



Fifth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson

Mr. Jack Penner

Constituency of Emerson



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
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<i>Vacant</i>	St. Boniface	

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, July 5, 1999

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Jack Penner
(Emerson)**

**VICE-CHAIRPERSON – Mr. Edward
Helwer (Gimli)**

ATTENDANCE - 10 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Pitura, Stefanson, Hon. Mrs. Vodrey

Messrs. Chomiak, Downey, Faurshou, Helwer, Penner, Struthers, Ms. Wowchuk

Substitutions:

Mr. Laurendeau for Hon. Mrs. Vodrey

APPEARING:

Ms. Becky Barrett, MLA for Wellington
Mr. Kevin Lamoureux, MLA for Inkster

WITNESSES:

Bill 30–The Veterinary Medical Act

Dr. Ab Hague, Manitoba Veterinary Medical Association

Mr. Albert van der Meulen, Private Citizen

Bill 21–The Ophthalmic Dispensers Amendment and Consequential Amendments Act

Dr. Scott Mundle, Manitoba Association of Optometrists

MATTERS UNDER DISCUSSION:

Bill 30–The Veterinary Medical Act

Bill 21–The Ophthalmic Dispensers Amendment and Consequential Amendments Act

Bill 20–The Chiropodists Amendment Act

Bill 23–The Order of Manitoba Act

Bill 28–The Legislative Assembly Amendment Act (2)

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Mr. Chairperson: Good morning. Will the Committee on Law Amendments please come to order. This morning the committee will be considering the following bills: Bill 20, The Chiropodists Amendment Act; Bill 21, The Ophthalmic Dispensers Amendment and Consequential Amendments Act; Bill 23, The Order of Manitoba Act; Bill 28, The Legislative Assembly Amendment Act (2); and Bill 30, the Veterinary Medical Act. Those are the bills that will be presented this morning.

Just before considering the bills this morning, we have a vacant position to fill. Our Vice-Chairman has resigned so we need a nomination for Vice-Chairman.

Mr. David Faurshou (Portage la Prairie): Mr. Chairperson, I would like to nominate Mr. Ed Helwer.

Mr. Chairperson: Mr. Ed Helwer has been nominated. Agreed? [agreed]

Committee Substitution

Mr. Edward Helwer (Gimli): Mr. Chairman, I wonder if I could have leave to make a change to the committee.

Mr. Chairperson: Leave to make changes on committee? [agreed]

Mr. Helwer: I would like to appoint the member for St. Norbert (Mr. Laurendeau) in place of Mrs. Vodrey for—

Mr. Chairperson: Mr. Laurendeau for Mrs. Vodrey. Agreed? Is there leave? [agreed]

* * *

Mr. Chairperson: Thank you very much, then. To date we have had several persons register to speak on the bill this morning, and I will read the list out loud.

We have two bills actually that have presenters to them. One is Bill 21, The Ophthalmic Dispensers Amendment and Consequential Amendments Act. There are presenters on The Veterinary Medical Act, which is Bill 30. The presenters on The Ophthalmic Dispensers Amendment Act are Dr. Scott Mundle, Manitoba Association of Optometrists.

The presenters for the Veterinary Medical Act are Dr. Ab Hague, Doug Abra and Barbara King, Manitoba Veterinary Medical Association, and Albert van der Meulen, private citizen.

Now, I wonder if there are any other people in the audience currently that are wanting to make a presentation that have not indicated yet. If there are, then I would suggest to you that you go to the back of the room and indicate to the Clerk's office that you were wanting to make a presentation, and those of you who are making presentations, if you have written presentations for distribution, I would ask that you have at least 15 copies for distribution to the Clerk's office, which will be distributed by the Clerk.

What is the will of the committee? Do you want to hear the presenters first before hearing the other bills?

Mr. Helwer: Mr. Chairman, I wonder if we could deal with Bill 30 first to get that one done. The Minister of Agriculture (Mr. Enns) is away, but Mr. Pitura is going to take that one.

Bill 30—The Veterinary Medical Act

Mr. Chairperson: It has been suggested by Mr. Helwer that we hear Bill 30 first. Is there agreement? [agreed] Then we will hear the presenters on The Veterinary Medical Act first.

Did the committee wish to use the time limits on the presentation? No? Okay, there will be no time limits then.

We will then proceed with consideration of the presentations and hearing the presentations. I will then call Dr. Ab Hague, Doug Abra and Barbara King forward. Are they here? Which person is approaching the mike?

Dr. Ab Hague (Manitoba Veterinary Medical Association): I am Ab Hague. I am representing the Manitoba Veterinary Medical Association. Barbara King and Doug Abra are unable to make it this morning.

Mr. Chairperson: Okay. Have you a written presentation for distribution?

Mr. Hague: No, we do not. Actually, since the Veterinary Medical Association has been involved in the process with the government with respect to this bill, we are basically here to say that of course we support the bill as written. One of the reasons we are here is to see if there are any questions at this point in time that the committee may have of us.

Mr. Chairperson: Can you turn your mike up just a wee bit?

Mr. Hague: I was saying that the Veterinary Medical Association has been working with the government with the changes to The Veterinary Medical Act. One of the main reasons we got involved in this process was the disciplinary committee. The way it was functioning was inappropriate for modern times, and the fact that the association was not in a position to adequately fund the disciplinary process through negotiations with the government. The association will now take on the financial responsibility for the disciplinary body, and we have modernized the disciplinary body so that we think everything will function more efficiently in the interest of everyone.

We are basically here to support the legislation as it is put forward, and if there are any questions of anyone, we would, hopefully, be able to satisfy them.

Mr. Chairperson: Thank you very much. Are there any questions? No questions. Thank you very much for your presentation.

Mr. Vice-Chairperson in the Chair

Mr. Vice-Chairperson: Our next presenter is Albert van der Meulen. Is Mr. van der Meulen here?

We will just wait till the presentation is distributed. Okay, Mr. van der Meulen, proceed.

Mr. Albert van der Meulen (Private Citizen): The present act as proposed is an adaptation from The Medical Act, and—I hope I have the right word—the dental act. The only thing is that in the process of adapting, they have omitted the Court of Queen's Bench.

* (1010)

That is a step in the justice system that I do not think should be missed. I do not have that in my presentation, but I think it is very important. This has been done to reduce cost. What we are doing is we are sacrificing justice for cost.

Now I want to make another statement. I have just heard Dr. Ab Hague say that they are going to absorb, they are going to take the cost themselves of this administration of this act. I understand that the provincial government is prepared or is considering a five-year phase-in period. What has happened in the past is that the only body in this province that has had all its expenses paid for prosecution, administration and everything in the Veterinary Medical Board of Manitoba has been the Manitoba Veterinary Medical Association, the Manitoba Veterinary Medical Board.

As a result, there was no financial responsibility. They could go ahead and sue, as they have done me, freely, without any consequence of cost, without any consequence of speaking to the members or getting money from the members.

My daughter is a member of the occupational therapists association. They absorb all the costs; the dentists do; the medical doctors do. I am not here to speak against the veterinarians and money that they get, but the process has in the past caused lackadaisical or unfair administration of justice. The Veterinary Medical Board of Manitoba, for instance, was not even responsible enough to respond to copies of minutes by the Manitoba Veterinary Medical Association. They became a law unto themselves. That is all I want to say about that.

Now I would like to get into Section 53. As I have proposed, there are little things in the whole act that actually need to be changed, which I did not write about because I do not want to get away from the basic principle of fairness in administration of this act. Section 53 is a limitation of responsibility of being sued. I think one of the big things that will keep an association and a board honest is if they have to pay for the administration of the justice, and if they can be sued, if they are not acting in good faith.

This Section 53 is in a lot of acts, but it kind of makes it so that it is still very difficult to sue someone in the association or in the disciplinary process. Because this section is here, the judge says, well, you prove that they were not acting in good faith.

To tie that down, I have made certain proposals. Section 53(1) would stay the same. Section 53(2) would read: all the persons and bodies mentioned in 53(1) shall treat all members equally and fairly, and all rulings shall be applied with equal force to all members. That is almost like a motherhood statement. It should not be necessary, but it is because of their past performance.

Section (b) Failure to treat a member equally and fairly, the selective prosecution of a member, the prejudicial treatment of a member or the failure to abide by established precedent shall result in the dismissal of the complaint against the member who has been adversely affected. In other words, they could sue one member for a certain thing and leave their friends alone, and that is what they have done. I

have written proof of that. This shall include the retroactive dismissal of any such judgment.

