



Third Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson

Mr. Doug Martindale

Constituency of Burrows



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Wednesday, July 17, 2002

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Doug Martindale
(Burrows)

VICE-CHAIRPERSON – Mr. Conrad Santos
(Wellington)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Ms. Barrett, Hon. Messrs. Chomiak,
Mackintosh, Smith

Mrs. Driedger, Messrs. Dyck, Jennissen,
Martindale, Rocan, Santos, Mrs. Smith

APPEARING:

Hon. Mr. Jon Gerrard, MLA for River
Heights

Mr. Philip Samyn, Legislative Counsel

WITNESSES:

Bill 26–The Occupational Therapists Act

Ms. Sharon Eadie, Association of
Occupational Therapists of Manitoba

Bill 13–The Medical Laboratory Technol-
ogists Act

Ms. Tricia Van Denakker, Manitoba Society
of Medical Laboratory Technologists

Mr. Luis Martinez, Private Citizen

Bill 15–The Fatal Accidents Amendment
Act

Mr. Jack McLaughlin, Private Citizen

Bill 16–The Class Proceedings Act

Ms. Gloria Desorcy, Manitoba Branch of the
Consumers Association of Canada

Bill 28–The Registered Dietitians Act

Ms. Caroline Lang, Manitoba Association of
Registered Dietitians

MATTERS UNDER DISCUSSION:

Bill 15–The Fatal Accidents Amendment
Act

Bill 16–The Class Proceedings Act

Bill 18–The Special Survey Amendment Act

Bill 13–The Medical Laboratory Technol-
ogists Act

Bill 25–The Hearing Aid Amendment Act

Bill 26–The Occupational Therapists Act

Bill 28–The Registered Dietitians Act

Mr. Chairperson: Good evening. Will the Standing Committee on Law Amendments please come to order. The first order of business before the committee is the election of a Vice-Chairperson. Are there any nominations?

Mr. Gerard Jennissen (Flin Flon): Mr. Chairman, I nominate the Member for Wellington (Mr. Santos).

Mr. Chairperson: Can you repeat that? It did not sound like the mike was on. *[interjection]* Just repeat it, please.

Mr. Jennissen: Mr. Chairman, I nominate the member from Wellington.

Mr. Chairperson: The member from Wellington has been nominated, Mr. Santos. Are there any other nominations? Hearing none, Mr. Santos is Vice-Chair of this committee.

This evening, the committee will be considering the following bills: No. 13, The Medical Laboratory Technologists Act; No. 15, The Fatal Accidents Amendment Act; No. 16, The Class Proceedings Act; No. 18, The Special Survey Amendment Act; No. 25, The Hearing Aid Amendment Act; No. 26, The Occupational Therapists Act; No. 28, The Registered Dietitians Act.

We have presenters who have registered to make public presentations on Bill 13, The Medical Laboratory Technologists Act; Bill 15, The Fatal Accidents Amendment Act; Bill 16, The Class Proceedings Act; Bill 26, The Occupational Therapists Act; and Bill 28, The Registered Dietitians Act.

It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on the bills and, if yes, in what order to you wish to hear the presenters?

Hon. Becky Barrett (Minister of Labour and Immigration): Mr. Chair, I think that we should follow what we have been doing in many of the committees and take out-of-town presenters first and then hear all of the presenters on all of the bills prior to going clause by clause.

Mr. Chairperson: Is it agreed that we hear out-of-town presenters first and then other presenters and hear all presenters before doing clause by clause? *[Agreed]*

I will then read the names of the persons who have registered to make presentations this evening. On Bill 13, Tricia Van Denakker and Luis Martinez; Bill 15, Jack McLaughlin; Bill 16, Gloria Desorcyc; Bill 26, Sharon Eadie; Bill 28, Caroline Lang.

Those are the persons and organizations that have registered so far. If there is anyone else in the audience that would like to register or has not yet registered and would like to make a presentation, would you please register at the back of the room.

Just a reminder that 20 copies of your presentation is required. If you require assistance with photocopying, please see the Clerk of this committee.

Before we proceed with the presentations, is it the will of the committee to set time limits on presentations?

Ms. Barrett: Thank you, Mr. Chair. I would suggest that we follow precedent and have 15 minutes for presentation and 5 minutes for question and answer.

Mr. Chairperson: It has been suggested that we have the usual procedure of 15 minutes for presentations and 5 minutes for questions and answers. Is that agreed?

Mr. Denis Rocan (Carman): Mr. Chair I think of your own admission you have just explained to us that there were only maybe 10 of us, 10 individuals making presentations this evening. I do not know why you would want to put a restriction on those 10.

Ms. Barrett: Mr. Chair, I would like to amend my suggestion, that we keep with the 15-and-5 time, and if we need to for any individual presentation we can adjust the time, take a look at it individually.

Mr. Rocan: Thank you very much, Mr. Chairman.

Mr. Chairperson: Can you move your mike closer so we can hear you?

Mr. Rocan: On this side of the table we are more than prepared to accept the honourable minister's recommendations.

Mr. Chairperson: It has been agreed that we will do 15 and 5, and if we need longer, we will do so by leave. Is that the understanding? *[Agreed]*

How does the committee propose to deal with presenters who are not in attendance today but have their names called? Shall these names be dropped to the bottom of the list?

Mr. Peter Dyck (Pembina): Yes, to the bottom of the list.

Mr. Chairperson: Agreed. Shall the names be dropped from the list after being called twice?

Mr. Dyck: Agreed.

Mr. Chairperson: Agreed. As a courtesy to persons waiting to give a presentation, did the committee wish to indicate how late it is wishing to sit this evening?

Ms. Barrett: I think we should sit until we have concluded with the business of the committee.

Mr. Chairperson: It has been suggested that we sit until we are finished the presentations and clause by clause. Is that agreed? *[Agreed]*

Bill 26—The Occupational Therapists Act

Mr. Chairperson: I will now call Sharon Eadie speaking to Bill 26, and I understand she is an out-of-town presenter. Will you please come forward to make your presentation. Do you have written copies of your brief?

Ms. Sharon Eadie (Association of Occupational Therapists of Manitoba): I do. Do you want me to wait until everybody has that, or can I begin?

Mr. Chairperson: As long as the Clerk has pressed her stopwatch, you can start. Please proceed.

Ms. Eadie: Okay. You have before you a copy of the legislation that we have worked long and hard with the Legislative Unit staff of Manitoba Health to prepare.

We are quite pleased with this piece of legislation. We are fortunate that we were not the first out of the gate, so to speak, in terms of the amendments to Health legislation such as for the nurses and the physiotherapists.

All those organizations have been quite generous in providing us with background on some of why they went the direction they have. So we have used those pieces of legislation as our template, but we have also had the opportunity to put in things that from our experience as a very small regulator have worked well for us. So I think this bill is a combination of the congruency across the health arena but also some things that are specific to the way that we operate as a small regulator.

* (18:40)

In the material that you have, I have just listed in order in the legislation the parts that we

see as being the significant changes. We appreciate that the whole bill flows better than the current one that we are operating under, and we appreciate that it is now gender-neutral. We also have worked very hard with the other OT regulators across the country to implement our mutual recognition agreement as part of the Agreement on Internal Trade. We also studied in detail the Law Reform Commission *Report on the Regulation of Professions and Occupations* and in practice have tried to implement as many of those recommendations in there that make sense from a public protection point of view. So we are pleased that this bill, I think, captures a lot of those recommendations where it makes sense to.

Our practice definition is quite different than the one we have currently and works well for how our profession continues to change and evolve. We appreciate that because it is title protection legislation, the parts that deal with protecting the use of title and dealing with misrepresentation seem to have been enhanced, and those are very clear.

It is always nice to know that the legislation very clearly states what its purpose is. I think that is an added piece that it is nice to be able to point to, and like many of the other organizations, we are happy to be known as a college, because I have had even some of our own members ask when we are going to have a college-type organization in Manitoba. Title can lead to misunderstanding, so being a college, I think, will help even our own members understand more particularly what a regulator is about.

We have always strongly welcomed public members and have them on all of our standing committees now, so enhanced public representation is something that we welcome. The one thing that is maybe different in our legislation is that we were quite receptive to having the minister continue to appoint public representatives to our council as opposed to establishing a committee that would be responsible for that. So that is maybe something that is a bit different than in some of the other health acts. I think, as a result of that, there is one correction that needs to be made to the bill to take out the continued reference in a draft that you have that still mentions that committee that would deal with

appointments. So I think the people that need to know that is still there know that and that that would be dealt with.

One thing that we find is that in our current legislation we have a very active registration committee, and it is nice to have a board of assessors now be entrenched in the legislation that provides that support to our registrar. The appeals process is one that we quite support the grassroots ability for an individual to appeal to the council before they would go on to the Court of Queen's Bench.

One thing that we put in our legislation that we have had lots of debate about is making it mandatory that we have a continuing competence program. Rather than just that we have the right to have one, we wanted to make a stronger commitment to having some kind of a program and have worked quite a bit with the other health OT regulators across the country in looking at what makes sense. We are looking at Ontario quite a bit, given they have the resources and the mandate to have done a lot of work in that area.

Mr. Chair, our complaints committee structure and the discipline committee structure, we are very pleased with a lot of the changes that are there. Certainly, it helps that the process will be very similar to what is done for other health regulators as it is nice to have your lawyer know fairly clearly what the process is.

We very much appreciate the appeals process. We have not had something go to appeal after a discipline committee, but we have certainly heard all the difficulty in terms of that process, what happens when it is protracted. So we are quite pleased that that change has been made.

Mr. Chair, I think that the sections on regulation, by-laws and code of ethics speak to the things that we feel make sense in the different settings out of the authority as it needs to, and we were quite keen to have member approval needed before it goes to Lieutenant-Governor-in-Council for approval because we work very hard to make sure our members agree to what we are doing and that it gives us lots of opportunity for education and involvement. So we did not want to just consult in terms of by-law and regulation

changes, but rather make that a member-approval piece.

Lastly, the general part, I like the way it is set out because it provides a lot of those individual things that all kind of come together at the end of the legislation, and having the ability to have practice auditors, that certainly is very new for us, so we will be doing lots of learning on that, and as it is stated there, the need to provide the Government with an annual report, again that is something that was in the Law Reform Commission report and we have been doing since that report came out.

So I do not think there is anything in here that we cannot live with and in fact we welcome wholeheartedly.

Mr. Chairperson: Are there any questions for the presenter?

Hon. Dave Chomiak (Minister of Health): Thank you. Sorry for the delay.

Floor Comment: No problem.

Mr. Chomiak: I want to thank you for the presentation, and also thank you for recognizing the work of the Health Policy and Legislative Unit staff. I think that often that goes unrecognized, and I appreciate the fact that you have acknowledged that because they do excellent work in a lot of groups.

