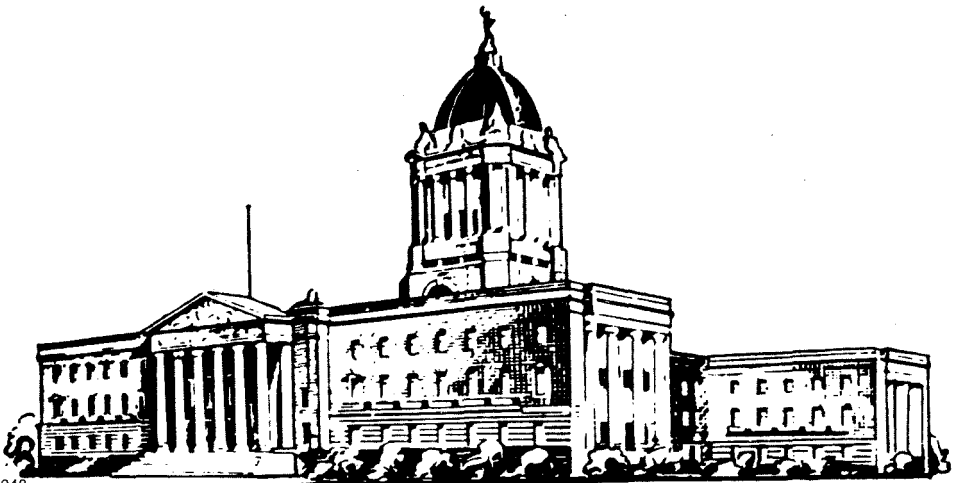




Fifth Session — Thirty-First Legislature
of the
Legislative Assembly of Manitoba
STANDING COMMITTEE
ON
STATUTORY REGULATIONS
AND ORDERS

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Speaker*



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THURSDAY, 21 MAY, 1981, 3:45 p.m.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

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WESTBURY, June	Fort Rouge	Lib
WILSON, Robert G.	Wolseley	Ind

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Thursday, 21 May, 1981

Time — 3:45 p.m.

CHAIRMAN — Mr. Warren Steen (Crescentwood)

MR. CHAIRMAN: Members of the Committee can we come to order and Mr. Kovants can put his Non-smokers Bill forward, after we deal with the ones that are before us. We broke off at 12:30 today. We were at page 5, 12(1) and 12(2). If my memory serves me correct Mr. Cherniack was talking about a proposed amendment and Mr. Chairman had said he would reject such an amendment and I do not have an amendment in front of me.

Mr. Walding.

MR. D. JAMES WALDING (St. Vital): We do expect Mr. Cherniack momentarily. I wonder if we might pause until he comes in.

MR. CHAIRMAN: A question from the Chair to Mr. Walding. Do you know whether he's proposing an amendment on that 12(1) or 12(2) or you're not sure.

MR. WALDING: I think we were awaiting a response from the Minister, Mr. Chairman, which was the final thing done before we broke.

MR. CHAIRMAN: Members of the Committee, maybe we can get on with the bill. I want it to be noted to Mr. Cherniack that we waited for him at the request of Mr. Walding, of course.

When we broke at 12:30 we were discussing 12(1) and 12(2) and I'm not sure Mr. Cherniack whether you were going to propose an amendment to this or not. Mr. Walding leads me to believe that you are waiting for a response from Mr. Sherman who said, I believe at 12:30 that he would not support such an amendment if you were to propose one.

MR. SAUL CHERNIAK (St. Johns): Mr. Chairman, I'm still looking for my file. When I find it I will be saying that I thought Mr. Sherman was going to think about it and let us know what his thinking is.

MR. CHAIRMAN: Mr. Sherman.

HON. L.R. (Bud) SHERMAN (Fort Garry): Mr. Chairman, I have looked at 12(1) and 12(2) very carefully in the last three-and-one-half hours, since Committee rose and my position on it is unchanged. I think the arguments advanced by Opposition members of the Committee certainly are done so sincerely and with the best of intentions and I understand their concerns, however, I don't share those concerns and I don't feel that the concerns are valid.

I don't believe that subsections 9(2), 55(1) and 57(1) speak specifically to the consideration to which 12(1) and 12(2) speak. I do believe that it's necessary for the authoritative body in the profession of medicine to have the weaponry necessary to act in

conditions of danger and do so quickly and expeditiously but, more importantly, I think that 12(2) provides the saving consideration which should successfully resolve and allay the concerns of those members who have spoken against these two clauses.

12(2) is really the key in this part of the bill; 12(2) provides that where such an action has been taken against a practitioner seeking registration; where the practitioner in question feels unfairly treated; he or she certainly has recourse of appeal. I believe that the phrase I referred to in lines 2 and 3 of 12(2) "in the opinion of the council" should be removed and I propose to do that when we come to 12(2) and in that context I believe 12(2) provides the necessary saving factor and the necessary saving assurance that will remove the possibility of unfair treatment to which Opposition members have referred.

And 12(1) I resubmit is necessary, in my view, to give the profession the authority it needs to act quickly in the interests of public health and safety, so I propose that this part of the bill remain as is, Mr. Chairman. That doesn't preclude anyone, Mr. Cherniack or anyone else, proposing an amendment obviously but the question was whether I'd be prepared to have those subsections removed from the proposed bill and I'm not prepared to do so, Mr. Chairman.

MR. CHERNIAK: Mr. Chairman, well let me just say this as concisely as I can. Dr. Morison confirmed that since 1971 they've never used section 12. He confirmed that section 51 is new and that it would take care of emergency situations if followed by 55(1). I think it's a wrong principle to give to the College the opportunity to erase the registration of a person without any enquiry, either before or after the erasure, that it makes it necessary for that person to appeal what can be an arbitrary decision and will not be revealed as arbitrary until the appeal is dealt with. Therefore, I think it's unnecessary, unfair, too great a power to be given to a private body which meets in camera, and I'm not critical of the fact that they do. And, since it's unnecessary, I would point out in addition that 12(2) is not the protection Mr. Sherman says it is because there is nothing there that prohibits them from doing what they want to do. All there is is to make the appeal body aware of 12(2) so the appeal body will look at it from that standpoint. But a person can still be prevented from practising medicine, prevented from offering his services to his patients for the period of time from the time of the decision by the council until the appeal is heard which may well be a matter of months. It's unfair and unnecessary.

Now, Mr. Chairman, I'm sorry Mr. Balkaran isn't here. Mr. Green said that he would want to bring in an amendment. If he doesn't I was going to ask Mr. Balkaran to prepare one just eliminating Section 12 and I guess I'll do it when I see him next.

MR. CHAIRMAN: For clarification, Mr. Cherniack, do you move the motion that we do away with 12?

MR. CHERNIACK: No, when you call 12 I'm going to vote against it and that will be recorded. But, first, Mr. Sherman wants to delete something on 12(2) for which I'm going to vote. So, we're dealing with subsections.

MR. CHAIRMAN: We'll deal with 12(1) — pass?

MR. CHERNIACK: If 12(1) is defeated, then 12(2) would be automatically out, so may I suggest that we deal with 12(2).

MR. CHAIRMAN: And then vote on both together.

MR. CHERNIACK: And then vote on 12?

MR. CHAIRMAN: 12 as a whole. All right that's fine with me. Mr. Sherman have you comments on 12(2)?

