list.

MR. DEPUTY CHAIRMAN: I think there was some agreement about removing (3). Let's I guess we've got to vote on the amendment on (2).

MR. CHERNIACK: I move we set aside the vote on 11(2) and deal with 11(3).

MR. DEPUTY CHAIRMAN: 11(3) then, fair enough. 11(3).

MR. CHERNIACK: Mr. Chairman, I think that we've already decided that anyone can do any act of respiratory technology, period. That being the case, I don't think we need 11(3). Therefore, I would suggest that we eliminate 11(3).

MR. SHERMAN: That's certainly agreeable from my point of view, Mr. Chairman. The adjustments and refinements we made to 6 and 7 were done in that light, I believe.

MR. HALL: That's acceptable to us too, Mr. Chairman.

MR. CHERNIACK: So we agree the 11(3) fails; it's not passed.

MR. DEPUTY CHAIRMAN: Well, I'm going to call 11(3). 11(3).
All right, I have an amendment on the floor, a motion.

MR. CHERNIACK: I withdraw the amendment.

MR. DEPUTY CHAIRMAN: The amendment's been withdrawn. Fair enough.
11(2) — pass; 11(3) — I declare 11(3) rejected; 11 — pass as amended; 12 — pass; 13(1) — pass; 13(2) — pass; 13 — pass; 14 — Mr. Anderson.

MR. ANDERSON: I move that Section 14 of Bill 25 be amended by striking out the word "corporate" in the sixth line thereof and substituting therefor the word "conditional."

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: 14 as amended — pass; 15 — pass; 16 — pass.

MR. CHERNIACK: Hold it, Mr. Chairman; just delay it please. What are you on?

MR. DEPUTY CHAIRMAN: I'm on 16 — pass, but I slowed down to give you a chance to catch up. Are we all right up to 16? Okay. 16 — pass. 17 — pass; Mr. Cherniack.

MR. CHERNIACK: Under 17, I'm guessing it's the same as the RNs. Don't they even have to register with the registered group to let you know they're here. Or do you just say let them come in, breeze in, breeze out?

MR. BALKARAN: If any person can practise, what's the point in registering? You don't need to register anyway, you just go ahead and practise.

MR. DEPUTY CHAIRMAN: Fair enough. 17 — pass; 18 — pass; 19(1)(a) — pass; (b) — pass; (c) — pass; (d) — pass; (e) — pass; (1) — pass. Mr. Sherman.

MR. SHERMAN: Mr.Walding may be raising a question on 19(1). Before going to 19(2) I want to propose that another clause go in that is not in the bill at the present time, dealing with notification to respiratory technologists, but that may not have been Mr. Walding's. At this point, Mr. Walding may be addressing 19(1).

MR. WALDING: I am, Mr. Chairman, and that was the same question I'd raised before on (d), that having been suspended the name of the member is then removed from the register and is not a member of the association and cannot be dealt with under any further hearings by the Discipline Committee or the Board because he is then not a registered member.

MR. SHERMAN: How did we deal with that under the physiotherapists?

MR. DEPUTY CHAIRMAN: Mr. Walding, would you care to make a suggestion on how we deal with it.

MR. WALDING: Mr. Chairman, I'm still looking for how we dealt with it in the previous Act.

MR. DEPUTY CHAIRMAN: Fair enough. Mr. Sherman.

MR. SHERMAN: In Bill 21, Mr. Chairman, the wording is similar to the wording in Bill 25, except that there were some additional sub-clauses under 21. But the question I think, remains unanswered by Bill 21. It did come up though, in the consideration of another bill. Maybe it wasn't The Physiotherapists Act. We considered the question with respect to another professional bill.

MR. WALDING: Section 37 in Bill 21, effect of suspension — we just deleted that.

MR. BALKARAN: Mr. Chairman, does it really matter if 19(1)(e) remains in the bill? If a member's registration has been revoked as has been suggested, at that point he's no longer amenable to the provisions of the Act or to discipline by the Discipline Committee or to any sanctions that the Board may wish to impose. I don't think it matters. A person could just go ahead and practise on his own anyway.

MR. WALDING: Mr. Chairman, that's true but the title, registered respiratory technologist might be an important matter.

MR. BALKARAN: I don't see the difference. He just calls himself a respiratory technologist.

MR. WALDING: Well, Mr. Chairman, it's obviously important to some people or we wouldn't have this bill before us.

MR. SHERMAN: I'm wondering if Mr. Balkaran can recall where this principle came under discussion sometime over the course of the past 48 hours, I'm not sure which afternoon or night or morning it was, but we did . . .

MR. BALKARAN: It came up, Mr. Chairman, under the effect of suspension and I believe it was the Physiotherapists Bill.

MR. SHERMAN: The Physiotherapists Bill, yes. And we wiped out 37 dealing with the effect of suspension. But if you look at 38(1) of The Physiotherapists' Bill, we're still talking about a member who for some reason, has caused the disciplinary committee to erase his name from the register; so at that point in time he ceases to be a member. So we're back into this same question.

MR. BALKARAN: Mr. Chairman, I think it comes back to me now. I think the way we handled it was to remove the reference to the word members throughout and simply say "shall cause the name of a person to be removed and to request the written consent of the person" and, in (c), the person's death; or the person has been suspended; or the registration of the person has been revoked; so that at that point it's a person and not a member. It comes back to me that perhaps that's how we handle it.

MR. WALDING: Mr. Chairman, under 38(1) of the Physiotherapists, that suspension was following the inquiry by the disciplinary committee. So that would be a disciplinary move. We took out 37 because we felt that 36(1) made it clear what a suspension was. They had the ordinary meaning of the term suspended without meaning erased or removed from the register. That, I think, we felt was if there was a sooner or an earlier suspension before an investigation and inquiry was held.

MR. SHERMAN: But then if you look at 13(1). I appreciate what Mr. Walding is saying, Mr. Chairman, but 13(1) of 21, I think except for the fact that it has more subclauses to it is the same at least in terms of sense as 19(1) of Bill 25. In fact the same thing appears I think in Bill 20, Dietitians.

MR. BALKARAN: I think, Mr. Chairman, 19(1) is simply designed to do an administrative act, that is simply moving a name from the register. Now what flows from that is another matter. If the person is no

longer amenable to the rest of the provisions of the Act, then the person is free from all restrictions of the Act and can go and practise as a respiratory technologist anyway. This is simply to remove from the register the names of certain persons.

MR. WALDING: But, Mr. Chairman, we spell out Complaints Committee and Investigation Committee, Discipline Committee in various appeals from all of those.

MR. BALKARAN: That's where you should raise it.

MR. WALDING: Okay, if the member's name is not on the list, then all of those become inoperable.

MR. BALKARAN: That's right.

MR. WALDING: And if you look on those as a protection to the member, then they have been short-circuited by taking his name off the list at an early stage anyway.

MR. DOWNEY: The main problem that you're having is that you remove the person from the register and it leaves the — you have lack of control or you lose control over the individual who may have committed some particular crime that would cause that to happen. Is that correct, Jim, is that your concern?

MR. WALDING: He doesn't have resource to the hearings that could clear his name.

MR. SHERMAN: Mr. Chairman, I think that some of the problems certainly could be removed if we changed the terminology from member to person at least in 19(1)(d). Whatever we do, we should make the other Acts conform. If you look at 43(2) of this Bill 25, 43(2), application to court to remove suspension, it talks about a person whose registration has been suspended and I think 19(1), if it's going to refer to suspension at all, should use the same terminology and call that individual a person rather than a member.

MR. WALDING: But Mr. Chairman, a member, according to the Act, becomes a person because he's been removed from the register.

MR. SHERMAN: Yes, but the person then can appeal to the court relative to his or her removal from the register.

MR. WALDING: If the court puts him back, he's then a suspended member who is back on the list. Would it not simply be simpler to take out (d) of 19(1) and make the same change in Physiotherapists and Dietitians as well?

MR. CHERNIACK: Mr. Chairman, I sort of opted out of this discussion because frankly I'm just resting but I don't see how person can be suspended if he is no longer on the list. I think a member has to be a member; to be suspended, he still has to be a suspended member. He can't be removed from the list because then he's not suspended, he's out. (Interjection)— And can't be dealt with nor would he have any rights.

MR. DOWNEY: I'm not a lawyer, Mr. Chairman, but why couldn't you add in, where the member has been suspended, he shall not be exempt from the intent of this Act, or something like that.

MR. CHERNIACK: But why remove his name from the roster altogether? That's really all we're talking about is removing him from the register. Why not leave him on the register but put suspended opposite for six days or six months? You know, he should still be on the list, like Bob Wilson is still on the list.

MR. WALDING: Mr. Chairman, can I suggest to the Minister of Health or his successor that next year it could be cleared up by having registration and a licence, the way the doctors do, then you could make suspension of the licence, not of the registration?

MR. SHERMAN: Mr. Chairman, I think the most direct solution would come through elimination of 19(1)(d), delete subclause (d).

MR. DEPUTY CHAIRMAN: Can I have a motion to that effect? So moved? Mr. Anderson.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: And renumbering (e) to (d). (Interjection)—

MR. WALDING: Same provision is in there.

MR. DEPUTY CHAIRMAN: To Mr. Walding, I don't mind going back a couple of clauses but a couple of bills is really too much.

MR. CHERNIACK: Mr. Chairman, we're giving Mr. Balkaran one proper job with all of these bills and I hope that the need for him to produce the final version can be postponed for a day or two, Monday or Tuesday, to give him time but there's still plenty of work in the House. If so, could we not ask him or the Minister ask him to prepare amendments for third reading for the other bills . . .

MR. SHERMAN: We'll bring amendments in on third reading.

MR. DEPUTY CHAIRMAN: Yes, I think that's what is being suggested by Mr. Cherniack.

MR. CHERNIACK: Thank you, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Accepted? Can we proceed? Okay.
Mr. Balkaran.

MR. BALKARAN: I was going to say, Mr. Chairman, if the Committee agreed, at least to the extent that the Physiotherapists Bill is concerned. I was left with instructions to prepare amendments in various areas to make them conform with MARN. It's entirely up to the committee but I would have thought that this change could have been treated similarly.

MR. CHERNIACK: Right, what about the Dietitians?

MR. BALKARAN: That's up to the Committee.

MR. CHERNIACK: Well, same thing. I think the Minister would agree that there be on third reading, there be amendments prepared for somebody.

MR. SHERMAN: Yes, I quite agree. We couldn't do the MARN Bill that way. It would have to be done under Statute Law Amendments but the bills that we're dealing with this year can all be made to conform.

MR. BALKARAN: Mr. Chairman, might I also inform the committee that the procedure I will be following in preparing those amendments may not necessarily appear as third reading amendments because amendments that were made and passed at this committee, I'm picking them all and lumping them all together in sequence in three or four pages as the case might be, so they will all be there.

MR. CHERNIACK: Would they be as amendments on third reading or be as amendments already passed in this committee?

MR. BALKARAN: What we have before this committee is a series of amendments that were initially prepared and most, if not of all of them, are being . . .

MR. CHERNIACK: You're including these?

MR. BALKARAN: No, there will be a separate package with amendments that were passed, some minor amendments as the case may be, with the rest of the amendments I have been told to prepare and put them all together and the members will have that.

MR. CHERNIACK: That will be a bill that has been passed by this committee.

MR. BALKARAN: That's right.

MR. CHERNIACK: So then, we won't have to bother with third reading changes.

MR. BALKARAN: That will be all in there.

MR. DEPUTY CHAIRMAN: Acceptable? Fair enough. 19(1), as amended — pass; (2) — pass — Mr. Sherman.

