



Third Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE
on
RULES OF THE HOUSE

33 Elizabeth II

Chairman
Hon. J. Walding
Constituency of St. Vital



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Hon. Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BIRT, Charles T.	Fort Garry	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, Hon. John M.	Gimli	NDP
CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Q.C., Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
DESJARDINS, Hon. Laurent	St. Boniface	NDP
DODICK, Doreen	Riel	NDP
DOERN, Russell	Elmwood	IND
DOLIN, Hon. Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Concordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Hon. Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNES, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte	Gladstone	PC
ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Myrna A.	Wolseley	NDP
PLOHMAN, Hon. John	Dauphin	NDP
RANSOM, A. Brian	Turtle Mountain	PC
SANTOS, Conrad	Burrows	NDP
SCHROEDER, Hon. Vic	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
STORIE, Hon. Jerry T.	Flin Flon	NDP
URUSKI, Hon. Bill	Interlake	NDP
USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON RULES OF THE HOUSE

Thursday, 8 November, 1984

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Hon. J. Walding (St. Vital)

ATTENDANCE — QUORUM - 5

Members of the Committee present:

Hon. Messrs. Anstett and Penner

Messrs. Enns, Fox, Graham, Mercier, Santos
and Scott

MATTERS UNDER DISCUSSION:

Voting Procedure in Committee of Supply

Interpretation of Rule 46

Use of Telephoto Lenses in the Press Gallery

Guaranteed Minimum Debating Time for
Constitutional Matters

Consideration of a Smoking/No Smoking Policy to
Apply to Committee Meetings

Consideration of a Proposal to Undertake a
Comprehensive Procedural Review

Proposed Amendments to Rules respecting
Petitions, Public Bills and Private Bills

Review of Speakers' Rulings

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MR. CHAIRMAN: There being a quorum, the committee will come to order and before the agenda there are a couple of items. First of all, on my right is the new Deputy Clerk of the House. This is her first time that she is in the service of the House or a Committee on a procedural basis. I would like to welcome her to the first committee meeting on your behalf and introduce you to her; Miss Bosiak, on my right.

Secondly, there is — (Interjection) — pardon me? If you haven't yet met the Deputy Clerk and wish to introduce yourself, I'm sure that you will find a method of doing so, Mr. Enns.

Secondly, I have received a request in writing from a member of the public wishing to address the committee. It has been done with other committees, but I'm not sure whether this committee wishes to receive it or not. What is your will and pleasure?

Mr. Anstett.

HON. A. ANSTETT: Yes, Mr. Chairman. In most Standing Committees, if the committee wishes, or the House has requested that it seek public representation, that is part of the committee's referral, that has not been standard practice in the Rules Committee and I would suggest that we decline that request. I think the Rules Committee, as a committee of members relating

to the management and rules of the House, would find itself potentially listening to a long series of public representations if it opened the door to public representations on our rules and forms of proceeding. We haven't done that in the past and I think that would be an awkward precedent to set for this committee. The only witnesses that I recall in the last 10 or 12 years would be technical experts or those who have a direct responsibility with regard to the House or role to play.

I know we have, on occasion, dealt with the press gallery and with broadcast personnel with regard to the use of television and things of that sort, but opening up the rules to public representation would set, I believe, an awkward precedent for the future.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Mr. Chairman, this committee is like all other committees of the Legislature which from time to time choose to avail themselves of outside information. I tend to agree with the Government House Leader, however, that it would be a departure from this committee's activities to, as a matter of practice, invite outside representation. This committee does, as the Government House Leader indicates, deal principally with the rules that govern our conduct in the House.

I would make this further observation. Should this Rules Committee have before us a set of new or innovative rule changes that were in consideration before this committee, the committee may well, under those circumstances, seek the advice of outside people, particularly if it's coming from former members, indeed as I believe in this case, even a former Speaker of the House. That may well add some worthwhile suggestions to the deliberations of this committee. However, as I understand it, we are not dealing with a proposed set of rule changes at this particular session. This committee, this hearing, this meeting may decide that we want to embark on some such program. It would be my suggestion, Mr. Chairman, that it would be on such an occasion where perhaps another sitting of this committee would consider whether or not outside representation ought to be heard.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: I just want to concur with the remarks of Mr. Enns, the Member for Lakeside, that there is that item proposing a comprehensive procedural review and, whether we do it now or later, whenever it's done - and at some point it will have to be done no doubt - would be a time when we would want to invite some representations.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, this committee deals with the rules for one of the most important, the most

important, democratic institution in the province. It's certainly an institution that doesn't belong to the members of the Legislature, it belongs to the people of Manitoba. If a member of the public, therefore, in my view, wishes to make representations to this committee, I think it's completely in order. I see on the agenda, for example, Item 5, Guaranteed Minimum Debating Time for Constitutional Matters. I think we know that particular issue is extremely important, not just to members of the Assembly, but to members of the public and the people of Manitoba. I would personally take the opposite view that if a member of the public wishes to make representations to this committee, fine, let's hear him.

And let's realize that it will probably be very rare indeed that a member of the public indicates a desire to make representations to this committee. Certainly it's unknown to me in the past, except in those instances where certain people have been invited. Particularly, I can recall the members of the media with respect to rules of procedure and their involvement in the Legislature.

Mr. Chairman, I would take the personal view that if a member of the public wishes to make representations that we should hear that person.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, I would have to say that I basically concur with what the Member for St. Norbert has said. I know I have spent many many hours on a committee which has left this building and gone out amongst the people of the province, seeking information and practically begging people to come forward and be heard.

Now, we have numerous committees in this House and we have set up rules in our Rule Book that deal with all committees, and we try and deal with all committees in a standard way and to set special rules for one committee seems to me to be getting into a field where we could be subject to criticism, especially when the public has gone out of their way, probably at personal sacrifice, to put forward - I don't know what they're going to put forward, but they must feel sufficiently concerned to want to appear before our committee to express their views. And if we, as members of the Legislature, refuse to listen to that person or other people, I think we are opening the door to a considerable amount of criticism for failing to listen to the public, unless it's at a time when we choose to.

I tell you, gentlemen, in politics you don't do those things. You listen to the public when they want to be heard, or else you're going to get into serious trouble. I would suggest that we hear the person who wants to make representation at this time.

HON. A. ANSTETT: Yes, Mr. Chairman, I agree with Messrs. Mercier and Graham that Standing Committees of the House hear public representation. They do that by invitation, they do not do it when the public wants to be heard. They do it after second reading on bills, for example; they don't do it before first reading; it's not done after third reading. There is an appointed set of procedures with regard to our Standing Committees.

The Rules Committee has not solicited public representations on the matters before it on its agenda.

I have just asked the Deputy Clerk, and received a copy of the letter from Mr. Hanuschak and the matters proposed for discussion by him do not cover items which are even on our agenda today. I'll share it with members in a moment.

In addition, the individual suggests, in the first phrase in his letter, "On behalf of the Manitoba Progressive Party, I intend to appear . . ." "Well, if we're talking of the general public, and I know Messrs. Graham and Mercier were, I don't know that a party which is not represented in the House, is not a recognized party in our Legislature, assumes the status of speaking as a party in the committee, as well. So I have some reservations about that.

But I think this committee, when it has items of public interest, and has decided that it wishes to hold public hearings, should hear the public. I agree with Mr. Enns on that and it's part of our rules review. We want to do that comprehensive review and when we're dealing with those kinds of issues and general questions, we may well wish to hold public hearings.

Legislative committees do not receive applications from the public to appear. Instead, just the reverse is the case, we solicit public representation. We've not done so in this case, and to establish a precedent that any legislative committee can now be approached by a member of the public or a non-recognized political party, and then have its time and its agenda interrupted for the purpose of this unsolicited presentation is setting a very dangerous precedent.

I am fully prepared, at all times, to listen to the public, as directed by the Legislature, to hold hearings on matters assigned to the committee when the public wishes to appear on those matters. But to open our agenda, this committee's agenda, would set a dangerous precedent for eight other Standing Committees. That would mean, for example, that the Standing Committee on Privileges and Elections would have to entertain, when it was considering one bill, presentations or submissions on any other bill that might conceivably be referred to that committee. That is not the way our committee system is worked and this would be quite a substantial change in precedent.

I don't know that it would necessarily have to apply to all committees, but I think once we do it here the case can be made. I personally am quite opposed to it for that reason. It is against all of the established practices of the House to entertain submissions when no submissions have been requested.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: Thank you, Mr. Chairman. The argument that it will be part of a democratic procedure to allow the public whenever it wished to appear before any committee of the House, including the Rules Committee, on the surface may seem to sustain the doctrine of political accountability and responsibility, but we have developed, in our democratic institutions, some established procedures and rules and norms that we followed in the past as guides for political responsibility, and the fact that we have not done this in the past suggests that that is not in the way of prudence to allow the public, whenever it wishes to appear in any committee. Unlike substantive standing

committees, the Rules of the House, the focus, the pit and substance of its jurisdiction is the matter of the efficient workings of the business of the House.

By laying down procedural rules it governs the behaviour and conduct of the members of the Legislature. Therefore, there is a distinctive difference between a substantive committee and the Rules Committee. However, nothing precludes this committee whenever, in its wisdom, it wishes to solicit opinion, especially from technical experts in matters of parliamentary law and procedure.

I sincerely believe that this Rules Committee should follow precedent by inviting, only whenever it deems necessary, outside representation.

Thank you, Mr. Chairman.

MR. G. MERCIER: Mr. Chairman, perhaps to resolve this matter I would move that Mr. Hanuschak be heard by the committee.

MR. CHAIRMAN: Mr. Mercier, you are not a member of the committee, and so cannot . . .

MR. G. MERCIER: Yes, I'm replacing Mr. Sherman.

MR. CHAIRMAN: That can be done, presumably after this matter has been dealt with. As it stands at the moment, the committee has not replaced an absent member.

Mr. Enns.

MR. H. ENNS: I really believe that there is, in fact, concurrence around the committee table, with the exception of two of my colleagues who seem to have some difficulty in understanding that we are in fact talking about the same thing.

For instance, to use my colleague from St. Norbert's example, I would be the first to want to have somebody from the press gallery present and be able to call upon him if we were to deal with Item 4, the use of telephoto lenses, for instance, in the press gallery. If I, as an individual member of the committee, or the committee, want to know some technical details as to how that would work - as Mr. Mercier has correctly pointed out we've done that in the past - I would certainly be quite prepared to have consideration from the general public if the committee at that time believed it was advantageous to have others tell us, talk to us about such things as limited debating time on constitutional matters, etc.

