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of the
Legislative Assembly of Manitoba
STANDING COMMITTEE
ON
PRIVATE BILLS

29 Elizabeth II

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Speaker*



FRIDAY, 18 JULY, 1980, 8:00 p.m.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

Members, Constituencies and Political Affiliation

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVATE BILLS
Friday, 18 July, 1980

Time — 8:00 p.m.

CHAIRMAN — Mr. Jim Galbraith (Dauphin).

**BILL 66 — THE REGISTERED
PSYCHIATRIC NURSES ACT**

MR. CHAIRMAN: We are dealing with Bill 66 and if I recall right, according to my mark here, we were on Page 12. Mrs. Osted.

MRS. ANNETTE OSTED: Thank you, Mr. Chairman. 37(1), just before the committee session ended for the supper break, there was concern that the inquiry be held no less than 60 days — I don't have the exact wording. We will defer, certainly, to Legislative Counsel's decision, but we would much prefer, "commence no later than 60 days".

MR. CHAIRMAN: Page 12, as suggested. Agreed.

HON. L.R. (Bud) SHERMAN: Your preference, Mrs. Osted, is "commence no later than 60 days"? Okay, no problem.

A MEMBER:: May I ask Mrs. Osted one question. How many days was that?

MRS. OSTED: I believe Mr. Balkaran had the number of days.

MR. BALKARAN: 60 days from the date of the . . . decision or directive.

MRS. OSTED: That's right.

MR. CHAIRMAN: That's agreed?

MR. BALKARAN: I think the suggestion was to change, "the hearing shall be held" to "the hearing shall be commenced."

MR. CHAIRMAN: Agreed? (Agreed) Page 13 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, re 37(6), I assume that Mrs. Osted and Mr. Street were listened to the discussion that took place yesterday dealing with hearings being in-camera or not, and that was set aside for Mr. Sherman to consider. Do they have any comment to make about their attitude about the question of attendance at hearings?

MR. CHAIRMAN: Mr. Street.

MR. STREET: I believe the question is what is our feeling on the way it is stated in the draft presentation?

MR. CHERNIACK: As to whether or not you want all hearings to be held in private, what your reaction is if the person complained against wishes to have it

open, open to members or open to the public. These are the different alternatives. Do you have any comments in that regard?

MR. STREET: I see no difficulty if the member requests that the hearing be held in public. If the member does not make that request, it is our feeling that it should be held in private.

MR. CHERNIACK: But just to fix it, if the member requests that it be in public, would you agree that it be in accordance with that person's request?

Let me make sure that you understand my question. The wording says, "unless he applies to the board," which to me implies that the board might refuse to hold it in public, and I think the RNs said they would want to reserve the right to hold it in private even if the member wants it held in public. Do you have a different position?

MR. STREET: No, I think essentially our position would be the same. I can't think of any specific examples right now but there could be extenuating circumstances. I think that decision should be left up to the board.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I would hope that the way 37(6) is worded does not imply that a simple application to the board for a public hearing, on the part of the person, is an instruction to the board to hold such a hearing.

My concern about this section is that one which is quite the opposite to Mr. Cherniack's. In other words, what I am saying is, does the section, the way it is written, imply that if a person applies to the board for a public hearing it has to be a public hearing? Because I would not agree to that. I think that the board must have discretion. There may be situations in which it would not be to the advantage of the individual, the board, the public, the Association, or any number of other individuals, that the hearing should not be in public and simply because somebody applies for it — his or her application for a public hearing should certainly be received and reviewed — but I don't think that there should be any compulsion or compulsion on the part of the board to hold it in public simply because the person asked for it to be in public. Maybe we could have legal counsel's opinion on that as to what 37(6) means.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I have to concede that the language of 37(6) would seem to imply that if the person whose conduct was the subject of enquiry applies to the board, it would seem to take away any discretion from the board, the board will have to hold a public hearing.

MR. SHERMAN: I would like to identify that as a clause for reconsideration, because that certainly doesn't meet my sense of requirement in this area. So 37(6) will be reviewed, Mr. Chairman.

MR. CHAIRMAN: Mr. Ransom.

MR. RANSOM: I will have an opportunity to discuss this with my colleague, Mr. Sherman. I wonder if we should consider, if there is a necessity to have some hearings held in private, if we should be more specific in setting out the circumstances which might warrant a hearing being held in private.

MR. CHAIRMAN: Are we agreed that this particular item should be reconsidered.

MR. SHERMAN: I would agree. I would think that Mr. Ransom's suggestion is a good one and that's the way to address the problem here, I think.

MR. CHAIRMAN: Agreed. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I'm not going to argue this point. I think my point was made and possibly in view of the suggested qualification there might be the advisability of referring the decision to a court as to the extent to which there should be a private hearing. That then would mean that you wouldn't have to spell it out exactly but, in any event, I am just leaving it open because I believe in public hearings. Just leave it open. It's going to be considered and we can discuss it again.

MR. CHAIRMAN: The committee is agreed to a reconsideration of 37(6). Is there anything else on Page 13 . . . Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, 37(8) like 36(8) of the RN's, I expect will have the right to the person or her counsel to review of all documentation.

MRS. OSTED: Agreed, Mr. Chairman.

MR. CHAIRMAN: Okay. We turn now to Page 14. Any concerns on Page 14? Mr. Cherniack.

MR. CHERNIACK: I'd like to ask Mr. Balkaran, 37(12), is this subpoenas or subpoena, the third line, 37(12)?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: We have had the Latin and English interspersed in such a way that I don't know how to answer Mr. Cherniack.

MR. CHERNIACK: Okay, then let me just tell you the LPN's have subpoena.

MR. CHAIRMAN: Are there any other concerns on Page 14? If not then we agree on Page 14. Page 15, are there any concerns on Page 15? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, we've had discussions on costs being awarded and I don't want to pursue that again now, we will later, but I noticed, I think it's the LPN's that provide for reimbursement

— I don't know, isn't it the RN's that provide for the possibility of the board reimbursing?

A MEMBER: Yes.

MR. CHERNIACK: Is the RN, Section 37(3) that provides that the board may if in its opinion the action was unwarranted may reimburse the member? I should think that's commendable. Is there any objection to that?

MR. CHAIRMAN: Any other concerns on Page 15?

MR. CHERNIACK: Mr. Chairman, I am wondering if we should give Mrs. Osted a chance.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: On the first point, if I may, Mr. Chairman, that is on the awarding of cost itself and the clause as it is in our Act now, we would want to have it in and it would be especially useful to have in case of flagrant offense and delay which we have encountered in the past in disciplinary hearings and we feel that in that kind of a case it could be warranted.

In terms of also reimbursing any member of the association for costs incurred if, in the opinion of the board, the action is unwarranted, that would be the second point. I don't believe that there would be an serious objections to that being made consistent as it is in Bill 65.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I wonder if I can get clarification of what Mrs. Osted meant when she spoke about costs relating to delay and why should there be delay.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, this would be in terms of a hearings which are being held and there are ways and means through which the defendant or legal counsel can delay actions in terms of, especially this, we have encountered such situations when there have been two different types of hearings going on. For example, one would be going on between the union and the employer and one going on between the member and the association, and they are delaying our hearing so that they can delay the other. People have played games with it and we, not wanting to hold a hearing without the member present, have gone along with the delay but have had no way of saying, hey, this is increasing our cost, and it could effect the association's judgment, if you wish. The tactics which have been used, and against which the association has had no defense whatsoever, and I don't say that this is an adequate one but there could be justification if both the offense and the delay tactics used.

MR. CHERNIACK: Mr. Chairman, I'm afraid I must say Mrs. Osted has given me another reason to attack the question of costs being assessable by the board. She describes it in such a way that it seems to me that either it would be an additional penalty imposed on the person affected, in that they would

be charged costs for doing what I assume they have a right to do.

I mean if delay is permitted when it is unwarranted, then it might be the fault of the association; if the delay is because of legal tactics, then I think those people who have a right to assert their tactic. If it involves union and employer that's their right and I think it would be wrong of the association to use a costs clause to punish them. Costs are only supposed to be there to reimburse the innocent board for its expenses related to the trial but surely if the defendant, for whatever reasons, uses legally justifiable means of trying to assert her rights — and we always assume that people are innocent until found guilty — then the mere suggestion that there might be the need to impose costs is unacceptable to me. The only thing she said that might be understandable is if they have to have a lawyer who stands by at a trial and then discovers that because of lack of notice they have to go home and then come back and are spending time just twiddling their thumbs because of lack of notice, I can understand that. But if it is a tactic which delays the hearing, then there shouldn't really be any additional expense and if there is, it is caused by legal process, due process.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, we have had those kinds of things happen as well, that everybody was set for a hearing and it didn't happen. However, I am obviously not expressing myself properly and if the committee wishes, it is a contentious issue, we would be prepared to have our legal counsel submit his reasons for wishing it in, in his own words, as soon as possible for consideration.

MR. CHERNIACK: I would appreciate that, Mr. Chairman.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I believe there is something that is not quite right when we look at 38(3) of The RPN Act as comparing with with 37(3) of The RN Act.

It seems to me that 38(3) would award costs against a member even where the action was warranted, and I think that is in error. That's why I think that . . .

MR. CHERNIACK: What's the error?