MR. SHERMAN: Before we get to 19(2), I suggest that a new 19(2) be inserted to conform to 13(2) of Bill 21 and be headed Notification to Respiratory Techologists. It deals with the fact that where the name of a member is struck from the register, the registrar shall forthwith by registered or certified mail notify that member.

MR. BALKARAN: I think, Mr. Chairman, it should apply equally to the suspension. There should be notice of suspension as well as . . .

MR. SHERMAN: Yes, I think it should.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: 19(2), as amended — pass. (Interjection)— 19(2) becomes 19(3). 19(3), as amended — pass.

MR. CHERNIACK: How amended?

MR. DEPUTY CHAIRMAN: How is it amended? The number only.

MR. CHERNIACK: Oh, yes, but there's something in there. I think there are some words have to come out.

MR. DEPUTY CHAIRMAN: Fair enough then. Mr. Cherniack.

MR. CHERNIACK: In the second — well, I think in the second or third line, the words "other than a person who is deemed" don't belong. It doesn't make sense as it is and I suspect those words are there unnecessarily.

MR. SHERMAN: That's correct, as I see it, Mr. Chairman. That's the section that I had marked to delete so that it would read "a person removed from the register to be restored thereto". Without the words "other than a person who is deemed".

MR. DEPUTY CHAIRMAN: Okay, then that's the wording "other than a person who is deemed" to be eliminated. 19(3), as amended, that's the change in number and the elimination of "other than a person who is deemed" — pass; 19(4), as amended, and that's the number only — pass; 19 as amended — pass; 20(a) — Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move that Clause 20(a) of Bill 25 be amended by adding thereto immediately after the word "person" in the first line thereof the words "at the time of employment".

MR. DEPUTY CHAIRMAN: Agreed? (Agreed) 20 — Mr. Walding.

MR. WALDING: I wonder if this reference to a suspension goes back to 19(1)(d), if that's the reference, which had to do with removal. 19(3). Since suspension doesn't mean removal of the register as we decided in 19(1)(d), then the reference here to restoring the name of a member who has been suspended seems to be redundant. I ask Mr. Balkaran if that is not so.

MR. BALKARAN: Mr. Chairman, as I see it, the suspension is not entirely a removal of a name but it indicates either by notation in the register that the person's registration has been suspended for a year or six months, as the case might be, and in effect it's a form of restoration to full membership.

MR. WALDING: Can you have anything less than a full membership unless it's a conditional . . .?

MR. BALKARAN: When the suspension is removed, it's really in a sense restoring him as a full member.

MR. WALDING: You don't see that's any conflict then with 19(1) that we move.

MR. BALKARAN: No.

MR. SHERMAN: Further, on 19(3) there should be an amendment. The first line should now read, subject to Subsection 4, not 3; and in 19(4) in the second and third lines thereof that should read under Subsection 3, not 2.

MR. DEPUTY CHAIRMAN: Thank you very much. Duly noted and corrected. 20(a) as amended — pass; (b) — pass;

Mr. Cherniack.

MR. CHERNIACK: The conclusion has been omitted from the — they have omitted a sentence that appears in the other Acts. At the end, "shall report the matter to the board" and I move to include thereafter, "and provide a copy of the report to the person whose employment has terminated". In doing so I would ask Mr. Hall if there is a reason why this has not been followed from the MARN bill.

MR. DEPUTY CHAIRMAN: Mr. Hall, would you care to step up and answer.

MR. HALL: I didn't realize it had been, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Oh, it's just an oversight then, okay.

MR. CHERNIACK: Then I move it.

MR. DEPUTY CHAIRMAN: Moved by Mr. Cherniack that the wording . . .

MR. CHERNIACK: Do you want me to repeat it? It's in the MARN bill but I can . . .

MR. DEPUTY CHAIRMAN: Okay, the same wording.

MR. CHERNIAK: Does Mr. Balkaran want the wording?

MR. BALKARAN: I've got these words, Mr. Chairman. Clause 20(b) is amended by adding thereto at the end thereof the words "and provide a copy of the report to the person".

MR. CHERNIACK: Whose employment is terminated. You don't need that.

MR. BALKARAN: No.

MR. CHERNIACK: Okay, fine.

MR. SHERMAN: With one addition, Mr. Chairman, with the addition of the word "forthwith". Shall report the matter to the board forthwith and provide a copy.

MR. CHERNIACK: Forthwith is just before the work report. But you mean . . .

MR. DEPUTY CHAIRMAN: Shall forthwith report. Mr. Hall, do you have something else you want to contribute?

MR. HALL: Mr. Chairman, I would just point out, I think you've already caught that there are two forthwiths if you include the second one. We did get the forthwith but somewhere the balance of the clause got dropped off.

MR. SHERMAN: That's right, Mr. Chairman. The forthwith was in there and everything else was dropped. That's right.

MR. DEPUTY CHAIRMAN: Fair enough. (b) as amended — pass; 20 — pass; 21(1) — pass; (2) — pass;

Mr. Sherman.

MR. SHERMAN: On 21(2) I think the committee has expressed some disaffection for the term "or aids and abets" in other health legislation, professional legislation of this kind and I think it should be deleted from this clause.

MR. DEPUTY CHAIRMAN: Or aids or abets? — (Interjection)— 21(2) as amended — pass; 21 — pass; 22 — pass; 23 — pass;

Complaints Committee. 24(1)(a) — pass; (b) — pass; (1) — pass; (2) — pass; (3) — pass; (4) — pass; 24 — pass. 25 — pass. 26 — pass. 27 — pass.

Part V Investigation Chairman. 28 — pass. 29(a) — pass; (b) — pass; (c) — pass; 29 — pass. 30 — pass. 31(a) — pass; (b) — pass; 31 — pass.

Mr. Walding.

MR. WALDING: There is a difference in wording here from The Physiotherapists Act, which says is alleged to be guilty in (b) and in (c) is alleged to have demonstrated. This one, the words imputing allegation are dropped. (b) says is guilty; (c) says has demonstrated. I'm wondering why the difference?

MR. BALKARAN: Mr. Chairman, I was saying that I think 29(a) is much stronger now that you have a matter of guilt established as opposed to an allegation of guilt.

MR. WALDING: Then I would have to ask who makes the determination of guilt, of professional misconduct or conduct unbecoming. Surely that's what the investigation is leading to.

MR. CHERNIACK: I don't see any difference. This says that the committee is advised that a member is guilty. They are just told, somebody comes along and says he's guilty. That in itself is an allegation so I really don't see the difference between the two in essence because it is not proven until after the committee, the investigation chairman has enquired into it and charged, so frankly I think that this is an allegation even though it doesn't say so.

MR. DEPUTY CHAIRMAN: Are you satisfied, Mr. Walding?

MR. WALDING: No, I don't think so, Mr. Chairman. I don't see that an allegation is the same as being guilty of something.

MR. CHERNIACK: Who does the advising?

MR. WALDING: Who made the judgment?

MR. CHERNIACK: That meant that whoever gave the advising made the judgment and he alleged it. It doesn't say who advises, it doesn't say that the court advised the member that he is guilty. If they said that, that would be different.

MR. DEPUTY CHAIRMAN: Is it permissible to proceed, Mr. Walding?

MR. WALDING: Mr. Chairman, I would move that the words, having to do with an allegation be

inserted to bring it into comformity with The Physiotherapists Act.

MR. DEPUTY CHAIRMAN: On 29?

MR. CHERNIACK: What he really means is (b) and (c) should say, is alleged to be, instead of is, and under (c), is alleged to have, instead of has. Since I don't see the difference, I don't care.

MR. DEPUTY CHAIRMAN: Duly noted. Are you ready for the motion?

MR. SHERMAN: Why would you bring it into conformity with — why would conformity with The Dieticians Act not be just as good?

MR. CHERNIACK: It goes by the last Act.

MR. DEPUTY CHAIRMAN: May I proceed with the vote on the motion or is there something to be discussed prior to that?

Mr. Hall.

MR. HALL: Thank you, Mr. Chairman. I think that no matter if this is worded directly as it is now or as an allegation, it means the same thing. I don't think the amendment — I don't think it matters particularly. It's only a matter of advising the committee and then the matter gets referred to the investigation chairman for investigation.

MR. SHERMAN: Mr. Chairman, the way it's written really reflects the similar clause in The MARN Act. Although the wording is not precisely the same, the sense is the same and there's no reference to allegation in The MARN Act. I think the exception has been the wording in The Physiotherapists Act.

I'd agree with the view expressed; I really don't think there's a difference. If there is, it's a very fine and subtle one. I think they essentially mean the same thing and the wording here is as it appears in The Dieticians Act and as the sense of it appears in The Nurses Act, so I don't see any cause for making a change.

MR. WALDING: Mr. Chairman, the question arises as to who will advise the committee that a member is guilty of professional misconduct?

MR. BALKARAN: Anybody. If I've got information on a person who is a Registered Respiratory Technologist and I'd simply advise your registrar or the chairman of the board, or whatever, or investigation chairman.

MR. WALDING: Surely you would advise him that you believed him to be guilty of professional misconduct, because until a hearing has been held to demonstrate it, it is still an allegation.

MR. BALKARAN: I don't deny that, Mr. Chairman, but I thought the qualifying words "is advised" amounts to an allegation. It's simply information; it's not going to be taken as a question of fact just simply because somebody walks into the registrar's office and says Jim Walding is guilty of professional misconduct. That remains to be determined after an investigation.

MR. DEPUTY CHAIRMAN: Are you ready for the question, or are you going to withdraw it? Do you want the question to be put? —(Interjection)— On Mr. Walding's motion, that's correct.

MOTION presented and defeated.

MR. DEPUTY CHAIRMAN: We will go to 29 — pass.

I passed 30 and I'm on 30(1)(a) — pass; (b) — pass; 31 — pass; 32 — pass; 33 — pass; 34(a) — pass; (b) — pass; 34 — pass; 35 — pass.

MR. DOWNEY: There's a spelling error there in "notice."

MR. DEPUTY CHAIRMAN: Is there a spelling error in 35? That's "notice." It will be corrected, I hope.

35 — pass; 36 — pass.

Mr. Sherman.

MR. SHERMAN: Just before passing Part V, I would note for the record that the Manitoba Health Organizations raised a question the other night as to whether a guarantee of confidentiality was needed in this part. I just remind the committee of that. I think there was a inclination on the part of the committee that confidentiality is fully protected under Clause 56 but I just remind the committee of that. It would be my feeling that it is fully covered under 56.

MR. DEPUTY CHAIRMAN: We are now on Part VI, 37(1)(a) — pass; (b) — pass; (1) — pass; 37(2) — pass; 37(3) — pass; 37 — pass; 38(a) — pass; (b) — pass; 38 — pass; 39(1) — pass; (2) — pass; (3) — pass; (4) — pass; (5) — pass; (6) — pass; (7) — pass; (8) — pass; (9) — pass; (10) — Mr. Walding.

MR. WALDING: On 39(7), we made the change in the corresponding section in previous bills to add the words, as I have here "and has not provided a reasonable excuse for his failure" after the word "attend" in the second line.

MR. DEPUTY CHAIRMAN: Duly noted.

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: 39(7) as amended — pass; (8) — pass; (9) — pass; (10) — pass; (11) — pass; (12) — pass; (13) — pass; (14) — pass; (15) — pass; (16) — pass; (17) — pass; (18) — pass; 39 as amended — pass; 40(1)(a) — pass; (b) — pass; (c) — pass; (d) — pass; 40 — Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I'm sorry, but if we go back to 39(18), that provides that the Discipline Committee may prescribe its own rules of procedure, and then we look at 27, which says that the board shall establish who the procedure for the complaints committee. I think there's a contradiction here. I'm sorry, that's the complaints committee.