However, I believe that this is the first meeting of the Rules Committee that we've had now for some time. We have not adopted the agenda, as such. We are, in fact, setting a precedent that I think the committee will have difficulty living with. By saying so it doesn't preclude at all the use of outside resources, hearings from members of the public or the press gallery when his committee decides to deal with specific issues before us, such as, Item 4, Item 5. We have a number of truly in-house matters before us and I suspect the first one being, of course, the adoption of the agenda. As has also been made plain to us the second one perhaps being membership on the committee.

MR. CHAIRMAN: Anyone else on this topic?

Mr. Santos.

MR. C. SANTOS: On a point of order, we have not adopted the agenda. I agree with the Opposition House Leader that we should do that first. We should adopt first the agenda; elect Mr. Mercier as a member of this committee so he can have standing to propose the motion. We should be the first ones to follow our own rules.

MR. CHAIRMAN: Thank you. In order to allow that to happen, let's defer the decision on this particular matter until we have dealt with the matter of membership of the committee.

I was informed in advance that Mr. Mercier intended to attend as an observer but was not particularly interested in becoming a member of the committee. However, if I was so misinformed then, since there is a vacancy on the committee due to the resignation of Mr. Sherman, we have a vacancy on the committee and it is usual for a member's colleagues to propose a replacement. Do I hear a name?

MR. H. ENNS: I so move that Mr. Mercier, the Member for St. Norbert, become a member of the Rules Committee.

MR. CHAIRMAN: Mr. Mercier is nominated. Are there any further nominations?

MR. H. ENNS: Is there an explanation of why Mr. Sherman wants to retire?

MR. CHAIRMAN: It's a fait accompli, he has done so. I don't question the reason.

MR. H. ENNS: Yes.

MR. CHAIRMAN: Is that agreed by the committee? (Agreed) Agreed and so ordered. We will then add Mr. Mercier to the list of members of the committee. Can we then conclude on the matter of public representation?

Mr. Mercier, did you intend to move . . .

MR. G. MERCIER: Mr. Chairman, I move that Mr. Hanuschak be heard by us.

MR. CHAIRMAN: It is moved that the committee hear Mr. Hanuschak. Any discussion?

QUESTION put, MOTION defeated.

ADOPTION OF AGENDA

MR. CHAIRMAN: On the matter of the agenda. The agenda and attached materials, I believe have been circulated to all members. The agenda is the same as the last one with the addition of the proposal about a comprehensive procedural review, and Item No. 9, which was a bit higher up the list last time, has been put down since it is subsumed by Item 8 and, if adopted, 8 would include 9.

HON. R. PENNER: I move we adopt the agenda.

MR. H. GRAHAM: I would like to speak to that motion, Mr. Chairman. It seems rather strange to me that one of the most pressing items that was before the Rules Committee at previous meetings has been left off the agenda because it was unfinished business and it was dealing with the subject matter of a review of Speakers' Rulings. Can we have any explanation why that was left off the agenda?

MR. CHAIRMAN: Do you wish to add that to the agenda?

HON. R. PENNER: Subsume it under Other Business.

HON. A. ANSTETT: I was going to raise it under Other Business, but it can be added as a separate item.

MR. H. GRAHAM: I was just wondering why it was left off the agenda because it was unfinished business and I would presume that it would have a high priority on the agenda.

MR. CHAIRMAN: Is it the pleasure of the House to adopt the motion? On the agenda?
Mr. Anstett.

HON. A. ANSTETT: Yes, Mr. Chairman, I think Mr. Graham raises a proper point, that the item should have been continued on the agenda and perhaps we can place it on the agenda as Item No. 10 for now and, depending on how we deal with the other items, perhaps we can get to that at the next meeting. I think that's going to be a very time-consuming item and it may well be that we want to deal with the less time-consuming items first and then get into that. If that's agreeable with Mr. Graham, I'd propose that.

MR. CHAIRMAN: Agenda agreed? (Agreed)

VOTING PROCEDURE IN COMMITTEE OF SUPPLY

MR. CHAIRMAN: Item No. 2, Voting Procedure in Committee of Supply. There is a problem, or a perceived problem. There is a background paper apparently sent to members.

Mr. Anstett.

HON. A. ANSTETT: Yes, Mr. Chairman, if I may. I believe the members of the committee last time decided to defer this so they could discuss it further amongst themselves. I believe there was a suggestion that what we should do is agree that - and it's suggested at the bottom of the background paper - that voice votes be held in sections and formal votes or count-outs, or divisions, or whatever you wish to call them, be held only after calling in the members.

I think there was some question as to whether or not we wanted to do it that way. That seemed to be the simplest way of resolving the question so that we knew what the procedure was. It's often led to confusion late in the evening in sections of the committee. I think agreement to do it that way would end that confusion.

MR. H. GRAHAM: One of the problems that we have here is our continued preference to recognize only one

Committee of Supply. We have operated for several years without formally splitting our Committee of Supply into two sections. We've done it, I think, to very wisely maximize the use of time of members of the Legislature, and it has, I think, worked very well for the benefit of the people of Manitoba. We have been able to examine, in as much detail as members prefer to use, any item in the Estimates, and we are doing it at a time, in a way that quite often causes certain members some problems because they would like to be in both committees at the same time.

So we have, through our own flexibility, and the fact that we don't have it formally split in our rules, we have been able to accommodate most members. In doing so we have probably created one or two problems for ourselves, and that is the question of voting.

So I think that it is entirely appropriate that we address the subject of voting in Committee of Supply. I do have a little bit of difficulty in reading over the recommendations here - and I only got them last night - as to whether or not this is the best way to go about it. I have some reservations about whether what is being proposed here will be the best way to overcome the problem.

I would like to hear comments from other members of committee on the idea because I think we should solve this before it gets out of hand, I would suggest. So far we haven't had too much trouble with it, but it has stalled business from time to time.

MR. H. ENNS: As I understand the recommendation, the purpose of having a voice vote, in either section of the Committee of Supply, would enable the opposition in that committee to, for the time being, forestall further activity by the committee should the voice vote go against the government. Is that not correct? The government members would rely on the count vote in the reassembled Committee of the Whole for definitive resolution to the question that's under debate.

HON. A. ANSTETT: It would just be a request for Yeas and Nays, and the count would immediately take place as the members would be called in.

MR. H. ENNS: That's right.

A MEMBER: Into the House.

HON. A. ANSTETT: Or into the committee if they were only sitting in one section. Often late at night we're only here and they've left.

MR. H. ENNS: What is not contained in this paper is the provision that I understand continues to be operative, with the situation that we have operated under with respect to votes called after 10:00 p.m. That is in the Rules and nothing considered in this paper changes that.

A MEMBER: No, nothing.

MR. CHAIRMAN: Mr. Fox.

MR. P. FOX: Mr. Chairman, I believe that when we set up the rules to have two sittings of the Committee of

Supply it was to give the members the greatest opportunity to deal in detail with the Supply Estimates. And, of course, at that time we didn't envisage that we would occasionally have to make concurrences which would not be able to be carried by the government. I think that the proposition that is before us adequately serves that. If there's a consensus and the Estimates are going along well we're expediting matters, and I see no reason why we cannot spend a few extra minutes to get together whenever there's a contentious issue on a particular item, and to have a count-out at that time because, as the rules indicate, there is just one Committee of Supply, not two. And I think that was understood.

Consequently, I think we should follow this and operate under those assumptions. I can't see that there's any great difficulty about once in a while stopping the two groups that are meeting and saying, well, you're one group and now you have to make a decision. I think that's understood.

HON. A. ANSTETT: Mr. Chairman, I agree with Mr. Fox and with Mr. Graham. I think they both make a valid point. What we have here, in this Committee of the Whole, which is our Committee of Supply, is a formal splitting of the committee into two sections without having split the membership, and that's what creates the problem. So when you have a vote everyone is a member of the committee and should have the opportunity to participate in the decision. But, by being in two sections, not all members are there and are not notified of the vote, therefore, a count-out in one section, without notification, is then not representative of the opinion of the whole House, and that's it in a nutshell.

Mr. Graham says, are there other answers? Yes, I think this solves a minor problem about the way this was structured back in '75. I personally believe, and I can tell the honourable member it's not something that we as a government have decided to propose, although Mr. Enns and I have discussed it in the past, that what we really should be doing is formalizing a membership for Committees of Supply and structuring those committees so that they can sit when the House isn't sitting, and that they be assigned specific responsibilities and duties, and sit more like standing committees to consider supply, perhaps with a broader membership so that the consideration of Estimates isn't tied to House sitting times, etc., etc.

We could move the way other Legislatures have with a complete look at changing the whole Committee of Supply mechanism. I think that's what Mr. Graham was alluding to. Do we have to solve this problem, or is there a larger question we should be looking at? I think there is. I don't think solving this problem, which is minor, precludes looking at going the federal route or going the route some other provinces have, which is to assign Estimates to specific standing committees, or establish specific Estimates Committees that are standing committees that deal with the Estimates without using a Committee of the Whole House and tying up the whole membership.

The difficulty with that, without going into any great detail, is that there has been a reluctance on the part of members on both sides to give up their participation,

which they would if they were no longer members in the formal sense, although they'd regain the right to enter into debate. It hasn't been something that's been resolved; we have had discussions on it; I'm hopeful that perhaps we will move in that direction. I think it will expedite Estimates even better and facilitate discussion.

It doesn't solve Mr. Graham's problem of members not being able to be in two places at once. I don't know how we'll ever resolve that if we're trying to expedite Estimates.

MR. C. SANTOS: As the rules say there is only one Committee of the Whole House, this is the Committee of Supply, and if we split into two sections it's just like a single-cell amoeba splitting into two lumps, there's only one cell. Whenever there is a formal vote all the lumps have to go to the cell to vote. In fact, we can split it into more than two sections, but every time there is a question about ultimate voting it will have to be in the Committee of the Whole as a single committee. I'm inclined to think that what we are doing is we're trying to achieve efficiency by doing simultaneous work in different places, and yet we have some provision, whenever there is a vote, a formal vote, all we need to do is gather together in the Chamber as a Committee of the Whole House and resolve the issue there. What is confusing is to duplicate the vote. If we have a voice vote in the section, and a formal count vote in the Chamber, there will be no confusion.

