



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

13th Assembly Standing Orders Committee

Report on Consideration of Reform to Standing Order 23A (Speaking of Languages other than English during proceedings of the Legislative Assembly of the Northern Territory)

Committee Members

Hon Natasha Fyles MLA (Chair)
Hon Kezia Purick MLA
Mr Gary Higgins MLA
Mr Paul Kirby MLA
Ms Ngaree Ah Kit MLA
Mrs Robyn Lambley MLA

Committee Secretary

The Clerk of the Legislative Assembly

Introduction

The Standing Orders Committee met on Thursday 23 March 2017 to, amongst other matters; consider the following resolution of the Assembly:

That the Standing Orders Committee is requested to inquire into and report to the Assembly with recommendations about Standing Order 23A and any proposals to amend that Standing Order and that the Standing Orders Committee reports back in due course.

Background

On 24 November 2016 the Member for Nhulunbuy, Mr Guyula, gave Notice of a Motion as follows:

That this Assembly removes all words in Standing Order 23A and replace with the following:

A Member may rise to speak in any language other than English so long as an oral translation is provided in the English language by the same Member immediately prior to or after the words spoken in the language other than English.

That a new Standing Order 23B be adopted as follows:

A Member may be assisted on the floor of the Assembly by an interpreter to provide interpretation from the English language into the first language of the Member and from the first language of the Member into English. The interpreter will only be present for the purposes of interpreting and not for any other purpose and must vacate the floor when not undertaking those duties.

On 28 April 2017 the Committee received correspondence from Mr Ben Grimes (copy attached).

The correspondence makes an assumption about the Committee's deliberations about the use of interpreters. The Committee has not given the matters relating to access to interpreters the consideration the correspondence assumes.

The correspondence compares other institutions but is not comparing like for like.

The example relating to witnesses appearing in the Courts being given assistance should be about the judges and the practitioners within the courts. If you want to compare Members then it is with the judges.

While any person who is an Australian citizen is eligible to be elected to the Assembly, it would be very unlikely that a judge who requires an interpreter would be appointed or that a court would tolerate a practitioner who could not conduct their advocacy in English.

The comparison with the NT Police is equally misconceived. It is very unlikely a police officer would be employed who requires the daily use of an interpreter. Equating Members with witnesses or a person of interest to police is not the correct comparison.

The comments relating to the 'legality' of the Standing Orders are misconceived. *In this letter I do not purport to provide a legal opinion about whether the current Parliamentary standing order 23A conforms to relevant Commonwealth and NT legislation.* If the writer did purport to do so, his legal opinion would be very questionable.

Parliamentary privilege means that the Assembly's rules and procedures are not able to be questioned by the courts and are separate to government policies and legislation relating to provision of access and interpreters.

The writer provides personal reflections about his ability to communicate in Asian languages which are not necessarily relevant to the matters being considered by the Committee.

On Wednesday 16 March 2016, the then Member for Stuart referred a proposed draft Standing Order to the Assembly as follows:

Speaking in a Language other than English

A Member may rise to speak in any language other than English so long as an oral translation is provided in the English language by the same Member immediately subsequent to the words spoken in the language other than English or a written translation is tabled immediately at the conclusion of the contribution by the Member speaking. Apart from existing arrangements for extensions of speaking times, no allocation of additional speaking time is provided for translation purposes.

This wording was not adopted.

The Legislative Assembly of the Northern Territory transacts its daily routine of business in the English language and has done so since coming into existence in 1974. There is nothing in the Standing Orders to assert English is an 'official' language; however Standing Order 23A provides the protocol for the transaction of business of the Assembly in a language other than English.

The Committee noted that during the 12th Assembly, the then Members for Namatjira and Stuart both spoke (infrequently) in their Aboriginal language in the Assembly.

The existing wording of Standing Order 23A is:

Speaking in a Language other than English

A Member may rise to speak in any language other than English so long as an oral translation is provided in the English language by the same Member immediately prior to the words spoken in the language other than English and a written translation is tabled immediately prior to the contribution by the Member speaking. Apart from existing arrangements for extensions of speaking times, no allocation of additional speaking time is provided for translation purposes.