MR. HALL: They're different committees, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Fair enough. Then we will just forget the last 30 seconds.

Now, we're on 40(2).

MR. CHERNIACK: Wait a minute, Mr. Chairman. What are you on now, Mr. Chairman?

MR. DEPUTY CHAIRMAN: 40(2), Decision to be in the form of an order.

MR. CHERNIACK: Yes, Mr. Chairman, just before 40(1), after "Rules of procedure" is where . . .

MR. WALDING: Mr. Chairman, The Physiotherapists Act has a 36(1) dealing with suspension of members pending a disposition of the inquiry, until such time as it's lifted or annulled by the board or the Court of Queen's Bench. I don't see that clause in this Act, or a similar one.

MR. DEPUTY CHAIRMAN: It appears that I've got some indication that it's not meant to be, unless you want it in there.

MR. CHERNIACK: Under 36, investigation chairman may suspend pending the completion of the preliminary investigation. But then, after the preliminary investigation has been completed, then presumably he is no longer suspended and the phsyiotherapists seem to have picked up something that was omitted in the MARN bill, that says, well, hold it a minute, now he is being investigated and there's a hearing and there is no provision for a suspension in the interval. It's not in the MARN and it's not in the Dietitians but it is in the Physiotherapy, and that's the problem of not having one statute. I wonder if Mr. Hall will tell us whether they don't want that power.

MR. HALL: Thank you, Mr. Chairman. I was just noting that we have a suspension provision under Section 36.

MR. CHERNIACK: That's only pending the completion of the preliminary investigation. Now, he's made the preliminary, he's recommended an inquiry, the inquiry is taking place, well, surely you would think you would want to suspend him then as well?

MR. HALL: We didn't think you would let us get away with that.

MR. CHERNIACK: You can't mean that? The chairman, while he is conducting the investigation can cut him off and surely . . .

MR. HALL: It should be continued while the investigation is concluding.

MR. CHERNIACK: That doesn't exist, except the physiotherapists seem to have picked it up.

MR. HALL: We certainly wouldn't object to it being included in our Act.

MR. CHERNIACK: I think you should put that in a different way.

MR. HALL: We'd prefer it to be in the Act, Mr. Chairman.

MR. SHERMAN: I think that it was a worthwhile addition to The Physiotherapists Act and most other professional associations would probably consider it to have been an unfortunate omission from their legislation. I think it should be in here.

MR. BALKARAN: Can we correct it, Mr. Chairman, by the addition of the words in Section 36, after preliminary inquiry, investigation by the discipline committee.

MR. DEPUTY CHAIRMAN: Acceptable?

MR. SHERMAN: Under what section?

MR. DEPUTY CHAIRMAN: Thirty-six.

MR. CHERNIACK: You're saying after the words "preliminary investigation," say "and during the inquiry"?

MR. BALKARAN: Pending the completion of the preliminary investigation or inquiry by the discipline committee.

MR. SHERMAN: Under 36?

MR. BALKARAN: After the word investigation in the third line, so that it would read, "pending the completion of the preliminary investigation or an inquiry by the discipline committee."

MR. SHERMAN: All right.

MR. BALKARAN: Is that agreed?

MR. CHERNIACK: Well, if you put it there, then the physiotherapists also had following that that notice shall be given. Did we overlook that too, that notice should be given?

MR. SHERMAN: We could do that right there, I suppose, with 36(1) and 36(2).

MR. CHERNIACK: Right. Then, in the physiotherapy, they tell you how to give notice and that it is the third day after. Now, I'm sure I have seen it in another Act, because that third day appears somewhere else that I have seen it. But if you look in the physiotherapy, I think all of 36 should be in a package, that is, 36 of The Physiotherapists Act should be added onto 36 of this Act.

MR. DEPUTY CHAIRMAN: Mr. Balkaran, do you have 36(1) and 36(2) prepared?

MR. BALKARAN: I've just got the amendment I suggested just a moment ago.

MR. DEPUTY CHAIRMAN: Can I ask Mr. Balkaran to read the motion on 36?

MR. BALKARAN: Mr. Chairman, I'm sorry, all I have is the simple amendment I suggested to 36 to take care of pending the completion of an inquiry by the discipline committee. Now, the rest that occurs or is found in The Physiotherapists Act, I don't have here.

MR. CHERNIACK: No, I think you should have, 36(2), (3), and (4) of The Physiotherapists Act.

MR. BALKARAN: I'm subject to instructions by this committee.

MR. CHERNIACK: I really think Mr. Sherman is the one who has conduct of this. I'm waiting for him to instruct; I'm just suggesting.

MR. SHERMAN: I think that's correct. The simplest place to put it in would be to put it in right here in this part of the Act and if you pick up 36(2), (3) and (4) from Bill 21 and put them in here with the same numbering, 36(2), (3) and (4), having made the amendment that you have made in 36, which is now 36(1), that would take care of it.

MR. CHERNIACK: Once we've decided that, we're going to have to go back to the appeal provision, aren't we; 41(1) will have to be broadened.

MR. DEPUTY CHAIRMAN: Are we ready to proceed on 36(1), (2), (3) and (4)?

Mr. Walding.

MR. WALDING: Mr. Chairman, I have a question for Mr. Balkaran on his suggested wording to 36, where he mentions until the end of the inquiry, or during the inquiry, words to that effect.

I noticed that in other sections of the bill, the term "inquiry" and the word "hearings" seem to be the same. If you look at 39(1), a date should be set to fix the date, time and place for the holding of an inquiry, so that the term "inquiry" then seems to refer only to the two or three hours it takes to have the hearing itself. Do you see any problem there in making the suspension during the time of the inquiry, if that's only to be two or three hours on a particular day?

MR. BALKARAN: Mr. Chairman, all I can say is that I don't see that that's any different to the completion of the preliminary investigations, what's the duration, how long does it take to do that, how long does it take to complete the inquiry? I would assume that upon completion, the decision will be made.

MR. SHERMAN: Mr. Chairman, has the Chair completed consideration of that point?

Mr. Chairman, I would like to go back, after discussion with legal counsel for the association, to the clauses dealing with the suspension of member as they appeared in The Physiotherapists Act and the suggestion is that in Bill 25 that we leave 36 exactly the way it is, do not incorporate the initial amendment, do not add any sections at all, leave it the way it is. It conforms to similar sections in The Physiotherapists and other Acts, and then come over to 39, on Page 17 of the bill, and at the end of 39(18) add a Section 40 — it would be a new Section 40 and there would have to be a renumbering after that — and put in as Section 40 that complete section out of The Physiotherapists Act, which was 36(1), (2), (3) and (4).

MR. DEPUTY CHAIRMAN: Is that agreed? (Agreed)

Then I will revert back to Section 40(1), which will be 36(1), (2), (3) and (4) of The Physiotherapists Act. (Agreed)

That's 40(1) — pass; 40(2), which was previously 40(1), as amended — pass — and it's just the number that has changed; 40(3) as amended — pass; 40(4) as amended — pass. All I'm doing is just the changing of the numbers. 40 — pass.

MR. BALKARAN: I wonder, Mr. Chairman, if you would just leave the renumbering to me and I'll try . . .

MR. DEPUTY CHAIRMAN: Fair enough.

We are now on appeals. 41(1) — Mr. Cherniack.

MR. CHERNIACK: In view of 36 from the physiotherapy that we have brought in here, that is, the suspenion, and in view of the general right to appeal that should be given, I would like to suggest that we take from The Psyiotherapists Act the appeal section, which there is 40(1), which reads, "Any person who considers himself aggrieved by an order or decision of the investigation chairman or discipline committee may appeal the decision or order to the board by filing a written notice . . . " and the rest is the same. That's instead of limiting it to 42, we obviously have to take in the other decision that we have just passed as to suspension and I would favour the wording of the Physiotherapy which, if you would like me to move, would be to delete all the words in the first and second line, to and including the word "person" in the second line and substitute therefor the words, "Any person who considers himself aggrieved by an order or decision of the investigation chairman or a discipline committee . . . "

MR. DEPUTY CHAIRMAN: I think we will need that written out.

MR. CHERNIACK: You have it if you have The Physiotherapists Act; do you have it there?

MR. BALKARAN: No.

MR. CHERNIACK: I'll read it.

MR. BALKARAN: The whole of 41?

MR. CHERNIACK: I'm just giving you the change in the first two lines: "Any person who considers himself aggrieved by an order or a decision of the investigation chairman or discipline committee . . . " That would replace the words in the first two lines of 41(1), up to and including the word "person."

MR. DEPUTY CHAIRMAN: Are you ready for the question? 41(1) as amended — pass.

Mr. Walding.

MR. WALDING: Mr. Chairman, just before we go on, I notice that 40(3) has to do with costs. Exactly the same section in Bill 21, we voted down. I think we replaced it with something, a concern that Mr. Sherman had about reimbursing the person for lost time. I haven't got the exact wording on that.

MR. SHERMAN: Mr. Chairman, the wording here in 40(3) is all right. It wasn't all right in The Physiotherapists Act until we changed it, although I note that here and in The Dietitians Act and others, that it is always the board that is referred to in making these decisions. We did leave it in The Physiotherapists Act that the discipline committee may award costs. Everybody else says the board may award costs and the committee may recall that I originally proposed that it be changed to board all the way through but I'm not going to argue that point. But the rest of it about reimbursing for costs incurred through disciplinary action is fine in this clause. —(Interjection)— Well, that's right, because

it's the board and it is also now the board in the Physiotherapists. (Interjection)— Yes.

MR. CHERNIACK: That's what we did in the Physiotherapists. It says "and on request for consideration, the board may reimburse." Here they have the board throughout.

MR. SHERMAN: That's right, but we left it in The Physiotherapists Act that the discipline committee may award costs and we are saying here that the board may award costs.

MR. CHERNIACK: . . . the appeal goes to the same board.

MR. SHERMAN: 40(3) here, I think, is all right, Mr. Chairman. My concern was about the reimbursement for costs incurred. That had not been properly worded in The Physiotherapists Act; we changed the wording. It is properly worded in this Act and it doesn't have to be changed.

MR. WALDING: Except for the "discipline committee," not the board.

MR. SHERMAN: It was Mr. Walding who raised the question though, Mr. Chairman, and the wording in The Physiotherapy Act originally was not the same, it had the discipline committee reimbursing any member for costs incurred through disciplinary action. We changed it to make it the board that would do that reimbursing. This Act already says that so it doesn't need to be changed. But if you take the very first clause in this section, it's different from the clause in the physiotherapy bill, where we say the discipline committee may award costs against any member, and in this Act we say the board may award costs against any member.

I am not terribly troubled by that discrepancy.

MR. DEPUTY CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, the problem is that you have the discipline committee hearing the whole thing and then it doesn't award costs. Does it then send the report to the board, which reviews the decision of the discipline committee and then awards costs and then, under 41(1), there is an appeal to the same board, which is already to some extent made a decision based on the discipline committee's review, and why should the board have to review the whole disciplinary committee's decision just to award costs if there's not going to be an appeal?

I think what Mr. Walding points out is that to be consistent we ought to say the discipline committee may award costs against a member, but on reimbursement it should be the board, the way we did in physiotherapy.

MR. SHERMAN: I appreciate that point, Mr. Chairman, but the fact is that in The MARN Act and in The Dieticians Act it says the board and in this Act it says the board. In The Physiotherapists Act, it says the discipline committee.