MR. H. ENNS: Just a further observation on the speculation of other broader changes, as perhaps envisaged by my colleague, the Member for Virden and the Government House Leader, there is a problem that would arise when a political entity or group found themselves in a situation with very few members in this formalized structure of committees where that would become even more important to that particular group to have the flexibility that we now enjoy. Structured as we currently are in the House, in terms of members, we can, I suppose, consider the possibility of structuring more formally the two sections of the committee. Speaking from the opposition point of view with some 22 or 23 members that's a possibility. One does not want to over-correct the situation on the basis of current membership. It could be quite a different situation, as indeed it is in some other jurisdictions in Manitoba, where the opposition of the day is sometimes very small and we would then be wanting to change the rules again.

I see this, Mr. Chairman, as perhaps avoiding from time to time the kind of discussions or debates we get into about how this matter is dealt with, very often at a moment in the consideration of supply where we've been at it for awhile and there doesn't seem to be a clear definitive rule about it, but I would have to indicate that certainly the opposition would not, could not at this point, entertain any substantive changes without taking them back to our respective caucuses for further full consideration.

HON. R. PENNER: I'll defer in a moment to my colleague who wants to make a motion, but I think the system which we now have and we want to make work

just a little bit better by the suggestion is really a good one. It's almost charming in a sense that if you have a couple of interests, and they're being considered in other committees, you can come and you can go and, in a sense, it makes whiling away the long hours of somewhat more than passing interest where you can be in the House or in committee dealing with different Estimates. We don't want to place a fetter on that and I don't think the time has come for a more formal structure. Let's keep what we have; let's just make it clear. Accordingly, while I am speaking, I would move that . . . well, I'll let you make the motion because you can put it in the form . . . the proposal as contained on the page dealing with voting procedures, namely, that it be drafted as a rule that only voice votes would be held in sections of the Committee of Supply and count-outs would only be held before both sections of the committee meeting together in the House.

MR. CHAIRMAN: Is that a motion?

HON. R. PENNER: Yes. — (Interjection) — Well, there is only one Committee of Supply.

MR. C. SANTOS: That's right.

MR. CHAIRMAN: The motion then is to adopt the procedure laid out on the sheet to be redrafted into a rule. Is that the motion?

HON. R. PENNER: Yes.

MR. H. GRAHAM: Mr. Chairman, speaking to that motion, I don't think you can speak to it without referring to Rule 65 and sub-section 8 and 9, where you've got your time element for the carrying out of the vote. I'm sure we will see it at some point where a request for a vote has been made, say, at 9:30 in the evening, and that is talked out until 10:00 o'clock and then they say, well, we can't have a vote after 10 o'clock. Is there any will on the part to change that rule so that the request for a vote after 10 o'clock the vote has to be held the next day. But if a request is, say, voiced at 9:30, then the vote must be completed even if it takes until after 10 o'clock to complete it. There's a pretty important point there, that the request for a vote, if it comes before 10 o'clock, then the vote should be completed that day.

HON. A. ANSTETT: Before I reply to Mr. Graham, I would make one suggestion which I think is a minor one with regard to the motion and the suggestion in the background paper; and that is, that the requirement not be stated that both sections have to hold their vote in the House, because if the House committee has risen and there's a request for a vote here and the buzzers are sounded and the Whips give clearance, after a couple of minutes, I can't see us all marching into the House then to take the vote and then come back in here. If this is the only section that's sitting, this section should be able to have the bells sound and members called in. I think the rule could be drafted such that if the section in the House is not sitting, that the section in the committee can, after the sounding of the buzzers, take the count.

With regard to Mr. Graham's suggestion, I'm not aware of that having been a problem. I think the Clerk could come up with a minor change with regard to the 10:00 p.m. time that would make it clear that votes called before 10:00 can be taken, even if the division buzzers ring past 10:00 p.m. I don't think that's a problem, and that could be made clear. But certainly the rights and obligations of members to attend the service of the House at least till 10 o'clock, in the event of a vote, would still remain and I don't think we want to change that.

I would be agreeable to a suggestion that Rule 65(9)(a.1), which is where I suspect the change would have to be, could be accommodated. Perhaps we should deal with this first motion, I'm not sure they're directly related.

MR. CHAIRMAN: I take it your remarks were in the form of an amendment to the motion.

HON. A. ANSTETT: My first remarks were that the word "House" should not be the requirement, that it should be "House or if only one section is sitting in that section". That would solve it.

MR. CHAIRMAN: It's been accepted then as a change in the amendment by Mr. Penner to take out that requirement that it be in the House.

Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, relative to the suggestion of Mr. Anstett, would the bells ring for that count-out if there were just one section sitting? Perhaps we'd better think seriously about that. It seemed to me you may have a section sitting in this committee room, members may be working in their offices, I just wonder whether we just shouldn't let the same procedure follow that the vote be taken in the House.

HON. A. ANSTETT: We've done it this way in the past and members have come to the committee room because the House is . . .

MR. G. MERCIER: I haven't seen that.

HON. A. ANSTETT: It has happened.

MR. P. FOX: Mr. Chairman, to possibly assist Mr. Mercier, when a division is called it is for the division on whatever matter happens to be before the House or the committee. If the committee is only meeting in one area then it makes no difference, then you come to that particular area. We have had that happen; I don't recall whether it was in your time, but I know it has happened. Since there's only one committee, the division is for that committee.

MR. CHAIRMAN: Anything further on the motion?
Mr. Anstett.

HON. A. ANSTETT: Just to clarify, this will come back as a formal draft to be approved by the committee, so that if we see any anomalies at that time, but we're approving the principle.

MR. G. MERCIER: Yes, the rule will be drafted for consideration by the committee.

HON. A. ANSTETT: Right.

MR. CHAIRMAN: The motion before you then is to draft the proposed procedure, i.e., that proposed in this background paper, with the change that the provision for the vote to be in the House be taken out of there. That's the question before you. Is it the pleasure of the House to adopt the motion? (Agreed) That will then be drafted in the form of a rule or rule change and brought back for your final approval at the next meeting.

Mr. Anstett.

HON. A. ANSTETT: Mr. Chairman, I would further move that the Clerk draft a proposed amendment with respect to the taking of divisions prior to 10:00 p.m. to clarify Mr. Graham's concern.

MR. H. GRAHAM: Mr. Chairman, I think, in retrospect, that it may already be covered by another rule, that any business before the Chair must be completed before you move on to any other business, and that is a motion even to rise. But . . .

HON. A. ANSTETT: You can't interrupt the proceedings.

MR. H. GRAHAM: But the point that I am making is not a formal motion for a vote, it's the request for a vote can be talked out till 10:00 o'clock and then you can't accept a formal . . .

HON. A. ANSTETT: . . . motion for Question put.

MR. H. GRAHAM: Yes.

HON. A. ANSTETT: Oh, but that's legitimate, that's a way of delaying a vote. That's a legitimate tactic that the opposition or government can use . . .

MR. H. ENNS: I just make the point, it's my understanding that the committee will see the drafted proposals for these rule changes at our next sitting and pass final judgment on them.

MR. CHAIRMAN: Is there anything further on Voting Procedure in the Committee of Supply, Item No. 2? Hearing none, Item No. 3.

INTERPRETATION OF RULE 46

MR. CHAIRMAN: Are you satisfied with Rule 46, or do you wish to change it?

MR. H. ENNS: Mr. Chairman, the opposition has no desire for any particular changes. There was a discussion in the House with respect to the application of Rule 46, but we see nothing wrong with Rule 46 as it stands.

MR. CHAIRMAN: Agreed? (Agreed)

THE USE OF TELEPHOTO LENSES IN THE PRESS GALLERY

MR. CHAIRMAN: Item No. 4, The Use of Telephoto Lenses in the Press Gallery. This had some discussion

at the last meeting and was deferred, I think was the term. What is your will and pleasure?

Mr. Penner.

HON. R. PENNER: I don't think we should move on this; I don't think it's a problem in our House. We have a rule with respect to the use of photographs, the taking of pictures from the Press Gallery, and it seems to have worked fairly well. Once we get into the business of attempting to regulate one kind of lens we'll be into trying to impose rules with respect to wide angle lenses and so on. I think that there was a concern that arose as a result of a particular incident out east which was particularly peculiar and discreet and is not likely the type of thing that we have to be concerned with. I can assure members of this committee and of the press that members of this government never take anything confidential into the House.

I don't think we should mess in . . .

MR. CHAIRMAN: Any further discussion? If there is not, can we then move on to Item 5?

GUARANTEED MINIMUM DEBATING TIME FOR CONSTITUTIONAL MATTERS

MR. P. FOX: Mr. Chairman, in view of the fact that we're going to be considering a proposal to have a comprehensive review and, in view of the seriousness of this issue, if it is serious, I think we should defer that to that item.

HON. A. ANSTETT: Mr. Chairman, I had asked that this matter be referred, as members will recall, during the Committee of the Whole consideration of some rules changes last Session. I agree with Mr. Fox that it is an important matter and I wouldn't want us to not deal with it but, at the same time, I concur in his suggestion that, as part of a comprehensive procedural review, that whole mechanism can be addressed and then it'll be put in context, because it is an important question. But I think all members were agreed that we wanted to have something set down in our rules and I think we would want to commit ourselves to addressing the question as part of that overall review, because I think members on both sides in the Committee of the Whole debate were agreeing, for the most part, on the need for this type of rule in dealing with this matter, particularly because a lot of the discussions we had over the last year involved procedural wrangles about the proper way to deal with it and not having rules was a liability.

Had we had some of the rules set down things could have been dealt with without a lot of the - well, let's be frank - the procedural rancour that occurred. So I think there is a need to address this if it can be addressed, as Mr. Fox suggests, I'm certainly agreeable to that.

MR. H. ENNS: Well, Mr. Chairman, I simply want to put on the record and remind honourable members that the concern that the opposition has with respect to allowing for adequate and complete discussions and

debate with respect to any future constitutional matters that should come before the Manitoba Legislature, that belief is held as strongly today as it was some time ago that the Government House Leader refers to. I also remind honourable members opposite that it was with some reluctance that the opposition perhaps didn't proceed to the nth degree with respect to a limitation on such other matters as bell ringing in the Chamber, that a lot of that background had the understanding that there was some willingness on the part of the government to acknowledge the importance of constitutional matters when they arose before the Legislature, and that at some future date, and we're dealing with it partially today, that we would attempt to set out some rules by which we could assure ourselves and, more importantly, the people of Manitoba, that constitutional matters would receive the widest possible airing and debate in the future sittings of the Manitoba Legislature. I don't know particularly, for instance, if it's something that we want to address by a rule change.