Section 53(3) Notwithstanding Section 53(1) any failure to treat a member as described in Section 53(2)(b) shall be considered by this act as not acting in good faith. This will give a judge an opportunity to accept a charge of not acting in good faith and shall allow the association, a council or any member mentioned in Section 53(1) to be prosecuted for general and punitive damages for not having acted in good faith.

Now, I have made written reasoning behind the proposed changes to Section 53, and I do not know if you want me to go and read that. I do not know how much time you have. It is only about two pages. What is your desire?

Mr. Vice-Chairperson: What is the will of the committee? Let them hear it? Okay. Go ahead.

Mr. van der Meulen: The act as proposed in Bill 30 gives the association and its committees considerable power. In general, professional bodies have more powers than a judge partially because of the judgment of the Supreme Court, attachment 1, which states that the board, for instance, or the disciplinary body does not have to be completely right. It has to be proven that it is wrong, totally wrong, so that they can play around with this thing.

Based on this and the past precedent, many judges simply defer to the professional bodies. This has happened time and time again, where judges defer to the professional bodies because they are considered to be knowledgeable and fair. Now, most of the time they are knowledgeable, but they are not always fair.

It is therefore very important that a professional body be extremely fair and impartial and does not act in a prejudicial manner towards any one of its members. Unfortunately, since I started the Winnipeg Spay and Neuter Clinic in 1978, which was greatly opposed by the veterinary community, and attachment 2 shows a newspaper clipping that was picked out at the time. There were numerous other ones. I have been exposed to much prejudice, selective prosecution and

double standards by the Veterinary Medical Association.

For instance, the board prosecuted me for allowing a technician to suture a post-surgical wound, which is common practice in veterinary medicine, by the way, allowed in Ontario, Saskatchewan, B.C. It is no big deal, but at the same time they did not even hold a hearing when a complaint was lodged against the practice of the past president of the Canadian Veterinary Medical Association for allowing a technician to perform full dental surgery on dogs even though he admitted it.

Now, this is the old boys' network. I think we should get away, and that is why I am asking for this change. Let us get some teeth in trying to get this old boys' network under control and at least give a person a chance to sue for failure to act in good faith. They also did not hold a hearing when the president of the Manitoba Veterinary Medical Association allowed a technician to perform surgery on cats, to which he admitted.

The board covered up the finding that surgery was being taught to students at the Red River Community College. Now, this was only neutering of male cats. It is no big deal, and you do not really need a five-year-old college education to neuter a male cat. After all, we are allowing technicians to neuter male calves, pigs, lambs, et cetera, but at the least it was illegal. What they did when I told them, they just covered it up. I have nothing against the Red River Community College. They are doing a great job.

Incidentally, the Manitoba government paid all the expenses of the Veterinary Medical Board of Manitoba to prosecute me, while at the same time the Manitoba government was paying veterinarians to teach technicians how to perform surgery on male cats, which the board had deemed to be an illegal activity. So the Manitoba government was at the one time paying for suing me, while at the same time, they were teaching more than what I was doing. They went further than what I was doing, which was just allowing a technician to suture after the surgery was done.

I have full documentation for all the statements in the above paragraph, but I have not included them to prevent the submission from becoming too bulky. There were also other incidents. For instance, my wife is a registered nurse. They tried to stop my wife from vaccinating cats and dogs. For pity's sake, farm boys were doing it; all kinds of people were doing it. It was under my supervision. They finally lost that one, and they dropped it. I also wish to stress that I have included some of the highlights, since the board's action against me over the years have been both numerous and prejudicial.

* (1020)

The latest incident, attachments 3(a), (b), (c) and (d), is a written proof of how they cover things up. When the board advised a member, whose technician admitted in writing that she had been responsible for the closure of large-animal surgery at the member's clinic, the board's investigation found no evidence of gross negligence, incompetence or unprofessional conduct on which to proceed to an inquiry, while with me it was just a rumour.

The next thing, the board sent its chairman to my clinic, charged me. I said, okay, if that is your ruling, I will do exactly according to your ruling, but they said, no, we want to hold a hearing. These are the people who are sitting behind me that were responsible for this.

Incidentally, the clinic involved is one of about 28 clinics that have received provincial government support. There are 28 clinics in this province, large-animal clinics, that receive provincial government support. So in addition to the double standard the board demonstrated, the board is in a financial conflict of interest. The board is certainly not wanting to go against one of those large-animal clinics because, if they do, they jeopardize their chances of maybe in the next five years they hope to get money from the provincial government. So they are not going to touch a large-animal clinic that is getting money from the provincial government.

If the provincial government continues to financially support the board or its continuing functions at the association, as is evidently

planned, there will continue to be a financial conflict of interest.

There is always a conflict of interest in a small association. The smaller the association, the more chance of conflict of interest. The small veterinary community is highly competitive. The chairman of the board right now is one of my direct competitors and has been trying to get after me somehow over the years his, and his group of people. The Law Reform Commission, in its 1994 report, regulating the professions, expressed some strong reservations about self-government of bodies which intend also to act as an association or trade union dedicated to promoting the interests of its members, because it is very difficult for them to separate those two. They have not done it in my case. They have done it for their friends, but they have to be fair for everybody. It is in the interests of the public that there be free competition in the veterinary profession.

The problem they were after me for is because I started the clinic with lower charges so that people could afford it. It began very small so that there would not be an overpopulation of dogs, of cats actually. That is the way it started. It was not meant to be a moneymaking operation, but over the years people came flocking to our clinic, and it has become a very successful clinic. I cannot help that. That is the way it is. That is the way life is. I refer cases to all the veterinarians that I cannot handle. I cannot handle everything.

The board's actions in the past were a thinly disguised attempt to reduce competition. Certainly if there is no longer a level playing field, which is what we all need, by forcefully prosecuting Dr. Albert van der Meulen, while at the same time those responsible for enforcing the act continue to go easy on other members of the association who violate the act, my clinic will eventually be forced out of business, and, incidentally, eventually I am going to have to sell. I am getting of the age and I have a medical condition. I am going to have to pretty soon get out of this clinic, but the thing is fairness should continue in the new act. There are no safeguards in the new act to prevent discrimination and selective prosecution whatsoever. In fact, we

have reduced it from the past act by taking out the Court of Queen's Bench.

Now, the Court of Queen's Bench, it may be that he is going to be giving a judgment that is not fair or just. In my case he said: I defer to the board. Well, once he says that, the judge following him in the Appeal Court is going to say—they are judging the Court of Queen's Bench—they say: he based his judgment based on legal principles, and therefore we support him. I was fortunate enough that one of the judges says: this whole thing is crazy. This is a slippery slope, and I disagree with both the board and the judge. However, one against two, and I am still lost. This is especially so since the past chairman and members of the board, who have been actively involved in the design of the new act, will now no doubt be actively involved in the disciplinary process under authority of the new act.

In fact, the old boys' network is going to continue. There is no way out of that. I respectfully request that you accept my proposal.

Mr. Vice-Chairperson: Thank you, Mr. van der Meulen. Are there any questions?

Mr. Stan Struthers (Dauphin): Thanks for making that presentation to us, Dr. van der Meulen. I am looking at the changes that you have proposed in an attempt to improve the legislation. Can you tell us if there are precedents for the changes that you are putting forth? Are these available to us in any other jurisdiction that we can look at?

Mr. van der Meulen: I do not know whether there is a precedent for them, but there also is no precedent for having a small association report directly to the Court of Appeal.

Okay. So we are dealing with a whole new ball game. This proposal here is designed to address that because, for a small organization to go directly to the Court of Appeal, in the Court of Appeal there is very little judgment. There is very little questioning. They judge whether the Manitoba Veterinary Medical Association disciplinary process used fair and legal arguments. They are very quick to say: we defer to the board. Very, very quick.

Only the medical association in Manitoba, as far as I know, goes directly to the Court of Appeal. It is a big organization with far less opportunity for the old boys' network to operate and for unfair things to continue.

The other thing is that we are going from a situation where all the expenses were paid. These people had no responsibility. They reported to no one. Sometimes they would tell the complainant one thing and the defendant a totally different thing. I have evidence of that, too. So because this is a small association, and because it is going now right to the Court of Appeal, special measures are necessary to make sure that fairness and equity continue, that there be no double standards, no selective prosecution.