Now perhaps it is preferable that it be the discipline committee, but certainly it hasn't been established that it be the discipline committee. The other bills refer to the board, as this bill does. That was never my concern. My concern was about the reimbursement for costs incurred; that had to be done by the board. Unfortunately, under the physiotherapy bill, as it was originally presented, it was being done by the discipline committee and we made that change. Here we are all right. The board does the reimbursing for costs incurred.

Now, if Mr. Walding and Mr. Cherniack are concerned about the fact that the board also can award costs against, then I have no particular difficulty with changing it to the discipline committee. I would refer that to legal counsel of the Association, but I would just point out that the other Acts specify that that function is vested in the board.

MR. DEPUTY CHAIRMAN: I would just make a remark to Mr. Hall. Is it acceptable?

MR. HALL: Yes, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Thank you.

MR. CHERNIACK: Is what acceptable?

MR. SHERMAN: That 40(3) be amended by deleting the word "board" in the first line thereof and inserting the words "discipline committee" therefor, and by inserting after the word "and" in the second line thereof, the words "the board" and that will do it.

MR. CHERNIACK: Inserting that after what word?

MR. SHERMAN: After "and," the first word in the second line.

MR. CHERNIACK: Are you saying the board, "upon request," otherwise how does the board become seized of it, upon application? There has to be some way to get it to the board.

MR. DEPUTY CHAIRMAN: Are you ready for the question?

MR. CHERNIACK: The board, upon request . . .

MR. SHERMAN: Yes.

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: We will go back to where we were before.

41(2) — pass; 41 as amended — pass; 42(1) — pass; (2)(a)(i) — pass; (ii) — pass; (a) — pass; (b) — pass; (2) — pass; 42 — pass. 43(1) — pass; (2) — Mr. Cherniack.

MR. CHERNIACK: 43(2) refers to Section 36 correctly. I am wondering if, now that we have brought in our new 40, which is the old 36 of Physiotherapy, should it not also say under Section 36 or Section 40?

MR. SHERMAN: If it's all right with the association, Mr. Chairman, it's all right with me.

MR. DEPUTY CHAIRMAN: Agreed? (Agreed)

That's 43(2) as amended — pass; (3) — pass; (4) — pass; (5) — pass; 43 as amended — pass. 44(1)

— pass; (2) — pass; (3) — pass; (4)(a) — pass; (b) — pass; (c) — pass; (4) — pass; 44(5)(a) — pass; (b) — pass; (c) — pass; (d) — pass; (e) — pass; (5) — pass; 44(6) — pass; 44 — pass. 45(1) — Mr. Cherniack.

MR. CHERNIACK: I was looking at The Physiotherapists Act. I really wanted to look at The Nurses Act, and I have the wrong one before me but "Appeal to the Court of Queen's Bench." The Physiotherapists brought in a (d) "who is dissatisfied by a decision of the board made under 43." They have included a decision under the equivalent of 44 here and I am wondering why, or whether it is necessary to do that in this bill. I am not sure I know why it should be done. All right, let it go, I don't know myself why it was put into The Physiotherapy Act and not considered necessary in the others. Since I don't why, I'll just drop it.

MR. DEPUTY CHAIRMAN: Fair enough.

45(1) — pass; (2) pass; (3) — pass; (4) — Mr. Sherman.

MR. SHERMAN: The last word in 45(4) is misspelled. "Nova" should be "novo."

MR. DEPUTY CHAIRMAN: Spelling error corrected.

45(4) — pass as corrected; (5) — pass; 45 — pass. 46 — pass. 47 — pass. 48 — pass. 49(1) — pass; (2) — pass; (3) — pass; 49 — pass. 50(1) — Mr. Walding.

MR. WALDING: Is there a limitation of actions clause in the bill? It came immediately before Part IX under The Physiotherapists Act. Is it in a different place?

MR. SHERMAN: A limitiation of what, Mr. Chairman?

MR. WALDING: Limitation of actions.

MR. BALKARAN: 54(4).

MR. SHERMAN: Yes, there is.

MR. DEPUTY CHAIRMAN: Limitation of prosecution on page 25, yes, 54(4) —(Interjection)— On prosecution.

MR. WALDING: That's a different one.

MR. DEPUTY CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I think, Mr. Chairman, in the absence of an express provision of limitation, you would revert to The Limitation of Actions Act, which gives them six years.

MR. DEPUTY CHAIRMAN: Mr. Hall, was there a reason why it wasn't listed?

MR. HALL: No, again, we were following The Registered Nurses Act. It does not have it, as far as I am aware.

MR. DEPUTY CHAIRMAN: Is it all right to proceed? (Agreed)

Sections 50 to 56 were each read and passed.

57 — Mr. Cherniack.

MR. CHERNIACK: Because we have archaic and sexist laws, it apparently is necessary to say that where you speak of a female person, you really wish to include the sense of a male person but our law, I believe, says that where you speak of a male person, that automatically includes a female person. As a result, unless there is some indication that somewhere in this Act, the word "she" or "female" person occurs, this section, I think, becomes unnecessary. Having said that, I'm glad to see it here because at least it is a rejection of the traditional sexist archaist concept of the law.

MR. DEPUTY CHAIRMAN: 57 — pass; 58 — pass; 59 — pass; Preamble — pass; Title — pass; Bill be Reported — pass.

MR. CHERNIACK: Title as amended.

MR. DEPUTY CHAIRMAN: Title as amended — pass; Bill be Reported — pass.

Mr. Cherniack.

MR. CHERNIACK: I just want to make a comment. I don't know if it's worth much but I feel bound to say it, that this exercise we've gone through, and I think we're pretty well through with this exercise, although I suppose The Designers Bill is similar to these.

This exercise indicates that — I really think the government ought to, any government ought to take into consideration standardizing something where we don't have to go back and compare and look at Statute Law Amendments, where those procedures that are common or should be common to all professionals are in one Act, so that when you amend one Act, you amend it to affect all others.

Having said that, that may yet happen but in the interval, Mr. Balkaran has to do some dragging from one Act into the other to update and much of that, not much of it but some of it, means that the three Nursing Acts from the past have to be looked at for next year's Statute Law Amendments.

Would it be in order for this Committee to recommend that all of these Acts should be looked at, over a period of time, to see that a consistency in procedures, not in the words, but in the procedures be arrived at so that we can update those oversights that we have become aware of in the older Acts, such as The Registered Nurses, where we know we have to correct the submission of regulations to memberships. If I had my way, I would certainly employ someone, if the Legislative Council is too busy, but employ somebody with some drafting experience to sit over the summer months, maybe a student, and look at not more than eight or ten, I don't know, maybe fifteen acts from that standpoint.

I think it's a recommendation that I would like this Committee to make because I think it's the role of this Committee, having gone through the exercise we've gone through. I don't know if you want a formal motion to debate it or, if doesn't pass, by acceptance, then I'll draft it.

MR. DEPUTY CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I'd like to respond to Mr. Cherniack's remarks.

The first thing I'd like to say is that I want to express my thanks and appreciation to all members of the Committee for the work that they have done so diligently and conscientiously on both sides and to you, Mr. Chairman, and others who have occupied the Chair, during consideration of these bills.

I would like to tie in with that, recognition and thanks to those professional associations, their officers and legal advisors, for the input that they have provided and officials and experts in my department and beyond, in the various professions and health disciplines represented, for their untiring efforts to put this self-governing legislation in order in their respected fields.

I want to say that the sense and principle of what Mr. Cherniack is proposing is certainly acceptable; in other words, it's certainly the intention of my ministry to continue to examine and re-examine and re-evaluate these professional bills and proposals for other health professions bills that will come before us and achieve that kind of uniformity and conformity that I think all of us on this Committee, up to a point, see as desirable.

But I want to say, Sir, and I know that Mr. Cherniack will understand what I'm saying, that for many, many years, those professions who have been represented before this Committee this year and those who came before it last year, had possessed ambitions, legitimate ambitions to have self-governing legislation, to have autonomy with the parameters of responsibility and to have legislation reflecting that and that many unsuccessful efforts and many false starts towards achieving that aim litter the history of the past few years in this province.

Had we waited to get all-embracing umbrella legislation that would have made it possible to bring all these disciplines in under some general umbrella of legislative conformity, they would not have their professional legislation today, and the nurses wouldn't have got it last year and others who are aspiring to it would not have it next year. That exercise, Sir, has been a very complex and difficult one. I know that Mr. Cherniack worked on it for some time; I know other provinces have worked on it; from the day that I came into office, my officials and I have worked on it.

There are pros and cons that can be advanced for that type of legislative approach anyway. We have done the best we could in the spirit of encouraging these health professions to have their own legislation and in the spirit of recognizing their right to it.

As Minister of Health, my primary concern has been legislation that the Minister of Health and members of the Legislature can live with. The ambitions of the respective professions and associations have been tempered and winnowed by expert opinion and counsel brought to bear on their proposals, both before their proposals have reached this legislative stage and during this legislative stage.

Sponsors of the bills in each case have attempted to familiarize themselves as fully as possible with the subject matter of the respective bills but in the final analysis, the only way that the legislation that we have achieved could have been written and approved to this point, is by going through this kind of exercise. I appreciate the Committee's participation and co-operation in this exercise.

I think those who are most grateful are the members of the respective health professions concerned, because I have no qualms about suggesting that had we tried it any other way, they would still be waiting for their legislation. This way, they've made some progress; I think they're probably all relatively grateful to the Legislature for moving this far down the road.

Having said that, I would conclude, Sir, by saying that certainly I would not be prepared to endorse any formal motion from this Committee to the effect suggested by Mr. Cherniack but I can certainly give him my undertaking that our department is working in that direction and will continue to work in that direction.

MR. DEPUTY CHAIRMAN: To the Members of the Committee, we still have two more bills to proceed with and I would like to proceed with these bills.

Mr. Hall.

MR. HALL: Mr. Chairman, I'd like to thank you on behalf of the Manitoba Association of Respiratory Technologists and the Special Act Committee members for the opportunity to appear before you the last few afternoons and evenings.

MR. DEPUTY CHAIRMAN: And mornings.

MR. HALL: It's a pleasure to take part and participate in the legislative process and we are indeed grateful for your assistance and everything that's gone before it. Thank you very much.

MR. DEPUTY CHAIRMAN: Well, just before you leave, I found it a little bit humourous just at the very end of it when Mr. Cherniack was making some remarks about sexist remarks and I notice where he had said that your "grammar" is bad, I would have hoped that he would have said your "grandpere" is bad also.

MR. HALL: We followed the human rights format on that clause, Mr. Chairman.

MR. DEPUTY CHAIRMAN: Bill 47, first, unless there's anybody here from the architects group. — (Interjection)— He has agreed? Fair enough.

To Members of Committee, we are now on Bill No. can I have your attention please? If it's agreed, we will carry on with Bill No. 47, The Interior Designers Association of Manitoba Act.

BILL NO. 47
THE INTERIOR DESIGNERS ASSOCIATION OF MANITOBA ACT

MR. DEPUTY CHAIRMAN: Item under discussion, 1(1) — pass; (2) — pass; 1 — pass. 2 — pass. 3(1) — pass; (2) — pass. Have I got an amendment here? I have no copies of any amendment. Mr. Steen.

MR. WARREN STEEN (Crescentwood): Mr. Chairman, I move that Subsection 3(2) of Bill 47 be struck out and the following subsection substituted therefor: "Election and appointment of councillor. 3(2) The council shall be comprised of: (a) not fewer than 6 or more than 21 members appointed or

elected as provided in the by-laws of the association; and (b) two persons who are not members of the association, appointed by members of the Executive Council charged with the administration of The Consumer Protection Act.''

