



Legislative Assembly of Manitoba

**HEARING OF THE STANDING COMMITTEE
ON
LAW AMENDMENTS**

Chairman

**Mr. D. James Walding
Constituency of St. Vital**



TUESDAY, June 7, 1977, 4:00 p.m.

Law Amendments
Tuesday, June 7, 1977

TIME: 4:00 p.m.

CHAIRMAN: Mr. D. James Walding.

MR. CLERK: Your regular chairman is away sick and will not be here today. I would therefore ask for a motion for the appointment of a temporary chairman to take this meeting. Are there any nominations?

A MEMBER: Mr. Walding.

MR. CLERK: Mr. Walding has been nominated. Are there any further nominations? Hearing none, I would ask Mr. Walding if he would please take the Chair.

MR. CHAIRMAN: Order please. I will read a list of the bills before the Committee: No. 6, No. 10, No. 22, No. 25, No. 29, No. 30, No. 32, No. 35, No. 48, No. 54, No. 56, No. 59, No. 62, No. 64, No. 67, No. 71, No. 77, No. 79 and No. 85. All at your will and pleasure. Mr. Graham.

MR. GRAHAM: Mr. Chairman, I think it should be pointed out there are some bills here that have not had an opportunity to go before a Committee for public representation yet.

MR. CHAIRMAN: Can we then maybe start from the top? If there is any bill that members know has not been available for public representation, we can lay that over and continue the next one. Does that suit the Committee? (Agreed)

Our first one, then, is No. 6. An Act to Amend The Jury Act. Are there amendments?

A MEMBER: Yes, there are.

MR. CHAIRMAN: There are some amendments.

Page 1—pass; Page 2, Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that the proposed clause 4(m) of The Jury Act as set out in Section 1 of Bill 6 be amended by adding thereto, immediately after the word "institution" in the second line thereof, the words "or a probation officer."

MR. CHAIRMAN: You heard the motion. Any discussion? Mr. Tallin.

MR. TALLIN: It was brought to our attention that probation officers are not considered officers of the court. They are not usually considered as persons employed in a penitentiary or a correctional institution and they are no longer employees in the Attorney-General's Department. They have a vital role to play in many criminal cases, in that they make recommendations with respect to punishment; they give reports to the judge with respect to the accused's background, family arrangements, employment and that sort of thing. We thought it would be better to exclude them from serving on juries altogether, rather than have them challenged at the time of the trial.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, in a jury trial, is it not a fact that a probation officer normally is associated only with juveniles?

MR. TALLIN: No, the judge in any criminal case, after a person has been convicted, the judge can ask for a probation officer's report prior to sentencing, a pre-sentence report.

MR. GRAHAM: Is it not also a fact that a person, when serving on a jury, has to state whether or not he has any particular interest in any case?

MR. TALLIN: That's true, but a probation officer doesn't necessarily have an interest in any particular case. I don't think that they are asked specifically if they have any interest in any particular case.

MR. GRAHAM: Well, Mr. Chairman, I just wonder whether, in this particular case, would it not be more advisable to leave the person in and give them the opportunity? If they have any interest, let them declare it at the time and they will naturally disqualify themselves.

MR. TALLIN: I don't know whether the Attorney-General wants to speak to this, but these revisions were provisions which were recommended by the Uniform Law Conference of Canada in an attempt to get the law relating to the qualifications of jurors fairly uniform across Canada. One of the concerns that the Uniformity Commissioners mentioned was that the people who are qualified as jurors not only have no interest, but they appear to have no interest in the administration of justice. That is why you will find that employees in the Attorney-General's Department and the Department of Justice of Canada and that sort of thing are excluded holus-bolus, not on the basis that they all have an interest in what happens in jury trials, but there is always the suspicion in people's minds who don't know what the employee's duties are. They say, "Oh, well, he might" A person who works in the Attorney-General's Department in the Land Titles Office may have no concern with the administration of the jury system, and yet to make it apparent to the public that the Attorney-General is not attempting to influence in any way the outcome of jury trials by having some of his employees on the juries, they thought it advisable to exclude all persons who were employed by the Attorney-General under the Attorney-General's Department.

And this is the type of thing. If probation officers appeared on a jury, there might be a suspicion in some people's minds that they had a preconceived idea as to how accused people should be dealt with, and that might affect their decision. Whether or not that is true is not what they were concerned

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about. They were concerned about what is the appearance to the ordinary man in the street. Would it appear to that man in the street that the probation officer might have a preconceived idea as to how certain cases should be disposed of?

MR. GRAHAM: Mr. Chairman, seeing as how these remarks are recorded, I just wonder if legal counsel wants to look at what he said, and perhaps maybe he wants to change the wording of something he said. I believe he said that probation officers did not want to appear to have anything to do with justice.

MR. TALLIN: No, no, what I said was that the Uniformity Commissioners wanted the appearance to the man in the street to be that no person who had any interest in how justice was administered particularly appeared on juries. I probably had some poor wording.

MR. GRAHAM: Very good, Mr. Chairman.

MR. CHAIRMAN: The agreement as read—(agreed).

4(m)—pass.

MR. BOYCE: Mr. Chairman, I would move that the proposed clause 4(p) of The Jury Act, as set out in Section 1 of Bill 6, be amended by striking out the figure "5" in the first line thereof and substituting therefor the figure "10."

MR. CHAIRMAN: The amendment as read. Mr. Graham.

MR. GRAHAM: Mr. Chairman, if we are going to put any limitation at all on the service of those that have served and paid their debt to society, can I ask for the justification of the changing from the five years to the ten years in this particular case?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Graham, that is to deal with the period of time for a pardon, is it not? Five years. Do you recall the reason for that?

MR. TALLIN: It was recommended by the people in the department, I think.