MR. BALKARAN: In 38(3), the last word says "warranted."

MR. CHERNIACK: If the action was warranted, they may impose costs. They may not impose costs if they feel the action was not warranted, which I think is a fairer approach than 37(3), which suggests that they can impose costs in any event.

MR. BALKARAN: I thought that the subsection was to reimburse a member, as 37(3) of the RN says, where the the action was unwarranted. That's the way I saw it.

MR. CHERNIACK: Mr. Chairman, if I may, these are really two differently worded clauses. The RNs say that they have a right to award costs against the member. No. 1, they have a right to impose costs against a member and there is no reference here as to whether the action was warranted, unwarranted, frivolous or whatever, they can still award costs. I think they can even award costs if they find the complaint unjustified and release the member. I think they can still award costs against the member.

Then the RNs go on to say, however, we also want the right to reimburse the member for her costs if we feel that the action that we commenced was unwarranted. That's a second thing and it's related but it is not directly connected with that.

I think what the RPNs are saying in theirs is that if they feel the action was warranted they may award costs against the defendant, but the corollary to that is if they decide it is not warranted, which means you are innocent, then they can't award costs.

You see, I see two different approaches, neither of which make me very happy, but the RPN one, I think, is much more justifiable than the first portion, as I interpret it, of the RN one. On the other hand, the second portion of the RN one I would like to see added into the RPN one.

Do I make that clear, Mr. Chairman, or am I confusing others by the way I put it?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I was concerned, Mr. Chairman, of reimbursing where there was an unwarranted action; that's what I was concerned about.

MR. CHERNIACK: Which is the second part of the RN.

MR. BALKARAN: There is no power to reimburse.

MR. CHERNIACK: And that's what I wanted to add to the RPN, but I like the RPN limitation as it is here. I just would like to add the reimbursement, the freedom to reimburse. Mrs. Osted said that that was acceptable to them.

I do feel that the RN one, if I interpret it correctly, gives them what I think the unacceptable right to award costs against the member even, I think, when the decision is favorable to the member. I may be wrong about that but that's my interpretation.

MR. CHAIRMAN: Mr. Ransom.

MR. RANSOM: Could I just ask Mr. Cherniack, maybe I missed it, if he agrees with the wording of 37(3) in Bill 87?

MR. CHERNIACK: I think that's the same as the RN, isn't it? Is there a difference? 37(3) of the RN, of 65. Mr. Ransom referred to 87 and I think it has the same intent as 65, 37(3) of 65, the wording is slightly different.

MR. CHAIRMAN: Would the committee agree then that this is one matter in all three bills that should be reconsidered? Agreed? (Agreed)

Does that finish Page 15?

MR. CHERNIACK: No, on 15, Mr. Chairman, we did agree that 39(1) would read 30 days. I think we agreed on that. We did for the RNs and I think there is general agreement.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Before we finish Page 15, just so that we don't have to go through this exercise twice, Mr. Chairman; on 65, Mr. Cherniack had raised some concerns about 37(2), the counterpart of which, in this bill, is 38(2). Perhaps I missed it, but I didn't hear him raise the same . . .

MR. CHERNIACK: I just assumed that it would follow 65, as to written reasons. I just assumed that.

MR. SHERMAN: So you expect 38(2) to be amended to conform with the amendment as proposed for 37(2)?

MR. CHERNIACK: Yes.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, I don't have that amendment. Could I just hear it for my information please?

MR. CHERNIACK: It is, that there shall be written reasons given along with the decision.

MR. CHAIRMAN: Could we have that again, Mr. Cherniack, apparently legal counsel doesn't have it either.

MR. CHERNIACK: Oh. 38(2) in 66, as is 37(2) in 65, to provide that there shall be written reasons given when a decision is made. I was going to say by the board but when a decision is made period, be it by the board or be it a discipline committee.

MR. CHAIRMAN: Is there agreement by the committee that this be considered? Mr. Sherman.

MR. SHERMAN: Well you put the question, Mr. Chairman. I guess the question is whether the RPN has any difficulty with that. I think the committee agreed that was what should be done on Bill 65.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, I am not too sure what you mean by reason but I don't foresee any difficulties in terms of, usually the resolution which is passed by the disciplinary committee, there is stated, not only the decision but why that decision is being taken, and I imagine that therefore . . .

MR. CHERNIACK: Then you do want to agree.

MS OSTED: . . . based on whether it is professional misconduct or what have you, yes.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I wonder if I might point out that if we were to do that in 37(2) and 38(2), that is a decision of the discipline committee and we also have the board making decisions, and

the Registrar, the Executive Director. They all make decisions that might adversely affect a member of the association. I wonder if members of the committee will agree that a section in the general part of the bill that would require reasons to be given for any of the decisions, by all these people, to be provided to the member rather than getting into 37(2) and 38(2).

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I frankly expected that was the way it would be handled. I just raised at that point because that's the point at which I have a note of it, but I would think it should apply to all decisions affecting a member.

MR. CHAIRMAN: Are there any other concerns on Page 15? If not we will agree to pass it for the time. Are we agreed to pass it for the present time? Page 16 Agreed — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, Mr. Sherman has been more alert than I to bring us back to the RN but in this case, 42(3) would be, I trust, the same as we have already agreed in other matters where the counsel may not have had anything to do with the investigation or the prosecution at the earlier hearings. I assume that's acceptable.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Yes, I certainly it is. I didn't realize we were on Page 17. Also in 42(2) do you wish reference here for members of the complaints committee to be precluded from hearing the appeal as well?

MR. CHERNIACK: It's in here. In your Act it's there. It's the RN's that didn't have it.

MRS. OSTED: In bill 66?

MR. CHERNIACK: Yes, 42(2) — complaints committee or the disciplinary committee. It's the RN's who have left out the complaints.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, alert or not, and I think that the suggestion is questionable because I want to go back, if I may, to Page 15 for a minute just to make sure that we don't have to do all this a second time. 39(1) in The RPN Act, which is what we are looking at, specifies 15 days on the notice of the appeal to the board and in 38(1) in 65, we questioned 15 and asked whether or not it should not be 30, and I think that we should be making the same kinds of . . .

MR. CHAIRMAN: Mr. Sherman, that has already been noted by legal counsel.

MR. SHERMAN: Oh, it's already been noted, excuse me, good.

MR. CHAIRMAN: Is there any further discussion on Page 16? No problems on Page 16. We'll agree to it. Page 17, okay it's been dealt with, agreed?

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, are we still on 17, I am waiting for 18.

MR. CHAIRMAN: Well I can go back there, no problem.

MR. CHERNIACK: No, no, no, I am waiting for 18. On 17 I did make a comment about 42(3) which relates it to the RN's and I assume that's noted. I have matters on 18.

MR. CHAIRMAN: We will now go to Page 18. Mr. Cherniack.

MR. CHERNIACK: 42(6) costs, my note is we did discuss it. I have two reviews, so that's a matter for review and I have no other comment to make now on costs of appeal.

On 43(1), that's the one where it appears that the only appeal to a court lies on discipline, as compared with others, where any matter of suspension, failure to admit, refusal to admit to practise, I think this is important to make this like the RN's.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I have a note here to revise 43(1) of the RPN to correspond with 42(1) of the RN's. That's my note.

MR. CHAIRMAN: Does that agree with Mrs. Osted? (Agreed) We'll now move on to Page 19 — sorry, Mr. Cherniack.

MR. CHERNIACK: 43(2) is somewhat different to the RN and the LPN and it may be clearer. It certainly is a lot simpler than the others are stated to be because it's just blanket and should be considered together with the others and something worked out for both. In the other case there was a question with Bill 65, that made it appear as if the court doesn't have the right to deal with costs that were awarded to itself by the board and that we agreed would be reviewed. It may be that 43(2), if Mr. Balkaran agrees, might be the simplest because it gives a judge, I think, the widest possible authority.

And, Mr. Chairman, 43(3), in this case, provides for a trial de novo which I think we should give the RPNs a chance to back away from if they want to because the RNs clearly objected to the trial de novo and I think Mr. Sherman said that whole area will be reviewed.

MR. CHAIRMAN: Mrs. Osted have you any comment?

MR. CHAIRMAN: Mr. Street.

MR. STREET: Just a very short comment, Mr. Chairman, just to the effect that I have had the opportunity in the past to be involved in this process and found it very satisfactory. We, as an Association, have no difficulty with it.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I find that very supportive of the position I took, Mr. Chairman, so I won't belabor it. But Mr. Sherman did say he would discuss it with the A-G and that's a very important issue which I think we should leave for now.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, there has been no suggestion that 43(3) in 66 be changed . . .

MR. CHERNIACK: Oh, I see.

MR. SHERMAN: . . . unless the RPN wished it changed. We certainly have no difficulty with it if the RPN has no difficulty with it.

With respect to the general application of it, as a general principle, I have given an undertaking to do, in connection with 65, what I said I would do, because obviously the RNs don't feel the same way about it that the RPNs do.

So 43(3), I think, is agreed.

MR. CHAIRMAN: Anything further on Page 18?

MR. BALKARAN: 43(3) is okay, Mr. Chairman?

MR. CHAIRMAN: Page 19. Have we any concerns on Page 19? Mr. Cherniack.