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: 3(2)(a) as amended — pass; (b) as amended — pass; (2) as amended — pass. 3(3) — pass; (4) — pass; 3 — pass.
Mr. Cherniack.

MR. CHERNIACK: On a preliminary view of the beginning of this bill, it looks to me like it does follow the format of The Registered Nurses. If I'm right, I wonder if we could have indicated to us those areas where it differs and I have to confess, I'm getting pretty tired out and if we can rely on what we're told, then I for one would like to speed it up, if we can have some kind of assurance as to differences from what we've been doing. It may be a foolhardy way of doing it, but I'm wondering . . .

MR. DEPUTY CHAIRMAN: To the sponsor of the bill, Mr. Steen, would you care to — or can we ask Mr. Anhang, the legal counsel, to make his remarks?

MR. STEEN: Or the draftsman of the bill, who is Mr. Tallin.

MR. DEPUTY CHAIRMAN: Mr. Tallin.

MR. RAE TALLIN: It was largely drafted by Mr. Anhang. All I did was change some of the formating and some of the language.

MR. STEEN: All right. I would suggest to Members of the Committee, let's have Mr. Anhang come . . .

MR. DEPUTY CHAIRMAN: Agreed. Mr. Anhang.

MR. STEEN: to the lectern and if he would, in the fastest form he can . . .

MR. DEPUTY CHAIRMAN: Abe, would you like a little box to stand up on?
—(Interjection)— You can only do it with old friends.

MR. ABE ANHANG: And with people of the same first name, Mr. Chairman.

MR. STEEN: To Mr. Anhang, through you, Mr. Chairman, did you hear Mr. Cherniack's question?

MR. ANHANG: Yes, I believe he did. What he would like to do is have me go through it clause-by-clause, a comparison? Okay, then, just a comparison of the differences between the Medical Act or . . .

MR. DEPUTY CHAIRMAN: Just everything that's different, Abe.

MR. ANHANG: The Medical Act or the Registered Nurses Act?

MR. CHERNIACK: What did you use as your precedence?

MR. ANHANG: The Registered Nurses Act.

MR. CHERNIACK: The Nurses'.

MR. STEEN: Through you, Mr. Chairman, to Mr. Anhang, you can just point out the areas that Bill 47 differs from The Registered Nurses Act, and those items can be discussed; otherwise, I think we have an agreement that we can move very quickly.

MR. ANHANG: Well, speaking in principle, Mr. Chairman, first of all under the regulations, 5(e), there's a requirement here for what we called the ''grandfather clause'' the other evening, to define by education, experience or otherwise general specialized areas of interior design. This is an area of power entrusted to the council. They can operate through regulations. This would entitle them to indicate the persons who are entitled to be registered, persons who are qualified otherwise than by an academic degree, persons who by virtue of their experience, through their general or specialized areas of work, should be registered as interior designers. This was the major concession, Mr. Chairman, to the ACID people who would initially have been totally opposed and then, as a result of some of these changes in our Act from the first draft last year, they decided to either be neutral or support us. That's the first major item under Subsection 5.

MR. CHERNIACK: Are you saying this is the grandfather clause?

MR. ANHANG: No, there are other grandfather clauses in the regulations, which have already been drafted, and when we submitted it to the legislative counsel, they were there. They are, of course, not attached to this.

MR. CHERNIACK: It is my opinion that you don't have a grandfather's clause here.

MR. ANHANG: This is the enabling legislation, Mr. Chairman, through you, to allow the council to make the regulations. Without this enabling legislation, the council would not have the power to make that regulation.

MR. CHERNIACK: I'm aware of that but there's nothing in this Act that compels the association to accept any person who does not measure up to the council's standards. In other words, there's no grandfather clause. It doesn't say anybody who has been practising interior design for the last 20 years, regardless of their educational background, shall be considered to be a member of this organization. That's what I understand a grandfather clause is.

MR. ANHANG: Mr. Chairman, that would be a very general grandfather clause; in other words, anyone who said that they have been practising for 21 years would automatically be deemed to be registered.

MR. CHERNIACK: Yes.

MR. ANHANG: The clause isn't that broad. The clause says simply that people who come forward, and if the council accepts it, they, by virtue of experience, are entitled to be registered. That would be the way that would be done, but it isn't an automatic grandfather clause, no.

MR. CHERNIACK: Mr. Chairman, I wonder if at this stage the committee will permit me to voice my major concern about the entire bill. That is, and I think I expressed it when we had the brief presented to us, that the words "interior design" to me are part of the common language of our province and, therefore, what the petitioners are asking for is to take unto themselves the exclusive use of these couple of words, and that worries me very much.

When I hear of a grandfather clause, in my concept it would be that everybody who up to now has been using that "interior design" designation, good, bad or indifferent but using it, would be included now in the organization so that for the future we can start refining the qualifications required for future entries into the field but would not reject out of hand, in advance, people who have believed that they were in the business of interior design and have some kind of a following.

To me, a grandfather clause says we will take everybody into the family and then we will start reviewing, disciplining and considering all those members of the family, those that we wanted or came into the family by accident and we will start building our standards. That is my main concern.

I would have no problem in this entire bill if you weren't asking for that specialized right to take those words and keep them, "interior design," for yourself. But when I mentioned that to — was it Miss Stinson? — I was told, "Well, if you take that away from us, we don't need it, because if all you give us is the right to say member of the IDIM, we've got that now and we don't need it."

So that is my problem and that is why I tell you that I do not believe that you have a grandfather clause in this bill, and that what you have is, as you say, the opportunity to create a limited form of grandfather clause, which I honestly believe all other professions have because they have to spell out qualifications, which are not necessarily limited to a degree from any particular recognized institution.

I'm sorry I took this time, Mr. Chairman, but that is my concern about this and I'm wondering if Mr. Anhang wants to propose anything to accommodate my concern.

MR. ANHANG: First of all, Mr. Chairman, under Clause 7, Sub. 5, we have the provision that the applicant who has been refused membership under any category of Section 5 may apply, first of all, for an appeal to the council and secondly under section 37(1), if he's still dissatisfied he may apply to the court and there, Mr. Chairman, I believe that the type of evidence that would probably be required would be called before the court, and that would be dealing with the man's background.

MR. CHERNIACK: Are you sure it wouldn't be dealing with your regulations, for the court to decide whether it conforms to your regulations?

MR. ANHANG: No, because the wording under the 37(1) is very broad. It says "any person whose registration has been refused may appeal from the decision of the council to a judge of the Court of Queen's Bench within any time after 30 days." It doesn't say that the judge must restrict himself to the regulation or its validity.

MR. CHERNIACK: Mr. Anhang, would you not agree that the judge will be influenced by the regulations as they are established, to say, "Well, these are standards that the council has set and they are a self-regulating body and who am I to interpose my opinion on the regulations," which is really what it would be, on the regulations.

MR. ANHANG: Mr. Chairman, in response to that, there are a number of cases where even by-laws have been held to be ultra vires, of associations — I'm talking about self-governing associations where they have not acted and dealt fairly with an applicant.

Now, the flip side, if you will, the over-side, Mr. Chairman, of what is being suggested here, I think, creates a great many more hazards than perhaps what the solution might be. If everyone who has listed himself, for example, in the yellow pages as an interior designer, everyone who has called himself an interior designer for the last five or ten years, is entitled by virtue of an all-encompassing grandfather clause to continue to call himself an interior designer, then I would suggest to you, Mr. Chairman, that the impact and the strength of this bill is totally eroded.

MR. CHERNIACK: What about 20 years from now?

MR. ANHANG: It depends what he's been practising. If a man has been a painter and a decorator . . .

MR. CHERNIACK: In 20 years from now, would you not have weeded out the problems and have indeed a profession known as an "interior designer" whose standards are recognized like the chartered accountants are now, they having taken a long time and never asked for what you're asking for?

MR. ANHANG: The difficulty is it would take one entire generation.

MR. CHERNIACK: Yes, that's right.

MR. ANHANG: And I submit to you, Mr. Chairman . . .

MR. CHERNIACK: How many generations have you had up until now that have suffered?

MR. ANHANG: I believe there's been one or two. I'm suggesting to you that we've had enough suffering and that we cut it off. Another safeguard, Mr. Chairman, is this. We've indicated that on the committee that would be setting the standards for the grandfather clause, we're designating a gentleman who has, by virtue of his own experience, qualified. He did not come in by his academic qualifications. I would expect that a gentleman of that kind, Mr. Girling — his name was mention in a letter the other evening, that I read in — I would think that a member of that kind would have a greater sympathy for allowing in qualified people by virtue of experience, perhaps, than an academic would,

Supplementary to those comments, Mr. Chairman, I would suggest to you that the grandfather clause is fair. It depends totally, I admit, on the fairness of whoever is sitting on that committee, plus on the fairness of the council if there's an appeal, plus the Court of Queen's Bench.

MR. WALDING: Mr. Chairman, I share Mr. Cherniack's concern about trying to get exclusive use of a term that is generic and I think fairly widely used. We've seen the physiotherapists come to us and speak about registered physiotherapists and about dietitians who want to be registered dietitians. They have no wish or desire, nor are they asking us —(Interjection)— Registered Respiratory Technologists, yes, another one. . . . who are not asking for the exclusive use of a very generic name. They are satisfied to hold for themselves a title "registered" in each case.

Now, I note that that is not being asked for in this case, which would seem to me to be perhaps indicative that those interior designers who are registered have met a certain standard, but that in itself would not be exclusive use of a very generic name. That's my concern.

MR. CHERNIACK: He said that 5(e) was designed to provide a grandfather clause opportunity but 5(e) is exactly the same as the Nurses, so you could use it that way but I thought you were showing us differences between this drafting and the MARN.

MR. ANHANG: I was indicating the highlights of our bill as to where we felt it would be important.

MR. DEPUTY CHAIRMAN: I think rather than the highlights, to Mr. Anhang, I think that the differences are really what have been requested, so that we can pick those differences and proceed to the bill as quickly as possible.

MR. ANHANG: If one goes through the MARN bill, up to paragraph 7, we're verbatim, bang on. Under paragraph 8, "unauthorized practices" the only difference is that we have excluded expressly the architects under 1(2) and it makes reference to that in our Section 8.

MR. CHERNIACK: Could you clarify that?

MR. ANHANG: Sure. Unauthorized practice, we are saying in paragraph 1(2) that anyone qualified to practise architecture pursuant to The Architects Act, shall continue to do so even though it may be that they are carrying on the practice of interior design. In other words, this bill does not disqualify an architect from carrying on an interior design practice.

Paragraph 9 is fundamentally the same, inspection of the register . . .

MR. CHERNIACK: Under 8(2), what now happens to those people who call themselves interior designers who are not, in your opinion, interior designers? What do they do? How do they earn a living?

MR. ANHANG: They'll continue to do what they're doing except they'll have to either attempt to qualify and become a member . . .

MR. CHERNIACK: Well, that's no problem, but if they don't?

MR. ANHANG: If they don't, they'll continue to do what they're doing except they will not call themselves interior designers.

MR. CHERNIACK: What will they say?

MR. ANHANG: It depends what they're doing. If they are florists, they'll call themselves . . .

MR. CHERNIACK: Suppose they're interior designers today, what will they call themselves tomorrow?

MR. ANHANG: First of all, if they are interior designers today and they are actually doing interior design, they should in all likelihood apply for registration.

MR. CHERNIACK: But, Mr. Anhang, you said that you won't take anybody who has been at it for 20 years just because he's been at it.