Just for the benefit of the people in this room, could you just briefly define what an occupational therapist does and how it differs from a physiotherapist, for example?

Floor Comment: Okay.

Mr. Chairperson: Before you respond, I need to acknowledge your name before every response. So, Ms. Van Denakker, please.

Floor Comment: No, Sharon Eadie.

Mr. Chairperson: Oh, I am sorry. Where are we?

Floor Comment: We jumped out of sync just because I happen to live in the country.

Mr. Chairperson: My apologies, Ms. Eadie.

Ms. Eadie: There have got to be rewards for driving into the city every day.

Occupational therapy is one of the rehabilitation professions. So it is often easily defined by comparing it to physiotherapy. Heather is in the room, so we will see what I come up with.

Occupational therapy is a profession that really helps people to be able to do what is important to them. I often think physiotherapy deals in function, helping the body become as functional as possible, as strong, as mobile, as flexible as it needs to be. What an OT does is then help that person to be able to do what they need to do, whether it be in the area of work, which we call productivity, which for children is play, for students is going to school, for a homemaker is doing what that person needs to do. So productivity, self-care, which is everything we can think of that we do personally, whether it be dressing, feeding, and in the area of leisure, Mr. Chair, the things that give people satisfaction.

What an OT will do is make sure that that individual can do what is important for them. We work very closely with our clients. Two people with the same diagnosis, the same condition may put priorities on very different things, depending on what they need to be able to accomplish for themselves.

Very much it is a profession of art and science. It is a lot of the same education as physio starts out with in terms of the basic sciences of anatomy and physiology and understanding the conditions that someone comes with. But then the art of it, I guess, is being able to work with someone in terms of being able to deal with motivations, with gains, with their family structure, with all of the emotions that go with the potential for disability.

It is a profession that deals with people from all ages. There are many OTs that work in neonatal intensive care nurseries, all the way with the elderly, people in every age group, and also in mental health, not only in physical medicine, but very much in mental health.

Now what is evolving, we see more and more of our members beginning to work in

social services, Macdonald Youth Services. What is being learned is that many people who end up in situations where from a social point of view they are having difficulty, what often is the case, and I think that is recognized very much in the penal system, is that people have undiagnosed learning disabilities. So there are a lot of potentially physical issues happening. An OT can bring both the ability to deal with the dynamics of people in families but also understand not the medical background but really the physiology of what might be going on as well, because they come with their strong background in understanding the body and illness.

Mr. Chomiak: Thank you for that explanation. I think it was very helpful. Final point, we are bringing in an amendment to the act tonight to deal with the issue that you raised earlier. You concur with the amendment that allows the minister to appoint public representatives to your body. Am I correct in that?

Ms. Eadie: Yes, we support that amendment.

Hon. Jon Gerrard (River Heights): Thank you for all the hard work you have put into preparing the legislation and contributing to the development. You have done a very nice job of going through point by point the changes you have made. Good luck.

Ms. Eadie: Thank you.

* (18:50)

Mrs. Myrna Driedger (Charleswood): I too would like to congratulate the work of your association in drafting this bill and working with Leg Counsel here. Certainly, to take bills like this to the extent that you have, I do appreciate the amount of work that goes into it on everybody's behalf and the perseverance that you have had in making that happen. Certainly, in keeping with what was happening with the nursing acts and physiotherapist acts and the harmonization of this act with others across Canada, I think this is probably very healthy for all of the professions within health care.

Mr. Chair, as a former neuro nurse many years ago, I developed a very deep appreciation for physiotherapists and occupational therapists and watched oftentimes occupational therapists

spend an incredible amount of time and put a lot of effort into helping people learn to do the smallest things that, in turn, would enable them to have a quality of life that they, probably otherwise, would not have had. As you watch the little intricacies of what OTs did with patients, I certainly learned to appreciate very much the multidisciplinary impact that people can have on health care. I do recognize and appreciate the level of education and the high level of skill that people in your profession bring into health care and contribute to the integral role of making patients better.

I congratulate you on your effort and we are in support of the bill and have no objections to any part of it.

Mr. Chairperson: Thank you for your presentation.

Bill 13—The Medical Laboratory Technologists Act

Mr. Chairperson: Now we will hear from Ms. Van Denakker from the Manitoba Society of Medical Laboratory Technologists. Please proceed.

Ms. Tricia Van Denakker (Manitoba Society of Medical Laboratory Technologists): I would also like to thank the Legislative Unit for providing us with a template to work from in drafting legislation for our profession. This legislation, if it passes, will be new. We have worked with Manitoba Health and the Legislative Unit on getting this off the ground. I believe it does coincide with the other health care professions of this province.

Just some introduction about who the Manitoba Society is. We were incorporated in 1987 and represent about 1100 technologists. We are the third largest health care group next to physicians and nurses. The Manitoba Society is affiliated with the Canadian Society for Medical Laboratory Science in 1987. The Canadian Society was incorporated in 1937.

Just to tell you what a laboratory technologist is. Basically, a technologist performs the laboratory investigations that physicians use to diagnose, monitor and treat disease. They also are responsible to make sure that those results

are accurate and can be relied upon by ensuring that all the quality control aspects of the process, the testing process, are complete.

MSMLT currently is a non-profit organization and membership is voluntary. The same thing is true of our national body. The other interesting fact is that 80 percent of the information that physicians use to diagnose, monitor or treat their patients comes from laboratory technologists.

Within the laboratory, there are multiple levels of technical personnel. I just thought I would explain to you what each of them is. The medical laboratory technologist is a graduate of an accredited training program that is governed by the Canadian Society for Medical Laboratory Science Competency Profiles. There are three competency profiles: the general profile which covers a broad range of laboratory science areas, diagnostic cytology and clinical genetics. We are required to write national examinations which certify us to perform laboratory investigations in clinical laboratories in Manitoba. The Society has adopted standards of practice, scope of practice and code of ethics for the profession. Currently, there are shortages of technologists provincially, nationally and internationally, due to closures of training programs.

We also have, working in the laboratory, laboratory technicians. There is usually a lot of confusion between the two terms. Laboratory technicians have no formal training or competency assessments or scopes of practice in Manitoba. British Columbia, Alberta, Saskatchewan, Ontario and Québec have defined scopes of practice and training for these individuals. They are also working in rural Manitoba, what is called cross-trained technologists. These are registered x-ray technologists with lab assistant training. They were previously trained and monitored by Manitoba health lab and imaging services. With the development of the regional health authorities and the shortages, the Regional Health Authority lab managers have tried to expand the scope of these individuals and continue to approach the College of Physicians and Surgeons and Manitoba Health about this.

MSLMT has been concerned that, with no laboratory physicians on site within the health

authorities to take responsibility for the results issued by lab assistants, we may be putting patients at risk. So, as Manitoba Health agrees with us, we believe that they should assign specific responsibilities to health care agencies, identify standards that they approve, hold health care agencies accountable for their responsibilities and license workers and facilities or approve services, as may be required.

Self-regulation of laboratory technologists really comes out of two key recommendations of the Provincial Lab Committee report in that all providers of laboratory services receive appropriate formal training and certification, and that there be a registry of certified and registered technical personnel. Currently, the provinces of Ontario, Québec, Alberta, Saskatchewan and New Brunswick have licensed laboratory technologists, Mr. Chair.

There is no mechanism in Manitoba to guarantee that positions requiring credentials are filled by certified and registered technical personnel. There is currently no mechanism in Manitoba to monitor ongoing competency of lab staff. Again, our concern is that, without regulations and without monitoring, incompetent and inadequately trained personnel will compromise patient care.

So we see the benefits of self-regulation of the profession of medical laboratory technologists in that, for Manitoba Health, it will ensure qualifications are met for job requirements. It will ensure that the current practising technologists remain current in their education. It will ensure technologists remain competent in their practice. Self-regulation would identify the expected competencies of individuals for monitoring by quality assurance programs, thereby protecting the public. It would ensure that all health care facilities match qualifications for job skills. If a registry went beyond technologists, it could be used to determine trends for education and trends for employers, and to identify when we may have shortages and help alleviate those situations. It may also be used to track the types of technical personnel in the laboratory.

* (19:00)

So a college of medical laboratory technologists would maintain a registry of laboratory

technologists and could take on the role of maintaining a registry of all workers. We could partner with provincial affiliates to identify, develop and facilitate provincial standards for the profession, working with the College of Physicians and Surgeons to develop standards for our profession that are in agreement with the standards that they currently set for laboratory practice.

We also can partner with interprovincial affiliates to again make things consistent across the country so that the standards that we would adopt for our profession in this province would be consistent with the standards in other provinces. We would monitor the competencies of laboratory technologists and allow a college to discipline them as necessary and we could be partners on a provincial quality assurance program, Mr. Chair.

We have reviewed the legislation, and the legislation that we worked with basically would allow a college all of the duties and responsibilities to put in order all of the standards that we feel would be necessary. Again, because it meets with similar legislation in the province, we feel it would be easy to work with other regulated professions and gain some knowledge and expertise from them.

That is it. Thank you.

Mr. Chairperson: Questions?

Mrs. Myrna Driedger (Charleswood): Again, you have had a big job before you in putting forward this legislation, and I would certainly like to congratulate you, as well, for the effort and perseverance, making something that looks like it is going to be very beneficial to your profession.

Certainly, having been a nurse for a number of years, I had a lot of opportunity to work with people from the labs, lab technologists and others, and again, I grew to develop a deep appreciation for the kind of skill and the challenge of the work that are before you. Certainly, from the work that you do, you do play a huge role in the identification of diagnoses, of conditions of patients, and I can remember many a time waiting for those lab

results to hurry up and get there so we knew what we could do to move on with treatment. So I certainly appreciate seeing the work that has gone into this and I think, in the end, the impact it will have on improving patient care in Manitoba.

Hon. Jon Gerrard (River Heights): You did very well in presenting the background and the rationale and clearly done a lot of work in putting this together. I just wonder if you can clarify for us the medical laboratory technologists, laboratory technicians, cross-trained technologists, and how the bill would apply in relationship to the three groups.

Ms. Van Denakker: The act is basically to self-regulate the largest group which is the laboratory technologists. We, by far, are the major group and, because we have the set standards of practice and scope of practice, we feel that is who our members are, and that is the group we are seeking self-regulation for.

Mr. Gerrard: Is there any application, or relevance, or effect on the laboratory technicians and the cross-trained technologists?

Ms. Van Denakker: Not at this point. It clearly states that these groups are not part of the legislation, if you look under our reserve of title.

Mr. Chairperson: Thank you for your presentation.

The next presenter is Mr. Luis Martinez.

Mr. Luis Martinez (Private Citizen): Thank you, Mr. Chairperson.

Mr. Chairperson: Please proceed.

Mr. Martinez: I am a medical technologist. I am here to speak in favour of this bill. I worked at the Health Sciences Centre for 19 years in the biochemistry department. I have also been involved in my society forever since 1989. I was involved at the city level, then I was involved in the provincial level and I also have been involved at the national level.