MR. CHERNIACK: I don't remember if the RPNs commented, but you will recall the RNs agreed to end 46(1) with the addition of the words, "and failure to disclose shall be considered to be professional misconduct," whatever the exact wording is.

MRS. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, that is most satisfactory for us as well.

MR. SHERMAN: 47(1)?

MR. CHERNIACK: 47(1). To be the same as 46(1) of 65.

MR. SHERMAN: It would read like 46(1) in 65, "and failure to make such disclosure shall be considered to be professional misconduct."

MR. CHAIRMAN: Any further consideration on Page 19?

MR. CHERNIACK: Mr. Chairman, I would suggest that when Mr. Sherman reviews the manner of appointments in Bill 65, that he apply the same thinking to Bill 66. He said he was going to review the number and the manner of appointments and I am just suggesting that we should look at both at that time.

MR. CHAIRMAN: Page 19, then, agreed. Mr. Street.

MR. STREET: In regard to Section 47, in looking back at the MARN bill, Section 46(2), we feel it would be advisable to have that same section included in Bill 66.

MR. SHERMAN: "Non-Application to Confidential Information." Is that right?

MR. STREET: Yes, that's correct, Mr. Minister.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: But then you have also got to have your existing points there too. You are inserting another clause between 47(1) and 47(2), right?

MR. STREET: That's correct.

MR. CHAIRMAN: Any further consideration on Page 19. If not, agreed.
Page 20 — Mr. Cherniack.

MR. CHERNIACK: Section 50, like 49 of Bill 65, I assume, will be further considered by Mr. Sherman. That's my note relating to Bill 65.

I would like to add, I think I have said it before, my note here says; possibly should be with the approval of the Lieutenant-Governor, but I'm not sure if he is prepared to do it. In any event, he is going to look at it again, he said, so we'll wait for that.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: That's correct, Mr. Chairman. I said we were reconsidering and will be consulting with the relevant Association on Bill 65 and the same will apply on Bill 66, the principle that had been raised and discussed this afternoon. It had been raised and discussed last evening, too.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, should I assume, from the Minister's comments, that the time to express our feelings about those sections would be to him for his consideration or to this committee?

MR. CHAIRMAN: Mrs. Osted, I would suggest that this is the time to express your concerns.

MRS. OSTED: Mr. Chairman, we are very concerned about any changes to 50(1) or 50(2), in terms of approval or withdrawing of consent. We are concerned; we have been under a system whereby the board had no authority, no responsibility, if you wish, and also no authority in this area. We have worked under that system for 20 years and now we have the opportunity, we felt until now, to take on that responsibility and we are prepared to do so. Again, we want to do so and we feel that it is very important, when we have the responsibility, through the advisory council, to develop, establish, maintain standards of psychiatric nursing education, basic standards as identified under the functions of council, to also have the authority to deal with that responsibility.

We can empathize with some of the concerns which have been expressed. We have stated that we do believe in the whole philosophy of the exercise of developing these bills for the protection of the public. We therefore would like to see, rather than making changes to 50(1) and 50(2), perhaps seeing some type of appeal process being made available to programs which were refused approval or for which consent had been withdrawn.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, that, to me, is a step in the right direction, a review process. You see, Mrs. Osted said, "For 20 years we have had no say at all." Now she wants authority. I was going to say, why not step towards shared authority or something like that. So I really was not happy about her saying, "Now we really want to go on our own," but then when she ended by saying she might accept the concept of a review, then that's important. I would hope that the Minister will provide that kind of a thing.

I might say that I have The Law Society Act in front of me. I'm not aware that the Law Society has the right to deny anybody to establish or maintain a law educational program. What the Law Society has power over is determining whether or not to accept graduates into the Law Society, and actually the Law Society does not accept graduates of the Law Faculty of Manitoba automatically, the Law Society has a one-year article arrangement after graduation, as does the medical College of Physicians. And the Law Society says, you graduate from the Manitoba Law School, that's fine, you still have a year to put in under our supervision, taking our courses, writing our exams.

I know that the Law Society cannot stop a school, like the Manitoba Law School, from conducting an educational program. You know, the powers that you are requesting here would be similar to the Law Society saying to the University of Manitoba Law Faculty, you shall not teach conflict of laws, or history of laws; and you shall teach civil procedure, how you go about filing documents in the courts. The Law Society doesn't have that power. They used to when the law school was being run by the Law Society, that's a long time ago, they had that power, but they gave it up to the university. Now all they do, after a person comes to them and presents his piece of paper saying I am now a Bachelor of Law, then the Law Society steps in and says, okay, you have another year to comply with our requirements.

I, frankly, am loath to grant to an professional association powers than are greater than I see that the Law Society has and I believe the College of Physicians is the same. I think a person can graduate with a degree, a Doctor of Medicine, and I don't think that the College of Physicians has a say; they may have representation but I don't think they have the right unilaterally to say to the Medical School, "You may not teach medicine." I think what they do say, not only have a right to say but do say, "Before we admit you to the right to practise medicine in Manitoba, you still have a year of internship and you have, I think, other examinations to write," but Dr. Johnson would know much more than I do on that.

I am encouraged by the fact that Mrs. Osted accepted the possibility of some review mechanism and Mr. Sherman did say he was going to look at it, and I am glad he is.

MR. CHAIRMAN: Miss Tod.

MISS TOD: I can only speak on behalf of the MARN, but I would like to point out to Mr. Cherniack that we are unique, or perhaps more accurately it is an anomaly, in that the education of nurses, and that applies to the RPNs as well the RNs and the LPNs,

come under the jurisdiction of the Department of Health.

Now, the MARN, for many years, have been recommending that nursing education be transferred into the educational stream. We believe that is the most appropriate place to have the education of nurses.

If, and when, and at such time, then certainly we would be looking at a similar system to that which is applied to medicine and to law. In the meantime, we believe that the MARN is the most appropriate body to set the standards of education.

MR. CHERNIACK: The distinction between us seem to be, and I don't question your setting the standards of admission, qualification on admission into your society and then not the right to practise. You don't have the right to deny the practise, all you have is the use of the title, reserve of title. I grant you that right. But I question the right to deny an institution the right to teach those skills, be it the university or be it, I don't know, a private school, a trade school, whatever. But all you have the right to do is to deny people the use of the title, that is all you have a right to do in all this legislation. But in addition to that, you have the right to deny an institution from teaching those skills and you have the right to remove from them — you may withdraw consent, and that, to me, is very broad.

I really don't know that we should continue to discuss it unless Mr. Sherman wants more of it, because he said he was going to reconsider the whole picture, but I would be happy to debate it further if the committee has the patience, and I'm always a little worried about the patience of the other members.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: I don't particularly wish to debate it at this juncture. I am aware of both sides of the argument. I am aware of the position that the MARN and the RPN Association take. I am fully aware of the arguments that have been raised by Mr. Cherniack, because they have been raised by my own colleagues and they have been raised in my own office in consultation up to this point. I don't particularly want to debate it at this time. I have assured the committee that at this juncture, as Minister of Health and as a member of this committee, I am not entirely comfortable with 49(1) and (2) of 65, and 50(1) and (2) of 66, but these are the proposals and the ambitions of the respective associations and I believe that all of us around this table are prepared to accommodate the associations in putting forward their ambitions. Those ambitions are not necessarily acceptable at this juncture.

I don't really want to debate it at this point.

MR. CHAIRMAN: Page 21 to be reviewed Agreed; Page 22 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, on 21, there is a slight addition to 51(1) in the RNs. I assume that will be brought to our attention under 52(1) as well.

MR. CHAIRMAN: Page 22.

MR. FILMON: That was where you were suggesting "knowingly."

MR. CHERNIACK: They refused that. I suggested it but . . .

MR. FILMON: What was the addition?

MR. BALKARAN: . . . the exception of 6 in 47(1) is an offence.

MR. CHAIRMAN: Are there any further questions on Page 22? Mr. Ransom.

MR. RANSOM: I have to apologize again, Mr. Chairman, for going back. I hesitate to do it but I am duty-bound to go back to Page 18. I understand that the mover of this bill would be proposing an amendment when we come to the detailed review on Section 43(1). That proposal would be that 43(1) would be struck out and the following subsection substituted therefor:

Appeal to Court of Queen's Bench:

Any person who considers himself aggrieved by an order or decision of the board may appeal the order or decision of the board to a judge of the Court of Queen's Bench at any time within 30 days from the date of the order or decision.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I am confused now. I had the impression that I was to be instructed to make 43(1) correspond with 42(1) of The RN Act.

MR. CHERNIACK: Mr. Chairman, I really don't think Mr. Balkaran should be confused, because the wording that Mr. Ransom read is somewhat similar to 42(1) of the RN.

MR. CHAIRMAN: Mr. Ransom.

MR. RANSOM: I am sorry, Mr. Chairman, I think I was conferring with Mr. Tallon at the time that you passed this by and I just bring it forward because I understand that the mover wanted to bring this in. If the section has been looked at, fine.

MR. CHAIRMAN: Okay we will revert back to Page 22. Are there any further questions or concerns on Page 22? Mrs. Osted.

MRS. OSTED: It is my understanding that under 52(4), the expiration of one year to make it consistent with Bill 65 will be included.