MR. SHERMAN: Yes, Mr. Chairman. I'm proposing, I don't have a written amendment. I don't think it's necessary but I'll write it out if it is deemed necessary.

I propose THAT subsection 12(2) of Bill 17 be amended by deleting all the words between the word "that" in the 2nd line thereof and the word "either" in the 3rd line thereof.

MR. CHAIRMAN: "In the opinion of the council" are the exact words that are being deleted? Is that correct?

MR. SHERMAN: Right.

MR. CHAIRMAN: Is that clear to every member of committee? Can we vote on 12, as amended by Mr. Sherman? —(Interjection)— Can we vote on the amendment, first, you're correct.

All in favour of Mr. Sherman's amendment, please indicate. Agreed by all.

Clause 12 as amended — pass;

MR. CHERNIACK: Could you record the vote?

A COUNTED VOTE was taken, the results being as follows:

Yeas 5, Nays 3.

MR. CHAIRMAN: Clause 12 as amended is carried; (Clauses 13 to 18 were each read and passed.) Clause 19, Regulations — Mr. Kovnats.

MR. ABE KOVNATS (Radisson): Mr. Chairman, I move THAT Clause 19(d) of Bill 17 be struck out.

MR. CHAIRMAN: You have heard the amendment. All in favour? Mr. Sherman.

MR. SHERMAN: Yes, Mr. Chairman, the original Clause 19(d) provided for the conferring of honorary memberships in the College. That aspect of the College's operation is covered in Clause 6(2) and it was redundant here, Sir, so it can be eliminated for housekeeping purposes.

MR. CHAIRMAN: Are you ready for the question? Mr. Cherniack.

MR. CHERNIACK: I wonder if we can get some understanding of why they need that and whom they would put on it. Will it be limited to medical people or will it be lay people who become honorary members of the College. I mention that because the College is a licensing regulatory body and I would have thought that the recognition of people who have made contributions to the profession of medicine could be recognized through the MMA; why through a licensing body?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, the entitlement is sought in order that the College can honour lay members in respect to services that have been rendered to the College over a period of time.

MR. CHAIRMAN: Mr. Cherniack any further comments? Are we ready for Mr. Kovnats amendment? All in favour? (Agreed) Clause 19 as amended — pass — Mr. Cherniack.

MR. CHERNIACK: No, Mr. Chairman, Mr. Balkaran has an amendment.

MR. CHAIRMAN: We have sent for him.

MR. CHERNIACK: Well he may be tired you know, it may take him longer to move.

MR. CHAIRMAN: Oh, he went home early last night, you remember. Mr. Tallin stayed late. That's the only reason we couldn't go on to the medical bill last night. We had dismissed counsel.

Mr. Sherman.

MR. SHERMAN: There's been an agreement, Mr. Chairman, that 19 requires an additional clause, an additional amendment, and it's just a matter of wording that's acceptable to the committee. Mr. Balkaran is supposed to be en route with that. I propose we hold 19 over and move on.

MR. CHAIRMAN: All right. We're going to lay 19 over until Counsel is with us and caught up-to-date. 20 — pass?

MR. CHERNIACK: Why the word "full" — full costs of suit?

MR. CHAIRMAN: In the 3rd line . . .

MR. CHERNIACK: Yes, you know you wonder why you need it at all if you can sue and recover in court, normally they get costs — maybe it's more for Mr. Scott . . .

MR. SHERMAN: The section is equivalent to section 30 of the present Act, Mr. Chairman. It has been changed to reflect the current licence, as opposed to registered and in good standing, but the terminology of full costs is not changed; it's the same as appears in section 30 of the present Act, however, there is no objection from this side of the Committee to deleting the word "full".

MR. CHERNIACK: That's fine; that would clarify it for me but I'm wondering why it has to mention

costs at all. "To demand and recover in any court of law in the province reasonable charges for professional aid, advice or services rendered". The costs I believe would follow according to the discretion of the court and normally does go. I'm wondering if we could ask Mr. Scott for an explanation of the need for it.

MR. SHERMAN: I don't have an opinion on that, Mr. Chairman. Perhaps Mr. Scott could advise us with an opinion?

MR. CHAIRMAN: Mr. Scott would you like to come to the lectern and give us an opinion please?

MR. J. A. SCOTT: As the Minister indicated the section has been there in its present wording I think for a long time, that doesn't make it necessarily right. It was put there years ago, I believe, when it was thought necessary to enable a professional person to sue for his bill and, at that time, obviously the intention was to fully spell out what could be included in the suit. I think Mr. Cherniack is probably right, that the reference to costs is surplus but I'd hate to be bound by a quick off-the-cuff opinion and in my view, it certainly does no harm to spell out that the physician, in the unlikely event that he's required to maintain a court action for his services, is also entitled to costs in accordance with the normal court provisions.

MR. CHERNIACK: I might explain to Mr. Scott and now that Mr. Tallin is here to him, my concern that if we say so here and we don't say so in regard to the corner grocer, that it implies to me that the medical practitioner has some sort of greater right than any other creditor. That's what bothers me about it and since I think it's unnecessary and redundant, but what I fear is that it has more in it than I can see, I'd rather see it out.

MR. SCOTT: Well, there was certainly no intention that there would be more in it than appears on the surface which is that the position is in the same position as any other citizen to sue for the full value of his services and to be awarded costs in the event that the court sees fit to do so, in the ordinary way. That's the only intent.

MR. CHERNIACK: Mr. Chairman, I would defer to Mr. Tallin who loves to polish legislation and is an expert at it. If he thinks it's advisable then I would leave it in; if he thinks it's not necessary, I would move its deletion.

MR. RAE E. TALLIN: My concern would be that in a situation of this kind, where normally the statutes say the courts will award costs without any adjective, the courts might very well say the full costs there means solicitor and client costs as opposed to party and party costs.

MR. CHERNIACK: Mr. Sherman has already agreed to delete the word "full", so that would take care of that concern. But, now I'm asking Mr. Tallin just from the standpoint of draftsmanship whether it's advisable to leave in "with costs of suit" where I believe it doesn't appear in other statutes which give creditors right to sue and, for the sake of good

draftsmanship, I'm wondering whether we shouldn't delete the entire "with costs of suit". As I say, I won't debate it whatever he says is what I would like to do.

MR. TALLIN: If I were drafting it without anybody else telling me that they wanted it in for some particular reason I would leave it out.

MR. CHERNIACK: Mr. Chairman, I don't know if Mr. Sherman has moved the deletion of "full". I guess we should we deal with that first and then I will move the balance unless Mr. Sherman agrees with me.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: I don't want to have any difficulty with that decision, Mr. Chairman. The clause will obviously have to be completely reworded because it has to make grammatical sense obviously. But I don't have any difficulty with the suggestion that Legal Counsel has offered an opinion on.

MR. CHERNIACK: Mr. Chairman, I thought my grammar was fairly good; I don't see anything wrong with it with deleting the "with full costs of suit". To demand and recover in any court of law reasonable charges for professional aid, advice or services rendered. I don't see a problem but I would again defer to Mr. Tallin, suggesting that we delete that phrase.

MR. TALLIN: I would think all that would be necessary would be to delete the words "then it recovers reasonable charges with full costs of suit".

MR. SHERMAN: And leave everything else.

MR. TALLIN: Yes.

MR. SHERMAN: Then that does make grammatical sense, I agree.