There are other possible changes I suppose that could be considered that could include rule and/or other mechanisms of the legislative procedure, adoption of a resolution, adoption of a bill that sets out specifically the kind of ground rules for constitutional debate in this House. These are matters that I suppose could be considered.

MR. H. GRAHAM: Don't rule out the calling of an election.

MR. H. ENNS: Calling of an election, of course, is the final procedure that could and should be considered I suppose. But I simply want to indicate that I don't have the authority of my group to propose specific procedures at this time. I'm not totally in disagreement with Mr. Fox's suggestion that this be part of, although I suspect that it is in itself an item of such importance that it should be dealt singularly as a subject matter, even though I know that in the past I've discussed with the Government Leader and, as indeed, we had before the House proposed changes to the rules which set out in specific numbers of days and procedures of how constitutional matters could be debated and spoken to in the House.

I just put that on the record though that it would be a dereliction of our responsibility and, to some extent our commitment, when limitations were accepted with respect to division bells that we still feel very strongly about how constitutional matters are handled in this Chamber.

MR. H. GRAHAM: Thank you, Mr. Chairman. We have a proposal from a former Speaker that we let this matter sit over until we have a comprehensive review of the rules, which is another item on the agenda. I have a little bit of concern over that because, if I know any comprehensive studies that have been undertaken, whether it be in rules or in tax reform or assessment, it takes several years before those things occur. If the government can give us the assurance that there will be no constitutional amendments come before the Legislature for several years I could go home and rest easy, but I don't think the government is prepared to make those kind of commitments.

A MEMBER: Have you been losing any sleep worrying about it?

MR. H. GRAHAM: No, I would think that you're probably the ones that would lose more sleep over it, but I do see a greater likelihood of a constitutional amendment coming before the House before we complete a comprehensive review of the rules than having it the other way around.

So I think probably we should deal with the subject matter before we have a comprehensive review of the rules.

HON. A. ANSTETT: Yes, perhaps I can address Mr. Graham's concerns, Mr. Chairman. I think Hansard will indicate that both Mr. Enns and myself, as well as Mr. Mercier, are on record as supporting in principle the changes that are proposed, both the changes that were moved by myself and the changes that were moved by Mr. Mercier, but that the detailing out with respect to those changes to provide for a guaranteed minimum amount of time to provide for a mechanism for ensuring public representation, those had not been addressed.

I offer just one minor possibility which might create an anomaly that wasn't addressed in the drafting of those rules with respect to the question of public representation. It may be that we would choose to want to waive public representation in the House with regard to a kind of minor change as was proposed with regard to the aboriginal conferences a year-and-some months ago, 15 months ago, making a mandatory requirement without perhaps the unanimous waiver or waiver on two-thirds. I haven't even thought that through but I don't think at that time we had completely thought through all of the implications. I know the Clerk was under a great deal of pressure from all of us to come up with that drafting, and I know that he cautioned me at the time that, although that was the best draft available, there might be some wrinkles that hadn't quite been fully thought through. That would be my only concern.

If members want to deal with it as a separate matter we can have staff begin to do some work on that, but I think that it should be looked at in the context of the overall picture. I think, to set to rest any concerns such as those Mr. Graham suggests, the commitment made by the Member for Lakeside and myself to ensure that there was that minimum and approval of that in principle, and to ensure that there was an opportunity for public hearings with regard to matters of this type was made late May, the last week of May, in the House is on record and that commitment stands. The difficulty is that that's a very complicated process in terms of rules drafting, and as Mr. Penner so ably pointed out many times in the House, the implications of that drafting in terms of how it impacts on the Constitution. We have to also ensure that we are not placing requirements within our rules that go beyond the constitutional requirements which bind us.

There have been suggestions that the character of the vote and the requirements of the vote could possibly be changed on certain types and matters and be greater than 50 percent. Well, that would require some research in terms of legal opinions as to whether or not that would even be a legal constitutional requirement.

So the commitment to the principle I think was made months ago and nothing's changed and I don't think anyone would want to change it. But the complexity of it I think is something that makes it fit very well, as Mr. Fox suggests, into the comprehensive review but should have a special place in that review. I don't think there's any question about that.

MR. G. MERCIER: Mr. Chairman, I think, like Mr. Graham, I would rather see this particular issue dealt with at this time, not to say that it should be dealt with at this meeting because I think Mr. Anstett has raised some questions and our respective caucuses should look at the proposed rule change, but to delay consideration of this until there is an overall consideration or a comprehensive procedural review I think may put it off too long. Because as I look at that particular paper, the paper indicates an estimate of costs of \$120,000 for this comprehensive review, and I don't think I could support expending that type of money to review our rules, which I think are, certainly in the main, satisfactory.

So I would be opposed to laying this over until this comprehensive procedural review takes place because I can't support spending \$120,000 at this particular time to do that. I think perhaps we could lay this matter over, and perhaps in consultation between the respective House Leaders and with the Clerks we might be appraised of any other rule changes that have taken place in other provinces with respect to constitutional amendments and perhaps the Speaker could prepare a paper as to how he feels the proposed changes would impact on our existing rules and perhaps there might be an opportunity for a consensus to develop between the two caucuses to deal with this issue within a relatively short period of time.

HON. A. ANSTETT: I think Mr. Mercier makes a reasonable suggestion, because I think the comprehensive review will take some time. I don't know how much funding can be made available or when it might be made available. I think there is agreement in principle and has been for many months. So perhaps if Mr. Mercier's suggestion can be put in the form of a motion to ask staff of the Clerk's Office to provide the background material, address some of the legal and constitutional questions that were raised in the debate last May, and provide us with that kind of background material, we could hold this item over on our agenda and have an opportunity then to review background and see if we can come up with something that will address the concern.

I think that's a reasonable suggestion and I'll certainly support the motion.

MR. H. ENNS: I so move that agenda item No. 5, pertaining to the subject matter of constitutional debating time for constitutional matters, be referred to respective Government House Leaders, the Clerk and the Speaker's Office for a drafting of possible alternatives.

MR. CHAIRMAN: Mr. Enns has moved that Item 5 be deferred. Any discussion? Agreed and so ordered.

THE CALLING OF PRIVATE MEMBERS' BUSINESS BY THE GOVERNMENT HOUSE LEADER

MR. CHAIRMAN: Item No. 6. Mr. Anstett.

HON. A. ANSTETT: Mr. Chairman, as you may recall, although this was not a matter of any substantial contention in the House, as I recollect Mr. Enns and I agreed, but you were bound by the rules which very clearly - and I agree with your ruling - did not allow us to do what we were doing and had done in the past. We had most commonly done it under Speed-up, which gave the government options which are not available when we don't use Speed-up. I, of course, could say this matter is of no consequence because normally we're in Speed-up, but since members know that it would be my desire to avoid Speed-up forever I think we should address it. I think the way to address it, to ensure that, for example, a private member's bill with regard to a local organization in that member's constituency, which is of a non-partisan nature but may be sponsored by a backbencher on either side of the House, can be dealt with by the House and can be dealt with in such a way that it can be dealt with when that member is present. And if we're avoiding Speed-up and the House is sitting in a May or June situation, the opportunity to ensure that those kinds of matters are called I think should be there.

I guess that's it in a nutshell. Pardon? — (Interjection) — Well, Mr. Graham, Mr. Chairman, suggests that that opportunity is there now. If we waive Private Members' Hour as we are wont to do on a regular basis and to ensure that in the dying days of the Session, that those bills - particularly bills, and it's bills I'm thinking of - that are of great interest to particular members and probably to the whole House, an act for the relief of someone which members want to deal with, we've dealt with that in terms of statute of limitations, private bills sponsored by individual members, if we must each time decide rather than waiving Private Members' Hour to go into Private Members' Hour, what we in effect are then doing is precluding that matter being dealt with. Because the structure of Private Members' Hour is such that we could not expedite House business and we would spend most of our private members' time on resolutions in an attempt to get to the bills, and in the dying days of the Session often resolutions are allowed to die on the Order Paper. But it's the bills, particular private bills, that we don't want to die, and we want to be able to call them, and in 99 percent of the cases pass them.

But in the current situation, with this interpretation of the rule - and to be quite honest with the rule as it's worded, the Government House Leader doesn't have that option, and we could be going through Private Members' Hour for three days before we have that private bill come up first on the Private Members' Hour order rotation and could then not get to that bill. Now, if members opposite don't see a major problem with it, I won't suggest the rule be changed. I can live with it but it's more of a potential problem for backbenchers and for expediting the business of the House. It could add several sitting days to a session if we don't take . . . We found, let's face it, that in many cases all members are willing to waive Private Members' Hour to expedite and accommodate Estimates and debate. Often Private Members' Hour had very little business the last several years. That hasn't always been the case

and if the Private Members' Hour Order Paper is full then members will not agree to waive. But where they waive Private Members' Hour, I think the opportunity to call business that members want called, on both sides, from that Order Paper should be there. I believe a minor correction in the rules could accommodate that.

MR. G. MERCIER: Mr. Chairman, I respect your ruling with respect to this matter but I would offer the opinion that where you referred in the ruling to "it will be possible for a government to favour some private members and to disadvantage others by the selective calling of private members' items", that always occurs generally. In the closing time of a session a Government House Leader may call some bills and not call other bills . . .

A MEMBER: But only with Speed-up.

MR. G. MERCIER: In Speed-up, I appreciate that. So that is likely to take place, but I would say that any private member would probably only be pleased if his private member's bill were called and dealt with as government business because at least then he/she would have the satisfaction of knowing that it was going to be dealt with. So it would be my view that if a rule change is required to allow a Government House Leader to call a private member's bill when we're not in Speed-up that we should do so. I think what it does is, and it's important I think in our system, that it offers more encouragement to private members to bring bills forward on their own. I think that's important, so the rule change is required to allow that to happen and I would tend to support that.

