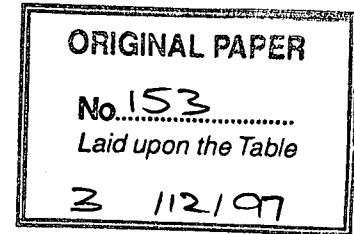


LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY



STANDING ORDERS COMMITTEE

**FIRST REPORT
OF THE EIGHTH ASSEMBLY**

NOVEMBER 1997

MATTERS RELATING TO DISORDER

MEMBERSHIP

Madam Speaker (Chairman)

Mr Bailey

Mr Balch

Mr Coulter

Mr Stirling

**FIRST REPORT OF THE STANDING ORDERS COMMITTEE
OF THE EIGHTH ASSEMBLY**

MATTERS RELATING TO DISORDER

Introduction

The Standing Orders Committee has the honour to present its report to the Legislative Assembly.

At the first meeting of the Standing Orders Committee, held on 26 November 1997, the Clerk announced the appointment of the Committee earlier on that day. Membership comprises Mr Bailey, Mr Balch, Mrs Braham, Mr Coulter and Mr Stirling.

The Honourable Loraine Braham MLA, was nominated as Chairman by the Honourable B F Coulter MLA, and, there being no further nominations, was duly appointed.

During the period of the 7th Assembly the previous Committee had under consideration a range of matters involving the Standing Orders relating to the control and conduct of debate and in particular, procedures for dealing with cases of disorder.

Your Committee is aware of the successful application of a Sessional Order in the House of Representatives of the Commonwealth Parliament which has become known as the Sin Bin.

(A) PROPOSED NEW STANDING ORDER 240 WITHDRAWAL FROM CHAMBER (SIN BIN)

On 21 February 1994 the House of Representatives adopted a Sessional Order relating to disorder, which has been commonly referred to as the Sin Bin. In general, the provisions of that Order give the Speaker the power to order a Member's immediate withdrawal from the Chamber for a period of one hour as an alternative to naming and suspending the Member.

In making the recommendation that led to the adoption of this Sessional Order the House of Representatives Standing Orders Committee indicated that:

Disorder in the House was closely allied in the public mind with Question Time, and for very good reason in that it is a period when proceedings are most partisan and emotional.

Unfortunately, because of media coverage it is also the period from which most people take their images of parliament in action.

While partisanship is understandable and probably unavoidable given the nature of Question Time, there are times when proceedings become unacceptably disorderly.

The Speaker's ultimate weapon in such circumstances is to name an offending member, thus instigating a vote of the House on a motion for his or her suspension from the service of the House, which is a matter usually resolved by division on party lines. Suspension is not only a serious penalty, but the process is time consuming and in itself disruptive of proceedings.

The House of Representatives Standing Orders Committee considered that order in the House would be better maintained if the Speaker had available a disciplinary procedure of less gravity, but of greater speed of operation, and the Committee proposed that the Speaker be given the power to order a Member to leave the Chamber for a limited period. That Committee saw such a procedural device as a means of removing a source of disorder, rather than as a punishment and which would enable the situation to be defused quickly before it deteriorated and without disrupting proceedings to any great extent.

The matter was reviewed again in 1995 after 1 year's operation in the House of Representatives and there was general agreement that the process had worked satisfactorily and it has been retained. In 1995 that Committee indicated that the extra disciplinary measure at the Speaker's discretion enhances the authority of that office. Because disciplinary measures are not resorted to frequently in the House (of Representatives), the use of this provision is still "settling in" and it was considered that possible inconsistencies will probably even out over time as members and occupants of the Chair become familiar with its effects.

The Committee further agreed that application of the new provisional Standing Order be left to the Speaker's discretion as it would be unduly restrictive and inflexible to prescribe too closely the circumstances under which one or other provision should apply.

Every situation is unique and influenced by a range of different factors to which the Chair must have regard in determining whether to apply the lighter or harsher penalty on a single occasion. Accordingly, it has been considered inappropriate to attempt to set down precise guidelines which might restrict the discretion of the Chair in the future.

Your Committee endorses the practice that has developed over the years, for a disorderly Member to be called to order and often warned before being named formally by the Chair for both the operation of the original Standing Order, as well as the proposed "Sin Bin" Standing Order.

There is also the further safeguard, in that some offences such as a flagrant or gross disrespect of the Chair that should be dealt with promptly without need for warning (Standing Order 242). However, a warning would usually be given before naming a Member or ordering him or her to withdraw from the Chamber.