MR. GRAHAM: Mr. Chairman, may I speak to it a little further? I believe that under The Criminal Code of Canada — I'm not too sure and I'm not familiar with all the laws of this land — but I understand that after five years, I believe a person's criminal record — if he is five years trouble free — his criminal record is stricken from the record. Is it not?

MR. PAWLEY: The time period is five years. Now, the ten year change, as Mr. Tallin indicated, came by way of recommendation within the department itself. Mr. Goodman is down in my office — do you want to just hold that in abeyance?

MR. GRAHAM: Mr. Chairman, if a person after five years has had no offence and his record is wiped clean, why should we make any reference at all other than say that if a person who has a criminal record should not be eligible to serve on the jury.

MR. PAWLEY: Mr. Chairman, I'm not going to advocate strenuously for the ten because I don't know what the reasoning would be, because five years is the period for pardoning. I'm prepared to withdraw that amendment.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: As the mover of the motion, if the Committee concurs, we'll withdraw the amendment.

MR. CHAIRMAN: Agreed the amendment be withdrawn. (Agreed)

Page 1. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Section 4 of Bill 6, An Act to Amend the Jury Act, be amended by adding thereto at the end thereof the words: "and by striking out the word, 'alternately' in the last line thereof and substituting therefor the word, 'successively'."

MR. CHAIRMAN: The amendment as read? Mr. Jorgenson.

MR. JORGENSEN: I wonder if the Minister could point out where we could find that particular clause in the present bill?

MR. BOYCE: Section 4 of the bill.

MR. JORGENSEN: Yes, I looked at Section 4 and I am just unable to find the words that he . . .

MR. TALLIN: We're adding some more words that amend the section further and I can explain the meaning of the amendment.

MR. JORGENSEN: You suggested you are striking out the word "alternately."

MR. TALLIN: No, those are the words that are being added. By adding the words starting with "and by striking . . ." The section that is being amended is Section 12(1) of the Act, and it says "Where there are more than one jury list, the selectors shall select from the lists alternately," which presumes that there will be only two. The Sheriff's Office suggested that this be "successively" so that they get them all in successively. It's just a correction of language.

MR. CHAIRMAN: The amendment as read? (Agreed) Section 4—pass.

Page 2—pass; Page 3. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that the proposed clause 18.2 Sub. (1)(a) of The Jury Act as set out in Section 7 of Bill 6 be amended by adding thereto immediately before the word "liable" therein the words "qualified and."

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MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Again, that's a technical rewording to make more clear, more precise the eligibility.

MR. CHAIRMAN: The amendment as read. (Agreed) Section 7—pass; Page 3—pass; Page 4. Mr. Joyce.

MR. BOYCE: Mr. Chairman, I would move that Section 8 of Bill 6 be struck out and the following section substituted therefor: Subsections 24(1), (2) and (3) repealed and substitute 8, subsections 24(1), (2), and (3) of the Act are repealed and the following subsections are substituted therefor:

Number of jurors to be selected in E.J.D.

(1). In the Eastern Judicial District, the Board shall ballot for jurors until they have selected 1,000 names of persons who are liable and qualified to serve as jurors and who have not been summoned and attended as such during the previous two years.

The number of jurors in other judicial districts.

(2): Except in the Eastern Judicial District, the Board shall ballot for jurors until they have selected 400 names of persons who are qualified and liable to serve as jurors and who have not been summoned and attended as such during the previous two years.

MR. CHAIRMAN: The amendment as read? Mr. Graham.

MR. GRAHAM: Mr. Chairman, I think we are doing something here that may alarm some anti-obscure. As The Jury Act read before, there was a fundamental obligation on the part of any juror to be discreet and competent. We are now removing those qualifications from the role of a juror. He no longer has to be discreet and he no longer has to be competent and I think that if we remove those sections, I think we may be tampering a little too far with the justice system and people may begin to wonder whether or not justice in the fact will be done as well as appear to be done.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: This section doesn't deal with whether or not the jurors have an obligation to be discreet and competent. It has to do with the obligation of the Board in balloting for jurors at a time when they have no knowledge of the people who are on the list. They are required, under the present Act, to select 1,000 names of people who are discreet and competent when they have no knowledge of who those people are. The only knowledge they have is from the records that are available to them from the people who made the list and who have given some undertaking that the people on the lists are qualified and liable. So the first change that these sections are making deals with the question of giving the Board a duty which they can perform, and that is to select people who are qualified and liable.

The second change which is being made here is to make it clear that the person who has served on a jury in the immediately preceding two years, will not be selected again, and this is in line with a later amendment in the bill, 63 Subsection (3), so that more of the people who would be entitled to claim an exemption under 63(3) will not even be selected on the list.

MR. GRAHAM: Mr. Chairman, I would prefer to see the words "discreet and competent" left in.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I have one simple question of why 1,000 in the Eastern Judicial District, and only 400 in the . . . Is the Eastern Judicial District Winnipeg, the City of Winnipeg?

MR. PAWLEY: Yes. A much larger population. And insofar as leaving "discreet" in the wording, as Mr. Tallin indicates, "discreet and competent" — it is really imposing a requirement that can't necessarily be met in the process.

MR. CHAIRMAN: The amendment as read? Mr. Jorgenson.

MR. JORGENSEN: I must draw attention to the fact that this amendment that we are dealing with now is not contained in the bill that is before us. We are amending a section of the Act that's partly here. Section 8 says subsection 24(3) of the Act is repealed. But you are dealing here with Section 24(1), (2), and (3) of the Act. There are sufficient references in our rules . . .

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, all I would like to say is that Mr. Jorgenson may be correct, but certainly the principles are being dealt with in relationship to the amendment that is before us.