MR. CHAIRMAN: Mr. Cherniack has moved that. All agreed? (Agreed) 20 as amended — pass. I think, Mr. Tallin, where the problem is that Mr. Kovnats did move an amendment to 19 and then we were of the opinion that Mr. Balkaran had a further one. Am I correct?

MR. CHERNIACK: Yes, an add on or replacement.

MR. CHAIRMAN: An add on.

MR. CHERNIACK: May I just introduce it again. It's designed to give to the Council, with approval of the Lieutenant-Governor, the right to add to the section 2(2) any other vocations, if that's the word, that may be exempted from 2(1), and the words that Mr. Balkaran prepared are, a new 19(d) which reads: for the purpose of subsection 2(2) exempting certain persons who treat or administer any treatment to any other persons, for certain ailments or injuries, which is broad — and I would move that.

MR. SHERMAN: No, Mr. Chairman, my negative was to Mr. Cherniack that I don't need to see it; I understand it and that's acceptable. Otherwise we would have to be making changes to the Statute Law

Amendments every time there was additional professional status conferred on any other group; this leaves it flexible.

MR. CHERNIACK: Mr. Chairman, I had a discussion with Dr. Ewart about (c) and that is the fact that the College states that they are not prepared to implement compulsory continuing medical education and want this to sort of be available should they later decide to do so. I have doubts about that, because their again asking for very strong powers and they themselves are not yet convinced that they are advisable to carry out. It seems to me that if I were going to be a member of the Legislature in a couple of years, which I'm not, I would like to feel that I had an opportunity to discuss with them at that time, whether these powers were excessive or advisable. I think they are very strong powers and I would recommend that they should not have the power, since they don't know themselves if they ought to use that power. I wonder if I make myself clear and whether this isn't sufficiently important to require a statute law amendment at the right time when they know where they're at.

I don't know what Dr. Ewart's reaction was to it; I think he agreed that they were only planning to make it voluntary. I say, Mr. Chairman, that the note in their brief reads "the initial voluntary period will not end until December 31, 1982 and therefore regulation would not be sought until after that date and could not go into effect until a two year period commencing January 1, 1984."

MR. SHERMAN: Mr. Chairman, I would ask Mr. Cherniack whether he doesn't think sufficient protection is vested in the Lieutenant-Governor-in-Council in this case?

MR. CHERNIACK: Mr. Chairman, I'll answer that. I've been a member of the Lieutenant-Governor-in-Council for probably longer than the Minister of Health and I would say, I worry about Orders-in-Council dealing with lengthy regulations; I do worry about them, because I think the Minister is usually briefed on it. I shouldn't be even speaking about what goes on in those councils of which I was a member, but my impression is that it goes through rather quickly once the Minister recommends it and sometimes even the Minister may not have the full implications of it.

Nevertheless, I have to agree with him that if it is not in the initial regulation, then any change would necessarily flag it as being of some importance, and if I could understand with Mr. Sherman that it won't be in the initial then I would withdraw my objection.

MR. SHERMAN: Mr. Chairman, I think I can give the Honourable Member for St. Johns the assurance that — at least I think I can give him reasonable assurance that no Minister of Health would make a superficial response to a request for compulsory continuing medical education.

I would agree with what the Member for St. Johns says about regulations sometimes not perhaps receiving as much careful scrutiny by Lieutenant-Governor-in-Council as one would desire because of the volume of work with which the Member for St. Johns is familiar and the fact that many members of Council are preoccupied with their own areas of

responsibility and are not fully conversant with some of the intricacies of the other departments. But I can assure him that continuing medical education being the issue of contention, controversy and debate that it is, that I don't think whether he or I or any member around this table or any of our successors or our colleagues were made Minister of Health tomorrow that the College or anybody else would get a regulation on continuing medical education through that Minister very easily.

MR. CHAIRMAN: The Chair is going to need some assistance now. We had an amendment on 19 from Mr. Kovnats and that's agreed, passed. Now we have one from you, Mr. Cherniack — correct? — which is the one that Mr. Balkaran had discussed this morning. We haven't voted on it. I'm not familiar with exactly what it is. Do you have it in front of you?

MR. CHERNIACK: I guess Mr. Tallin has it.

MR. CHAIRMAN: Mr. Tallin may still be working on it.

MR. TALLIN: Dr. Morison also gave me a draft of what he thought might be suitable and I tried to combine them both because I think really it has to do more than either of them. They may make regulations with respect to the following matters and the new clause (d) would read as follows: "providing that the exception under subsection 2(2) applies to an occupation involving the treatment of certain ailments or injuries".

MR. CHERNIACK: The first word provided or providing?

MR. TALLIN: Providing.

MR. CHERNIACK: Providing.

MR. TALLIN: Can I make regulations with respect to the following matters?

MR. CHAIRMAN: Agreed. (Agreed) All agreed with the motion — carried. 19 as amended — pass. We've done 20, now 21
Mr. Walding.

MR. WALDING: Mr. Chairman, now that we have reached the end of that section I wonder if I might raise a rather general question following up what I understood is a new concept. I believe it was Dr. Ewart that explained it to the Committee having to do with the fact that a system of annual licences was being introduced as well as the actual registration of the member involved. I'm not sure that I understand the concept of why it is being done or what effect it will have to be. Is this a case of a dual licencing? Is there any point in a duplication where you would need both of them in order for a doctor to practise? I'm not sure who can answer the question, whether I should direct it to the Minister or . . .

MR. CHAIRMAN: Mr. Sherman would you like to have Dr. Ewart come and respond to that?

MR. SHERMAN: I probably would, Mr. Chairman, but just let me have 15 seconds here to look at my own notes.

Mr. Chairman, the thinking in respect to the question raised by the Honourable Member for St. Vital is as follows: It makes reference to the fact that the present Act refers to registration and annual dues and that most doctors think of the annual dues as a current licence and this is a common usage. The new Act provides for registration which indicates that the person is entitled to take out an annual licence if they wish to practise medicine. In cases of suspension only the licence is suspended. Membership would only be revoked as a decision of a formal inquiry indicating the person has committed an offence so serious that they should not continue to be registered as a member. If that doesn't answer Mr. Walding's question, Mr. Chairman, I would like to call on Dr. Ewart or Dr. Morison to respond.

MR. CHAIRMAN: Mr. Walding, is that sufficient answer for you?

MR. WALDING: Mr. Chairman, I understand what is being said and I understand that is, as Mr. Sherman says, a common concept in I believe most professional bodies. I'm wondering why it is necessary, what the practical effect of it will be if any.

MR. SHERMAN: Could I ask the Committee's indulgence in having Dr. Morison address that question?

MR. CHAIRMAN: Is it agreed by the Committee? Agreed.

Dr. Morison please.

DR. J. MORISON: Mr. Chairman, and members. I don't think it has any real significant difference at all, it removes a confusion. If you've talked to any doctor he talks about his current licence, and he really is talking about a current receipt for paying his annual dues. Many other occupations issue a licence, many of the other colleges across Canada issue a licence to practise to their members. A member, under this Act, will be a member for life unless there's a disciplinary action to revoke that licence. If he is suspended from practice we would only suspend his licence, he would still be a member of the College if there was cause to suspend. So that it makes the suspension just as effective in that he can't earn a living while he's suspended but we would only suspend the licence; he would still be a member of the College. If he didn't wish to practise he'd still be a member of the College and that's what happens now; it just clears up the terminology.