MR. CHAIRMAN: According to legislative counsel that has been agreed to, Mrs. Osted.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, in 55 the RNs had agreed to a sunset date on the existing by-laws. I trust that's acceptable to the RPNs as well.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: We are not too sure of the implications of that because our by-laws have

already been approved by a two-thirds vote of our association members. However, whatever is the most expedient . . .

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I appreciate the fact that the RPN's are much newer. Actually you don't have an Act, do you?

MS OSTED: Yes we do.

MR. CHERNIACK: Yes you do. I don't know when your by-laws were passed and I really don't care. Once this comes into effect you have a new organization and you are going to, for transition purposes, take over the by-laws of the former organization. The point I'm making, and which I believe is accepted by the RNs, is that it is only right and proper that the new organization reinact its by-laws or submit their by-laws to the new members of the new organization and do so within the next year or so to get approval of them as being updated along with the Act. The reason I mentioned that is that I said I don't care how old your by-laws are but the fact is they might be 15 years old, I don't know, and at this stage I would rather not know, because I think the principle I am proposing is correct regardless of how old or fresh the by-laws are.

MR. CHAIRMAN: Mrs. Osted.

MRS. OSTED: Mr. Chairman, I would just like some clarification. We have developed a completely new set of by-laws which was presented to our members, by-laws which would go with this proposal and the motion which the members approved stated that they were approving the by-laws and to make them effective as soon as this Act was proclaimed or received Royal Assent and that is why we were wondering if they would have to be submitted again.

MR. CHAIRMAN: I am led to believe by legislative counsel that is permissible. Are there any further concerns on Page 22? Mr. Sherman.

MR. SHERMAN: On 59 it may be desirable to do what we did with 58 of Bill 65, and make the date the date of proclamation.

MR. CHAIRMAN: Agreed? Mr. Street.

MR. STREET: I just wanted to comment that that is our wish.

MR. SHERMAN: Thank you.

MR. CHAIRMAN: That concludes are debate around Bill 66. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, just for a moment of lightness, would Mr. Balkaran care to comment on the difference between Section 56 in this bill, and Section 2 in Bill 65. It always seems to me that when you say something like the feminine gender includes the masculine is a phrase I cannot understand, whereas in Bill 65, I do understand the subterfuge or the pretense of saying words importing the feminine include the masculine.

MR. BALKARAN: What bill is that, Mr. Chairman?

MR. CHERNIACK: Well I am really looking at Bill 66. Is this the standard sort of phrase? Grammatically it bothers me, frankly. How can you include the masculine in the feminine gender?

MR. BALKARAN: It means he or she.

MR. CHERNIACK: It means he is she; she includes he. Bill 65, reads much more sensibly to me.

MR. CHAIRMAN: In other words we will have legislative counsel look at that. I imagine that's one that can be cleared up.

MR. CHERNIACK: Mr. Chairman, all three bills are different in that respect, so maybe we should leave it that way to show that we are not hidebound. All three bills are different.

MR. CHAIRMAN: Does that conclude the major discussion on Bill 66, then. I would like to thank Mrs. Osted and Mr. Street for their contribution to this and you are invited to stay in on the debate now to follow on Bill 87. Mr. Street.

MR. STREET: I would like to take this opportunity, Mr. Chairman, to thank the committee for allowing us to attend and give our comments, etc.

MR. CHAIRMAN: Thank you.

BILL NO. 87 — THE LICENSED PRACTICAL NURSES ACT

MR. CHAIRMAN: Now I would like to bring to the attention of the committee, Bill 87, and I take it for granted we will deal with it much the same as we dealt with Bill 66, on a page by page basis, and I hope that members of the committee and representatives from LPN will stop me whenever there is something that is a controversy. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, as I understand it, when we heard one of the briefs that were presented in connection with this. They suggested a number of changes which were somewhat similar to what I think the Minister indicated he intended to do. Does he intend to just go along with us and indicate his proposed changes or is he not ready to do that? Can we save time?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: I think we can certainly do that by indication, Mr. Chairman. We don't have the formal amendments to move at this juncture. Could I just acknowledge the presence of Miss Carole Fawcett, the President of the LPN's Association who adjusted her schedule after being told to be here on Saturday, adjusted her schedule to come in this evening, so we appreciate that Miss Fawcett.

MR. CHAIRMAN: Okay we'll proceed. I will bring members of the committee to Bill 87, Page 1. Any concerns on page 1? Page 1 Agreed; Page 2 — Mr. Cherniack.

MR. CHERNIACK: I have a note that 1(h) is supposed to be changed but I assume that's automatic.

MR. CHAIRMAN: Mr. Cherniack, I am informed that this is being noted. Okay, well proceed to Page 2. Any concerns on Page 2? Page 2 Agreed. Page 3 — Mr. Filmon.

MR. FILMON: Section 5(2) should have, "after due notice" in front of it.

MR. CHAIRMAN: Could I have your name, sir, or could you put your name on the record.

MR. JOHN DEACON: That is agreed to. I am just wondering about 5(1)(j). Is there a change to that section?

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: Yes, the recommendation is that 5(1)(j) should be altered to say, "maintain a code of ethics for Licensed Practical Nurses."

MR. CHAIRMAN: Mr. Deacon.

MR. DEACON: We are in agreement with that change.

MR. CHAIRMAN: Does that complete the discussion on Page 3? Agreed? (Agreed)
Page 4 (Agreed); Page 5 — Mr. Sherman.

MR. SHERMAN: On Page 5, we had agreed there would be a number of amendments. Mr. Filmon can describe them.

MR. FILMON: On Page 5, Section 6, we are proposing be amended by striking out clauses (c) and (d) and substituting the following clauses in place of (c) and (d). I'll read them but I know that committee members should have a copy of it to make it simpler: Develop, establish, and maintain standards for Licensed Practical Nursing that are consistent with the recommendations of the advisory council, is (c); and (d) is: Develop, establish, and maintain standards for Licensed Practical nursing education that are consistent with the recommendations of the advisory council.

Another amendment is . . .

MR. CHERNIACK: Mr. Chairman, could Mr. Filmon at least leave in, "consistent with changing needs of society?"

MR. FILMON: Sure. "consistent with the changing needs of society."

MR. SHERMAN: And, "with the recommendations of the advisory council."

MR. CHAIRMAN: Is that agreed? Okay, we will proceed. Mr. Filmon, can you proceed with your other proposed amendment?

MR. FILMON: Striking out clause (e), then renumbering clauses (f) and (g) as (e) and (f).

MR. CHAIRMAN: Agreed? (Agreed)

MR. FILMON: Then adding, in the new clause (e), which is the clause (f) that appears in your present bill, adding immediately after the word "education" in the first line, the words "consistent with the recommendation of the advisory council."

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, I believe now that that particular recommendation for an amendment, because of what has gone on, is to simply say, "prescribe standards of voluntary licensed practical nursing education to be required of all persons registered under this Act," and that that clause will read that way.

MR. FILMON: Actually, Mr. Chairman, Mr. Balkaran brings a good point. That is a section that, in all three bills, we have agreed to amend, and so it should be amended consistently with what is done to the other two bills.

MR. CHAIRMAN: Mrs. Latimer.

MRS. LATIMER: Mr. Chairman, could Mr. Balkaran repeat that? I didn't hear the words. "Continuing education" is what I am looking for.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Renumbered clause (e) would read: "Prescribe standards of voluntary continuing licensed practical nursing education to be required of all persons registered under this Act;"

MR. CHERNIACK: You don't mean that. You can't say "voluntary" and "required" at the same time.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Balkaran and I haven't had a consultation on this, but I think the way we looked at it with respect to 65 was that it would read, "prescribed standards of voluntary continuing nursing education for all persons registered under this Act." The term "required" was taken out.

MR. BALKARAN: That's right, I didn't have that.

MR. CHAIRMAN: Is that the final comment? Agreed? Mrs. Latimer.

MRS. LATIMER: The association supports that on a voluntary basis.

MR. CHERNIACK: Thank you, Mr. Chairman. The inclusion of that sort of makes it unnecessary, doesn't it? Why do you need a regulation that prescribes some voluntary course? Well, it's okay, let the Cabinet struggle with it.

MR. CHAIRMAN: Are there any further concerns on Page 5? Page 5 agreed — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, just for the record, the human rights provision will appear at the end of 8(3) unless it is objected to by the LPNs.

MR. CHAIRMAN: Mr. Cherniack, was that 8(3)?

MR. CHERNIACK: Yes. Well, to be inserted where Mr. Balkaran thinks it fits. I think it comes in after 8(3).

MR. CHAIRMAN: Page 5 agreed — Mr. Deacon.

MR. DEACON: Mr. Chairman, consistent with the other legislation that has been under review, we consent to that insertion.

MR. CHAIRMAN: It has been agreed then. (Agreed); Page 6 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, my note says, "Well, well," opposite 9(2), "a person who is not a licensed practical nurse may maintain an action to collect fees for services performed." I kind of have a feeling that's not what they mean.

MR. BALKARAN: It has to be changed to "no person."

MR. CHERNIACK: "No person who is not." That's a triple negative. Okay.

MR. CHAIRMAN: Is that correction agreed to?

MR. CHERNIACK: I thought it would say, "a person who is not . . . may not maintain an action . . ."

MR. CHAIRMAN: Any other concerns on Page 6? Mr. Deacon.