This self-regulation bill would have been since 1971. It is a long road we have been walking through and finally it seems like we are going to see the light.

I also have been involved in this union, MAHCP and have been involved in different committees on a government level.

The academic requirements for a lab technologist, presently, is one year of university, mainly sciences, and then two years at Red River community college where it entitles the candidate to write a national exam, which is the Canadian society of auditory sciences. Then he can work as a medical technologist in this province or any other province in this country. But, also, they have an opportunity to have one more year at the University of Manitoba and have a bachelor's degree in medical laboratory sciences. So the education is extensive. It is not just high school.

The medical technology field is a highly skilled and precise science. Our work has a direct impact on the health care of Manitoba. The clinicians often depend on us and on the reliability of our results in making both the diagnosis and treatment for the patient.

As an example of this, when a patient receives a kidney transplant, in order to maintain the patient, they give a drug which lowers the immune system of the patient. With technologists, we have to test the blood from the patient every day to ensure the amount of drug is within the range. If the patient has too much of the drug, the drug will kill the kidney. Therefore, for the patient, there is some problem. If it is not enough, their own immune system will kill the kidney.

So, as you can see, I try to picture it to you so that you understand where I come from. I do not want to speak with too many medical terms here. Well, he might know, but I know him. But just for you to see what we do in the field.

I am a grass-roots member. I just want to tell you that. Therefore, for us, it is paramount to have the education and provide the exact numbers so the doctor can proceed and help the patient.

There are hundreds of other cases, in hemophilia, kidney and liver problems. So what I am trying to say this evening is our profession is highly skilled and even more as the time goes

by. I remember that many years ago we used to have everything manual and we used to have a spectrophotometer. I do not know if you know those. Well, nowadays, we still have it, but it is all computerized. Because it is computerized, you do not just go and sit around. You really have to know behind what it is entitled to do to provide the right information to the clinician.

So that is more or less for my presentation. Also, I would like to thank the Government and this committee for giving me the opportunity to come tonight and express my thoughts after a long walk for many years as some of my colleagues here. Thank you.

* (19:10)

Hon. Gord Mackintosh (Minister of Justice and Attorney General): Thanks very much for the presentation and the kind words. I know it has been a long journey for the association and for yourself and for many other leaders in your profession. I think the bill speaks not only, of course, to the particular contents but to the importance of medical laboratory technologists in the health care system. Thanks very much.

Mr. Gerrard: You have clearly been at this a long time and congratulations for carrying the ball and for bringing it to this stage. I also want to pay tribute to the excellent work you do in support of health care in this province. Thank you.

Mr. Chairperson: Thank you for your presentation.

Bill 15—The Fatal Accidents Amendment Act

Mr. Chairperson: The next bill is Bill 15, The Fatal Accidents Amendment Act. The first presenter is Mr. Jack McLaughlin. Please come to the podium. Please proceed.

Mr. Jack McLaughlin (Private Citizen): Thank you. First, may I thank the committee for the opportunity to speak here tonight. I will commend the Government on Bill 15. It is a long, overdue piece of legislation. I did not hear about this until late last night. I would have had a written presentation for everybody to follow, but it was in the wee hours of the morning when I finally realized what was happening.

The law itself that you want to pass here is a law that is long overdue for the protection and the rights of the victims of this province, past and in the future. I stand before you as a citizen, business owner, but more so as a father. I lost my son to a horrific crime here in this city two years ago. I have watched the legislation and I have watched our courts in order. We filed a statement of claim in these courts not too long ago, just after the Minister of Justice, Mr. Mackintosh, announced this bill.

I now understand that the bill does not include cases, and there is only one case in this province before the court that this bill affects, and that is mine and my family's. We are not looking for money, in our particular case, but we are looking for accountability. This law will help bring that accountability.

The law protects the rights of the citizens of this province, when they feel that the justice system has let them down, to go to the civil courts and have their way there. I believe that is a right that belongs to the people and the citizens of this province.

This is a good law. But it should not be left dated to Royal Assent. Royal Assent could come next week. It could come tomorrow. But, then, it could come in two and three and four years, as some laws have, for whatever reason, not been able to be passed.

It is all about accountability. It is not just about money. The justice system has left many families in this province very scarred, and scarred deep, and for their whole life. This law will allow them, in the case of the families that need the economic support and the economic retribution for monies that they are out of pocket, it will allow them an opportunity to recoup some of that.

Life in Manitoba, at this point, is only worth \$10,000. I would like to see anybody here sell one of your children for \$10,000. Thirty thousand dollars, with the new law, is not the right amount. You do not replace a life with money. So, in this case, it is not a money issue. It is a people issue. The people of this province want laws that protect them. I believe that the Government is taking steps to do that, but there is a lot of work ahead of us.

This law that we are talking about tonight, Bill 15, is a good law. But you are going to send it to legislation flawed. The first case that could challenge this, that could bring some accountability to the streets of this city and this province, will not be protected or fall under the guide of this law.

I appeal, on behalf of different groups, People for Justice, MOVA, and many other citizens who I managed to speak to today, that there be an amendment or a change to this law that allows it to cover all cases, including the one that my family launched, ones that may be launched tomorrow and next week, and next month; that these, again, do not fall through the cracks of our system. It is bad enough that a family feels that injustice is done, without seeing a glimmer of hope, and, then again, fall apart because of a date on the law.

We are not asking you to pay us money but we are asking you to consider the timing of this law. When you put it to law, when you pass this bill, it should be retroactive to all cases in the courts present today, in the courts that may be filed tomorrow, and right up until Royal Assent. If you do not do it that way, you will deprive the citizens of this province their right to fair legislation.

I did question why we were not notified. It is the only case in the courts. I could have put 100 presenters here today and tied this up for seven days. That is ludicrous and it is stupidity, and we do not want to do that, not I, nor my family, nor our associates. You are busy. You have families. What we really want to do tonight is appeal to you that an amendment to this act be put forth, and that this act become law retroactive to the announcement in the Legislature, not on Royal Assent.

To not permit the amendment would be another injustice, not only to my family, but to the people of this province and to the families who really could need this money at future dates. So I ask you that you give that consideration. That is all I want to say, and I thank you for your time.

Mrs. Joy Smith (Fort Garry): I want to thank you very much for coming and making the

presentation tonight. I felt that it was very important that all the facts are on the table.

Can you tell me, how do you feel about the Royal Assent part? As you know, Royal Assent can take some time.

Mr. McLaughlin: That was the part of the law. When I first spoke, I commended the Government and this committee on bringing this law forward. It is good legislation. The Royal Assent is the part that bothers me so much and my associates that I had lunch with today. The reason for that is, that in—without sounding self-centred on it—my family's case, we have a law or a suit in the courts, presently, right now. It will be allowed to die, basically, in the court, with no support of this base if we have to wait for coverage under Royal Assent.

I understand the necessity of Royal Assent, but why does it have to be a non-law until that time? The Government has the power to say, and you have the power as a committee to say that that law will cover not only future cases or future litigation, but it will also cover anything that is before the court today. I ask the committee at this point, why would it not, and why should it not cover cases that are before the court today? Is there an answer as to why? Mr. Mackintosh, why would it not cover cases that are in the court today?

Mr. Chairperson: Mr. McLaughlin, we are here to ask you questions.

Mr. McLaughlin: I apologize.

Mrs. Smith: Thank you, Mr. McLaughlin. I think, quite honestly, that is a fair question because it is something that needs to be asked.

Do you feel that if the amendments could be accepted or the amendment accepted in terms of including the court case that you have—and I understand there is only one court case and that is yours in the court system right now. Is that correct?

Mr. McLaughlin: We did check, and the only case before the courts that has any bearing on this law is the case of my family. It is a case of accountability where the people that wronged

the people of this province, whether it is through violence, through frauds, or whatever, it is accountability, to make them accountable where the courts sometimes fail, for whatever reason, to instil justice.

* (19:20)

Mrs. Smith: Thank you, Mr. McLaughlin.

Do you feel that if we can get this bill with the amendment accepted by the present Government, that this would help to bring some closure to the tragedy that has been in your family?

Mr. McLaughlin: I would like to think that it could. I do not understand the word closure. So many times it is said to our family. It is like I do not understand the word remorse in the courts, like a man should be let off because he showed remorse. I always question that, for the simple reason is, whoever got caught doing something that did not show remorse? It seems to be one of the strongest statements that we hear in defence of perpetrators and murderers. In my family's case, I do not know if we will ever have total closure because of the loss that we suffered of my son and his brother and sister's brother.

But I know in his mom's case, if we do not get covered under this law as a family, what it will do is serve upon our family and upon the other victims of this province just one more injustice, is what it will do. Will it bring closure? I cannot honestly answer that. But will it serve injustice? Yes, it will.

Mrs. Smith: I certainly want to thank you for your courage in coming because I know that each time you speak on this topic, it must be extremely hurtful for many reasons. But I admire and thank you for your courage at presenting your point of view. Indeed, I know I can speak for all members here and, certainly, members on this side of the House that anything that can be done to support victims who are a part of this, unfortunately, it is not just the person involved in the crime, but it is also the families, and it goes on and on. So I applaud you for coming. Thank you very much.

Mr. McLaughlin: I thank you, and I thank the committee.

Hon. Gord Mackintosh (Minister of Justice and Attorney General): Thanks very much for appearing, Mr. McLaughlin. I think that the insights you offer after going through the tragedy that you did are very instructive. I think that your voice is an important one. The voice of victims is, I think, too often overlooked historically. I think you are contributing to improvements of the justice system.

On the issue that you raise, this was a difficult matter that was looked at in designing the bill in terms of who is affected by the bill. The usual is, of course, that legislation becomes effective from the date of Royal Assent or proclamation and looks forward. Retroactive legislation is very rare, and for good reason, because people have relied on the state of the law as it was.

In this case, here, the question was what is the fairest way to proceed in terms of making sure that existing rights, or settled cases, or cases before the court, or lawyers, are not put in breach of their rules and their obligation to file claims in time. So this, certainly, was a difficult one. Were you suggesting that the effective date would be from the date of the announcement of the bill, or what were you thinking in terms of the date?

Mr. McLaughlin: Our legal counsel and our lawyers filed the statement of claim after the announcement of Bill 15 in the Legislature. The purpose, there were no dollar amounts stipulated. In the case of my family, it is not a money issue; it is an accountability issue. We do not want the money, but we do want accountability.

For the committee's interest, or not, any monies that should be garnered from this litigation will only go to the Anthony McLaughlin Memorial Scholarship fund. None will be used to pay lawyers, that would be out of my pocket. None will be used to pay anything. That money, if there were to be any, which we do not expect, but if there were, it would go to that memorial scholarship for future students which is already in place and working.