MR. JORGENSEN: I know it poses a problem, Mr. Chairman, in that sometimes there are amendments that are necessary as a consequence of an amendment that you are going to make and related to the subject that is going to suffer an amendment.

But I want to draw your attention to Beauséjour, Section 304, which says: "A Committee can only consider those matters which have been committed to it by the House." A matter that has been committed to a Committee is a subject matter of a bill and you cannot include a section of the original Act to amend the original Act that is not contained in the Act to amend. And there are numerous references to that in Beauséjour which precludes you from moving amendments to portions of the original Act that are not contained in the Act to amend.

I recognize that it could pose some difficulties in the drafting, if after a bill has been submitted to the House and passed second reading and sent to a Committee, that if it was found that there was a

consequential amendment or an amendment based on the one that is being proposed, that has to be moved in order to make the Act operative. I admit that that poses somewhat of a problem. But if I look over the amendments that are before us, there are five of the six amendments that are before the House right now, before this Committee right now, are amendments that are not contained in the original bill. I submit, Sir, that it is an abuse of the Committee to ask a bill to be passed on second reading in which members of the House are led to believe that certain amendments are being proposed to a bill and then come to the Committee to find out that we are dealing with amendments that are not contained in the original bill, not contained in the principle of the bill to amend at all.

I submit, Sir, that this practice — and I have been informed that it has been carried on to a certain extent in the past — I think this practice has to be clarified. I do not want to prevent amendments that are necessary as a consequence, technical amendments, but I think that amendments that introduce an entirely different principle in a bill should not be presented before this Committee without even having an opportunity to examine them. They're distributed to the members of the Committee as the bill is being considered. We have not had an opportunity to examine them. We have not had an opportunity to determine whether or not they are simply technical amendments to the bill that is before us or if they are of a consequential nature.

I submit, Sir, that if the government is insistent upon introducing amendments to a bill to amend that are not contained in the bill to amend, then it must find some other mechanism of doing it; either introducing it as a separate bill, or during the report stage where we have an opportunity at least to have a 24-hour examination of those amendments, that they be submitted at that point. But even then, Sir, I submit that the government does not have the right to introduce amendments that change an entire principle of a bill, as is the case in Bill 14, where an entirely new principle is being introduced. I submit that that amendment is completely out of order. Now I don't want to hold up the passage of amendments that the government feels are important, but at the same time, sooner or later we're going to have to deal with this and I think the sooner we deal with it, the better.

MR. CHAIRMAN: Mr. Miller to the same point.

MR. MILLER: Mr. Chairman, I can't entirely disagree with Mr. Jorgenson but I think he will recognize that this Committee has in the past operated somewhat differently than what he has just indicated. And as well — you know, it opens up the whole question — when we hear delegation: when the public comes, we do not limit them to those sections which are contained in the bill to amend. We're pretty lax and allow a pretty broad range of views to be expressed by people who appear before the Committee, including matters which are not even in the bill to amend. If we are going to follow the suggestion of the Member for Morris, then I think we've got to look at the whole thing, not from just the point of view of the government bringing in an amendment which is not in the bill to amend, but the whole question of how we operate in Law Amendments, both for the public hearings and for the Committee work itself. But I think the Member for Morris will admit that notwithstanding Beauchesne, in the years that I have been here, certainly amendments have been brought in which perhaps are not clearly identified in the bill to amend, but they are certainly part of the original bill and they are related, albeit sometimes tenuously, to the actual bill to amend. But not at this point to sort of start changing the rules again I think would be somewhat awkward, although I suppose it could be brought in on third reading as a motion.

MR. CHAIRMAN: Mr. Paulley, on the same point.

MR. PAULLEY: On the Point of Order, Mr. Chairman, I don't disagree entirely with my colleague that it has been a real past practice to do this at the Committee stage and I have every bit of understanding of the Honourable Member for Morris. As a matter of fact, Mr. Chairman, we argued this point to some degree the other night and, as a result of the discussions at that particular time, we agreed basically to the contention of Mr. Jorgenson and the net result was that in one of the bills: report stage, an amendment was introduced into the House. And of course, it is a recognized principle that the House is master of its own rules and at that particular time, it was my understanding that the matter was dealt with there rather than in the Committee. During the discussion we had the other evening on this point, I made the suggestion then that the matter should be referred to the Committee on Rules of the House for clarification or for amendment to our own rules so that we can clearly understand where we're going. I would suggest, in all deference to my colleague, the Minister of Finance, that the people who come to make representations do so very broadly within the content of the name of the bill itself rather than just simply the amendments to that bill. And I would question any endeavour to try and prevent that because of the fact, of course, that the Legislature is a continuing body, and at subsequent sessions of the Assembly, points raised by delegates who appear before a Committee, changes can be made at that particular time. **Now I am wondering whether or not the Committee would be amenable in this particular case to proceed in the same way as we do with the other bill — I am sorry, Mr. Chairman, I just forgot what it was; was one of Mr. Toupin's bills — and at the report stage, an amendment was introduced.**

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, I want to deal with one point that the Minister of Finance

suggested, that we we were going to be changing the rules in to adhere to mid-stream. On the contrary, what I am attempting to do is the rules and I want to, just for his benefit, to read some sections from Beauchesne to indicate to him that it's a pretty firmly established principle that you do not introduce extraneous matters to a bill in Committee. This is Citation 304: "A committee can only consider those matters which have been committed to it by the House." That's the bill that's before you. Section 361 says in part: "If the title is an Act to amend the Criminal Code," and they are only using an example here, "no other section of the Code can be amended than those mentioned in the bill unless modifications have become necessary in consequence of amendments made by the committee to the clauses of this amending bill," which is the point that I raised earlier.