MR. WALDING: The way that it works now, if a doctor neglects or fails or doesn't want to renew or to pay his next year's dues, to call it that, would he then have his name removed from the register as being then a non-eligible doctor?

DR. MORISON: If present Act says that if he in no way practises he doesn't have to pay dues. But the Act also says that if he is suspended he ceases to be, during that period of suspension, to be a member of the College. This came up as a court case and one man who we charged tried to argue that because he was suspended the Act said he was no longer a member of the College and we had no

jurisdiction. So it would clear up that issue. If we suspend them pending inquiry we don't lose our jurisdiction.

MR. WALDING: Thank you, Mr. Chairman. I think that answers the question.

MR. CHAIRMAN: 21 under Educational Registrar. 21 — pass; 22 — pass; 23 — pass; 24 — pass; 25 — pass; 26(1) — pass; 26(2) — pass; 26(3).

Mr. Cherniack.

MR. CHERNIACK: 26(3), I was just looking at my note. In special circumstances of which it shall be the sole judge, council may direct the registrar. I believe that an appeal is provided under 64(1). I'd like Mr. Tallin to tell me if I'm right and, if so, whether a court would say well, the council was the sole judge so the appeal fails. Should it say of which it shall be the sole judge. Why don't they say "in special circumstances council may direct the registrar".

I think the appeal under 64(1) is (f) a refusal to enrol a member in the special register. On the other hand, what about their enrolling a person in the special register who is not a fellow and have some other doctor say, here you're giving some special treatment to this man who doesn't really have the proper qualifications.

MR. TALLIN: I would think that the appeal provided under 64(1) would be almost meaningless in that situation.

MR. CHERNIACK: That's what I thought.

MR. TALLIN: Where discretion is expressed that way I would think the court would not interfere with the exercise of it.

MR. CHERNIACK: That what I thought, Mr. Chairman, and as Mr. Tallin says 64(1)(f) I think is meaningless if we leave in the provision for it being the sole judge. I'd like to know whether it would be damaging the public good if that phrase were removed.

MR. SHERMAN: It would not be damaging to the public good, Mr. Chairman, we're prepared to remove it.

MR. CHAIRMAN: Mr. Cherniack move it, please.

MR. CHERNIACK: I move THAT we delete from the first line of Section 26(3) the words "of which it shall be the sole judge,".

MR. CHAIRMAN: Are you ready for the question? All in favour of Mr. Cherniack's amendment? (Agreed) 26(3) as amended — pass; 26(4) — pass; 27 — pass; 28.

Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it occurs to me . . .

MR. CHAIRMAN: On 28?

MR. CHERNIACK: Yes, 28. Without studying too carefully (e) purchase and enjoy any land tenement,

etc. I'm really not up-to-date on my corporate law but, as I recall it, many corporations are given powers such as these in accordance with the objectives of the organization which may not be speculation in real estate or anything that I read as being a power granted to them. I'm wondering whether we oughtn't to somehow limit their powers to be in line with the objectives. Now, unfortunately, and I think it's a deficiency, I don't think there is a purpose set out as to what this Act is for; why it is there. So, I'm asking both Mr. Tallin as to the advisability of limiting these powers to be in accordance with the objectives of the Act and I would ask the Minister or the College representatives whether it would be in some way harmful to the public good or to them to limit it in that way?

MR. TALLIN: Who do you wish to ask first?

MR. CHAIRMAN: Mr. Sherman, I'll go with you first.

MR. SHERMAN: Mr. Chairman, this doesn't specifically speak to Mr. Cherniack's question but the section is identical, with one exception, to Section 7 of the present Act so it's simply been a transposal of usage and of established wording. The one change has to do with the establishment and maintaining a professional standards of medical practice which comes out of this section now and appears in 36(1); but otherwise we're proceeding with an entitlement of authority that is verbatim, word for word, with the existing legislation.

MR. CHAIRMAN: Mr. Cherniack, do you wish to?

MR. CHERNIACK: Well, Mr. Sherman is right; it didn't answer the question I posed.

MR. TALLIN: As I understand it you're asking me whether or not the section as it is now expands ours.

MR. CHERNIACK: Yes, and my suggestion would have been.

MR. TALLIN: I think under the new Corporations Act any corporation, including corporations established by a special Act, have all the powers and capacity of a natural person and therefore without (e) at all the College would be able to purchase, acquire or take hold possess or enjoy lands and personal property. So, just as it stands by itself I don't think it grants it any particular power but if you put any limiting powers in then that would limit that power and I don't think any problem arises, if you added, for the purposes of the College.

MR. CHERNIACK: This is a non-profit corporation; it's not designed to earn money and, therefore, I don't think it should be allowed to use (e) as to ownership of property; or (g) as to investments in stocks and bonds, unless it is for the purposes of a corporation which is non-profit and I thought to add the words in the third line of 28, "it may do any one or more of the following things providing same are in accordance with the objectives of this Act". Because I don't think they should be allowed to go out and speculate or do these specific things, (e) and (g).

MR. SHERMAN: Mr. Chairman, I would have to ask legal counsel of the College whether the College

foresees any difficulty with that suggestion or whether they have an argument and a case for the wording as is?

MR. CHAIRMAN: Do we have permission from the Committee to call on Mr. Scott? Agreed. Mr. Scott.

MR. SCOTT: Well, I agree obviously with Mr. Tallin's comments on (e). It is, in a sense, redundant. For a number of years the College did own its own lands and premises prior to becoming a co-tenant with the Law Society in Lakeview Square and I think the kind of thing that (e) contemplates, for example, in British Columbia at the present time I'm advised that the College is slowly buying up a series of houses or properties adjacent to where it's presently located with a view that some day, within the near future, they will construct new premises for the College there. So, (e) was intended to make it very clear that the College had that right.

As far as (g) is concerned, of course the College is a non-profit organization but at any given time it has funds on hand; an obvious example being immediately after the beginning of the year when the membership dues have been paid and those are ordinarily invested, obviously so they can earn the best return under the circumstances for the purposes of the College. So, the purposes of Sections 28(e) and (g) are not to enable the College to go into competition with a financial institution but to do the best job it can for its own future and with the funds that are on hand at any given time.

MR. CHERNIACK: Mr. Chairman, Mr. Scott describes exactly what I believe are the purposes of these subsections but I would think that if in B.C. or in Winnipeg the College decides to build another Lakeview Square Building of some 20 stories and only occupy one-half story, then I think they're in the investment business. I don't think they ought to be and I don't think they ought to be permitted to be.

So, my question Mr. Scott is, can you think of some limiting words that say, for the purposes of the College. You know, purchase, acquire for the purposes of the College or for the purposes of the operation of the College, something like that, in both cases. I fully agree they should have the power but not to become entrepreneurs.

MR. SCOTT: I wonder if I might speak with Dr. Morison for a moment. Mr. Cherniack, I think that phraseology such as "for the purposes of the College" would apply to each and every subsection under Section 28 and we would happily support an amendment to add those words after the words "things" in the preamble.

MR. CHERNIACK: Do I understand, Mr. Chairman, that the College would be quite satisfied to add the words at the end of things, the words being "for the purposes of the College". Is that sufficient? So move. At the end of the third line of 28.

MR. CHAIRMAN: Everyone aware of Mr. Cherniack's amendment? Mr. Sherman.

