



**Fourth Session — Thirty-First Legislature**  
of the  
**Legislative Assembly of Manitoba**  
**STANDING COMMITTEE**  
**ON**  
**PRIVATE BILLS**

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29 Elizabeth II

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Speaker*



**WEDNESDAY, 16 JULY, 1980, 8:00 p.m.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty - First Legislature**

**Members, Constituencies and Political Affiliation**

Name	Constituency	Party
<b>ADAM, A. R. (Pete)</b>	Ste. Rose	NDP
<b>ANDERSON, Bob</b>	Springfield	PC
<b>BANMAN, Hon. Robert (Bob)</b>	La Verendrye	PC
<b>BARROW, Tom</b>	Flin Flon	NDP
<b>BLAKE, David</b>	Minnedosa	PC
<b>BOSTROM, Harvey</b>	Rupert Island	NDP
<b>BOYCE, J. R. (Bud)</b>	Winnipeg Centre	NDP
<b>BROWN, Arnold</b>	Rhineland	PC
<b>CHERNIACK, Q.C., Saul</b>	St. Johns	NDP
<b>CORRIN, Brian</b>	Wellington	NDP
<b>COSENS, Hon. Keith A.</b>	Gimli	PC
<b>COWAN, Jay</b>	Churchill	NDP
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<b>DESJARDINS, Laurent L.</b>	St. Boniface	NDP
<b>DOERN, Russell</b>	Elmwood	NDP
<b>DOMINO, Len</b>	St. Matthews	PC
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<b>ENNS, Hon. Harry J.</b>	Lakeside	PC
<b>EVANS, Leonard S.</b>	Brandon East	NDP
<b>FERGUSON, James R.</b>	Gladstone	PC
<b>FILMON, Gary</b>	River Heights	PC
<b>FOX, Peter</b>	Kildonan	NDP
<b>GALBRAITH, Jim</b>	Dauphin	PC
<b>GOURLAY, Hon. Doug</b>	Swan River	PC
<b>GRAHAM, Hon. Harry E.</b>	Birtle-Russell	PC
<b>GREEN, Q.C., Sidney</b>	Inkster	Ind
<b>HANUSCHAK, Ben</b>	Burrows	NDP
<b>HYDE, Lloyd G.</b>	Portage la Prairie	PC
<b>JENKINS, William</b>	Logan	NDP
<b>JOHNSTON, Hon. J. Frank</b>	Sturgeon Creek	PC
<b>JORGENSON, Hon. Warner H.</b>	Morris	PC
<b>KOVNATS, Abe</b>	Radisson	PC
<b>LYON, Hon. Sterling R.</b>	Charleswood	PC
<b>MacMASTER, Hon. Ken</b>	Thompson	PC
<b>MALINOWSKI, Donald</b>	Point Douglas	NDP
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<b>McGILL, Hon. Edward</b>	Brandon West	PC
<b>McGREGOR, Morris</b>	Virden	PC
<b>McKENZIE, J. Wally</b>	Roblin	PC
<b>MERCIER, Q.C., Hon. Gerald W. J.</b>	Osborne	PC
<b>MILLER, Saul A.</b>	Seven Oaks	NDP
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<b>STEEN, Warren</b>	Crescentwood	PC
<b>URUSKI, Billie</b>	St. George	NDP
<b>USKIW, Samuel</b>	Lac du Bonnet	NDP
<b>WALDING, D. James</b>	St. Vital	NDP
<b>WESTBURY, June</b>	Fort Rouge	Lib
<b>WILSON, Robert G.</b>	Wolseley	PC

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON PRIVATE BILLS**  
**Wednesday, 16 July, 1980**

**Time — 8:00 p.m.**

**MR. CHAIRMAN, Jim Galbraith (Dauphin)**

**MR. CLERK:** Gentlemen, the former chairman of this committee, Mr. Steen, has been removed and we are now without a chairman, so I would be looking for nominations for a new Chairman. Are there any nominations to be made?

**MR. L.R. (Bud) SHERMAN:** Mr. Clerk, I nominate Jim Galbraith, the Member for Dauphin.

**MR. CLERK:** Mr. Galbraith has been nominated. Are there any further nominations? Hearing none, I would ask Mr. Galbraith to take the Chair.

**MR. CHAIRMAN:** Members of the Committee, I would like to call this committee to order. We are here tonight to deal with Private Bills.

Bill No. 54, An Act to Grant Additional Powers to Charleswood Curling Club Ltd.; Bill No. 57, An Act for the Relief of Ingibjorg Elizabeth Alda Hawes and George Wilfred Hawes; Bill No. 65, The Registered Nurses Act; Bill No. 66, The Registered Psychiatric Nurses Act; and Bill No. 87, The Licensed Practical Nurses Act.

We have certain people here who have been in contact with the Clerk's Office: Mr. Robert Hucal and Mr. John Hilgenga, appearing on Bill 54; on Bill 57, Mr. Walker; on Bill 65, Miss Tod, J.F.R. Taylor, the Manitoba Health Organization, the University of Manitoba School of Nursing (Prof. Cynthia Cameron), Miss Barbara Bradley (Nursing Administrator); on Bill No. 66, the Manitoba Health Organizations, Miss L. Tod, and from the Registered Psychiatric Nurses Association, Ms Osted; Bill No. 87, The Licensed Practical Nurses Act, we have the Manitoba Health Organizations and we have from the Manitoba Association of Registered Nurses, Miss L. Tod and Mrs. Margaret Mackling, Mrs. Man Colegrave (Chairman of the Licensed Practical Nurses Advisory Council), and Mrs. Barbara Bradley, representing Directors of Nursing Interest Group.

Are there any further . . .

**MR. SAUL CHERNIACK:** Could I hear the last name you mentioned?

**MR. CHAIRMAN:** Mrs. Barbara Bradley. Are there any other persons here wishing to make presentations to any of these bills tonight? Could we have your name?

**MS PHYLLIS WAINE:** Phyllis Waine, Instructor from Red River Community College.

**MR. CHAIRMAN:** On Bill?

**MS WAINE:** 65.

**MR. CHAIRMAN:** What was the name again?

**MS WAINE:** Phyllis Waine. Pardon me, Bill 87, I'm sorry.

**MR. A.G. LAWRENCE:** Mr. Chairman, my name is A.G. Lawrence and I am wishing to make representations on behalf of Bill No. 54. That's the one dealing with the Charleswood Curling Club. Mr. Hucal is unable to be here; perhaps later he will arrive, but I would like to speak to it.

**MR. CHAIRMAN:** What was your name again, sir, please?

**MR. LAWRENCE:** A.G. Lawrence.

**MR. STREET:** Mr. Chairman, my name is Mr. Street. I am the President of the RPNAM and I will be here to speak on Bill 66.

**MR. CHAIRMAN:** What was the name again, please?

**MR. STREET:** Street, S-t-r-e-e-t.

**MR. CHAIRMAN:** Are there any other persons wishing to make presentations?

**MS CAROLE FAWCETT:** I am Carole Fawcett and I am the President of the Manitoba Association of Licensed Practical Nurses.

**MR. CHAIRMAN:** On which one?

**MS FAWCETT:** Bill 87.

**MS MARGUERITE BICKNELL:** I am Marguerite Bicknell, President of the Manitoba Association of Registered Nurses. Bill 65.

**MR. CHAIRMAN:** There are no other persons wishing to make presentations?

**MR. KEITH TURNER:** My name is Keith Turner, Vice-President of the Law Society of Manitoba, with respect to proposed amendments to Bill 57.

**MR. CHAIRMAN:** Mr. McGill.

**MR. EDWARD MCGILL:** Mr. Chairman, on a point of order, could we perhaps call those delegations that are from out of town so that they might be heard first?

**MR. CHAIRMAN:** May I ask the committee one thing, which bill do you want to deal with first, the one at the top of the order?

**MR. CHERNIACK:** Mr. Chairman, I think, Mr. McGill made a suggestion. I think you should find out if any of the persons wishing to present briefs are from out of the city and then we would, as he suggests . . .

**MR. CHAIRMAN:** May I ask if there are any persons in the Assembly here tonight wanting to make presentations from out of town?

What is the wish of the committee? Do you want to start with the first bill on the top of the list? (Agreed)

**BILL NO. 54 — AN ACT TO GRANT  
ADDITIONAL POWERS TO CHARLESWOOD  
CURLING CLUB LTD.**

**MR. CHAIRMAN:** At this time I will start dealing with Bill 54, An Act to Grant Additional Powers to the Charleswood Curling Club, I would like to call Mr. A. G. Lawrence to the stand please.

**MR. A. G. LAWRENCE:** Thank you, Mr. Chairman. I am the president of the Charleswood Curling Club, and during the passage of this bill through first and second readings, I was asked to give a commitment that I would submit a by-law to a meeting of the shareholders providing, first, that no more shares shall be issued to a person over and above the number that he already holds, most shareholders own one share but there are several that own quite a number; and secondly, that if the bill is proceeded with and in the future, if we issue more shares, that only one share would be issued to a shareholder; and thirdly, that when it becomes legally possible that we would convert the company to a non-profit company. This company was incorporated some 40 years ago before non-profit companies were very common. While we have operated as a non-profit company we are, legally speaking, a profit-making company.

The reason we cannot convert now is that in order to convert, under Section 165, subsection (3) of The Corporations Act, you require the consent of 95 percent of the shareholders and we can't find 95 percent of our shareholders. We have lost track of them one way or another. Our concern about this bill is that over the course of the years people have quit curling, they have moved away, they have died, and that situation is getting worse and worse.

If I could just give you briefly some figures, there are 324 shareholders. There are altogether including men, ladies, and seniors, 445 curlers, that's aside from juniors and renters and things; and of those 445 there are only 75 shareholders that are actually curling. We are concerned about our position that eventually somebody will be able to gather up enough shares to sell the company and it's admitted that the company, if it could be sold, if a curling club can be sold, it would net a good deal more than the 25 that all the shareholders originally paid for their shares. Actually, Mr. Chairman, there is a demand for shares but we can't buy curlers that are curling without shares, but we can't get people to sell their shares and this situation has been going on for two or three years.

If the bill is passed the directors of the company will certainly try to sell all the shares of any shareholder that wishes to sell and we think we can. We are not sure but we think we can. Our situation is that anybody can curl without a share, we don't insist on that, but if you are a shareholder our proposal is that you must curl and to get our shareholders down to the same people that are

curling and operating the club as a whole, this assessment would gradually revoke the shares over perhaps a period of five years or three years, whatever the directors decide on. We take care of the people that are the shareholders by reducing their membership fees.

If there are any questions, Mr. Chairman, members, I will attempt to answer them.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** I am sorry, I was called out for just a moment. I didn't hear the conclusion of Mr. Lawrence's statement. I don't have a copy of it from Hansard, but I believe it is correct to say that Mr. Steen, speaking as the mover of motion when he closed debate, stated that in addition to the voluntary offer of the club to do those things in their by-law that Mr. Lawrence described at the beginning of his presentation, that there would be an acceptance of an amendment which I would like to read to make sure that Mr. Lawrence knows it and hear from Mr. Lawrence confirmation of Mr. Steen's statement that it would be acceptable. I would like to read that, Mr. Chairman, to him, that there would be an additional clause which would read:

THAT upon dissolution of the corporation, property remaining after paying all the debts and obligations of the corporation shall be paid to an organization in Manitoba, the undertaking of which is charitable or beneficial to the community.

I am wondering if Mr. Lawrence would care to comment on . . .

**MR. LAWRENCE:** Mr. Chairman, that amendment was mentioned to me and my information was that this bill was dealt with at a formal meeting of the shareholders of which the notices had been sent out and the resolution that was passed include this amendment as the honourable member, Mr. Cherniack, mentioned. It was impossible for me to agree to an amendment to the bill which the shareholders hadn't dealt with. I would be the happiest guy in the world if it did take place because we want it and if we fulfil our commitment and get our shares down to where we can get hold of 95 percent of our shareholders, become a non-profit organization, then it is my understanding by law that if we dissolve the company that it has to go to a charitable institution. If Mr. Cherniack or this committee wants me to add that to my commitment I will certainly present that to the shareholders. As a matter of fact, it was discussed that it should be a non-profit company and that if it ever was wound up that it would go to a charitable organization and we have one in mind as a matter of fact, but it was not dealt with formally by the shareholders at the meeting dealing with the resolution to present this bill.

**MR. CHERNIACK:** Mr. Chairman, just to clarify to Mr. Lawrence, it is my intention to present this amendment. Mr. Steen is not here, but I intend to present it on the assurance that he gave to the House in closing second reading that would be acceptable, and I just thought with Mr. Lawrence here, a man whom I have known for so many years and always respected, that I would like to have his

reaction as to whether or not it would be acceptable. I guess I can't ask him formally because he said he hasn't had a meeting, but does he himself see an objection to this addition to the bill?

**MR. LAWRENCE:** Yes, I can't consent to it, Mr. Cherniack, because the shareholders didn't consider it formally. If it's presented and the bill is defeated that's too bad, but I certainly would advocate that's what we do. I have a copy of Hansard here. I don't see where Mr. Steen, maybe that's the first reading, I'm not sure.

**MR. CHERNIACK:** No, it's second reading.

**MR. LAWRENCE:** I don't see any place that he made any commitment to agree to this amendment.

**MR. CHERNIACK:** Mr. Chairman, it's okay. This is the copy of what Mr. Steen said when he presented the bill on second reading, it's not when he closed debate. I will have to get a copy of that, and if I can get it in time I will be happy to show it to Mr. Lawrence. I have to get it now for my own satisfaction.

**MR. CHAIRMAN:** Are there any further questions of Mr. Lawrence? If not, that's fine, thank you, Mr. Lawrence.

**MR. LAWRENCE:** Thank you.

**MR. CHAIRMAN:** I would like to call now Mr. John Hilgenga, on Bill 54.

**MR. JOHN HILGENGA:** Thank you, Mr. Chairman. My name is John Hilgenga. I am a long-time resident of Charleswood and I am a shareholder of the Charleswood Curling Club Ltd.

When I read this bill, Mr. Chairman, I got alarmed. I got alarmed before that when the executive of the holding company came with no proposal at all. They just said, "We need more money and you fellows do nothing with your shares, they are worth nothing, you should contribute them to the company."

The argument was used that one man could own all the shares and sell the assets of the company at what they feel, now, I say it is worth a quarter of a million but they have doubled the value on it of more than that.

The very intent of this Act, as it reads now, will just work out the opposite way as they have in mind. What prevents the executive of the curling club, of the holding company, of assessing 2.50 a year, or 5.00 a year, against a share of 25.00, and five years from now they own all that? What guarantee have we, at this particular time, in this bill, that money will go to the community as a whole?

I must state a little more. At a general meeting called by Mr. Lawrence, as chairman, there was less than one-fourth of the shares represented. The meeting was held at 9:30 on a Sunday morning, when many of us object to going to a meeting of that kind, one of the reasons that there were very few people in attendance.

Now, Mr. Chairman, if this bill proceeds I would like to see that at least it was stipulated in this particular bill to whom the money would go in case

the curling club or the holding company went out of business. I agree with Mr. Cherniack that that is, in essence, one of the musts. I cannot see that this legislation will go ahead with a bill watered like this.

First of all, Mr. Chairman, I am objecting to Mr. Steen, who doesn't represent our area at all, presenting the bill. I see maybe there is a reason why the gentleman who represents Charleswood didn't sponsor this bill. Anyway, I will leave that in the middle. I would like to see very much that until such time that this bill guarantees that my money — I hold four shares and I don't care for the 100, I'd give it to the curling club or to an organization anytime, but I am objecting to that they will be in a position of distributing that money, after they get it, after our shares are useless and they own the curling club, that that money will go to whatever they think it should go, and who knows who.

I will not go any further, Mr. Chairman. I think that this bill is a discredit to the man who presented it and to the Legislature that sits to adopt it.

I thank you.

**MR. CHAIRMAN:** Mr. Hilgenga, could we just have you wait for a second. Would you answer any questions if there are any?

**MR. HILGENGA:** I will always answer questions, Mr. Chairman, that are asked of me. I am wondering about a bill like this coming before the legislature in the first place. We could handle that stuff in Charleswood just as well as it can be handled here and far better.

**MR. CHAIRMAN:** Do any of the members of the committee have any questions for Mr. Hilgenga? Thank you, Sir.

Now we'll deal with Bill No. 57, An Act for the Relief of Mrs. Hawes and Mr. Hawes. Mr. J. S. Walker.

**MR. CHERNIACK:** Mr. Chairman, it's not usual, if I may interrupt for a moment. Mr. Reeve was kind enough to quickly get a copy of Mr. Steen's response in closing debate, which contains a sentence which reads, . . .

**MR. CHAIRMAN:** Mr. Cherniack. Maybe I had better refer back to Bill No. 54 then, we were on Bill No. 57.

**MR. CHERNIACK:** Please do, Mr. Chairman. I think you will agree on a point of order.

**MR. CHAIRMAN:** Would you excuse us for a second, Mr. Walker while we finish the Bill 54, then. I'm sorry. Mr. Cherniack.

**MR. CHERNIACK:** It's just that according to Hansard, Mr. Steen said the solicitor for Charleswood and the executive are prepared to accept the amendment that the Honourable Member for St. Johns has suggested, and I showed it to Mr. Lawrence and his reaction was not such that I felt should be left so that the committee is not aware of his reactions. I asked him if he wanted to come back and address the committee on that and I think he

does by the fact that he's here and I am wondering if the committee is prepared to hear him further.

**MR. CHAIRMAN:** Is the committee prepared to? (Agreed) Mr. Lawrence.

**MR. LAWRENCE:** The sentence quoted by Mr. Cherniack that I advised Mr. Steen that I would agree to the amendment, as far as I'm concerned, I never agreed to it, and couldn't. Actually I told Mr. Cherniack that on the phone that I couldn't agree to it. I don't know at what stage that occurred but I am telling this committee that I never made any commitment to Mr. Steen, and how that got in the proceedings, I don't know.

**MR. CHAIRMAN:** Okay, thank you, Mr. Lawrence.

**BILL NO. 57**  
**AN ACT FOR THE RELIEF OF**  
**INGIBJORG ELIZABETH ALDA HAWES**  
**AND GEORGE WILFRED HAWES**

**MR. CHAIRMAN:** I'll now call, Mr. Walker, on Bill No. 57. Thanks for putting up with us, Mr. Walker.

**MR. J. S. WALKER:** Thank you, Mr. Chairman, and members of the committee. When I came to this meeting here at 8:00 o'clock, I was familiar with the Private Members' Bill that had been submitted to the Legislature. I had a hand in drafting that bill. As I walked through the door at 8:00 o'clock tonight, I was handed an amendment to the bill and I have had an opportunity in the last few minutes to look through that amendment, and I would like to speak on that amendment.

I think that the amendment puts forward a further injustice to Mrs. . . .

**MR. CHAIRMAN:** The amendment is not before the committee yet, Mr. Walker.

**MR. WALKER:** I see, okay. I would like to, first of all, then just speak on the bill itself that was presented.

This is a bill to extend the time to allow a plaintiff to issue a statement of claim in the Court of Queen's Bench because the solicitor that had been retained in the case, Robert Szewczyk, of the town of Selkirk, had failed to file a statement of claim in time and the two year period had expired.

Now bills for relief of this nature have been granted frequently by the Legislature over the years and I submit that this bill when you look at the facts is as deserving of being passed as any bill has ever been. The injustice that has arisen in this case will soon be six years old. It's more than five-and-a-half years old now, and we are still on the threshold of trying to rectify this grave injustice.

This whole matter began with an accident on the road to Selkirk on December 14th, 1974, when Alda Hawes, who was a passenger in the front seat of a vehicle, driving into Winnipeg was very severely injured through no fault of her own. An oncoming vehicle, operated by a man who had allowed his vehicle to go out of control, slid across the icy road roadside and collided with the front of the vehicle in which Alda Hawes was a passenger. She suffered

nine broken ribs; also a collapsed lung; multiple serious fractures to her pelvic area and to her right leg; a fractured ruptured hip, including fracture of the head of the femur and the socket; a fracture of the right ankle; lacerations to the right side and forehead. She had damaged nerves in the right cheek that have to this day resulted in numbness in her cheek, and general contusions and bruises throughout her entire body.

While she lay in the hospital her husband, who is not the most articulate person, took the case to Robert Szewczyk, in the town of Selkirk, and asked him to look after the interests of Mrs. Hawes and himself. They had both dealt with this lawyer for many years and it was not until April of 1978, when the lady decided to change lawyers that she learned for the first time that the Statute of Limitations had passed and the lawyer had never sued her case out. She had been led on and on and on, calling week after week in good faith wondering when she was going to hear some end to her case.

Throughout this period of time Autopac's adjusters dealt with Robert Szewczyk. They got various claim forms signed; they got all the medical reports which were available to Alda Hawes; they had consent to write to the doctors and obtain further medical information that they required; they fully — I'm referring to Autopac — investigated the accident, I have no doubt that they would have taken photographs and statements and measurements and whatever they do in any serious accident claim, they proceeded to, one by one, deal with the other persons who were injured in this terrible accident.

The wife of the driver of the other car was killed and the children were seriously injured, and there were other people in the Hawes' vehicle who were also seriously injured, and one by one, Autopac dealt with all of these claims.

They dealt with all of the claims except this one, and they continued to deal with Robert Szewczyk up until December, 1976, at which time they wrote him a letter advising that they had made a search in the Queen's Bench prothonotary's office, that they could find that no Statement of Claim had been issued within the time period and therefore they no longer had any power or any authority to deal with him.

During this period of time, we understand that a contingency fund was set up by Autopac, as they do in all cases, so a reserve fund was set aside to cover Alda Hawes' injuries. At this time, Autopac did make some payment to Alda Hawes. As a result of their investigation and the no-fault benefits, they paid out to her 1,996.54, or some amount of that nature, based on their investigations.

In July, 1978, I appeared before this committee, and at that time I asked the Legislature, as the court of last resort, to grant relief to us by allowing us to bring an action against the defendants, the driver of the other car, and at that time, the bill passed the committee stage; it was approved at this stage. In July, 1978, the bill went to third reading in the Legislature and there it was defeated.

During the debate when the bill was defeated, and even in the committee stage, there was considerable objection raised to the effect that why should the Legislature be relieving a negligent lawyer of his responsibility. They were sympathetic. You were sympathetic towards Alda Hawes and you appeared

willing to grant her relief, but there was some reluctance to grant relief to a negligent lawyer.

When we left the Legislature in July, 1978, we commenced an action against that lawyer. The action was commenced on November 29, 1978. At that time, I think I indicated to the Legislature that I thought that the action would produce nothing, that I didn't think that he was worth suing in terms of having any assets.

Nevertheless, we undertook a lawsuit against Robert Szewczyk and early in April, 1979, there was a hearing before Mr. Justice Hamilton in which we tried to seize or by injunction to have the assets of Robert Szewczyk held so that there would be something to attach when we were able to get a judgment. We knew at that time that Robert Szewczyk was facing some claims by the Income Tax Department and we suspected that it was just a matter of time before any assets that he had would be dissipated.

Mr. Justice Hamilton heard the argument; it was contested. Mr. Szewczyk had a law firm engaged to defend his interests throughout. Mr. Justice Hamilton said he was not prepared to accept the fact, as a proposition, that liability is clear. We were arguing in court that there was clear liability against the lawyer and Mr. Justice Hamilton said, "As I know only of the allegations of the plaintiffs and I am not aware of what, if any, defences might be raised, Mr. Szewczyk raised as defences the fact that he was not retained for the purpose of bringing an action for general damages, that he was only retained for a limited purpose, to collect no-fault benefits."

In spite of various admissions that we thought that we had in the Exam. for Discovery, and we tried to bring these to the Court's attention, the Court was not satisfied that liability existed. "The plaintiff says that an injunction is necessary as no judgment can be obtained for at least six months." At that time, Mrs. Hawes was undergoing serious surgery for the replacement of a hip and it was not known what the outcome of her surgery would be. It was not known how successful it would be.

Mr. Justice Hamilton went on: "Counsel for the plaintiff suggests that this is an unusual case, therefore the discretion of the Court should be exercised in favor of granting an injunction prohibiting the defendant from disposing of certain assets," and we enumerated the law office that was partially owned by the lawyer, his house, which was partially owned by himself and his wife, and we asked for an injunction for a period of six months. "I find this case no different than many others that appear before the courts where counsel could argue that the question of liability is clear and that a court should require a defendant to refrain from disposing of assets until a trial is held."

Mr. Justice Hamilton concludes that he "... commends counsel for the plaintiff for his initiative in bringing this motion. . . . I can find no foundation for it in law," and he awarded costs against us. So we were unsuccessful in an attempt to try to have the assets of this lawyer frozen so that we could have something to seize with our judgment.

We pursued our action against Robert Szewczyk. In June, 1979, Robert Szewczyk appeared in court in the town of Selkirk, charged with evasion of income tax, and attached to the petition, you will find a

Certificate of Conviction. The Certificate of Conviction is for the charge, "That Robert H. Szewczyk, at the town of Selkirk, in the province of Manitoba, between the first day of January, 1965 and the third day of May, 1977, did unlawfully and wilfully evade the payment of taxes imposed by The Income Tax Act by failing to report income in the sum of 148,312.27 for the taxation years 1965, 1966, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, and 1976, thereby evading payment of 24,293.49 in taxes, contrary to the provisions of The Income Tax Act."