When the language spoken is a language other than English, the Member speaking will also make the original text language available for incorporation into the Parliamentary Record alongside the English language text.

During the 13th Assembly, the Member for Nhulunbuy has spoken in the Assembly in his language on one occasion. The Hansard for Tuesday 18 October 2016 records that the Member for Nhulunbuy ‘spoke in language’ but provides no text or translation and then continues with the record for the remainder of his contribution in the English language.

The entry into the Hansard is framed in this manner as the Member did not comply with the Standing Order 23A requirements when giving his inaugural speech.

While ‘spoke in language’ is well understood in the context of the Northern Territory as shorthand for any one of a many Aboriginal languages, it may be more helpful for the Hansard to disclose precisely what language it was he spoke.

As a consequence of not complying with Standing Order 23A the content of the words spoken is lost to the Hansard.

Looking back, the record shows that on 29 June 2005 the then Member for MacDonnell, Ms Anderson spoke in her inaugural speech in the Luritja language. The Hansard records this as follows:

*Madam Speaker, [spoken in Luritja]:
My language skills will help people understand what happens in parliament. My aim in this House is to be honest and truthful. We have a good team led by Clare Martin.*

I come here today to join four other Aboriginal members: two Aboriginal brothers; two Aboriginal sisters. They share with me a special moment in the history of the Northern Territory and this parliament.

We continue a tradition which began on the Labor side of this Chamber with the election of Wesley Lanhupuy and Stanley Tipiloura. Both died, tragically, well before their time. I am conscious of their legacy to this parliament.

I am happy to be here and very proud to represent the people of Macdonnell.

The written text was a translation provided by the Member and the Member continued in the English language to deliver the remainder of her inaugural speech.

On the 23 October 2012 the then Member for Stuart, Mrs Price spoke in Warlpiri, and the parliamentary record shows (provided) text in Warlpiri as well as English text:

Mr Deputy Speaker, to show my respect to my parents, my sister and my family and my people, I will first speak in Warlpiri. Then, to show respect to the members of this

In Nunavut contractors who have interpreter qualifications and the ability to provide simultaneous interpreting, (not consecutive) are engaged to translate English to Inuktitut and vice versa. Members there routinely begin sentences in English or Inuktitut/Inuinnaqtun, but finish their contributions in the other language.

Simultaneous interpretation services are provided as well as 'relay' where three or more languages have been used. This occurs when French is used. Inuktitut/English interpreters and English/French interpreters are at work, but there are no Inuktitut/French interpreters. So, if someone speaks in French, the English/French interpreter will interpret the person's words into English and then the English/Inuktitut interpreter will interpret the English into Inuktitut.

In Nunavut, no interpretation services are provided for languages other than the official languages.

Evidence from the Member for Nhulunbuy

Prior to the Committee meeting, the Chair wrote to the Member for Nhulunbuy inviting the Member to attend the Standing Orders Committee meeting to brief the Members on the intention of his original motion and outline his views in more detail.

The Member attended and the Committee heard his submission. The Member for Nhulunbuy submitted to the Committee that it is preferable for him to speak in his own language first before speaking in English.

Subsequent to the meeting the Member for Nhulunbuy wrote to the Committee in the following terms:

From: Yingiya Mark Guyula

Date: 6 April 2017 at 8:35:40 pm AEST

To: Natasha Fyles, Kezia Purick, Paul Kirby, Gary Higgins, Ngaree Jane Ah Kit, Robyn Lambley

Subject: Re: standing orders committee meeting

Dear committee members, I would like to provide the committee with a submission from an expert in the area of interpreting and translating before the committee considers a draft report. I will provide this submission to all committee members as soon as it is available.

Thanks for your time on this matter

Yingiya Guyula

Options Considered

The Committee reviewed the report of the Committee of the 12th Assembly which considered ten variations on the theme of the language or languages which may be approved for use in the Legislative Assembly of the Northern Territory.