Section 383: "It may become necessary before the second reading of a bill to make considerable changes in its provisions which can only be accomplished at this stage by discharging the order for second reading and withdrawing the bill." And Section 402 says, "A new clause will not be entertained if it is beyond the scope of the bill, inconsistent with clauses agreed to by the Committee or substantially the same as clauses previously negatized." And Section 408 says, "A Committee can negate every clause and substitute new clauses if relevant to the bill as read a second time."

Well I submit, Sir, that we are not dealing with a bill that was read on second reading; we're dealing with an entirely new principle, if you are going to introduce amendments, four or five out of six, which are not contained in the bill to amend. I submit, Sir, that without attempting to frustrate the work of the Committee — and I have some sympathy with the people who draft legislation — it's an imperfect art and it poses all sort of difficulties. When you draft an amendment, I don't suppose at the moment that you will recognize that later on in the bill is another clause that has to be amended in order to make it have it make sense. I recognize that problem, and that's really the reason that I mentioning it, because I do think there should be some regularizing of the method in which we deal with bills to amend. I submit that the way we're doing it here is out of order.

MR. CHAIRMAN: Mr. Boyce to the same point.

MR. BOYCE: To the general case made by the Member for Morris, I agree with him almost entirely. But to the specific issue we're talking about at the moment, I would suggest that it is in order, my understanding of 167 is that Section 24 is open because 24(3) is an amendment to Section 24.

MR. JORGENSEN: It specifically mentioned 24(3), that 24(3) is the only clause that can be amended, not 24(1), (2) or (5) or anything else.

MR. BOYCE: I listened to the Member for Morris. Just what he has said himself, that 24(3) was to have been repealed; the effect of this particular amendment is to wipe out 24(3), that there will be no 24(3). There'll be 24(1) and 24(2).

MR. JORGENSEN: But that does not change the argument. 24(3) is the one that is to be amended.

MR. CHAIRMAN: Order please. Order please. Can we only have one member speaking at a time. Mr. Boyce, have you finished?

MR. BOYCE: But to the general case that's made by the Member for Morris, I agree entirely with it. But as I say, it's a matter of interpretation what is a section, what is a subsection. The Section is open. It's my understanding and others on Section 167 of Beauchesne, is that the Section is open.

MR. JORGENSEN: I disagree with the Minister of Corrections. However, that's a somewhat minor point. The fact is that, as Mr. Miller pointed out, we do open the bills somewhat on second reading; the entire bill is opened up. A bill to amend will open up the entire bill for second reading. And we've allowed a great deal of latitude for people making representations before this Committee on the contents of the entire bill rather than sticking strictly to the terms of the amendments that are before us. But I think that is an entirely different situation when you are dealing with amendments to the bill because after all, then you're dealing with a concrete portion of a bill, you're amending it and it becomes law. And I don't think that we can treat amendments to existing statutes as casually as that. I submit that the practice of distributing amendments to us just as the bill is being amended, without us having an opportunity to examine whether or not it changes an entire principle, as some sections of his Act does, of the amendments that are brought before us right now. They have changed the principle of portions of the Act that were not contained in the bill that we debated on second reading. I submit, Sir, that is out of order.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, on the point. As I indicated earlier, we argued this the other night. The House has established a precedent if you want to call it that, that the amendments can be introduced into the House at Report stage, and that having been done, has established a precedent on the House. I, in all due respect to the argument that is going on in this Committee as to whether we can or we cannot open up the bill, I think basically the point raised by Mr. Jorgenson is a valid one, but I think in order to expedite the business of the House, we should follow the procedure that we used the other day and introduce amendments at the report stage. And that is the reason that the rules of the House, in my opinion, were changed only on the 24 hours; it's a time limit rather than a session limit. When we're in speed-up, it's still 24 hours of the clock, and if during that period of time any honourable member desires to introduce an amendment, he reports the same to the Clerk of the

House and it's proceeded with.

MR. CHAIRMAN: Mr. Adam to the same point.

MR. ADAM: Mr. Chairman, this is one of the few occasions that I find myself agreeing with the Member for Morris. We see it before us here and it happened the other day as well, that we have amendments coming in that are not part of the bill, that had not been debated in the House. Here we have a case, Bill 6, where about 90 percent, I would say, of the amendments have not been debated in the House. I think we are certainly stepping a great extent beyond the rules and it seems to me that we are going to establish this practice, we should bring this to the attention of the Rules Committee because I don't see how we can operate this way.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, I want to deal with a further point that Mr. Paulley raised in connection with the report stage. I don't want the impression to be created, as he seems to have done that at the report stage, we can introduce any kind of amendment that we want. I still submit, whether it be the report stage or any other stage, that the only amendments that are admissible are amendments that relate to the bill that is before the House. I would hate to see the report stage — I oppose this report stage of the bill right from its inception because I thought it contained some very dangerous possibilities. My suspicions now have been confirmed, because the Minister of Labour has now suggested that at the report stage, we can depart completely from the bill that has been passed in second reading and introduce anything we like. I submit that that is not in order and that cannot be done; that whether you introduce them at the report stage or any other stage, after the bill has passed second reading, that's the bill that you're dealing with and the only one that you can legitimately propose amendments to. However, again, I reiterate, I recognize the difficulty in drafting. I don't want to impose insurmountable obstacles to the people who are responsible for drafting an act who may have to move technical amendments to legislation. I think there is some way that we can work that out so that we are not going to frustrate the drafting of legislation. But I submit, Sir, that introducing amendments to legislation, whether it be at the report stage or in the Committee stage that entirely change a principle, is beyond our capacity. A new bill is necessary. I think perhaps that the kind of practice that we should be following.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, in all deference to Mr. Jorgenson, I think he answered, in part, his own questions, because he said in effect that he never ever agreed with the procedures at the report stage, or the facility for consideration at the report stage. I pose the question: Why was the rule changed from previously, to make provision within 24 hours after the Committee has received a bill in order that the House might have a debate at the report stage? If it wasn't for the purpose of being able to refer the bill either back or to introduce amendments, I don't know why.