Now, we understand that there is a total of about 90,000 that the Income Tax Department has as a claim against Robert Szewczyk and their claim takes priority to any other claims against him. So he now has this very sizeable sum of money to pay to the Tax Department and that claim, as I have indicated, comes before ours.

As a result of that professional misconduct and conduct unbecoming a barrister, the Law Society suspended Robert Szewczyk from the practice of law on July 17, 1979, for a period of six months.

Still realizing that it was pretty unlikely that we were ever going to collect any money from this lawyer, we still sailed ahead with our lawsuit, pressing on as quickly as we could to judgment, simply because this was the objection that we met in the Legislature: Why didn't we sue the negligent lawyer? Why can't we have relief for Alda Hawes . . . Okay, we first have to deal with this negligent lawyer.

I, from time to time, wrote to Autopac, keeping them advised. I will just read one type of letter that I wrote to Autopac. This was written June 8, 1979: "As you are no doubt aware, the limitation date for suing this matter expired . . . During the two-year period from the time that the accident occurred, there was various intermittent discussions and negotiations between your adjuster and Mr. Szewczyk. We are aware that a reserve was established by the Manitoba Public Insurance Commission in connection with this matter. The purpose of this letter is to advise you that we anticipate returning to the Legislature of the province of Manitoba, requesting them to consider again a bill for the Hawes' on the basis that Mr. Szewczyk does not have assets to pay the amount which will be awarded to our clients and, as a result, you should keep the reserve which you had initially created and we will keep you advised of our progress throughout this matter."

I kept Autopac advised of the progress by writing them letters from time to time and they obviously were receiving my letters, although not always replying to them. I did get one reply, from Assistant General Counsel, W.S. Saranchuk, on October 16, after I had written a letter just keeping Autopac informed of every development, so that the day would come in which there would be no suggestion at all of any prejudice to Autopac. The letter that I received says: "Re Hawes vs. Szewczyk: Your recent letters were referred to the writer for a reply, although quite frankly, no reply is warranted, for reasons of which you are well aware. Lest you have forgotten, the Corporation has no further involvement here and our file is closed." This letter is attached to the petition.

We have continued to keep the Manitoba Public Insurance Corporation fully advised of every step along the way so that there would be no prejudice to the Corporation.

I would make this statement at this time, that we have provided the Manitoba Public Insurance Corporation with every document that we have in our possession, every medical report, every bit of information that we have. Now, the Manitoba Public Insurance Corporation will have more information on this accident than we have. They were probably there with photographs, diagrams, interviews and adjusters' reports. I think you could walk into the office of the Manitoba Public Insurance Corporation today and pick up a more complete file on this matter than I have with me here today on behalf of the Hawes, and I'm sure that the Corporation makes their own private investigations as well and, as I said at one point, there is in this case no prejudice whatsoever to the Manitoba Public Insurance Corporation.

Unfortunately, as is set out in the petition, that insurance which is usually available to a lawyer who makes a mistake, as provided by the Law Society of Manitoba, is not available in this case due to the circumstances that I set out in the petition. I don't know if the Chairman wants me to go into the details of why it is not available, but it is not available. It is set out in the petition and I can deal with it if anyone wishes me to do so. There is no insurance available from the Manitoba Law Society to cover the negligence of Robert Szewczyk, and the Law Society passed a resolution — a request was made to them, I understand — and they don't recognize any liability for the error and negligence of Robert Szewczyk.

There are many good reasons to pass this bill and I would like to just simply enumerate a few of them. First of all, we have here a woman who, at all times, dealt with a barrister of Manitoba in good faith, and her conduct throughout has been open and in good faith.

Another reason is that this is a case of hardship, perhaps even extreme hardship. This lady, a mother of many children, whose husband is not working, has been the sole source of support for her family and, as of July of this month, she has received her last pay cheque. She is no longer able to work at all, as a result of complications which have presently arisen in her physical condition. She is 54 years old; she was the breadwinner in this family; she is now not going to be able to work. So this is a situation where there is hardship that begs to be relieved.

Another reason why this bill should be passed is that there is no prejudice here. This isn't going to come as any surprise to Autopac that there is a claim. They have a contingency fund set up. I have been writing to them for years now, keeping them advised of every step that we have taken. They know it is coming. They have been in touch with our offices recently, as within the last week, asking for information. This isn't going to come like a satellite falling from the sky and hitting their office. They know that there is a claim. The only reason that they are not paying it is because there is a technical defence, the statute of limitations was passed.

This is a case in which the adjuster from Autopac has met personally with Mr. and Mrs. Hawes. He met personally with them in the offices of the lawyer. This

is a case in which Autopac has already made its payments, its initial payments, after making its investigation.

There is another reason why I suggest it is necessary to pass this bill. There has been a contingent liability fund set up by Autopac, in the year 1974. That is one of the requirements that they have in their method of practice. When they know of an accident, it is up to their counsel to assess what the likely damages will be and a contingency fund is set aside and, in the following year, when premiums were set for the payment of Autopac insurance, this claim must have been taken into account. Therefore, there has been a contingency fund sitting on the books of Autopac since 1975 and it would amount to not only a windfall gain to Autopac to be relieved of having to pay out that fund that was set up for Mrs. Hawes, it would be a grave injustice, I submit. This fund has already been reflected in the insurance rates that have been charged by Autopac in the years 1975 and following.

It would not be fitting, I submit, for a public corporation to gain a windfall in such a way. Those funds are available to meet the claim and I submit that a bill should go through the Legislature which would allow Mrs. Hawes and her husband to proceed against Burns and Goodman, the original defendants, who are covered by Autopac, for the damages that have been sustained.

I would also suggest, as well, that it is not appropriate in a case like this, in the light of all the dealings between Autopac and the plaintiffs, to allow Autopac to avoid such a claim. If you will look at the petition you will see, starting at Page 7, or even at Page 5, the amount of information that was provided to Autopac by the plaintiffs through the lawyer, Robert Szewczyk, from the very first. From January 2nd, 1975, there was a whole page of documents that was provided to Autopac by Robert Szewczyk; Page 7 gives another whole page of documents; Page 8, all kinds of medical reports, Dr. Mayba, Dr. Mills, Dr. Robertson, Dr. Glenville, Dr. Reid, Dr. Bayme, Dr. Tauthezis, Dr. Saunders, Dr. Cyric, Dr. Mazer and on and on. They all send their medical reports to Dr. Stevens and many many reports from Dr. Reid. Autopac has them all, there is no surprise here.

And on August 29, 1975, Autopac asked for the following document to be signed and it was signed. The document says, signed by Alda Hawes and her husband, "I hereby authorize the release to my insurer of any information requested in support of my claim." She gave Autopac carte blanche authority in that document referred to on Page 8 to investigate, to write to her doctors, to any of those doctors, ask what they like, whatever is necessary to satisfy them, the doors were always open.

Then the adjuster came out and met with them. The adjuster could have gone back to Autopac and recommended to Autopac an amount of money which he thought Autopac should have paid to the Haweses. That money could have been tendered, but Autopac did nothing once the two-year limitation period had passed. So, in the light of all of these dealings, it would be grossly unfair, I submit to allow this lady to go unrelieved from this enormous hardship that she now bears. When I talked to her today and I asked her if she would be able to come



down to the committee hearing tonight, and she told me that she just wasn't able to. She was in pain; she has been under psychiatric care, as a result of the aggravation of this case, as a result of what has happened with her lawyer, and coming to the Legislature and having to go back again unsuccessfully. The news media have been down to her home and interviewing her and it's a tension and a strain that is absolutely foreign to her life.

In addition to that, she has had to quit her work now because of tremendous pain that she is suffering in her right leg and hip and in her back. She was working as a nurses aide, like a practical nurse, in the Selkirk General Hospital, usually the night shift. She would look after her family during that part of the day when she wasn't sleeping and she would work all night. Her husband is in very poor health and is unable to work. Their sources of income to this family are very precarious at this time. This is a case of great hardship that begs for relief, and that's why I said at the outset, of all the cases that this Legislature, over the years, has granted relief in, I don't think there are any more worthy than this one for consideration.

Now, if I might just say one, this is not the time to speak on the amendment . . .

**MR. CHAIRMAN:** The amendment hasn't been presented. Mr. Cherniack.

**MR. CHERNIACK:** Mr. Chairman, I would, in asking Mr. Walker some question, indicate the nature of the amendment that I would be proposing and ask him to respond to that. In that way, I think he could deal with it, but I don't know that all members of the committee themselves are really aware of what the amendment purports to be and possibly it would be better to explain it before Mr. Walker responds.

**MR. CHAIRMAN:** Mr. Cherniack, Mr. Blake caught my eye earlier.

**MR. DAVID BLAKE:** Mr. Chairman, if I might just add at the outset that I find myself in a bit of an awkward position. This is my bill and unfortunately, as the members of the committee know, I'm a member of the Board of the Directors of the Manitoba Public Insurance Corporation. I was absent from the Legislature today attending a meeting of the board. The bill was called; I understand there were two or three speakers on it. I haven't had a chance to see Hansard; I don't know what was said. I understand that it's been indicated that I may have a conflict of interest presenting this bill and being a member of the board of the Manitoba Public Insurance Corporation. That I can't confirm because, as I say, I haven't had an opportunity to see Hansard and see what was said by the two or three people that spoke on the bill. But, regardless of that, I have only seen the amendment just now and I don't know how long it might take me to make up my mind whether it's a good amendment or not.

Since the bill was presented, as Mr. Walker has indicated, Mrs. Hawes has experienced other complications and the award that was originally given to her may now seem somewhat inadequate. If it were awarded and charged against the Manitoba Public Insurance Corporation, it would only amount

to a few cents for each motorist in the province. But besides that, before the amendment is proposed which is going to, I understand, suggest that some of the claim be provided by the Law Society of Manitoba, I just wanted to ask Mr. Walker, in view of what he has revealed to us in the certificate of charges against the lawyer, I understand that it is customary with trust accounts, common to real estate people and whatever, that there is an accountability certificate required. I wonder if Mr. Walker could tell us when this particular lawyer had his last certificate of accountability filed with the Law Society? Was he allowed to practise without having a certificate accountability, or is this necessary each year, or when is this required?

**MR. WALKER:** I, of course, must be perfectly candid with you and indicate that I have heard a certain explanation given to me from some members of the Law Society. I am not a member of the Law Society and that, of course, is a proper question to direct to the Law Society.

**MR. CHERNIACK:** Maybe you're not a bencher.

**MR. WALKER:** I'm not a bencher. I'm a member of the Law Society, but I'm not a bencher in the Law Society.

**MR. BLAKE:** You had me worried there. I thought we had two of you practising . . .

**MR. WALKER:** For good reason. Okay. I don't think there's any secret. My information is that this member had, for about 10 years — this is second-hand information — but that he had no accountant and no accountant's report, and none was submitted to the Law Society. Now, I don't know, that's really a question that should be directed to the Law Society. I understand that there was a period of at least three years in which this member did not submit a statement to the Law Society and he had probably not had a certificate issued to him.

**MR. BLAKE:** Mr. Chairman, I wonder how many lawyers are practising throughout the province of Manitoba without this certificate. Would their insurance be valid in the case of a similar occurrence, whereby there was malpractice or negligence?

**MR. WALKER:** That is a subject that I have heard argued, as to whether or not the insurance would have any responsibility due to the lawyer not having a certificate issued to him, but right now it is an academic point. I don't know. This is a question that I think should be directed to the Law Society. The President of the Law Society is here and he can answer for the Law Society. I might just say one thing, legally we've given a lot of consideration to the liability of the Law Society and we wonder whether there is, legally, any liability because of the remoteness of the whole thing. Even a good lawyer could accidentally make a mistake that could result in failing to file in time, and the Law Society, of course, would have no control over that, whether he had his practising certificate or not. Legally, to attach liability to the Law Society is something which may

falter because of the remoteness of such a consequence or unforeseeability of damages against the Law Society for such an act of negligence, if it were negligence.

**MR. BLAKE:** Mr. Chairman, possibly, when we get into the amendment, we may be able to have some comment from someone in the Law Society on this particular matter. I don't want to get caught up in the emotion of the case because I know the family and I brought the case forward in 1978. The bill was defeated in the Legislature on the reasons as Mr. Walker as stated, sue the lawyer, which we did and it was a useful operation, as I was well aware of at the time, but we went through that particular motion and now here we are back at the Legislature trying to get some justice and compensation for Mrs. Hawes, where there has been no question of liability throughout the whole piece. After we have sued the lawyer and got absolutely nowhere, I wouldn't want to mention any names but another member of the legal profession, a learned member of the Law Society, when we finished suing the lawyer, he said, well now sue the Law Society, which we have not done, of course, because we're back with the bill, praying for the relief of Mrs. Hawes through the only other channel that I feel is open to anyone who wants to see justice and compensation provided to Mrs. Hawes.

So, Mr. Chairman, I would pass to any other members of the committee who may wish to question the witness without getting caught up in the drama and the emotion of this particular case.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Mr. Walker, are you faulting the Manitoba Public Insurance Corporation for not paying the claim, which I understand they are no longer legally liable to pay? Do you say they ought to be paying it, and ignore the limitation, and may they pay it, do they have a right to pay it, in view of the fact that the limitation period did expire?

**MR. WALKER:** Legally, they are not obliged to pay. My argument is that morally the money has been set aside in a special fund; the money has been raised by additional premiums throughout Manitoba; the money is available. The only thing that prevents the sum being paid today is a technical, legal limitation period, and the Legislature in the past has relieved against such technicalities. Other insurance companies have been required to pay in the past because those technicalities have been relieved against, and I don't think the Manitoba Insurance Corporation is in any different position that other insurers; in fact, being a public insurer, perhaps it could be argued that it even has more of a public responsibility not to take advantage of technicalities.

**MR. CHERNIACK:** Mr. Walker, when you sued Szewczyk, you obtained judgments of 63,703.53 and 1,100 for the wife and husband respectively. That was adjudicated by the court as being the damages which the court felt were suffered by these two people; is that correct?

**MR. WALKER:** On that point, and you must remember I was operating under two premises: One, I was satisfied and I expressed the view that suing Bob Szewczyk was probably going to be a waste of time because he'd probably go bankrupt; in fact his lawyers had at some point indicated that a bankruptcy was pending at any moment, so that the whole thing could have all come to garbage, at any moment. So I was rushing to get the thing through, simply to be able to come back here the next year and be able to say, okay, now I've done what you have said, I've taken this other course, and it has still got us nowhere, we still need relief.

Now we pushed that case through the courts within the year and we were back here, and at the time, just let me say this, Mr. Justice Hewak, who wrote the judgment in the Szewczyk case, had these facts before him. He said, on Page 8 of his judgment, it's just a very brief assessment, Page 8, "I should point out that I did not form the impression, and this was conceded by counsel for the defendant, that the female plaintiff was a chronic complainer. As a matter of fact, I found it to be quite the opposite in that I felt she maintained a rather stoic posture at a time when she could have had just cause to complain" and then the judge went on to say, "and once again the plaintiff felt that it would be wise for her to attempt to return to work, and she did so on May 16, 1979. She has been working since that time". Now those were the facts that Mr. Justice Hewak had before him, that this stoic lady went back to work on May 16, and was working continuously and is still working.

The truth of the matter is that we went back to court as quickly as we could. Even when the doctors were asking for time to give their final assessment, we were rushing to get that Szewczyk case out of our hair, so we could come back and ask you for relief against Burns and Goodman. Those were the actions that we wanted to pursue. We picked up a judgment along the way but based on the fact that she would have still been working. The truth of the matter is that now she can't work and she's only 54 years of age. She's the breadwinner in her household and she had at least another 10 years of employment ahead of her, and she was entitled to make a claim for loss of wages, which is a direct result of this accident, which claim was not made, simply because it has only come to light now before we were granted a bill which would allow us to take an action.

**MR. CHERNIACK:** Mr. Walker, had Mr. Szewczyk carried out his responsibilities properly and commenced the action prior to December 15, 1976, have you any reason to believe that the judgment of the court against the insurer would have been greater than the amount which was awarded by the court against the lawyer?

**MR. WALKER:** I don't know that it would have been greater or not. It could have been more; it could have been less. As the member knows, being a very experienced counsel, and a trial counsel from time to time as well, he will have known that no two judges would have granted the same award and who knows what the award would have been if Bob Szewczyk would have brought it to trial back in 1976 or 1977.

but the matter is now clearly before us. We know that there are more extensive damages, damages which arise from the injury, which are justly related to it and should be the subject of consideration by the court. The bill that we ask for here is the right to sue the defendants, who are insured by Autopac.

**MR. CHERNIACK:** I'm pointing out to Mr. Walker that what he's asking for is the right to commence an action from the very beginning, all over again, against the two people Burns and Goodman and become involved in an entire action involving the trial, pre-trial hearings, subject to appeal and all of that. And instead of that, the discussion that took place very briefly this morning, where three of us spoke, resulted in my preparing an amendment which has the effect of accepting the amounts adjudicated upon by Judge Hewak against Szewczyk and saying that amount is settled and rather than going through any more trials, the amounts so assessed against Szewczyk should be shared equally between the MPCIC and the Law Society. We could argue later as to why the proposal was to bring in the Law Society, when you did not ask for the right to go after them. But what this proposal is and I have no idea whether the committee would accept it or not but that is the principle, that we accept the amount of the judgment awarded by Judge Hewak against the lawyer, determine that that amount shall be paid, half by the Manitoba Public Insurance Corporation and the other half by the Law Society, and providing that the judgment obtained against the lawyer should then be assigned to payors — that is the insurance company and the Law Society — so that they would still have the right to attempt to reimburse themselves from the lawyer eventually.

That is the import of the amendment, Mr. Chairman, which Mr. Uruski and I requested Mr. Tallin to prepare this afternoon and which is now before us. Mr. Blake has a copy and the Law Society people have a copy. We phoned them as well this afternoon to tell them what we were proposing to do, so that they would be forewarned and now I'm asking you, Mr. Walker, whether you would really opt to go with the original bill, which involves a brand new action, all the hearings, all the trials, all the frustrations for your clients, in the expectation of receiving a greater sum of money, and going through all the hardships and duress that you're aware of — and I'm building up the case obviously, in support of the amendment — or to receive the actual amount of the judgment that you have obtained and receive it from the two bodies that we sort of feel should share the responsibility. One because its the lawyer that was at fault and that the Law Society should stand behind, backing up his negligence, and the other for the insurer which, frankly, I can't fault them for going by the law which says there is a limitation period, you're not bound to pay if you haven't had action commenced ahead of that. You're now faced with this dilemma that I'm presenting to you and that is would you want to make a choice or would you rather not comment?

**MR. WALKER:** No, I don't hesitate to comment. I think that I have a duty on behalf of Mrs. Hawes and her husband to ask for justice for them and what they would be fairly entitled to. And if you just read

this one paragraph of Mr. Justice Hewak, where he clearly bases his judgment on the fact that she has been working since that time, May 16, 1979, the facts of the matter are and the facts as we have them today is that Mrs. Hawes will probably never work again, and she's the main breadwinner in the family; she's 54 years of age, there's at least 10 years of income that she is being deprived of, if that amendment were allowed to go through the way it is.

I appreciate the fact that there is an attempt to relieve Mrs. Hawes in that amendment. I didn't ask that the Law Society be joined as a defendant; I asked as a payer. I would let the chips fall where they may. I would prefer, myself, to have the bill and, once the bill was there and the action in the courts, I think that Mrs. Hawes is entitled to a better judgment for what she has truly lost and that that is fair and that this amendment here, well motivated though it might be, is directed at the Law Society paying something toward it; whatever its purpose, it has the effect of defeating Mrs. Hawes of some part of her claim that I think she's justly and truly and fairly entitled to. And if that amendment were worked on a little more to take that into account, it would be fair. But what is being said here is that Mrs. Hawes should suffer another injustice. She's suffered injustice now year after year after year and now we go back and tell her that because the Law Society is being brought in, for whatever reasons there are there, valid as they may be or not, she's being asked to accept a sum of money which another court would not award.

If this thing went to trial right now, the court would have to take into account the fact that the breadwinner in this family can no longer work. That's a serious serious claim and I'm asking for the right to be able to present this claim in court, in the same way that these claims have been granted for dozens and dozens of years by the Legislature, ever since there's been a statute of limitations in Manitoba. I'm asking for just what other people received for Mrs. Hawes.

**MR. CHERNIACK:** Mr. Walker, would you agree that if Mr. Szewczyk had the assets to pay this judgment that you would have enforced the judgment against Szewczyk, you would have received your 63,000, or approximately 65,000 and that would have ended the case entirely, wouldn't it?

**MR. WALKER:** We can speculate if he had assets. We knew from the beginning he didn't. The whole thing was academic; the whole thing was just an exercise to satisfy an objection. I would really urge each member to strive for nothing less than justice and nothing less than fairness. Here is our claim before the court, before the highest court in the land, the Legislature, and here the lady has a just claim. She's got 10 years of lost income that Mr. Justice Hewak did not consider. Those are the way the facts fall. We're asking for a bill now. We're not asking for a bill to pay Bob Szewczyk. You see, whatever claim there is against Szewczyk can be assigned onto the insurers and they can try to collect from him, but they'll get nothing from Bob Szewczyk because there will be a bankruptcy before there is a penny out of that. That's the likelihood of it. So, it's academic, it's a judgment that was never thought it would collect

anything, it never will collect anything and why should that now become the criteria for Mrs. Hawes' damages when we know that her damages are broader than that. Fortunately, with God's will or whatever, perhaps it is that now you have an opportunity to fairly do justice to her as she deserves justice and that this delay has only served to allow the injustice to appear.

I suppose the delay has served some purpose by not having it passed last year. It turns out that the damages are more serious than were even realized by the doctors at that time. The court has to adjudicate on that and I don't fear or back down from having to issue a statement of claim and go through the procedure of collecting it for her. But there is the paragraph that cannot stand today.

**MR. CHAIRMAN:** Are there any further questions of Mr. Walker? If not, thank you, Mr. Walker.

I'd like to call Mr. Keith Turner.

**MR. KEITH TURNER:** Mr. Chairman, the proposed amendments only came to my attention while in this room and the Law Society is not in a position, of course, at this time to really enter into any intelligent discussion, pro or con the proposed amendments offered by the honourable member, Mr. Cherniack. Nor am I in a position to discuss the facts of the matter in any way, shape or form, I am simply not familiar with them. I would, however, if it's the wish of the committee to take the proposed amendments to a meeting of the, at least, Executive and Finance Committee of the Law Society to apprise them of the fact that the proposed amendments have been offered and obtain instructions as to what position the Law Society wishes to take, if any, with respect to them.

So, I think I could say, notwithstanding that many members are on vacation at the present time, that I could make the undertaking to submit the proposed amendments to a body of the benchers and be back to you within a week or, say, one week from today, if that is of any assistance. I have no idea at all what the reaction or response would be and I am not, of course, authorized to make any statements but I will give the undertaking to bring it to the attention of the appropriate officers of the society.

**MR. CHAIRMAN:** Are there any questions of Mr. Turner? Mr. Blake.

**MR. BLAKE:** Yes, Mr. Chairman, Mr. Turner, I assume, represents the Law Society. I would ask him, at what stage is the certificate allowing a lawyer to practise in the province, at what stage of financial responsibility or irresponsibility is his licence to practise lifted by the Law Society, or is he requested not to practise, or put under some restriction to practise by the society?

**MR. TURNER:** Every member — I don't like to go by recollection, I prefer to have the Act and regulations before me — is required to file in the spring of each year, I believe, March 30th, or thereabouts, an accountant certificate as to state of his trust account, which would not be his assets, assets which he is administering on behalf of clients, as to his own personal financial position. There is no

obligation — I think of myself, for instance — for me to disclose to the Law Society at any time what my financial position, good, bad or indifferent, is. However, I think if there is a judgment given against me, other than for cost, which remains unsatisfied, there is a provision in the regulations. And, again, I'd like to try and quote it, "Whereby the Law Society" — and I'm looking at the secretary and the immediate past president — "if they are aware of such a judgment or perhaps an act of bankruptcy might decline to issue a practising certificate." How that relates to this case, I'm really not prepared to say because I don't know.

**MR. BLAKE:** I understand the trust fund, the application to the trust funds, if a demand on third party, such as is issued by the Income Tax Department, for example, does that come to the attention of the society if one were issued against a lawyer? Because in this particular case, there must have been several issued. I mean they threaten to issue them on me once in a while.

**MR. TURNER:** I don't think I know the answer to that question off the top of my head.

**MR. BLAKE:** This would just be a personal financial arrangement. It would have nothing to do with . . .

**MR. TURNER:** If a lawyer received a notice of assessment, as about this time of year they come in — hopefully, nil — July, I'm waiting for mine. That would not necessarily and I see no reason why it would come to the attention of the Law Society unless the Department of Justice or the Income Tax Department saw fit to bring it to their attention.

**MR. CHAIRMAN:** Mr. Adam.

**MR. ADAM:** Mr. Chairman, to Mr. Turner. The reason for the suspension as it applied to Mr. Szewczyk was because of his failing to file certain documents with the Law Society, or was it the manner in which he mishandled his clients or his law operation? What was the reason for the suspension?

**MR. TURNER:** I think I know the answer to that, but before I state what I think the answer is, I'd like to check it with Mr. Farwell, the deputy secretary of the Law Society, who is present, and come back and answer it. My understanding was and it's now been confirmed by Mr. Farwell, the deputy secretary and Mr. Schulman, the immediate past president, that it was because of the conviction for failure to file income tax returns by Mr. Szewczyk for many many years, characterized in the charge and certificate of conviction as evasion of income tax.