But we feel that the bill itself is good legislation. I commend the Government and this committee for pushing this through. It is long

overdue, as I shared at the beginning. But to deprive, not only so much our family in this particular case, Mr. Mackintosh and the committee, but to deprive other victims of their opportunity to file statements of claim and get covered under this while it is waiting Royal Assent would be an injustice to them.

The law is there and I do not understand the workings of the law, so I am certainly not going to question the loops and everything that you have to work through. But an amendment to a bill on the dating of it, it is not a proactive bill. If there was a settlement just about ready in a court and not just a statement of claim filed, I could understand where the lawyers would have a little bit of trouble, but so far, all we have done is trade paper.

It is not a matter of where we have been through the court system now. We have been in there doing battle and there are decisions being made and then they have to undo those to try to fit a piece of law. We are not asking for that. But we were forced, and you say it is hard to un-legislate or to backdate. Well, we were forced by the same thing that is bestowed upon us as citizens. We have two years less a day to file a statement. Had we not been forced by the laws that are in place now, in that particular case, under that text, we would not have filed this quick. We would have waited. We could have waited. This was not a matter of a money grab and let us get it done today. We were forced by the current laws to file this statement of claim. We had two years less a day. Had we not filed, we would not have been allowed our rights as citizens to file that statement of claim.

So it is a catch-22 on both sides. We were forced to file ahead of time while we were awaiting this law because of the way the laws are written. Yet, on your side, from what you have shared, you have a very hard time back-dating it. I appreciate that. I do not understand the working of that part of the legislation. But that is what they pay you the big bucks for.

Mr. Mackintosh: Just to explain, the legislation, as written, will only affect deaths that occur after the law comes into force. So it is not a matter of when you file your claim. The thinking, the

advice was that that would be the fairest way to proceed just because of obligations and liabilities that would exist otherwise.

In terms of the number of cases before the court, I am advised that it is expected that there are several cases because there could be negligence. It is any wrongful death. It does not have to be only from a criminal act. The staff advises it is difficult to quantify the civil actions. Unless it is publicly known, it is difficult to track. So that was the challenge. The date of death is the key.

I just will add that the act that exists now is about accountability. This one does deal with increased compensation, recognizing, of course, this has to be said, I think, every time we talk about compensation of this kind. You can never truly compensate. I think that you have reminded us of all that. This is a compassionate allowance at most. Life is priceless. It has to be said.

Thank you very much.

Mrs. Smith: Just one other question. Correct me if I am wrong, but you are not particularly asking for backdating it to a specific date, if the judgment has not yet been rendered in the courts of any claim that has been in the courts, and I understand judgment has not been rendered in the courts at this point in time in your case.

Mr. McLaughlin: No, in our case, the statement of claim—actually, there are two pending in the court. One has been filed in the court and served. But there has been no judgment and there has been no court hearings on it or any court time spent. As I said before, it has been basically trading papers at this point.

Mrs. Smith: So, in other words, if the amendment was accepted tonight, and we will be going over the amendment later on, but if the judgment has not been rendered in respect to such an action here in the court, and No. 2, if Royal Assent was given very quickly, then the bill would be, as it were, signed, sealed and delivered, and would meet the needs that are out there for your family and for any other person who might be in the court.

It has been my understanding there is only one case, which is yours, in the court at this time. Is that correct?

Mr. McLaughlin: To my knowledge, when it comes to a violent act, that is the only one that I know of, is the one of our family.

Mr. Chairperson: Thank you for your presentation.

* (19:30)

Bill 16—The Class Proceedings Act

Mr. Chairperson: The next presenter is Gloria Desorcy from the Manitoba branch of the Consumers' Association of Canada on Bill 16. Please proceed.

Ms. Gloria Desorcy (Manitoba Branch of the Consumers' Association of Canada): Good evening. My name is Gloria Desorcy and I am here today on behalf of the Manitoba Branch of the Consumers' Association of Canada. CAC Manitoba is a volunteer, non-profit, independent organization working to inform and empower consumers, and increase awareness of consumer issues in Manitoba.

On behalf of CAC Manitoba, I would like to start by thanking the committee for the opportunity to present our very brief comments on Bill 16, The Class Proceedings Act.

CAC Manitoba, along with many other consumer organizations around the world, bases much of its work on a set of eight consumer rights and responsibilities.

One of these is the right to compensation, defined as a fair settlement to make up for unsatisfactory goods and services. Consumers who have paid for poor workmanship or unsafe or defective products, on the other hand, have the responsibility to seek out and insist on fair and reasonable compensation.

Manitoba has consumer legislation, such as The Consumer Protection Act and The Business Practices Act, to assist consumers in obtaining redress for unsatisfactory goods and services. Regardless of how effective the legislation may

be, however, it is not able to deal with every eventuality in the marketplace, and many consumers find their particular complaint falls between the legislative cracks. I should add that, as a person who answers the phone a lot in our office, you see that same complaint fall through the cracks a number of times, and you start to see the real need for this kind of legislation.

In CAC Manitoba's view, Bill 16 represents an important step forward for consumers in this province. It offers consumers the opportunity to exercise their rights and responsibilities to obtain fair compensation in the following ways:

1) It would empower consumers to act collectively. The Class Proceedings Act would level the playing field between large companies and consumers. It would enable numerous consumers with the same complaint to seek redress in one proceeding, thereby limiting prohibitive financial cost to any individual consumer.

2) It would create economies of scale for the courts. By bringing consumers with the same complaint together rather than hearing separate complaints, it would help to keep the cost to taxpayers to a minimum.

3) It would help more vulnerable consumers exercise their right and responsibility to obtain compensation. By including all consumers who qualify as participants automatically, it provides an opportunity for compensation to those consumers who are new to Canada, unfamiliar with the legal system, or for whatever other reason would be very daunted by the thought of launching an individual suit against a business or corporation but are, nevertheless, still entitled to redress.

4) Also, it would make the Manitoba marketplace more efficient over time. By encouraging more responsible workmanship and well-made products, we think it would help to maintain a level playing field between businesses, thereby benefiting both consumers and responsible business.

5) Finally, it would help to avoid costly and inefficient duplication of services. Mr. chair, it is our understanding that, in this proposed legislation, judges would have the discretion to refer

any potential suit to another government agency or department if they felt that the complaint could be adequately dealt with under existing legislation.

In conclusion, CAC Manitoba recognizes that similar legislation already exists in several provinces, and we urge the Government of Manitoba to pass Bill 16, The Class Proceedings Act.

On behalf of CAC Manitoba, I would like to thank you for your time and attention.

Hon. Gord Mackintosh (Minister of Justice and Attorney General): Thank you very much, Ms. Desorcy, and thank you for your brief. As a former mentor of mine once said, I sent you a five-page letter, if I had more time I would send you a two-page letter, so I think you put a lot of time into this. This is very succinct and right to the point, and I will certainly be watching this legislation play out and, indeed, I hope and I expect that this will benefit consumers of Manitoba. Thank you.

Mrs. Joy Smith (Fort Garry): Thank you, Ms. Desorcy. We have read the legislation, and I just want to commend you for your presentation. It was very succinct, very well thought out, and it makes a lot of sense as does the legislation. Indeed, I would concur with some of your thoughts and thank you for coming tonight.

Hon. Jon Gerrard (River Heights): Thank you for your presentation. Just a question about the legislation and the comparison with other jurisdictions and whether, in fact, there can be any further improvements to the legislation as it is now put forward.

Ms. Desorcy: I echo what the minister said about watching the first few cases play out. I think CAC is going to be watching that carefully too, just to see if that is, in fact, the case and if, in fact, there is anything that does need to be adjusted or whatever.

Mr. Chairperson: Thank you for your presentation.

Bill 28—The Registered Dietitians Act

Mr. Chairperson: The next presenter is Caroline Lang, Manitoba Association of Registered Dietitians on Bill 28. Please proceed.

Ms. Caroline Lang (Manitoba Association of Registered Dietitians): Mr. Chairperson and members of the committee, good evening. My name is Caroline Lang and I am chair of the Legislation Committee for the Manitoba Association of Registered Dietitians which, if this act receives your approval and that of the Legislative Assembly, will become the College of Registered Dietitians of Manitoba. I am representing our organization today to speak in support of Bill 28 and to answer any questions you may have of our organization.

I would like to introduce Donna Law, past chair of our board of directors, and Michelle Hagglund, our registrar, sitting in the first row here.

I would like to take this opportunity to thank the minister for his support of our organization and for the confidence he has shown in bringing forward this legislation. I would also like to thank the Health critic of the Official Opposition and other MLAs for the time they have given to our organization in reviewing the bill with us following its introduction and for their questions and support. We would also like to thank the minister's staff, particularly Heather MacLaren and Barbara Millar, who have worked with us in developing this bill.

Bill 28 is important legislation to our profession and is the next stage in the evolution of registered dietitians becoming a self-regulating profession. By way of background, registered dietitians are the professionals in our health care system uniquely trained to provide advice to the public on food, diet and nutrition. They separate fact from fiction, healthy eating plans from unsafe diets and translate the science of nutrition into healthy food choices.

All registered dietitians have a bachelor's degree specializing in food and nutrition and, in addition, have completed an accredited internship or graduate degree. In Manitoba, the University of Manitoba meets these standards through the Faculty of Human Ecology. In addition, individuals must successfully complete an accredited program of supervised practical experience. These programs can take the form of a post-degree internship, integrated undergraduate program or an appropriate graduate coordinated program. An alternative route is also

an appropriate graduate degree plus the required competencies.

As a matter of note, Manitoba is one of the leading locations in Canada for internships as a registered dietitian. Internships are offered at the Health Sciences Centre, Misericordia Health Centre and St. Boniface General Hospital. Many registered dietitians from across Canada have completed their dietetic internship in our province, and it has created a strong linkage to Manitoba among the dietitian community in Canada.

Registered dietitians are essential members of the health care team. We contribute to the health, prosperity and the well-being of Canadians. Most people think of registered dietitians working only in a hospital or in food service such as a cafeteria, but times have changed. Registered dietitians do play a major role in industry, government and education. We influence the development and promotion of consumer products, manage quality food service in health institutions and provide information and counsel that allows decision makers, including the consumer, to make informed and wise judgments about food choices and dietetic services.

* (19:40)

We have an in-depth scientific knowledge, skill and judgment to integrate, translate and apply the knowledge of food, nutrition and social sciences, management theory, and to work with individuals and populations to create strategies to enable clients to achieve their food and nutrition goals.

In the community, we offer nutrition programs and healthy eating resources. In food service, we manage food preparation and distribution. In private practice, dietitians consult individuals, groups, workplaces, institutions and the media. In industry and business, we participate in product development, marketing and consumer education. In government education and research, we develop food and nutrition policies, teach others and make new discoveries about health and nutrition.