Why on Earth would any organization selectively prosecute one member, and then in another case they could just say, you have done no wrong, and there is nothing anybody could do about it? Well, this section here is something somebody can do about it. I could not sue them in the past. My lawyer said you will be suing the provincial government; they are footing their bill. I was thinking of suing the Veterinary Medical Board of Manitoba for not acting in good faith, but my lawyer says you cannot. You will be suing the provincial government. So that is the way they were hiding.

I strongly suggest that some limits be put if this five-year extension of financial support for the disciplinary and administrative process of the association continues. I have nothing against the association. I have been a member for many years. I have tried to be a professional member, acting in good faith, but I strongly suggest that some controls be there so that they just cannot do what they want, so that they just cannot. The old boys' network has to stop.

Mr. Vice-Chairperson: Thank you. Any other questions?

* (1030)

Mr. Dave Chomiak (Kildonan): Thank you for your presentation, Mr. van der Meulen. I note in your presentation on the complaint in the documents, Attachment 3, that you submitted that you had withdrawn. Do I understand this

correctly on that letter dated April 3 here from the registrar to yourself that you had withdrawn that initial complaint in 1997? I am just confused by that.

Mr. van der Meulen: I had put in several complaints. I said, you know, this is crazy. Everybody else is doing far worse than I am. So in fact I could put through six complaints right now on members that are allowing different things to happen. I finally stopped. I said to them, okay, drop that complaint, because I had nothing against Dr. Tomlinson, you know. I was not trying to get after Dr. Tomlinson. I was just trying to get him to be honest. They were not honest. They were not straightforward, but they said they had to do it anyway. As it happened, I could not trust their fair judgment anyway because, as is shown, even though it is in writing that this technician was closing abdominal wounds, surgical wounds, they still said nothing was wrong with it. If that name was Albert van der Meulen, they would have had my licence by now because it is the second occurrence.

Mr. Chomiak: I guess in terms of the amendments that you are proposing, while you could not suggest there was precedence in another jurisdiction, it seems to me that in theory two things would happen by adopting amendments of this kind. Firstly, it would change the nature by which the courts judge the action of the body. But secondly, it would probably require us to amend all of the other professional bodies' acts to coincide with those kinds of provisions, or do you think that this particular body requires a separate amendment?

Mr. van der Meulen: I think this particular body requires a separate amendment, but this is such a motherhood statement that I have in here. It is just asking for fairness. It would not hurt if this were in The Medical Act or the dental act or whatever act. It is assumed for people to be fair, but, unfortunately, the history of the Manitoba Veterinary Medical Association is such that they are not fair. They do not play the same rules to everybody. They have their buddy-buddy system, and I am not part of the buddies. The reason why I am not part of the buddies—I was until in 1978 I started the Winnipeg Spay and Neuter Clinic, and that is when all hell broke loose, so to say. They were all in an uproar.

Mr. Chomiak: Just a final comment, then I am going to pursue this with the minister, just in terms of questioning. One of the ways of addressing the kinds of issues that you have brought before the committee today, generally in other acts and bodies, is to allow for the public process in terms of hearing of complaints as well as for the appointment of lay persons to particular bodies. I am going to be querying the minister on that particular aspect when we get to the review clause by clause on this. But it seems to me that generally with other bodies that has been the way that matters of the kind you have raised have been dealt with.

Mr. van der Meulen: Public representatives are great. However, they tend to be overwhelmed by the professional presence, especially if the chairman is very strong, and they can bring up all kinds of arguments.

There is actually something wrong in the act that I have not touched, in the proposed act. That is saying that the public member shall continue until changed. I am not sure I can find that very quickly. But in my case what was happening, there were two farmers—I was a hired man on the farm at one time, so please do not think that I look down on farmers in any way—that were on the board. What happened, they got on that board year in, year out, year in, year out. They were just aping, and they were just copying, whatever the board said. They became part of the board. They were no longer independent. It is very difficult unless you have a totally separate public body that is looking at the issues totally separately without input, other than factual input, from the association. You are not going to get any assurance of safety just from having a public member.

I have a little mark where that one is. Section 18(5): The public representatives continue to hold office after the expiry of their terms until reappointed or until a successor is appointed.

That is a very dangerous statement. Incidentally, there is another very dangerous statement in this act, and I did not say anything about it. But that is Section 7(1)(d): The council may pass by-laws establishing classes of members and governing the rights, privileges

and obligations of each class, including the right requirements for members to be able to vote.

That sounds very innocent, does it not? However, next thing you know, they do not like Albert van der Meulen. They set up a class of spay or neuter clinics. Now, spay or neuter clinics, they can now change the requirements. They can say you can no longer vaccinate animals. You can no longer prescribe heart-worm medication to dogs. You can no longer do this. All you can do is spay and neuter. That is how dangerous a little thing like that is.

Lawyers and the association play along with words. For instance, when they sued me, they did not sue me because they had—no, there was not even a definition of surgery. What they said was an integral part of surgery is the performance of a surgical operation. The judge accepted that. One of the Appeal Court judges said it is hogwash. He said it is slippery slope because it is like saying that to drive a car, it is an integral part to put gas in the car, but that is not driving a motor vehicle, it is not driving the car. There are all kinds of things that they can play around with. The judge accepted it, and then he deferred to the board. There was nothing I could do because that is the legal process.

That was fine. I was convicted; I accept that, but now start acting and apply that to your buddies as well. That is when they said no. In fact, their buddies did far worse things, and they said no. That is where this act needs teeth, special teeth, and financial control about giving money to this board. Giving money to this association should only be in a transition for an administrative point of view, not to allow them to freely sue anybody.

They have had a heyday. It cost \$39,000 a year, roughly, for this board. That is what I understand from asking members of the government who know. They have had a heyday for the last 10 years, 15 years, and at least close to \$400,000 or \$500,000 has been paid to the Manitoba Veterinary Medical Association. I have nothing against that, but please start treating people fairly. Do not start using government money to limit competition. That is what they have done.

They did not like my competition. Not once was I held on the carpet for incompetence. In fact, the court case said this is not a case of incompetence. I have a technician. I have x-rays. I have dental and regular. I have monitors. I follow all the procedures that I have. If I, per chance, may be wrong on one thing, so are a lot of other people. Certainly, I am well within the accepted norm.

Mr. Vice-Chairperson: Thank you. Are there any further questions?

Mr. Kevin Lamoureux (Inkster): In coming to grips, and obviously this has been an issue for a number of years for you, have you brought your concerns outside of the board or the courts? Have you brought it before MLAs in the past or outside organizations?

Floor comment: No.

* (1040)

Mr. Vice-Chairperson: Mr. van der Meulen, if you would just wait.

Mr. van der Meulen: Sorry, I sometimes speak before you say. I am sorry. Nobody will touch court cases. Nobody will even comment when it is before the court until you do. I knew that they were going to be terrible with me once they won the judgment, and they have been. They have written me snotty letters that I have not included: do not let me catch you do this or anything else again. The letters to their friends are all nice and kindly, you know.

So, yes, I have gone to the association. You know what happens in the association. I am a competitor, and all of a sudden for anybody to speak up in my favour—I have many friends in the association that feel as I do, but they are not in the inner circle. They are not in the boys' club, and they are quiet little people. They agree with me, but when it comes to speaking up in an association meeting, they hardly give you room. They hardly give you time.

I wrote a letter to the association, and they were kind enough to print it. But it was all printed in the finest possible print on one page, whereas one or two issues later they were

honouring one of their buddies, and they had two full pages, lots of space, lots of room. Now, that tells you something about how much they want to see their inequities and their injustices exposed. They want to keep that quiet. They want to keep that hidden in small print.

I spoke as openly to them as I speak to you, and they were not able to defend themselves against me, because I was honest. I was straightforward. I did not try in any way to twist facts. Although they twisted facts, I did not twist the facts.

Mr. Vice-Chairperson: Thank you. Are there any further questions?

Mr. James Downey (Arthur-Virden): Mr. van der Meulen you certainly have some very strong criticisms of your association and the governing body, for which we are being asked to amend the bill. Have you had previous discussions with the Department of Agriculture officials on the grievances which you have? Have you brought this forward in the preparation of this legislation? Have you had an open dialogue with them, or have you been shut out of that discussion?