**MR. ADAM:** In other words, his suspension didn't come about because of his failure to deal properly with Mrs. Hawes?

**MR. TURNER:** My answer to that would have to be no, to my knowledge, and having checked with the other two officers.

**MR. ADAM:** Mr. Turner, you've mentioned that your personal assets are of no interest to the Law Society when you file, is that correct?

**MR. TURNER:** Yes, I'm not required to disclose my assets, the mortgage on my home or what I own or don't own.

**MR. ADAM:** You are required to obtain insurance with the Law Society?

**MR. TURNER:** Yes, I am required to pay an assessment each year along with my assessment for the annual practising fee, a certain amount which is for insurance coverage.

**MR. ADAM:** If you fail to file the proper papers or whatever is required under that contractual arrangement, then you are liable not to receive your permit, is that correct?

**MR. TURNER:** I would say, you are liable not to receive it.

**MR. ADAM:** What has happened then, Mr. Chairman, between Mr. Szewczyk and the Law Society is that he has not lived up to his contractual arrangements with the Law Society, and as a result of this, Mrs. Hawes is made to suffer the injustice that she has been put through.

**MR. TURNER:** It is my understanding, but again, I would have to obtain confirmation of this that that is not the reason; but rather the reason was Mr. Szewczyk's failure to report, and I can't quote the language of the insurance policy, but it goes as it does under most liability insurance policy, a failure to report an occurrence which may give rise to a claim in damages against the insured. That is my understanding of the reason why the professional liability insurance does not attach in this case.

There is a provision in the policy, which Mr. Walker was kind enough to place before me and I won't, of course, bore you with it all, "Notice of claim must be given in writing by the member to" — in this case, it was P.J. Scott and Company Limited, Smith Street, marked to the attention of Mr. So-and-so. There is a reporting provision as there is under your automobile insurance policy or any other insurance policy. My understanding is that the factor resulting in no liability insurance for Mr. Szewczyk was due to his failure to report an occurrence to wit the expiration of the limitation period, and not the reason which you put forth, sir.

**MR. ADAM:** Mr. Turner, then could you tell the committee or advise the committee how many years or how far was he behind in his reports? How long was he delinquent in not reporting this to you?

**MR. TURNER:** With respect to each incident, and so far as I know there is only this one incident. If an incident occurred — if you were involved in a motor accident — as you know, you have to report it within a reasonable period of time or whatever the policy says. Similarly with this liability insurance. So far as I know, there is the one incident, the Hawes case, and he apparently failed to report that he had allowed the limitation period to expire. That, therefore, voided his insurance.

**MR. ADAM:** Mr. Turner, that section of the contractual agreement between Mr. Szewczyk and

the Law Society gets the Law Society off the hook insofar as paying the claim.

**MR. TURNER:** Not the Law Society, sir, the insurance company. The society's carrier.

**MR. ADAM:** Yes, that's what I meant.

**MR. CHAIRMAN:** Mr. Blake.

**MR. BLAKE:** Yes, I just wondered Mr. Turner, before you leave, would it be unreasonable to ask if the Law Society might provide to this committee the dates that Mr. Szewczyk filed his accountability certificate, or whatever is required of the society, in each of the years for the last three or four years or would that be an unreasonable request?

**MR. TURNER:** I would certainly report your request, sir, to the Executive and Finance Committee and undertake to get back to the committee. What their answer will be I wouldn't purport to say, but I will certainly undertake to see that that request is forwarded.

**MR. CHERNIACK:** Thanks, Mr. Chairman. Mr. Turner, I was informed today, and I didn't know until then, that when you say that failure to report to the insurer made the insured not liable, rather than the Law Society not liable, I wonder if you could clarify by understanding, as I say, when I was informed to day, and that is when a claim is filed for negligence the lawyer himself is expected to pay, or liable to pay the first 2,000 of a claim, the Law Society, the next 23,000 of the claim and the insurer only the excess over that 25,000.00.

**MR. TURNER:** That is my understanding, sir.

**MR. CHERNIACK:** Which means, to me, that if Mr. Szewczyk has complied with that limitation period — we're dealing with two limitation periods, one to MPIC and one with Szewczyk's insurer, that had he done it in proper time, in accordance with the requirements, then it would have cost the Law Society 23,000 and his insurer the excess over 25,000.00.

**MR. TURNER:** If the insurance otherwise attached in all respects, yes.

**MR. CHERNIACK:** Yes. Thank you.

**MR. CHAIRMAN:** Any other questions? Thank you, Mr. Turner.

We'll now deal with Bill No. 65, The Registered Nurses Act and I'd like to call on the person representing the Manitoba Health Organizations.

Can we have your name please?

## BILL 65 — THE REGISTERED NURSES ACT

**MR. HERMAN CREWSON:** My name is Herman Crewson, Executive Director of Manitoba Health Organizations Incorporated. As you are aware the Manitoba Health Organizations Incorporated represents the owners and operators of health facilities in the province of Manitoba, namely, the

hospitals and the non-proprietary or non-profit personal care homes. You will also recognize that in so doing our membership are the employer of the large majority of the nurses. We have had the opportunity to review what is being proposed, have had the opportunity to converse with the profession, to converse with government and so on, and find that our concerns essentially have been allayed, except for one, that one has to do with the question of what occurs when there is to be a regulation initiated in which, either by virtue of standards of practice or by virtue of educational standards, implicates our employing facilities, and the vehicle is not very clear, in respect to the bill. We would like to think, and would like to expect, that in some fashion we would be informed so that we can react accordingly, whether that reaction be positive or negative. In general terms we are in support of the bills, but this, Mr. Chairman, and members, represents our one remaining concern. We would hope that we would not have to rely solely upon the pipeline when it comes to a change or a revision, by way of regulation requiring order-in-council to make it effective, that has implications for all of our facilities.

**MR. CHAIRMAN:** Thank you, Mr. Crewson. Are there are questions?  
The Honourable Minister.

**HON. L. R. (Bud) SHERMAN:** Mr. Chairman, thank you. I'd like to thank Mr. Crewson for his presentation and just ask him, with respect to the point that he has just made, if he has any proposals in any refined form, as to how he would see our being able to guarantee that kind of communication. I presume Mr. Crewson that you're talking about the consultative process. Certainly every effort can be made to, and I'm sure will be made, to observe a proper consultative process but human frailties being what they are some times unfortunate omissions of communication occur. Do you have any proposals you would like to leave with the mover of the bill, the sponsor of the bill, Mr. Filmon, the Member for River Heights, who is not here at the present but to whom I will certainly communicate your concerns.

**MR. CREWSON:** Yes, Mr. Chairman, we have given consideration to the avenues that might be appropriate. One that strikes us as being a fairly obvious and simple one, which may or may not gain the support to make it happen, is that the bill provides for lay representation on the board. This is a minority representation and by no means dominates, vetoes or anything else, but it is lay representation and were it to occur that employers would have the opportunity of representation through that avenue, then I would see no difficulty because they would know what had been initiated and we would know what had been initiated and be able to react accordingly. That's one avenue.

A second avenue would have to be somewhere between the presentation of a proposed regulation change and its approval by the Lieutenant-Governor-in-Council. Whether that be in the way of an appeal mechanism or whatever, that would be another avenue.

**MR. SHERMAN:** Mr. Chairman, I'd just like to ask Mr. Crewson whether he would accept, in good faith, the view of the government that the lay membership named to the board should include an appointment or appointments from the employer sector would satisfy him, or whether he feels, and I wouldn't criticize him for feeling this way because guarantees are only as good as their guarantors, I know that, whether he feels that that sort of assurance should, in fact, be written into the statute?

**MR. CREWSON:** Well, I think, Mr. Chairman, that our preference would have been that it be written in but we recognize the lateness of the hour, as it were, with these bills and we would be prepared to take the good faith of the government to recognize the interest of employers in respect to this matter, and we would be most upset if it were not recognized. Let's put it that way.

**MR. SHERMAN:** Mr. Chairman, your point is recognized and noted and thank you very much for the proposal.

**MR. CHERNIACK:** Mr. Chairman. Mr. Crewson, were you deploring the fact that your organization did not have sufficient notice or information about the petitions being brought here to the Legislature for these various professional Acts to be enacted?

**MR. CREWSON:** No, Mr. Cherniack, we have had the opportunity, as I indicated earlier, a number of reviews and have researched it well and have had many concerns. However, one by one these concerns have been relieved, by virtue of the way the bill is now presented, so that we had only really the one remaining.

**MR. CHERNIACK:** Well, Mr. Crewson, so your only remaining concern, having read all of these three bills, is that there should be representation by employers on the boards of the three proposed bodies?

**MR. CREWSON:** That being one avenue by which we would know when there was the initiation of changes in standards, either of education or practice or both, which has implications for the employing agencies we represent.

**MR. CHERNIACK:** You say, one of the avenues? What else?

**MR. CREWSON:** The other avenue that I mentioned, Mr. Cherniack, was the level between that of the presentation for the purpose of a new regulation or a revision and that of approval by the Lieutenant-Governor-in-Council by an appeal or something of that nature which would allow us to make representation and react if we wished to.

**MR. CHERNIACK:** Mr. Crewson, you represent, I assume, all of the hospitals in Manitoba?

**MR. CREWSON:** Yes.

**MR. CHERNIACK:** All of the — what?

**MR. CREWSON:** Non-proprietary personal care homes.

**MR. CHERNIACK:** Non-proprietary. You don't represent an proprietary?

**MR. CREWSON:** No.

**MR. CHERNIACK:** Who sets the standards of the health services provided in your hospitals?

**MR. CREWSON:** Well, each of the facilities has an operating board which, most of the time, is both owner as well as operator or manager, although management can sometimes be contracted by the owner. But generally speaking it's both, and as such the boards are legally and morally responsible for the standards of service that are provided within the four walls of the facility.

**MR. CHERNIACK:** Mr. Crewson, is there any legislation that requires you to employ RNs, LPNs, RPMs?

**MR. CREWSON:** No, not in specific terms. There is the requirement obviously to hire competent people and in so doing to delineate that which they will do within their competency. But as to numbers and mix of various types of professional people, that is a discretion that is used on the part of the management of the facility. At the same time, however, I wish to indicate that there is a set of standards, while they are voluntary, do exist, and are ascribed to by our facilities that are national standards, and which indeed do establish, under those standards, that which they believe to be a level of standard to be achieved through employment of registered nurses, for certain job functions and other categories of health professional people.

**MR. CHERNIACK:** Well, Mr. Crewson, let's set up a, the word I've learned is scenario, where you are employing registered nurse, John Smith, to do certain work; and that registered nurse, John Smith, for some reason, such as non-payment of dues, loses his membership in MARN, the RN association, is there anything, in any legislation, including this proposed legislation, that would deny you the right to employ no longer registered nurse, John Smith, in the capacity that he held until then?

**MR. CREWSON:** Well, we can employ him certainly, but not as a registered nurse per se. And we, as employers, I think have to honour the fact that there is a level of standard that has been achieved over the course of time, and recognized as being that which pertains to a particular level of competency achieved through a basic standard of education, and certainly a monitoring of the members having achieved that level of education and certainly, from our point of view and employer's point of view, we ascribe to that kind of a recognition. We don't, in the scenario that you have painted, it's speculation as to what the employer might do in that case because I think it would vary. There are those who might continue to employ him, whether it is doing the same things as he was doing before or changing it, but they would certainly be unhappy with that condition.

They would be unhappy that he is no longer able to hold himself out as being registered.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** All three bills as I read them — and I want to be corrected if I am wrong — only refer to reserve of title; all they do is say that a person may not hold himself or herself out to be, in this case, an R.N., unless they are members of the R.N. Association, but that there is nothing in the legislation which denies you or me the rights to do all those things that an R.N. is qualified to do, as long as we don't say we're R.N.s. Is that not correct?

**MR. CREWSON:** That's basically true, but I think that there is great jeopardy, grave jeopardy, in our proceeding in that fashion, in the event that there were some incident which might be seen to be negligence within the institution, we would be walking we believe on very delicate ground by suggesting that here was something that, in terms of practice in, not only Manitoba institutions, but other Canadian institutions, as usually done by a registered nurse and we had someone other than a registered nurse doing it. I think our position would be very weak and there are some legal precedents where that has come to light and it's made us believe that as employers we should not be going in that direction.

**MR. CHERNIACK:** Mr. Crewson, you are saying that regardless of the reason that person is no longer an R.N., and my suggestion was failure to pay the annual dues and no other reason, you think that your position would be jeopardized vis-a-vis the public if you continue to employ that person?

**MR. CREWSON:** Yes.

**MR. CHERNIACK:** Do you think you would have a right to discharge that person if only for the reason of non-payment of dues, he or she is no longer . . . ?

**MR. CREWSON:** No, I don't think, Mr. Cherniack, that we would anticipate an action of discharging him for non-payment of dues. I think any employer would be most anxious to try to re-establish the registration of that individual in whatever form they might so that he could be a member in good standing with the profession, but to think in terms of discharge only for that purpose is also rather shaky and it would require a rather delicate decision on the part of the employer, if that were the only reason.

**MR. CHERNIACK:** You perforce listened to what went on in the case of a lawyer who was negligent in his activity, but that lawyer was self-employed. Had he been employed by a law firm, let us say, then the law firm would have been liable for negligence.

**MR. CREWSON:** Yes.

**MR. CHERNIACK:** I assume in the same way that if you employ an R.N. who is negligent the R.N. might be liable, but the hospital certainly would be liable.

**MR. CREWSON:** Yes, Mr. Chairman, precedent is such that you would find only with very rare exception that it was not automatic, that the hospital

would seem to be liable under the master-servant relationship.

**MR. CHERNIACK:** That's really the area that I'm most interested in because, frankly, Mr. Crewson, I don't think that your organization has any right in the world to say we want representation on a board of directors which is . . .

**MR. CHAIRMAN:** The Honourable Mr. McGill on a point of order.

**HON. EDWARD MCGILL:** Mr. Chairman, on a point of order. I find the line of questioning of Mr. Cherniack quite interesting but we are here to hear the briefs and to ask questions that will enable the committee to fully understand them, but I don't think we should have a debate with the witnesses on these subjects, Mr. Chairman, and I would suggest that the statements that are now being made by Mr. Cherniack are tending to debate with Mr. Crewson the position taken by MHO. I think we should in fairness limit the questions merely to making sure that we understand the submission that was made by Mr. Crewson.

**MR. CHERNIACK:** Mr. Chairman, on the point of order. I think if Mr. McGill had conducted his usual manner of courteous listening he would have heard the conclusion of my question and learned that there was a very direct question to which I was hoping to get a direct reply. I wonder if he would permit me to complete it or whether he wants to stand on the point of order, I don't know.

**MR. MCGILL:** Mr. Chairman, it's not my position to say whether Mr. Cherniack can continue in this line or not. The Chair should rule whether or not the exchange between Mr. Cherniack and Mr. Crewson is tending to be a debate, rather than a seeking of further explanations on his position.

**MR. CHAIRMAN:** Mr. Cherniack, we'll try and ask you to stick to the bill then. You may continue.

**MR. CHERNIACK:** Mr. Chairman, I appreciate the fact. I am dealing now with the R.N. Bill, which I believe is the bill before us.

**MR. CHAIRMAN:** That's right.

**MR. CHERNIACK:** Mr. Crewson, you suggested that you would like it in the legislation but, at least, you would like an undertaking by the government that the employer would be represented on the Board of the Registered Nurses. Is that correct, do I interpret correctly what you said?

**MR. CREWSON:** That's basically true, Mr. Chairman.

**MR. CHERNIACK:** The Board of the R.N.s would have the right to deal with a number of members of the board, the manner of election, the place of calling annual meetings, the organization of regional — and you know, the whole list of what the board would have a right to do by by-law. Do you believe that any of this is a matter in which the employer should have a say?

**MR. CREWSON:** Mr. Chairman, we are looking at the bill and, as I mentioned earlier, noting that there is provision already for non-nurses to be members of the board for what we would anticipate a variety of reasons, but nevertheless that lay representation exists. I want to remind, perhaps, Mr. Cherniack, that the people who serve on the boards of health facilities and shoulder that legal and moral responsibility are lay people from various walks of life who are not paid. They are not in it for profit; they are people who are trying to do a job. I simply am representing them, and there are some 1,800 of them in the province, representing their concern here that they would not wish to be in a position to have something that comes upon them by way of a change in, say, the standard that is to be maintained, that is going to implicate their situation. I'm not suggesting that they might oppose it because often they are initiators of changes to improve standards. But they would like to at least be informed when this comes about.

**MR. CHERNIACK:** Mr. Crewson, and with every intent not to debate but rather to enquire whether you believe it is the right of an employer to participate in meetings wherein it may well be a matter of discussion as to whether the standards of the employers' institution measure up to the standards of MARN and whether the employer should then have an opportunity to sit in on the inner councils of the employees dealing with the employers' standards.

**MR. CREWSON:** No, although I would assume that those items which would represent the points of interest for the members of, let's say, the MARN, at least 90 percent of them, will indeed have impact on that which applies to the environment in which they work, namely, the institutions.

**MR. CHERNIACK:** Mr. Chairman, what I'm really concerned about is the provisions towards the end of the bill that deal with the advisory council and with the certification — I don't know if that's the word that's used — of educational programs. It seems to me that there would be a matter that you would have wished to be involved in, and that is educational programs, academic. But would that not suffice or do you interpret Mr. Sherman's indication of intent to be to make you members of the board itself?

**MR. CREWSON:** I interpreted his statement to mean that within the provision of these bills for lay representation that some vehicle would be found under which representation from the employer level, and I speak collectively rather than singularly, would be made. That would have been my understanding, but I must also say that on the education side of it we have had in the past representation in respect to what precedes these advisory council provisions. We have had that representation both in the case of the registered nurses as well as the licensed practical nurses. This does not suggest that it is going to be removed because we were there on invitation, more or less, at the outset and then it became formalized after that. But that, I don't think, is really the best avenue because it deals only with education.



**MR. CHERNIACK:** One other aspect of the education, Mr. Crewson, do you have an interest in attempting to structure an educational course which would provide with ease a career ladder which would take persons, employed by you with lesser training, to work his or her way up to a higher qualified training as part of the career and, therefore, move from one degree to another, rather than having to take a fresh course all over again. Is part of what you would consider your concern?

**MR. CREWSON:** As a part of our concern, not our jurisdiction but, yes, our concern in working with others who are responsible and do have jurisdiction over these matters.

**MR. CHERNIACK:** Thank you, Mr. Crewson.

**MR. CHAIRMAN:** Have any other members of the committee any more questions? Thank you, Mr. Crewson.

Now, I'd to call on the Manitoba Association of Registered Nurses, Miss L. Tod.

**MISS MARGUERITE BICKNELL:** Mr. Chairman, and members of the committee, I'm Marguerite Bicknell, President of the Manitoba Association of Registered Nurses, and I would like to just introduce our brief tonight by speaking on behalf of the executive and the board of directors and the membership of the Manitoba Association of Registered Nurses and to thank the government of Manitoba for the opportunity to interpret to this Committee on Private Bills the rationale for Bill 65. With the permission of the board, I would ask that our executive director, Louise Tod, whom I think many of you have come to know over the past while will present our brief.

If I may ask a question, is it permissible for more than one person to respond to the questions asked?

**MR. CHAIRMAN:** Yes.

**MISS BICKNELL:** Then, with the permission, Mr. Michael Sinclair, our legal counsel and myself would also be prepared to reply to questions. Thank you. Miss Louise Tod.

**MISS LOUISE TOD:** Mr. Chairman, I have some briefs here that I'm prepared to circulate.

**MR. CHAIRMAN:** Could I get you to present your name before you start your presentation just for the record.

**MISS M. LOUISE TOD:** I'm Louise Tod, the Executive Director of the MARN and would reiterate what our President has said and thank you for the opportunity to appear before this committee.

Before speaking directly to the brief, I would like to establish a framework in which to present our brief to support Bill 65, The Registered Nurses' Act.

First of all, we are pleased to appear as representatives of a profession, the profession of nursing. Manitoba nurses are proud of the longstanding record of recognition by the public in this regard. The nurses of Manitoba were recognized as a profession by an Act of the Manitoba Legislature in 1913, the first nursing professional association in Canada to receive such recognition.

We have a proud heritage of nursing in this province which dates back to the days of the Grey Nuns, who were first to deliver nursing care in this province. Those of you who read the Free Press, there was quite a lengthy article on nursing in the July 5th issue, 1980.

As I say, we appear before you as representatives of a profession. To be sure we are speaking from a mutually understood meaning of the profession, I will list the main and commonly recognized criteria of a profession.

1. It provides a service to society involving specialized knowledge and skills.

2. It possesses a unique body of knowledge which it constantly seeks to extend in order to improve its service. The committee members will be interested to know that the numbers of nurses academically prepared to carry out research in Manitoba is increasing. The government has been very supportive in this regard. We are very pleased to report that the University of Manitoba has launched a Masters Program in Nursing. Such a program will give many nurses in Manitoba the opportunity to pursue graduate study in nursing without leaving the province. This will pave the way for providing the basis for increased activity in research and add to the base of knowledge underlying nursing practice and towards specializing in nursing.

3. It sets standards of nursing education and practice. We believe that those who have the expertise and knowledge are best prepared to establish standards of education and practice. The traditional justification for giving this role and responsibility to the professional body is that its members are best qualified to ensure that proper standards of competence and ethics are maintained. This is of clear public interest in the creation and observation of such standards, but there must be adequate safeguards to ensure that injury to the public interest does not arise. Such safeguards are contained in Bill 65 with lay representation on the Board of Directors, Complaints Committee, Disciplines Committee and Advisory Council.

4. It accepts responsibility for safeguarding the public it serves. The MARN recognizes that there is a return obligation for the rights and privilege given in the setting of standards, and this is outlined in Parts IV to VII in Bill 65.

5. It adapts to services to meet changing needs. Nursing is responding, for instance, to the major thrust of provincial and federal governments in the shifting emphasis on health care delivery, to illness prevention and health promotion. Nursing is responding by new and innovative approaches to delivery of nursing care, such as primary nursing care, and incorporating these concepts into educational programs.

6. It adheres to a code of conduct based on ethical principles. Such a code of ethics spells out expected behaviour of nurses in their relationship to clients, colleagues and to the public. The International Congress of Nursing Code of Ethics was adopted by the MARN in May of 1975.

To proceed with the document that is in front of you, Bill 65, The Registered Nurses' Act, is submitted for the following reasons:

1. To update the provisions of the current Act to reflect current values and needs of society in the 1980s. And you will see that the inclusion or provision for lay representation is one example.
2. To remove inconsistencies and lack of clarity which exists in the wording of the present Act.
3. To maintain the right and responsibilities currently assumed by the Manitoba Association of Registered Nurses, the objectives of which are to serve the best interest of the public.

The proposed draft Act conforms to the Manitoba Government Guidelines for the Development of Legislation for the Health Professions and to a standardized format as required by Legislative Council.

To highlight the Act, we have included:

1. A definition of Nursing Practise or the Practise of Nursing. The current Act does not contain a definition. The definition, as contained in this Act, is stated in general terms. It was done deliberately so to provide or allow for the expanded role of the nurse as changes take place due to the scientific medical mushrooming of knowledge. Certainly nurses respond to these changes.
2. Lay representation on the board, as I have previously referred to.
3. By-laws contain provision for all matters that relate to the administration of day-to-day operation of the corporation or the association
4. Regulations, all of which are subject to the Lieutenant-Governor-in-Council's approval, refer to those activities which affect the welfare of the public, namely:  
Admission, registration, renewal of registration, suspension, expulsion, reinstatement — I could stop there and say that the MARN has been carrying out those responsibilities to date — and conditional registration of members, which is a new provision that we are asking to have included. provide for standards of practise; standards of education; standards of continued education and standards of specialization.  
. Further, we have included the establishment of rosters, in addition to a register.
6. An appeal mechanism upon refusal of registration.
7. Unauthorized practise prohibited.
8. Employers are required to ensure that persons they employ are in fact registered.
9. Employers are required to report to the MARN the termination of nurses for reasons of professional misconduct, incompetency or incapacity.
10. Discipline procedures are described in detail in this Act. An appeal mechanism for the complainant or person against whom the complaint is lodged is provided at each step of the discipline procedure.
11. The Accrediting Committee, more appropriately named the Advisory Council, is

clearly identified as a committee of the board, and membership is defined.

12. The Act, we believe, is written so as to be understandable to the public.

In summary, the members of the Manitoba Association of Registered Nurses recognize this opportunity to appear before — at one time we thought we were coming before the Law Amendments Committee, and that has not been corrected — to be unique and appreciate being able to answer questions directly.

We reiterate the purpose of the proposed legislation to be:

1. to remove current inconsistencies and contradicting clauses;
2. to update the provisions of the Registered Nurses' Act to reflect the needs of society in 1980; and
3. to continue to protect the public as the legislated registering body for Registered Nurses in Manitoba.

Before we go any further, I want to draw to the attention of the committee, Mr. Chairman, that there is either a typographical error or a mistake and that is under Definitions 1(g)(ii). That should read "interpreting data and identifying health problems."

I would be happy to answer questions or refer them to my colleagues.

**MR. CHAIRMAN:** The Honourable Mr. Sherman.

**MR. SHERMAN:** Thank you, Mr. Chairman. Thank you very much, Miss Tod for your presentation, the presentation of the Manitoba Association of Registered Nurses.