MR. DEACON: In Section 11(1), after the words, in the register, in the first line, to add the wording — I don't know whether I have it completely but to refer to the roster.

MR. CHAIRMAN: I am informed by Legislative Counsel that we have that. Is it agreed, committee? Mr. Deacon.

MR. DEACON: Could Legislative Counsel just read out that insertion?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Yes, Mr. Chairman, after the word person, in the first line, the words "and in the roster of acting practising members" will be inserted — I'm sorry.

MR. DEACON: It's supposed to be after the word register, isn't it.

MR. BALKARAN: After the word register.

MR. CHAIRMAN: Is that agreed to as suggested? (Agreed). Page 6, Page 7 (Agreed). Page 8 — Mr. Cherniack.

MR. CHERNIACK: In 17 there is a change in the RN which I should think will be carried in here as well, about the responsibility of employers, the time of employment and a copy of the report shall be sent to the member. Under (b).

MR. CHAIRMAN: Is that agreed as suggested? (Agreed) Page 9, no concerns on page 9? Mr. Balkaran.

MR. BALKARAN: . . . 23, complaint, line 2, against any member in writing.

MR. CHAIRMAN: Agreed as suggested by Legislative Counsel? (Agreed) Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I'm afraid I'm running too slowly for you. The offence by a member is different from the other bills and I don't want to spend any time on it but it seems to me there ought to be some change. For example, 19(2) of 66, reads "causes or knowingly permits or aids". The word knowingly is included in 66 in the third line and not in this bill, that's in 66, 65 I haven't compared it yet. Knowingly is also in Bill 65. I assume therefore if it's correct in those it should be added here.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: What sections are we talking about?

MR. CHERNIACK: 18(2) the third line, "holding conditional certificates causes or "knowingly" permits". The word knowingly is in the other two bills and not in this one.

MR. CHAIRMAN: Is that acceptable as suggested? Mr. Deacon.

MR. DEACON: That's agreeable.

MR. CHAIRMAN: Okay, we'll proceed now to Page 9. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I have a couple of question marks on Section 20. I think I didn't understand the grammar but I would like to review it. Third line, "the type of membership held by and shall refer to any conditions imposed on the person". Is that the way it reads? Is that okay? "Held by and shall refer to any conditions imposed on", it sounds to me a little awkward. I just want to make sure there is no typographical . . .

MR. BALKARAN: What section is that, sir?

MR. CHERNIACK: 20.

MR. SHERMAN: It would be all right with a couple of commas in it. It's perfectly all right with two commas in it, one after "by" and one after "on".

MR. CHERNIACK: I really think there may be a little bit more. May I, Mr. Chairman, for my own sake ask some member to look at 20 in 87, which would read the same in 66: "The board shall cause a certificate of membership to be issued each year to every person whose name is entered in the rosters and the certificate shall state the date upon which it expires, the type of membership and any conditions or limitations imposed on the person to whom the certificate is issued."

MR. FILMON: They've eliminated "held by" and "shall refer to".

MR. CHAIRMAN: Is that agreed then that Legislative Counsel take a look at Section 20. (Agreed)

MR. CHERNIACK: Mr. Chairman, since I read to you Section 21 of 66, there's a typographical error in the word certificate there, which Mr. Balkaran might like to catch.

MR. CHAIRMAN: Page 9 — Mr. Sherman.

MR. SHERMAN: Page 9, Section 26, Mr. Chairman. There were some difficulties with the wording in 65 in the counterpart section where the complaints committee is advised that a member, that doesn't occur in this bill but in sub-clause (b) there are the similar difficulties with the term, or otherwise, and legislative counsel is looking at that.

MR. CHAIRMAN: Agreed? Page 9 Agreed? — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, again, I'm sorry but I'm going by my notes. 26(b) "is alleged to be guilty of professional misconduct or conduct unbecoming a member, or criminal conduct". Now, surely, you don't allege criminal conduct unless it has been heard in court and proven to be criminal conduct. I haven't looked at the other bills to see whether they have that. You see, (a) you have "convicted". Okay, that's clear, but (b) "an allegation of criminal conduct", I don't recall what the others say about that.

MR. SHERMAN: They just say "professional misconduct or conduct unbecoming a member".

MR. BALKARAN: That's right.

MR. FILMON: Yes, you wouldn't allege criminal conduct to the investigation Chairman, surely you'd investigate it to the law.

MR. CHERNIACK: You shouldn't. It seems to me that should be deleted, unless Mr. Deacon agrees with it.

MR. DEACON: That's right.

MR. CHAIRMAN: Legislative counsel advises that he will look into that one. Agreed?

MR. SHERMAN: I think he will look into it and take it out, Mr. Chairman.

MR. FILMON: I thought that would be the case.

MR. CHAIRMAN: Agreed?

MR. CHERNIACK: Now, there's a Minister asserting himself.

MR. CHAIRMAN: Page 9 (Agreed); Page 10 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, 27, we pointed out that the RPNs provided that the investigation

chairman shall investigate, or cause an investigation. I think we agreed that in 65, it should have the same provision, and I think it should be here as well.

MR. CHAIRMAN: Agreed? (Agreed) Are there any other concerns on Page 10? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, 28, my note tells me that in the penultimate line, after the word "controlled," the RPN's Section 29 says "that are relevant to the investigation." I haven't found it yet, but that's what my note says.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Also on Page 10, Mr. Chairman, after 29, we should have that clause on confidentiality.

MR. CHAIRMAN: Agreed? (Agreed)
Mr. Balkaran.

MR. CHERNIACK: 28 is: "in the member's possession or control that are relevant to the investigation." The other two bills do say that as well.

MR. CHAIRMAN: Any further discussion on Page 10? Mr. Deacon.

MR. DEACON: Mr. Chairman, what was the change to Section 29?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: After 29, which deals with a court order for production of documents, to conform to the proposed additions to 65 and 66, we would propose to put in a clause protecting confidentiality, as was proposed for both 65 and 66.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: 30, Mr. Chairman. I know when I go through my own mind the difference in definition, I think the word "capability" really should be "capacity."

MR. BALKARAN: What section is that?

MR. CHERNIACK: Section 30. I don't know why — I have a note here, Section 17 says "capacity" — yes, "incapacity," it says. I think that "capacity" is more correct. My note also says that under RPN it speaks about "incapability", if you want to go back to that, not if you don't want to — sorry to do this to you. Mr. Chairman, I omitted to point that out under Bill 66, "incompetence or incapability," I don't think that's correct. I think it should be, "incompetence or incapacity." I'm sorry I omitted to draw that to your attention in 66.

MR. FILMON: What number is that again?

MR. CHERNIACK: Well, I'm sorry really, back to 66. If you look at 18(b), the second last line it says, "misconduct, incompetence or incapability," I think it should be "incapacity" —(Interjection)— No, in the RPN bill. "is terminated because of professional

misconduct, incompetence or incapacity" in 66, and once that has been noted, then back to this bill, Section 17, the last word is "incapacity," which is correct. Where were we when I ?

Page 10, and then in Section 30 it should be "concerning the conduct or capacity or fitness of a person." I looked it up at the time. Do you agree with that?

MR. CHAIRMAN: Mr. Sinclair.

MR. SINCLAIR: Thank you, Mr. Chairman. I think that in Section 30, the word should be "capability."

MR. CHERNIACK: Mr. Chairman, having raised the point, and disagreeing with Mr. Sinclair, and not wanting to get involved in a literally semantic discussion, I think I'd like to leave it to Mr. Balkaran to worry it out and decide which is the correct word.

MR. CHAIRMAN: Agreed? Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, just one moment, please. I don't know that I should be put in the position to choose between "capacity" and "capability." Capacity to me is a more embracing word, and the capability to perform a certain function may be something else. The person may have the capacity but not the capability.

MR. CHAIRMAN: Mr. Ransom.

MR. RANSOM: Well, I was going to say, Mr. Chairman, that a person could have the capability but not the capacity, and what they're concerned about here is their capacity. They've already determined their capability when they licensed the person, and then after having established a capability, a person is incapacitated in terms of being able to deliver their capabilities.

MR. CHERNIACK: I think he's right. I actually looked it up and came to that conclusion. I see now that I had not referred to it in Section 30 of 65, which is Mr. Sinclair's proprietary interest, so whatever we should agree on should be the same, at least for legal interpretations.

MR. CHAIRMAN: Shall we leave that to Mr. Balkaran to take a closer look at? Mr. Filmon.

MR. FILMON: Webster's Dictionary says for capacity, "legal qualification, competency, power or fitness". Does that cover it?

MR. CHERNIACK: What about capabilities?

MR. CHAIRMAN: Mr. Filmon, can you repeat that please?

MR. FILMON: That's for capacity. One of the definitions is: "legal qualification, competency, power or fitness." It's probably the governing one — do we want capability? Capability is, "the quality or stage of being capable."

MR. CHERNIACK: I think Mr. Ransom was right, right off the bat.

MR. FILMON: It also says, "the capacity for an indicated use or development."

MR. BALKARAN: That's right.

MR. CHAIRMAN: Can we suggest that we leave this to legislative counsel then to figure out which is the best wording?

MR. SHERMAN: Do you think he has the capacity?

MR. CHAIRMAN: I believe so, Mr. Sherman.

MR. CHERNIACK: Well, we hired him, he has the capability.