The point, though, Mr. Chairman, is that the House established, by virtue of the bill that we passed after it being amended at the report stage — it has done it and we are masters of our own conduct, and it is historic that when a legislative body such as the Legislature of Manitoba establishes a precedent, it takes precedence over Beauchesne or any other parliamentary document and we have done that. So I simply suggest, having done that, that the matter under consideration apparently over the objections it cannot or should not be proceeded with, but we do the same as we did with the other bill I make reference to at the report stage, and further to that the suggestion being made that the Rules Committee could take a look at the rules which now apply in our House, that amendments can be made at third or report stage . . .

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, the Minister suggests that I answered my own question. I said in effect that why else did we adopt that procedure in the House. Well, I want to remind him that that procedure was adopted over my objections all the way through.

MR. PAULLEY: It was still adopted.

MR. JORGENSON: The Committee on Rules submitted amendments to the Rules which contained a suggestion that in this Committee, in Law Amendments Committee, we would hear on the representations, and that the actual drafting of amendments, instead of hearing them twice as we have in the past, once here and then back in the House again, that we hear them only on one occasion, and that would be in the House itself.

It was the First Minister who introduced this report stage nonsense and managed, with the support of the government, to get it through over the objections of the Opposition. —(Interjection)—

MR. CHAIRMAN: Order please.

MR. JORGENSON: The Minister is suggesting that I was a party to those amendments.

MR. PAULLEY: No, I am not.

MR. JORGENSON: I was opposed to those amendments all the way through and now my reasons for opposing them are becoming evident.

MR. PAULLEY: That's nonsense.

MR. CHAIRMAN: Order please. Is there agreement in the Committee as to how to deal with this. or are the members asking the Chair to make a ruling on the matter? Mr. Boyce.

MR. BOYCE: The matter under consideration is a point of order raised on my motion, so that rather than resolve this particular debate, whether it should or should not be part of the rules, if it is agreeable to the Committee I will withdraw the motion, then we can deal with it, whether we should or should not deal with it, in report stage.

MR. CHAIRMAN: Is the Committee agreed that the amendment be withdrawn? Agreed and so ordered.

MR. JORGENSEN: Well, Mr. Chairman, if that one is going to be withdrawn, then there are others is well that fall into the same category and should be withdrawn as well.

MR. BOYCE: It is my understanding that is the intention on amendments which fall in that category.

MR. CHAIRMAN: MR. Green.

MR. GREEN: Mr. Chairman, I certainly have been involved in this discussion before, and I certainly recognize what the Member for Morris is saying, and furthermore I also will agree that he has consistently opposed this procedure. There is no argument about that. The procedure has been allowed, and I know that it was followed not only from 1969 on, but it was followed between 1966 and 1969, and maybe the Minister of Labour could say between 1958 and 1966. I couldn't speak for those years.

I think that members always want to try to accommodate each other if something is not a serious, disputed point. What I am concerned with is that being withdrawn now, it won't solve the debate, because I understand that there are such amendments in other bills which are of some consequence, and therefore let it be at least noted that the withdrawing of it is not going to settle the argument, because it is going to come up again and eventually the Chair is going to have to rule, and despite even some of the logic of the Member for Morris' position, the precedents of this House — and there have been no changes in the rules — have been as indicated by the Minister of Labour. So I am not trying to reopen the argument. I am suggesting that it is going to be reopened and it is going to have to be dealt with, and the members will probably have to be divided on a question of how we should proceed. But in the meantime I gather this amendment is being withdrawn. Is it being reintroduced at the report stage?

MR. PAULLEY: It is my understanding that it will be. I don't

MR. CHAIRMAN: Mr. Jorgenson on the same point.

MR. JORGENSEN: Mr. Chairman, as I said earlier, I have no desire to frustrate the work of the Committee. And the rules do provide, as I indicated in the citations that I quoted, that amendments can be moved that are not contained in the original bill or in the bill to amend, providing they are of a nature that make them necessary in order to make sense out of the amendments that are being proposed. I think it is a question of judgment as to how far they go, but when you see one that is so clearly beyond the scope of the bill, that changes the entire principle of the bill to amend, then I think that a line must be drawn. What I am intending to do is to draw that particular line, as difficult as it may be.

I again agree with the suggestion that it is perhaps one of those matters that should be referred to the Rules Committee. I am quite prepared to debate that at that particular time, but it is very difficult. The point I want to make here now is that it is very difficult for us to determine at a quick glance, which of all we have, whether or not an amendment that is being proposed that is not contained in the original bill is a consequential amendment or not, whether it changes the principle of a bill, or whether it goes beyond the scope of being just a technical amendment. It takes time to review that amendment, and I am submitting that we do not have that time when they are just handed to you while you are considering the bill. That is the real problem that we face.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, maybe we could deal with that problem that the Member for Morris has raised because in the last analysis, things can be done. The Honourable Minister if he wants the amendment, and even if we agreed with what is being represented, would introduce a bill and we could go through three readings of a bill, and I am sure that will not be desired if it is not necessary. When we come to an amendment, could we proceed in this way in the meantime, without prejudice to the position that we might want to change the rules? When we come to an amendment which is being introduced, which is not an amendment to the amendments of the bill, in other words which is an unrelated amendment, for the remainder of this session can we say that if that requires time to be looked at, it will be passed over. The bill will be brought back into the next reading of Law Amendments Committee, and then we will deal with it at that stage. We are not going to be changing any procedures. The Attorney-General could introduce a bill on first reading, and if he needs it bad enough, I am not even going to object to that. But if something is introduced for the first time, and it is not to the other provisions of the bill, and even recognizing that the procedure that the Member for Morris is fighting for and believes is right could be dealt with on Rules. To expedite our proceedings

and knowing that we have used this precedent, but in order to make sure that nobody is taken by surprise when such an amendment comes up, can't it be put over and dealt with at the next meeting of the Law Amendments Committee?