Registered dietitians have an in-depth scientific knowledge, skill and judgment to integrate, translate and apply the knowledge of

food nutrition, social sciences and management theory, to work with individuals and populations. Registered dietitians offer management training and expertise that can be very useful to health care administrators, regional health authorities and governments in the years ahead. With the increased recognition of the relationship between good eating habits and disease prevention, we have an important role in promoting and contributing to the health and well-being of Canadians.

Human Resources Development Canada's recent Canadian Occupational Systems report identified pharmacists and dietitians as the fastest growing job sectors in the country over the next five years.

Registered dietitians also play a significant role in food processing and food service industries. The food and food processing industries are of course regulated to protect public health and our expertise is often required to ensure acceptable standards are met.

In addition to the obvious need to protect the consuming public, growing export opportunities for Manitoba and Canada in value-added food products mean that exporters must be able to meet the stringent health requirements of other nations. Registered dietitians and the expertise and professionalism we can provide are an important aspect to this growing area of the Manitoban and Canadian economy.

Our members have also been employed in the food product sales industry as sales representatives for various manufacturers. The protection of our professional title and the power to regulate and discipline our members are an important part of protecting the public in this area. It ensures that we promote particular products in the marketplace and are held accountable by a professional body for the advice and information we provide.

To ensure our profession is able to regulate and so maintain, develop and enforce standards that are required of it, Bill 28 takes the profession from the simple protection of title provided in the current Registered Dietitians Act to the enhanced powers and responsibilities of a self-governing college.

The new legislation which is before you establishes the College of Registered Dietitians of Manitoba in the same uniform manner as other legislation has done over the past few years for several other professional bodies. Other provinces in Canada have already taken this legislative step, including Alberta, Ontario and Québec. Others such as Saskatchewan, Newfoundland and British Columbia are currently in the process of drafting similar legislation.

The college system provides for self-regulation by the profession, with a significant public or consumer presence on the governing council and disciplinary bodies. The objective of course is to protect the public by ensuring those who hold themselves out to have the skills and knowledge required by the profession do in fact have these skills and knowledge. This becomes important where quality accreditation and regulatory requirements require the service of qualified and accountable professionals. This act provides the mechanism for registered dietitians to ensure qualifications and accountability.

In terms of professional name protection and the proposed scope of Bill 28's authority, the bill provides for the protection of the following titles: Registered Dietitian and Dietitian, or any variation or abbreviation of either title in either official language; Graduate Dietitian, a member who has met all criteria of registration but is waiting to write a certification examination; and three, a Dietetic Intern, a person enrolled in an approved dietetic education program.

We are comfortable with the scope provided for this bill. Should you see fit as our provincial legislators to enact Bill 28 into law you have our assurance that we will continue to build, regulate and hold accountable our profession as it provides its experience and service in both our public and private industry in the months and years ahead.

As registered dietitians we are committed to excellence. With this legislation we will be able to ensure Manitobans have access to a well-trained, up-to-date and publicly accountable profession when they require our services.

The College of Dietitians of Manitoba will be committed to public safety by monitoring

competence of members through mandatory continuing education, protecting the public from unsafe or unethical dietetic practice, protect the use of regulated title designation and initials such as RD, review the professional conduct of members based on complaints and discipline members where appropriate, inclusion of public representatives on our council and committees. Finally, once again, I thank you for the opportunity to address the committee and for your support for this important initiative for our profession. I am prepared to answer any questions which the committee may have.

Hon. Dave Chomiak (Minister of Health): Just briefly, thank you for the presentation. In your presentation, you provided one of the functions that you do as registered dietitians, and that is to inform and instruct. So thank you for that, and I think you helped the committee by virtue of explaining the changes that have obviously occurred in the profession and in the field in the last 20 years which necessitates the act, so thank you.

Mrs. Myrna Driedger (Charleswood): I would like to congratulate the members for working on this particular legislation and, again, the perseverance and the hard work in making it happen. I understand that you have been at this for a few years, and you have been working hard to harmonize it with what is happening across Canada, that you have consulted widely here in the province and that you are fairly comfortable with the final product. Certainly, I have a huge respect for the role that nutrition plays in the healing process. I can remember a few times being a patient in a hospital, and I guess nutrition was never really a part of what I concentrated on, but certainly those three meals a day coming up tended to be the highlight of my day as a patient in a hospital. I am sure a lot of patients feel that way. We probably never realized the role that the nutrition was playing in our healing processes, but it certainly was a great part of the day when you could hear the trolleys coming down the hall and you knew your meal was about to be placed in front of you.

When I was going over the bill, I remembered back to my days as a student nurse and remembered the nutrition classes that we had to take for a whole year, and it was not my strong

suit, I have to admit. It was tough, and I recognize that it is a challenging program that dietitians take to get where they are. So I certainly recognize and appreciate the value you bring to being part of the team, and I am a huge believer in the multidisciplinary approach to health care and the role that each and every team member has in making patients better or in preventing illness, as you did allude to, in terms of the value of nutrition in people staying healthy.

So congratulations on your efforts in making the bill happen. I certainly know that also you face a huge challenge just on a day-to-day basis in trying to make everybody in hospitals happy with food that comes before them and not always an easy task, but I think you have done a great job, and certainly our members on our caucus are certainly prepared to pass this bill.

Hon. Jon Gerrard (River Heights): Thank you for your presentation. How many registered dietitians are there in Manitoba now?

Ms. Lang: Three hundred.

Mr. Gerrard: This area seems to have blossomed in importance because of all the discussion about the role of food in keeping people healthy, of functional foods and nutraceuticals and various other things, and I suspect that is part of the reason why this profession, your profession, is increasing in demand and need. I just wondered whether you would care to comment.

Ms. Lang: Thank you for your comments. I do agree. That old slogan you are what you are eat seems to be more and more important these days. I think everybody thinks they are an expert on food because everybody eats and everybody is recommending a diet for every ailment out there.

I know one of the comments I often get is I see so much on the Internet or in magazines or on TV and I do not know what is good for me and what is not and I do not know what to pick. Weeding through that information certainly is a task for everybody, I think.

* (19:50)

Mr. Gerrard: With the increasing amount of research and need to have real evidence and

solid research in terms of making your recommendations speaks to not only the importance of the area but to the importance of having people who keep up-to-date with the latest information. Maybe you want to comment about the pace at which the new knowledge is becoming available in this area.

Ms. Lang: Well I think just with the way technology is increasing itself, I mean, there are more and more studies coming out every day. I do not think health care was as focussed on nutrition 20 years ago as it is today. As more and more research becomes a positive factor in showing what you eat does influence many of the chronic diseases in Canada, more and more money is being put into that area. I think some of those research studies would have gone by the wayside years ago maybe for lack of funding, whereas now maybe they are one of the prime ones to be funded. Thank you.

Mr. Chairperson: Thank you for your presentation. Is there anyone else in the room who would like to make a presentation who has not registered yet but would like to come forward? That then concludes the presenters.

I would like to suggest that we consider clause by clause in the following order: the bills for the Minister of Justice, then the Minister of Consumer and Corporate Affairs, and then the Minister of Health. *[Agreed]*

Bill 15—The Fatal Accidents Amendment Act

Mr. Chairperson: Beginning with Bill 15, the Minister of Justice and The Fatal Accidents Amendment Act, does the minister responsible for Bill 15 have an opening statement?

Hon. Gord Mackintosh (Minister of Justice and Attorney General): I want to thank the Manitoba Law Reform Commission for its work and its work on a timely basis, as well the contributions of that work made by Prof. Philip Osborne of the Faculty of Law.

The legislation comes as a result of a particular case that was being heard in Manitoba before the Manitoba Court of Appeal, which raised serious questions about the access to

justice afforded by the legislation. We very carefully considered the Law Reform Commission report, which we specifically asked for, and I was so pleased to have the commission respond favorably. We did a few little tweaks on the recommendations, but, by and large, the bill is based on the Law Reform Commission's report and its insights. So I think with those comments we are prepared to consider the bill.

The issue of the time of application of the bill was one that was of particular interest to me. In fact, I had specifically asked staff about its application and the fairest way to proceed with that. Quite frankly, what the Government is interested in, and this is all it is interested in, is what is the fairest way to have the application apply on a go-forward basis or on a retroactive basis, what is the fairest way to apply this law to the citizens of Manitoba.

It was determined after some considerable thought that the fairest way appeared to be clearly by basing the application of the legislation on date of death. Therefore the legislation would be effective for Manitobans on the date that it comes into force in the province.

To do otherwise runs into a whole myriad of unfairness issues, unfortunately. It tears my heart out when I hear of particular situations and people who would be required to go under the old law, not because there will be no accountability, but because of the monetary compensation changes that are being brought in now. I guess every time laws are brought in, there is always the question of when it comes into force, when it starts to apply.

In the situation here, if there was a fair way, we would certainly consider it, but, if, for example, the amendments apply to cases where no final judgment had yet been entered, two deaths that occurred at the very same time, in fact perhaps even from the same event, could be treated differently. For example, there would be an entitlement to higher damages if the matter was still before the courts, and yet there would have been a settlement already, with all the releases and the inability to reopen the case, if it had been settled before the coming into force of the legislation.

As well, lawyers may have settled existing claims based on the existing act and the case

law. They would have no warning, of course, that the bill would ever apply retroactively. Certainty in the law is another thing, of course, that is pursued, and people should know at the time they act what law will apply in the event they breach the law. That is the prime policy reason for avoiding retroactivity. Again, too, you think, well, what about a judge that gave his reasons yesterday or before a Law Reform Commission reported or the day before first reading? It becomes very arbitrary and subject to applications of unfairness.

That was looked at very carefully, and I might also add that the number of cases before the court would be difficult to quantify, but we certainly know that the cases before the courts are based on medical negligence, which are not uncommon in the civil courts of Manitoba, deaths as a result of falls or product liability. I think medical negligence is the largest area now that there is no-fault insurance in respect to motor vehicle accidents. As well, of course, there are instances where there are criminal acts that lead to death for which there are cases filed, like the case of Mr. McLaughlin. So that is the background to the legislation as it is drafted.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

Mrs. Joy Smith (Fort Garry): Yes, I do. I commend the Government for bringing this particular legislation in. I think it is a very timely bill, and something that gives hope to victims, particularly victims of violent crime, and it tightens up a lot of very important parts of compensation for the loss of a loved one. It also extends the family member in such a way that it is very helpful to the family.

Some points, when we talk about fairness, fairness is very, very important. In actual fact, looking at the courts right now, there is only one case before the court. I would agree retroactive is very difficult to deal with, but it is not difficult if the amendment puts forth an action in respect of the deceased has been or may be brought, but the judgment has not been rendered in respect of such an action.

In the case of Royal Assent, Royal Assent can be given immediately, or Royal Assent can

be given after a long, long period of time. I would say that, with this very good legislation that is awaited here in the province of Manitoba, it is very important that the members opposite support the amendment that will be brought forward tonight to ensure that the McLaughlin family has a very fair day in court, has a very fair judgment here and is dealt with very fairly, as well.