MR. ANHANG: I said we would, providing he has been doing the work of an interior designer.

MR. CHERNIACK: No, you said providing he has the qualifications that you measure, under 5.

MR. ANHANG: Well, someone has to, Mr. Chairman, set the qualifications. Is it to be the applicant himself?

MR. CHERNIACK: I'm really suggesting to you, and I'm not playing with words and you please do the same with me. There is a person — I don't know his name but your membership may — who has been considering himself and who has been considered by certain members of the public to be an interior designer, and his qualifications do not measure up to your standard. Maybe he takes kickbacks, maybe, but for some reason you don't think that he qualifies. Maybe he's colour-blind; that may be another feature. How does he earn a living tomorrow? Is he prevented from doing what interior designers do or is he prevented from calling himself an interior designer? If he is prevented from calling himself an interior designer, does he then say, John Jones, interior decorator, formerly known as interior designer?

I am very serious because under 8(2) he can't sue for his fees.

MR. ANHANG: Well, 8(2) would be that he can't sue for fees that he should be collecting, in his mind, if he has done work as an interior designer and at the same time held himself out as an interior designer. If he did not hold himself out as an interior designer but did the work anyway, he could be paid because this Act does not apply; the Act doesn't apply at all. You have to have the two items coincidental one with the other, the work of an interior designer plus he himself holding himself out as an interior designer. It's not intended to stop any person who is presently doing interior design work. This is a . . .

MR. CHERNIACK: Why don't you have capital letters for the word "interior designer"? The technologists do.

MR. ANHANG: We would have no problems putting it in capital "I", capital "D".

MR. TALLIN: Are you thinking of capitalizing 8(1) and 8(2)?

MR. CHERNIACK: No, capitalizing the "I" and the "D" from interior designer.

MR. TALLIN: In 8(1) and 8(2). I think that gets you into even a worse position because as 8(1) reads now, it does not prohibit — I don't read it as prohibiting a person calling himself an interior designer. It says he shall not hold himself or herself out for employment in Manitoba as an interior designer. And for interior designer read the definition as a person registered under this Act, and that's all he is prohibited from holding himself out as.

MR. CHERNIACK: Are you suggesting, Mr. Tallin, that I could announce that I am an interior designer?

MR. TALLIN: I think if the magistrate was going to be reading this carefully, that's what he would do. He would say, yes, you're not holding yourself out as a person registered under this Act. Under this, they are not even asking for protection of the name, I don't think.

MR. CHERNIACK: Are you saying that their whole intention is frustrated by this bill, because their intention is to restrict the use of the words . . .

MR. TALLIN: I think maybe they have not actually achieved that because I say you must read, wherever you see a defined term, when it's not in quotes, you have to look at the definition. The same would apply to 8(2).

MR. CHERNIACK: That changes the whole thing, doesn't it?

MR. ANHANG: Mr. Chairman, if the Legislative counsel's reading is correct, then obviously he's suggesting an amendment.

MR. CHERNIACK: That's not his job.

MR. ANHANG: If one comes back to the definition, Mr. Chairman, in 1(1), interior designer means a person whose name is entered in the register, in one of the rosters referred to in Section 7. The suggestion is that if his name is not in the register, he can still continue to call himself an interior designer without making reference to the register at all. Is that correct?

MR. TALLIN: I would think so, yes. To protect himself, he might even say unregistered, if he wants to.

MR. ANHANG: An unregistered interior designer. That would be an interesting one.

MR. CHERNIACK: Let's come back to the crux under 8(1), or 1(1). Would your organization accept the insertion of the word "registered" in front of interior designer? I think that's really the main issue.

MR. ANHANG: Mr. Chairman, I haven't seen any reference to registered medical doctors, registered lawyers . . .

MR. CHERNIACK: The answer is no? Because you have seen registered dietitians, registered nurses, registered respiratory technologists.

MR. ANHANG: I think the difference, Mr. Chairman, is that the other professions to which you have just referred, they are normally employed not directly by the public. They are normally employed by an institution of one kind of another. When you are dealing with the public, it's a question of confusion, or lack of it. For us to insert into the public vocabulary now a new word, the registered interior designer, I think wouldn't do very much, really, to unconfuse the situation that we have right now.

Dealing with Section 8, if I may again, if Mr. Tallin believes that it could be read in that way, it concerns me and perhaps we could suggest the addition of several words here to eliminate any ambiguity, if that is what he believes there to be in there.

MR. TALLIN: If what is intended was to protect the name, I would think you should back to the type of thing that many other people have, that no person shall use the descripion, interior designer, unless he is a member.

MR. ANHANG: Instead of holding himself or herself out, you are suggesting you would say, "except as provided in Section 1(2), no person shall practise." I don't think that word could be used.

MR. TALLIN: No, no, what I am saying is prohibit the use of the words in describing a person's business.

MR. ANHANG: So you would say, "no person shall designate himself" or call himself?

MR. TALLIN: Or use the expression interior designer.

MR. ANHANG: Okay.

MR. TALLIN: To describe his business or occupation.

MR. ANHANG: Call himself or herself an interior designer. Is that correct?

MR. TALLIN: Unless they are in the register.

MR. ANHANG: Or use the designation, "interior designer" unless his or her name is entered in the register and is in one of the rosters referred to in Clauses 7(2)(a) or (c). Is that correct?

MR. TALLIN: Yes.

MR. ANHANG: Well, this would be an amendment, Mr. Chairman, that is being suggested.

MR. DEPUTY CHAIRMAN: If you would write out the amendment and Mr. Steen, who is handling the bill, will be proposing it.

Are there any other differences in the bill that you would care to advise the committee of, Mr. Anhang?

MR. ANHANG: Yes, if you wish, I can go through them in just a second.

We have a Section 14, which deals with conditional registration, and that was formerly 15 in The MARN Act. This, Mr. Chairman, is designed to include members of sister organizations such as ACID.

MR. CHERNIACK: Who is ACID?

MR. ANHANG: The industrial designers. They felt that since certain of their members do practise in certain specialized areas of interior design, they would like to have the opportunity of being conditionally registered. Now a conditional registrant under this Act would be one whose name would appear on the register but who would only be entitled to practise in certain limited areas, such as museum design, retail store design, and that type of thing, without having the right, automatically, to design houses, to design office buildings, the interiors of office buildings, and so forth.

When we start getting to 17 and thereafter, just prior to 17, we had deleted several clauses dealing with employer's responsibility. Now, this was a question of what would happen if an employer had inadvertently or perhaps intentionally hired a non-registered interior designer, or a person who is not registered, to do interior design work for them and the onus under those sections, and it's contained in Section 17 of The Registered Nurses Act, the onus was on the employer and it was an offence for the employer to actually employ somebody in that capacity and the onus was on him to check the register. We have done away completely with that offence as against an employer.

The complaints committee and the procedures dealing with the investigation chairman are fundamentally the same. We have involved in the establishment of the discipline committee the provision for a person who is a non-member of the profession to sit on that committee; he is one of five in total. Similarly, with the discipline committee, two of the members on the discipline committee are appointed, again, by the executive of the government here, so that at those two levels, in addition to the council level which we have put in as an amendment this afternoon, at all three levels, we now have lay representation, all three levels.

Dealing finally with the costs matter, which have been raised several times, we have that covered in Sections 32(3) and 36(6). The first reference says the council may award costs against any member of the association, and this is the other part of it, it may also reimburse any member of the association for costs incurred through disciplinary action if, in the opinion of the council, the action was unwarranted. In other words, there is compensation where there was an unwarranted disciplinary action against the individual. Thirty-six even goes broader again. The council may make any award as to the costs of an appeal that it considers appropriate. This, I suggest to you, Mr. Chairman, is broader than almost of the Acts we have heard of in the last several days.

Those are the fundamental differences. I could go through line-by-line and clause-by-clause, Mr. Chairman, but . . .

MR. CHERNIACK: I just want to zero in on "appeal to the Court of Queen's Bench."

MR. ANHANG: Section 37?

MR. CHERNIACK: Yes, 37(1). Would you agree to the kind of wording that I know we have somewhere, where any person who feels aggrieved by any decision of the discipline committee or council may go to the Court of Appeal, which may review the decision anyway and substitute its own opinion. Somewhere or other we have some much broader jurisdiction given to the court than I think appears here. Would you agree to that? I would have to look to find that, but I'm sure I can.

MR. ANHANG: Does that now appear, Mr. Chairman, in any of the other Acts that have been looked at in the last couple of weeks?

MR. CHERNIACK: Yes, that's what I am saying, that I believe it does.

MR. ANHANG: Could I have a look at it?

MR. CHERNIACK: The Physiotherapists — I'll read it quickly and you can follow yours: "Any person whose registration is revoked or suspended or whose registration is continued subject to conditions, who has been refused admission to the association, who is dissatisfied with the decision of the board . . . " made under Section 43, which is the same as 36. That would bring in the costs, wouldn't it?

But then under the Physiotherapists, there is the addition after roster, the phrase "who is dissatisfied by a decision of the board made under Section 43." I would think you wouldn't have an objection to that?

MR. ANHANG: Might I just see that in writing?

MR. CHERNIACK: Sure, I can't show it in writing but I can try and print.

MR. TALLIN: Are you worrying about 37(1)?

MR. CHERNIACK: Yes I want it to be as broad as possible.

MR. TALLIN: Well then you could just say "or any complainant who is dissatisfied with the decision of a council in respect of his complaint". Just add those words.

MR. CHERNIACK: Yes?

MR. TALLIN: Yes, just leave it the way it is with those words added.

MR. CHERNIACK: Or any . . .

MR. TALLIN: . . . complainant who is dissatisfied — well prepare it as a motion.

MR. CHERNIACK: That's complainant, I want to include the person also, who is dissatisfied with the decision under 36(5). Which means anything.

MR. TALLIN: You're bringing new parties in, who weren't parties before.

MR. CHERNIACK: Any person . . .

MR. TALLIN: That's anybody in Manitoba. I am dissatisfied with the decision on your complaint against somebody. I can bring an appeal, I wasn't party to it before?

MR. CHERNIACK: Any person whose registration has been revoked etc.

MR. TALLIN: Yes.

MR. CHERNAICK: Where is that. Was it the Physiotherapist Mr. Anhang?

MR. ANHANG: Yes . . .

MR. CHERNIACK: Who is dissatisfied by a decision of the board. Oh I see, you're saying, well I would say any complainant or such person — any person whose registration has been revoked, had been refused admission or who — I want to bring in that person who is the member, any member who is complaining against a decision made under 36(5) or any complainant.

MR. TALLIN: Any member . . .

MR. CHERNIACK: All right, but the member who is affected by the decision under 36(5) or who is a subject of the decision of 36(5).

MR. TALLIN: Well that would be a person whose registration has been revoked or suspended or who had . . .

MR. CHERNIACK: Or whose order's been varied or who has had an order of costs against him, or against any finding under (a). It's broader, that's my point and I want to bring in all of (5). How about saying — well I don't have to word it but that's what I'm getting at and I don't think Mr. Anhang should object to that.

MR. ANHANG: I don't have any major objection. I don't know that it adds a great deal to it "who is dissatisfied by a decision of the board". The only dissatisfaction he could have is with the finding that his registration is revoked, suspended, etc. or whether the amount of the costs is too high. I can't think of anything else he could be dissatisfied about.

MR. DOWNEY: I have a question Mr. Anhang and it's one that, I'm wondering if you really feel you need it and that's 41(1), the principle that was in the other bills, where in fact if a doctor or someone was practising or handling another persons life and became incapable through some problem of his, do you really need that same kind of power in dealing with an association such as yours, where you could put somebody out of business, under the power that you're given on that particular part. I have a little difficulty when you're not dealing with the life of another individual; if you could explain why you would need it, I would appreciate it.