I would just like to say for the record, Mr. Chairman, that my office is certainly grateful, and the government is certainly grateful, for the work that has been done by the Manitoba Association of Registered Nurses, in consultation with the sponsor of the bill, Mr. Filmon, and officials of the department, over many many months, indeed one might almost I think, without fear of contradiction, say years, towards the production of the proposed legislation that is now before us. I do want the MARN's co-operation, counsel and assistance formally recognized for the record.

Miss Tod the bill proposes, with respect to the Board of Directors, that four members of the Board of Directors shall be persons who are not members of the Association, in other words, shall be lay members. I want to ask you, for the purposes of refining and shaping the final form of the bill, and that's what we're here for, whether the MARN would consider that two of those lay members should be appointees by the Lieutenant-Governor-in-Council. The reason I ask that question is because, as you know, the proposed Medical Act, which is not in front of us and has been deferred for intersessional committee, which is not a fate to which The Manitoba Association of Registered Nurses' Act has been consigned, proposes that the council of the college include the appointment of four lay members, two of whom shall be appointed by the Lieutenant-Governor-in-Council. Would the MARN consider that to be a reasonable approach with respect to its board?

**MR. CHAIRMAN:** Miss Tod.

**MISS TOD:** The Board of Directors would not object to that provision, if two were named by the Minister. In fact, if this remained as currently written, I am very sure that they would have been approaching you to name at least two.

**MR. SHERMAN:** Thank you. Miss Tod, could I ask you, on the same point, arising out of the presentation made by Mr. Crewson, the Executive Director of the Manitoba Health Organizations, and you don't need to answer this question, obviously, if you don't want to but if you care to I would appreciate your counsel, as to whether you think that the consultative mechanism with respect to proposed regulations, described and proposed by Mr. Crewson, should go so far as to call for the appointment of employer representatives in that category of lay appointees to the board?

**MISS TOD:** The representatives of the MARN have discussed this with representatives of the Manitoba Health Organization. The Manitoba Health Organization, although representing a large number of employers of nurses, do not represent all employers. Nurses are employed in community health centres, public health units, occupational health, doctors' offices, and so on. It is the belief of the MARN that we must stand accountable to the public, rather than one particular interest group, and therefore, I think I am safe in saying that they would lean to having representation from the general public than a specific organization within that public.

I might draw to your attention that there is no other Act that applies to Registered Nurses in Canada that has that specific provision, i.e. the health organization or the hospital association being represented.

**MR. SHERMAN:** Thank you, Mr. Chairman. Could you envision an appointment, say a single appointment, in that category of lay appointees and could you live with a single appointment in that category, that did indeed fall into the classification of employer representation but did not come from the Manitoba Health Organizations? You have cited, for example, a number of employers of registered nurses, they're not necessarily members of the MHO.

**MISS TOD:** I think that would be acceptable. I think what we would react to is having one single organization spelled out and referred to within the Act.

**MR. SHERMAN:** But, if we were to identify a person, a man or woman, whom we thought was exceptionally well qualified to serve the MARN and to serve the people of Manitoba, through a lay appointment to this board, and that man or woman happened to be a member of a board of directors of a general hospital, that would not necessarily be unacceptable to you, or represent an overt move on the part of the government to achieve MHO representation. Am I safe in assuming that?

**MISS TOD:** Well, having indicated to you that we would accept two of the four being appointed by the

Minister, and the Minister chose to make such an appointment, it would follow that we would accept your nomination.

**MR. SHERMAN:** Thank you Miss Tod. One more question, Mr. Chairman, I need your guidance Miss Tod on the question of portability of nursing qualifications. As you well know, having been through the process for many months, the new Act makes no reference to the extenuating circumstances for admission to membership in the MARN which were recognized under Section 14.(1) and (2) of the old Act. It simply says that the board may make regulations to regulate the admission, registration, expulsion, reinstatement of members etc. and to prescribe the conditions precedent to membership of persons applying therefore. The old Act, as you'll recall, said that notwithstanding anything hereinbefore, etc. etc. etc. the board may dispense with compliance with the requirements for admission to membership in the association, upon being satisfied that the person etc. etc. etc. has acquired the same benefit, knowledge and experience as if the foregoing provisions of this Act had been strictly complied with. In other words, it could be argued that under the old Act it would be easier for a nurse to come in from Quebec or Alberta or B.C., or indeed anywhere in the world, and gain admission to the MARN, than will be the case under the new Act. This is an area that some of us are continuing to wrestle with and certainly would like to have finalized in these climactic hours of consideration of Bill 65. I'd appreciate your opinion on that.

**MISS TOD:** This provision has not been included in the body of the Act but the MARN has approached seeking changes in the Act, with a positive attitude, and we have developed a regulation which will be submitted immediately to Lieutenant-Governor-in-Council as soon as this Act is passed. And in that regulation we have provided a section entitled, discretion of the board and covers what you are referring to.

**MR. SHERMAN:** Well, thank you very much Miss Tod. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Any other members of committee have questions? Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. Dealing with representation on the board. What prerequisites does the board consider it would apply in selecting the lay people on the board?

**MISS TOD:** In discussions with the Legislation Committee and board of directors, it is anticipated we would be approaching such organizations as the Consumer Association, or people in the community who are known for their service to the communities or past experience of serving on voluntary boards, etc.

**MR. CHERNIACK:** Would you consider such professionals as social workers, doctors, other people that relate to the health professions and to the nursing professional service?

**MISS TODD:** I think they would be judged on an individual basis.

**MR. CHERNIACK:** Dealing with Mr. Sherman's suggestion regarding the appointment of an employer, does the MARN have representation on the Manitoba Health Organization?

**MISS TODD:** No, they do not.

**MR. CHERNIACK:** The board of directors, according to your bill, says that you will decide — I don't mean you, Miss Tod, I trust it would be the board — would decide the number of members of the board, the manner of election or appointment of the board. You do say that there shall be four lay people but that's all you say in your legislation. Would you have any objection to putting into the legislation the number of members of the board, the term of the board. I have in mind the desirability of making sure that there are frequent elections; that there is movement within the board; change of personnel, would there be any objection to your putting it into the legislation, rather than leaving it entirely to the board to decide?

**MISS TODD:** In participating in the drafting of this legislation we did not want to be so specific that we would be required to open the Act at frequent intervals. We were looking at increasing numbers of membership over the years and the board in 1980 might determine that there would be a similar number on the board as there is at the moment, but if we increased our population 10 or 20 percent, then we would not be restricted from increasing the membership on the board if it was not spelled out specifically in the Act.

**MR. CHERNIACK:** How large is your board?

**MISS TODD:** We have 17 members at the moment and that's 17 members on the board of directors and a total population of approximately 8,000. If we went to 10,000 members, if we had an influx of nurses who had an overwhelming desire to work in Manitoba, then I would anticipate that we would increase that number. To go further, if I have the time, what the association is looking at is establishing regions, similar to the regions of the Department of Health, and so representation would be determined based on the regions and populations within each region.

**MR. CHERNIACK:** I believe the Law Society has, I don't know, 1,000, 1,200 members and it has about 40 benchers, I believe, and regionally represented, would that seem to be an unwieldy number of people?

**MISS TODD:** I would express my own opinion and say yes; for our association.

**MR. CHERNIACK:** One other question, relating to the representation on the board. Some of us have received a petition re changes to the LPNs where there is a suggested change — it doesn't say who distributed this. It does say though that it is recommended that on the advisory council there shall be one person who shall be a member of the

MARN and appointed by the MARN. We will deal with that when we deal with LPNs but would you see any advantage that an RPN should be on the advisory council of the RNs or an LPN be on the advisory council of the RNs?

**MISS TODD:** Again I would say we would have to look at it on an individual basis. I think what the MARN is looking at is having representation on the board that reflects the representation of members, plus the lay representatives who represent the interests of the public, and so we would look at those who are best able to serve the association on the board of directors, as determined by members through election.

**MR. CHERNIACK:** Well, of course, you're only now talking about two members of the board of directors to be appointed from the lay persons, that's all you're involved in in selecting, right? Is this an RN petition? A MARN petition I mean.

**MISS TODD:** I believe I know which one you are speaking to and it was submitted by registered nurses. Not MARN, not a MARN representation.

**MR. CHERNIACK:** Dealing with the question of portability, where you say that you are not yet ready to indicate but would want to through your regulations, did you hear my question to Mr. Crewson, dealing with upward mobility or career ladders and how the RN association, would be able to accommodate to people who are in the same service of health service, being able to become RNs without going through the regular or recognized channels but rather move from another group. Like the LPNs who I believe have lesser training than the RNs.

**MISS TODD:** The Manitoba Association of Registered Nurses for some years has been on record as approving the principle of providing upward mobility to all health workers. At the moment there is one program, the Red River Community College, that provides a program for licenced practical nurses and provides a one year program for that. They may exit, take licenced practical nurse examinations and qualify as a licenced practical nurse; or they may exit for a period of time and then return, enter into the second year program and obtain qualifications to make them eligible for registration as a registered nurse. In addition, the Assiniboine Community College and the Brandon General Hospital have an articulation program which provides for opportunities for licenced practical nurses to challenge examinations and enter the diploma program. In addition, all schools of nursing provide for entrance of mature students, recognizing their life experiences and past work experiences and so on. Again giving them opportunity to challenge exams, and if successful enter the program. So that concept has been approved by the MARN and is encouraged in all the programs.

**MR. CHERNIACK:** Now the nursing education programs which have been approved are apparently being continued. Deemed to have been approved until the approval is withdrawn. So that you are really not starting afresh, you are starting with existing by-

laws, which according to your proposal shall continue until changed, and you're continuing with existing educational recognition, which would continue until changed, but it seems to me that the provisions dealing with regulations must be put in place immediately in order to be effective. And when I say immediately, it seems to me almost concurrent with the proclamation of this bill. Do I misread that point?

**MISS TOD:** Those regulations relating to the standards of education will be ready to submit to the Lieutenant-Governor-in-Council, prior to the evaluation of schools of nursing which is due early in 1981. In the meantime the schools will continue as approved schools of nursing in the province.

**MR. CHERNIACK:** I was also dealing with 5(a), regulate the admission, registration, renewal of registration, suspension etc. of members. Now that would seem to me to be an immediate necessity.

**MISS TOD:** And Regulation 1, which we have already drafted, will be submitted to Lieutenant-Governor-in-Council as soon as this Act is passed and provide for the same conditions and requirements as are presently in effect.

**MR. CHERNIACK:** Are they available for review now? I don't mean this minute but I mean can they be given to us whilst we are studying this?

**MISS TOD:** I see no reason why not.

**MR. CHERNIACK:** Mr. Chairman, may I direct a question to the Minister. I will have a number of matters to raise as we go through the bill. I don't whether he thinks that there will be someone who will be able to speak on behalf of MARN to react to these. I certainly don't want to deal with them item by item in this portion of the program. I assume that some way or other we'll be able to deal with it when we're dealing section by section and obtain reactions.

**MR. CHAIRMAN:** The Honourable Minister.

**MR. SHERMAN:** I would think, Mr. Chairman, that it would be highly desirable, with respect to these three bills that are in front of us now, 65, 66 and 87, that for clause by clause study by the committee it would be highly desirable to have a knowledgeable representative and spokesman for the registered nurses, the psychiatric nurses and the licensed practical nurses to assist in that process. That would not require, except of course, voluntary attendance by any members of those associations would be most welcome, but it would not require a mass attendance. If we had one knowledgeable spokesman in each case I think it would be very useful in that process and I will have my office speak to the relevant associations about that.

**MR. CHERNIACK:** I appreciate that statement, Mr. Chairman, On that basis, I think we could conduct our business much more intelligently, if I may use that word and I did. Thank you.

**MR. CHAIRMAN:** Did you complete your questioning, Mr. Cherniack? Does that complete your questioning?

**MR. CHERNIACK:** Yes, thanks.

**MR. CHAIRMAN:** Are there any further questions members of the board? Yes, Miss Tod.

**MISS TOD:** Mr. Chairman, could I just enlarge on the question that Mr. Sherman addressed to me?

**MR. CHAIRMAN:** Yes, by all means.

**MISS TOD:** In responding to a question about the MARN's willingness to have representation from an employer group on the MARN Board of Directors and having listened to the debate in the Assembly, I would certainly suggest that if that principle is going to apply to the Manitoba Association of Registered Nurses, it should apply to all health workers or health professionals. So, if that appears in our Act I would expect to see it in The Medical Act, The Pharmaceutical Act, as well as all other health occupational Acts, so it would be consistent throughout.

**MR. CHAIRMAN:** Thank you very much, Miss Tod. Miss Bicknell. Mr. Taylor.  
The Honourable Minister.

**MR. SHERMAN:** Mr. Chairman, Mr. Ray Taylor has offered a submission addressed to the chairman of the committee on Bill 65 and pointed out that he had hoped to appear before the committee to deliver it, but personal matters have prevented him from being here this evening. He has gone to the trouble of preparing a five-page submission which is certainly a responsible submission, and I would ask that the Clerk have it printed and distributed to all members of the committee.

**MR. CHAIRMAN:** Copies available to members of the committee. Fine. Thank you, Mr. Minister. We have now the University of Manitoba School of Nursing, Professor Cynthia Cameron.

**MS CYNTHIA CAMERON:** Thank you, Mr. Chairman. I'm here to speak on behalf of Bill 65 and with your permission I would like to circulate copies of the brief from the University School of Nursing.

**MR. CHAIRMAN:** Yes, fine, the Clerk will distribute them.

**MS CAMERON:** I'd like to thank the committee again, as others before me, for the opportunity of presenting before the committee this evening and I would like to follow along largely from the brief that you have, or will have soon, in front of you.

As I've outlined before, I am here on behalf of the Faculty of the University of Manitoba School of Nursing to speak in support of the proposed revisions, that is, Bill 65 of The Registered Nurses Act. This has received approval and support of the general membership of the Manitoba Association of Registered Nurses, as perhaps the committee members are aware, in 1978. The registered nurses of Manitoba have been self-governing through

legislation since 1913. The intent of this legislation has been to protect the public by monitoring the quality of nursing in Manitoba.

In order for the Association to continue to carry out this intent, the proposed Act delineates more specifically the profession's rights and responsibilities. The Act now includes a definition of the practise of nursing and those who are qualified to represent themselves as registered nurses. The Act also protects the public by setting standards for education and practise. We believe that the professional association has the knowledge and expertise and, therefore, is best qualified to maintain these standards. The public is assured that it's interests are represented by providing for lay membership on the board of directors and on major committees of the Association. The Act further ensures the protection of the public by clearly delineating the procedures for disciplining members of the Association and includes appropriate procedures for appeal.

The University of Manitoba School of Nursing supports the principles contained in the proposed Registered Nurses Act, and in continuation we recognize that nursing represents greater than 50 percent of the health care providers in Manitoba. As responsible health care professionals we feel that comprehensive legislation is essential to protect the interest of the public and we urge the Standing Committee on Private Bills to accept the proposed Act. We thank you again for your attention to this very important piece of legislation.

Mr. Chairman, I would be happy to respond to questions.

**MR. CHAIRMAN:** Thank you, Professor Cameron. If any members of the committee have any questions? If not, I'd like to thank you, Professor Cameron, for putting your remarks before the committee.

**MS CAMERON:** Thank you.

**MR. CHAIRMAN:** Mrs. Barbara Bradley.

**MRS. BARBARA BRADLEY:** Mr. Chairman, I have copies of my brief which I would like to circulate, with your permission.

**MR. CHAIRMAN:** Okay.

**MRS. BRADLEY:** Thank you very much and thank you for the opportunity to speak tonight. I'm Barbara Bradley; I'm the Director of Nursing at Winnipeg Municipal Hospital. I am here tonight to represent other directors of nursing within the province and other nursing administrators within the province. I am a member of a group and we call ourselves Directors of Care, but we leave the word "nursing" out of our title.

The Directors of Care Interest Group is composed of Directors of Nursing from the city of Winnipeg Health Department, the Victorian Order of Nurses, from large and small rural and urban acute care and extended care facilities, from Deer Lodge Hospital, as well as Stony Mountain Penitentiary. These facilities are located in Teulon, Winnipeg, Stonewall, Brandon, Altona, Minnedosa, Selkirk and Morden, to name a few of the towns and cities represented in

our group. I do not have the mailing list attached, as it says, but I have it in my papers with me if anybody would like to see it.

Our group meets bi-monthly to advance the quality of patient care in Manitoba through the exchange of ideas, the development of administrative knowledge and skills, discussion of mutual problems and the planning and sponsoring of educational workshops.

Directors of Care are professionally and legally accountable for the quality of nursing care delivered by nurses to patients/clients in their individual agencies. Members of the interest group unanimously support Bill 65, the revised Registered Nurses Act, as published, for the following reasons:

(1) Nursing is a profession in its own right. It has officially been recognized as such in Manitoba since 1913, when the first Registered Nurses Act in Canada was proclaimed. The Registered Nurses Act (1980) maintains this recognition of nursing's professional status.

(2) Minor revisions to the Registered Nurses' Act of Manitoba have been made in the past 67 years, but a major revision is a priority now due to changes in society, expectations for health care, changes in health care delivery and an increasing awareness within the nursing profession of its public accountability.

(3) A profession is, first of all, accountable to the public and must function in the public interest. One method by which Directors of Care demonstrate their accountability to the public is by ascertaining the competency and safety to practise of those registered nurses they employ. The revised Act, in legislating the responsibility of both employer and employee to identify and report to the professional association unsafe and/or incompetent practitioners, will prevent such a registered nurse moving from employer to employer. It will both safeguard the public and facilitate the role of the nursing director.

(4) The revised Act clearly outlines public input into the affairs of the professional association in the composition of the Board of Directors, the Complaints Committee, the Discipline Committee and the Advisory Council. Public input into the affairs of the professional association actions which affect the public must now be defined in regulations which require the consent of the Lieutenant-Governor-in-Council. These modifications clarify and facilitate MARN's public and professional roles.

(5) Those in nursing leadership positions rely on the professional association to develop Standards of Professional Practice against which the actual practice of registered nurses can be measured. They also rely on their professional association to set Standards for Basic and Continuing Education, which underlie the practice of nursing. Without these standards, there can be no assurance of quality in the nursing care delivered to the people of Manitoba. Using these education and practice standards, the Director of Nursing is more readily able to implement a Quality Assurance Program, maintain safe and

effective patient care, and identify the learning needs and expectations of staff members. These standards facilitate the role of administrators and senior nursing personnel in the delivery of nursing care.

In conclusion, as Directors of Nursing, our concerns focus on the health care needs of the public. The revised Act, Bill 65, developed to demonstrate public accountability and in accordance with the government's guidelines for Professional Acts, will assist Directors of Nursing to function effectively, to better meet the public's health care needs.

We believe that the principles of a profession — self-governance, autonomy, public accountability, service to the public and expertise are clearly defined in this revised Registered Nurses Act. We respectively request that the Law Amendments Committee approve the Act as presented.

**MR. CHAIRMAN:** Thank you, Mrs. Bradley. Do any members of the committee have any questions? Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. Mrs. Bradley, your signature would indicate that you are — is it a Bachelor of Science in Nursing?

**MRS. BRADLEY:** Yes.

**MR. CHERNIACK:** I'm surprised to note that this legislation that you are approving, as presented, gives to the board of MARN the right to deny the University the conduct of a nursing education program or the government, in doing that, through the Red River College or any other community centre. Is that the intent with which you agree?

**MRS. BRADLEY:** I'm not sure I understand your question when you say "conduct".

**MR. CHERNIACK:** The section, I read, "No person shall, alone or in concert with others, establish, maintain, conduct or participate directly or indirectly, in the ownership or operation of a nursing education program without the authority and consent in writing of the board; and any person who contravenes the provisions of this section is guilty of an offence".

Now, nursing education program is defined as meaning a program as are approved by the board as qualifying an individual for registration as an R.N., so there is that limitation. But as I see it, if the government decides, through the community college, to conduct a course in nursing it can be disallowed if it purports to be a course of nursing education program which might entitle a person to qualify for nursing. I raise that because I'm not familiar with any similar legislation, as far as the medical school is concerned or the law school is concerned.

**MRS. BRADLEY:** I think the intent of the Act is to continue with the approval of schools of nursing which MARN presently has.

**MR. CHERNIACK:** It actually says so, that unless changed, the ones that are now approved shall continue. But I'm not aware, and possibly I just don't know what the previous or existing legislation says,

and maybe it says that MARN can prosecute. I think it says that its an offence to conduct that kind of a course. I've just lost my place for the moment. Yes, guilty of an offence for conducting a nursing education program and that's a matter of concern.

**MRS. BRADLEY:** I'm not speaking tonight as an educator, I'm speaking tonight as a nursing administrator but it's my understanding that MARN is going to continue its role in the approval of schools of nursing, and this does not mean to say that new schools of nursing cannot come into being.

**MR. CHERNIACK:** No, but it also says it can deny, it can take away the rights from someone else to conduct a nursing education program, which means it qualifies for that. I assume that a Bachelor of Science in Nursing is one offered by the university. And I'm wondering whether this right is something that they've had all along or that you recognize they ought to have.

**MRS. BRADLEY:** MARN presently does approve programs in schools of nursing, yes.

**MR. CHERNIACK:** And can prevent others — can prevent their carrying on.

**MRS. BRADLEY:** I believe it's a collaborative relationship and that MARN wouldn't outright disallow or disapprove a school of nursing but that communication would occur if there was a problem in one area or another.

**MR. CHERNIACK:** Well, I'm not going to have a legal discussion as to what they want to do or what they have a right to do, I'll discuss that with the Minister. I just might point out that The Education Act denies the teachers any say in educational education, an education for teachers, and the Minister alone has that right and here it seems reversed, but that's something I'll discuss with the Minister in due course.

**MR. CHAIRMAN:** Has anyone else any questions of Mrs. Bradley?

The Honourable Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, following up on Mr. Cherniack's point, I would just like to ask Mrs. Bradley whether it is not her understanding of this Act that it was drawn up with a view not only to facilitating the opportunity for the governing body of Registered Nurses to establish and maintain the highest quality of education and standards of practice, but also to protect the public. There are many sections in this bill, and in the other bills in the nursing field, that we'll be addressing that emanate from that original premise, that not only was it necessary to modernize the legislation to meet contemporary requirements in the profession of nursing but to guarantee the protection of the public. And what this section does, in my view, and I would ask Mrs. Bradley if she would not feel it were also her view, is reinforce that protection of the public; it guarantees that no persons who are not qualified to engage in the field will be able to do so. It simply puts in a provision that ensures that persons

operating education programs in the field of nursing will have complied with standards and have received the necessary authority to guarantee the protection of the public.

**MRS. BRADLEY:** The Act, I think, does clarify that very much. The Act is designed to protect the public in terms of both the entrance into the practice of nursing and the exit from practice of nursing. I am here primarily tonight, as one of my concerns, to speak about exit from practice of nursing, and its one of the points in our brief. At the present time it is possible for a nurse practitioner, who is unsafe for reasons of health or other kinds of reasons, to leave an agency and not be reported as such and be employed in another agency, and that can no longer happen under the apparent terms and conditions of the new Act. This is very clearly outlined and goes greatly forward to protect the people of Manitoba. So I think, in terms of safety to practice, that people in the province are being given a greater guarantee than they've ever had in the past.

**MR. CHAIRMAN:** Are you through, Mr. Sherman?

**MR. SHERMAN:** Yes. Thank you, Mrs. Bradley.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Mr. Chairman, I'd like to inform Mrs. Bradley, and get a reaction from her, on my concern in this regard, her answer to Mr. Sherman and clearly the legislation should be designed only to take care of protection of the public and the health interests of the public. But it seems to me that this provision that I referred to takes away from the operators of health institutions, by that I mean, hospitals, clinics, your own groups, the one you're involved in, it takes away from them the right to see to it that there are educational programs being conducted in the field of nursing by giving to MARN the exclusive and unilateral right to determine who may or may not conduct a nursing program, and that's the point I want to get clarification on.

**MR. CHAIRMAN:** Mrs. Bradley.

**MRS. BRADLEY:** Thank you. Well, education in nursing is more than just entry into practice, there's also continuing education in nursing and most health care agencies in the province, whether its an institution or a community health setting or whatever, do put on many educational programs under the heading of continuing education. So I don't think that education in nursing is falling exclusively under MARN's jurisdiction, if I got the correct drift of your question?

**MR. CHERNIACK:** Mr. Chairman, may I say that Mrs. Bradley may not think so but I think, reading the section, that this has not only to do with preliminary nursing but ongoing nursing education programs, all nursing education programs. However, that's something we can explore later. I don't want to put Mrs. Bradley on the spot on this.

**MRS. BRADLEY:** Well, I'd be happy to respond to that, if I may. According to present standards for practice, continuing education in nursing is going to

be one of the criteria for mandatory licensing or registration on an annual basis. If you are X-number of years in the field of nursing, without continuing your education and upgrading and maintaining your currency, in certain areas of North America now you could be in jeopardy of losing your licence. So I would be very happy to see continuing education in nursing under MARN as part of the regulations for safety to practice. We can't have people graduating in 1902 and never taking another continuing education program, and still being licenced to practise in 1952.