* (20:00)

Looking at it very carefully, when this legislation was brought forward, there was much hype about it. There were many photo-ops. There was much celebration. On this side of the House, members on this side of the House celebrated with the Government. An extremely good piece of legislation.

It is only good if it is effective. So, with one case being in the court right now, I think it behooves members on both sides of the House to look at the fairness, look at the need, not only for closure but accountability, as Mr. McLaughlin so eloquently brought forward tonight.

Also, the Royal Assent piece needs to be assured that it happens in a very timely manner, meaning very quickly, because it is at the discretion of the Government to give it Royal Assent or not give it Royal Assent. So the legislation is only as good as the paper it is written on if these factors are put in as well.

We have two choices about this legislation. We can all pass the legislation tonight, which members on this side of the House will do. We can pass it with or without the amendment that will be introduced. On this side of House, we will ask for that amendment and vote for it.

The last thing is the Royal Assent. Without the Royal Assent this legislation sort of sits. Having said that, these are my opening statements in the hope that with the support this Government has from this side of the House we can continue to make this a stronger bill by accepting the amendment and we can continue to get this show on the road, as it were, by giving it Royal Assent as quickly as possible.

Mr. Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? [*Agreed*]

Shall clauses 1 to 3 pass?

Hon. Jon Gerrard (River Heights): I just have a question of clarification for the minister. The minister mentioned the area of medical negligence. Although there are potential options here, it is an area which potentially could have been included. There are clearly occasions where the difficulties, of legal route, for example, and of establishing with 100% certainty negligence or fault or what have you, make consideration of possibly including such an area in this bill a real valid consideration. So I would like the minister just to comment on this area and why it was excluded.

Mr. Mackintosh: First of all, statements that there is only one case before the courts under this legislation is a surprising statement because the cases cannot be searched on the basis of whether there is a claim under The Fatal Accidents Act or not. I know from my experience in dealing with these cases, I had experience dealing with medical malpractice resulting in death which is under this legislation. I think it is likely there are many such cases pending before the courts. Indeed, this is a wrongful death from many kinds of reasons. So these cases are not uncommon.

In fact, the case that gave rise to the Law Reform Commission report on this bill was a case against a doctor, I believe, in the Thompson General Hospital for negligent death. The bill does not specify the kinds of wrongs, the nature of the torts that lead to wrongful death, because that is in the act itself. This only deals with the compensation amount.

Mr. Gerrard: So, just for clarification, what you are saying is that medical negligence cases under some circumstances would clearly be

included and would be eligible for these amounts of compensation.

Mr. Mackintosh: Yes, and just to reiterate it was such a case that gave rise actually to the bill.

Mr. Chairperson: Clauses 1 to 3—pass. Shall clause 4 pass?

Mrs. Smith: Go ahead. I do not know whether this is the time or not, but—

Floor Comment: No.

Mrs. Smith: Not yet. Okay, go ahead.

Mr. Chairperson: Clause 4—pass. Shall Clauses 5 and 6 pass?

Mrs. Smith: The Fatal Accidents Amendment Act, I move

THAT section 5 of the Bill be replaced with the following:

Transition

5(1) The Fatal Accidents Act as it read immediately before the coming into force of this Act applies to an action

(a) in respect of a deceased who dies before this Act comes into force: and

(b) in which judgment has been rendered.

Transition—outstanding actions

5(2) The Fatal Accidents Act as amended by this Act applies to an action in respect of a deceased who dies

(a) on or after the day this Act comes into force; or

(b) before this Act comes into force, if an action in respect of the deceased has been or may be brought, but judgment has not yet been rendered in respect of such an action.

Mr. Chairperson: We will wait and see if it is in order. I am advised that the amendment is in order. Moved by Mrs. Smith, Fort Garry,

THAT section 5 of the Bill be replaced with the following:

Transition

5(1) The Fatal—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

Mrs. Smith: I think it is very important that this amendment be accepted by all around this table this evening on committee. I think that the minister has made a point that, in the case of medical malpractice, there may be other instances in the court. I do not know, but I do know that tonight we heard a presentation that was very moving about a family who is very involved and very anticipatory of this act being passed to give some accountability to the justice system.

When we talk about victims, whether we do not know for sure how many cases are in the court, when we talk about victims of untimely death, then that has to be taken into consideration, Mr. Chair.

So, in terms right now of the court cases that are available right now in the court waiting for judgments to be rendered, I strongly recommend that this amendment be passed on this basis. It is the fair and right thing to do for people who have gone through such tragedies.

Mr. Mackintosh: What is particularly difficult here is that there are two ways to close and complete an action. One is by way of judgment; the other is by way of settlement. When the settlement is completed, there is an exchange of releases and there is no further action that can be taken.

So I do not know how there can be a fairness when there have been cases settled. What happens to the lawyer that settled the case with a retroactive law? What happens to the parties? I mean, how do you come back and open it up again? You can bet the defendant is not going to agree to open up the case again.

* (20:10)

I think that there are issues here of liability. I say if there was something fairer, I would be interested. This one here looks like not only is it not fairer, but it actually poses a significant problem, and I am open to this. I just do not see it here yet. I will continue to consider this, but I think this causes a lot of difficulties.

Mrs. Smith: In all due respect, I do think that is a very weak point, and I will tell you why. I think it is a very weak point because when a family has gone through the court system and been given a settlement, most families that have gone through a tragic kind of experience want to distance themselves, want to have closure happen. When the settlement is there, they consider this to be closure. People do not come to courts for money in terms of remuneration for a loved one's demise or death. A settlement is the end of the situation.

In this amendment it says "if judgment has not been rendered." Judgment is in terms of the judgment in the case. The judgment in the case will be settled. I think it is fair and equitable to adopt this amendment for that reason.

Mr. Mackintosh: In terms of the words "may be brought to," I do not know what the impact is on limitation periods by that phrase, but we will continue to look at this. We will certainly think further about this amendment, but at this time we are just not in a position to accept it just given what appears to be a very problematic way. You know, retroactive laws can be very difficult just by their very nature as people have relied on the law that is there now, but to treat deaths differently, and I do not think that we can just say, well, it was only about closure because there is often significant legal fees. I just think that the Legislature would be open to some significant criticism if some persons were treated differently because of deaths that happened before the coming into force of the act.

I thank the member for turning her mind to this and suggesting something. I think, though, that the Government will certainly undertake to consider this further. If it looks like there is a fairer way, there is the availability of report stage.

Mrs. Smith: Just to clarify or clear the air here, the Attorney General has not accepted this amendment because of his worries about other factors. So tonight, what is going to happen? Like what is the intent of this Government? It brought in this bill with great flare. We supported the bill. All members on this side of the House want is to make sure that it is fair and equitable, and so there has been presented

tonight a lot of ifs and whats and without the homework being done.

I would have assumed that members opposite have done their homework, knew how many cases were in the courts, knew, had some idea what was about, having said that they wanted to be fair with victims. Well, we have to put some meat to that fairness and the meat to that fairness, the members on this side of the House definitely want to support this bill. There is no doubt about it. Putting meat to that fairness would be an acceptance of the amendment to put it through and to put Royal Assent through.

So tonight, are members on this side of the House going to be voted down on this amendment and just go ahead and the bill is passed and who knows when Royal Assent is going to come? What is going to happen here?

Mr. Conrad Santos (Wellington): Mr. Chair, I would like to speak in support of the minister. What is fair to X is not necessarily fair to Y. We always argue for what is fair, but what is fair is anything that is in your interest. The retroactivity has to be explained carefully. Retroactivity is frowned upon by legislators and by courts because to make anything retroactive means you stretched the new rule to apply in a situation before it is adopted such that it replaced the old existing rule when there is yet no new rule at the time. That is why retroactivity is hardly condoned by legislatures and courts.

There could be a grandfathering clause in certain specific cases, but these are well-defined cases, in order to grant some benefit to some special thing or special situation. That is the reason why we cannot generally follow retroactive laws or advocate retroactivity. Otherwise there would be confusion. When will it start? You have to extend it backwards until the beginning of time to be really fair. Every situation has its beginning and its end. That is why we arrange our affairs according to what is the existing rule at the time that we organize our affairs. That is all.

Mr. Chairperson: Shall the amendment pass?

An Honourable Member: No.

Mr. Chairperson: All those in favour, say yea.

Mr. Denis Rocan (Carman): I thank the member for bringing forth his X and Y and how we are doing things retroactively. It has just been brought to my attention here, we have dealt with this issue. We have, as has just been pointed out, just passed nine bills in this House, but we have made two of those nine retroactive.

My question to you, sir, why would it be okay for the residential schools, the firemen with the Workers Compensation Board, those laws that we passed, why would it be okay for them, but those here who we are fighting for under The Fatal Accidents Amendment Act, why is it we could not make that retroactive? I want to know what the difference is, Mr. Minister.

I mean, I never caught on to until the member here raised it. He brings it to our attention. I thank my honourable colleague the Member for River Heights for bringing this information forward, because that is how this Government operates. It is a Band-Aid solution that you are trying to do. You have made retroactive to what your political will will be, but when individuals who were affected in the way with these fatal accidents and they are asking for the same retroactive, the same scenario which should apply, you neglect this individual who comes forward and bears his soul to us. I ask the member: Do you, sir, consider this fair? Do you consider it fair?

Mr. Chairperson: Was there a question to the minister there?

Mr. Rocan: I am asking him. Does he consider it is fair? I mean, we have done certain legislation, we have passed certain legislation.

Mr. Mackintosh: Well, first of all, the residential school act was not retroactive legislation. It was retrospective. Actually, it looked forward. It said you can still continue your claim. With regard to the Workers Compensation Board, these are not unfairness issues resulting from when you filed your claim or when you had a settlement, because, with the Workers Compensation Board, as I recall, there are not the releases. It is not a civil liability process.

This amendment, by the way, also differs from the suggestion by Mr. McLaughlin that deaths occurring after the first reading would be considered. I just think that this deserves some further thought, but, at this point, as I said earlier, I think some significant issues of unfairness with this as well is when some matters go to trial and some matters get settled. Boy, I tell you, there are lots of factors that go into that, including the financial wherewithal of the claimant, of the plaintiff, and indeed sometimes even the arrangements with counsel. That is what causes the problem. I think it deserves consideration at least, but we are not prepared at this time to accept the amendment as worded.

Mrs. Smith: Then very clearly I know if we went into a vote right now, with the minister saying he does not accept the amendment, I know we would be voted down and we would lose everything we have gained tonight.

The minister also said he is willing to look at this at report stage and come up with some reasonable conclusion. Do we have a guarantee? We can pass it on division tonight, which means we support the concept in the bill, but because we know the amendment will be voted down we just do not agree with that part of it.