MR. SHERMAN: That's acceptable, Mr. Chairman.

MR. CHAIRMAN: All in favour — pass. Mr. Walding.

MR. WALDING: Mr. Chairman, just a question on 28(a) which I read to mean that the College can set up trust funds, pensions, pension benefits for its employees and their dependents and relatives for its employees, which would seem to be quite proper. But it also says "to members". I would question the propriety of the College making those sorts of funds and pensions available to members. I would suggest they would be more suitable for a benevolent society or beneficial society such as the Manitoba Medical Association, which is set up for the benefit of its members. As a licensing body I would question insurance and pension benefits for members of the college. I wonder if there is any response from the Minister or the college on that matter.

MR. SHERMAN: My only response, Mr. Chairman, is that I don't agree. I don't have the difficulty with it that Mr. Walding does. I see no reason why the college should not be entitled to establish such benefits and provisions for its members or its employees, I prefer the subclause the way it's written.

MR. CHERNIACK: If I may make just one suggestion. Would you at least agree that it should be a voluntary plan because this college has power, it could determine that there shall be one, since the more they have the lower the premium? But that may not satisfy Mr. Walding's objection.

MR. SHERMAN: Mr. Chairman, I don't know why the provision for voluntarism is needed. The legislation is permissive legislation and presumably the decision or intention to take any such action would be dealt with by the council representing the various constituencies, electoral districts of the college and the constituents in those electoral districts. I just don't see it as a threat to anyone's rights.

MR. CHERNIACK: Does Mr. Sherman concede that it is permissive, but could not this section be interpreted that the college shall have the power to establish and require the membership to belong to it to add on to their dues?

MR. SHERMAN: Mr. Chairman, I would have to answer the question with another question. Do Mr. Cherniack and Mr. Walding have evidence that in the past that either this wording in the existing legislation or wording of this kind in any legislation with which they're familiar has created that problem? I appreciate they are looking to the future and there are always unanticipated events in the future, but I would be interested in knowing if they consider that it has been a problem in the existing legislation? Mr. Cherniack would be interested in knowing . . . ?

MR. CHERNIACK: . . . if the college now has such plans.

MR. SHERMAN: Well, Mr. Chairman, may we ask the college?

MR. CHAIRMAN: Agreed? Dr. Morison.

DR. J.B. MORISON: My own pension benefits are covered by this; I wouldn't like to see that go. There

is nothing to benefit members generally. There at one time was a benevolent fund but this was transferred to the medical association as a more appropriate place to hold it. That's all I can say. I don't think we intend to develop a general plan for members; the medical association has got group benefit plans, retirement plans and so on.

MR. CHERNIACK: Mr. Chairman, doesn't that support Mr. Walding's question. I think Mr. Walding would want to suggest that the word "members" be deleted so that it's dealing with employees. I don't know. I don't want to put words in his mouth.

DR. MORISON: Dr. Ewart's worried, I don't think there is. But if you take out "members", I am also a member and an employee.

MR. WALDING: That was to be my question, Mr. Chairman. Is Dr. Morison entitled to a pension because he served as registrar and could be termed an employee in that case?

DR. MORISON: That's right. And the other employees who are not medical people are in the same plan.

MR. WALDING: Thank you. Mr. Chairman, if I may, from Mr. Sherman's first answer to me there, I have no objection to the clause referring to employees at all; think that's quite proper. When it comes to members, I believe that is quite a different matter. I admire the college for separation in its two associations — if you can call it that — one strictly a regulatory and licensing body and the MMA being a beneficial society or there for the benefit of its members on a voluntary basis. The distinction between those two is quite wide and I would have hoped, complete. When I see something like this in here, it suggests to me that there is still some confusion or overlapping in the matter of benefits to members.

I ask Mr. Sherman what does he see as protection for the public or a licensing function in giving the college the powers to set up pensions and insurance for members and their families and relatives.

MR. CHAIRMAN: Mr. Walding, is your question to Mr. Sherman?

MR. SHERMAN: To Mr. Sherman, yes.

MR. CHAIRMAN: Mr. Sherman, then.

MR. SHERMAN: Mr. Chairman, I would have to answer that question in a slightly different perspective. When Mr. Walding asking me what protection I see for the public in that I would have to address it from the perspective of whether I see a lack of protection for the public in that. I don't see such. I also recognize what he's saying about the separation of function as between the College and the MMA but there certainly are practitioners and I would suspect — I stand to be corrected — that there are members of the College practising, medical professionals who are members of the College and who are not members of the MMA and this provision provides protection of that nature for persons in that category. But I note that Dr. Morison wanted to comment further.

DR. MORISON: There are two other provisions that I thought should be brought up. We have the Gordon Bell Memorial Trust Fund; it is a fund that was raised at the time Dr. Gordon Bell died many years. It gives grants to post-graduate members to study away from Manitoba to come back to Manitoba. They are members and they benefit from this trust fund. I don't whether this wording, if deleted, would affect that. We also have an interest-free student loan fund for needy medical students and I wouldn't want to see anything that would jeopardize those two funds in anything that we say. I don't think there is any intention whatsoever at the college at any time to get into insurance benefits although we might, at some time, decide to make malpractice insurance compulsory in the same way as the Law Society and this clause probably could allow us to do that. We don't intend to do that at the moment but it might make that feasible.

MR. WALDING: Further to your remarks, Dr. Morison, that if there were protection for those first two funds that you mention, would there be any objection to removing this reference to members in this particular clause? In the event that you wanted to make malpractice compulsory at some time in the future, that surely could be added by amendment to the bill.

DR. MORISON: Sure, it could be. We may have it now; I have to get a legal interpretation with this clause by a resolution to bring it in. Malpractice insurance is not to protect the doctor, it's to protect his patient as to damages, you know.

MR. WALDING: I recognize that and I agree with it as being part of the licensing and regulatory function. I'm questioning the aspect that would appear from 28(a) as being part of the benefits to members which I'm suggesting would be more appropriate under the MMA.

DR. MORISON: I thought I was just here to explain what we have and that it's you decide what we should have.

MR. WALDING: Thank you.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I remind you the word used by Dr. Morison, when they had a benevolent fund and they transferred it to the MMA because that was the more appropriate place and that's the point Mr. Walding was making. My concern is the power of the College and if they are going to bring in malpractice insurance I think it has to say so. I think that's too important probably from their own standpoint, if not from the public standpoint, that if they are going to bring in malpractice insurance compulsory, then I think there should be legislation that spells that out. But certainly I think that in the legal profession the Law Society does not get involved in that but the Bar Association does and the Bar Association has an attraction. Now I don't want to misstate what is the fact; maybe Mr. Scott will clarify it.

MR. CHAIRMAN: Mr. Scott.

MR. SCOTT: What is commonly referred to, Mr. Chairman, as malpractice insurance is a requirement of practice for a lawyer and the policy is obtained by the Law Society; the matter is administered by the Law Society and the funds are paid to the Law Society. So it is the Law Society of Manitoba that administers and enforces compulsory liability insurance for all members of the profession.