**MR. CHERNIACK:** Doctors and lawyers do, you know.

**MRS. BRADLEY:** Well, I wouldn't want to go to one of them myself; that would be a personal opinion.

**MR. CHAIRMAN:** Are there any more questions of Mrs. Bradley? I'd like to, on behalf of the committee, thank you, Mrs. Bradley, for your presentation.

**MRS. BRADLEY:** Thank you very much.

**MR. CHAIRMAN:** Are there any more presentations here to be made on behalf of Bill No. 65? Do you want to come forward and give your name.

**DR. MICHAEL NEWMAN:** I'm Dr. Michael Newman, representing the College of Physicians and Surgeons of Manitoba. Chairman of the Legislative Committee.

I would just like to say that our college has gone over the proposed Nursing Act and would like to endorse the provisions of the proposed Nursing Act. There's only one little thing we would have liked to have seen, in view of the very close relationship of medicine and nursing, we would like to have seen some mention of The Medical Act in this proposed legislation. I guess we could live without but it would have been nice to have seen. Otherwise we'd heartily like to endorse this Act.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, I'd just like to say to Dr. Newman that the mention of The Medical Act that he desires is now on the record and will be available for all of those throngs who will be reading the transcript of this committee here.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Mr. Chairman, the very flimsy record that Dr. Newman has just been offered shouldn't really make him too happy. Were you here when the representative from the Manitoba Health Organizations suggested that he would like representation on the board by the Manitoba Health Organizations?

**DR. NEWMAN:** Yes, I was.

**MR. CHERNIACK:** What is your reaction to the employer being on that board in order to monitor the standards?



**DR. NEWMAN:** I wouldn't really like to comment on that. I think that's up to the representatives of MARN.

**MR. CHERNIACK:** Well, if I may ask the representative of the College of Physicians, do you not feel that in a medical team and for better opportunity to provide a co-ordinated health service, that there would be validity in the college having representation on MARN and MARN having representation on the college?

**DR. NEWMAN:** That's a useful thought, a useful thought.

**MR. CHERNIACK:** Well, may I ask Dr. Newman whether he would encourage me to attempt to get the College of Physicians named in this bill by suggesting that the college should have the right or the obligation to appoint a member to the board, and I would then undertake to try and do the same when we come to the medical bill, in reverse?

**DR. NEWMAN:** I am not sure that I would like to definitely come down one way or the other on that.

**MR. CHAIRMAN:** Are there any further questions of Dr. Newman?

**MR. CHERNIACK:** Mr. Chairman, I've expressed several times my concern about the control of the educational program. You may have heard my concern about that and I haven't read your — well I have but I haven't studied — your medical bill, proposed bill. Do you have that kind of power in your legislation?

**DR. NEWMAN:** Well, the system in medical education is a little bit different because there is only one medical college in this province and that is run by the university. Nursing education is somewhat different, there are a number of institutions involved and somebody has to look at them and see if they are suitable.

**MR. CHERNIACK:** Would you consider that the nursing profession itself should be the one, or should it be the Minister of Health, or should it be a group in which the doctors have representation?

**DR. NEWMAN:** I would have thought, myself, coming to this fresh, that the way its set up sounds very suitable to me. It sounds the most reliable organization to look at nursing education.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** I just wanted to tell Dr. Newman we are coming to two more bills, and I don't know if he will be here for those, but I might be asking him the very same question as to whether each of the other organizations should have the same kinds of powers over the education of their own prospective members, the LPNs and the RPNs.

**DR. NEWMAN:** I am not convinced of that, but I wouldn't like to make a definite brief on that subject.

**MR. CHERNIACK:** Thank you.

**MR. CHAIRMAN:** Are there any other questions of Dr. Newman? If not, on behalf of the committee I would like to thank you, Dr. Newman, for your presentation here tonight.

**DR. NEWMAN:** Thank you, Mr. Chairman.

### **BILL NO. 66 — THE REGISTERED PSYCHIATRIC NURSES ACT**

**MR. CHAIRMAN:** That concludes the hearings on Bill No. 65.

We will now go to Bill No. 66, The Registered Psychiatric Nurses Act. I would like to call on a representative of the Manitoba Health Organizations.

**MR. HERMAN CREWSON:** Mr. Chairman and Members. Herman Crewson, Manitoba Health Organizations. Again, the comments would apply, in that we do not have any concerns at this point and would be supportive, with that one exception and that is in respect to the implications that can occur to employing facilities in regard to changes in standards, exactly the same discussion as before.

**MR. CHAIRMAN:** Thank you, Mr. Crewson.  
Mr. Cherniack.

**MR. CHERNIACK:** Mr. Crewson, I wonder if you could clarify for me, I thought that you were asking for seats for your organization on the Board of Directors. Can it be that you are asking for a seat on the Advisory Council?

**MR. CREWSON:** We are not asking for, necessarily, a seat as being the only . . . We asked originally for a vehicle, Mr. Cherniack, a vehicle under which standards relating to the profession which is employed by our member facilities, that are going to implicate our facilities, be made known, and we didn't see, or couldn't visualize, within these bills that kind of an arrangement. We saw several avenues, and I cited two of them the last time around, under which that could occur. We talked, I think primarily, about the one in which there would be, within the lay representation, the possibility of someone from the employer sector. Now, that's only one possible avenue of that occurring.

When it comes to the Advisory Council, which stresses educational part, I think that is something that we have some difficulty with. We are very much involved in collaboration with these groups in the area of continuing education. When we talk about the preparatory portion of the education we have to be talking in terms of educators and employers, I think, would have difficulty in coming forward with those that would have the, perhaps, contribution to make in that particular area, unless we were to, in effect, select from those who are operating, say, schools of nursing. That is one possibility, but it's our belief that those interests are looked after through an Advisory Council, without our being involved in preparatory education.

**MR. CHERNIACK:** Well, Mr. Crewson, in this bill that we're now speaking to, as well as the other two bills, the regulations deal with the establishment of standards for the practice, it's not the by-laws, and

the regulations may only be passed with approval of the Lieutenant-Governor-in-Council.

**MR. CREWSON:** Yes.

**MR. CHERNIACK:** Is not the proper avenue a continuing relationship with the Department of Health and the Minister of Health to ensure that the government has sense enough to discuss with you what they are about to do in advance of their doing it, knowing full well that the minute the Lieutenant-Governor-in-Council approves of the regulations it becomes public information and you would then have a right to speak; is that not an avenue that is available to the entire public and especially to you?

**MR. CREWSON:** I suppose we could make out with that; we could live with it, if indeed, we could sell the case to our membership that we were going to be consulted by the Minister's office whenever these matters came forward. However, there is no assurance anywhere or no specific provision under which that might occur and that's what we're afraid of. But that would be fine, if indeed it occurred on each occasion before the regulation, in fact, became law, because at that point in time we have no comeback.

**MR. CHERNIACK:** Mr. Chairman, you would have a better comeback than our electors have when we make decisions that they don't approve of, and I mean this quite seriously. A regulation is passed; it is public; you see that it is wrong; you would have every opportunity to come back and say, we were not consulted, we should have been. Is that not an avenue that . . . ?

**MR. CREWSON:** Yes, yes, quite so.

**MR. CHAIRMAN:** Are there any further questions of Mr. Crewson? If not, I would like to thank you for your presentation here on behalf of this bill.

**MR. CREWSON:** Thank you.

**MR. CHAIRMAN:** The Manitoba Association of Registered Nurses, Miss L. Tod.

**MISS TOD:** Mr. Chairman, that was an error. We do not wish to make representation on this bill.

**MR. CHAIRMAN:** That's fine. Thank you. The Registered Psychiatric Nurses Association, Ms Osted.

**MS ANNETTE OSTED:** Thank you, Mr. Chairman and Members of the Committee. I am the Executive Director of the Registered Psychiatric Nurses Association. We have copies of our brief for committee members and I would like to present to you our President, Mr. Tom Street, who will make a presentation to you.

**MR. CHAIRMAN:** Could you please give your name before you make your presentation for the record?

**MR. TOM STREET:** Mr. Chairman, my name is Mr. Tom Street and I am President of the Psychiatric Nurses Association of Manitoba. I would like to thank

the committee for the opportunity to speak this evening.

The Registered Psychiatric Nurses group has been an integral part of the mental health and mental retardation scene for over 50 years in Manitoba. In 1960 this group was given official recognition of its status through the Act respecting the Registered Psychiatric Nurses Association. At the same time, another Act, The Psychiatric Nurses Training Act, appointed a government body to oversee the diploma programs which prepared psychiatric nurses in the province. Three schools of psychiatric nursing were recognized at that time and the three schools, at the Brandon Mental Health Centre, the Selkirk Mental Health Centre and the Manitoba School in Portage la Prairie continue to graduate psychiatric nurses for Manitoba's mental health and mental retardation programs.

The Registered Psychiatric Nurses profession has had to grow and adapt to meet the ever-changing needs of the mental health and mental retardation programs in Manitoba. In 1960, the overwhelming majority of Registered Psychiatric Nurses worked at the Brandon Mental Health Centre, the Selkirk Mental Health Centre or the Manitoba School. Today, this has changed greatly. Almost half of the Registered Psychiatric Nurses in Manitoba practice in areas other than the three major institutions. Some of these areas include general hospital psychiatric units, personal care homes, correction services, addiction programs, children's group homes, counselling services and in the community services for both mental health and mental retardation.

Registered Psychiatric Nurses still provide the great majority of manpower in both community and institutional services for the mentally ill and the developmentally handicapped. Currently there are serious shortages of RPNs in both these services in Manitoba. Shortages of a serious nature are being felt throughout Western Canada and the professional associations have been approached by their respective departments of health to participate in the development and implementation of a solution to what has, in some areas, become a chronic problem.

The Registered Psychiatric Nurses Association of Manitoba has become increasingly involved in all issues affecting the delivery of mental health care and of services to the developmentally handicapped. We strongly feel that the proposed Act will assist us in our efforts to fully participate in the continued development of these services in Manitoba.

The 1200 members of the association have given support through approval of this bill by a two-thirds vote at a special general meeting and through the approval of an increase in their fees payable to the association to implement the new responsibilities of the association under the Act.

The bill focuses on four major areas, most of which demand a greater accountability to the public of Manitoba. These four areas are:

1. Lay membership on the board and appropriate committees.
2. Official provision for the development, establishment and maintenance of standards.
3. The streamlining of the disciplinary and appeal processes which maximize the opportunity for due process for all persons concerned.

4. The transfer of responsibility for the standards of basic education programs from the Psychiatric Nurses Education Advisory Committee, under the Psychiatric Nurses Training Act, to the Board of Directors of the Association and the Lieutenant-Governor-in-Council.

Another significant change is in the definition of psychiatric nursing, which now reflects the current practice situation.

The following is a short summary of the Act, section by section.

Part I:

Significant changes here are those reflected in the definition of the practice of psychiatric nursing. The current Act was tied to the Mental Health Act. The reality of today is that not all the mentally ill or mentally retarded persons who are in contact with RPNs are identified under the Mental Health Act. Mental health and mental retardation programs are not all tied in with the Act. For example, persons in personal care homes, in group homes, in correctional services, in psychiatric assessment units and in the addiction field are not always covered by the Mental Health Act.

The objects of the Association remain the same as before, except they are more clearly identified in the new legislation.

Part II:

A significant change here is in the requirement for lay representation on the board of directors of the association. Not less than 20 percent of board members must be non-members of the association. Since the by-laws ask for a board of 20, four persons would not be members. The lay representatives would be appointed jointly by the Minister and the association.

The board's responsibilities are identified and include: to develop, establish and maintain standards of professional ethics among its members; and, to enter into arrangements with agencies such as universities, colleges, hospitals, etc., for the conduct of education programs. The above and other responsibilities are identified in the bylaws which must be approved by the general membership of the association. Therefore, the general membership must approve the fees and how they are collected; the time for and the manner of election or appointment to the board; the time and number of meetings; the duties of the officers; the standing committees and all matters such as may be deemed to be necessary or desirable for the administration of the association. The membership must also approve classes of membership and the rights and obligations of each class.

The regulations of the association must not only be approved by the general membership, but also by the Lieutenant-Governor-in-Council. Since issues such as the admission, registration, suspension and reinstatement of persons to the association; standards of practice; and standards of education are involved, the process of approval ensures that the association will keep the public's interest in mind rather than only their own when developing the regulations.

Part III:

This section gives provision for the protection of the public in terms of the actual practice of RPNs.

Institutions hiring RPNs will be able to establish more quickly the qualifications of that individual. Provision has been made for appeal by a person who is refused membership for registration in the association. To practise psychiatric nursing in Manitoba, a person's name will have to be entered on the roster of active practising members or on the roster of members holding conditional certificates. This will ensure that all persons holding themselves out to be qualified will have met at least the minimum criteria identified by the association and approved by the Lieutenant-Governor-in-Council for such practise. Those persons holding conditional certificates will be bound to adhere to the conditions. Employers, individual RPNs, and the association all share in the responsibility to ensure that any person hired as an RPN is, indeed, qualified for that status.

Part IV:

The Complaints Committee is to be composed of five members, two of whom shall be lay members; one appointed by the Minister and one by the association. The chairman shall be a member of the board. The two remaining members shall be members of the association. The Complaints Committee may resolve disputes informally or can refer the matter for further study to the investigation chairman. If the complaint is dealt with informally the complainant may appeal the decision to the investigation chairman.

Part V:

The investigation chairman is appointed by the board from among the directors. Investigations shall occur when there is indication of professional misconduct or danger to the public. The procedure for investigations are spelled out clearly in the bill. The decision may be taken by the investigation chairman and such decision can be appealed by either the member being investigated or by the complainant.

Part VI:

The Discipline Committee consists of seven persons, one of whom is appointed by the Minister and the other six being active practising members of the association. The committee may hear evidence of the complaint and defence or to hear appeals. The duties of the committee are clearly spelled out in the bill. This process allows for maximum protection of the public and all the members against whom complaints may be made.

Part VII:

A comprehensive appeal mechanism is included in the Act. The process involves the Board of Directors and, if the situation still cannot be resolved to everyone's satisfaction, the Court of Queen's Bench. Any appeal to the court is to be a trial de novo.

Part VIII:

This part deals with the associations's exemption from civil liability as long as it acts in good faith in the administration of the Act. This section also gives the board authority to hire legal counsel.

Part IX:

Provision is made here for the transfer of responsibility for the basic diploma programs for psychiatric nurses from the Psychiatric Nurses Education Advisory Committee under The Psychiatric Nurses Training Act to The Registered Psychiatric Nurses Act. The Advisory Council would be composed of nine persons, six of whom are

appointed by the board, one appointed by the Minister, one by the Minister of Education from his department and one by the Board of Governors of the University of Manitoba from the Faculty of Medicine. The function of the Advisory Council is to make recommendations to the board on all matters pertaining to the education of psychiatric nurses. The three present programs in psychiatric nursing at Brandon, Portage la Prairie and Selkirk are deemed to approved by the board under this Act.

Part X:

The last section deals with offences and penalties for such offences under the Act, the limitations on prosecution and what constitutes an offence. There is also provision for this Act to supersede The Corporations Act should a dispute arise; provision for the existing by-laws to be in effect until the new ones are approved; provision for the genders to be interchangeable under the Act and the repeal of the current Act respecting the Registered Psychiatric Nurses Association of Manitoba and the repeal of The Psychiatric Nurses Training Act.

That completes our presentation, Mr. Chairman. The executive director and myself would be pleased to answer any questions.

**MR. CHAIRMAN:** Thank you. The Honourable Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, I would like to thank Mr. Street and Ms Osted for the presentation and the association for the presentation, and also state for the record, that the government and the sponsorer of the bill, Mr. Brown, are certainly grateful to the association for the counsel and guidance that they have provided over the past many months in developing the proposed legislation.

Mr. Street, just a couple of questions, if I may. Can we assume from the case that you make in Page 1 of your brief, particularly in the fourth paragraph of Page 1, that it's the feeling of your association that this legislation will be helpful in the drive to attract more persons into psychiatric nursing and to recruit more psychiatric nurses generally in Manitoba? Is that what you are implying? Needless to say, I am hopeful that it is. Is that what you are suggesting in that point?

**MR. CHAIRMAN:** Mr. Street.

**MR. STREET:** Yes, it is. For further elaboration on that, I'll call on our executive director.

**MR. SHERMAN:** If we may, Mr. Chairman.

**MR. CHAIRMAN:** Ms Osted.

**MISS OSTED:** Thank you, Mr. Chairman. One of the points that we were starting to make perhaps rather than making it is that governments in the western provinces have been approaching psychiatric nursing associations more and more to participate in recruitment programs and ways of attracting mature students, as well as high school students, to the profession of psychiatric nursing, to the diploma programs. We have found that this has inevitably led to the association taking on more responsibility overall for the education programs.

We find ourselves in a similar situation now. We find that it is very difficult for us to take responsibility for one part of the process without having significant input into the other part of the process. So we feel that we'll be able to co-ordinate our own activities, our efforts, use our energies in a much more positive way than we have been able to up till now to attract more people to the profession.

**MR. SHERMAN:** Thank you, Ms Osted and, Mr. Chairman, one further question, either to Ms Osted or Mr. Street. On Page 2 of your presentation, you say that the four lay representatives would be appointed jointly by the Minister and the association. I would conclude from this that you're talking about two and two, or are you talking about four appointees that are jointly agreed upon by the two parties?

**MR. CHAIRMAN:** Mr. Street.

**MR. STREET:** Thank you. We've discussed this matter and the association is taking the stand now that the government would appoint two representatives and the association would appoint the other two.

**MR. SHERMAN:** Thank you, Mr. Street. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. Mr. Street, before we go on more general questions, there is one interpretation I have of a major difference in your bill from that of the other two, and that is, that it appears to me that you do not have an appeal from a board decision on the refusal to admit a member.

**MR. STREET:** Yes, we do.

**MR. CHERNIACK:** Would you point it out, please, because I couldn't find it.

**MR. STREET:** Section 8(4), Mr. Cherniack. "An applicant refused registration or the entry of her name in the appropriate roster by the registrar may, by written notice, appeal that decision to the board, which shall consider the appeal within 30 days of the receipt of the notice, and upon making its decision shall forthwith report that decision in writing to the applicant".

**MR. CHERNIACK:** Mr. Street, I'm afraid I didn't enunciate my question clearly. I do not find an appeal from the board's decision. Now the other two Acts clearly say that any decision by the board can be appealed to the court, and in your bill, I don't see any provision for an appeal from the board's decision on admission, although there is a limited appeal to the court limited only to disciplinary action. I'm wondering, assuming that you all started with the same proposed bill furnished by the department, why you departed from what the other two have accepted. I don't what the original was, so I don't know who made the change.

**MISS OSTED:** Thank you, Mr. Chairman. We've had recent discussions with legislative counsel on this because we had found that there was one section, 43(1), I believe, which only provided for appeal to the courts on board decisions by a member against whom disciplinary action had been taken. We were under the understanding that an amendment would be presented to reflect anybody who would have been aggrieved, on a basis by a board decision, would have provision for a court of appeal, and that is the association's philosophy in terms of what we would want.

**MR. CHERNIACK:** So you agree with what I find, but you say that you wish to have a change made to provide for an appeal to the court from all decisions of the board. That was my major question. I'm glad that was cleared, Mr. Chairman.

I don't have any knowledge of the difference in the educational qualifications as between, say, R.N.s, LPNs or RPNs, and I'd like to know whether the schooling is still the academic, is still confined to the three mental health centres that you mention in the first paragraph of your brief?

**MR. STREET:** If I understand your question, it is where are the programs carried out at the present time?

**MR. CHERNIACK:** Yes, education.

**MR. STREET:** The education program are carried out only at the three schools mentioned in the brief and connected with the Brandon Mental Health Centre, the Selkirk Mental Health Centre and the Manitoba School in Portage.

**MR. CHERNIACK:** Who conducts these programs, who is responsible for them?

**MR. STREET:** They are conducted under the Educational Advisory Committee which is a committee under The Psychiatric Nurses Training Act. It's a government committee.

**MR. CHERNIACK:** Who will conduct those courses once that Act is repealed, as it will be? Who will conduct those courses?

**MR. STREET:** They will become the responsibility of the Registered Psychiatric Nurses Association. Does this answer your question?

**MR. CHERNIACK:** Mr. Street, as I understand it, dealing with the registered nurses, there are Schools of Nursing at the University, wherever, that are conducted by academic institutions and the R.N.s have the right in their bill to approve or to reject the programs that are being offered. But in this case, I don't know clearly who conducts the educational programs. At present, you say it's being done by the government, I assume, at the three institutions you refer to, you say under The Psychiatric Nurses Training Act. Once that is repealed, then who will be responsible for conducting those academic courses?

**MR. STREET:** Okay, the three schools will still be responsible for conducting those programs. They will be approved by the association.

**MR. CHERNIACK:** Who runs the schools, who pays the salaries, who determines the courses?

**MR. STREET:** At the present time . . . you are referring to the teachers at the schools, who pay their salary?

**MR. CHERNIACK:** Yes.

**MR. STREET:** They are employed by the provincial government and come under the jurisdiction of the Directors of Nursing.

**MR. CHERNIACK:** So that the schools now run by the provincial government at these institutions will be subject to the supervision and approval of your organization?

**MR. STREET:** Correct, Mr. Cherniack.

**MR. CHERNIACK:** And you can tell them to stop teaching those courses from the standpoint of your decision?

**MR. STREET:** Yes, the association is given that power in this Act subject to regulations which were developed through the Advisory Committee.

**MR. CHERNIACK:** I don't quite see that it is subject to the regulations. I just see that the board may withdraw consent, that's all it says in my way of reading and that's what you're asking for and apparently the Minister is satisfied with that, so we'll discuss it with him.

**MISS OSTED:** Mr. Chairman, thank you. Just to elaborate on Mr. Street's answer to Mr. Cherniack's concern. The general hospitals, for example, will run a program in nursing as part of their global budget. Similarly the Selkirk Mental Health Centre, the Brandon Mental Health Centre and the Manitoba School in Portage la Prairie, run a program in psychiatric nursing and it is funded from their global budget and they take responsibility. I imagine that general hospitals report to the Manitoba Health Services Commission as opposed to the province of Manitoba, but there's a very similar structure. And the Director of the School of Psychiatric Nursing, as well as the Director of Nursing, both report to the Senior Nursing Administrative officer. So that the education program is not responsible to service but to an executive position at the centre.

**MR. CHERNIACK:** Mr. Chairman, that answer by Miss Osted has confused me. Because I read the section which says the board may refuse or withdraw its authority of consent for the establishment or continuance of any psychiatric nursing education program whenever the board has reasonable grounds to believe the standards are not being met. So, it seems to me like the board can say to the director of the, let's say, the Brandon Mental Health Institute, you're finished, you're out, we no longer accept you.

**MISS OSTED:** Thank you, Mr. Chairman, to take a hypothetical case, for example, if the current shortage became so extreme that an employing — an this is only hypothetical please, because this has

not happened — say that an employing agency who did have some significant input or, I don't like to use the word control, but that could be in it as well, into such a program would be able to say well you only take three months, and then at least we'll have enough bodies to staff the place. Now this is the one thing that this association would not be able to accept, ethically, not only for the protection of the public but also for our own self-respect. Perhaps when you look at it that way it makes more sense to have the association have some significant say in whether a program should be approved or not.

**MR. CHERNIACK:** Miss Osted, you make a very good case, but I could ask you hypothetically that when the field becomes rather crowded then the tendency can sometimes be that one upgrades the standards and becomes a little bit more exclusive, beyond that which is necessary to provide that same service. So the analogy you give could work the other way round and be in the self-protection of the association rather than of the public.

**MISS OSTED:** Thank you, Mr. Chairman. Hopefully the fact that the regulations, the basic education standards, have to be approved by Lieutenant-Governor-in-Council, as well as by our members, would prevent that kind of thing from happening, is that the checks and balances are there as well for that.

**MR. CHERNIACK:** Well then, I wonder Miss Osted, if it's fair to suggest that it should be subject to the confirmation of the Lieutenant-Governor-in-Council, the board may refuse or withdraw its authority, or say the Minister of Health. You see, the way I read this section, the regulations mean nothing, the board can make its own decision if it believes that the standards are not being maintained. Would you see any objection to sharing that responsibility with the Minister of Health, or the Lieutenant-Governor-in-Council? Because, as I say, the regulations won't prevent you doing it. Well, I'll ask the Minister when we get to it.

**MR. CHAIRMAN:** Mr. Street.

**MR. STREET:** I'd like to respond to that. The response is a personal one, I'm not speaking for the board or directors, it is strictly a personal feeling. I personally would have no objection to that type of process. Once again that is a personal observation, its not speaking for the board.

**MR. CHERNIACK:** Thank you, thank you very much.

**MR. CHAIRMAN:** Are there any further questions from the members of the committee to Mr. Street or Miss Osted? If not, on behalf of the committee I'd like to thank you for your presentation here tonight.

Are there anymore presentations to be made on Bill 66. Not at this time.

## BILL 87

### THE LICENSED PRACTICAL NURSES ACT

**MR. CHAIRMAN:** We'll now proceed with Bill No. 87, The Licensed Practical Nurses' Act and do we

have a representative here from the Manitoba Health Organization?

Mr. Crewson.

**MR. CREWSON:** Mr. Crewson, Manitoba Health Organizations. Again we have had the opportunity of researching what is here and commenting on it and essentially the same concern remains. Perhaps anticipating the question from Mr. Cherniack on the one avenue about consultation, I can recall the time when, I believe, there were four Ministers in approximately a period of a year and a half and three of the Ministers didn't know us, let alone coming to consult with us. So we wanted some kind of assurance that those kind of things were happening and that's why we expressed ourselves in that way.