Mr. van der Meulen: Not in the preparation of this legislation because I just got it, but in my treatment I went directly to the Minister of Agriculture (Mr. Enns). Basically, what he felt was, I am retiring, I am not about to fight with the Manitoba Veterinary Medical Association, and that was basically his attitude. I was a little disappointed in that; however, he was a very nice man. He was very straightforward. I think he felt that I also was being treated unfairly. I would not want to criticize him in any way. You see, the problem is that Mr. Enns was kind enough to listen to me, but he cannot change the administration of justice under the act.

In fact, I wrote to the Minister of Justice, Rosemary Vodrey, at the time, because this thing has been going on for years. They have been trying to gnaw away at me for years, and now that this new act is coming up I finally have an opportunity to have a public forum to say: look, this is what has happened. These are the changes I would like to see to get some safety and some protection and some fairness. I do not

understand why they are not all walking around with red faces. How can they live with themselves with a lack of integrity and a lack of justice?

Mr. Downey: I think I would like to correct the record certainly, with knowledge that the Minister of Agriculture is not retiring, and I am surprised to hear that comment.

Mr. van der Meulen: I might have misunderstood. Okay. I probably misunderstood, and it is probably that I have one bad ear. Certainly he said, I am not about to fight with the Manitoba Veterinary Medical Association. So, if I have said that, it was probably an impression that I had that stayed in my mind, and I would not want to say that for sure.

Mr. Downey: It is pretty publicly known that he is not retiring, so I wanted to correct that. Another question. Did you say 1978, when you established the neuter clinic? You did so under the rules, regulations. Was it the attack that you are alleging has taken place here, and you are putting the evidence before us, that it was because you reduced the price of the services which you are providing as a veterinary doctor? Was that really it, and it became a competitive factor? Why would you say the attack has now come on you? You have made reference to the fact that you are a member of the association. You participated, but something changed. Was it in 1978? Was it because of your clinic and the pricing practices which you put forward?

Mr. van der Meulen: The newspaper reports at the time, I only include it once, all refer to veterinarians stating that they cannot compete with that. It was not meant to compete with anybody. It was meant to do a specific thing, and that is reduce the stray cat population. There are lots of newspaper references. I have a handful of them, where veterinarians stated straightforward that this is unfair competition.

I do not know why it was unfair. I paid the same dues. I did the same thing. I use the same equipment. The only thing is I did it out of a small low-cost rental space which kind of helped reduce my costs, but other than that, we had the same cost for anaesthesia and everything else,

did the same process. At no time did they criticize—well, they did criticize, they said you cannot do things on an assembly-line basis. We never did anything on an assembly-line basis. You cannot do things with animals on an assembly-line basis except maybe putting cattle through a chute and giving them vaccinations, but basically each animal has to be treated individually and very, very closely, because these are all pets belonging to people. If something happens, I am responsible.

Mr. Downey: Sorry to go on, Mr. Chairman. I guess the other thing that one assumes—and I know many, many doctors of veterinary medicine who are honourable and certainly of the highest professional and ethical being, and I guess I am questioning the fact that you are having such a problem with them. If in fact this legislation passes in its present form and if there continues to be problems that arise from it, this Legislature and this committee can come back and correct it. Our job is to make sure that fair and equitable treatment of all citizens is produced from the legislative process, although what the judges and the courts are supposed to determine as to how it is done here or the acts which are passed. I guess what you are recommending is that we try and legislate that all people be fair. Again, we assume that when these self-governing bodies are put in place, that those are the people we are dealing with.

Do you have any other individuals—I can appreciate you have spoken out and are speaking out; this is your first opportunity—within your profession or within the public who have the same feelings that you have that you could identify who would support your case? This seems to be pretty much your own presentation. There have not been other people speaking out on your behalf. Are there other individuals, and again, one would look for some traditional people to support you? Are there any out there that would put such a presentation forward?

Mr. van der Meulen: I do not know. The board is such a secretive organization that no one knows what they tell anybody else, and that is the truth. They would not even tell the association, as I have said earlier, would not send them their minutes. They said, we are an independent body, and so therefore, I do not

know who else has been adversely affected. I do know that there are many honourable veterinarians in this profession.

* (1050)

I also do know that some honourable people become slightly dishonourable when they perceive that their livelihood is affected, and they will change into tigers. They will do things and justify their actions somehow or other. In fact, that is what they have done. There are letters that they have tried to justify their double standards and their selective prosecution, and they will continue to do so.

You see, I am the only clinic that operates like that. There is another clinic that has started up since, but if they started on that one, then they would really expose themselves, and it is on a much smaller scale. So they would really expose themselves to being vindictive, but they have been most vindictive.

Mr. Downey: A final question. I have not gone over the legislation that closely. You are saying that this legislation denies you the right of appeal. After the veterinary board make a decision, there is no right of appeal for you to go to the next level of the court system?

Mr. van der Meulen: You go straight to the Court of Appeal. There is no step in between. There are then no more arguments before a judge. There is then only the judgment of a three-member court, which accepts to start with by precedent already the judgment of the association, the disciplinary, the last, I believe it is the investigative inquiry panel or whatever. There are three bodies, I believe. They accept that as a de facto thing, and no longer can I bring forth any new thing. I cannot argue in front of the judge. My lawyer can make a few statements.

Basically the thing is now we defer to the association and that is it. That is what happens. It is an unfortunate thing in the legal process that deferral to professional bodies is a thing that happens and very little examination on the facts. It is based on the fact that professional bodies are expected to be honourable and fair and not to select anyone in particular. In a large

organization like the Manitoba Medical Association, that is true. In a smaller organization like the Dental Association, it is less true probably, but there are still far more dentists than there are veterinarians, and they have the Court of Queen's Bench in there as a safeguard. Now all of a sudden we are pulling out the Court of Queen's Bench. We are giving them total powers. The powers in this act are, I would say, unprecedented. They can do almost anything with anybody, and they do not have to keep the defendant totally informed as far as I have been able to read. Now, I might be wrong, but I read this thing pretty thoroughly.

Mr. Lamoureux: Just one quick question. Can you give the committee any idea in terms of what your court costs have been over the years in dealing with this issue?

Mr. van der Meulen: I would imagine about \$60,000 to \$70,000.

Mr. Vice-Chairperson: Thank you, Mr. van der Meulen, for your presentation this morning.

Are there any other presenters on Bill 30?

Ms. Rosann Wowchuk (Swan River): Mr. Chairman, we did not ask questions of the previous presenter. Would it be possible to ask the previous presenter to come back, who were involved in drafting the bill, and ask a couple of questions?

Mr. Vice-Chairperson: If there is a unanimous consent of the committee, you are talking about Dr. Hague?

Ms. Wowchuk: Yes.

Mr. Vice-Chairperson: What is the will of the committee? Shall we ask Mr. Hague to come back? Is that the will of the committee?

An Honourable Member: Certainly.

Mr. Vice-Chairperson: Okay. Mr. Hague, I wonder if you would submit to some questions.

Ms. Wowchuk: Thank you, Dr. Hague, for coming back again. Listening to the previous

presenter, he has indicated that changes have been made and anybody who brings a case before the committee, the only option they would have is to go straight to the Court of Appeal and not have the other step of going before the Court of Queen's Bench. Can you indicate why that has changed—you were part of developing the legislation—why that change was brought about, why you saw that as something that was necessary?

Mr. Hague: Actually, not being a lawyer I do not know what happens at the Court of Appeal. Dr. van der Meulen did submit a presentation to the Veterinary Medical Association when we were dealing with this issue, and it was presented to the lawyer at that time because personally, from what Dr. van der Meulen was saying, I thought that we should probably go to the Court of Queen's Bench too.

This has got to be my interpretation; I do not know if it is correct or not. Doug Abra, the lawyer representing the association, had told me that you have the same rights at the Court of Appeal to present your case. It is just that if you go, and I think most acts are going that way, to the Court of Queen's Bench, if you have a determined person who will go to the Court of Queen's Bench, they get a judgment against them at the Court of Queen's Bench, they will often go to the Court of Appeal. So since the rights of the individual are not adversely represented, you just avoid the first step to go to the second step so that you do not run up the costs, because every time you use lawyers—excuse me, there are probably lawyers in the audience here—it is expensive. He informed me that the rights of the individual are not compromised so that we would go to the Court of Queen's Bench.