MR. CHAIRMAN: Mr. Street.

MR. STREET: Just for my clarification, it will be changed in all three?

MR. FILMON: Whatever we decide.

MR. STREET: Whatever you decide on will be consistent in all three Acts?

MR. FILMON: Right or wrong we'll be consistent.

MR. STREET: Thank you.

MR. BALKARAN: Make it "capacability."

MR. CHAIRMAN: Page 10 agreed (Agreed)

MR. SHERMAN: Participation.

MR. CHAIRMAN: Page 11. Mr. Filmon.

MR. FILMON: Mr. Cherniack is going to refer to the same thing.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: In 34, Mr. Chairman, in the other bills we agreed to both establishing a quorum and providing that none of them might have been involved in the investigation.

MR. CHAIRMAN: Legislative counsel informs me that they have that noted. Are there any other concerns on Page 11? Mr. Cherniack.

MR. CHERNIACK: Just to be a little helpful, having been playing Scrabble lately, 36(1), we have an extra "q" — which is worth a lot in Scrabble — on the third line. That is a "q", isn't it?

MR. FILMON: It would be worth a lot if you could find out where to use it.

MR. CHERNIACK: Yes, without a "u".

MR. CHAIRMAN: Mr. Deacon.

MR. DEACON: Thank you, Mr. Chairman. In respect to other legislation and the suggested amendment — I hope I have it down here correctly — 36(1) after the third line, "the discipline committee shall within 30 days from the date," and at the end, "which shall be no later than 60 days from the date of the direction

or decision." Then in 36(2) we have a requirement for a notice of at least 31 days prior to the date so fixed, and I'm just wondering with the time frame whether the 60 days should not be increased to 90 days . . .

MR. CHERNIACK: Oh, I think you should reduce it, that within 29 days and not later than 60. I mean, there's no prohibition on their proceeding within two days, three days or six days of the direction of an inquiry. I think that it's quite true that 30 and 31 adds up to 61 days, but you can change the 30 to 29 or the 31 to 30, and you're in.

MR. DEACON: Mr. Chairman, I just bring this to the attention of the committee so that we don't have any complication with the time span that we are putting in the different Acts. You know, human beings as they are, time goes by quite quickly, and when we have limitations set in here, there could be some problems and I'd like to see the expanded time just to allow for this potential human error, either one way or reducing the time the other way. I tend to favour the extension to 90 days.

MR. CHERNIACK: Mr. Chairman, in the first place, Mr. Deacon is already pointing it out, and I took a quick look at the others — Bill 66 at least adds up to 60; it would be 30 and 30. Bill 65 provides for 31, which would be one day beyond the 60 days. I think there should be some adjustments. In other words, 65 is the same as 87.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Well, that was basically going to be my point, Mr. Chairman. I don't see any reason for having two of them at 31 and one at 30. Notwithstanding Mr. Deacon's point on the 90 days, which I have no strong feelings about one way or the other, I would suggest that we at least do not satisfy ourselves for settling for a 30-day period in one bill and 31 days in the other two.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, we have here that we have an investigation taking place, and then we have an investigation Chairman making a decision to direct that an inquiry be held. Now by this time there has been an investigation completed; the chairman has made a decision; the person affected is already sort of in jeopardy — he's under a cloud; she is under a cloud — and is therefore entitled to as quick a hearing as possible. At the same time that person is entitled to 30 days to prepare the defence, bear in mind that the prosecution has already completed an investigation sufficient to justify a hearing, so I would not like to shorten the term of notice, shorten it to make it less than or fewer than 30 days, but I don't see why the discipline committee should not determine the time, place, etc., within a lesser period of time than 30 days. The Chairman notifies them; I've completed my investigation; I think we should go ahead against them; surely 15 days might be enough to fix the date of the hearing, 30 days for notice, they would still have 15 days extra within that 60 days, to provide for the commencement of the

hearing. Would it not be fair to suggest that the fixing of the time, place and date of the inquiry should be in less than 30 days and then leave the 60-day and the 30 or 31-day notice? Have I made a case?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, Mr. Cherniack asks whether he's made a case or not and I am not sure whether the overwhelming silence that followed his question indicates that he has or he hasn't . . .

MR. CHERNIACK: You're right.

MR. SHERMAN: . . . but we're talking about 30 days and 30 days approximately, except the two bills say 31, but 30 days and 30 days approximately. Mr. Cherniack has suggested 15 and 45 . . .

MR. CHERNIACK: No, 15 and 30 within the 60.

MR. SHERMAN: Right.

MR. CHERNIACK: You notice the difference, because it could be . . .

MR. SHERMAN: 15 and 30. What about a compromise? Fifteen seems a little restrictive to me. What about a compromise of 21 and 21, that's three weeks in each case? Still leaves substantial time within the 60-day period.

MR. CHERNIACK: I'm not fixed on any of this except that I think there should be good time for the preparation of the defence. Like if you say 21 for deciding what the date shall be, okay, but I'd like that 30 days of notice because I conceive that the defendant is notified, you're going to be heard on this and this day, then what does the defendant do? The first thing, she weeps, the second thing she looks for help, and then once she gets help, that help is going to start looking at documentation and preparing, what are the charges, what are the defences? So I'd like to see that the notice is at least 30 days before the hearing, to give him time to prepare. You know it's fine., 21 days, 70 days rather than 60 days for the hearing, but at least give ample notice for preparation.

MR. CHAIRMAN: Mr. Filmon.

MR. FILMON: It might take her 10 days to find a lawyer she can trust.

MR. CHERNIACK: Yes, or was competent.

MISS OSTED: Mr. Chairman, we have a slight concern and we're going right now by actual current experience. The association is currently involved in a disciplinary hearing. We've had three days so far. The last two days were at the very beginning of July. We've had to adjourn until September because it's impossible to obtain a quorum or both legal counsel or the defendant and what have you, during the summer holidays, so I would just want the committee to be aware of those kinds of things which do happen, especially during the summer holidays.

We have no concern about the 30 days notice to the member, that's no problem at all. It's just that if we have 15 days to fix the date, we would be concerned if the hearing was to commence sooner than within 60 days or something reasonable like that. Just a concern that we have.

MR. CHERNIACK: I think we cleared, Mr. Chairman, that it could commence, it doesn't have to be completed.

MISS OSTED: So we could adjourn it.

MR. CHERNIACK: Yes, which you've done. Say you did that, you start in July and you're off till September.

MR. CHAIRMAN: Can we leave this one then to consideration and proceed? Or can we go with 30 and 30 as agreed to in the other two bills? Agreed.

MR. CHERNIACK: Not the other two bills, it's one other bill. Another bill says 31.

MR. SHERMAN: Make them 30 and 30 in all three?

MR. CHERNIACK: It'll come out in the wash.

MR. CHAIRMAN: Thirty and 30 in all three, agreed? (Agreed). Page 12.

MR. CHERNIACK: Just a matter of record. 36 (8) is the right to review all documents and records, in 36 (8). The question of the private hearings or not, would I assume be the same as the others.

MR. CHAIRMAN: Agreed? (Agreed). Page 13. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, before Mr. Balkaran leaves, 36 (12) I think it says "on praecipe" is correct. This deals with subpoenae, this section. Says "from the Court". Is it clear which court? Any problem there?

MR. CHAIRMAN: Is that suggestion agreed?

MR. FILMON: "On" instead of "in"?

MR. CHAIRMAN: Page 13 (Agreed); Page 14 agreed? Mr. Sherman.

MR. SHERMAN: Well, 37(2) and (3). 37(2) and (3) presumably should be put to the LPN Association for conformity with 65 and 66. Written reasons and then the question having to do with costs.

MR. CHAIRMAN: Agreed. Page 15. Mr. Deacon.

MR. DEACON: Mr. Chairman, I presume that it is noted that in 38(1) it is changed to 30 days from 15.

MR. CHERNIACK: Yes, I was going to mention that, Mr. Chairman.

MR. CHAIRMAN: I think the Legislative Counsel has made a note of that agreed. Page 15.

MR. CHERNIACK: Mr. Chairman, stick to 38(1) please.

MR. CHAIRMAN: Oh, 38(1), Mr. Cherniack.

MR. CHERNIACK: "From the date of the service of the order", it's a missprint. Says "date of the date".

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I'm not so sure, Mr. Chairman, whether the association intended it from the date of the service or the date of the order, which is it?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, in 65 we simply took out the repetition of the phrase "of the date" so that it read, "not later than 30 days from the date of the order".

MR. CHAIRMAN: Agreed? (Agreed).

MR] CHERNIACK: Well then are you going to do the same in one of the other bills; you say 65 and 66 may need that same correction, I'm not sure I know which number . . . Yes, 39(1) of 66 it should say "the date of the order", take out the words "of the service". Right?

MR. SHERMAN: Right.

MR. CHAIRMAN: Page 14 (Agreed). Page 15. Mr. Cherniack.

MR. CHERNIACK: I have a note, Mr. Chairman, I haven't read yet. 40(2) Pending the determination of the matter, should that be inserted here or is it not necessary? Yes, I think probably you need that "pending" otherwise . . . you know it sort of is an application for the court to remove the order. Well, then you've won your appeal. Am I not right?

MR. CHAIRMAN: Mrs. Lattimer.

