

**SECOND REPORT
OF THE
STANDING COMMITTEE
ON
RULES, ELECTIONS AND PRIVILEGES**

27TH LEGISLATIVE ASSEMBLY

December 2, 1991

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On November 19, 1991, the Yukon Legislative Assembly resolved:

THAT the Standing Committee on Rules, Elections and Privileges review and make recommendations to the Legislative Assembly, by the end of November, 1991:

- (1) on what grounds any group of members should be accorded recognition in the Legislative Assembly as a party; and
- (2) on the Standing Orders which apply to the order of precedence of private members' business on Wednesdays.

The Committee held three meetings to consider the matters referred to it by the House and reports as follows.

RECOGNITION AS A PARTY IN THE LEGISLATIVE ASSEMBLY

The question of defining the grounds on which any group of members should be accorded recognition in the Legislative Assembly as a party rose from a claim by Bea Firth, Member for Whitehorse Riverdale South, and Alan Nordling, Member for Whitehorse Porter Creek West, that they, under the title of the Independent Alliance Party, should be granted third party status. In a ruling on this matter on November 12, 1991, the Speaker stated:

The Member for Whitehorse Riverdale South and the Member for Whitehorse Porter Creek West have said that they have been denied status as a third party in this House. This House does not have any rules or practices that authorize the Speaker to recognize third parties.

Also, it must be noted that neither the Standing Orders nor the Legislative Assembly Act contain any provisions that define a third party. Therefore, it is the House, not the Chair, that must decide upon recognition of a third party.

Recognition of third parties, in the past, has been a matter of little contention. In every case, the parties so recognized have had at least one member elected during a general election. The Assembly has never faced the case of a party being created during the life of a Legislature.

As well, the Assembly has few precedents respecting the treatment of independent members. In 1979, two independent members made a joint claim that they should be allowed to respond to ministerial statements. The matter was referred to the Standing Committee on Rules, Elections and Privileges which reported to the House that responses to ministerial statements should continue to be restricted to representatives of recognized political parties. The Assembly has no precedents for a situation where two or more independent members have joined together and claimed that they constituted a third party.

Standing Order 1 of the Standing Orders of the Yukon Legislative Assembly provides for those cases which are not covered by the rules or precedents of this Assembly. It states:

In all cases not provided for in these Standing Orders or by sessional or other orders, the practices and procedures of the House of Commons of Canada, as in force at the time, shall be followed so far as they may apply to this Assembly.

In this context, two documents are attached to this report. The first is a ruling by Mr. Speaker Macnaughton on September 30, 1963; the second is a background paper prepared by James R. Robertson of the Library of Parliament which is entitled "Political Parties and Parliamentary Recognition."

The Committee notes the following statements from Mr. Robertson's introduction:

"It must first be noted that this [i.e., recognition of parties in the House of Commons] is a rather obscure area of parliamentary law and practice with few precise rules. Much depends upon parliamentary tradition and practice, in which precedents are of some persuasive value, but are by no means determinative. A quick review of parliamentary history makes it apparent that there is a large element of pragmatism involved; much depends on the particular circumstances, the relations between parties, and so forth. Decisions to accord official recognition are often made on an ad hoc basis. . . .

"A second point to be borne in mind is that political parties can be recognized for certain purposes, and not for others. In other words, recognition is not a single act; different criteria and considerations will apply depending on the particular issue involved or its implications. At the same time, recognition for one purpose does add credibility, and provide assistance in arguing for recognition for others."

The Committee also notes the following conclusions reached by Mr. Robertson:

- (1) "[T]here are few hard and fast rules about the recognition of political parties by the Canadian House of Commons."
- (2) "As the 1963 Speaker's ruling regarding seating demonstrated, the 'recognition' of a political party is a matter for the House to decide."
- (3) "Recognition can be accorded for certain purposes, and not for others. It is not an 'all or nothing' concept."

The Committee finds, from its review of the experience of the House of Commons, that it is not possible, at this time, to attempt to set down a definitive statement of the grounds on which members should be accorded recognition in the Yukon Legislative Assembly as a party.