MR. JORGENSON: I am quite prepared to accept that suggestion, Mr. Chairman. That sounds like a reasonable one to me, and I don't think we will frustrate the work of the Committee.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I just wish to point out that the amendment before us is one that could not be argued to be against the very principle of the bill. We are dealing here with relatively sections 3 and 15, dealing with the choosing of jurors. In 15 the qualifications, the grounds for exemption, are spelled out. It deals with the choosing of members of the jury, the same thing insofar as section 3, dealing with most fit and proper persons, and certainly this deals also with selection. I think that there is definitely a relativity between the amendment and sections 3 and 15 of the bill before us. Now, I don't want to prolong this argument, if there is some better way of doing it, nor is there necessarily all that consequential, but certainly it is relative to provisions in the existing bill.

MR. CHAIRMAN: Mr. Green, if

MR. GREEN: Mr. Chairman, the Honourable Attorney-General can convince members on the spot that it is relevant, fine. If not, then can we agree that the procedure we will adopt is that if it is a new amendment, not as a matter of rule but as a matter of expediency, that if there is a day requested to the next Law Amendments meeting, that that's what we would do? If you can convince the members that it is relevant, then fine. If it is not, then they should have the opportunity to look at which is all that is being requested, and that we proceed that way for the remainder of the session.

Now a way of expediting matters would be for Ministers to inform the Opposition of any new amendments that are not contained in previous sections of the bill, so that when they get them in Committee, it may be that they will be in a position to be able to discuss them, so that I say that particularly for the Minister of Urban Affairs, who thinks that there may be such amendments in the City of Winnipeg Act. If there are new amendments, see to it that the Opposition gets them a day before, at least, of Law Amendments Committee, so that they will be in that position.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, perhaps this all stems from recommendations I made on second reading of the bill when I suggested there was some inconsistency with the approach being taken by the Attorney-General in this case where the selection of the names on the jurors was to be from the integrity of their character, the soundness of their judgment, and to the extent of their information the most discreet and competent for the performance of duties as jurors. That was the area that

MR. CHAIRMAN: Order please. Order please. Can the honourable member inform the Chair what he is speaking to?

MR. GRAHAM: Yes, on sections 24(1), (2), and (3). I pointed out that you were changing it in one section only.

MR. CHAIRMAN: Order please. The honourable member is aware that that amendment has been withdrawn. It is not before the Committee.

MR. GRAHAM: Well, I am glad it is withdrawn, but I hope it is withdrawn for the right reason.

MR. CHAIRMAN: Page 4, Mr. Boyce.

MR. BOYCE: I am advised that this is to the bill, that the proposed subsection 63.1(3) of The Jury Act as set out in section 15 of Bill 6 be amended by striking out the words "or the deputy sheriff" in the last line thereof.

MR. PAWLEY: I suppose, Mr. Tallin, this may also involve us in the same issue?

MR. JORGENSON: They're not contained in the bill to amend, and that's the same with the new one, section 64.

MR. TALLIN: No, that's right. That one is in. This is just to make the language consistent, because elsewhere through the Act where we have referred to people dealing with the sheriff, we have mentioned the deputy sheriff. The sheriff's office thought that they should be consistent, so he has just always make it just in reference to the sheriff, and the sheriff's officers deal with the people when they come in the office.

MR. CHAIRMAN: The amendment as read? (Agreed)

Page 4 as amended—pass; Page 5 as amended—pass; Page 6, Mr. Boyce.

MR. BOYCE: I would move that proposed section 76 of The Jury Act as set out in section 16 of Bill 6 be amended by striking out the word "common" therein.

MR. CHAIRMAN: The amendment as read? (Agreed)

Page 6 as amended—pass; Page 7, Mr. Boyce.

MR. BOYCE: I would move this schedule to The Jury Act as set out in section 19 of Bill 6 be amended by striking out the words "or the deputy sheriff" in the second line of the second paragraph thereof.

MR. CHAIRMAN: The amendment as read—pass.

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Page 7 as amended—pass; Page 8—pass; Preamble—pass; Title— pass; Bill be reported. Agreed)

MR. CHAIRMAN: Bill 25, An Act to amend The Buildings and Mobile Homes Act. Are there amendments? The Attorney-General has indicated to me he has another appointment he wishes to get away to and would like those left to a later date. Bill 25.

I wonder, Mr. Paulley, if you would come up to the table and take a microphone.

MR. PAULLEY: Actually, Mr. Chairman, the amendments that we are proposing are related to some of the sections contained within the bill. I don't want to create any further debate on procedure, but I do want to indicate to the Committee that they are essentially technical changes that clarify the authority of the Minister to designate areas of the province in which occupancy permits are required with respect to classes of work involved in building construction.

I have found that since we passed this Act, I believe it was last year, and then with the adoption of the Building Code on April 1st, that we have found that municipalities are asking us to take over inspections and designation of classes of buildings, and to name them. And the purpose of these amendments is to give the Minister the authority to designate classes of work involved in building construction and classes of building within the province. It's a clarifying amendment.

It doesn't really introduce any substantive new proposal but it is a clarification for the purposes of the conduct within the department that we felt we had in the old bill but the Legal Counsel pointed out that we may not have the authority to designate buildings the way we should have.

MR. CHAIRMAN: Section 1—pass. Mr. McKenzie.

MR. MCKENZIE: I'll yield to Mr. Jorgenson.