**MR. CHAIRMAN:** Thank you, Mr. Crewson. Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, just for clarification for my own sake, I would ask Mr. Crewson whether then what he is saying to us amounts to a reiteration of the case made in the earlier two bills for consideration of that mechanism.

**MR. CREWSON:** That's correct, Mr. Chairman.

**MR. SHERMAN:** Thank you.

**MR. CHAIRMAN:** Any other members of the committee have any questions for Mr. Crewson? If not, I'd like to thank you, Mr. Crewson for your presentation here tonight.

We now call on the representative of the Manitoba Association of Registered Nurses, Miss L. Tod and Miss Margaret Mackling.

**MISS LOUISE TOD:** Miss Louise Tod, Executive Director of the Manitoba Association of Registered Nurses.

Mr. Chairman, may I have your permission to have the President, Miss Marguerite Bicknell join me?

I have a brief, and copies that can be circulated.

This brief is to officially register with you the Manitoba Association of Registered Nurses' concerns regarding the Licensed Practical Nurses' Act, Bill 87.

The MARN believes it has a professional responsibility to draw to your attention those sections in the Act that far exceed the limitations of the practise of licensed practical nursing as defined in Section 1(1) of the bill and will be the basis for potential conflict and misunderstanding between the Licensed Practical Nurses and Registered Nurses when each attempt to interpret and administer their respective Acts.

The wording of the Licensed Practical Nurses' Act, Bill 87 is, with few exceptions, lifted directly from the Registered Nurses' Act, Bill 65. Bill 65, The Registered Nurses' Act is a revised Act, the Licensed Practical Nurses' Act, Bill 87, is a new Act.

It should be pointed out that the category of Licensed Practical Nurse was established during the Second World War to supply workers to support and assist the Registered Nurses during the shortage at that time. This has continued to be their role for which they are prepared. In other provinces they are

referred to as Registered Nursing Assistants and Certified Nursing Aides.

I might add here that the MARN believe that the Licensed Practical Nurses provide an important service and functioning within the restrictions of their qualifications and preparation, they are deemed to do an excellent job.

The Licensed Practical Nurses do not have a unique field of professional practise which is separate from the field of practice of other health workers, particularly the Registered Nurses. The LPN is not academically or clinically prepared to function without supervision. In health agencies, the Licensed Practical Nurse functions under the supervision of a Registered Nurse. In the home she/he must be supported by a physician. The LPN's preparation is not equivalent to that of the graduate of the diploma nursing programs, nor is the practitioner prepared to take responsibility for patient care which requires a broad base of knowledge, for example, in community and occupational health. Limits of practise are specified in the LPN Act, Section 4(1) and 4(2) of the current Act and in Bill 87, Section 1(i) — Definition: "Practical Nursing" and "Practise of Licensed Practical Nursing". In the interests of public safety it should remain so.

The guidelines state: "The decision to place one profession or occupation under the legislative supervision and/or work supervision of another profession or occupation should be made only where it can be demonstrated that the advantages from a public interest standpoint clearly outweigh the disadvantages."

MARN agrees with the concept in principle. The incongruity between principle and fact is that Registered Nurses are required to take responsibility for the practice of LPNs without the authority to define it.

Part II, Section 5(1)(j) and Section 6 of the proposed Licensed Practical Nurses' Act spells out responsibilities that are ordinarily granted to occupations that meet the criteria of a profession. Basic to determining regulations relating to any one of the areas identified, there must be a scientific theoretical base of knowledge specific to that profession. The LPNs do not have such a basic knowledge specific to their practise, nor do they have members prepared to carry out research to contribute to such a base of knowledge or members with the necessary qualifications to conduct, control, or evaluate their own educational programs. It is Registered Nurses who teach Licensed Practical Nurses and are responsible for their educational programs. Standards of nursing education and practise flow from the theoretical base of knowledge which applies to nursing. Standards of education and practise for LPNs are based on those standards established for Registered Nurses but are restricted and limited in relation to the length of the LPNs program and their academic preparation.

Further there is no such thing as specialization in the practise of Licensed Practical Nurses. Specialization in nursing takes place at the post baccalaureate level. LPNs are graduates of either a 10 or 11 month course.

There is provision for an Advisory Council in Bill 87 respecting licensed practical nursing education programs of which four of the nine members are

appointed by the board. This Advisory Council has the power to make recommendations only to the Board of Directors, the majority of whom being Licensed Practical Nurses, will not have the knowledge or expertise to assess and act on such recommendations.

The LPNs do not have a Code of Ethics relating to their field of practise, such field of practise being auxiliary to the practise of nursing, as defined in the proposed revised Registered Nurses' Act Bill 65.

To discipline members of a profession, that profession must have standards against which to judge competency. The standards against which LPNs will be judged will be the standards developed and maintained by Registered Nurses. It will be the Registered Nurse to whom the LPN reports who will make that judgment. To legislate and grant the right to set standards of nursing practise to the LPN, as well as the Registered Nurse, when one functions in a supervisory role to the other is not logical.

In view of the foregoing, the Executive respectfully recommend that Bill 87 be given further consideration and that the government not proceed with this Bill at this time.

**MR. CHAIRMAN:** Thank you, Miss Tod. Mr. Sherman.

**MR. SHERMAN:** Thank you, Miss Tod. Dealing with the point you raised in the second paragraph of your brief, I'd like to ask you if you could elaborate on the difficulty which you suggest exists in the definition of licensed practical nursing as it now appears in Bill 87, and I know that you'll agree with me that there has been considerable consultation, discussion, amendment and compromise that has been achieved over the past several months, in arriving at the definition of practical nursing which now appears before us. Could you elaborate on the flaws in that definition as you suggest them in your brief?

**MISS TOD:** To elaborate on the comments in paragraph 2, what we're saying here is that the definition is restricted. The remainder of the Act does not flow from that definition in that, particularly Section 6 on Regulations, it gives the Licensed Practical Nurses Association the full powers of a professional association in terms of setting standards of education, practice, disciplining members and so on. But if you wish me to speak directly to the definition, even though it has been amended and is much more restrictive than the current definition, there are still problems that could arise from that definition.

For instance, the 1(i)(ii), there's reference that "not being a Registered Nurse or a person in training to be a Registered Nurse, undertakes the care of the patients under the direction of a medical practitioner or a Registered Nurse". Descriptions of LPN programs clearly state, that LPNs are prepared to practice under supervision. It would not be safe to have a medical practitioner appear, give orders and then leave, leaving the Licensed Practical Nurse unsupervised. I believe that could be interpreted in that manner.

Under section (iii), "prepares and administers medication prescribed by a medical practitioner". The Licensed Practical Nurses are not prepared to

give intravenous or intramuscular injections. They do not have the theoretical base in pharmacology to be given freedom in administering all medications. So we feel that there is a weakness in the definition.

**MR. SHERMAN:** Mr. Chairman, I'm certainly prepared to pursue that with Miss Tod further and not subject the members of the committee to that examination or that mutual examination. But could I just ask you Miss Tod, how could we operate in any of our nursing homes, any of our personal care homes, if we had to have doctors, physicians, medical practitioners on duty all the time to supervise Licensed Practical Nurses? Presumably those LPNs are acting, operating under the direction of a medical practitioner. The doctor leaves his instructions and the Licensed Practical Nurse follows through and I don't see how we could operate our personal care homes' program without that category and that flexibility of nursing care. Would you comment on that?

**MISS TOD:** The answer is not that the physician will be on site. I think the answer is that the Licensed Practical Nurse must work under the supervision of a Registered Nurse. All I'm saying is that this could be misunderstood or misinterpreted. I suspect that is not the intent.

**MR. SHERMAN:** Mr. Chairman, it's certainly not the intent Miss Tod, but your point is conscientiously noted. Moving on from your concern over the definition, I think I can allay most, and hopefully all, of your anxieties about Section 6, the section of the bill dealing with regulations, because there are amendments that will be proposed to Section 6 that will, I think, meet the criticisms that you have raised. They've been discussed with the Association of Licensed Practical Nurses and I think there's agreement on them. They call for substantial changes in Section 6 relative to subclauses (c), (d) and (e) and also (f). In reference to the education factor, the term "consistent with the recommendations of the advisory council" is added.

I won't go into those amendments in detail at this juncture but they do address the concerns that you have raised with respect to the regulations and the authority of the association in the developing and establishment and maintenance of standards, both for practice and for education. The reference to the Code of Ethics as eliminated and, as I say, the reference to education now has a qualifying phrase, added to it.

On Page 2 of your brief you had expressed some concern about specialization. That reference has also been deleted from the bill in the form in which it will reach the Committee at Clause by Clause stage. In terms of the authority for making crucial recommendations or crucial decisions in the education ethics and standards and continuing education area, that is the section dealing with the Advisory Council, that will be amended, Miss Tod, to expand the composition of the council to 10, comprised of four only appointed by the board, four nominated by the Minister, one nominated by the Minister of Education and one from the Faculty of Medicine, nominated by the Board of Governors of the University of Manitoba, so that the representation

on the council will be four appointed by the board and six not appointed by the board, which thus provides, I think, an Advisory Council composition that should assure the public and the MARN and any others who share the anxieties that you've raised, that the authority for making decisions in those crucial areas reposes with a body that is not dominated by the Board of the Association. And also, in the final analysis, all regulations are subject to approval by the Lieutenant-Governor-in-Council. So I trust those amendments will remove your objections.

I don't have any other questions at this point, Mr. Chairman, but because the MARN had raised those concerns in the brief just presented, I wanted to apprise Miss Tod of the fact that many of those concerns, and I believe all of them, have now been resolved through amendments that have been developed, have been approved by the Association of Licensed Practical Nurses and will be forthcoming at Clause by Clause stage. Thank you.

**MR. CHAIRMAN:** Are there any further questions of Miss Tod? Mr. Cherniack.

**MR. CHERNIACK:** Yes, Mr. Chairman. Miss Tod, you've thrown a bit of a bombshell here by stating rather clearly that you don't consider the LPNs a profession and speak of the fact that R.N.s are required to take responsibility for the practice of LPNs. I don't quite see that in this legislation but I supposed you mean in practice, somehow, by your employers. Is that what you mean?

**MISS TOD:** That's right, and also by the definition.

**MR. CHERNIACK:** Well, would you clarify on the definition.

**MISS TOD:** Assist Registered Nurses in the care of the acutely ill; rendering services for which she has been trained; undertakes the care of patients under the direction of a Medical Practitioner or a Registered Nurse.

**MR. CHERNIACK:** Yes, and as you say, the third one, prepares medication. Now, most of the R.N.s are employees. Right?

**MISS TOD:** Yes.

**MR. CHERNIACK:** And their employer will determine the work that they are expected to do. Does the employment involve supervision of LPNs? Because that's a phrase that it does not appear here nor do I think does it appear in your brief, that you say you want to have the supervisory power. Did you say that? In health agencies, the LPN functions under the supervision of an R.N. Is that a statement of fact that the hospitals will accept as being correct?

**MISS TOD:** Yes.

**MR. CHERNIACK:** Yes. So that in the definition section where they speak of a Medical Practitioner, are you saying that a Medical Practitioner who makes a decision as to what the LPN is doing does



not have the same responsibility as the R.N. does in seeing to it that the work is carried out?

**MISS TOD:** The Medical Practitioner is not on site for the full 24 hours or shift that the individual LPN is working.

**MR. CHERNIACK:** We're talking about hospitals?

**MISS TOD:** Pardon?

**MR. CHERNIACK:** We're talking about hospitals, are we?

**MISS TOD:** Yes.

**MR. CHERNIACK:** And there's always an R.N. on site?

**MISS TOD:** Yes, or available.

**MR. CHERNIACK:** Or available would mean on call, I assume.

**MISS TOD:** Within the building.

**MR. CHERNIACK:** Yes. But what you're saying is that if a Medical Practitioner in that nursing home that the Minister referred to, leaves certain instructions with an LPN, you say that the LPN cannot be trusted to carry out those instructions for those services for which she has been trained?

**MISS TOD:** If a physician leaves orders for an LPN to carry out and then leaves, the condition of the patient may change, he is not there to supervise her performance. There must be a Registered Nurse either present or readily available in the event that a condition of a patient changes.

**MR. CHERNIACK:** Is that the requirement of the employers?

**MISS TOD:** Yes, under the current Act.

**MR. CHERNIACK:** Under which Act?

**MISS TOD:** Under the current Act.

**MR. CHERNIACK:** No, I'm talking about the employer. We agreed long ago that the employer is not even bound to hire an R.N. The employer is required to hire such person as meet the employer standards of health service.

**MISS TOD:** Yes.

**MR. CHERNIACK:** I'm asking whether the employer does not have the right to say, we will have an LPN on staff in this ward to carry out the medication prescribed by the Medical Practitioner and to supervise the ward during that period.

**MISS TOD:** I'll have Miss Bicknell respond to your question, please.

**MR. CHAIRMAN:** Miss Bicknell.

**MISS BICKNELL:** Mr. Chairman, to follow through on a school of thought or on a route of thought that

Mr. Crewson responded to, is that the employer expects of the professional groups the standards of performance that they are prepared to do; and also in the accreditation guidelines which most employers embrace for their institutions, it states very clearly in hospitals, that a Registered Nurse shall be in charge at all times on every patient-care unit.

**MR. CHERNIACK:** What is that order?

**MISS BICKNELL:** In the Accreditation Guidelines for approval of institutions.

Also, in the current Act governing the licence, training, and practice of Licensed Practical Nurses it states that the duties of the practical nurse shall be performed under the supervision of a Registered Nurse and that, as we interpret the definition in the proposed bill, is the intent of the bill but the wording isn't . . . Using the word "direction" interchangeable with supervision.

**MR. CHAIRMAN:** Mr. Cherniack. You believe the intent of this bill is to say "under the supervision of the R.N.", that's what you believe is the intent.

**MISS BICKNELL:** Of the definition of the practice of nursing, yes.

**MR. CHERNIACK:** The reason I ask this, Miss Bicknell, is that I think that every profession gives birth with terrible birth pains, and one of the reasons is that it is forced to prove itself many times over the objections of other competing professions. We will, of course, hear from the LPN group who will, I assume, have a different approach than you do and I'd like you to somehow define what a profession is and what the limitations are.

**MISS BICKNELL:** Mr. Chairman, I think we define in our brief, as presented by Miss Tod, the characteristics of a profession that we deem essential and that the Manitoba Association of Registered Nurses meets these characteristics. What I would like to say, also in our previous presentation we mentioned that the definition of practical nursing, as defined as an auxiliary or an assistant to the registered nurse. This is a common standard. The licensed practical nurses came into being as we have identified before during the World War II, as a result of shortage of nurses, to assist nurses and since that time that is the role that they have been filling. We commend them for the role; they have done a magnificent job. The only provincial jurisdiction in Canada that refers to them as licensed practical nurses is our own province. In other provinces they are referred to as registered nursing assistants or certified nursing assistants. The term "assistant" is the key word as we see it.

**MR. CHERNIACK:** That's the way you see it, but aren't the LPNs here trying to break away from that supervision that is being insisted on by your organization? Are they not attempting to say, we have standards that we can measure up to, we have qualifications we can measure up to and we know our limitations and, therefore, can carry them out? Is not that their intent?

**MISS BICKNELL:** Mr. Chairman, I would let Miss Tod respond.

**MR. CHAIRMAN:** Miss Tod.

**MISS TOD:** In our brief we have indicated we do not believe that there can be two sets of standards applying to two groups of employees within the same area when one is supervisory to the other. Standards as established by the nursing profession will be applied in the work situation and all those who are involved in providing nursing care will be judged by those standards. To agree that there would be two sets of standards, I repeat, will cause a great deal of confusion and conflict.

**MR. CHERNIACK:** Mr. Chairman, it's just that I have the difficulty of understanding. I thought we agreed long ago this evening, that it is the employer who ultimately sets the standards of the delivery of service and that all you are asking for in your legislation, all the LPNs are asking for, are the reserve of title. All you're saying is no one can call herself an R.N. unless she is a member of our organization, but you are not saying nobody may do the work that is done by an R.N. if that person doesn't call himself or herself an R.N. Isn't that what your legislation says?

**MISS TOD:** In response to your inquiry about the employer's responsibility and the setting of standards, I would submit that the employer has a responsibility to set standards of employment. He provides the structure, the resources to provide nursing care, he, she, it, the administration. Professional nurses working with an agency make representation through the proper channels that they wish to establish certain standards of care. These are standards that are developed by the professional association. They work through the nursing administration and ultimately go before a board of directors who has the ultimate responsibility for care in that agency. The board has the final decision in regard to those standards. Employers have demonstrated that they rely on the expertise of the professional nurses in determining those standards and working with them to implement them.

**MR. CHERNIACK:** Mr. Chairman, I'd ask Miss Tod, I am not permitted to do certain tasks that medical doctors do but I am permitted to do anything an R.N. does, as long as I don't call myself an R.N., am I not correct in that distinction between the two forms of professional licensing?

**MISS TOD:** That's right, you are not allowed to practise medicine; you are not allowed to call yourself a Registered Nurse.

**MR. CHERNIACK:** Right, but I can do all the things, or try to do all the things, that an R.N. does and there is no prohibition on my doing that.

**MISS TOD:** Except the employer recognizes the value and the importance of being assured that those he hire are, in fact, competent to practise and I would hope that if you held yourself out as a nurse and wished to carry out those functions that a

registered nurse would ordinarily do, that employer would deny you the right, in the interests and safety of the public.

**MR. CHERNIACK:** I agree with you, but now we're saying it's the employer. Now suppose the employer says I am prepared to hire the LPNs as they are set up in this bill. Is it your right to say, no, the employer must make it so that they work under the supervision of the R.N.s?

**MISS TOD:** Mr. Chairman, I find myself responding directly to the question, is that permissible?

**MR. CHAIRMAN:** The man on the tape says, yes.

**MISS TOD:** Through the Chair, would you repeat that question, please?

**MR. CHERNIACK:** I'm saying the great difficulty I have in dealing with professional powers is that between the person who offers professional services direct to the public without the intervention of supervision of an employer and those who are, like in your profession, mostly employees whose employer has the right to determine the standards. Now, I agree with you, I would hope that they use the highest standards of the R.N.s, but they don't have to. I'm saying that an employer, I believe, would have the right to employ LPNs and actually have the LPNs do R.N. work, as long as they don't call them R.N.s.

**MISS TOD:** That's right.

**MR. CHAIRMAN:** I'm wondering the extent to which the R.N.s have a right to tell the employer how the employer shall set the employer's standards in relation to LPNs.

**MISS TOD:** Early in this presentation I stated that we felt we had a professional responsibility to draw to your attention the dangers of just what you are outlining. I repeat, the employer has the final decision, he can decide whether he wishes to hire registered nurses. We have the protection of the title. If somebody in the public wishes to hire you as their nurse, then that is their right.

**MR. CHAIRMAN:** Have any other members of the committee have any questions? If not, I'd like to thank you for your presentation, Miss Tod, on behalf of the committee.

I'd like to now call on Mrs. Colegrave.

**MRS. MARGARET MACKLING:** Mr. Chairman, I'm Margaret Mackling and my name was called. Do I have the permission to present as an individual rather than as the MARN as noted?

**MR. CHAIRMAN:** Yes, go ahead.

**MRS. MACKLING:** Oh, thank you very much. Mr. Chairman, and members, thank you very much for allowing me to speak very briefly. To present a community point of view as an employer of nurses in the community, as the Director of the Victorian Order of Nurses, I do employ nurses who are prepared at the baccalaureate or the diploma level for the two-year course.

I'd like to draw your attention to Bill 87, Part I (i)(ii) and this is reinforcing what Miss Tod has said that the licensed practical nurse does work under the direction of the medical profession or the registered nurse. In the community, naturally, these people are not on site to provide the supervision. Again, under (i)(iii), I'd like to draw your attention to the fact that again the theoretical background for the Licensed Practical Nurse is such that they do not have the background in pharmacology to give and understand the giving the intermuscular intravenous therapy and this would seem that this would be allowed if this was not considered further.

I'd like to draw your attention to Page 5 (c), again, saying that there cannot be two sets of standards when one group reports to another and the LPN, Licensed Practical Nurse, is auxiliary to the Registered Nurse. (e), the Licensed Practical Nurse does not have the academic background to prepare the educational program. These programs are prepared by the Registered Nurse, people who have preparation curriculum development. Again, when it mentions in (e) specialization; specialization in nursing takes place at the baccalaureate level. I would just like to mention that the Licensed Practical Nurse is taught and supervised by the Registered Nurse in the technical nursing skills and she, indeed, works well in the institutional setting where she has practised these skills as a student.

I wish to point out to the committee that there is not a component of community health nursing in their preparation. You could not expect to have leadership and teaching skills in the preparation of the Licensed Practical Nurse in a course which is approximately 10 months and a bit. I'd like to point out, too, that working with individuals and families in the community where, indeed, the family is the primary care giver, leadership and teaching skills are very essential in providing support to the individual, to the family, to encourage them to become independent and to encourage them to give self-care. I would hope that the committee would consider these points when they are deliberating over Bill 87. Thank you.

**MR. CHAIRMAN:** Thank you, Mrs. Mackling. Mr. Sherman.

**MR. SHERMAN:** Thank you, Mr. Chairman. Mrs. Mackling, with respect to Section 6 on the regulations in the proposed bill, you have cited the same concerns or concerns similar to those cited by Miss Tod, on behalf of the MARN, about the opportunity in this bill, an opportunity that you regret for the establishment of different standards of nursing in the field of nursing. I think that's a point that is well taken, has been responsibly made and has been responsibly addressed, not only by the sponsor of the bill and the developers of the bill in the government, but by the Association of Licensed Practical Nurses themselves. I would ask you whether you would be happy with the amendments that will be forthcoming in this area, which I mentioned earlier, when Miss Tod was making her presentation. They would, for example, in subsection (c) and (d) provide subsections that would read as follows: Develop, establish and maintain standards for the practice of licensed practical nursing

consistent with the recommendations of the Advisory Council; and then, develop, establish and maintain standards for licensed practical nursing education consistent with the recommendations of the Advisory Council and then develop, establish and maintain standards for Licensed Practical Nursing Education, consistent with the recommendations of the Advisory Council, and then further down prescribe standards of Continuing Licensed Practical Nursing Education, again consistent with the recommendations of the Advisory Council. The Advisory Council will not be dominated by members of the association, as I've pointed out, in fact, in the bill as it's drafted in front of you, it's not so dominated but, the way it moved with concurrence of the LPN Association to even widen the representation of non-association membership. So that we've attempted here to reach a reasonable and responsible compromise, recognizing the legitimate aspirations of the Association of Licensed Practical Nurses, that ensures, we feel, that the bill will not be calling for separate standards of nursing practice within a single field of nursing. Would those proposed amendments that will be coming forward that I've just suggested be acceptable to you?

**MRS. MACKLING:** Mr. Chairman, I think if those safeguards are certainly built in they would be acceptable.

**MR. CHERNIACK:** Mrs. Mackling does the VON employ LPNs?

**MRS. MACKLING:** Mr. Chairman, as I mentioned earlier, as an employer we employ nurses who are prepared at the baccalaureate level of education and at the diploma level with the two-year course in nursing, we do not employ Licensed Practical Nurses.

**MR. CHERNIACK:** You employ only RNs?

**MRS. MACKLING:** Right.

**MR. CHERNIACK:** And therefore, your employment and your work does not really involve the LPNs?

**MRS. MACKLING:** No.

**MR. CHERNIACK:** Who carries on the education of LPNs? You said it is a 10-month course.

**MRS. MACKLING:** Mr. Chairman, I believe the Licensed Practical Nurses will be able to explain their educational program and I believe they will be speaking.

**MR. CHERNIACK:** But you're not familiar with it?

**MRS. MACKLING:** No, we're not involved with that.

**MR. CHAIRMAN:** Are there any further questions of Mrs. Mackling by members of the committee? If not I'd like, on behalf of the committee thank you, Mrs. Mackling for your presentation.

I'd now call on Mrs. Colegrave.

**MRS. NAN COLEGRAVE:** My name is Nan Colegrave, I'm the Chairman of the Licensed

Practical Nurses Advisory Council. With your permission, Mr. Chairman, I have copies of the brief for circulation to the members. And with your permission also, I would like to have permission for Mrs. Ona McDermot, a member of the Advisory Council to join me.

**MR. CHAIRMAN:** Proceed Mrs. Colegrave.

**MRS. COLEGRAVE:** I welcome this opportunity to present this brief to the Minister of Health, from the Licensed Practical Nurses Advisory Council concerning Bill 87. This brief represents the majority report.

Special meetings of the Licensed Practical Nurses Advisory Council were held on July 7, 1980 and July 16, 1980 to review the draft and amended draft of Bill 87 which has just received second reading.

Although the Council was generally supportive of the aims of the MALPN, as they are reflected in this Bill, it was agreed that since the Council is advisory to the Minister of Health, certain concerns of the Council should be brought to your attention at this time.

1. Definition of Licensed Practical Nurse.

(Bill 87, 1, (i) (i), (ii), (iii) Definitions).

(i) assists registered nurses in the care of acutely ill patients and rendering those services for which she has been trained.

(ii) not being a registered nurse, or a person in training to be a registered nurse, undertakes the care of patients under the direction of a medical practitioner or a registered nurse, and (iii) prepares and administers medication prescribed by a medical practitioner.