A review of the debate of November 19, 1991, on the motion referring this matter to the Committee, shows that the central issue for most Members had to do with whether the Members for Whitehorse Riverdale South and Whitehorse Porter Creek West, identifying themselves as the Independent Alliance, should be recognized as a third party. The Committee was unable to reach an agreement as to whether the Independent Alliance constitutes a party. In the absence of agreement on this issue, the Committee declines to find that the Independent Alliance does or does not constitute a party. The majority decision of the Committee is to recommend to the House that, until such time as the electorate has an opportunity to express itself, the Independent Alliance should be accorded privileges as if it were a party in opposition to the government.

PRECEDENCE OF PRIVATE MEMBERS' BUSINESS ON WEDNESDAY AFTERNOONS

The Committee has also considered the order of precedence of private members' business on Wednesdays.

The Committee notes that the goal of the House, when it adopted the current Standing Orders, was to:

- (1) provide alternate Wednesday afternoons to Opposition private members and to Government private members; and
- (2) provide for an equitable distribution of the time on Wednesday afternoons.

This goal was met, since 1985, by negotiation between house leaders and subsequent agreement, through unanimous consent, by the House. During this fall sitting the intended effect of the rules has been frustrated by the refusal to grant unanimous consent.

The Committee, therefore, recommends that Standing Orders 11 through 14 be amended to read as follows:

BUSINESS OF THE ASSEMBLY

Prayers and Daily Routine

- 11(1) The Speaker shall read prayers at the start of every sitting day.
- (2) The ordinary Daily Routine in the Assembly shall be as follows:
- Introduction of Visitors
 - Tabling Returns and Documents
 - Presenting Reports of Committees
 - Petitions
 - Introduction of Bills
 - Notices of Motion for the Production of Papers
 - Notices of Motion
 - Ministerial Statements
 - Oral Question Period (not exceeding 40 minutes)
- (3) On Ministerial Statements, as listed in Standing Order 11(2), a Minister may make a short factual statement of government policy. A member for each of the parties in opposition to the government may comment thereon for not more than five minutes and a Minister may then give a reply of not more than five minutes.

Order of Precedence

- 12(1) All items standing on the Orders of the Day, except government business, shall be taken up according to their precedence on the Order Paper unless otherwise ordered.
- (2) When government business has precedence that business may be called in such sequence as the government chooses.
- (3) A motion or bill that is under consideration at the conclusion of an order of business shall stand first on the Orders of the Day for the next sitting at which similar motions or bills are considered.

Business not proceeded with

- 12.1(1) Subject to Standing Order 33, a motion made under the heading Motions other than Government Motions, Motions Respecting Committee Reports or Bills other than Government Bills not proceeded with when called shall, upon the request of a member, be allowed to stand on the Order Paper.

Order of Government Business

- 13(1) After the Daily Routine, the order of business on Monday, Tuesday and Thursday afternoon and on Monday and Wednesday evening shall be as follows:

Government Designated Business
Motions Respecting Committee Reports
Motions other than Government Motions
Bills other than Government Bills

- (2) When the Assembly resolves into Committee of the Whole on Monday, Tuesday and Thursday afternoon and on Monday and Wednesday evening, the order of business shall be as follows:

Government Designated Business
Motions Respecting Committee Reports
Bills other than Government Bills
Motions other than Government Motions

- (3) A motion for concurrence in the report of a Committee may be called as government business if the Government House Leader or designate gives the Assembly at least twenty-four hours' oral notice.

Establishing the order of Private Members' Business

- 13.1(1) There are two different methods by which the order of private members' business may be established:

- (a) to follow the order set out in Standing Order 14, subject to the provisions found in Standing Orders 12 and 14.1;
(b) to follow the procedures set out in Standing Order 14.2.