MR. CHERNIACK: Mr. Chairman, that's exactly what I was trying to convey. I said that the malpractice insurance is compulsory through the Law Society. There are other insurance benefits that the Manitoba and the Canadian Bar have which are voluntary, in that you need not belong to the Bar Association in order to practise law. I think that is maybe something they use as an attraction to have people join but I, as one who doesn't want to belong to the Bar Association, assert my right to say I don't want you to force me into a pension situation. That is where I see the distinction Mr. Walding made where you can offer something on a voluntary basis through the self-interest body but the compulsory would be the College which could force people in just the way the Manitoba Law Society has malpractice insurance. I see that distinction and I agree with Mr. Walding that there should not be the right to start pensioning or insuring members other than employees unless we are dealing with malpractice which I think should be separately set out.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, if the College and legal counsel to the College have no difficulty with that proposed amendment or change in the wording of this subclause and provided they can satisfy themselves that the two funds referred to by Dr. Morison can be protected, and that any other funds in that category which may have inadvertently been overlooked at this juncture can similarly be protected, I'm sure that an acceptable amendment to the subclause can be worked out but I think that it will require some consultation for a few moments with officials of the College. If we could hold 28(a) over, I would suggest that Committee proceed.

MR. CHAIRMAN: Is that all right, Mr. Cherniack, lay 28 over? 29 — pass; 30 — pass; 31(1).

MR. CHERNIACK: I have some questions about that, Mr. Chairman.

MR. CHAIRMAN: On 31(1)?

MR. CHERNIACK: Yes. My note tells me and I can confirm it quickly that the word "elected" was changed to "selected". Now election I understand; selection I don't understand and I want to know why there is that or what is the point to it.

MR. CHAIRMAN: 31(1)(a)?

MR. CHERNIACK: (a).

MR. SHERMAN: I'm sorry, Mr. Chairman. I'm sorry if the question was directed to me I didn't get it, I apologize.

MR. CHAIRMAN: The question from Mr. Cherniack was on 31(1)(a) the first line the word "selected" is in there. He thought it used to read "elected".

MR. CHERNIACK: The explanatory note says the "selection" rather than the "election" was provided and I want to know what selection means and what are the criteria and how do they do it?

MR. SHERMAN: That's true, Mr. Chairman. It's an elaboration of Section 8(1) of the present Act. It now provides for selection of those two duly qualified medical practitioners by the faculty rather than election and the addition of a lay member to the council and the election of an associate member.

Insofar as the desirability of substituting selection for election it's my understanding that it provides for more efficient and more expedient process in constituting the composition of the council. In effect, elections in these instances, as the Honourable Member for St. Johns would probably agree, or in many cases in all associations and organizations to which all of us belong conducted by a small group of electors the process is often not very different from the selection process except for the length of time that it takes. If there are further views that lie at the base of the College's position on this change I would ask Dr. Morison to comment but that is my understanding of the change.

MR. CHERNIACK: Mr. Chairman, I'd appreciate our hearing that because I am guessing, and it's just a guess, there might be 50 to 100 members of the faculty and to me an election is probably the quickest and the simplest way. They can do it by a show of hands or by handwritten ballot or whatever. Selection implies that somebody will do the selecting and that might be the Dean or some special group. It seems to me that I don't understand select. I do understand elect no matter what rules they follow under election. Maybe Dr. Morison could help us. I don't really care that much, I just want to get clarity.

MR. SHERMAN: I think frankly, Mr. Chairman, that this provides protection against frivolous elections of personnel to the council that would not reflect either the level of responsibility or commitment that the authoritative body for medical standards and ethics in the Province of Manitoba requires of its council. I would make no bones about that. I think that in the case of the authoritative body we're talking about and the profession we're talking about that selection, in this case, and it's restricted to these two qualified medical practitioners from the faculty, selection in this case is probably the best insurance for protecting the integrity and the level of responsibility and the sense of commitment of the council. There are certainly a good many other members of the council who are elected so that we're not talking about a hand-picked group of people that's controlled by a self-perpetuating interest group.

MR. CHERNIACK: Mr. Chairman, I don't want to react too much to the suggestion by Mr. Sherman but he says that they don't want frivolous people and then in the next breath he says well but there will be election of the vast majority, not less than 16. Shouldn't that say not fewer than . . . Anyway not less than 16 which may mean 30 of them will be elected, what? Frivolously like we are elected in the Legislature. Some of us may well be but that's the choice of our constituents.

My concern about the word "selected" is that I don't understand what it means and I don't know

what happens if you get into a hassle as to who was selected. Election I understand, selection I just don't understand the word. I'd really like to know if it's a clear word as to if the faculty will know exactly how they're dealing with it. Mr. Sherman is suggesting that there will be some kind of elitist group that will be doing the selection, rather than the election on a frivolous basis, then I do question that.

What we want to do is to have the council, which has the power to control the delivery of health services at the medical level, we want them to be representative of those sections of the community that will best reflect their purpose in life which is to serve the public. I think it's good to have faculty members on it but I certainly don't agree with Mr. Sherman's suggestion that selection will provide a higher quality or a more dedicated, or whatever words he used, representatives than would election. It's obvious they made the choice; it's not a misprint because their explanation says the selection rather than election. Can we find out from them how they plan to ensure that the selection is fairly arrived at?

MR. SHERMAN: Yes, we certainly can ask them, Mr. Chairman. But just before doing that I would like to clarify the point that what we're talking about here is, in effect, the appointment of two members by the faculty from the membership of the faculty as councillors of the College. Now, in essence, really the bottom line is the faculty appointing two members to the council in the same way that the Lieutenant-Governor appoints two persons to the council. Selection and election are virtually interchangeable in this sense in my view. As I said at the outset of my remarks it is a much more expeditious method and process to follow simply to have the faculty among themselves make the decision as to who would be best qualified and who would be most willing, rather than go through the process of an election. I'm certainly prepared to ask the College obviously for its opinion on the choice of phraseology and the methodology but it would be a simple matter to say, for example, that two duly qualified medical practitioners shall be appointed by the faculty from members of the faculty. I don't see that election or selection are really very much different. It'll come down to an appointment by the faculty of two members from the faculty.

MR. CHAIRMAN: Can we move on? 31(1).

MR. CHERNIACK: No, you were going to ask them for an opinion.

MR. CHAIRMAN: Is it agreed that we'll ask the . . . ?

MR. SHERMAN: Dr. Morrison.

MR. CHAIRMAN: Dr. Morrison.

DR. MORISON: From what I've been listening I think you all understand it but it may be explained that in every medical licensing body in Canada where there is a medical school, with the exception of British Columbia, there is representation from the faculty on the governing board. In every other province it is an appointee of the board. It goes so far in Saskatchewan to say it shall be the Dean of

Medicine or his designate at the rank of Associate Dean. So it limits it to the people right at the top. That's to our advantage to have people who have the ear of the Dean who are on our board. We get the story from the Dean and this inner council, you might say, and it gives us a chance to try and get the views of the practising profession back to the university. So we see no objection to it, although at the present time they're elected. Every member of the faculty who is a doctor is entitled to elect members freely and any member of the faculty can run in the election and they do and they do get elected so that they are represented in that way. These are to get two people who represent the official views of the faculty.

In most of the provinces it says, shall be designated by the Dean, and in Alberta, the two colleges, it is the Dean in every case; and in Saskatchewan.

MR. CHERNIACK: Why don't you that so there won't be a quarrel.

DR. MORISON: Well we've just changed the word. We've tried to make it as simple as possible and we've added an "s"; but I had no objection to say, "shall be selected by the Dean or appointed by the Dean".

MR. CHERNIACK: How many members of the faculty are there?

DR. MORISON: There must be 300.