Come report stage, the minister has said he would look very closely at it and see what else he could bring in to address the concerns he has. Do we have a guarantee around the table that this will happen?

* (20:20)

Mr. Mackintosh: I will just reiterate the department and my office looked very carefully at this. This was not thrown together. This was done with the Law Reform Commission report. This particular aspect was considered very carefully with pointed questions about the fairest way to introduce this law and introduce this change.

Next, I will say there is no commitment to introduce any amendment at report stage. There is a commitment, though, to consider whether there is any fairer way than what is set out in the bill. If such a way is found, we would be prepared to sponsor or to support such an amendment. I think that is the way it works. It always has on every bill.

Mrs. Smith: I know quite categorically I am not going to get any more than that this evening, so I have no choices but to move forward on this right now, but I want it put on record that I would hope the minister would be very mindful of the McLaughlin family and the tragedies of the people, the victims of crimes that will not be addressed in this bill.

Mr. Chairperson: Let us try this again. Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the amendment, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the amendment, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Some Honourable Members: On division.

Mr. Chairperson: On division.

* * *

Mr. Chairperson: Clauses 5 and 6—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 16—The Class Proceedings Act

Mr. Chairperson: The next bill is Bill 16, The Class Proceedings Act.

Does the minister have an opening statement?

Hon. Gord Mackintosh (Minister of Justice and Attorney General): No.

Mr. Chairperson: Does the critic for the Official Opposition have an opening statement?

We thank the members. During the consideration of a bill, the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Clause 1—pass; clauses 2(1) to (3)—pass; clauses 4 to 5(2)—pass; clauses 6(1) to 7—pass; clauses 8(1) to 8(3)—pass; clauses 9 to 10(2)—pass; clauses 11(1) to 14(1)—pass; clauses 14(2) to 17(1)—pass; clauses 17(2) to 18(2)—pass; clauses 19(1) to 19(4)—pass; clauses 19(5) and 19(6)—pass; clauses 19(7) to 20(3)—pass; clauses 21(1) to 24(2)—pass; clauses 25 to 26(2)—pass; clauses 27(1) to 27(3)—pass; clauses 27(4) to 28—pass; clauses 29(1) and 29(2)—pass. Shall clauses 31 to 34 pass? Sorry, we will do that again. Clauses 30(1) to 30(4)—pass; clauses 30(5) to 31(1)—pass; clauses 31(2) to 32(1)—pass; clauses 32(2) to 32(7)—pass; clauses 33(1) to 33(4)—pass; clauses 33(5) to 34(3)—pass; clauses 34(4) to 35(2)—pass; clauses 35(3) to 36(2)—pass; clauses 36(3) to 36(5)—pass; clauses 36(6) and 36(7)—pass; clauses 37(1) to 37(4)—pass; clauses 38(1) to 38(4)—pass; clauses 38(5) to 38(7)—pass; clauses 39(1) and 39(2)—pass; clauses 39(3) to 43—pass; clauses 44 and 45—pass; table of contents—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 18—The Special Survey Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 18 have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Absolutely. Bill 18, just quickly to go over it, The Special Survey Act, is an act for property rights for the people and citizens of Manitoba. Proposed amendments generally will reduce the time it takes for a special survey by eliminating the Order-in-Council and subsequent appeal process. A minimum of 30 days would be saved by doing this. If no objections to the special survey are received from the affected owners, the process time will reduce by an additional 30 days for a period of 60. The amendments proposed will reduce the

cost as well for government. In the processing of special surveys, it is estimated that each special survey costs approximately \$300 in time and advertising that it takes. Most importantly, the landowners affected by the special survey will have the right to be heard by the Municipal Board if they do not agree with the proposed correction and the right to appeal a decision in the municipal courts. And, finally, the provisions of the act providing for the recovery of the costs from the landowners are being removed as they have never been utilized over the last number of years.

With those few opening statements, Mr. Chair, I will turn it over to Denis.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

Mr. Denis Rocan (Carman): I thank the minister for giving me the opportunity to peruse not only his bill—you know, I will just speak into the mike. How is that? It might be simpler for everybody.

Mr. Minister, I appreciate your taking all the time to bring these amendments forward in Bill 18, The Special Survey Amendment Act. I really appreciate the manner in which you are attempting to move in the right direction. The terminology "cutting red tape" seems to come to mind right here and now. Your timely manner that you speak of, the 30 days that would save individuals, really appreciate it.

Mr. Minister, the L-G-in-C, Lieutenant-Governor-in-Council, rather than making, to use the terminology "allowing" them to make their recommendations, moving it over to the Municipal Board, I think it is just an absolutely great idea.

The only problem that I have with this entire bill, and you might have thought I was joking a minute ago when I said I think that we should maybe kill this bill, there was one part of this bill that I do not think would fit with anybody sitting at this table right now. I believe if I look around the room, around this table right now, there might be two of us who actually understand what this bill is all about, and they are not at the head of this table. They are not at the head of this table, Sir.

* (20:30)

When I am looking here, and unless somebody can help me here, I can read a particular paragraph in français. And I do not want to do it here this evening because we do not have a translator, but obviously if one just looks at the bill, I am going to ask where the English side of it is.

There is obviously something missing. Maybe I am right, maybe I am wrong, I do not know. *[interjection]* The bottom of page 2, yes, there is a complete paragraph here, it is all in français. I can sit here and I can tell you exactly what it says, if that is going to help you, but I do not think the members would want that.

The bill is absolutely a very good bill. My honourable friend here sitting on my right, the doctor, he is the other one who would understand. He understands the français. Mind you, excuse me, the Minister of Health, he is quite aware of it too. So he could help you carry the can on the Executive Council side.

So I would ask the minister if he would not want to take a moment and consult with staff, because I see everybody is racing around here now. *[interjection]* Pardon me? I did not hear you.

An Honourable Member: Go to another bill.

Mr. Rocan: There are no presenters anyway, so it is not like we are hurting the world. We have several pieces of legislation that will come back at a later date.

Mr. Chairperson: Mr. Rocan, we are consulting the translator and the deputy minister. Perhaps we can take a short break and see what their opinion is. You may even be right.

Members of the committee, I would like to ask for leave to let Legislative Counsel speak to the problem. Is there leave? *[Agreed]*

We need your name.

Mr. Philip Samyn (Legislative Counsel): My name is Philip Samyn. I am with the office of Legislative Counsel.

An Honourable Member: Philip, are you Philip?

Mr. Samyn: Yes, Philip. My answer is based, in part, on my conversations with Mr. Michel Nantel, who is our chief translator.

There are significant differences in the bill in terms of the size between the English and the French versions, and the explanation is as follows:

On the English side, it is only a partial amendment to section 12. If you had the base act in front of you, there are about 10 or 15 lines of text which will remain, and we are adding the clauses (a), (b) and (c) in front of it. However, in the French, I am advised that it was not possible to just add a chunk of text into the provision, that the only way to make the provision work was to rewrite the whole provision, the whole section 12.

The key point is when the amendments are consolidated, they will be exactly the same and we frequently make different amendments in English and French, just because of the differences in the language, to achieve the same result. At the end of the day, they will, in effect, be saying the same thing, and this was the only way we could make the amendment work. That is why there is additional text on the French side.

Mr. Chairperson: As the Chair, I would like to ask if we could get a photocopy of the existing page from the act that you are referring to since the members of the committee cannot see it, and we will get the Clerk to copy that for all members.

Mr. Rocan: Mr. Chair, I thank Philip for attempting to try and explain it. I know it is not proper that I can just sit here and question Philip on the legality of what we are trying to do here. Again, I find myself in an awkward position because as much as I want to read section 9 in français, so if individuals wanted to go looking at section 9 on the French side of it and using your own judgment look on the English version of section 9 where it explains section 16 is amended by striking out "as soon as an Order in Council under this Act has come into force by the expiration of 30 days from the publication in the *Manitoba Gazette* of notice of the passage thereof under this act without an appeal being taken a certified copy of the Order in Council"

and substituting "a certified copy of the Registrar General's approval."

Now, I would ask the members to look on the opposite side of the page, and if you think for a moment that there is something there that would tell me that we are saying the same thing, well, I do not believe we are.

Mr. Chairperson: We are going to get the minister to reply to this question.

Hon. Dave Chomiak (Minister of Health): Mr. Chairperson, on the same point, I have to have an opportunity, and I certainly appreciate the member raising that point. I just want to make the point that, on the amendment brought by the Member for Fort Garry (Mrs. Smith), the amendment in the previous act, I was looking at the French translation and found a difference between the English, my interpretation of the English and my interpretation of the French by virtue of the word "or" and whether or not it changed the application of the act.

* (20:40)

I do not know if the member noticed, but I went over to the Clerk and discussed with her the application of the French section and was advised that because of translation factors and the need to translate the French language, there was a different need for a different type of wording. Now, the member understands that greater than me.

So, just in defence of the translators, I did acknowledge the fact that the translation, while it appeared to me to be inconsistent, was, in fact, consistent by virtue of the way the English and French applied. Now, I suspect, although I do not know, that that is part of the difficulty here, although the member, of course, is far better versed in the understanding of both languages than myself.

Mr. Mackintosh: Well, I think, though, simply when you look at the original act, it becomes quite clear. You will see on the English side of the bill in clause 5, we are only striking out everything before that phrase "and may declare the survey." So that whole bulk of text on page 4 of the act remains. So you will see that then on

the French side on clause 5, the whole article is being replaced.

So we have to be careful in reading the bill as to what is being changed. What is being changed on the English side is different than what is being changed on the French side.

Just to say it again—I will say this for Mr. Rocan—in clause 5 of the bill, you will see that it says: "*Section 12 is amended by striking out everything before "and may declare the survey" and substituting the following:*"

Then you look at the French side and the whole section is substituted. So you cannot just compare the French and the English side of the bill. You have to look to see what is being amended in each clause. It appears that the explanation offered, it certainly satisfies me, but I think it is important to recognize that the amendment is very different for both the French and English.

Mr. Chairperson: I would like to suggest that we deal with section 5 and then section 9, unless the minister is prepared now on section 9. [*interjection*] On section 9, Mr. Minister.

Mr. Smith: I am informed that as we look at the two sections on the left-hand side in English and on the right-hand side on section 9, the words that are used on the left-hand side which quotes, and the right-hand side which means which proceeds, the number of words are not needed because of the change in that terminology on right to left.

It is exactly the same meaning. It is the same contextual meaning, but one strikes out by saying "everything before". The other one says "which quotes". So that is just a matter of the two terminology of words being used there. Obviously, that one quoting and one says "which proceeds". So you had the ability in French to strike that out on that side because it was not needed, "which proceeds".

Exactly the same text, a different amount of words used.

Mr. Rocan: Mr. Chair, I thank the minister for attempting to, but as I quickly go over section 9,

it is telling me that: "As soon as an order in council under this Act has come into force . . ."