Advisory Council was concerned with the proposed wording of Section 1(i)(i) under definitions.

It was felt that the preparation of practical nurses required that, in caring for patients, they continue to have appropriate direction and supervision from a medical practitioner or registered nurse.

Council therefore recommends that Section 1(i)(i) to be deleted. Section 1(i)(ii) to read as follows:

"not being a registered nurse or a person in training to be a registered nurse, undertakes the care of patients under the direction of a medical practitioner or a registered nurse, and renders only those services for which she has been trained."

In the public interest, the wording of 6(iii) is too general in that it implies a right to prepare and administer medication without any restriction whatsoever. Council felt that the role of the practical nurse, with respect to medication, could be covered by limiting activities to those for which the practical nurse has been trained, and Council, therefore, recommends that 1(i)(iii) read:

"Performs and administers only those prescribed therapeutic measures for which she has been trained".

2. Powers of the Board.

(Bill 87, 6(f), (g)).

Council was concerned that in relation to those powers of the Board concerned with educational and licensing matters, there be clear indication that in these areas, the Board act on the recommendation of the Advisory Council outlined in Section 47, and 48 of Bill 87.

Council therefore recommends that 6(f), (g), have added the phrase: "consistent with recommendations from Advisory Council", that this be added to each.

3. Composition of the Advisory Council.

(Bill 87, 47(2) states:

(a) One person, who shall be a member of the Faculty of Medicine nominated by the Board of Governors of the University of Manitoba.

(b) Three persons nominated by the Minister.

(c) One person nominated by the Minister of Education.

(d) Four persons appointed by the Board.

Council recommends:

(a) One person nominated by the Board of Governors of a University in Manitoba, who shall be a Faculty Member.

(b) Four persons nominated by the Minister, two of them who shall be teachers from approved Schools of Nursing.

(c) No change to present wording.

(d) No change to present wording.

4. Function of Advisory Council.

(Bill 87, 48).

Council is concerned that although an expert Advisory Council is provided for in this section, its recommendations are not binding on the Board. Although it is anticipated that the Board would normally adopt the recommendations of its expert Advisory Council, the possibility remains that a quorum of the Board could act, for example, to make sweeping changes in schools, curriculae, and licensing standards, notwithstanding the advice received from the Advisory Council.

It is therefore recommended that an appeal mechanism be created whereby the Advisory Council could appeal to the Minister if it felt that Board action on its recommendation was not appropriate or in the public interest.

Council therefore recommends that a section be added in Bill 87, Section 48 to provide that:

"In the event that the Advisory Council decides that Board action with respect to its recommendations is inappropriate or not in the public interest, an appeal may be lodged with the Minister of Health or his designate and the issue thereby resolved before the action of the Board shall be implemented."

5. In addition, the Advisory Council wish to bring to the attention of the Minister, the anomaly of continuing to use the designation "Licensed Practical Nurse" notwithstanding the proposed change from licensing to registration.

The Advisory Council of Practical Nurses is pleased to provide you with this advice and comment on Bill 87. We regret that a final draft version was only recently made available to us for consideration since it is not the intention of Council to delay consideration of Bill 87 or to impede the activities of the MALPN in this regard.

Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mrs. Colegrave. Do any members of the committee have any questions.

Mr. Cherniack.

**MR. CHERNIACK:** Mrs. Colegrave, who makes up the Council? How is it constituted? Who are they?

**MRS. COLEGRAVE:** The provision for the establishment of the Council is made in Section 5(v) of the current LPN Act. Does that answer? It doesn't?

**MR. CHERNIACK:** It doesn't. I'd like to know how is it created? Who are the members of it and are they LPNs or not? And what are they?

**MRS. COLEGRAVE:** Section 5 of the current Licensed Practical Nurses Act, Section 5(i) which reads "there shall be an Advisory Council, which shall have the powers and the duties herein set out and which will consist of the Deputy Minister of Health, Registrar and the Director of Public Health Nursing appointed under the Department of Health Act, all of whom shall be ex-officio members, and of 10 other members appointed by the Order of the Lieutenant-Governor-in-Council, of whom:

(a) One member shall be nominated by the Minister.

(b) One member shall be a Member of the Faculty of Medicine, shall be nominated by the Board of Governors of the University of Manitoba.

(c) Two members, one of whom shall be a teacher on the staff of a School of Nursing, recognized by the Minister, shall be nominated by the Board of Directors of the Manitoba Association of Registered Nurses.

(d) One member, who shall be a member of the staff of the Department of Continuing Education and Manpower, nominated by the Minister of Continuing Education and Manpower.

(e) Two members shall be nominated by the Association known as and recognized by the Minister as Manitoba Health Organization Incorporated.

(f) Three members who shall be Licensed Practical Nurses shall be nominated by the Association known as, and recognized by the Minister as the Manitoba Association of Licensed Practical Nurses.

And that comprises the Advisory Council.

**MR. CHERNIACK:** So your group is made up of — I didn't count, but it must be about 15 people on the Council.

**MRS. COLEGRAVE:** About 12, yes.

**MR. CHERNIACK:** I thought there was the Deputy Minister, and somebody in charge of nursing, I believe, and 10 others. All right, 12. Three of whom are LPNs.

**MRS. COLEGRAVE:** Correct.

**MR. CHERNIACK:** So you're really not speaking on behalf of the LPNs at all, you're speaking on behalf of this appointed body.

**MRS. COLEGRAVE:** I'm stating the Advisory Council under the current Act.

**MR. CHERNIACK:** Having studied the Act and your proposed changes, which are remarkably similar to what Mr. Sherman indicated are amendments that he

would be proposing, do you see the point to this LPN bill being passed at all? I'm serious. Is there anything left to recognize them as a professional body with self-disciplinary powers, licensing powers?

**MRS. COLEGRAVE:** I think I stated in this presentation that we were not anxious to impede the bill.

**MR. CHERNIACK:** That's a negative statement, isn't it?

**MRS. COLEGRAVE:** It's a negative statement, yes, but Mrs. McDermot, perhaps if she may be permitted, Mr. Chairman, to respond to that.

**MR. CHAIRMAN:** Mrs. McDermot.

**MRS. McDERMOT:** I'm Ona McDermot, a member of the Advisory Council. I think, Mr. Chairman, in answer to Mr. Cherniack's question, we heartedly endorse the efforts that are reflected in the proposed Act by the MALPN to have their own association to which their members must belong. Perhaps, Mr. Chairman, as Mr. Cherniack has indicated, to become a profession there's a lot of growing pains and I don't know, but this may be the beginning step, but certainly we endorse, have no problem with that. But those of us on the Advisory Council who are advisory to the Minister, have concerns that are very very similar to the concerns of MARN and other groups that you've heard from. But we do endorse some of the things in the Act so I wouldn't say that it shouldn't go at all, Mr. Cherniack.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** It seems to me that with your proposals we would now have an association with a title, reserve of title, it would have a board and the board could hold meetings and have members and talk about things of mutual concern, but it cannot really establish standards, regulate the admission requirements, and by not establishing standards — and I'm saying cannot because they will have to do what the Council advises them to do — that they will then be in a position of administering an organization with very little independent clout and all they would be doing would be judging their own members on admission and on discipline in accordance with standards set by another body of which they form a minority. Is that not a fair description of what is left?

**MRS. McDERMOT:** Yes, Mr. Cherniack, I think that is a fair description of what would be left but I think the reasons for suggesting that that be the way it is have been well articulated by other people and we agree with those reasons. We do not believe that the practical nurse at the present moment, who practises under the supervision of a registered nurse or a medical practitioner and whose education is 10 months in length in this province, can set standards and can design educational programs. This is in the interest of public safety.

**MR. CHERNIACK:** So I'm not really quarrelling with you because I don't really know anything about the LPNs but I would not like them to walk away thinking that they've obtained professional status. I would

I think that they have a structure of a social organization which would be very pleasant if they want to belong to it, and therefore, I wanted you to confirm the fact that your suggestion is to maintain a pretty rigid control over the activities of the LPNs, the control being exercised by a body which is appointed and of which, by your admission, would have even a greater minority than originally proposed; and that is the Advisory Council. You've agreed with that and I don't know, we don't, Mr. Chairman, appear to have anybody speaking for the LPNs and the question will arise, who wants this bill? Because only Mr. Steen has said that it's wanted.

But I would ask you again, Mrs. McDermot, what are the educational standards now, you say a 10-month course, as if that's not much? What are they? How are they taught now?

**MRS. McDERMOT:** The educational standards? Well, one thing, Mr. Cherniack, the education of Practical Nurses is conducted in the three colleges in Manitoba and at St. Boniface Hospital and there are criteria that have been set up by the Advisory Council for the ongoing approval of those programs. So the standards at the moment have been set by the Advisory Council, the present existing Advisory Council.

**MR. CHERNIACK:** But there is a course now, it's a 10-month course.

**MRS. McDERMOT:** Yes.

**MR. CHERNIACK:** And it's a full 10 months.

**MRS. McDERMOT:** Yes.

**MR. CHERNIACK:** Which does equip them to do certain tasks and none of them with any degree of responsibility of their own? All of them supervised?

**MRS. McDERMOT:** I hope that's all right, Mr. Chairman. Supervision can be interpreted, I think, in many ways, Mr. Cherniack, but certainly in hospital settings, for instance, the patient assignment — if I could use that — is given to the LPN on the basis of the level of care needed by patients and certainly it would not be possible for the R.N. who does that assignment to give the Practical Nurse any patient who would require knowledge and skills beyond that for which she's been trained. That is the responsibility of the R.N. as regard to the care of patients in hospitals.

**MR. CHERNIACK:** On the other hand I suppose the R.N. doesn't really have the authority to do any more than she has been trained to do.

**MRS. McDERMOT:** Exactly.

**MR. CHERNIACK:** Yes. Mr. Chairman, may I just say to Mrs. McDermot, the reason I raised this is that I once had a discussion with the medical heads of the Mayo Clinic, who told me they were having a big scrap with the nursing profession in the State of Minnesota because they had trained a person off the street, who could take blood samples better than anybody they ever knew because that's all she did and the nurses were complaining bitterly that she

was encroaching on territory she shouldn't have done and they were very much concerned that they were being told by the nurses that the person trained to do only that one task, was not allowed to do it and I'm concerned that we should be able to provide a greater service rather than a lesser one to the people in Manitoba. And you feel that what you're doing is not confining or restricting the extent of service being offered to people?

Let me elaborate. Mr. Sherman said, what do we do about the personal care homes, which I assume can't afford to employ R.N.s 24 hours a day and do have to have somebody trained in some way to deal with people who are not well? Would the LPNs then be restricted? They couldn't work in that environment?

**MRS. McDERMOT:** Mr. Chairman, with all due respect to Mr. Sherman, I'm very glad that this question has been asked again. Personal care homes are staffed with R.N.s and there must be an R.N. on duty at all times on all shifts. So certainly LPNs can work in nursing homes and work very well there, as do R.N.s work very well there. But nursing homes are staffed with R.N.s.

**MR. CHERNIACK:** With your experience, I really don't know what is your experience but you are a member of the Council, would you say that we have enough R.N.s to do all of this work and that it would not be possible to have LPNs undertake some of that responsibility that would be available to people and would not restrict the services by the absence of R.N.s. We have a terrible shortage of nurses in this province, I'm told, of R.N.s and with that shortage we must be suffering to some extent by not providing an adequate service and, until we get more R.N.s, are you saying an LPN should not be allowed to do some kind of work that a doctor would consider she's capable of doing?

**MRS. McDERMOT:** Mr. Chairman, in answer to Mr. Cherniack's question, I think that registered nurses are very happy and have been for a long time, to have such an able cadre of workers as the LPN assist them. I think there's never been any question of that and I personally have had the privilege of working with LPNs and we're very glad to have them assist us. But in the interest of public safety we would be more than uneasy if responsibility, beyond that for which an LPN has been trained, were given to them. In our view it would not be in the interests of public safety.

**MR. CHERNIACK:** I didn't know until now but you are an R.N., are you?

**MRS. McDERMOT:** Yes.

**MR. CHERNIACK:** Thank you.

**MR. CHAIRMAN:** Mr. Adam.

**MR. ADAM:** I just have the one question. I take it that all practical nurses are female, are they? There are no males? There are?

**MR. CHAIRMAN:** Mrs. McDermot.

**MRS. McDERMOT:** Mr. Chairman, I think I'm right about this although I think some of the members of the MALPN might better answer this, but I think there are a few male LPNs but I think that's a function of salary more than anything else. I believe that an Orderly can make maybe more money than an LPN, I'm not sure, but I think it's a function of something like that.

**MR. ADAM:** The reason I raised the question is that in your suggested amendment to the bill you mentioned that "for which she has been trained" and you use the word "she".

**MR. CHERNIACK:** They're all shes here.

**MR. ADAM:** They're all shes, are they?

**MR. CHERNIACK:** Except for the Chairman.

**A MEMBER:** Chairperson.

**MR. CHERNIACK:** No, the Chairman, it says.

**MR. ADAM:** No, this is a serious question. I'm wondering why it should be that way.

**MRS. McDERMOT:** I believe, Mr. Chairman, if I remember — I don't have the Act in front of me — but it seems to me there's a designation that where "she" is mentioned, "he" is implied or . . .

**MR. CHERNIACK:** But they don't say where "he" is mentioned "she" is implied.

**MRS. McDERMOT:** No, that's true and I agree with you, it's wrong.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Thank you, Mr. Chairman. Mrs. McDermot, Mr. Cherniack asked you what's in it for the LPNs, Bill 87, as it is going to be amended? Would you not agree that an Advisory Council on which four of 10 members will be LPNs, compared to an Advisory Council on which only three of 12 members are LPNs represents an improvement in status for the LPNs?

**MRS. McDERMOT:** Yes, Mr. Sherman. Yes, I think there is quite a bit in the Act even if it were to be amended to allay some of our concerns. I think the fact that professional association would be supported by compulsory membership is something. I think the opportunity for the 12 members, the structure of the board if I remember is 12 LPNs, to interact with the Advisory Council, to that kind of interaction on which they will have membership, I think there's a great deal in it in that regard.

**MR. SHERMAN:** Would you agree with me that there has been considerable growth and development of the LPN, or her counterpart, by other terminology in other provinces all across Canada in the last 10, 15 years?

**MRS. McDERMOT:** It's my impression that there certainly is a growing activity in the LPNs, or their comparable associations, across the country and

fairly recently a national association has been formed. Yes, I think that's correct.

**MR. SHERMAN:** Then the present Act doesn't recognize that growth or development or that stature in a fully responsible or fair way, would you agree that the present Act needs updating, needs improvement, needs replacement? The point is, Mr. Cherniack has asked what's in it for the LPNs and I would like your opinion as to whether there is not, indeed, considerable in it for the LPNs, even though there is some amendment to the bill?

**MRS. McDERMOT:** Mr. Sherman, I agree. I think there is a great deal in it. I rather suspect that the MALPN might be disappointed if some of our suggestions are taken up by the government. However, no matter how much we appreciate — we, I'm speaking now of nurses, Mr. Cherniack — no matter how much we appreciate the work that has been done, is being done, to assist registered nurses in the care of the ill, we could not, in conscience, of the Advisory Council, recommend that the LPNs set their own standards of education, standards of practice, give any kind of medication prescribed by a doctor and those other concerns that were outlined, no matter how much we enjoy and rejoice with seeing the other kind of growth that we speak of.

**MR. SHERMAN:** Well, you're aware, and I won't repeat, the amendments that we are bringing forward deal with standards of practice and education and also delete the references to specialization, but are you aware that in some other provinces, notably Prince Edward Island, New Brunswick and Quebec, and I'm sure you are aware that in the last few years, very recent years, there have been similar improvements with respect of legislation governing LPNs or their counterparts, whatever name they go by, there are different classifications in those provinces, of course, but for that status of nurse and health care worker, in other words by question is, is the Advisory Council aware that, although we like to think that we perhaps are in the forefront of elevating recognition of the LPN, that at least three other provinces in Canada have done very much the same thing in very recent years?

**MRS. McDERMOT:** We're aware of that, Mr. Sherman, however none of those provinces have allowed, in their legislation, a setting of standards for education or practice.

**MR. SHERMAN:** Well, just one other question, I think, Mr. Chairman, and I certainly thank Mrs. McDermot and Mrs. Colegrave for their presentations and for assistance that has been forthcoming from the Advisory Council in the process of developing the legislation, and from the LPNs themselves, but Mrs. McDermot you said to Mr. Cherniack that nursing homes are staffed with RNs but would you agree with me that nursing homes are also staffed with LPNs and, in fact, LPNs are the dominant, preponderant nursing personnel in nursing homes? There certainly are RNs around and about in the nursing homes that I have visited but they are vastly outnumbered by LPNs and nurses aides. Would you not agree that is your experience and a fair

statement? In other words, in our nursing home system we rely, and must rely, upon the LPN very very substantially.

**MRS. McDERMOT:** Yes, Mr. Sherman, that is correct but, generally speaking, in nursing homes the pace of life, if you will, is much slower, the patients are in relatively stable conditions for the most part, and there's no question that the LPNs function magnificently there, and other places as well. But, there are RNs there to supervise the practice and to designate the responsibilities.

**MR. SHERMAN:** The only other point I would make, for the record, Mr. Chairman, because there is no specific spokesman for the LPN Association apparently appearing on the list of delegations, unless we do have one, but we have received supportive briefs from the association membership.

**MR. CHERNIACK:** Mr. Chairman, on a point of order, is the Minister, I don't want to use a word like "dismissing", but at this hour I can't pick the right words, this delegation because I want to ask another question?

**MR. SHERMAN:** No, I'm not dismissing them, that's the prerogative of the Chair. I just want it noted that there has been supporting representation in written form from the Association of Licensed Practical Nurses. —(Interjection)— Well I don't have them on the list as a representation making a presentation to the committee. I'm sorry.

**MR. CHAIRMAN:** Mr. Sherman, we have their names here.

**MR. SHERMAN:** Thank you, Mr. Chairman.

**MR. CHERNIACK:** I'm just interested in what Mr. Sherman said about nursing homes. Are there certain standards that the RN have set that would determine how many RNs should be available per number of patients, 24 hours a day in a nursing home?

**MRS. McDERMOT:** Those standards of staffing ratios, Mr. Cherniack, are set by the employing agency and if they wish to meet accreditation standards they are set by a national accrediting body.

**MR. CHERNIACK:** Well, accreditation standards applying to nursing homes, what does that mean? I mean is it meaningful, I know in hospitals it is very meaningful.

**MRS. McDERMOT:** Yes, I think it is very meaningful.

**MR. CHERNIACK:** You mean they lose money in some way, they lose grants or . . .

**MRS. McDERMOT:** I don't know that it's financially meaningful, but I'm a little out of my field, Mr. Chairman, but I certainly know that an institution applying for accreditation takes that very seriously, and there are certain guidelines to follow and staffing is one of them.

**MR. CHERNIACK:** I've been to a nursing home, four storeys, with maybe, I don't know, 400 inmates —(Interjection)— a bad word, inmates? At one o'clock I can be excused for poor vocabulary. How many RNs should there be in a building such as that in order to maintain proper supervision over the LPNs? Because the impression I got from Mr. Sherman is that there are a large number of LPNs, compared to RNs, in such an institution.

**MRS. McDERMOT:** If I may, Mr. Chairman, I believe, Mr. Cherniack, that as well as meeting accreditation standards, that the Hospital Commission has a fleet of consultants, if you will, that visit and make recommendations to the Executive Director and Boards of Nursing Homes, as to how many RNs, for instance, should be in that four-storey facility.

**MR. CHERNIACK:** Let's find out. Thank you.

**MR. CHAIRMAN:** On behalf of the committee . . .

**MR. ADAM:** I want to ask one more question, Mr. Chairman. I wonder, being a member of the Advisory Board, Mrs. McDermot, if you could advise me, or would you know just how many Licensed Practical Nurses could a RN supervise at one time and be able to keep tabs on all of them? That's what we're trying to get at here. The question was raised by the Minister, in fact, he opened up a totally new area, perhaps we'll get more information when we're here the next time. Do you have any answers to that at all?

**MRS. McDERMOT:** Well, I believe there isn't a pat answer to that. The number of LPNs that an RN can supervise would depend on the level of care that was required for that particular unit, the number of patients that had to be assigned, there would be a whole number of variables in determining how many. I don't know that there is a pat answer, but maybe someone has one.

**MR. SHERMAN:** Well, Mr. Chairman, just for the sake of clarification. Those standards are laid down by the Manitoba Health Services Commission, staffing standards in all health facilities and a personal care home, a nursing home, it depends on the levels of care being provided, the number of patients at each of those levels, and those levels call for anywhere from a half hour personal nursing staffing to three hours of personal nursing staffing a day. And it's impossible, unless you look at the patient population of a facility, and the categories of care, Level 1 to 4, or Level 2 to 4, it's impossible to answer the questions, other than to say the standards are laid down by the Health Services Commission and most of the personnel in those homes are LPNs. There certainly are RNs in nursing homes but the personnel would probably break down to four LPNs to one RN, or nurses aides to one RN.

**MR. CHERNIACK:** Mr. Chairman, I wonder since Mr. Sherman volunteered an answer, which is important information, whether he could say that there has to be some time when the word supervision is less meaningful when you get the ratio



changing, and since the word supervision is the one the RNs want to put into this bill, I wonder if, when we deal with that, we can have a more comprehensive report. I don't mean right now.

**MR. CHAIRMAN:** If the members are through questioning the two ladies, I would like to thank Mrs. McDermot and Mrs. Colegrave for their presentation here tonight.

**MRS. McDERMOT:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** I'd like to call Mrs. Barbara Bradley, representing Directors of Nursing Interest Group.

**MRS. BARBARA BRADLEY:** Thank you, Mr. Chairman, I think the order is mixed, I'm speaking now as a Nursing Administrator for my own self, I'm not representing my group at this point.

I know the hour is late and I don't want to belabour the points that were made, but I did want to go on record as a Nursing Administrator with some of the concerns that I have arising out of Bill 87.

You've heard tonight from people in nursing education, you've heard from people representing the Advisory Council to the LPN Association, you've heard tonight from nurses who work in community health settings, so I felt that you should hear from people in a larger institution.

My concerns are essentially parallel to some of the other ones that have been stated and I think the main area of concern is the difficulty in correlating a definition 1(i) parts (i), (ii) and (iii) with the rest of the Act, because they do seem to be contradictory in nature. Definition 1(i)(i) "assists registered nurses in the care of acutely ill patients and rendering those services for which she has been trained", I think more accurately should be stated, "assists under the supervision of registered nurses, in the care of".

Definition 1(i)(ii), "not being a registered nurse or a person in training to be a registered nurse, undertakes the care of patients under the direction of a medical practitioner or a registered nurse". In my particular agency, I don't have physicians available 24-hours a day and I depend very much on nursing assistants, licensed practical nurses, to provide a lot of the care in my agency, particularly on the evening and night shift. But that care is provided under the supervision of a registered nurse at all times.

I would also like to see as a recommendation that 1(i)(ii) include wording to the effect that "rendering such services, for which she has been trained", should be included in that part as well.

Definition 1(i)(iii) "prepares and administers medication prescribed by a medical practitioner". In my agency we administer chemotherapy, many intravenous medications and many intravenoses, and presently this is limited by definition and excluded from the practise of licensed practical nurses. Now if the intent of the Act is to bring forward something like this, then all of the licensed practical nurses I am presently employing will have to go back into a re-orientation and a re-education program and I don't know who's going to pay for it, but I bet my hospital administrator is not.

The next area that I'm concerned about is under regulation 6 on page 5, Items (c) and (e). (c) says "develop, establish and maintain standards for the practice of licensed practical nursing", and with the Minister's addition, it would say, "consistent with the recommendations of the Advisory Council". Is that correct Mr. Minister?

**MR. SHERMAN:** That's correct.

**MRS. BRADLEY:** I still feel there will be a problem in agencies because we may have a double-standard. Is there going to be a standard for nursing practice for registered nurses and a standard for nursing practice for licensed practical nurses? And because I rely so heavily on licensed practical nurses, are my nursing supervisors going to be put in the spot where they are going to come in and say, I'm sorry but the practice in this particular instance is not acceptable, and have conflict or confusion arise in my own agency over what is a standard of practice that's acceptable. I must say I'm very concerned in the province about the shortage of nurses; we rely heavily on licensed practical nurses. We have a shortage of registered nurses in our own agency, and at the present time we have just gone through the process of closing 50 beds in our agency. But if I have double-standards, plus shortages of registered nurses, plus the union problems which we have just gone through in this province, and we don't have essential services legislation, I think that this kind of legislation is only going to bring more conflict into the health care scene. I don't think it's going to promote harmony; I don't think it's going to promote safety practice; and I don't think it's going to guarantee the province of Manitoba people the best health care that they deserve.

I think the comments I've just made can also be transposed into Section (e), where we say that licensed practical nurses are going to define by education experience or otherwise, general or specialized areas of licensed practical nursing. I, again, take into account, Mr. Minister, your amendments to that. I don't know whose going to define exactly what "otherwise" is to anybody. I don't know what Advisory Council anywhere can define what an "otherwise" is that is going to make somebody safe to practise nursing care.