MR. CHERNIACK: I said 50-100. Well then the 300, don't you envision that two to be selected they might get into a battle of some kind down there as to the manner of selection. I mean I'm trying to make this — Mr. Sherman says make it simple — I think if you have 300 people there, how are they going to select two unless they have an election or unless they delegate the power to somebody, the Dean or . . .

DR. MORISON: By the dean, that'll be fine.

MR. CHERNIACK: I would think that that would be somewhere.

DR. MORISON: That's the intent I'm sure and it was Dr. Naimark that asked for it; he initiated it.

MR. CHERNIACK: I know but he won't be around.

DR. MORRISON: He'll be around.

MR. CHERNIACK: Not as Dean.

MR. CHAIRMAN: All right, are we ready to proceed with it as is or are we going to have an amendment or what?

MR. SHERMAN: I would assume, Mr. Chairman, that there is a faculty association; that there is a faculty executive and either they or the Dean will make that selection.

MR. CHAIRMAN: All right. 31(1).

MR. CHERNIACK: I just want it on Hansard. I think there'll be trouble but all right.

MR. CHAIRMAN: 31(1) — pass; 31(2) — pass; 31(3).

MR. CHERNIACK: Oh, Mr. Chairman, I thought you were dealing with the sub (a),(b),(c) because on (c) . . .

MR. CHAIRMAN: Oh all right, sorry, we can go back.

MR. CHERNIACK: (c) what criteria do they have for the appointment by the council and why do they need that? Whether they want to pick their own dentist or their own lawyer or their own clergyman? What is the objective of a council making the appointment; the council of whom the lay people are already members I assume?

MR. SHERMAN: Mr. Chairman, this is not much different, in fact, I think it may not be any different from the provision that exists in some of the other health bills. Four lay members, approximately half of whom are appointed by the Lieutenant-Governor-in-Council and approximately half of whom are appointed by the council itself. The objective is to have a substantial lay representation on there. Certainly there would be consultation, I'm sure, in my experience, between the council and the Lieutenant-Governor-in-Council or the Minister. The objective is to get four good strong men or women and crew of recognizable integrity who will make a contribution to the affairs of the council from the public's perspective rather than the profession's perspective.

MR. CHERNIACK: Mr. Chairman, that's exactly my point. From the public's perspective I think excludes the profession's perspective and I would like to think that all four are people who are appointed, not by the council but by other than the council. I'm looking at The Law Society Act. My recollection is that there the four lay people are appointed by a select nominating committee, I haven't found it yet but I think that's the case. I just make my point.

MR. CHAIRMAN: Mr. Downey.

HON. JAMES E. DOWNEY (Arthur): Mr. Chairman, I think probably if we looked at The Nurses Act, and the Minister of Health indicates it is the same as The Nurses Act which was passed a year ago, I would suggest we proceed with it as it is; that there is adequate public protection or a workable system that they've recommended here and I would suggest we move on with it.

MR. CHAIRMAN: Mr. Cherniack, okay if we move?

MR. CHERNIACK: It's not a big issue.

MR. CHAIRMAN: 31(1) — pass; 31(2) — pass; 31(3) — pass; 31(4) — pass.

MR. CHERNIACK: Well I should make a comment. I don't know, Mr. Chairman, that there's going to be much of an impact of what I say but I've looked at The Law Society Act and there are something like 19 sections spelling out the manner of voting and the nomination and the conduct of elections. I think it's very important and I think that there ought to be

some outside review of the manner of elections because that becomes very important; manner of nominations, notices, time. If there is no desire to spell it out as they do in The Law Society Act then at least I think that the bylaws established by the council shall be approved by the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: 31(4) — pass.

MR. CHERNIACK: Well, suppose I suggest that we precede 31(4) with the words, "subject to the approval by the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: Motion moved.
Mr. Sherman.

MR. SHERMAN: Well, Mr. Chairman, 31(4) is the equivalent of 14(2)(f) of the present Act. I can only suggest that certainly if members of this Legislature, on either side of the House, have had difficulty with the method and system under which the College has conducted its affairs over the past, it is now approximately 17 years, I think, then that difficulty has certainly taken a long time to surface. There are certainly some important principles involved in this new legislation which are deserving of very serious study by both sides of the Committee. I don't think that some of the existing sections, to which no one has ever raised objections in the past, in my experience as Minister of Health, should occupy that much time of the Committee and I would suggest we accept 31(4) and move on.

MR. CHAIRMAN: Mr. Cherniack has an amendment which is . . .

MR. CHERNIACK: I just want to make the point, Mr. Chairman, that we are spending a lot of time on these Acts, we have many more to go and the point I had made previously that there would be good sense to uniformity so that we wouldn't have to keep reviewing every profession with the same wording or variations, that that has validity. But since we don't have that; since the government has not gone along with that, then I want to point out to the Minister that next year we may be getting some Act brought in, a bill brought in from another body, another professional group, and they will say, well, we've taken The Medical Act which you've people have approved of and we are copying The Medical Act and assume that it just should be routinely passed and then we won't be able to say, we won't even notice possibly, that the medical profession has done extremely well in their elections and their appointments to council and therefore it applies to them but it doesn't apply to the other body. It seems to me that if we try to standardize certain principles, and the principle of election to council is pretty important, that once we establish the principle then it should apply to all, not a select group like The Medical College as compared with association, you now a, b, c that might come next year. That's all.

MR. CHAIRMAN: Question on Mr. Cherniack's motion.

A COUNTED VOTE WAS TAKEN the result being as follows:

Yeas. 3; Nays 4.

MR. CHAIRMAN: Motion defeated.
31(4) — pass; 31(5) — pass; 31(6) — pass; 31(7).

MR. CHERNIACK: You note that there seems to be a difference in 31(6)(a). There's a change. Where formerly they had a by-election and where I would have thought they would have a new selection now we find the council deciding who shall be the faculty representative. I don't think that's right. But all right I accept that.

MR. CHAIRMAN: 31(6) — pass; 31(7) — pass.

MR. CHERNIACK: I'm sorry, 31(6)(b) the appointment to replace councillors, as I read it, they can pick them from anywhere. Is that right? At large? The law society as I know, I don't know if it's practice or legislation, they select the person who got the highest votes who was not elected. You do that. All right.

MR. CHAIRMAN: 31(6) — pass; 31(7) — pass; 31(8) — pass; 32(1) — pass; 32(2) — pass; 32(3).
Mr. Cherniack.

MR. CHERNIACK: No motion on that? It was brought to our attention by MARL that a councillor must be a citizen of Canada and the point they made is it's discriminatory. Citizenship of members in good standing should not make them second-class members of their profession and deprive them of the right to participate in policy decisions made by the council on behalf of the College. I must say that that wording is pretty well succinct enough to stand by itself. It means that a non-citizen has the right to vote but he could only vote for a citizen. A non-citizen therefore, who is a member in good standing and as far as I know has all the privileges of a citizen, however, may not be on the board and I think this is an unnecessary requirement. Now this is new as I understand it, 32(3).

MR. SHERMAN: It's new.

MR. CHERNIACK: It's new. So, I'd like to know why they felt it necessary?