Of course, as a veterinary body, we just accepted his input to us, and we expect, or I would expect, that the government lawyer, if they felt that there was some compromise to the individual, would have gone back to the Court of Queen's Bench or presented it, and that was never brought up as an issue.

Ms. Wowchuk: So if I understand you correctly, then, in Dr. van der Meulen's case, evidence was considered. His letter was

considered by the lawyers when they were drafting the legislation. He had input at that time.

Mr. Hague: Yes, he did. He came to our meeting. He gave a written presentation. The specific issue of this Court of Queen's Bench issue was brought up and discussed and, like I say, the legal opinion was granted by Doug Abra, and that is why the legislation is taking the form it is.

Dr. van der Meulen has had a fair representation in the process. There was actually a letter sent out by the association to every member of the Veterinary Medical Association giving Dr. van der Meulen's point of view, asking for input, does anybody support this. It was a very general-type letter, so there was some writing back and a broad variety of issues after that again. So Dr. van der Meulen has had quite a bit of input into the process.

Mr. Vice-Chairperson: Thank you. Are there any further questions?

Mr. Downey: Dr. Hague, there are some strong accusations made that members of the practising veterinarians within the system are treated inequitably by the governing body. I would appreciate your comments as it relates to that. It appears there were some strong statements made by Dr. van der Meulen that different members are treated differently, referring to an old boys' club. I would appreciate your comment. Those are strong accusations about your organization, and we are being asked to have confidence in a system and passing this legislation, and I would appreciate your comment in that regard.

Mr. Hague: Well, I should start out by saying I was the past chairman of the veterinarian medical board of Manitoba when Dr. van der Meulen's case went forward. It did go forward because there were complaints lodged that nonveterinarians were doing surgery. The case was investigated at the time. The investigator, which was myself, went there, and a nonveterinarian was suturing up an abdominal incision. Because that was a breach of The Veterinary Medical Act there was a complaint lodged, there was a hearing held. The case determined that, yes, it was a breach of The

Veterinary Medical Act. There was the appeal to the courts, which upheld that decision.

* (1100)

One of the reasons that we are doing this change is that under the old system there was a real difficulty functioning well under that because if there was a complaint lodged, if the complaint could not be classified as frivolous or vexatious, it had to go to a formal inquiry. The way that it was interpreted by those particular, in some respects, legal opinions that were granted at that time stated that. So if there was a breach of the code of ethic, a nonveterinarian performing surgery, you could not classify that as frivolous or vexatious. So under the old system the board would actually make that determination; then they would hand it to the prosecutor and not see the case again because they were the ones that were going to hear the case. So that is not a real equitable or efficient way to function, and that is why we are making these changes to the act now.

The reason there was a little discrepancy between some of the cases was that the legal representation changed, and it was felt after that, the board got the legal representation that the complaints lodged by Dr. van der Meulen, if the people accepted it and said that they were not, you know, agreed to the finding, that there was not a need for the formal inquiry. So there was a little change as far as legal interpretation, but I do not think the integrity of the board should be questioned in that manner. I think everyone that has ever represented the veterinary medical board of Manitoba has been an honourable individual. I think that the board has functioned to the best of its ability in a manner that I think the people of Manitoba would feel represented them well.

The veterinary medical board of Manitoba was an arm of government at that time; it was not an arm of the association. So it was not representing the association. So there was a separate arm, and I think over the years it served the community well. I think times have evolved and actually costs have gotten out of hand. Under the old system, the cost would be skyrocketing. You can actually get insurance now that will allow you to get legal

representation at board hearings, which was not the case in the past. So I would tend to see the cost of disciplinary proceedings rising exponentially in the next number of years if the old system were kept in place.

The new system allows for an investigative committee to go in, discuss the case with both the veterinarian and the complainant, and deal with it in an informal manner if it at all possible and a reasonable way to approach the situation. Also, it has a formal part where the cases are heard in a formal manner if they warrant that. But I think this is modelled on The Dental Association Act, which I think the dentists are very happy with. I think it is functioning well for the people of Manitoba, and I think that is the way we want to go.

I am very disappointed that the board has been besmirched a little bit.

Mr. Downey: Just a practical presentation to make. As a potential customer of a veterinary service of which I would take my cat to Dr. van der Meulen's facility to be neutered, and while I was there, as a licensed veterinarian, ask him or her, another individual in the same circumstances, that, while I was getting the cat looked after in that regard, I could have a general physical or other activities for that cat, would he be denied the opportunity to do that under a particular action of the veterinary medical board or the directive that would be given by that board?

Mr. Hague: No, actually, that would be almost mandatory to do that before doing surgery on an animal to make sure that it was healthy enough to have the procedure.

Any changes to the by-laws have to be passed by the majority of the members, and I really do not think that our membership is such that they would adversely affect anyone.

Mr. Lamoureux: I did have maybe one or possibly two questions. The Court of Appeal, the Court of Queen's Bench, I wonder, doctor, if you could indicate: is there any difference in terms of what it is that you are able to present to either bench? I know that quite often there are strict limitations in terms of what it is you can

actually appeal, one being more of process as opposed to actually what is taking place or a statement of fact. Are you aware of any difference between the two and any limitations that might be given at one level as opposed to the other?

Mr. Hague: Actually, those are the questions that we posed to our lawyer, who said that there was not, because in using Dr. van der Meulen's case as an example, I think that is the way these acts are supposed to function. The association makes a ruling that, say, suturing up a skin incision after surgery is against the act, the member gets to go to the Court of Queen's Bench. If he convinces the judge that this is not an unreasonable expectation and the judge finds in his favour, then that becomes an established practice and everyone can do that. If they find against him, then the old method stands.

I expect that going to the Court of Queen's Bench would allow our members the same rights. Like I say, I do not know the legal aspects of it, but I know we presented it to our lawyer in that manner. Basically, we presented as: We think it makes sense to go to the Court of Queen's Bench, why not? He said it is going to run into more costs and not sacrifice any rights. Whether that is true, I guess we would need a lawyer's opinion. Since that was his opinion, I guess we would need another lawyer's opinion. But the government lawyer never mentioned that, or it was never brought up in any of the lead-up to the legislation.

Mr. Lamoureux: It is something which we would have to look into if in fact it is the case that there are limitations that the Court of Appeal has that the Court of Queen's Bench does not have. Would your organization then be in favour of having the other one brought in, in order to ensure that there is a sense of more fairness through the appeal mechanism?

Mr. Hague: Yes, I think we would. I think our members, any individual, you know, you do not want to preclude any of their rights, and also fine-tuning any of the—you know, the function of the act is compromised at all. I think it would be better to go to the lower court if that changed anything. I guess if it does not change anything, then it would seem to make sense to go to the

Court of Appeal so that you just go once to court rather than twice.

Mr. Vice-Chairperson: Mr. Fauschou had a question.

Mr. David Fauschou (Portage la Prairie): I was just wanting, while Dr. Hague is at the microphone, the application of the appeal for registration by the technologists, additional and paraprofessionals for registration for their particular qualifications. Does that appeal mechanism hold for them as well as it does for the actual veterinarians that is spelled out within the act?

Mr. Hague: I believe it would. You know, it is a little hazy on the exact specifics coming from that. I do not know if we have had that brought to us before, so it is a little hard to say, but I think it would, yes.

Mr. Fauschou: Because, Dr. Hague, it is very explicit as to the application for registration as a technologist, but it does not make reference to an appeal mechanism either to the peer review committee or to the council for registration. It is not named, and I was wondering whether or not it is implied somewhere within the act that I have not yet found.

Mr. Hague: To be honest, I am not totally sure on that. I would have to go through it again almost with that specific idea in mind to look at it.

Mr. Marcel Laurendeau (St. Norbert): I have one question, Dr. Hague, under exemptions 3.2, I do not see anything for pregnancy testing on cattle that would allow the owner of said animal to use ultrasound. It says specifically medicine, appliance treatment. It does not name ultrasound. Some of the owners now use ultrasound to test during their pregnancy of said animals. Where do we cover that off within the act?

* (1110)

Mr. Chairperson in the Chair

Mr. Hague: I do not know if that specific area is specifically mentioned in the act. There is not

an exemption for the owner to diagnose pregnancy himself under the act.