MR. H. GRAHAM: Mr. Chairman, I feel that our present rules cover it fairly well. I think every member of the Assembly knows that on Mondays, Wednesdays and Fridays that Resolutions have first order of preference in Private Members' Hour. Tuesdays and Thursdays, Bills have first preference. On Tuesdays it's Private Bills; on Thursdays, it's Public Bills. We have seen in the last Session the issue that brought this up was probably extending agreement maybe a little too far. I'm talking about you can't waive Private Members' Hour if you're not in Speed-up unless there's unanimous consent. So if there's unanimous consent on Mondays, Wednesdays and Fridays, there's no problem. If there isn't unanimous consent, say on a Tuesday, then you have to deal with the private member's business in the order in which it is laid out.

So I think the forum is there; the rules are there to cover it, it's just a question of the proper application of the rules.

MR. P. FOX: I have a tendency to concur with Mr. Graham that I believe it's covered. When we switched to this format it was to protect the member's right to have debating privileges on resolutions. Bills were generally considered business of the House, not just business of government. I think all bills in that regard are generally business of the House. The only reason we included them as private bills in that particular area was in order to try to expedite the amount of debating

time because Private Members' Hour had a special hour in which particular bills would be addressed only for 20 minutes, instead of for a full 40 minutes as is normal under government business. I think we agreed at that time as well that this would be expediting the business of the House.

Further, I believe that if the government feels that business of the House, which is not necessarily government business, should also be included in the agenda when we've waived the Private Members' Hour, I can't see any reason why we cannot agree to that. I think we are all members of the House and all members should have that particular right, that their business, which they do not waive - private bills are not a part of the normal business which we waive, in essence, because they are also bills referred and not like a private resolution which is strictly a debating issue.

HON. A. ANSTETT: Mr. Chairman, I think there may be a consensus here, with the exception of Mr. Graham's objection, and I think perhaps I can deal with that anecdotally. To suggest that in the dying week of a Session, and we all know how, when it looks like we might adjourn or prorogue on a Friday or Saturday, things seem to move along. If Tuesday night, or Tuesday at 4:30, which is the appointed time . . . For which ones, public or private, I keep forgetting?

MR. D. SCOTT: Private.

HON. A. ANSTETT: . . . for private has gone by and Tuesday night in committee the bills move along and the public hearings are done, then that member, whose bill was stuck and didn't get up, or was stood by a member on the other side that night, doesn't get another chance before we prorogue on the Saturday or the Friday night. He's only got one chance a week and if that chance is gone and that's the week we're quitting, and we're not in Speed-up, the Government House Leader can't call that bill no matter how much he wants to under the ruling, and I believe the ruling is correct.

Now, I would hope - well, I believe that with the Speaker's ruling - sure, by unanimous consent we could do it, but any one member could object even if the other 56 wanted to do it. And I think allowing that is a problem. I think the agreement between the House Leaders to waive Private Members' Hour which has been achieved by unanimous consent, and that requires unanimous consent, should then allow us to call those private members' bills as Mr. Fox suggests, and he makes a distinction between types of private member's business. It would not normally be the case where we would be calling resolutions, because usually most of them die on the Order Paper at the end of the Session, but there have been those occasions when we've cleaned them all up and had the votes on them just so that members could divide on the questions. But in wrapping up the Session - and that's really what we're talking about - I guess the nub of my concern is I'm not fussy for Speed-up, but I don't want private members to be denied, and one of the reasons I don't like Speed-up is because it takes away private members' rights.

I unfortunately discovered that those rights were being denied when we avoided Speed-up in a different

way, and I'm trying to give them back. So if that's satisfactory, I think we can suggest the Clerk draft an amendment which would accommodate the concerns raised by the Speaker in the interpretation of the rules, which I think were legitimate. But other members may wish to speak.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I think it's a fundamental aspect of our parliamentary system that the individual members be given every opportunity to be able to present their bills, their resolutions, whatever. We're not talking here of calling resolutions, but we are talking of calling of bills, and it gives - if the government wishes to share the valuable time that the government has in the House - and it's short enough as it is so frequently - with a matter that has been raised by a private member, then I think it behooves our system to move in that direction to enable it, to assist us in any opportunity that presents itself to assist the exercising of the private member's rights in the House. Right now, if it's restricted simply to coming up during Private Members' Hour, which it currently is, it does put a restraint on the ability of private members to try and influence the direction of public policy in relation to private bills.

If the government feels that it wants to give additional airing to a particular matter raised by a private member, I see no reason whatsoever that the government could not in this way go out of its way to assist that important matter in coming before the House. For if we leave it up strictly to Private Members' Hour, it takes weeks sometimes for matters to come back. I think it's just so important in respecting the rights and privileges and the jobs that private members have in this Chamber, both on the government side and the opposition side, of assisting them and encouraging them, in effect, to bring forward their ideas in their own private bills or public bills.

MR. H. ENNS: Mr. Chairman, we are dealing with - and the case that brings this matter to the agenda is as described by the Government House Leader - under those rare occasions, although rare in terms of them happening, they do happen and with some regularity in the dying days of a Session. I have heard nothing from the Government House Leader and I would want to be satisfied that indeed the normal practice of dealing with private and public bills be adhered to as set out in our rules, as agreed to or as modified from time to time, whether it's a Tuesday or Thursday, or we find it more convenient to deal with them on Wednesdays, Fridays, but that's in the matter of House business that we surely can come to some concurrence as to how we deal with the matter.

It is the special circumstances when there is a concurrence that is felt, not necessarily agreed to, that a Session is winding up and that we may well have come to that point in time where a Tuesday or a Thursday is not going to come to pass any more, but still in all conscience wish to give the due attention to a private member's bill that we're trying to cover off here.

I, Mr. Chairman, would be happy, or satisfied, to have the Government House Leader present to the next

sitting of the Rules Committee, or whenever, some minimal proposal that would accomplish that.

MR. H. GRAHAM: Mr. Chairman, I want to once again refer to your ruling in which I think you have shown excellent wisdom, because you have pointed out the dangers that can occur if we follow the suggestion that is put forward by, I suggest, most members here. You pointed out very clearly, and I would like to quote, "It is obvious that if a clear distinction is not made, it will be possible for a government" - and I presume you mean the Government House Leader or the government "to call, to favour some private members and disadvantage others by the selective calling of private member's bills." I think that's the very key to your ruling and I commend you very strongly for pointing that out to members. That is one of the most important points, because some members can be given preference over others, if it is left to the Government House Leader to call some private member's bill and not others. — (Interjection) — That's right, and you revert to private members — (Interjection) — well, this is why we have the protection of Private Members' Hour.

MR. H. ENNS: Mr. Chairman, concurring with, quite properly, the concern that's being pointed out by the Member for Virden, but that too can be looked after in the minor provision that I'm suggesting that we entertain at the next Rules Committee. If we make it very clear that under the unique and rare circumstances when this happens, and it's only being done because of the circumstances as described and as understood by all of us around this committee, that you include the word "all." When indeed the Government House Leader is given the authority to call private members' bills, on such circumstances such as the last day of the House, that he not be given the opportunity to do what the Speaker correctly foresaw might be done by a vindictive Government House Leader, in showing favouritism or calling for certain selected bills, but the simple inclusion that under those circumstances all bills be called, which I think is a fact.

MR. G. MERCIER: Mr. Chairman, seriously, I would want to go on record as defending the right of a Government House Leader to favour one member, and to disadvantage another member, and to, in his wisdom, choose which private members' bills he wishes to call. He and the government will have to take the political flack for the decisions that are made. There's unfortunately a great deal of difficulty in private members succeeding - particularly in the opposition side of the House - in having private members' bills passed. But I think that's just a political fact; it's reality. A Government House Leader will favour certain members' bills over others and I accept that. I think that they will have to take political responsibility for that, but I think a change that would allow at least some private member's bills to be dealt with when we are not in Speed-up would be advantageous to at least those private members' bills who win the favour of the Government House Leader at the time.

MR. CHAIRMAN: You were about to say something, Mr. Anstett?

HON. A. ANSTETT: Yes, I point out for Mr. Enn's benefit, I think Mr. Mercier is quite correct. If all the bills were called all that would have to happen is that those that were being held by members who didn't want them to proceed - and not necessarily the House Leader because he seldom holds them in his name - would have to do is say: "Stand." So it would not serve any purpose to expedite the House Leader if the bills were being held by members on his side would be controlling which ones were being debated and the Opposition House Leader who, of course, is also not inductive, would control which ones were going to be debated from his side. I don't think that addition would serve any purpose, I think Mr. Mercier is quite correct. I think we can ask the Clerk to draft something to allow this to occur when we are not in Speed-up because I think that's the bottom line. We're trying to avoid Speed-up; we never had this problem when we had Speed-up. The Government House Leader was allowed to call any business at any time under the Speed-up provision. When we avoid Speed-up and get into the dying days of the Session the problem will occur and it's my hope that it will continue to occur because I want to avoid Speed-up.

A MEMBER: Was that a motion?

HON. A. ANSTETT: Oh, I thought somebody had already suggested that the Clerk draft a motion. Your motion Harry? Okay.

MR. CHAIRMAN: Is the suggestion clear?

MR. CLERK, W. Remnant: Just for clarification, Mr. Chairman, if I might, a question to the Government House Leader. Are we talking about a rule which would permit the government to call Private Members' Public Bills and Private Bills during government time when Private Members' Hour has been waived? Is that what we're dealing with or does it go broader than that?

MR. D. SCOTT: It doesn't matter if Private Members' Hour is waived or not. If you do what you said to stop before Private Members' Hour is what has been proposed.

MR. CLERK: Well, I just wanted to be absolutely sure, Mr. Chairman.

MR. H. GRAHAM: It can occur at any time.

MR. D. SCOTT: That's right.

MR. H. ENNS: Perhaps the addition of "when not in Speed-up" is . . .

HON. A. ANSTETT: Perhaps. Mr. Chairman, if I may, I think if members look at the background paper on Item 6 and look at the very bottom of the page, Rule 20.(2): When government business has precedence, the government orders or private members orders may be called in such sequence as the government sees fit. That may be all we have to do but I would like the Clerk to assess whether - I think that's all we intend, that when government business has precedence that

the Government House Leader not be limited to calling only government business. The question of waiver or the question of where we are in the Session shouldn't be that crucial. It may be that for time tabling problems a certain private member's bill has to be passed by March 31st, but Interim Supply got bogged down and got in the way and now it's not going to come up until April 3rd. We might want to call it then, you know, that could happen.

MR. D. SCOTT: Yes, it's good wording. I'll even move that we go ahead with that.

MR. CHAIRMAN: There seems some sort of consensus of the committee that that is what you want to see. We will ask Mr. Remnant to produce something along those lines for you to look over at the next meeting and approve or amend as you wish. Is that agreed? Agreed and so ordered.