MR. SHERMAN: It's new and it's necessary, Mr. Chairman. It only takes three years to become a citizen of Canada now and we're talking here about the council which is that body which conducts the affairs of the College; which is that body which is responsible for standards and ethics of medical practice in Manitoba and I recommend to this Committee that anyone who is interested in making the rules, if one may use that phraseology, and assuming and performing responsibilities relative to standards and ethics of medical care and medical services in the Province of Manitoba, should be sufficiently interested to become a citizen of this country. I don't suggest they have to be, but if they're not sufficiently interested to become a citizen of this country then I do not want them supervising the standards and ethics of medical care in my province.

MR. WALDING: Mr. Chairman, I'd like to direct a question to Mr. Balkaran on this point and ask him

whether the word "nationality" in The Human Rights Act against which discrimination is prohibited, would be the same as or include the word "citizen"? In which case, if it does, then this would clearly be discriminatory and contrary to The Human Rights Act.

MR. BALKARAN: Mr. Chairman, I stand to be corrected. I gave an earlier opinion with which Mr. Chorniack did not agree and maybe there will be another opinion with which he might not agree. But I believe a national of a country as opposed to citizen of a country can be two different things. You may be a citizen of Canada but a national of Czechoslovakia

MR. CHORNIACK: You can be a citizen of two countries.

MR. BALKARAN: You can be that too, in some cases — yes.

MR. SHERMAN: That doesn't bother me, the fact that someone may be a citizen of two countries as long as one of those countries is Canada.

MR. CHAIRMAN: 32(3) — pass; 32(4) — pass; 33 — pass; 34 — pass; 35(1) — pass; 35(2) — pass; 36(1) in its entirety — pass; 36(2) in its entirety — pass; 37 — Mr. Walding.

MR. WALDING: I suppose it follows on 36, Mr. Chairman. Did not the government set the policy last year in reviewing the three medical Acts that where there were by-laws made by a council, they would be in effect only until the next annual general meeting or special meeting, at which time the membership would vote to confirm or deny the change? That being the case, I don't see the same principle in here. Is that an oversight or is it deliberate?

MR. SHERMAN: I'm sorry, Mr. Chairman, I'd have to ask Legislative Counsel. I don't recall that that is the situation.

MR. BALKARAN: Could Mr. Walding repeat his question? I was doing something else.

MR. WALDING: I believe in the three nursing Acts that were passed last year there was a sort of principle established that by-laws passed by a council would be in effect only until the next annual meeting or special meeting called for that purpose to confirm or reject the change. If that is so, I don't see it in here applying to this council's by-laws. The question is, is that deliberate or is it just an oversight?

MR. BALKARAN: That's correct, I think the nursing profession did have a provision to, if I could paraphrase the provision, to indicate that the by-laws shall only have validity until confirmed at the next general meeting; if it was not confirmed at that meeting then the by-laws were invalid. But nothing done under the authority of those by-laws were invalid.

MR. WALDING: Second part of the question, is it . . .

MR. BALKARAN: . . . deliberate here?

MR. WALDING: Has it been inadvertently left out, let me put it that way

MR. BALKARAN: I'm not in a position to answer that, Mr. Walding.

MR. WALDING: I come back to asking the Minister . . .

MR. SHERMAN: It's a good question, Mr. Chairman. In Section 4(4) of The Nursing Act from last year is a clause that deals with the period of effectiveness of certain by-laws. I can't answer the question as to whether it was an oversight in leaving it out of this legislation. I would like to refer it to the college and ask either Dr. Morison or Mr. Scott if they would comment on that.

MR. CHORNIACK: I just want to elaborate a little on what Mr. Sherman said. Actually, the nurses' by-law has two provisions; one, it's selective. Certain ones do not at all become effective until approved by a meeting and certain others do become effective immediately but must be confirmed or amended at a general meeting and only lasts for that period of time, I believe. So there are two degrees of importance.

MR. SCOTT: The omission, Mr. Chairman, is deliberate on the part of the college. The governing council of the college is a fairly large group numbering 28 at the present time and representative of the interests of the profession and the public of course, throughout the province. In fact the college does not have — because there is no need for it and no request for it from the membership — what one might commonly refer to as annual or semi-annual meetings. On a year-to-year basis the affairs of the college are governed by this large council. This large council appoints from its membership an executive committee which comprises approximately what? — nine out of the 28 people. They handle the month-by-month, day-to-day affairs of the college and the council-at-large meets several times a year. But there are no annual meetings with the general membership as such. So the omission is deliberate, the thinking being that with the type of council that has been in place and has worked so well for many, many years and the size of the general council, that there is no need for that requirement; indeed, it would be extremely cumbersome for this particular profession to have such a requirement, would enable a complete and radical departure and one that in the opinion of the membership is unnecessary, to change the system that has been in effect for so many years.

MR. CHORNIACK: Mr. Chairman, I don't quarrel with the description of the operation made by Mr. Scott but I do quarrel — and I was going to raise it, this is as good a time as any — with the fact that they don't hold annual meetings. You know, the largest corporations there are — CDC today held a meeting in Winnipeg of all its shareholders. They didn't all attend, I'm sure. But there is no provision that I have seen — maybe I've overlooked it — for the membership to meet as a group, to hear a report, to be able to question their council, to indeed do anything in relation of by-laws.

I would like to suggest that just as in the professional bills we passed last year that a member

or a group of members, a minimum, a certain number of members shall have the right to propose changes in by-laws and that they be reviewed. It seems to me if the CDC can hold an annual meeting, I don't know why the medical profession can't. They were able to do so when the MMA wanted them to come around and talk about their economic future. I don't see any reason why they shouldn't be required to hold an annual meeting.

As I say, I was going to raise it. I think this is as good a place as any. Why shouldn't they have a time and a place set, notice sent out that said, "Here is the annual meeting. Come out and express your opinions". I don't know how much bigger the medical profession is than the Law Society but I believe the Law Society has an annual meeting; I don't think it takes more than a couple of hours or something to have, but at least there's an opportunity for the membership. The way this is designed, the membership has no opportunity to meet with their elected people and all they can do is to vote.

I accept Mr. Scott's statement as to the way they operate and the difficulty there would be in getting approval to by-laws. But would it be some help — I'm asking the Committee — if we did provide that there should be an annual meeting and at that annual meeting proposals can be made for changes? Otherwise it is a body which, once elected, runs its own show. It's going to set up its own system of elections. It's going to self-perpetuate to a large extent. So may I ask directly to the council, whether they have any objection to — well, maybe even if they do I wouldn't care — I'm proposing to Committee that we should provide for an annual meeting at which by-laws can be discussed.

MR. SHERMAN: Mr. Chairman, with an eye on the clock, I would only say at this juncture that I would be persuaded by Legal Counsel's statements of a moment or two ago that the membership is satisfied with the present procedure and that change such as is recommended would be extremely cumbersome and is not desired by the membership or there has been no reflection of that desire. The membership is kept fully informed by the council through a regular newsletter of decisions made or taken or proposed to be made, and through their elected representatives whom they can change through the electoral process, feels insofar as I understand it that they have sufficient voice and they have sufficient representation. However, I would certainly be prepared to discuss Mr. Cherniack's suggestion with Legal Counsel for the college over the dinner hour break.

MR. CHERNIACK: May I just ask one thing? Could the Minister find out whether membership gets notice of meetings of the council and may attend and speak at meetings? Again, I harken back to the Law Society which does have that provision. If he could find that out as well.

MR. CHAIRMAN: Could we break for dinner now and we'll resume at 36(2) after 8 o'clock? (Agreed)
Committee rise.