Mr. Laurendeau: And yet we do have an exemption for him to administer drugs and do other treatments. Do you not feel that we should have something there to give him that ability to do those pregnancy tests, which they have been doing for years now, and why should we impede that service from happening today?

Mr. Hague: I think what is common practice will continue to be common practice. I think in some respects it is in the act because if you open it up too broadly, there is the potential for abuse to the animal by an owner who is unskilled.

Mr. Chairperson: Thank you very much. Are there any other questions? Thank you very much for your presentation, Dr. Hague.

I understand that this brings to conclusion the discussion and the hearing on The Veterinary Medical Act.

Bill 21—The Ophthalmic Dispensers Amendment and Consequential Amendments Act

Mr. Chairperson: We will then revert to The Ophthalmic Dispensers Amendment and Consequential Amendments Act and resume hearings on that one. I understand that we have one presenter, Dr. Scott Mundle. Is Dr. Scott Mundle here? Have you a presentation for distribution? The Clerk will distribute.

An Honourable Member: Which bill is this one now?

Mr. Chairperson: The Ophthalmic Dispensers Amendment Act. Dr. Mundle, you may proceed with your presentation.

Dr. Scott Mundle (Manitoba Association of Optometrists): Mr. Chairman, members of the committee, I am Dr. Mundle. I am the past president of the Manitoba Association of Optometrists. I would like to thank you for the opportunity to speak to this bill this morning.

The principal amendments we note in Bill 21 are intended to establish a name change from

the ophthalmic dispenser to optician—as an aside, they are not eye doctors—and to formalize recognition of the qualifications of opticians and ophthalmic dispensers licensed in other jurisdictions under the interprovincial agreement on labour mobility. While optometry does not oppose these changes, we would like to offer the following comments for consideration in finalizing the wording of the amendments to specific sections named in the bill in that the language used in or continued by these changes is somewhat archaic or raises questions that may be addressed with simple clarification. We limit our comments only to sections which have been specifically noted for amendment, understanding that Bill 21 was not intended as a full review of The Ophthalmic Dispensers Act. Certainly there may be additional amendments required to update the legislation, and we trust that we will be provided with an opportunity to comment when a broader review is undertaken.

We have listed out the sections for reference. If you look at Bill 21, Section 5(b) or the draft act Section 3, reference to opticianry or ophthalmic dispensing as a science is inaccurate. Opticianry or ophthalmic dispensing is a combination of a technical trade, how to measure and fit lenses to a prescription, with sales and marketing skills taught by home study programs in association with some community colleges. There is no science prerequisite, nor is there an affiliation with a science-based program. We would suggest deleting references to science and simply refer to opticianry.

Bill 21, Section 8, draft act Section 13(1)(b)(i) reference to school of opticianry is also inaccurate. There is no school of ophthalmic dispensing or opticianry in Manitoba or indeed in most provinces. Instead, there are home study courses or training programs coordinated by the Ophthalmic Dispensers Association, as in Manitoba, in conjunction with technical training institutes or community colleges. We would suggest deleting reference to school of and simply refer to a two-year course of study in opticianry.

Finally, Bill 21, Section 8, of the draft act, Section 13(1)(b)(ii), does it make sense to leave the nature of alternate training or experience discretionary to the council while being specific

as to the length of time such training or experience must comprise? Should all qualifications for registration not be spelled out by a regulation or by-law under this act rather than being subject to the discretion and variation of a particular council?

We trust that these comments will be helpful to the committee in its consideration of the bill before it and would be pleased to respond to any questions as they arise. Thank you for your time.

Mr. Chairperson: Thank you very much, Dr. Mundle, for your presentation.

Mr. Dave Chomiak (Kildonan): Thank you, as well, Dr. Mundle. In theory or in practice, in reality, you have no objection in terms of the change of wording in the name, et cetera. That meets with your approval. I understand that correctly?

Mr. Mundle: I have no problem specifically with the change to opticianry. My only concern is with respect a little bit in how broad a name does one group have. Specifically to my profession, when I have assistants within my office I am a little bit concerned with possibly some specific wording about what I can call my staff who are not technically licensed as opticians or ophthalmic dispensers. So there is a bit of concern we have with respect to the actual wording because, if you look at the specifics of the act, it refers to some other titles as well. It is almost like they want full mandate over that. But the actual word "optician," no. It is really more accurate as far as what they are commonly called, ophthalmic dispenser, while being hard to say, is a little bit older fashioned.

Mr. Chomiak: Mr. Chairperson, it is not that often that we see amendments or supposed amendments brought forward to a committee of this nature and kind. Did you have an opportunity to review the act prior to the actual drafting of the legislation bringing it forward?

Mr. Mundle: No, we did not. This was a bit of a surprise that it came out. We have had some discussions since this came out. We did have a meeting specifically with the Health minister on this issue. If you look at the current act I

understand that the point of wanting to change the word is a minor issue. I understand the point of the interprovincial agreement. There are bigger issues that need to be addressed that we felt would be addressed at a later date. Specifically, and I am not a lawyer, but specifically when you look at the current wording in The Opticians Act or The Ophthalmic Dispensers Act, they have a lot of power within their by-laws. I personally think it is poorly worded, that they could just simply write a by-law that would cover the interprovincial agreement thing. The opticians thing, while a technical point, is a minor point.

Mr. Chomiak: Mr. Chairperson, I guess we will have an opportunity when we go into clause-by-clause discussion to discuss with the minister the particular reasons for these changes. Perhaps at that time we will have some understanding as to why certain words were chosen and not chosen. Having said that, can you live with this act if the amendments are not entered into as you propose?

Mr. Mundle: Yes, I guess. The biggest point we wanted to point out was that we wanted to be on record that there are some wording concerns that we have with respect to (a) it is technically not accurate, (b) it is archaic.

Hon. Eric Stefanson (Minister of Health): Dr. Mundle, as he indicated, and I have had an opportunity to meet on this and other issues related to optometrists, opticians, and others.

Dr. Mundle, I am sure you are aware of two things. I guess the amendments that you are proposing here today really reflect wording that already exists in the current act. We have indicated that, for a number of reasons, we are looking at further review and further amendments to this legislation and potentially the legislation affecting optometrists, and so on, that there are certainly some important issues to be addressed over the next while. We are working on having a working group address those issues, and so on.

* (1120)

So when we did meet I believe we indicated that these amendments were really to reflect two

things, one, a name change which is consistent with most jurisdictions across Canada today and is much easier for the public to pronounce and to understand, and, secondly, the whole issue of the internal trade agreement, that we are committed to compliance with that agreement and, therefore, there was a degree of urgency to deal with that issue at this point in time. Other than that, other issues can be left to that broader review, which is going to be inclusive, including opticians, optometrists, and others affected.

Mr. Mundle: I guess I was a little bit confused by the beginning of that. You made reference to that, that the wording change is listed in the act. If I am correct, I do not believe the wording change that we have proposed is in the proposed act, with respect to deleting science, with respect to school of opticianry. I do not believe those are in at least my copy of the current bill as it is drafted. Correct me if I am wrong.

Mr. Stefanson: I think my point was the current provision related to both of these amendments that Dr. Mundle referred to. The current provision does refer to extending the science of ophthalmic dispensing under Section 3 and under Section 13. The current provision refers to the study in a school of ophthalmic dispensing recognized. So that is currently in the legislation. I am not saying that, based on a more comprehensive review, there might well be changes affecting this and other changes, but that is to be addressed as part of that comprehensive review.

Mr. Mundle: So are you basically saying you would prefer to leave it as is and we should raise it again at a larger review? I guess, as long as we are on a point having been raised and so that it does not come back that it was not raised, it is kind of an important point.

Mr. Chairperson: Thank you very much, Dr. Mundle, for your presentation. We will then continue on. That, by the way, concludes the presentations, unless there are any others in the audience currently that have not presented who would like to. Are there any others indicating? Seeing none, then we will proceed to the clause-by-clause consideration of the bills. What is the wish of the committee? Do you want to consider the bills as printed, as the order of printing?

Agreed? And then can we also agree that we will do the hearings on blocks of clauses? [agreed]

Bill 20—The Chiropodists Amendment Act

Mr. Chairperson: We have then Bill 20, The Chiropodists Amendment Act. We will set aside the title and the preamble as normally for the disposition of the act. Clauses 1 to 3—pass; title—pass; preamble—pass. Bill be reported.