MRS. B. LATTIMER: Could Mr. Cherniack be clear on where he's including that? I don't understand where it is.

MR. CHERNIACK: I'm looking at 40(2) but that doesn't help you just to look at 40(2). I'm looking at the Bill 66, 41(2), which goes beyond "for an order removing the suspension" and says, "pending the determination of the matter under consideration for appeal". These words are not in yours and I haven't checked it with the RN one, 65. Yes, 65 is the same as 66, and differs from this one before us.

MR. CHAIRMAN: Are we agreed to make 87 similar to 65 and 66? Mr. Cherniack.

MR. CHERNIACK: Frankly I hadn't thought about which is right. I suspect that the others are right and this is maybe too broad for what the court would do. I'm looking for a response from lawyers, like Deacon or Balkaran.

MR. CHAIRMAN: Mr. Deacon, have you got a reply? Mr. Sherman.

MR. SHERMAN: I appreciate that Mr. Cherniack is simply asking if Mr. Deacon has an opinion at this

ime but I would just remind Mr. Deacon that if he wants us to mark it for consideration, we can certainly do that. We don't need an answer at this time. Get an opinion from him in the next day or so.

MR. DEACON: That's fine, if you would do that.

MR. CHAIRMAN: It's agreed to give it consideration then. Page 15 agreed to give consideration to the concern.

MR. SHERMAN: 40(2).

MR. CHAIRMAN: 40(2) (Agreed). Page 16. Mr. Cherniack.

MR. CHERNIACK: 41(3) should be the same as the others, that is, if the lawyer has not been involved in the investigation or prosecution.

MR. SHERMAN: Right.

MR. CHAIRMAN: Legislative Counsel is noting that one. Mr. Deacon.

MR. DEACON: I think you have noted as well in 41(2), "no member of the complaint committee".

MR. CHERNIACK: Which is that?

MR. DEACON: 41(2), I believe it was added in in the other Acts.

MR. CHERNIACK: Yes. Complaint committee and the discipline.

MR. CHAIRMAN: Legislative Counsel has made note of that. (Agreed). Are there any further concerns on Page 16? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, my note refers me to 41(5) and I tell you quickly that I'm not quite sure what I'm looking for. (a) is the same as whatever other one I'm looking at, 65. There's no (b) comparing with 65. It says "vary the order". Oh, yes, it does in (c). It's sort of reversed. It may be exactly the same only the order may be reversed and that's why I didn't follow it. Yes, Mr. Chairman, I see, the order of the subsections is different but the wording is the same otherwise.

MR. CHAIRMAN: Agreed. Mr. Deacon.

MR. DEACON: Well, for the aid of uniformity, if I call it that, and be agreeable to changing it so that it is consistent throughout the legislation.

MR. CHAIRMAN: Mr. Deacon, legislative counsel has given that a note. Agreed? (Agreed) Page 16 agreed; Page 17 — Mr. Cherniack.

MR. CHERNIACK: We are reviewing 41(6), Mr. Chairman — question of costs. I'm just pointing out that in the other bills we are reviewing the question of costs and I assume the same review will be done for 41(6).

MR. CHAIRMAN: Agreed? Mr. Adam.

MR. ADAM: 41(5).

MR. CHERNIACK: This is discipline?

MR. ADAM: Yes. Did they settle that?

MR. CHERNIACK: No they didn't. 41(5)(d).

MR. ADAM: (d).

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, 42(2) is the same as Bill 65, 42(2) with a question of the costs awarded by the board may not be provided for, and Mr. Balkaran was going to have a look at that to, you know, broaden that, and 42(3), (4) and (5), I assume is going to be set aside by the Minister to be reviewed, the same as in the other bills, as to the question of trial de novo, as to the manner of the appeal.

MR. CHAIRMAN: Agreed? (Agreed). Page 17 agreed; Page 18 — Mr. Ransom.

MR. CHERNIACK: Mr. Chairman, if I may, I'm still on 17.

MR. CHAIRMAN: Oh, sure. I'm sorry. Mr. Cherniack.

MR. CHERNIACK: Section 43. I haven't compared it with the others and I don't quite see where it — no person has any right of action. The wording is different and, in this case, taken in good faith, or orders made or enforced, I want to make sure that the good faith modifies the word "orders." I don't really know why the wording is different. It should be the same. It should be the best of the two, or maybe the best of the three, whatever it is, I'm sure the intent is the same. There's quite a different wording and maybe we should ask Mr. Deacon and Mr. Sinclair to come to an agreement on it. It looks to me like 65 and 66 appear to me to be similar, although 65 is lengthier. Mr. Chairman, I didn't study these really, and I just think they should be consistent because that's an important exemption of civil liability. Whatever is right should be applied to both, and I really don't want to get involved in a discussion about which is right. I would just as soon the lawyers agreed on what was right.

MR. CHAIRMAN: Can we have legislative counsels and people involved with the bills have a look at these? Agreed? (Agreed)

Page 17 agreed (Agreed); Page 18 — Mr. Ransom.

MR. RANSOM: Mr. Chairman, the role of this council is quite different from the role of the councils in Bill 65 and Bill 66. I think that is as it should be, having listened to the arguments put forward by various people who have made submissions to the committee. In view of that, and in view of the comments that I made this afternoon about advisory councils, I wonder if it would not be wise to change the name of this council from advisory council to something along the lines of practical nursing council, to indicate that it has a different role than the advisory councils for the psychiatric nurses and for the registered nurses, and also to indicate that

this council is not just advisory but has some responsibility in the areas of practice, standards of practice and standards of education.

MR. CHERNIACK: I agree with Mr. Ransom. My notes point out the very important difference that Section 48 reads that the board has the power and the words "and duty" to adopt, makes them really, almost subservient to the council and therefore really shouldn't be called advisory, if it has that power. So I agree with Mr. Ransom.

MR. SHERMAN: Mr. Chairman, it's a matter of terminology and identification; we will certainly have a look at that.

MR. CHAIRMAN: Is there agreement from the LPN. Mr. Deacon.

MR. DEACON: Mr. Chairman, the comment from the LPN association is that they have used it as a carryover from the existing legislation. They don't have any objection to a revised name, that was just put in in comment, that it is a name that is familiar to the LPN's.

MR. RANSOM: At the risk of being repetitive, Mr. Chairman, I would certainly recommend to the practical nurses that they not let any group assume the title of advisory, when in fact, they have the capacity to do more than advise. Now if they're going to have that capacity, then I think it should be indicated that they have that capacity and that it is not solely the responsibility of the board, when they pass or recommend a regulation, but that in fact, it is the responsibility of this council, and therefore I would highly recommend that you change the name of the council from advisory to something else.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I'm sure that the LPN Association has acknowledged and observed that recommendation, and I think the committee feels it is a good one. We will certainly pursue a new and better name with the LPNs that is acceptable to them and be back to the committee with suggestions.

MR. CHAIRMAN: Agreed? Mr. Cherniack.

MR. CHERNIACK: If Mr. Ransom is through, I want to go back to 46(1) on Page 18 — that's where, in the other bills, we agreed to have that failure to disclose, failure to tattle, shall be considered a professional misconduct. Mr. Balkaran is nodding, so I assume that's been noted.

MR. CHAIRMAN: Legislative counsel has made a note of it. Mr. Deacon.

MR. DEACON: Mr. Chairman, my comment was going to be the same in that respect; also to amend by adding a similar clause to that of 46(2) of the Registered Nurses Act. That has been recommended in both pieces of legislation.

MR. CHAIRMAN: It has been noted. Any more concerns on Page 18? Agreed? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it just occurs to me, didn't we deal with legislation just this session, imposing a duty on a doctor to make reports? Don't we have that in connection with physical defects that might prevent a person from driving? Haven't we actually imposed an obligation on doctors, that in spite of a doctor/patient relationship, they shall report on them, not just to the council, not to themselves but —(Interjection)— no? Well the blood test says that they may, I think they may report, but I think that maybe it is the Highway Traffic Act, where I think doctors are required, in spite of their doctor/patient relationship, they are required to report problems affecting cardiac and eyes. And you know, it occurs to me that this is kind of a superior — we have a doctor/patient; we have nurse/client relationship that protects — you know, here I was the one who was worried about creating informers, but now that we accept the obligation to inform, I'm not entirely sure — I'm not fighting this clause, but I — here we have — the nurses proposed it, and the other two professional bodies, whom I respect as much as I do the nurses and the doctors, say, yes, we want that protection too, and — all right, I ask you, doctors are denied that privilege in certain cases, and must make their report to officials of government, and here we're saying that a member of the association, because of a nurse/client relationship mustn't report it to its own organization, which has the obligation to concern itself about the competence, capacity, if I may use that word, of its own members. Well, I'm just not so sure that they should have that protection. I think if they have to inform, maybe they ought to be denied the privilege of relying on an old traditional concept, which we, as legislators, have reversed in the case of doctors. Having raised that point, I'm not pressing it, I'm just raising it.

MR. CHAIRMAN: Mr. Street.

MR. STREET: Just a short response to what Mr. Cherniack has said, it is our view that we would be very concerned if that clause was not there. We feel it would be extremely difficult to establish a therapeutic relationship with a member of the profession who required that type of care, if that person knew that we would in turn, have to report them to council. It would make it almost impossible for us to carry out our responsibilities.