CONSIDERATION OF A SMOKING/ NO SMOKING POLICY TO APPLY TO COMMITTEE MEETINGS

MR. CHAIRMAN: No. 7 on your list, Consideration of a Smoking/No Smoking Policy to apply to Committee Meetings, such as, this presumably.

Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, could we refer this to the respective caucuses and the press gallery for comment?

HON. A. ANSTETT: We already have.

HON. R. PENNER: I refer to the topic very briefly as a non-smoker and accordingly among the pure, the elect and the chosen. I think over the long haul, sitting around the committee table, are those who are inclined to smoke - I comment not at all upon their character. If there's going to be smoking from time to time around the table then it would be, I think, a might hypocritical to say there can't be any smoking in the gallery. Nevertheless I think that we should respect the by-law and I think it would be respecting the by-law to say that there can be smoking on one side of the committee room, that there can be a smoking and a non/smoking area. Either that or just no smoking at all and those members who want to grab a quick one can step out of the door, as can a member of the public. But let's not have two rules, in a sense, that there can be some smoking in the committee room but only by members seated around the table, whereas the public can't do it at all, except for pipes. Pipes I'm making an exception. So that's my only comment and I would not presume to attempt to make a motion that would seriously disadvantage people like Mr. Enns and Mr. Anstett. Why is it that House Leaders always seem to smoke?

MR. D. SCOTT: This is one measure that is more symbolic I think than anything else in that members, it doesn't take them a heck of a lot to step outside to puff away for a couple of minutes if they need to do that. I agree fully with Mr. Penner that you cannot have double standards of one rule for the public and not

have a similar rule here for the members in the committee. The whole basis of having smoking and non/smoking districts is because of health problems that so many people have with second-hand smoke. I don't have any great difficulties with it as far as health problems go but it does bother my eyes and if I am somewhere where there is a lot of smoking, and quite often in this committee room to say the very least, I will leave. I tend to have very sore eyes and dryness around the eyes primarily.

In a room like this it makes about as much sense to have a smoking and a non/smoking area, and around this table it's almost impossible to have a smoking and non/smoking side because of the distribution of the members on the committee. It makes about as much sense as having smoking and no smoking sections on an airplane where you're stuck in a tube at 30,000 feet and half the plane smoke and the other half isn't smoking and it doesn't matter which section you're sitting in you get off smelling and feeling as if you were in the smoking section. Because of that we've already had one airline in the country that has decided to say no smoking whatsoever, let alone the safety implications that it has on aircraft.

HON. R. PENNER: Which one is that?

MR. D. SCOTT: It's Eastern Provincial.

HON. A. ANSTETT: Remind me not to fly Eastern Provincial.

MR. D. SCOTT: But I would prefer, in dealing with this issue, to give a symbolic move as well as a practical move in respect of the city by-law and more respect to those people who have difficulties with second-hand smoke - most of them coincidentally don't smoke themselves first hand either I don't believe - but that we should have in our committee rooms a ban on smoking within the committee rooms. Now, as I say this, I look around and I look at my colleagues. Half of them on this side are smoking; more than half on the other side are smoking. The Chairman is puffing on his pipe. The press gallery is noted for chain smoking in some instances, but to me it is a public health issue and if we, as legislators, pay and the public pays through the nose, to say the very least, for the public health damage, so to speak - I pay through the eyes as much as through the nose - it certainly sets an example that smoking in public places where there are people who are going to be affected by it is not an acceptable practice.

It is showing something of a basic right of people who do not smoke not to have to sit in rooms and to — (Interjection) — No, it doesn't cut two ways. An individual who smokes does not have a right to pollute my air, but yet where a person who is not polluting the air, they somehow or other do not have any right to clean air. That whole argument that the Member for Concordia just mentioned I just cannot accept whatsoever, that the contaminator has a right whereas a person who is not contaminating has no right. I don't know what basic principle of justice that can be seen to have. For the people who want to smoke, there's no difficulty whatsoever for them to get up and leave

the room. People who have other addictions, whatever other addictions they may have - and I think smoking in many instances is an addiction - they get up and leave or would get up and leave in the Assembly and go out and partake in whatever their addiction may be. We do not permit people to bring - if somebody had an alcohol problem it certainly is not acceptable to bring alcohol into a committee room. Lots of people may feel like a shot once in a while but that is not permitted to be brought in here. They have to go off and do it on their own if they so desire. Now, there has been debate in various Houses with clear liquids. Just exactly what is in that glass of water, I suppose, especially back in Confederation with the First Prime Minister. At least in portrayals, may I say, by the people's network for Sir John A. In my rambling commentary here . . .

HON. A. ANSTETT: You had a majority before you started.

MR. D. SCOTT: In my commentary here, somewhat rambling commentary, I do think that we have a responsibility as legislators to set examples and to certainly, within the Legislative Chamber itself, smoking is not permitted when the Session is in. We have an aberration that smoking is permitted as soon as we move to Committee of the Whole, but it is not an acceptable practice in there. I think that is for reasons of decorum and not for public health, but the rationale for decorum falls apart when we're using the same Chamber and you're in a Committee of the Whole and all of a sudden you're allowed to smoke. The whole rationale for the decorum I think goes out the window and the primary rationale therefore becomes the issue of public health.

So I would wrap up my rambling commentary here and I hope I've not offended anybody, especially Sir John A., but I feel that we should have a no-smoking policy in all committee meetings in Rooms 254 and 255 and as well to extend that to the Legislative Assembly Chamber itself.

MR. H. ENNS: Mr. Chairman, it should just be noted that long before smoking by-laws were passed we have, of course, traditionally and always imposed upon ourselves a no-smoking ban in deference to the Speaker when he's in the Chair and the Mace, and when we are in Session. I just put that on the record that is a practice that we smokers have been quite happy to live with. I understand the question and the need for consideration for this item. We have by-laws passed in the City of Winnipeg and we are in the City of Winnipeg here, and I would ask the committee to allow me, as Opposition House Leader, to take this matter to my caucus with the commitment that we would be prepared to give it serious consideration and come up with a proposal that would be acceptable I think perhaps along the basis that the Attorney-General has suggested.

HON. R. PENNER: Good move.

HON. A. ANSTETT: If you can get consensus in your caucus you're one shot better than we are.

MR. C. SANTOS: I think realistically to permit a 50-50 splitting a room into one-half of the room is smoking, the other half non-smoking is to assume that the smoke will not spread over to the other half of the room which is unrealistic. Unless the committee is prepared to meet in committee during summer on the lawn of the Legislature I would suggest that we be consistent with our practice in the House. With due respect to all the smokers, I think it is either an all or none proposition. If the majority feel that they cannot live their life without a smoke and they have the vote, then we should not change in the rule. But if they realize that we are the example in the province and that we are setting up a policy that will affect the entire province, as well as the entire nation, then we should also change the rule.

Thank you, Mr. Chairman.

MR. P. FOX: Mr. Chairman, this question was raised because of the fact that the by-law was passed in the City of Winnipeg. Even that by-law makes exceptions and exemptions for smoking. As has been pointed out, even in airplanes they have a smoking section and a non-smoking section, so I would agree that the Attorney-General's suggestion of a 50-50 rule would probably be something that we could live with.

I also concur with the House Leader of the Opposition that this matter should be dealt with at both caucus levels in order to see if there is any other solution to this matter.

MR. CHAIRMAN: Agree to defer? (Agreed)

CONSIDERATION OF A PROPOSAL TO UNDERTAKE A COMPREHENSIVE PROCEDURAL REVIEW

MR. CHAIRMAN: Item No. 8. A background paper was made available to members and I think distributed to all of them. Did anyone not get a copy? It has been received.

Mr. Penner.

HON. R. PENNER: A short while ago Mr. Mercier addressed this issue and I just want to concur with him. I think that there is simply no way with the best will in the world towards this proposal that I could support the expenditure of that kind of money in this coming fiscal year. I think everybody is well aware of the kind of financial circumstances that all of us are facing. There may be differences about how to manage that but no one disputes that these are tight times. It's not just a matter about which the Federal Government is concerned but all provincial administrations are approaching it in the best way possible.

I would agree, however, that something needs to be done and that there may be an intermediate step which can be taken pending the time when we can see funds available for the more comprehensive review. I am sensitive to - let me put it slightly differently - appreciative of the point made that because of the adhocery over time there may be, indeed I think we are well aware of, inconsistencies as between one part of the rule and another. And that is something which in my view could be dealt with - I'm quite sure it can

be dealt with - by the employment of a term employee over a summer - I'm thinking of a university student, indeed somebody like Gordon - on a term basis to involve the expenditure of much less money to take that particular task of not dealing with new rules, or a revamping of the rules, but just of the concordance of the rules. I would support that proposal as an interim measure while agreeing with the overall proposal in principle but is something that we would have to implement in a subsequent fiscal year.

MR. G. MERCIER: Mr. Chairman, as I indicated, I referred to this earlier on and what the Attorney-General proposes I think is the way in which it should be handled, and I think there is probably a consensus on that.

I think the proposal of the Attorney-General, Mr. Chairman, was perhaps to determine whether or not a student could be hired on a term basis in the coming summer months to undertake a review to propose a co-ordination of the existing rules.

MR. H. ENNS: I would just add to that that it is possibly important that party have some understanding of the procedure. A totally new person could assist and wouldn't really know where the inconsistencies and what it is that we are looking for. The name was just mentioned but it is certainly possible that somebody who has had some experience in the Clerk's Office, some experience in our Chamber, if that person could be available, then I can see something worthwhile developing from that expenditure. I just take note of the second last paragraph of the paper before us which says: "To curtail the process described by cutting back on funding, by eliminating the employment of consultants, by restricting travel or by establishing an unrealistically early completion date could seriously endanger the attainment of objectives . . . "In other words, I read that that we are really looking at this proposal as a kind of an all-or-nothing basis, and the committee is saying "no" to the consideration, and I would then expect the Rules Committee to deal with a completely different proposition that perhaps would entail the suggestion, as made by my colleague, Mr. Mercier or Mr. Penner, about the possible employment of a person, as suggested, to work in a more limited way with considerably limited dollars being spent in this area.

MR. G. MERCIER: Perhaps we could ask the Speaker to come back with a proposal along the lines that we have discussed.