Bill 21—The Ophthalmic Dispensers Amendment and Consequential Amendments Act

Mr. Chairperson: Bill 21, The Ophthalmic Dispensers Amendment and Consequential Amendments Act. The title and the preamble will be set aside as usual.

Mr. Dave Chomiak (Kildonan): Mr. Chairperson, just for purposes of dealing with the issues that were raised by the presenter, I wonder if we might do clause by clause of this. The point is we want to pursue a line of questioning on this, so whatever is most appropriate to deal with it so we could pursue our line of questioning and deal with the matter expeditiously, that is great with us.

Mr. Chairperson: Clauses 1 and 2—pass; Clause 3.

Mr. Chomiak: Mr. Chairperson, the recommendations by the Association of Optometrists and the reference to science, the minister made mention of the fact that that was already present in the former act. Is it the minister's intention or the minister's thoughts that that issue will be dealt with in a future amendment to the act pending review by a committee that is being set up? Did I understand that correctly?

Hon. Eric Stefanson (Minister of Health): Mr. Chairman, as I indicated, we are going to be looking at this bill in a much more comprehensive fashion having to deal with issues like scope of practice and some other issues. Part of that will certainly be consultation with the various professional bodies, including opticians, optometrists and others.

The member is correct that the current legislation does refer to extending the science of ophthalmic dispensing and maintaining and so on, so that wording and reference is already in the existing legislation but certainly can be an issue that can be addressed as part of that more comprehensive review. As Dr. Mundle indicated, he has had the opportunity to at least flag that issue here today, recognizing that there is going to be a more comprehensive review of this act.

Mr. Chomiak: Mr. Chairperson, just moving on to the other related issues, the school of opticianry reference, can the minister give us a reason as to why we are using the words "school of?"

Mr. Stefanson: Mr. Chairman, again, the existing legislation does refer to the school of ophthalmic dispensing recognized by the council and so on. When we met with the ophthalmic association, they did not raise this issue as a concern in any way, particularly at this point in time, recognizing once again that this entire legislation will have a more comprehensive review.

Mr. Chomiak: Mr. Chairperson, presumably the legislators of this, in their wisdom, previously had chosen to choose the words "school of" and I am trying to get a sense as to why we are being asked to continue the reference to "school of."

Mr. Stefanson: Well, I guess the simple point for the member, Mr. Chairman, is that what is being proposed here today is not the comprehensive review. That is being left for another day. When we got into the discussions with the various organizations, we did focus specifically on the amendments that are before us. The section dealing with school of ophthalmic has two sections. It says that the person has either satisfactorily completed a two-year course of study in a school of ophthalmic dispensing recognized by the council as maintaining a satisfactory standard and one year's practical training or had at least four years satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, duly qualified medical practitioner, or the holder of a certificate of

registration under The Optometry Act. So, again, there are a number of elements to this legislation that will be part of a more comprehensive review of the entire act.

Mr. Chomiak: I am just wondering of the minister how the process will work whereby these particular issues that have been raised at today's hearing will be included in the process of the overall comprehensive view of the legislation. What formal mechanism exists to ensure that those particular issues are dealt with?

* (1130)

Mr. Stefanson: Mr. Chairman, in a couple of ways. First of all, they have been noted here today and noted by myself and our department to be included as part of that review, but probably more importantly, at least one of the meetings that we will be convening will be including basically all of the professional groups affected, the optometrists, the ophthalmic dispensers, the opticians and so on. So they will, again, certainly have an opportunity to raise this issue, along with any others.

Mr. Chairperson: Clause 3—pass; Clauses 4 to 8—pass; Clauses 9 to 12—pass; Clauses 13 to 16—pass; Clauses 17 to 19—pass; title—pass; preamble—pass. Bill be reported.

Bill 23—The Order of Manitoba Act

Mr. Chairperson: The title and preamble will be set aside as normal. Clauses 1 to 3—pass; Clauses 1 to 7—pass; Clause 8(1).

Mr. Dave Chomiak (Kildonan): Mr. Chairperson, I just have a question on this. I note that in Clause 7, there is a privilege attached to this particular—

Mr. Chairperson: Is it the will of the committee to revert to Clause 7? [agreed]

Mr. Chomiak: Thank you, Mr. Chairperson, and I thank the committee for their co-operation. I notice that under Section 7 of the act there is a privilege attached which allows an individual to use the initials O.M. after their name. Is that a new provision with respect to the predecessor, the Order of the Buffalo Hunt, and other

designations? What in fact is both the authority and the precedent in history of a provincial government conferring that kind of a privilege on its citizens?

Hon. Eric Stefanson (Minister of Health): Mr. Chairman, that is a good question. This is a new provision, and it is consistent with what we find both at the federal level and with other provincial orders. I think, as the member probably knows, an officer of the Order of Canada can use the letters "O.C." Other provincial orders have similar provisions, Saskatchewan Order of Merit, S.O.M.; Order of Ontario, O.Ont., and so on. So the provision to be eligible to be nominated to receive this order and to be designated in such a way to use the initials O.M. is very consistent with both federal and provincial orders of a similar nature.

Mr. Chairperson: I am going to just ask a few of the members whether they want their voices recorded. I am having great difficulty hearing Mr. Downey at the far end. If you want to continue your meeting, you might want to just consider moving to the side a wee bit. Thank you, Mr. Laurendeau.

Mr. Chomiak: I am curious as to whether or not, and this has been raised by several individuals in our component of caucus research that deals with these matters, and that is the issue, the designation actually of the initial O.M., (a) has it been searched in terms of whether or not it conflicts with other designations and heralded precedence, the well-reasoned and educated member for Wellington (Ms. Barrett) informs me, as well as other orders and other bodies? In fact I note that the minister mentioned in his previous response the Saskatchewan equivalent is the S.O.M. It may very well be that this might run into conflict with other orders and designations. So I am wondering if a search has been conducted and if that matter has been reviewed.

Mr. Stefanson: There certainly has been an extensive review of the issue that the member for Kildonan raised. He probably is familiar that there is an Order of Merit which is a British decoration. Again, it has been determined that there is no conflict whatsoever with that designation, that both would be appropriate.

Mr. Chomiak: I just go back to the issue that I raised in my initial question with respect to the extending of this sort of privilege for the designation. What is the policy reason behind this particular move? I am not questioning the providing of the Order of Manitoba. It is a continuation of a tradition that had been other orders, but the use of the initials after the name, what is the policy reason behind that?

Mr. Stefanson: I think, for the benefit of the member, when the bill was introduced, he is aware that this bill establishes in legislation an order of comparable intent to the Order of Canada and the six other provincial orders. I referred specifically to the province of Saskatchewan.

The objective of the Order of Manitoba is to recognize, through the establishment of a formal honour, individuals who have demonstrated excellence and achievement in any field of endeavour benefiting in an outstanding manner the social, cultural or economic well-being of Manitoba and its residents. With the establishment of the Order of Manitoba, we are joining these six other provinces who have moved to formalize the recognition that they now give to their citizens. The Order of Manitoba will be in the official list of Canadian honours. So it is for all of those reasons that the designation would be appropriate.

Mr. Chomiak: I am not disputing the minister's comments about the policies; I am referring to the specific use of designating letters after an individual's name. Can the minister outline what precedents exist for the provincial government to do that in other areas? I am aware of the provision of Q.C. titles. Are there any other areas where the province designates a particular privileged, quote, the act, to individuals?

Mr. Stefanson: Other than the one that the member referred to, the Q.C. appointments, I am not aware of any other area where initials are designated, but I will certainly undertake to look into that and provide further information for the member if there are any other designations from the provincial government.

Ms. Becky Barrett (Wellington): A two-part question. Does this replace the Order of the

Buffalo Hunt? If it does not, what is the distinction between the two orders then? Is there a certain criteria or certain actions or events that would be more appropriately the Order of the Buffalo Hunt versus the Order of Manitoba? Can the minister explain how the determination would be made as to which order would be received by an individual?

*(1140)

Mr. Stefanson: The answer to the first part of the question is the Order of the Buffalo Hunt will be maintained, and it will continue to be utilized in areas like honouring individuals from outside of the province of Manitoba for contributions affecting the province of Manitoba, also to honour achievements of individuals and/or teams in areas like sports and other areas where they are more related to events or activities as opposed to the object of this order, which, as I read into the record and is again in Section 3 of this bill, is to recognize individuals who have demonstrated excellence and achievement in any field of endeavour benefiting in an outstanding manner the social, cultural or economic well-being of Manitoba and its residents.