MR. ANHANG: You see the reason of 41(1) of course, simply provides for the reporting of a physical or mental disability. It doesn't provide right there for the disciplining or expulsion of the member. Taking an example — and I'm not suggesting to you that it's necessarily one that now is existent in the profession, but let's say there's an interior designer who is an alcoholic. Now I don't know whether that's physical or mental. I'll admit in the legal profession we had that problem; we didn't know which it was and the amendments that we've put through the Law Society Act recently, really have dealt with that indirectly. But let's say something who was practising, really was a menace to the public, because of his alcoholism. The question would be, who is to turn the fellow in or the lady in? Who would make the report?

We're saying here that any member or associate member of the association should do the reporting; they should advise the council of what's going on and then of course, the normal complaint procedures would take effect; the investigation would take place and if necessary a charge would be laid, etc. etc. I think that perhaps alcoholism, as an example only, could be, even in this profession, it could be a hindrance to the proper carrying out of the man's job.

MR. DOWNEY: Well I appreciate the response, but I still can't, as I read it here, you could actually prohibit a person from practising or have him, if you follow it through for — if he continued to practise afterwards he could be subject to the fine and everything else and I'm just looking at society as a whole, when it is giving someone the right to report on another person, if they're incompetent to do their job, I don't think any one other group in society has that, other than those groups that are dealing with the lives of the public at large in a responsible manner.

MR. ANHANG: Mr. Chairman, it's not a section that is that fundamental to the entire Act. It's one where it was an enabling matter, I mean a member could still make the report anyway. This was to assist them and maybe to encourage it, but it's not that fundamental to the bill. We're not standing or falling on it.

MR. SHERMAN: Mr. Chairman, I'm inclined to agree with Mr. Downey on that point and with respect, I don't think alcoholism is a good example. If that's the only example then I don't think this section should be in here because I don't think that it's up to a professional society or association to make the determination as to whether somebody who is an alcoholic is a danger to the public or not.

I think that is the responsibility that relatives and friends and colleagues undertake and I would think that it goes far beyond the kind of judgment that should be vested in a professional society, other than one dealing with the lives of the public. There might be some examples where the public was at risk, if an interior designer was ill. I think there are probably lots of people walking around who are either alcoholics or incipient alcoholics in all fields. There may be certain individuals who are a menace to the public when they get behind the wheel of a car, in fact there no doubt are, but that has nothing to do with the profession of interior design. I would have to add my voice to those that have questioned the need for the section.

MR. CHERNIACK: I have two more angles I want to discuss. Firstly is your 37(4). It differs from The MARN Bill and it is the same as The Physiotherapy Bill which we changed back to The MARN Bill. Is there reason why you swung along with the physiotherapists away from The MARN Bill.

MR. ANHANG: If Mr. Cherniack could just indicate what the difference is between the two.

MR. CHERNIACK: Oh I thought you caught that . . .

MR. ANHANG: One is the absence of recorded evidence.

MR. CHERNIACK: The MARN Bill says, third line, "but a transcript thereof, cannot be obtained" and then it goes on to say "the appeal before a judge of the Court of Queen's Bench shall be a trial de novo", —(Interjection)— and your wording is the same as the physiotherapy and we changed it back to The MARN Bill.

In other words we said the court should not go . . .

MR. ANHANG: If you don't have a transcript then you should have a . . .

MR. CHERNIACK: You see and the way you have, is if they have inadequate reporting, the court should take what they've got, what little they have left and deal with that or else send it back to the council, or . . . discipline committee for a new hearing, which I think is wrong in principle and the committee thought so, that's why we didn't accept that wording in physciotherapy. What have you got to say?

MR. ANHANG: Well if the committee is on record at the moment on another bill, saying that trial de novo would result, far be it for me to dispute that. I'm just wondering why if it should happen at the hearing, there's no transcript, that the effect of having no transcript should be that there's a trial de novo in front of a judge.

MR. CHERNIACK: Because if there's no transcript, the council would still there and listened to it and made a decision. And to say go back and hear it again just because we haven't got the evidence would in no way indicate a new and fresh review by an appeal body. Instead they'll say, go back and hear it again. Well they heard it once, why should they change it?

MR. ANHANG: In other words the penalty for not having had the transcript is that the judge would hear it on a trial de novo. That's what you're saying basically.

MR. CHERNIACK: They call that a penalty, I should think that . . .

MR. ANHANG: Well that's what it would be.

MR. CHERNIAK: I should that's a benefit to the appellant who says, here, I want to be heard by a new body. Anyway, I don't speak for the committee, I only tell you that in the Physiotherapy we switched it back.

MR. ANHANG: We would agree to go along with the same way it's written in The Physiotherapists Act.

MR. CHERNIACK: I have a third and probably my final question. I've been around these corridors for too many years, like 19 of them, and sometimes I get a feel for what's going on and sometimes I'm wrong.

I have the impression that your bill is in trouble. I don't mean in this Committee; I mean in the halls. And I have the impression that it may fail because of the interior design designation that you want. I don't know how to tell this to you, other than give you my opinion and that is — and I may be wrong, so don't be guided by my impression but think of it; that if it goes into the House this way, it might be voted down, which is okay — I mean that's a chance you take; you've been waiting for years to get it through.

I also have a feeling and it's only a gut feeling, not based on any investigation, that if you were prepared to accept a designation such as, an appellation I suppose, such as "Member Interior Institute" or "Registered Interior Designer" it might have a better chance and I may be completely wrong with my suggestion, but once you get it in the House you don't have the choice and I therefore suggest to you, you can let it go this way; see what happens; if it fails, come back next year with an accommodation or you could make the accommodation now and maybe you won't succeed and maybe you will and I'm throwing it out to you, not for an immediate reaction and I am only one of a committee and politically, I'm in a minority position.

So I'm just throwing it out to you and I don't know how you should answer that question but I thought in all fairness I should say it openly rather than in the hallway to you privately. I am not even asking you to respond to that. I think that from what I have heard I could deal with this bill now fairly quickly with only a few sections that I would like to indicate, in my opinion, should be changed. Then I think it could go to the House to be dealt with there. I don't know if I went beyond what I should have done in committee, I just give you my opinion.

MR. WALDING: Mr. Chairman, I don't know whether it's of help or not but I notice it is just after 5:00, we normally adjourn at 5:30. I wondered if this might be an appropriate time for the committee to adjourn and if we're to come back this evening, perhaps come back at 7:00 instead of 8:00.

MR. SHERMAN: Whether we can or we can't I think there would be some question about obtaining a quorum for tonight. I certainly am not able to be here this evening.

MR. CHERNIACK: We are so near the end of our work it would be a pity to — well I suppose we'll have to come back Monday.

MR. STEEN: Mr. Chairman, I would say that if this bill and The Architects bill don't get past the committee today, there is about an 85 percent chance they will be left on the table and they will never be voted on this session.

I have my suspicion that the Government House Leader will not call this committee again.

MR. CHERNIACK: Mr. Chairman, there is no use taking time debating it, but I would like to think that we are giving it a proper review and if we need a half an hour or so on Monday the House Leader will make it possible. If he doesn't then will have our comments to make about . . .

MR. DOWNEY: Mr. Chairman, I wonder if we couldn't just try looking at the amendments as they have been introduced for discussion and could be put in at third reading if that would be the desire in the House. I have no problem with the bill other than

the part that I pointed out which I would ask for deletion on 41(1) as far as I'm concerned and 41(2).

MR. DEPUTY CHAIRMAN: To the members of the committee, I would think rather than waste the time debating it, can I start off and we will see how far we can proceed and if I can proceed page by page and you just interrupt as we get to a position. I would like to try and get them finished so that we can present them to the House, everything that has been given to this committee to do.

Okay, we will start off. Page 1 — pass; Page 2 as amended — pass; Page 3 — pass; Page 4 — pass; Page 5 — Mr. Steen.

MR. STEEN: I have an amendment that was discussed between Mr. Tallin and Mr. Anhang. 8(1), motion, that subsection . . .

MR. CHERNIACK: Section 8(1)?

MR. STEEN: Yes, remember Mr. Tallin said he would try and rewrite it. That Subsection 8(1) of Bill 47 be amended by striking out the words, "hold himself or herself out for employment in Manitoba as an interior designer" and substituting therefor the words, "use the name or designation interior designer as a description of himself or herself for the purpose of carrying on any business or occupation or in connection with any business or occupation."

MR. DEPUTY CHAIRMAN: You have heard the motion. Is it the pleasure of the committee to adopt the motion? I declare the motion passed.

Page 5 as amended — Mr. Walding.

MR. WALDING: On a point of order, Mr. Chairman. Further to what I spoke about just a few minutes ago about sitting this evening, the Speed-up motion does say 2:00 to 5:30, sorry, 10:00 to 12:30, 2:00 to 5:30, and in the evening 8:00 p.m. until adjournment time from Monday to Saturday both days inclusive. So according to the Speed-up motion we could sit this evening, but the Clerk tells me that according to the notice of the committee it was for 10:00 and for 2:00. Now whether that would permit us to sit again this evening or not?

MR. CHERNIACK: Does that mean that we can sit beyond 5:30 until 6:00 if necessary?

MR. DEPUTY CHAIRMAN: Yes, I think, as the Clerk had mentioned, that it was on the notice from 2:00 — I don't think it said finishing at 5:30, but it doesn't give us permission to come back at 8:00 o'clock. — (Interjection)— Well I think that we can proceed and I think that we can get this . . . Okay.

Page 5 as amended — pass; Page 6 — pass; Page 7 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I move that we delete sub-clause (d) at the top of the page and reletter (e) to (d). I think that's what we've been doing.

MR. DEPUTY CHAIRMAN: That's (d) where a member has been suspended.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 7 as amended — pass; Page 8 — pass; Page 9 — pass; Page 10 — pass; Page 11 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I move that we add in 31(7) in the first line after the word, "attend" a clause — shall I say similar to — a clause to the effect that unless reasonable excuse has been provided to the said inquiry. I don't remember the exact wording but do you need it?

MR. TALLIN: The same wording as was used in The Medical Act.

MR. DEPUTY CHAIRMAN: The same wording? Fair enough.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 11 as amended — Mr. Cherniack.

MR. CHERNIACK: 31(8) Mr. Chairman, I move — I'm looking for 36(8) of The Registered Nurses, I don't know why they left it out but I think it belongs — to add at the conclusion of the Section as printed, "and the person or his 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." Having moved it I would invite Mr. Steen to give a reason why not to do it.

MR. STEEN: Mr. Anhang, was that an oversight perhaps?

MR. ANHANG: I think that should go in.

MR. STEEN: All right.

MR. CHERNIACK: So then I would move that it be the same as Clause 36(8) of The MARN Act. Is that simple enough, I mean straightforward enough?

MR. DEPUTY CHAIRMAN: That would come under Page 11?

MR. CHERNIACK: Yes.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 11 as amended — pass; Page 12 — pass — Mr. Cherniack.

MR. CHERNIACK: 32(3) we have the problem that has arisen before, that the discipline committee — oh, no, I see, wait a minute. We agreed that the board . . . — did we make a change there? Did we say the discipline committee to award costs and the board to reimburse? Mr. Sherman, do you recall just how we handled that.

MR. SHERMAN: Yes, Mr. Chairman, we have provided that the discipline committee may award costs and the board may, on request or in response to a request from the person or member, reimburse any member for costs incurred through disciplinary action if in the opinion of the board, or in this case the council, the action was unwarranted. — (Interjection)—

MR. CHERNIACK: 32(3).