MR. JORGENSON: I just want to say, Sir, that again, this bill does not deal with sections that are in Bill 25 and it's extremely difficult for us to know just exactly what the amendments do unless you have the original bill before you, which we do not have.

However, the Minister has suggested that they are simply amendments that do not contain any departure from the principle of the bill, simply consequent upon the amendments that are being proposed. In politics it is a mistake to take anybody's word for anything, but I'm prepared to do that and hopefully that what the Minister says is indeed a fact, that there are no amendments that are a departure from what was contained in the provisions of Bill 25.

MR. PAULLEY: Mr. Chairman, I just was handed the original bill and I can appreciate Mr. Jorgenson's point but I again want to reaffirm it's not that I want to pull anything off or the likes of that, but to make damn sure that the rights that the Minister had under the original bill are not infringed upon in this . . .

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I have had all kinds of complaints about the type of workmanship that has been done under The Critical Home Repair Program and I would certainly like to take this amendment back and study it and then come back and see if it will tighten up the problems that have been raised to me in the last several days of shoddy workmanship that's not being evident under The Critical Home Repair Program. I can't, until I take it back and digest it and see if in fact I'm . . .

MR. PAULLEY: I'm prepared to not proceed with the bill at this stage. It looks to me as though we're going to be here for a couple of weeks or another month. If my honourable friend wants to take it back home and study it for a while . . .

MR. MCKENZIE: I don't want to take it back home, Sir . . .

MR. PAULLEY: If he has any problems with the question of shoddy workmanship, it's not contained within this particular Act in any case. It's a separate subject matter that wouldn't be for mending this particular bill. This only deals with the designation and classes of buildings, not workmanship.

But if it is the desire of the Committee, and I appreciate the fact that the amendments I am proposing have just reached here at this particular time, I'm prepared to hold off until the next meeting of the Committee.

MR. CHAIRMAN: There seems to have been general agreement by the Committee to adopt the procedure suggested by Mr. Green and that is, if members wish more time it will be deferred until the next meeting of this Committee. If that is the wish of the members, we will go on to the next bill. Is that agreed? (Agreed)

Bill No. 29 - An Act to Amend the Snowmobile Act. I am informed there are no amendments to the bill. Page by page: Page 1—pass; Page 2—pass; Page 3—pass; Preamble—pass; Title—pass; Bill be reported. Agreed? (Agreed)

Bill No. 30 - An Act to Amend the Highway Traffic Act (2). There are amendments. Bill 30, Page 1, Section 1. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move the proposed new Clause 2(29.1) of The Highway Traffic Act, as set out in Section 1 of Bill 30, be amended:

(a) by adding thereto, at the end of Clause (d) thereof, the word "or"; and

(b) by striking out Clauses (e) and (f) thereof and substituting therefor the following clause:

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(e) is not capable of attaining a speed greater than 31 miles or 50 kilometers per hour.

MR. CHAIRMAN: The amendment as read? Agreed? (Agreed) Section 1 as amended—pass; Page 1—pass; Page 2. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that proposed new Subsection 23(2.1) of The Highway Traffic Act as set out in Section 6 of Bill 30 be amended by striking out the word "or" in the third line thereof and substituting therefor the figure "7".

MR. CHAIRMAN: The amendment as read? Pass. Page 2 as amended—pass. Page 3—pass; Page 4—pass; Page 5—pass; Page 6—pass; Page 7—pass; Preamble—pass; Title—pass. Bill be reported? Agreed? (Agreed)

Bill No. 32 - An Act to Amend The Hospitals Act. I am informed there are no amendments to Bill 32 Page by page. Page 1—pass; Page 2—pass; Preamble—pass; Title—pass. Bill be reported? Agreed? (Agreed)

Bill No. 35 - An Act to Amend The Highway Traffic Act (3). There are some amendments. Bill 35 page by page. Page 1—pass; O Page 2—pass; Page 3—pass; Page 4. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Section 12 of Bill 35 be amended by striking out the words "at the end thereof" in the first and the second lines thereof and substituting therefor the word: "immediately after the word 'pounds' in the second line thereof".

MR. BURTONIAK: Mr. Chairman, last year, I believe, or two years ago when the class licences came into effect, there was a Class 3 licence which dealt with farm truck operation or driving of farm trucks. What we are doing here is allowing young people who are 16 years of age to be able to drive a farm truck, provided of course — I believe I am correct in saying — that the farm truck is not equipped with air brakes and the likes of that, in order to help out the farming operations. That is the extent of the amendment.

MR. CHAIRMAN: The amendment as read? Agreed? (Agreed) Mr. Einarson.

MR. EINARSON: Mr. Chairman, just for further clarification, I know I was talking to the Minister personally, but when he says "farm truck," there are farm trucks that are run by air brakes and so they would not come under this classification? There are farm trucks, you know, that are over three ton with front air brakes. That means that a young fellow that is between 16 and 18 is not allowed to drive a truck with air brakes. Do I understand that to be so?

MR. BURTONIAK: I am told that this person is able to do so if he is 16 years of age, he can drive a truck equipped with air brakes provided he gets the endorsement to do so.

MR. EINARSON: Provided he gets the endorsement to do so? Is that what I understand the Minister to say?

MR. BURTONIAK: That's right, he takes a test and he goes through the normal procedure and drives it for farm purpose only, and nothing else.

MR. EINARSON: That, Mr. Chairman, is the point I wanted to clear up. If he is 17 years of age he can take a test for the purpose of driving a truck with air brakes providing it's on the farm or for farm use only?

MR. BURTONIAK: That's correct.

MR. EINARSON: Thank you.

MR. CHAIRMAN: The amendment as read? Agreed? (agreed) Page 4 as amended—pass; Page 5—pass; Page 6. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Section 19 of Bill 35 be amended by striking out the word "3rd" in the second line thereof and substituting therefor the word "4th".