So we will continue with the Order of the Buffalo Hunt, which was established, by the way, back in 1957.

Mr. Kevin Lamoureux (Inkster): I just wanted to make a note actually with this particular order, the independence of signing this order in the sense that you have the Chief Justice of Manitoba, the Clerk of the Executive Council and the president of one of the three universities, which I think is somewhat unique as other provinces have also been adopting their own respective orders and feel that it is something that is warranted, and we very much support the bill.

Mr. Stefanson: I think the member for Inkster has jumped up to Section 12, which I also have an amendment for and which we will be getting to shortly.

Mr. Chomiak: Mr. Chairperson, can the minister indicate whether or not a symbol or a particular designation or pin and process has

been established for individuals who receive the Order of Manitoba?

Mr. Stefanson: Well, Mr. Chairman, again, once the legislation has been passed, and under the regulations, actually Section 17, the Lieutenant Governor in Council may make regulations prescribing the insignia of the order, and that will be a step that will take place after the passing, hopefully, of this legislation.

Mr. Chomiak: Mr. Chairperson, do I understand it correctly that the order will be bestowed by the chancellor of the Order of Manitoba, namely, the Lieutenant Governor?

Mr. Stefanson: Mr. Chairman, that is correct.

Mr. Chairperson: Clause 7 we had dealt with, which we had reverted to, but I consider passed; Clause 8(1)—pass. Clause 8(2). I understand there is an amendment.

Mr. Stefanson: Yes, Mr. Chairman. Clause 8(2) is just a wording correction. If you look at—the member for Kildonan (Mr. Chomiak) probably picked this up.

THAT subsection 8(2) be amended, in the English version of the part preceding clause (a), by striking out "to or" and substituting "or to".

[French version]

Il est proposé d'amender le passage qui précède l'alinéa 8(2)a) de la version anglaise par substitution, à "to or", de "or to".

Motion presented.

Ms. Barrett: Question.

Mr. Chairperson: Question.

Ms. Barrett: Not on the amendment but on the section. Is that appropriate to ask at this time?

Mr. Chairperson: Well, then I would think it would be appropriate to pass the amendment and then deal with the debate on the motion.

Amendment—pass.

Ms. Barrett: Hypothetically, an individual is eligible to receive the Order of Manitoba under Section 8(2) because they are not ineligible, and say they get appointed to the Senate. [interjection]

Well, historically, yes, there is precedence in Manitoba for a person who would have been ineligible under Section 8(2) because that person was a member of the Legislative Assembly, then that person was no longer a member of the Legislative Assembly and then could have been, theoretically, eligible for the Order of Manitoba and then subsequent to that was appointed to the Senate.

Would the person who received the Order of Manitoba in that interim period then be stripped of—if I may use that language—their Order of Manitoba because they were now a senator?

Mr. Stefanson: I guess, again, the short answer is they would not be automatically stripped—if that is the correct word—of the designation. But under Section 13(1) under the duties of the council, the council shall meet at least once in each year for the purpose set out in Section 10, but more importantly, for the purpose of discussing any matters related to the technical aspects of the order that the council considers necessary. That might well be an issue that could fall under that category.

Mr. Chairperson: Item 8(2) as amended—pass; 8(3) to 11—pass. I understand there is an amendment to 12(1).

Mr. Stefanson: Mr. Chairman, I move

THAT section 12 of the bill be amended, in subclause (1)(a)(i), by adding "or, where he or she is unable to serve on the council for any reason, the Chief Justice of the Court of Queen's Bench" after "Chief Justice of Manitoba".

[French version]

Il est proposé que le sous-alinéa 12(1)a)(i) du projet de loi soit amendé par adjonction, après "juge en chef du Manitoba", de "ou, en cas d'empêchement de sa part, le juge en chef de la Cour du Banc de la Reine".

* (1150)

So, basically, it allows some flexibility if for some reason the Chief Justice of Manitoba was unable to serve or we were in a period where there was no Chief Justice officially appointed, that the Chief Justice of the Court of Queen's Bench would act as an alternative in that situation.

Mr. Chairperson: Amendment—pass. Shall Clause 12(1) as amended pass?

Mr. Chomiak: Mr. Chairperson, if I understand this correctly, at maximum, the advisory council will consist of seven members of whom effectively, directly, five are appointed by the provincial government by Order-in-Council. Is that correct?

Mr. Stefanson: Mr. Chairman, I believe the number is four, if you look at Section 12(1). Three members are designated by positions, and then not more than four members are appointed by the Lieutenant Governor in Council, one of whom shall be designated as the chairperson of the council.

Mr. Chomiak: I guess the point I was making is that the committee member under 12(1)(a)(ii) of the Clerk of the Executive Council is, in fact, an appointment by Order-in-Council—I stand to be corrected—by the provincial government.

Mr. Stefanson: Mr. Chairman, those three designations under 12(1)(a) are by order of office, but I believe the position of the Clerk of the Executive Council itself is an O/C appointment.

Mr. Chomiak: Mr. Chairperson, so the minister agrees that of the seven potential members on the committee, five are directly appointed by the provincial government.

Mr. Stefanson: I would not describe it that way. I have just indicated how the Clerk of the Executive Council is appointed as an O/C appointment by the government of the day, and the other four. So it is by position, but that position is filled by an O/C appointment. Then the four members at large are appointed by the Lieutenant Governor in Council. So there are four directly appointed, and I guess one could

suggest that the fifth one is appointed in an indirect way through an Order-in-Council.

Mr. Chairperson: Item 12(1) as amended—pass; 12(2) to 13(2)—pass.

I understand we have an amendment for 14(1).

Mr. Stefanson: Mr. Chairman, I move

THAT subsection 14(1) be struck out and the following substituted:

Secretary of council

14(1) The Lieutenant Governor in Council may appoint the Director of Protocol of the government or another employee of the government to be the secretary of the council.

[French version]

Il est proposé de remplacer le paragraphe 14(1) du projet de loi par ce qui suit:

Secrétaire du Conseil

14(1) *Le lieutenant-gouverneur en conseil peut nommer le directeur du protocole du gouvernement ou un autre employé du gouvernement à titre de secrétaire du Conseil.*

Mr. Chairperson: Shall the item pass?

Mr. Chomiak: Mr. Chairperson, I wonder if the minister might outline for me the policy reasons behind this particular change.

Mr. Stefanson: The thinking here is that the director of protocol would most likely be involved in the investitures process anyway, and this allows a latitude of appointing the director or, of course, another employee as a secretary in keeping with the role of that position and many other areas related to these types of functions.

Mr. Chairperson: Amendment—pass; 14(2) as amended—pass. Shall 14 (2) to (19) pass?

Ms. Barrett: I have a question on Section 15(2), termination of membership in the order, and I am just carrying this through to its logical conclusion. The minister has said, has clarified in an earlier answer that in effect, directly or

indirectly, five of the seven members of the council are Order-in-Council appointments. So, theoretically only, Section 15(2) allows that council, without any reference to reasons given or needs for reasons being made public, can in effect strip an Order of Manitoba from an individual. Is that, in reality, theoretically what could happen? [interjection]

Mr. Chairperson: For those sitting and listening, you can now see that there is a bit of humour around this place once in a while. We are not all serious.

Mr. Stefanson: The member is correct, when you read Section 15(2), that the Chancellor may terminate a person's membership in the Order on the recommendation of the council. I am certain that is something that the council would not do lightly, would take very seriously. If it were done, it would most likely become a public issue and would have therefore justification and reasons attached as to why it was happening, Mr. Chairman.

Mr. Chairperson: Clauses 14(2) to (19)—pass; title—pass; preamble—pass. Bill as amended be reported.

**Bill 28—The Legislative Assembly
Amendment Act (2)**

Mr. Chairperson: The title and the preamble will be set aside. Clause 1 to Clause 3—pass; title—pass; preamble—pass. Bill be reported.

Bill 30—The Veterinary Medical Act

Mr. Chairperson: The title and preamble and the table of contents shall be set aside until disposition of clauses.

Items 1 to 63—pass; title—pass; preamble—pass; table of contents—pass. Bill be reported.

Thank you very kindly. That concludes the hearings. The time is 12. Committee rise.

COMMITTEE ROSE AT: 12 p.m.