Order of Private Members' Business

- 14(1) After the Daily Routine, on the first Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, the order of business for the afternoon shall be as follows:

Opposition private members' business:

- (a) Motions for the Production of Papers
(b) Motions other than Government Motions
(c) Bills other than Government Bills

Motions Respecting Committee Reports

Government Designated Business

Government private members' business:

- (a) Motions for the Production of Papers
(b) Motions other than Government Motions
(c) Bills other than Government Bills

- (2) After the Daily Routine, on the second Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, the order of business for the afternoon shall be as follows:

Government private members' business:

- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

Government Designated Business

Motions Respecting Committee Reports

Opposition private members' business:

- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

- (3) When the Assembly resolves into Committee of the Whole on the first Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, the order of business shall be as follows:

Opposition private members' business:

- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

Motions Respecting Committee Reports

Government Designated Business

Government private members' business:

- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

- (4) When the Assembly resolves into Committee of the Whole on the second Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, the order of business shall be as follows:

Government private members' business:

- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

Government Designated Business

Motions Respecting Committee Reports

Opposition private members' business:


- (a) Motions for the Production of Papers
- (b) Motions other than Government Motions
- (c) Bills other than Government Bills

- 14.1(1) On the first Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, at 4:30 p.m., Bills other than Government Bills shall be called if there are any on the Order Paper standing in the name of Opposition private members.
- (2) On the second Wednesday of a Session that private members' business is to be considered, and every second Wednesday thereafter, at 4:30 p.m., Bills other than Government Bills shall be called if there are any on the Order Paper standing in the name of Government private members.
- (3) The provisions of this Standing Order do not apply if the procedures set out in Standing Order 14.2 are used to determine the order of business on Wednesday afternoons.
- 14.2(1) The order of private members' business on Wednesday may be determined as set out in this Standing Order.
- (2) At the beginning of each session a roster shall be established for the purpose of determining the order of business on Wednesdays when Opposition private members' business has precedence. The roster shall be set in the following manner:
- (a) the Official Opposition shall have the first, second, fourth, fifth and sixth positions on the roster; and
 - (b) a party or group in opposition to the government, other than the Official Opposition, shall have the third and seventh positions on the roster.
- (3) When Opposition private members' business has precedence, no later than the time at which the Assembly proceeds to Orders of the Day on the sitting day preceding the call of Opposition private members' business:
- (a) the Leader of the Official Opposition or designate may, on behalf of the members of the Official Opposition, identify the order in which the items standing in their names on the Order Paper or on the Notice Paper shall be called; and
 - (b) the members of a party or group in opposition to the government, other than the Official Opposition, may identify the order in which the items standing in their names on the Order Paper or on the Notice Paper shall be called.
- An item identified under this Standing Order may be chosen from any of the following headings:
- (a) Motions for the Production of Papers
 - (b) Motions other than Government Motions
 - (c) Bills other than Government Bills
- (4) When Opposition private members' business has precedence, the items identified under Standing Order 14.2(3) shall be called according to the order of the roster established under Standing Order 14.2(2).

- (5) After an item standing in the name of an Opposition private member has been dealt with, the position held in the roster by that member's party or group shall drop to the bottom of the roster. An item will be considered dealt with when it comes to a vote, when debate is adjourned or when a member asks that it be allowed to stand.
- (6) On Opposition private members' day, an item on which debate has not begun by 5:00 p.m. and on which debate has been adjourned, shall be called first on the next day on which Opposition private members' business is called if the item is identified pursuant to Standing Order 14.2(3); otherwise, the item shall be considered dealt with and the roster changed in the manner set out in Standing Order 14.2(5).
- (7) When Government private members' business has precedence, the Government House Leader or designate, no later than the time at which the Assembly proceeds to Orders of the Day on the sitting day preceding the call of Government private members' business, may, on behalf of the Government private members, identify the order in which the items standing on the Order Paper or on the Notice Paper in the name of Government private members are to be called.

Unanimous consent to waive rules

- 14.3(1) The Assembly may, by unanimous consent, suspend its Standing Orders or waive procedural requirements and precedents.


Piers McDonald
Chair