**MR. SHERMAN:** Excuse me, Mr. Chairman, that whole Clause is deleted, that whole sub-clause.

**MRS. BRADLEY:** That whole sub-clause, with reference to specialization, is deleted.

**MR. SHERMAN:** Yes.

**MRS. BRADLEY:** I'm sorry I didn't understand that from your earlier remarks. I'm happy to hear that one. Those were the only areas I wanted to address right now. Thank you.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Could we get clarification of, I think you said on your evening shift, what would be

the ratio, how many patients, how many R.N.s, how many LPNs?

**MRS. BRADLEY:** I have a 400-bed agency and on my staff I am budgeted for — I've just gone through a major budget appeal to just about double my professional staff — at the present time I'm budgeted for 70 registered nurses and about the same number of licensed practical nurses. In addition, I have a large population of nursing assistants.

**MR. CHERNIACK:** On an evening shift, would you have an equal number of registered nurses as you have LPNs?

**MRS. BRADLEY:** Just about, yes.

**MR. CHERNIACK:** That means on all shifts, you would have approximately . . .

**MRS. BRADLEY:** During the day shift, I have more registered nurses.

**MR. CHERNIACK:** I don't know how you could quite manage to do that, with equal numbers.

**MRS. BRADLEY:** It's my population of nursing assistants that shuffles around to provide the other coverage.

**MR. CHERNIACK:** I see, so that you actually do have almost one-to-one supervision.

**MRS. BRADLEY:** No, no. What will happen is I will have licensed practical nurses on some of my units with a registered nurse supervising their practice.

**MR. CHERNIACK:** How many would she have, would she be responsible for?

**MRS. BRADLEY:** The nursing supervisor? She would be responsible for three nursing units, at least one of which would have registered nurses on it. So the supervisor would not have to give such direct supervision in that area and then she would be responsible for all three areas together though. Half of the time half of our shifts are covered by registered nurses on evenings and nights but, again, that depends on our particular area. Our hospital is quite unique and we offer services that the most of the community doesn't know about, but we have some units that we never run without having registered nurses on at all time.

**MR. CHERNIACK:** Which hospital are you?

**MRS. BRADLEY:** Winnipeg Municipal. You should come and see us sometime.

**MR. CHERNIACK:** I've seen it. Would you not be establishing your own standards for the people who are doing the work that is now being done by LPNs? Would you not have your own standards? You're the employer.

**MRS. BRADLEY:** I'm the employer and we work very closely with MARN, with their established standards; we work very closely with MHSC and, of

course, we are in an accredited hospital so we comply with all the standards of hospital accreditation.

**MR. CHERNIACK:** That being the case, where do you see confusion? Do you, as the employer, see an R.N. and an LPN arguing in front of you as to who is going to do what?

**MRS. BRADLEY:** I can see them under the terms of the new Act.

**MR. CHERNIACK:** Why? You are still the employer. There is nothing here that says that you are bound by what they say, is there? You're the employer.

**MRS. BRADLEY:** I think sometimes what happens in theory and what happens in practice is quite different.

**MR. CHERNIACK:** Then are you saying as an employer you would still bow to the standards that are established by your employees?

**MRS. BRADLEY:** I would be bound by the standards established by the LPN Association, by MARN, and I'm presently bound by standards by MARN, MHSC and the hospital accreditation people, as well as my own employer standards.

**MR. CHERNIACK:** You seriously are bound by the standards set by MARN?

**MRS. BRADLEY:** No, no, not bound by the MARN standards. All right, my main responsibility is to my employer, which is my board, through my administrator, but I also juggle those other standards to get the very best level of care for our patients. We have to comply with standards for accreditation as we are an accredited hospital.

**MR. CHERNIACK:** Right, so that those are the important ones, the accreditation sets standards for you which are of a very high quality. Would you then say that you would be bound by an LPN standard, as determined under this act, that might be of a higher quality?

**MRS. BRADLEY:** I think the theory, in theory it's theory, the conflict could exist.

**MR. CHERNIACK:** I wonder if you're aware that there is nothing in this law which would require you to employ an LPN. You could employ a person who does the job which you think is meeting the qualifications that you need for that assistant to the R.N. and, therefore, I'm wondering if you're being misled into thinking that this gives the LPNs the authority to determine what the standards will be in your hospital — or am I wrong in thinking that you would have to bow to them?

**MRS. BRADLEY:** I'd like to try it from another tack, because I think we're going over the same points.

**MR. CHERNIACK:** Well, let's drop it.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, could I just ask Mrs. Bradley what she would suggest in place of the proposals in Section 6 on the regulations that would provide the safeguards that she seems to feel are necessary against a double standard?

**MRS. BRADLEY:** I was glad to hear the brief tonight from the Advisory Council to the licensed practical nurses because I hadn't had a chance to hear much of this before. I feel a lot of their recommendations are very valuable and should be very seriously considered, but I understand also from hearing them tonight that they have been in close contact with you and that their recommendations have been seriously considered. I would recommend that the one which was deleted be so, the one that specifies specialization, and that leaves me with No. (c), which is the double standard. I still have reservations about that happening.

**MR. SHERMAN:** I note, Mrs. Bradley, that the Advisory Council did not raise a specific objection to sub-clause (c). I'm not suggesting yours isn't a valid concern and, perhaps, the Advisory Council is concerned about it. They identified 6(f) and (g) as being areas of concern which, I think, are addressed by virtue of the fact that our amendment will add the very phrase that they have suggested in their brief and we would be adding the same phrase on (c) and (d). Anyway, I hope you can think about it.

**MRS. BRADLEY:** Mr. Minister, I think the problem is that I find 6(c) at a variance with your definition which appears under Part I, so I don't know if you intend to include the Advisory Council in Part I when you're talking about the practice of the licensed practical nurse or not. I just think that it's an area that seems to be quite murky right now and should perhaps be clarified.

**MR. SHERMAN:** Okay, I appreciate your help and your advice on it very much. Thank you.

**MRS. BRADLEY:** Thank you.

**MR. CHAIRMAN:** Is that all the questions of Mrs. Bradley? If so, on behalf of the members of the committee, I would like to thank you for your presentation here.

**MRS. BRADLEY:** Thank you.

**MR. CHAIRMAN:** Now I would like to call on Mrs. Phyllis Waive.

**MRS. PHYLLIS WAIVE:** I am Mrs. Phyllis Waive and I am very happy to be able to represent Red River Community College. I am a nursing instructor at the college and I have had experience in both years of the nursing program. I can't tell you how happy I was when the Honourable Mr. Cherniack referred to the career ladder, because we do have it at the college and Miss Tod also explained it to you. It was instituted last fall and I will be prepared to talk about it later on in my presentation. Right now I do have a letter that I would like to read; I believe the Minister has received a copy of it and I have extra copies here for the members of the committee.

**MR. CHAIRMAN:** Proceed, please.

**MRS. WAIVE:** Thank you. "As educators in a program which prepares licensed practical nurses, we must express grave concern regarding Bill 87, The Licensed Practical Nurses Act. While we do not quarrel with the basic question of power to the Manitoba Association of Licensed Practical Nurses to require membership and collect fees, we do wish to know the following:

How can a group, who are defined as being responsible to a registered nurse, inherent in that the registered nurse is responsible for the work of the licensed practical nurse, be empowered with total responsibility for themselves as a body? The lack of congruency here is obvious.

Of particular concern is the power granted to develop and establish high standards for nursing practice and nursing education. As registered nurses are responsible for evaluating licensed practical nurses, and also responsible for teaching licensed practical nurses, how is it that nowhere in this Act is there designated registered nurses representation?

To be candid, we see the results of this Act in its present form as being disastrous for nursing. We suggest that this Act go no further in the legislative process at this moment without much discussion and revision." This is on behalf of the instructors at Red River Community College.

I would also like to tell you that the duties that were delegated to me in the past year at the college, it was to do with licensed practical nurses who were challenging our diploma course, or I should say, the career ladder, to enter into the diploma course, and they were a long list of applicants as you may imagine. I was given a certain number of applicants only for which we had places in the program for this fall and I was given the duties to evaluate them. They had to challenge with their experiential learning. I have worked with practical nurses in the clinical area, when I've taken the second-year students into the hospitals. I have watched them in the clinical area and I've also had them in the past year in the classroom, and I do have a very soft spot for them. I only wish that I knew earlier — I'm on my vacation right now — I would have brought my evaluations that are in my office of the students that just evaluated the program that I had with them. They would be able to tell you how much they appreciate the contract teaching that I have done with them in order to update them, because the deficiencies that I found went across the line. All of the practical nurses who challenged were very deficient in inter-personal relations and communications with the clients. I did simulations with them in the classrooms and the statistics that I found showed what areas I had to improve in order that they could enter into the program. Now, how can practical nurses have the standard of care if not one of them passed my nursing process or my nursing care plan? If they cannot plan a care for a patient, how can they set their standards? I can give you a lot of illustrations from the class and from the clinical area — I could keep you here much longer than I would want you — but when a doctor comes on the floor and orders that an IV be run at 150 millimetres an hour, and the practical nurse on the ward, she does not know how to calculate the number of drops for that IV. So, you

see, you do have to have more academic preparation for this. It was amazing, not one of the 30 applicants knew how to count drops in an IV, and yet they're looking after patients in the hospital. Now if they're doing it in the hospital, why couldn't they do it in the classroom for me? They said, they just relied on the RN on the floor, that she set it, and they just watched to see that it didn't run dry.

Now I'm giving you the facts. The students were very well motivated, not one of them backed out, they all felt they were a privileged group and, as I said, I was sorry when our classes ended. But I really feel that they are prepared to come into our career ladder in the fall.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mrs. Waive, could I just ask you if the standards of our licensed practical nurses and your graduates seem to be so low and so disturbing to you, whether we shouldn't be looking at the curriculum, looking at instruction and looking at the approvals that have been granted in the past, under the Advisory Council and other bodies, sanctioning the education courses that are in existence right now? In the LPN field.

**MRS. WAINE:** These applicants that came to me were not from our school. They were graduates from several years and from other schools of nursing in the province, some even from outside the province, that were now living in Manitoba, but the thing that I'd like to state is that our career ladder program has been updated and this is why, in order to fit into our second year, or our diploma year, these students have to come up to the same level as our graduates of the first year have.

Can I read you the terminal competencies of the nursing certificate graduate at Red River Community College reads like this: "Upon completion of nursing certificate, the graduate will be eligible to write examinations for a licence as a practical nurse, the graduate will be prepared to enter the workforce as a beginning practitioner, providing direct nursing care for selected clients of any age, whose physical and psychological equilibrium is relatively stable, but who need assistance, primarily with activities of daily living. The graduate functions under the supervision of a registered nurse, and in collaboration with other health team members, primarily in institutional settings." So they can function in institutional settings under the direction of a registered nurse.

**MR. SHERMAN:** Mrs. Waive, would some of the amendments that I've suggested earlier, remove some of your concerns with respect to the proposed legislation.

**MRS. WAINE:** Yes.

**MR. SHERMAN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Mrs. Waive, since this is a very strong statement you've made, would you relate it to your — you have a two-year diploma program. What is a diploma course?

**MRS. WAINE:** Our diploma course is a one-year course, and we have a nursing certificate that is a one-year course. The nursing certificate is equivalent to an LPN. The nursing diploma is the one-year RN. Our students go from nursing certificate — they can drop out at the end of the first year and write their LPN examination and practise as an LPN. When they want to come back into the course, they can come back and take the diploma nursing course and complete as an RN. Or they can go straight through.

**MR. CHERNIACK:** Did you say the RN course is a one-year course?

**MRS. WAINE:** Well, we call it the nursing diploma course in the career ladder.

**MR. CHERNIACK:** You mean it's a second-year then?

**MRS. WAINE:** Yes, it's a second-year.

**MR. CHERNIACK:** So it is a two-year course.

**MRS. WAINE:** Well, all right. At the college we call it a nursing certificate, one year; nursing diploma is one year. It's only a one-year course, because in order to get a nursing diploma, you have to have nursing certificate.

**MR. CHERNIACK:** So, you qualify as an LPN, that takes you a year, about 10 months, they've been saying, and then to become an RN, another year.

**MRS. WAINE:** But in order to come into our program, if you haven't been a student at the college on our nursing certificate, you have to do updating in order to have the required information that we have in our course, in order to go into second year.

**MR. CHERNIACK:** Okay. So you have an LPN course for one year, and then that same LPN who graduated from your course, can go in for another year and become an RN?

**MRS. WAINE:** Right.

**MR. CHERNIACK:** That LPN graduating out of your school, is that a nurse you are prepared to let out into the public, and to do the work, knowing her own limitations?

**MRS. WAINE:** Yes.

**MR. CHERNIACK:** Are you prepared to let her carry out those medication functions assigned to her by a doctor, knowing that she has limitations and should not be doing some of those.

**MRS. WAINE:** Students bring problems to me from the clinical areas stating how should they react in such a condition, and I counsel them how to be responsible to their profession, in stating: I am not covered, you know, as a licensed practical nurse, I'm only allowed to do this, because I teach them — and they have gone back — I can give you a lot of illustrations of what things have been asked of them and they've had to go back and say, no, I know better now, I have gone through Red River

Community College and I was told that I am not allowed to do those things, for the safety of the patient, because they themselves felt inadequate in doing them, sir.

**MR. CHERNIACK:** You are an RN, I assume?

**MRS. WAINE:** Yes. I have a Bachelor of Nursing.

**MR. CHERNIACK:** As a professional nurse, would you not recognize that the importance in all professional fields is to know the limitations and to know the extent to which you can apply your knowledge and training, and the extent to which you must seek other help?

**MRS. WAINE:** Yes.

**MR. CHERNIACK:** And doing that, would you not then recognize that the LPNs do have a role, a function to perform beyond that of having to be supervised all the time they're working? — in that they themselves would establish standards, which they would understand, would put limitations on their service.

**MRS. WAINE:** I find that a difficult question to answer, because sometimes in the hospital, pressures are put on them — let me put it this way — and they are, you know, sort of forced into situations that they shouldn't be, and I try to teach them how to report to certain people in the hospital situation to see that those things are corrected, and they have been, let me tell you. They have gone to the proper people in the hospital saying these are not responsibilities that I should be left with on the floor.

**MR. CHERNIACK:** Are there not occasions in a hospital, when an RN cannot reach the medical doctor and has to make a decision to do something, which she would not otherwise do if she could get a change in instructions from the doctor?

**MRS. WAINE:** I would not equate the same level of preparation between LPNs and the . . .

**MR. CHERNIACK:** Neither do I, but would you say there are occasions when a registered nurse . . .

**MRS. WAINE:** Yes.

**MR. CHERNIACK:** goes beyond her capability, because she may have to, in her opinion and you accept that that is what she has to do.

**MRS. WAINE:** Yes, if a patient needed oxygen, she will give the patient oxygen, she will not phone the doctor and leave the patient lying there until she phones the doctor, whether she can give him oxygen.

**MR. CHERNIACK:** That would be within her scope of work then? Or is it stepping beyond it?

**MRS. WAINE:** Yes, sometimes it could be, she might have to have an order from the doctor; that's just an example.

**MR. CHERNIACK:** Well then, would you say that given a few more years of your LPN course, that you have confidence enough to say to the LPNs that graduated from your school: Go ahead kids, you know what you're doing; you know your limitations; set your standards.

**MRS. WAINE:** I still think they need some kind of a governing body that they can fall back on and say, you know, what they can do.

**MR. CHERNIACK:** But that's what this Act provides, is a governing body.

**MRS. WAINE:** Well, all right. I think, yes. I'm very proud of our program that we've set up at Red River Community College; we've put in a lot of work to it, and it does, for the first time, give practical nurses some insight into inter-personal relations, inter-action recordings, and nursing care plans. Many of the LPN graduates that come to me, don't know what it is all about. They can follow it, but they don't know how to develop it. They don't have the knowledge to develop it, but they can follow it, having it being done by a registered nurse.

**MR. CHERNIACK:** And when they go out into the field and get a job, they're paid less than an orderly?

**MRS. WAINE:** I have a male nurse, a practical nurse — well, he did state he was concerned about his salary. All my students that have come to me are very concerned that when they were practising as LPNs they were limited in, you know, what they could do, and this is why they are coming into the course to go up the career ladder.

**MR. CHERNIACK:** To upgrade themselves. Thank you.

**MR. CHAIRMAN:** If that's all the questions from the committee, I'd like to thank you Mrs. Waine, for your presentation.

I'd like to now call Miss Carole Fawcett.

**MISS CAROLE FAWCETT:** I'm Miss Carole Fawcett, and I'm from the Manitoba Association of Licensed Practical Nurses.

I would like to ask permission to have some of my colleagues, Miss Janice Funk, Legislation Consultant and Mrs. Bonnie Ladder, our First Vice President, and our lawyer, Mr. John Deacon, to respond to questions as they're indicated after my presentation. I also have a written presentation to give you as well. It will be very brief.

**MR. CHAIRMAN:** You can proceed.

**MISS FAWCETT:** The Manitoba Association of Licensed Practical Nurses wishes to make the following statements in support of our petition for the enactment of Bill 87:

The Practical Nurse was born out of a necessity to fulfill a public need, and has proven over the years that the skill and knowledge possessed by her has continued to provide the citizens of Manitoba with an essential health care worker. There are presently 3,850 Manitobans who have chosen to provide health care services as Licensed Practical Nurses.

It was through concerns expressed by the founders of the Manitoba Association of Licensed Practical Nurses that an educational standard and basic training program was developed to protect the public from untrained practical nurse practitioners.

The Licensed Practical Nurses Act of Manitoba was enacted in 1945 and was the first legislation to cover our category of health care worker, in Canada. Although minor revisions of P100 have taken place over the years, there has been no major change of content.

Members of the Association have participated actively, albeit in a minority position, on matters placed before the Advisory Council established under P100. We believe that as an Association we have undergone an evolutionary process and are now capable of assuming a more significant role in the governance of issues related to practical nursing and in the acceptance of responsibility for issues related to the protection of the public interests. Recognition of such growth and development within Canada has been established in recent years through government approval of acts put forward by our colleagues in the Provinces of Prince Edward Island, New Brunswick and Quebec.

Public interest is assured under Bill 87, through the establishment of regulations approved by the Lieutenant-Governor-in-Council and through the unification of Association function and objectives. There will no longer exist fragmentation of communications related to licensure, education, discipline and appeals for practical nurses. Deficiencies which have been noted in the existing statute will be corrected through the ability to establish limitations on the numbers of years a member may renew license without active practice. Employers will be asked to assure that all persons hired by them as licensed practical nurses, are in fact holders of active practising licenses, and adhere to an established code of ethics. This will serve to alleviate public concern over incompetent or unethical practitioners. Provision for continuing education of licensed practical nurses is also a tangible benefit.

Written support for Bill 87 has been provided by the Association membership.

As well, Mr. Chairman, I have with me a letter from the Registered Psychiatric Nurses Association lending support and encouragement to our members on matters related to the passing of Bill 87. In it, it states, The Registered Psychiatric Nurses Association of Manitoba wishes you the best success in obtaining the legislation which has been proposed for all nursing groups in the province of Manitoba. Our members have given strong support to the proposed legislation and to that format being used for all three nursing groups in Manitoba. It is a format which will enable us all to meet as equals, where no one group has control or undue influence over another and where each of our input into the health care delivery system is recognized as different but of equal value to the public of Manitoba.

We feel that the proposed legislation will do much to increase the accountability of the major components in the Health Care Services System to the public of Manitoba and to enhance the mandate being given to us by employers and that public.

The value and importance of the Licensed Practical Nurse in the Health Care Delivery System has been supported time and again by various consumer groups, research through task forces and by employers. We wish to add our continued support and encouragement. Both our organizations will be taking on increased responsibilities under the proposed legislation. It is quite a challenge but it is also an opportunity for a new beginning towards increased co-operation and mutual support to meet the needs of the public of Manitoba. And it's signed, Tom Street, President.

**MR. CHAIRMAN:** Thank you, Miss Fawcett. Are there any questions? Mr. Cherniack.

**MR. CHERNIACK:** Mr. Chairman, I thought Mr. Sherman would want to ask questions related to this proposal to, may I say, emasculate the bill that is before us. Has this been discussed with you, Miss Fawcett?

**MISS FAWCETT:** All the changes that were presented have been okayed by the association . . .

**MR. CHERNIACK:** All the changes that the Minister is proposing to do.

**MISS FAWCETT:** Yes, amendments to the Act.

**MR. CHERNIACK:** You realize that that then — I called it a social group — it wouldn't be much more than that, because your powers would be very limited, you realize that?

**MISS FAWCETT:** They would be more than what we have now.

**MR. CHERNIACK:** Yes, and you're willing to accept what you can get.

**MISS FAWCETT:** Our association has given us the mandate to put a new Act forth.

**MR. CHERNIACK:** So that you understand then that you could hardly be called a professional body in spite of what the RPN, what Mr. Street said, because your standards are all being set for you and you will go through the formality of rubber-stamping what the Council is going to be recommending. I'm not even critical of what is being proposed. I don't know enough about it, but it seems to me that you should not be misled into thinking that you are one of the three professions as described by Mr. Street. You are being relegated to being in a supervised position at all times. Is that a fair assessment of what this means to you? I don't want to embarrass you.

**MISS FAWCETT:** I'm sorry — that's okay — I will have Janice answer that.

**MR. CHAIRMAN:** Could you state your name for the record?

**MISS FUNK:** I'm Janice Funk, Mr. Chairman. I'm with the Manitoba Association of Licensed Practical Nurses.

In relation to Mr. Cherniack's question, the Manitoba Association of Licensed Practical Nurses'

Executive have discussed the changes, the amendments, that the standards of education, standards of practice be consistent with the recommendations from the Advisory Council. In concurring with these amendments it was felt that the association is going to be looking at a much greater representation on the Advisory Council than what we currently have and that we would be herefore continuing to grow and evolve.

**MR. CHERNIACK:** So it's a step in that direction.

**MISS FUNK:** Yes, it's a step in the right direction, a very positive step.

**MR. CHERNIACK:** And you accept the fact that you would not have any control over the education or the standards, but you would of your own members.

**MISS FUNK:** Yes.

**MR. CHAIRMAN:** Madame, for the record, could we get your last name again, please?

**MISS FUNK:** Funk, F-u-n-k.

**MR. CHAIRMAN:** Are there any further questions? Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, I'd just like to say to Miss Funk and Miss Fawcett, that again for the record the government certainly wants to express its appreciation of the co-operation that has been forthcoming from the Manitoba Association of Licensed Practical Nurses in developing the proposed legislation, and the co-operation that has been shown in meeting compromises in order to produce legislation that I think we all can live with and that still retains sufficient meaning to improve the provision of nursing services in all categories, to Manitobans.

I think just as a comment, Mr. Chairman, if I may, that the gains that the Association of Licensed Practical Nurses will receive through this proposed legislation are identified, at least in part, in the presentation just made by Miss Fawcett when she makes reference to the deficiencies which have encumbered the association in the existing statute and which are removed and replaced by a substantial improvement in the view of the association in the new legislation.

But just one question, Mr. Chairman, emanating from Mrs. Waine's presentation a moment or two ago, could you Miss Funk or Miss Fawcett offer an opinion to the committee as to whether you see the legislation, and particularly Section 6, subsection (a), having to do with the admission of members to the association as providing a method whereby the association can demand and apply the kind of excellence in interpersonal relationships and sensitivity and all the other sophisticated aspects of licensed practical nursing to which Mrs. Waine referred, can guarantee that kind of protection; the regulation of admission would enable the board to ensure that those people taken on to the register of licensed practical nurses were presumably competent, well-trained licensed practical nurses in the view of the board, and were the type of person

who met the standards that the Red River Community College Career Nursing Ladder Training Course is producing? Do you feel that Section 6 will provide that kind of assurance?

**MISS FUNK:** Mr. Chairman, if I may just comment. In relation to the regulation that we will be submitting to the government, we have considered the area of people who have not practised as a concern, that in the existing LPN Act it was possible technically for an LPN to maintain an active licence for 20 or 25 years without having to fill any practice requirements. This will not be possible if the government, in fact, approved the regulations which we would be forwarding.

**MR. SHERMAN:** So your answer to my rather lengthy question, which I apologize for, is yes. Well, I hope that that allays some of the anxieties of, for example, of Mrs. Waine. That would be my reading of the intention of the legislation where 6(a) is concerned and I'm happy to have your concurrence in that, Miss Funk. Thank you.

**MR. CHAIRMAN:** Any further questions? If not, I'd like to thank Miss Fawcett and Miss Funk for their presentation here tonight on behalf of the committee.

**MISS FUNK:** Thank you very much.

**MR. CHAIRMAN:** We'd like to thank all that have made presentations here tonight. Now, do I have a motion that committee rise? Mr. Cherniack.

**MR. CHERNIACK:** Mr. Chairman, I wouldn't oppose such a motion. At a quarter to two I think we're stupid to be sitting this late, and it's pretty poor planning that made it necessary for us to sit this late.

The representative of the Law Society asked whether he could be given some time to consider the amendment that I was going to propose to the Hawes Bill. I have no idea whether committee would take the amendment seriously or not, but I think he wasn't given an answer and I, for one, didn't feel I could because the government runs the show, not the opposition. Yes, the Minister of Natural Resources confirms that. Well, I had to teach him that.

So I think it's incumbent on you, Mr. Chairman, to notify the Law Society as to what kind of time they may have, they may foresee, within which they could come back here, because it's a pretty serious matter that is being suggested.

**MR. CHAIRMAN:** Mr. Cherniack, I will bring that to the attention of our House Leader.

Committee rise.



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