MR. CHERNIACK: It's interesting, Mr. Chairman — I think I understand what Mr. Street is saying, and I think I understand that when it applies to a psychiatric problem I think I understand it much more than I would to an RN or an LPN, who may be doesn't have that need for that close understanding, intellectual relationship, and I know I'm talking out of my depth. I don't know very much about the nature of the relationship. I said earlier I think I know what a solicitor/client relationship is; I don't want to pose as an expert on nurse/client relationship, but I raise this — and I think I understand what Mr. Street says; I'm not sure that what he says applies to the other two professions, and you know, I'm going to have to look at somebody like Dr. Johnson, and say, hey, I don't know, I'm out of my depth. But if Dr. Johnson has to report on his patients, has to, then I'm not sure

whether a nurse should be given that protection, and yet I do think I understand what Mr. Street is saying about a psychiatric strong bond that has to be established between a person dealing with an emotional problem. So, as I say, I'm not pressing it, but I don't want this to be an old tradition that is being maintained just for the sake of maintaining a concept which I must say that I have rejected long ago in my mind, when doctors talked about the doctor/patient relationship in direct billing as compared with having it paid through the MHSC. I lost interest in that long ago. Dr. Johnson is smiling; it's now on the record that he is.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, just for the record, Dr. Johnson smiles frequently.

MR. CHERNIACK: He sure does, that's what makes him such a pleasant companion.

MR. CHAIRMAN: Can I get some kind of an agreement that this will be looked at? Agreed? Page 18, agreed — Mr. Sherman.

MR. SHERMAN: Mr. Chairman, 47(2) on 18, there is an amendment to 47(2)(b) that will be coming in the final form in a bill for clause-by-clause study. Rather than three persons nominated by the Minister, it will read four persons nominated by the Minister, and that has been accepted by the LPN Association.

A MEMBER: What was the other one?

MR. SHERMAN: That's in here. That's okay. Miss Fawcett acknowledges that change has been discussed with the association.

MR. CHAIRMAN: Okay, agreed? Pages 18 and 19 agreed? (Agreed); Page 20 — Mr. Cherniack.

MR. CHERNIACK: I think 49 (1) and (2) would be subject to the same review as the others, even more clearly so, it seems to me, Mr. Chairman, because I think we kind of agreed that there has to be a more careful authority with the advisory council than in the other cases. Is that right? Is that subject to review?

MR. SHERMAN: I'm not entirely in agreement with Mr. Cherniack on that, although certainly those sections will be reviewed in concert with the review of the corresponding sections in the other bills. But, as is already pointed out, the advisory council for this association is quite different with quite different powers and prerogatives than is the case in the other two associations, so I don't think the same potential difficulty exists at all. They will be reviewed, and if there is no point in having them there, or if they should be reworded, that will be done, but I don't the cases are comparable.

MR. CHERNIACK: Mr. Chairman, I think Mr. Sherman has not read this carefully, because this says the board shall have the right to withdraw consent. I don't think he intends them to have that right in this case, so I think that this needs a more careful consideration than the other two do.

MR. SHERMAN: I don't, Mr. Chairman, but I also point out to Mr. Cherniack that the functions of the council in this case under Section 48 specify and refer clearly to approval of the licensed practical nursing education programs, etc., and the council in this case is composed in a quite different manner than the council in the case of the other two associations, and its prerogatives as defined in 48 are quite different. So that is why I made the foregoing statement.

MR. CHERNIACK: Mr. Chairman, I am trying to be helpful and I don't want to confuse the issue, but the way I read 48, is the council shall advise and the board must adopt such rules as the council advises. The way I read this bill, as it sits now before us, is that they may have passed certain rules setting out these standards, etc., etc., and then under 49, it seems to me they have the right to hold a meeting of the board who withdraw consent to certain programs. I don't think that 48 prevents their doing it. Now, I leave it to the Minister, because it's his responsibility to straighten it out, but I do think that 49, as it sits, gives powers to the board which are not controlled or limited by 48. That's just an opinion and I leave it for him to review it for whatever it's worth.

MR. CHAIRMAN: Okay, can we agree to have this one looked over? Page 20, agreed? — Mr. Deacon.

MR. DEACON: Section 51(1) should be amended to conform with the other legislation referring to Section 46(1).

MR. CHAIRMAN: That's been noted, Mr. Deacon. Page 20, agreed; Page 21 — Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, on 20, would Mr. Balkaran explain if there is any difference — 51(3) — in the words "as may be expedient" as compared to the words "as it considers just?" This is the province, isn't it? Maybe my question is not relevant; let me check it for a minute.

MR. CHAIRMAN: Page 20, agreed?

MR. BALKARAN: There is a difference?

MR. CHERNIACK: Yes, there is. In Bill 66, the government, I suppose the government and the province are the same things, but the government may pay to the prosecutor such portion as it considers just and expedient, and here it leaves out "as it considers just." I should think it should have to consider it just, in the case of the LPNs as well as the RPNs.

MR. CHAIRMAN: Agreed to be made similar by legislative counsel?

MR. BALKARAN: Just a minute, what are we going to conform to?

A MEMBER: Just as expedient.

MR. CHAIRMAN: Page 20, agreed? (Agreed); Page 21.

MR. CHERNIACK: Well, they say it's got to be. I'm no expert.

MR. CHAIRMAN: Mr. Deacon.

MR. DEACON: . . . changed to Section 57, upon proclamation.

MR. CHAIRMAN: That has been noted, agreed? — Mr. Cherniack.

MR. CHERNIACK: On 54, I wonder if Mr. Balkaran can explain the need for it in this bill and not something similar in the other bills.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, to answer the honourable member as to the need, the only thing I can say is that the LPNs, being in a tier somewhat less than the other two, maybe it was necessary to indicate that those three people could do anything that the LPNs can.

MR. CHERNIACK: Oh? I know nothing about the training of the RPNs. Are you suggesting that an RPN has the qualifications of an LPN? I should ask them not . . .

MR. BALKARAN: That's what this is.

MR. CHERNIACK: Is that right?

MR. CHAIRMAN: Mrs. Latimer.

MRS. LATIMER: Thank you, Mr. Chairman. At one time, it was a prerequisite to be an LPN before you were an RPN. That has since been changed. They still learn basic nursing, I believe. I could be corrected but there are some nursing components.

MR. CHAIRMAN: Ms Osted.

MS OSTED: Mr. Chairman, it might be appropriate for us to address this issue. Although the registered psychiatric nursing program does have some such things as pharmacology included in it, the administration of medication and so on and so forth, we do not presume to be qualified as either a registered nurse or a licensed practical nurse. I would also add that under Section 54 in Bill 87, we would suggest that if The Psychiatric Nurses Training Act is being repealed under Bill 66 that it probably should not appear in Bill 87.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Well, one may pass; the other may not.

Mr. Chairman, we're dealing here in all bills with only the reserve of title. We're not dealing at all with the right to carry on a practice of the nature that is described in any of the three. So how could possibly Bill 87 restrict anybody who has powers under the other bills, except restricting them from the use of the title, LPN, and they should be denied the use of the title, LPN. So I really don't understand why 54 is there at all. Let me remind you, let me just repeat that first sentence. There is nothing in any of the three bills that denies any person from doing the things that are described in those bills; all it denies

them is the right to call themselves by that title, and I don't think an RN or an RPN should have the right to call herself an LPN, and since that's the only impact as I read it, then I don't see why that 54 should be in there.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Strike it out, Mr. Chairman, unless the legal counsel for the association has an opinion to offer that's substantiates a reason for having put it in.

MR. CHAIRMAN: Mr. Deacon.

MR. DEACON: We agree to have it struck out.

MR. CHAIRMAN: Agreed (Agreed). Mr. Balkaran.

MR. BALKARAN: Since we have a section number vacant now, I wonder if we could use that to put in Section 54, Bill 65, dealing with existing by-laws, if the association has any.

MR. CHAIRMAN: Agreed? (Agreed) There is no other discussion on these bills. This brings to the end our preliminary study of these bills.

At this time, on behalf of the committee, I'd like to thank the representatives of the registered nurses, the registered psychiatric nurses, the licensed practical nurses, and their legal counsel, for participating with the committee on the deliberations over these bills.

Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I would also like to thank the members of the committee for their contributions to the finalization of these bills. The next exercise will be the formal clause-by-clause approval exercise which will contain the proposed amendments. I wouldn't expect that we would be meeting in committee on that exercise before Tuesday, and it might well be Wednesday, but I want to express my thanks to all members of the committee for the contributions made.

MR. CHERNIACK: Mr. Chairman, with all these compliments, I do think the committee has functioned well in this unusual procedure. It's been very much helpful to have the people from the organizations involved, and I think the Minister has been working along very well in assisting us as a committee. May I make one suggestion, that he might consider it advisable once the amendments are prepared by his department and Mr. Balkaran, to let us have copies of the proposed amendments in advance of a meeting and possibly we could do some homework to save time of the committee itself. I, for one, fortunately, so far am not a member of any other committee of the Legislature and I will be able and want to devote some time to this, so he might consider that.

MR. SHERMAN: Yes, Mr. Chairman, we'll certainly distribute them as quickly as possible.

MR. CHAIRMAN: Committee rise.