The Committee acknowledged that Hansard transcribers and the Editor of Debates employed by the Legislative Assembly do not have the capacity to transcribe in other languages or to translate the language into English for the purposes of the record.

The Standing Orders Committee then considered three options:

1. Repeal
2. Amend
3. Retain

Option 1 – Repeal

The Committee noted that adopting this option would return the Assembly to the arrangements prior to the implementation of Standing Order 23A, where the leave of the Chair or leave of the Assembly was routinely sought (and routinely granted) for a Member to speak in a language other than English.

The Committee noted that this approach was not the intention of the original motion brought forward by the Member for Nhulunbuy nor has it been proposed by the amended motion as agreed by the Assembly.

The Committee decided not to recommend repealing Standing Order 23A.

Option 2 – Amend

The Member's original motion requested that the Assembly amend existing Standing Order 23A to allow for a choice as to when the oral translation is provided.

Under the existing arrangements English must be spoken first. Under the proposal from the Member for Nhulunbuy, English may be spoken first or subsequently. The change is highlighted as underlined below.

A Member may rise to speak in any language other than English so long as an oral translation is provided in the English language by the same Member immediately prior to or after the words spoken in the language other than English.

The Member also requested that a new Standing Order 23B be adopted as follows:

A Member may be assisted on the floor of the Assembly by an interpreter to provide interpretation from the English language into the first language of the Member and from the first language of the Member into English. The interpreter will only be present for the purposes of interpreting and not for any other purpose and must vacate the floor when not undertaking those duties.

The Committee noted that the Assembly amended the original motion and the resolution before the Committee did not contemplate a new Standing Order 23B.

The Committee considered whether to recommend the option of circulation of written English text to Members immediately prior to words being spoken in another language, rather than requiring spoken English.

The Committee took note of the previous consideration of the matter by the 12th Assembly Committee and decided not to recommend amendments at this time.

Option 3 - Retain

The Committee decided to recommend the Assembly adopt a 'monitor and assess' approach. Members are encouraged to make submissions directly to the Committee over the next 12 Months on the operation of Standing Order 23A to permit the Assembly to continue to monitor its operation and allow members to make submissions about the operation and its impact upon their contributions.

Recommendations

The Committee recommends

1. The Assembly retain existing Standing Order 23A until further consideration.
2. Members are invited to make direct submissions to the Standing Orders Committee during the course of 2018 on the operation of Standing Order 23A and, if the Committee receives such a submission or submissions, the Committee reports to the Assembly at the conclusion of consideration of the further submissions.
3. The Assembly disseminates a Guidance Note (Annexure 1) to assist Members with the operation of Standing Order 23A.
4. The Clerk of the Legislative Assembly offer all Members a (one hour) information session on Standing and Sessional Orders.

Hon Natasha Fyles MLA
Committee Chair



Legislative Assembly of the Northern Territory Operation of Standing Order 23A - Guidance Note

Sequence

1. Member seeks the call
2. Member obtains the call.
3. The Member advises the Speaker they will make a contribution in a language other than English and immediately tables the written translation in the English language. (leave is not required, the Standing Order provides the Member the right to table the document)
4. The Member then delivers their speech in the English language
5. The Member then delivers the same speech in the other language
6. The Member sends the other language text to the Editor of Debates by providing a copy to the Serjeant at Arms or Table Office manager in the Chamber.

Guidance – SO23A Sequence Match up

Speaking in a Language other than English

A Member may rise to speak (1,2) in any language other than English so long as an oral translation (4) is provided in the English language by the same Member immediately prior to the words spoken in the language other than English and a written translation is tabled (3) immediately prior to the contribution by the Member speaking. (5) Apart from existing arrangements for extensions of speaking times, no allocation of additional speaking time is provided for translation purposes.

When the language spoken is a language other than English, the Member speaking will also make the original text language available for incorporation into the Parliamentary Record (6) alongside the English language text.