HON. R. PENNER: Along those lines, what about a referral to the Legislative Management Committee to consider the including in its estimates of a sum for term employment to deal with concordance?

MR. CHAIRMAN: The matter was before the Commission previously and the Commission declined to deal with it and asked that the Rules Committee consider the proposal.

HON. R. PENNER: It may be that since there seems to be a consensus in the Rules Committee that that is what we want to have done that the Commission could now take it under advisement for . . .

HON. A. ANSTETT: Mr. Chairman, I believe that the Legislative Assembly Management Commission in referring this wanted to know what the Rules Committee wanted to do, whether or not they wanted this done. The Rules Committee has expressed on that. I reluctantly agree, I think our rules are in need of a long-term overview, both in terms of the questions of inconsistencies, etc., but also from a conceptual point of view. But I am not sure that we're at the point where we are prepared to enter into that.

The LAMC has approved a part-time employment of Mr. Gordon Mackintosh, our former Clerk's Assistant, and I believe that that employment includes the non-academic portion of next spring and summer, which would be made through August. I believe that it was Mr. Remnant's intent, and perhaps he can speak to this to have Mr. Mackintosh play a role in the proposal which we had before us next summer, and that was an anticipated part of his responsibilities. Perhaps what we, as a committee, are suggesting, if I can draw the consensus, is that those energies be devoted to this narrower objective in the interim.

MR. CLERK: Mr. Chairman, yes, just to confirm what the Government House Leader has said, we will be having Mr. Mackintosh on full-time during the summer. He would be devoting his energies to procedural undertakings of one kind or another, as yet not devised, but certainly this kind of a task would be something that he would be very competent to do, and I think the kind of task that Mr. Penner had identified.

While I'm speaking I would like to just clarify one point that was made, which was the tremendous cost outlined here. I would first of all like to say that was only a ballpark figure which was the best figure that could be come up with in the absence of any specific knowledge about the parameters of the task; secondly, in the paper you will note that a similar undertaking occurred in New Brunswick, but it's not a one-year cost, it's a several years cost if we were not able to proceed any faster than New Brunswick did. I just wanted to add that for clarification because I think it was a little bit misunderstood.

MR. D. SCOTT: The reference made earlier was, I believe, strictly to an analysis or a review of our existing rules and the order in which they are presented and sort of rewrite what we have in existence presently and not towards any other modifications. I personally would not like to see it limited to that; I think that we should have sufficient scope so that we could look at what is happening in other jurisdictions as far as for rules changes that they have made.

I guess a year-and-a-half or two years ago I had made the suggestion that we bring in two members from Manitoba on the Parliament of Canada Rules Committee and at that time it was felt that it wasn't necessary, that everything was going tickety-boo and why should we want to touch any of our rules. We now more broadly recognize that the rules could certainly use some updating, and I don't think that updating should be restricted simply to what we have presently without looking at what other jurisdictions have done. For the whole democratic process evolves and, as it moves along and different rules are attempted in other

jurisdictions, I think it is necessary, or is certainly an important part of our role as a Rule Committee, to look at what is happening in those other jurisdictions. If we can get those people to come in and to sit down with the Rules Committee, I had proposed at that time - I think Mr. Murta and Mr. Blaikie were both part of the Rules Committee in Ottawa - for them, while they're back in Winnipeg, at no cost, to come in and spend some time with us reviewing their attitudes of the trial that they had made in the Government of Canada for a rules change and to see what the attitudes of the two caucuses, or those two individuals on the Rules Committee, was to the functioning of those amended rules.

I think we could still benefit from that and I think that whoever the various representatives on the Rules Committee in Ottawa are now, surely there are a couple from Manitoba, that we would benefit by having them included in the consultation process here, an advisory process, as to the success and failure of rule changes they have made in Ottawa and it certainly would not be something that would cost money. Then we could take this - and I don't want to have us biting so much, trying to take off such a big chunk that we don't want to take the first bite. Perhaps the first bite is just to look at the existing rules, but I think that we've muddled along here long enough. Now that we can, not only take a good look at the existing rules in their organization, but also at other changes that are coming to the fore in the various parliamentary jurisdictions across our country and to try and see if there are areas that we would like to add in to our review for consideration.

HON. R. PENNER: Nothing in the proposal which has been made and indeed in the way in which it is being dealt with by Mr. Remnant precludes a person who will be employed and spending time, going beyond the immediate parameters of a concordance as time permits and I expect it would. So it really meets Mr. Scott's well-taken point.

MR. CHAIRMAN: Anybody else?

Mr. Anstett, would you like to sum up?

HON. A. ANSTETT: Yes, I believe what we are agreeing to, Mr. Chairman, is that the resources which the Clerk's office has for next summer will be applied to research, to eliminate inconsistencies, concordance of the present rules, revision of present rules within existing precepts, and that, if time permits, further research into possible changes be also done.

MR. CHAIRMAN: Agreed? Agreed and so ordered.

PROPOSED AMENDMENTS TO RULES RESPECTING PETITIONS, PUBLIC BILLS AND PRIVATE BILLS

MR. CHAIRMAN: Item No. 9. Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, on Item No. 9, it may be that the committee previously dealt with this question. I don't know, but I've just received this information. It would be helpful I would think to me if

there were a summary of the changes that are being proposed in these rule changes and that be circulated and we deal with it at the next meeting.

MR. CHAIRMAN: I think those proposals were drawn up by Mr. Tallin and presented to the last meeting at which time he went over them and I think other members might have discussed them too. The same sort of thing was said that you're saying now that they be laid over for further study or something and he's not here to tell us about them.

Mr. Anstett.

HON. A. ANSTETT: Perhaps we could ask the committee staff to prepare a quick summary based on the transcript of that meeting of Mr. Tallin's quite detailed explanations. We actually went through it, not only at a meeting last spring but I believe we went through it for the first time almost two-and-a-half years ago when this was first discussed, and I believe the late Jack Reeves and Mr. Tallin described to the committee the problems that were occurring with regard to report stages, petitions, etc., the matters that are addressed. They are mostly technical matters, but certainly a listing of the actual changes could be extracted from the transcript. I don't think it would comprise more than a page of short point form notes summarizing the impact and that would make it easier for members to assess it if that were distributed prior to the next meeting.

I have reviewed it and I have no problems with the changes as proposed.

MR. CHAIRMAN: Agreed? Agreed and so ordered.

OTHER BUSINESS

MR. CHAIRMAN: Item No. 10, Other Business.

Mr. Graham, you wanted to deal with Speakers' Rulings.

MR. H. GRAHAM: Mr. Chairman, I believe we had consensus at a previous meeting to deal with the item of a review of the Speakers' Rulings, and so far we have not I believe moved at all in that direction. I was wondering when the committee was going to be prepared to do that review. We seem to be getting shuffled of into a review of the rules itself rather than dealing with an item that was a pretty high priority with the Rules Committee. I'd like to find out just where we stand with that and whether or not it is the intention of the Rules Committee to proceed with it?

HON. A. ANSTETT: Mr. Chairman, I don't believe that there's been any change in the intention of the Rules Committee. I believe we are still awaiting the preparation of background material as requested, I believe, the 22nd of September, 1982, which is slightly more than two years ago, and I believe we're still awaiting that. That's when it was first raised; it's been discussed subsequently several times and I think that's the nub of the question. I think perhaps what's required at this point is further direction to staff to ensure that that's done. I can't offer any explanation to the honourable member as to why it hasn't been done; I have the same question.

MR. H. GRAHAM: I have a suspicion that when we get down to our priorities that it will probably be lost in the shuffle again, and I think it is pretty important that it be done.

MR. D. SCOTT: Since it has been two years now, would it be possible to give me direction to have at our next meeting all of the rulings that are applicable as of our October 1982 meeting, to have those rulings and perhaps the rulings since then as well, have copies of all those rulings made available to the committee? I don't know what more than that could be done unless the Speaker and the Clerk want to have additional commentary alongside of those rulings - I don't know if that is necessary - and to bring that back so that at the next meeting we can go through each one of them and deal with the matter finally.

HON. A. ANSTETT: I think the agreement we came to some time ago was that in addition to just the rulings there should be appropriate background information and research, and that one of the issues that should be addressed was whether or not the ruling itself - and this I think was the nub of the question - should stand as a precedent in view of the changing rules. In many cases we don't know, when referencing a ruling made by Speaker Fox or Speaker Graham or Speaker Hanuschak or Speaker Forbes, whether or not the rule on which that decision was based has since then been modified, or whether or not the Beauchesne Citation on which it was based is no longer applicable under the Federal House Rules or the new version of Beauchesne. So there are those kinds of questions which I think require research, and I have assumed that because of that complexity that research would take some time, but certainly two years is a lot of time.

MR. P. FOX: Mr. Chairman, I wonder if anyone on staff or yourself could give us a resume as to how much has been done and what is the holdup up to the present time.

MR. CHAIRMAN: There has been some research done into the matter and we have gone back to correlate the written ruling, the Speakers' written rulings, on particular cases which have been collected together. I'm not sure whether, from what members have said, that they in fact want to reconsider those rulings, if you like, either written or verbal or however, on individual instances in the way that the rule has been applied, if you like. I believe to do so would be a reflection on the Chair which, you know, the House cannot do, and if the House cannot do it, then presumably a Committee of the House cannot do it. And it may well be that it is the job of and, in fact, members want to review a rule on which a particular ruling has been made, to see whether the intent of that rule is really accomplishing what it is that the members want to accomplish.

For example, it was mentioned last time that there can be an appeal of a judge's decision to a higher court, etc. If there is, that appeal is still within the judicial system, the appeal is not to the Legislature which makes the rule. We have a system of separation of powers, etc., and this is what we have here, that wherever a rule is not doing what the House wants it to do, or

when there is a rule developed by the Chair because a specific rule is lacking, the House might want to review the circumstances that that particular rule covers.

I believe that is what the members want and, in fact, that is what they have done this morning if you look over the agenda. They have considered, for example, Rule 46 and whether it does what they want to do. There was no discussion and ruling whether a ruling was right or it was wrong on it; all they have said is does the rule do what we want and if so, fine; if it doesn't do what we want, then we'll change it.

What we can do, having some material is to have presented those particular rules on which it is felt there has been some problem, or something ought to be done in that particular area to give this committee the opportunity, if it so wishes, to develop a rule, a role applicable in all cases, not just in the specific where most Speakers' Rulings occur.

Mr. Mercier.