Mr. Chairperson: Excuse me, Mr. Rocan, I am having trouble hearing you. Can you pull the mike closer?

Mr. Rocan: Yes, me, too. I am having trouble myself. Thank you very much, Mr. Chair.

Again, I think this is the dilemma that we are into because each and everyone of us who are looking at this, we have a different opinion of what we are looking at. I mean, it is not clear black and white, let me tell you, because, as I try to translate what the minister is saying is not needed, I am saying, well, the Francophones then, it does not matter to them that this Order-in-Council under this act has come into force by the expiration of 30 days from the publication of the *Manitoba Gazette*. So, obviously, the Francophones, it does not matter to them whether or not it is in the *Manitoba Gazette* or not, or that it has been published there, or that there has been a certified copy of the Order-in-Council. Obviously, it does not matter to them because it is not there.

Mr. Smith: The 30 days, obviously, will be in force and is in there. Hang on a second.

Mr. Chairperson: Is it the will of the committee to recess for a few minutes so that we can have a dialogue between the staff and Mr. Rocan and also maybe photocopy the original page in the act? [*Agreed*]

The committee recessed at 20:45

The committee resumed at 20:57

Mr. Chairperson: The Standing Committee on Law Amendments will please come to order.

Mr. Smith: Thanks very much. I would like to thank Mr. Rocan for bringing his points forth. Both points that he identified to us were advised by Leg Counsel, interpretation service, that they mean the identical thing when completed. Both meanings will be achieved identically in the completed stage. I am confident of that. The

intent will be the same, and I believe Mr. Rocan was hoping to achieve that. I feel that that is achieved and will be achieved. So I would recommend that we pass those provisions as recommended.

Mr. Chairperson: We are not passing anything. We have not started clause-by-clause yet, but I thank all honourable members for their input.

During the consideration of a bill the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1-3-pass; clauses 4 and 5-pass; clauses 6-12-pass; enacting clause-pass; title-pass. Bill be reported.

Bill 13—The Medical Laboratory Technologists Act

Mr. Chairperson: The next bill is Bill 13, The Medical Laboratory Technologists Act. Can we find the minister? We are looking for Mr. Chomiak. Let us start it.

Does the minister responsible for Bill 13 have an opening statement? No. Does the critic from the Official Opposition have an opening statement? No. We thank the members.

During the consideration of a bill the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to be proposed. Is that agreed? *[Agreed]*

* (21:00)

Clause 1-pass; clauses 2 to 3(2)-pass; clauses 4(1) to 5(1)-pass; clauses 5(2) to 6(8)-

pass; clauses 7(1) to 7(3)-pass; clauses 8 and 9(1)-pass; clauses 9(2) to 11(2)-pass; clauses 11(3) to 12(2)-pass; clauses 13(1) to 15(1)-pass; clauses 15(2) and 15(3)-pass; clauses 16 to 18(1)-pass; clauses 18(2) to 20(1)-pass; clauses 20(2) to 20(5)-pass; clauses 20(6) and 21(1)-pass; clauses 21(2) to 22(1)-pass; clauses 22(2) to 24(1)-pass; clauses 24(2) to 26(2)-pass; clauses 26(3) to 27(2)-pass; clauses 28 to 31(1)-pass; clauses 31(2) to 33(3)-pass; clauses 33(4) to 36-pass; clauses 37(1) to 37(4)-pass; clauses 38(1) to 39(4)-pass; clauses 39(5) to 41-pass; clause 42(1)-pass; clauses 42(2) to 43(1)-pass; clauses 43(2) to 43(4)-pass; clauses 44(1) to 46(1)-pass; clauses 46(2) to 49-pass; clauses 50(1) and 50(2)-pass; clauses 50(3) and 51(1)-pass; clauses 51(2) and 52-pass; clauses 53(1) to 54-pass; clauses 55 to 56(4)-pass; clauses 56(5) to 58-pass; clauses 59 and 60-pass; clauses 61 to 63(1)-pass; clauses 63(2) to 64(2)-pass; clauses 65(1) to 65(5)-pass; clauses 65(6) to 68(2)-pass; table of contents-pass; the enacting clause-pass; title-pass. Bill be reported.

Bill 25—The Hearing Aid Amendment Act

Mr. Chairperson: The next bill is Bill 26, The Occupational Therapists Act. Does the minister have an opening statement? Oh, I am sorry, we are doing 25 next.

Does the minister have an opening statement? No?

An Honourable Member: No.

Mr. Chairperson: Does the critic for the Official Opposition have an opening statement?

An Honourable Member: No.

Mr. Chairperson: No. We thank you.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses and blocks and conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or memos to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2—pass; clauses 3(1) to (7)—pass; clauses (8) and (9)—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 26—The Occupational Therapists Act

Mr. Chairperson: The next bill is Bill 26, The Occupational Therapists Act. Does the minister responsible for Bill 26 have an opening statement?

An Honourable Member: No.

Mr. Chairperson: No. Does the official opposition critic have an opening statement?

An Honourable Member: No.

Mr. Chairperson: No. We thank the members.

During the consideration of bill, the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses and blocks and conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or memos to propose. Agreed? [*Agreed*]

Clause 1—pass; clauses 2 to 3(2)—pass; clauses 4(1) to 4(7)—pass; clauses 5(1) to 6(5)—pass. Shall clauses 6(6)—

Hon. Dave Chomiak (Minister of Health): Yes, Mr. Chairperson, during the course of the presentation, members may recall that there was reference to an amendment requirement that was concurred with by the representative of the occupational therapists, so I move

THAT subsection 6(8) be replaced with the following:

Committees

6(8) The council shall establish any committee that the council considers necessary.

Mr. Chairperson: We are going to go back to clause 6(6). Clause 6(6)—pass; clause 6(7)—pass. [*interjection*]

I will ask the minister to read it again.

Mr. Chomiak: Now I move

THAT subsection 6(8) be replaced with the following:

Committees

6(8) The council shall establish any committee that the council considers necessary.

Mr. Chairperson: The amendment is in order. It has been moved by the honourable Mr. Chomiak

THAT subsection 6(8)—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

Mr. Rocan: Just for clarification, I appreciate the minister bringing forward his amendment, but it seems to me when I am reviewing the presentation that was made before us, it said section 6(8) needs to be removed. Can somebody clarify that for me?

Mr. Chomiak: The member is correct, and what we are effectively doing with this amendment is removing subsection 6(8)(a) and we are just leaving subsection 6(8)(b) in your existing amendment.

* (21:10)

Mr. Chairperson: Amendment—pass; clause as amended—pass.

Clauses 7(1) to 7(3)—pass; clauses 8 and 9(1)—pass; clauses 9(2) to 11(2)—pass; clauses 11(3) to 12(1)—pass; clauses 12(2) to 14(1)—pass; clauses 14(2) and 14(3)—pass; clause 15—pass; clauses 16 to 18(1)—pass; clauses 18(2) to 20(3)—pass; clauses 20(4) to 20(7)—pass; clause 21(1)—pass; clauses 21(2) to 23(1)—pass; clauses 23(2) to 24(3)—pass; clauses 25 to 26(2)—pass; clauses 26(3) to 27(2)—pass; clauses 28 to 31(1)—pass; clauses 31(2) to 33(3)—pass; clauses 33(4) to 35(4)—pass; clauses 36 to 37(3)—pass; clauses 37(4) to 38(3)—pass; clauses 39(1) to 39(5)—pass; clauses 40 and 41—pass; clause 42(1)—pass; clauses 42(2) to 42(6)—pass; clauses 43(1) and 43(2)—pass; clauses 43(3) to 45—pass; clauses 46(1) to 48—pass; clause 49—pass; clause 50(1)—

pass; clauses 50(2) and 51(1)–pass; clauses 51(2) and 52–pass; clauses 53(1) to 54(2)–pass; clauses 54(3) to 55(2)–pass; clauses 55(3) to 57–pass; clauses 58(1) to 58(5)–pass; clauses 58(6) to 61–pass; clauses 62 and 63–pass; clauses 64(1) to 65(4)–pass; clauses 66(1) and 66(2)–pass; clauses 67(1) to 67(6)–pass; clauses 68 to 70–pass; table of contents–pass; enacting clause–pass; title–pass. Bill, as amended, be reported.

Bill 28—The Registered Dietitians Act

Mr. Chairperson: Does the minister responsible for Bill 28 have an opening statement? Does the critic for the Official Opposition have an opening statement? We thank you very much.

We thank you very much. During the consideration of a bill, the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks and by the pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to proposals. Is that agreed? *[Agreed]*

Clause 1–pass; clauses 2 to 3(4)–pass; clauses 4(1) to 5(1)–pass; clauses 5(2) to 6(8)–pass; clauses 7(1) to 7(3)–pass; clauses 8 and 9(1)–pass; clause 9(2)–pass; clauses 9(3) to 11(2)–pass; clauses 11(3) to 12(1)–pass; clauses 12(2) to 13(2)–pass; clauses 14(1) to 14(3)–pass; clause 15–pass; clauses 16 to 18(1)–pass; clauses 18(2) to 20(3)–pass; clauses 20(4) to 20(7)–pass; clause 21(1)–pass; clauses 21(2) to 23(1)–pass; clauses 23(2) to 24(2)–pass; clauses 24(3) to 26(1)–pass; clauses 26(2) to 27(1)–pass;

clauses 27(2) to 31(1)–pass; clauses 31(2) to 33(1)–pass; clauses 33(2) to 35(1)–pass; clauses 35(2) to 37(2)–pass; clauses 37(3) to 37(6)–pass; clauses 38(1) to 39(4)–pass; clauses 39(5) to 41–pass; clause 42(1)–pass; clause 42(2)–pass; clauses 42(3) to 43(1)–pass; clauses 43(2) to 43(4)–pass; clauses 44(1) to 46(1)–pass; clauses 46(2) to 49–pass; clause 50(1)–pass; clauses 50(2) and 51(1)–pass; clauses 51(2) and 52–pass; clauses 53(1) to 54(2)–pass; clauses 54(3) to 55(1)–pass; clauses 55(2) to 57–pass; clauses 58(1) to 58(6)–pass; clauses 58(7) to 61–pass; clauses 62 and 63–pass; clauses 64(1) to 65(2)–pass; clauses 66(1) and 66(2)–pass; clauses 67(1) to 67(6)–pass; clauses 68 to 71–pass; table of contents–pass; enacting clause–pass; title–pass. Bill be reported.

What is the will of the committee?

* (21:20)

Hon. Dave Chomiak (Minister of Health): I just want to thank the staff, all the presenters, all the members of the committee and the members of the Opposition for assisting in expeditious movement of legislation through the committee. I do thank you.

Mr. Chairperson: And what do you give me for the minister? A million dollars. Does anybody give me two million, and three million? Who can give me four? Who can give me five?

What is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 9:21 p.m.