Your Committee concurs in the above general conclusions of the House of Representatives Committee but was concerned to ensure that, in a numerically small chamber in a unicameral parliament, care should be taken so as to oblige Members to still perform their duties by voting in Divisions and forming Quorums during the period of enforced withdrawal.

This variation of the House of Representatives Sin Bin provision is understood to have been implemented successfully in the Tasmanian House of Assembly.

A comparative table summarising practice in other State, Territory, the Commonwealth and New Zealand Parliaments is attached at Appendix B.

Recommendation

It is recommended that new Standing Order 240A and amended Standing Order 240, as contained at Appendix A to the Report, be adopted on a trial basis as Sessional Orders and, unless otherwise ordered shall come into effect on the first sitting day of 1999.

(B) PERIOD OF SUSPENSION - AMENDMENT TO STANDING ORDER 241

In brief terms, the purpose of the proposed amendment to Standing Order 241 relating to the period of suspension, is to express the penalties as sitting days rather than calendar days. This proposal is submitted to the Assembly on the basis that the present provision is inequitable, and at the end of a sitting period, the periods of suspension for 7 or 28 calendar days, is of little or no deterrent to disorderly conduct.

The proposed new Standing Order recommends a scale of periods of suspension for 24 hours, 2 sitting days and 3 sitting days, and may be implemented on a trial basis as a Sessional Order as with the proposed new Standing Order 240.

Your Committee took particular note of the possible anomaly of “extending” suspensions of Members as a consequence of the established practice of suspending sittings from day to day to facilitate the consideration of the annual Appropriation Bill in Committee of the Whole.

While there appears to be no precise definition of the term “sitting day”, the amended Standing Order 241 limits the period of suspension for 2 sitting days or 3 sitting days to a period of “not exceeding 24 hours per sitting day”.

The proposed new Standing Order also clarifies the effect of prorogation on cumulative suspensions and orders for withdrawal.

Recommendation

It is recommended that amended Standing Order 241 as contained at Appendix A, be adopted as a Sessional Order and, unless otherwise ordered shall come into effect on the first sitting day of 1999 as a Standing Order of the Assembly.

LORAINÉ BRAHAM
Chairman

APPENDIX A

PROPOSED STANDING ORDERS

240. Suspension of Member

- (1) If the offence has been committed in the Assembly, the Speaker shall forthwith put the question, on a motion being made, no amendment, adjournment or debate allowed, "That the Member named be suspended from the service of the Assembly".
- (2) If the offence has been committed in Committee, the Chairman shall forthwith suspend the proceedings and report the circumstances to the Assembly; and the Speaker shall forthwith, on a motion being made, put the same question, without amendment, adjournment or debate, as if the offence had been committed in the Assembly itself.

240A. Withdrawal from Chamber

- (1) If the Speaker considers the conduct of a Member is disorderly, the Speaker, instead of calling on the provisions of Standing Order 240 or 242, may order the Member to withdraw from the Assembly for one hour, which order shall not be open to debate or dissent.
- (2) If a Member fails to leave the Chamber immediately when ordered to do so by the Speaker, the Speaker may name the Member and shall forthwith put the question, on a motion being moved, no amendment, adjournment or debate being allowed, "That the Member be suspended from the service of the Assembly".
- (3) Where a Member is directed to withdraw from the Assembly by the Speaker, the Member may attend for the purpose of voting in any division or being counted when attention has been drawn to the lack of quorum, but shall withdraw when the vote has been declared or a quorum formed.

241. Periods of Suspension

- (1) If any Member be suspended under Standing Order 240 or Standing Order 240A, his suspension on the first occasion shall be for 24 hours; on the second occasion during the same year for 2 sitting days excluding the day of suspension; and on the third or any subsequent occasion during the same year for 3 sitting days excluding the day of suspension.
- (2) For the purposes of this standing order: "year" means a year commencing on 1 January and ending on 31 December; and a sitting day shall not exceed a period of 24 hours.

- (3) For the purposes of this Standing Order, any suspension in a previous session of the Assembly or any order to withdraw pursuant to Standing Order 240A shall be disregarded.
- (4) Should any period of suspension prevent a Member from attending the Legislative Assembly for three or more consecutive sitting days, for the purposes of section 21(2)(c) of the *Northern Territory (Self-Government) Act*, the Member shall be deemed to have been granted the permission of the Assembly to absent himself.