MR. TALLIN: What section is the other act?

MR. SHERMAN: Well make it conform to . . .

MR. TALLIN: That's what I want to know, conform to what?

MR. SHERMAN: Wait until I find my Physiotherapists Act. Make it conform to 38(3) of The Physiotherapists Act.

MR. DEPUTY CHAIRMAN: 38(3)?

MR. SHERMAN: Yes. 38(3) Bill 21. That was the debate we had last night.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 12 as amended — pass; Page 13 — pass; Page 14 — pass; Page 15 — Mr. Cherniack.

MR. CHERNIACK: On 37(1), Mr. Tallin, wrote out the amendments, I would think. Subsection 37(1) of Bill 47 be amended by striking out the first four lines thereof and substituting therefor the following lines: 37(1) Any person in respect of whom the council has made a decision under Section 36 or any complainant in respect of whose complaint the council has made a decision under Section 36, may appeal from the decision of the council — and then it goes on — to a judge — which I believe is all encompassing. May I ask, Mr. Tallin if that includes an application for a membership that has been rejected.

MR. TALLIN: I think so.

MR. CHERNIACK: That's probably the most vital to them to have a grandfather's clause.

MR. ANHANG: 37(1) has direct reference to that.

MR. TALLIN: Yes, leave that reference in then, I guess, and any person who has been refused admission to the association . . .

MR. CHERNIACK: Why, Mr. Tallin, couldn't we just take your wording and put it right at the beginning of the section and then continue the whole section? It may be somewhat redundant but it can't hurt. Then I would change my amendment, Mr. Chairman, to say that the subsection be amended by adding thereto at the beginning thereof the following words. Shall I read it again or not bother?

MR. TALLIN: No. Not necessary.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 15 as amended — pass — Mr. Sherman.

MR. SHERMAN: 37(1), Mr. Chairman, I just want to be sure that that permits an appeal with respect to any order with respect to costs.

MR. CHERNIACK: I thought so because of the (d). 36(5)(d) confirm or vary any order as to costs.

MR. SHERMAN: That's what the council can do.

MR. TALLIN: The person who objects to the award of the discipline committee on costs would appeal to the council first. Then the council would decide it under 36(5) or 36(6) and he would then be able to appeal under that to the court.

MR. DEPUTY CHAIRMAN: Page 15 as amended is passed. Page 16 — Mr. Cherniack.

MR. CHERNIACK: No, no, 37(4), Mr. Chairman.

MR. DEPUTY CHAIRMAN: 37(4) that's still on Page 15.

MR. CHERNIACK: Yes, the very bottom.

MR. DEPUTY CHAIRMAN: Okay.

MR. CHERNIACK: Mr. Anhang agreed to that change and I haven't yet found it but I will. To conform with — maybe it's simpler to say 42(4) of The Registered Nurses Act, or I could read it, whatever Mr. Tallin prefers.

MR. ANHANG: . . . Yes, I am. We had the discussion earlier about the trial de novo.

MR. CHERNIACK: I wanted to know if I have to read it to Mr. Tallin.

MR. TALLIN: No, no, I can look at The MARN Act.

MOTION presented and carried.

MR. DEPUTY CHAIRMAN: Page 15 as amended — pass; Page 16 — pass — Mr. Downey.

MR. DOWNEY: I would like to move we delete 41(1) and 41(2) on Page 16.

MR. DEPUTY CHAIRMAN: All right, I will call those two items separately. Clause 41(1) — pass — I declare it defeated. 41(2) — pass — I declare 41(2) defeated. Page 16 with the two clauses defeated — pass; Page 17 — Mr. Steen.

MR. STEEN: We have a very lengthy amendment, which was distributed by Mr. Tallin, and I'll just start it and we'll take it as printed. It's to do with professional liability and it's out of The Architects Act and, Mr. Chairman, it's very similar, I'm told by legal counsel, to what The Law Society Act or the lawyers have.

My motion is, Mr. Chairman, that Bill 47 be amended by renumbering Sections 43 to 47 as 44 to 48 respectively and by adding thereto, immediately after Section 42 thereof the following sections — and it's printed in front of all the members, rather than me reading it into the record, if we can take it as printed.

MR. ANHANG: With the exclusion of 41, of course, we'll have to move all the numbering back one, I believe.

MR. TALLIN: We'll renumber.

MR. STEEN: Would you accept that, Mr. Chairman, as a motion?

MR. DEPUTY CHAIRMAN: Unless I have anybody . . . (Agreed)

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: Page 17, as amended — pass; Preamble — pass; Title — pass; Bill be Reported — pass.

BILL NO. 22 — AN ACT TO AMEND THE ARCHITECTS ACT

MR. DEPUTY CHAIRMAN: Bill No. 22, An Act to amend The Architects Act. Page by page. We have some amendments? Just the one amendment?

Mr. Steen.

MR. STEEN: I just wanted, for Hansard purposes, to mention that Mr. Anhang is going to assist Mr. James S. Stirton, who is an architect and a member of their board of directors, but he isn't that familiar with the bill and hasn't spent a lot of time on the committee that is dealing with the bill. Unfortunately the architects that have been working on the bill are unavailable today. So Mr. Stirton will be representing the architects and Mr. Anhang has agreed to help him if he requires any legal help.

MR. DEPUTY CHAIRMAN: Mr. Tallin.

MR. TALLIN: You may recall that the other evening Mr. Cherniack asked me if I would contact Mr. McFeetors about an amendment with respect to lay people on the council and the amendment which I have just distributed was one which Mr. McFeetors and I discussed over the telephone only; we weren't able to get together. He indicated to me that the association had discussed the question of adding two lay persons and had generally agreed to the idea.

Mr. Stirton may be able to confirm that.

MR. STEEN: I discussed this with Mr. Stirton earlier and he has no strong objection to it.

MR. JAMES S. STIRTON: We have no strong objection to the amendment.

MR. DEPUTY CHAIRMAN: Page 1 — pass; Page 2 — Mr. Steen.

MR. STEEN: I move, Mr. Chairman, that Bill 22 be amended by adding thereto, immediately after Section 4 thereof the following section: Section 7(4)(1). Section 7 of the Act is repealed and the following section is substituted therefor. Can we take it as printed?

MR. DEPUTY CHAIRMAN: Agreed? (Agreed)

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: Page 2, as amended — pass; Page 3 — pass; Page 4 — Mr. Cherniack.

MR. CHERNIACK: I move that Section 9 be amended by deleting therefrom all words following the word "repealed." That's my motion. My recollection is that that was discussed. I don't remember to what extent or to what detail but I marked it that there is no need for them to have a schedule of suggested fees in the Act. If they want a schedule, they can have one —(Interjection)— Or not even by by-laws, just suggestions, and since they wouldn't be binding — I think there is no question that they may not be binding — the change in the Act is the old Act said that they can fix a minimum schedule, which is not only offensive to The Combines Act but should be offensive to the whole principle of free enterprise. That should smash it.

MR. DEPUTY CHAIRMAN: With that last remark, Mr. Cherniack, you have got one-half of the table thinking pretty seriously.

Mr. Steen, were you going to make some remarks?

MR. STEEN: No, I was just going to say that I agree with the amendment.

MR. DEPUTY CHAIRMAN: The amendment is on Clause 9.

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: On 13(4), I have a note, and I admit to you I don't remember — it's my scribble but I don't remember when it came about so I don't know if it was discussed — my note was in 4(a) to delete the words "acceptable to the council" and replace them with the words "as prescribed by the by-laws." I honestly don't remember whether or not it was discussed but I think it is rather important that the by-laws should be established to have some sense of understanding so that any applicant will be able to get the by-laws, read the by-laws, understand them, rather than worry about what the meaning will be of the council that will agree whether or not it's acceptable. I don't remember if that was accepted by the representatives or not.

MR. STEEN: Mr. Chairman, the architects can draft up their own by-laws and I see no objection to Mr. Cherniack's amendment.

MR. CHERNIACK: Replace the words, "acceptable to the council" with the words "as prescribed by the by-laws."

MOTION presented on the amendment and carried.

MR. DEPUTY CHAIRMAN: Page 4, as amended — pass; Page 5 — pass; Page 6 — pass; Page 7 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I must say I have a comment in the margin, under "Appeals" that I thought it was good, but that was a while ago. We have had lots of experience in the last few days. Could we just read it and see if we can improve on it? Of course, I agree with it. Would that include costs, Mr. Anhang? Have you studied that at all? Is there a provision for costs to be charged against a member?

MR. TALLIN: I don't see any costs, in a quick look at it.

MR. CHERNIACK: Of the Act itself? I don't either.

MR. TALLIN: Fifteen deals with suspension and you would normally expect it would go in through there somewhere.

MR. CHERNIACK: Okay, then I would say pass.

MR. DEPUTY CHAIRMAN: Page 7 — pass — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, they still insist on leaving that word "moiety" here, which I like so much; I'm glad they're leaving it in.

MR. DEPUTY CHAIRMAN: Where?

MR. CHERNIACK: In the Act, "one moiety of the fine shall be applied to a consolidated fund." As a past Minister of Finance, I enjoy that very much. Secondly, I would like to point out, we have just approved of a trial de novo.

MR. DEPUTY CHAIRMAN: I was going to ask if somebody could give me the correct spelling of moiety.

MR. CHERNIACK: M-O-I-E-T-Y.

MR. DEPUTY CHAIRMAN: Thank you. Preamble — pass; Title — pass; Bill be Reported — pass.

Thank you very much. Before we have the committee rise, I, too, would like to say thank you to all the members of the committee and the people making the presentations, for the co-operation and everything so it made my job a lot easier, and the previous Chairman's job. Thank you.

Mr. Sherman.

MR. SHERMAN: For the record, Mr. Chairman, I think that the committee would like to express its thanks to Legislative counsel, that is, the Legislative counsel to the Legislature, and to the staff, who have persisted with great diligence through many long hours, day and night, for the last several days while this committee has been at work. I think the support of the staff and Legislative counsel has been invaluable and should be acknowledged.

MR. DEPUTY CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: With all these commendations all around, I will not forget, nor will I omit the opportunity to comment about the ridiculous hours we were forced to keep.

MR. SHERMAN: I want to say, Mr. Chairman, just for the information of Legislative counsel, and perhaps to avoid an amendment on third reading in The Interior Designers Act, on 37(1) on the Appeal of the Court of Queen's Bench, there should be in there a clause saying, "including any order as to cost." I checked the other bills. The section does not refer to dissatisfaction by a decision of the council; it just refers to registration being revoked or refusal of admission. Some of the other bills refer to dissatisfaction by a decision of the board made under the preceding sections. This doesn't refer to dissatisfaction by a decision of the council, therefore cost considerations are not covered and that clause, "including any order as to costs" should be written into that section.

That's a motion.

MR. TALLIN: But the way the motion was made, it said, "any person affected by an order made by the council under Section 36," which be an order for costs, either a decision to confirm an order of costs made by the disciplinary committee or a direct order of costs made by the council.

MR. SHERMAN: Is that the way the clause now reads?

MR. TALLIN: Yes, it's been changed.

MR. SHERMAN: It certainly didn't read that way.

MR. TALLIN: No, but a motion was made on it.

MR. SHERMAN: So the amended version of the clause will read that way and take care of the costs consideration?

MR. TALLIN: Yes.

MR. DOWNEY: To the Member for St. Johns, the hours which he refers to were not totally the responsibility of all other people of this committee.

MR. DEPUTY CHAIRMAN: Committee rise.

4010