MR. G. MERCIER: I agree with you, Mr. Chairman. I think the only function of this committee is not to question whether the Speakers' Rulings are right or wrong but to examine the rulings to determine whether or not, based on those interpretations, the rules are accomplishing what we would like to see them accomplish, and that should be the process in which they are reviewed.

MR. CHAIRMAN: I think you're right.

Mr. Anstett.

HON. A. ANSTETT: Mr. Chairman, I think Mr. Fox asked a legitimate question and I'm not completely clear we that we have an answer as to what has happened. The compendium of rulings to which you refer was, for all intents and purposes, completed by Mr. Reeves and myself in 1978-79, and then was since that time updated. I believe Mr. Graham, as Speaker, would have received a copy about that time, and I believe that since then it has been continuously updated, but the bulk of the historical work back to the inception of Hansard has been completed for well nigh five years. I believe it is clear from the Committee Hansard of our decision to do this review that it was not a question of determining whether Speakers' Rulings were right or wrong, but rather whether or not, in view of changing circumstances, we wanted to examine our rules, as you suggest, but also, and this is the anomaly, precedents become part of our rules and those rulings are precedents for the House.

There may be some which, because of changing circumstance, or because our rules have been changed, are no longer relevant and we don't know that. We've never said, hey, so and so's ruling on such and such a date is no longer a precedent for this House because we've changed a rule. And members, and House Leaders in particular, aren't up to date, to be quite honest, on the ruling made on such and such a date by Speaker Harrison in 1961 and, when finding it in the Journal, finds something in it that might seem to be advantageous for the moment, choose to rely on it. You, Sir, then choose to rely on those arguments, are in a position to have to make a decision sometimes in the moment because of the urgency attached, and

yet that Speakers' Ruling which appears both in the Journals and the compendium is really irrelevant in the present context, and that hasn't been done.

There may be situations or rulings where we really have no problems, but there will be many with which there are problems and if we don't do that review we'll never get that done. And I think that kind of awareness on the part of the committee will assist in the longer term in the complete revision of the rules. I think it's an integral part of that to get us up to date and know what we really have. There are many members who have said in reading a rule: What does that really mean? Well, you've got to go back through a number of precedents they're told to understand what it means and read Beauchesne, and in some cases back to May. Well, that's not an advantage to members in terms of facilitating business and having members understand the rules and our procedures.

So I think Mr. Fox asks a legitimate question. We're engaged in an activity, or we have asked that we be engaged in an activity, which allows us to bring ourselves up to date, to determine relevance and the compendium was done and nothing has happened since. I share with Mr. Graham the concern about when we can actually start, when we'll receive the material and we can schedule, perhaps, an all-day meeting of the Rules Committee where we'll have sufficient time to deal with the other items but at the same time begin this process. To be quite honest I don't think the consensus in the committee has changed one iota as to what needs to be done, it's basically the research to support the compendium and the analysis in terms of rules changes and different changes in the authorities we use to guide us and tie that all together so we've got a nice picture of each ruling over time.

MR. CHAIRMAN: You're right in what you say that rule changes often have been made in the light of past experiences by the House and, as such, they will supersede any particular written ruling that might have been made which was only made in the light of the absence of a particular general rule.

HON. A. ANSTETT: Often a rule change is made because the House chose that they did not want to abide by that ruling. They disagreed with the interpretation of it and said, oh, oh, if that's the way that's interpreted we had better change the rule, that's not what we intended.

MR. CHAIRMAN: That's what I said. It's where things don't happen according to the intent of our House, because of the rule that they've written, the Committee of the House will adopt a new rule, or a change in the wording to do what it wants to do.

MR. G. MERCIER: Just another short comment, Mr. Chairman. There's a very fine line that has to be watched here. I don't think it's the function or role of this committee to tell the Speaker what precedent he can or can't use. I haven't been a part of this discussion previously, but it seems to me what the committee is seeking is, and properly should be done by the Clerk's Office, is a review of the rulings with notations, for example, the one we dealt with today on the calling

of private member's business. I suppose that ruling would be in the compendium with a note that there is or will be a rule change with respect to that matter and refer to the rule change. I think that's material that should be prepared by the Clerk for the committee because there is a very fine line here that has to be watched.

The Speaker makes his decisions and it is not the role of this committee to challenge those decisions, but if they are unhappy with them to make changes in the rules.

MR. C. SANTOS: Mr. Chairman, I will compare the written Rules of the House in the Orders and Proceedings as a set of code and then the interpretations of those rulings by the Speaker sitting in the Chair as an expansion of the meaning of the code of provision. I consider only those rulings of the Chair that are made in situations where there are no existing code of provision as precedents. Only in such cases can it be said that they become part of the rule because there was no rule in the first place when the ruling was made.

Now, if there was such a precedent and subsequently a written code of provision is written down by the House, then certainly the code of provision will supersede anything inconsistent that was ruled before because subsequent code of rules will have precedence over the old ones which will be superseded. Therefore, we should make a distinction. We cannot say that all rulings of the Chair automatically become precedents; only those that are made in the absence of written code of rules in our books, and not subsequently changed by amendments in the written codes.

Thank you.

MR. P. FOX: Well, Mr. Chairman, rules are a living entity and they continually are altered in order to expedite the business of the members and the House. The real issue that we are trying to come to grips is not to challenge Speakers' Rulings that were made in the past, but to determine their relevancy, to determine whether they still apply to what we are doing today. Now, that doesn't mean to say that those rulings weren't correct at the time they were made, but in the view of changing circumstances if we don't review them I don't see how we can write new rules or propose to take a comprehensive review if we don't know what is no longer relevant, and I think that is the key that we are trying to accomplish. And, unless we get the research material that has been already done and with notations as to whether they are relevant or not, as to whether they need changes or not, whether they are precedents that no longer apply, there is no way this Rules Committee can go into a comprehensive review. I think that is essential that we try and get this job done as soon as we can.

MR. CHAIRMAN: You are right in that a comprehensive review of the rules, and everything that goes with it, was put to the committee as a suggestion that that should be done. The committee has said, no, it doesn't want to go that route, in which case it would have subsumed these other things that . . .

MR. P. FOX: Mr. Chairman, it may not want to go at the present moment because of circumstances, but

unless we get that background material before we start that out then we are going to go on a useless trail even when we do make the decision to go. I think it is important that we do get the background material to find out how much relevancy there was to some of the decisions that were taken in the past. If we have changed our rules a number of times, which we have, then I am certain that some of those relevancies are no longer right. And, consequently, I think we need the review of that as well before we go into making a decision about a comprehensive review on a particular time span. We didn't say we weren't going to take a comprehensive review, we just deferred it.

HON. A. ANSTETT: Mr. Chairman, if I may make a suggestion in line with Mr. Graham's opening remarks on this subject. Can we, as a committee, direct that staff complete the compendium, provide the additional material that was originally requested for members, and that we treat on a priority basis this item on our agenda for the next meeting?

MR. H. GRAHAM: Mr. Chairman, in order to maybe further assist staff, I believe our compendium goes back to 1961, somewhere in there. I would think that probably the first five years of the compendium that we have are the ones that we would like to know whether there has been a rule change since that ruling has been made. Basically that's what we are interested in, to see where the rules have changed and in that way we can then facilitate yourself and all members of the Assembly because you look back at Speaker so and so's ruling in 1961 and Beauchesne and you realize, well, yes, that was very valid in those days but we've had a rule change since that time and we've noted that against that ruling so that it helps, helps everyone.

MR. CHAIRMAN: Are you referring to written rulings only when you say that? Not any other rulings?

MR. H. GRAHAM: The compendium we have of Speakers' Rulings.

MR. CHAIRMAN: Only the compendium, nothing else?

MR. H. GRAHAM: Yes.

MR. CHAIRMAN: I see. Well, a Speaker makes rulings all the time now, even to call on one member is his ruling.

Mr. Remnant.

MR. CLERK: Mr. Chairman, just one point of clarification. Mr. Graham is making reference to 1961 and subsequent. Just so I know exactly what the committee is asking for, are we talking about 1961 to date? Are we talking about a period of five years? Because some material has been compiled, yes. The work of examining the rules on which a particular decision was based, or the Beauchesne Citations could be a comparatively time-consuming job. I'd just like a little bit of clarification because reference was made to bringing this material forward at the next meeting of the committee.

HON. A. ANSTETT: This question was answered, you'll find it in the committee transcript. We suggested that

we start at the beginning of Hansard, which I believe was actually 1959 . . .

MR. CLERK: '58.

HON. A. ANSTETT: . . . and proceed forward and deal with the early years first, and that we would start back there and work up to the present. If Mr. Graham is suggesting that a five-year slot is good enough to start with, fine. It may be that you already have material up to date for 10 of those years, but the direction, I believe, some time back was that we would start back at the beginning of Hansard and move forward. So I am suggesting that for the next committee meeting all that's done up to that time be made available to members and we'll begin the process on a priority basis on our agenda.

MR. CHAIRMAN: I've heard "committee rise." Is there anything else that ought to be dealt with prior to that?
Mr. Scott.

MR. D. SCOTT: Another business, if I could just raise a point. I just got this this morning, I understand it was just handed out yesterday. I think it would be quite appropriate for us to try and get the written material to the members three or four days before the meetings because there is an awful lot of information to try and absorb so that when you come to the meeting the individual members can be prepared. I would urge the Speaker and the Clerk's Office to not just send out an agenda, but also send out an agenda and maybe a

day or two later or at the same time that the agenda is sent out send out the background material. We do it for other committees, I don't know why we can't do it for this one.

MR. CHAIRMAN: We'll do our best, Mr. Scott.

MR. D. SCOTT: Thank you.

HON. A. ANSTETT: Before we adjourn I'm wondering if we could choose the next date so that we can all schedule our lives into December or whenever.

MR. H. ENNS: When will the House sit? That's so they won't conflict with the next Session, or when we're in Session sometime in the middle of March, is that what he's scheduling?

HON. A. ANSTETT: I wouldn't even want to schedule it for late February then. Perhaps, Mr. Chairman, Thursday, December 13th, that's about a month away and that will allow staff some time. There is some research and other work to be done. That's a Thursday, not a Friday. And perhaps, Mr. Chairman, we can proceed on the assumption that we would have two sittings that day, morning and afternoon.

MR. CHAIRMAN: The same sitting, just adjourns for lunch. Nothing else?
Committee rise.

COMMITTEE ROSE AT: 12:27 p.m.



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