MR. CHAIRMAN: The amendment as read? Mr. Minaker.

MR. MINAKER: Was that just a typographical error . . . ?

MR. CHAIRMAN: Mr. Burtniak, could you answer the question, please.

MR. BURTONIAK: I think the question was whether it was a typographical error. This particular amendment is needed to introduce the principle whereby pursuant to which drivers whose licence had been previously suspended for life, would be entitled to make application for restoration of the licence provided that they have not been convicted of any further offences under the Criminal Code during the five-year period since their suspension or immediately preceding their application for reinstatement.

MR. CHAIRMAN: The amendment as read? Agreed?

MR. JORGENSEN: Can I give the Member for St. James the assurance that it is just an error in describing the particular line in the bill that was subject to amendment and let's pass it.

MR. CHAIRMAN: Section 19 as amended—pass; Section 20. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Section 20 of Bill 35 be struck out and the following section be substituted therefor:

Subsection 238(12) and (13) added:

20 Section 238 of the Act is further amended by adding thereto, immediately after subsection (11) thereof, the following subsections:

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suspension.

8(12) Notwithstanding anything in this Act, where a person is convicted of an offence mentioned in subsection (1), the convicting judge or justice may suspend the licence and the right to have a licence for a period not exceeding 5 years, but in making the order the judge or justice shall not suspend the licence or the right to have a licence for a period shorter than the period prescribed by subsection (1).

reinstatement of licence of person suspended for life:

8(13) Where the licence or right to have a licence has been previously suspended under subsection (1) for life, and 5 or more years have elapsed from the date when the suspension became effective, the person whose licence or right to have a licence was suspended for life, may apply to the registrar for reinstatement of his licence to drive; and the registrar may issue the licence if the person is otherwise qualified under the Act to obtain and hold a licence and has not been convicted of any further offence mentioned in Subsection (1) during the 5-year period immediately preceding the date of his application.

MR. CHAIRMAN: The amendment as read? Agreed? (Agreed) Section 20 as amended—pass; Page 6 as amended—pass; Page 7. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move

THAT Section 26 of Bill 35 be amended:

(a) by striking out the letters "(kkk)" in the second line thereof and substituting the letters "(III)";

(b) by striking out the letters "(III)" in the third line thereof and substituting therefor the letters "(mmm)".

MR. CHAIRMAN: The amendment as read? Page 7—pass; Preamble—pass; Title—pass. Bill be reported. Agreed.

Bill 48, an Act to amend the Insurance Act. Page 1 — Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move

THAT clause (b) of section 4 of Bill 48 be amended by adding thereto, immediately after the word "ine" where it appears in the 1st line thereof, and again in the 2nd line thereof, in each case, the words of clause (b)!"

MR. CHAIRMAN: The amendment as read. Agreed. Section 4 as amended—pass; Page 1 as amended—pass; Page 2—pass; Preamble—pass; Title—pass; Bill be reported. Agreed? (Agreed)

Bill 54 - An Act to amend The Intoxicated Persons' Detention Act. There are no amendments. Page by page: Page 1 —pass; Page 2—pass; Preamble—pass; Title—pass; Bill be reported. Agreed? (Agreed)

Bill 59 - an Act to amend The Human Rights Act. Are there amendments? Mr. Graham.

MR. GRAHAM: We held Bill No. 10 because the Attorney General had a date. Perhaps we should hold 59 because he's still on that same date.

MR. CHAIRMAN: Mr. Adam.

MR. ADAM: Mr. Chairman, I had brought it to your attention that the Minister wasn't here and that he should hold this one over.

MR. CHAIRMAN: Fine. Hold Bill 59. Bill 56 is being held because I understand there have been no public representations yet.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSEN: Mr. Chairman, I believe that bill is going to go to the Agricultural Committee now.

MR. CHAIRMAN: I'm not sure. It's on the list of this committee. Mr. Jorgenson.

MR. JORGENSEN: I'd like to say that the House Leader approached me today and requested whether or not we'd agree to allow that bill to go to the Agricultural Committee, and then simultaneously — he hasn't announced that yet but I presume he will — simultaneously with the meeting of the Agricultural Committee Thursday morning will be Private Members' which will deal with the Private Members' bills.

MR. CHAIRMAN: Thank you. Bill No. 64 - an Act to amend The Highway Traffic Act (4). There are amendments.

Bill No. 64 - an Act to amend The Highway Traffic Act (4). Page by page. Page 1—pass; Page 2—pass; Page 3—pass. Pass Page 3, Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move

THAT Bill 64 be amended by adding thereto, immediately after section 5 thereof, the following subsection:

subsection 96(6) added.

1 - Section 96 of the Act is amended by adding thereto, at the end thereof, the following subsection: Speed to be expressed in kilometers per hour.

3(6) - Any provision of a bylaw enacted under this subsection or under Section 97 or 98 fixing the maximum speed at which vehicles, or any one or more classes of vehicles, may be driven on any

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highway or part thereof that, after the expiration of 3 months after the coming into force of this subsection, does not express the maximum speed in kilometers per hour is of no effect and unenforceable.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, may I request that that section be held over because it's not within the context of the bill.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, I get the feeling looking at some of these other amendments, I don't know whether they pertain to the bill for amendment that we're dealing with or not, but really in accordance with the feeling of the Committee and decision made some time ago that members should have an opportunity to look at the amendments so that they don't have to deal with them at the moment they are distributed, and since it is 5:30 I wonder whether we can leave this bill. Members will have an opportunity to look at the amendments that have been distributed and it may just sail through next time without any comment at all, rather than introduce it as a motion to amend them.

MR. CHAIRMAN: Is that agreed? (Agreed)

Committee rise and report. Committee rise.