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LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

STANDING ORDERS COMMITTEE

THIRD REPORT

February 1988

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Membership of Committee

- 1.1 On 28 April 1987, the Standing Orders Committee was appointed with the following membership:

Mr Speaker
Mr Bell
Mr Hanrahan
Mr Lanhupuy
Mr Poole

- 1.2 At its meeting on 26 November 1987, Mr Speaker Vale was elected Chairman of the Committee.

Censure Motions - Standing Order 95

- 2.1 On the Notice Paper for 16 September 1987, the Leader of Government Business (Mr Hanrahan) had put down the following Notice of a motion which he proposed to move relating to censure motions and Standing Order 95:

"That, unless otherwise ordered and notwithstanding anything contained in the Standing Orders, during this Session of the Legislative Assembly,

- (i) the total debate on a censure or want of confidence motion, accepted by a Minister pursuant to Standing Order 95, shall not exceed two hours, at the expiration of which the Question shall be put; and
- (ii) the maximum period for which a Member may speak on such a motion shall be as set out hereunder:

Speaker	Time
Mover	30 minutes
Member next speaking	30 minutes
Any other Member	20 minutes
Mover in reply	20 minutes."

- 2.2 By leave, Mr Hanrahan amended the motion and subsequently the following Resolution was passed by the Assembly:

"That the question of the appropriateness of Standing Order 95 in relation to speaking times, numbers of speakers and the overall length of debate be referred to the Standing Orders Committee for consideration and report."

- 2.3 Your Committee could not agree on the appropriateness of the Standing Orders relating to censure motions and want of confidence motions.

Standing Order 95 reads:

"95. Precedence to Censure or Want of Confidence

A motion of which notice has been given or an amendment which expresses a censure of or want of confidence in the government, if accepted by

a Minister as a censure or want of confidence motion or amendment, shall be moved forthwith and until it is disposed of by the Assembly, shall take precedence of all other business."

- 2.4 Standing Order 77, which sets speech time limits, establishes that the mover of a censure motion may speak for 30 minutes, the Member next speaking may speak for 30 minutes and any other Member may speak for 20 minutes. The mover of the motion in reply may speak for a further 20 minutes. No overall time limit for debate is specified.
- 2.5 Certain Members of the Committee were of the opinion that, by convention, the debate on a censure motion was limited to two speakers from the non-Government side of the Assembly and two speakers from the Government side of the Assembly, the mover of the motion having the right of reply. Other Members of the Committee were of the opinion that no such convention existed as a relatively recent precedent showed that three Members from either side had spoken in the debate on a censure motion.
- 2.6 Your Committee considered the options available to the Assembly on the possible limitation of debate on censure motions and on the overall appropriateness of the speaking times set out in Standing Order 77 for such motions.
- 2.7 Your Committee therefore, being unable to come to a unanimous decision on the matter, determined that it should report to the Assembly the options available for the consideration of the Assembly.

2.8 In the view of your Committee, these are:

- (i) That the status quo remain - that is, that the number of speakers from either side of the Assembly be a matter of general agreement and that the time limits for debate on a censure motion as set down in Standing Order 77 be not varied. It was the opinion of your Committee that if the status quo were to remain and no consensus could be obtained on the number of speakers, the matter could be resolved by use of the gag. This is usual practice in Australian Parliaments. However, it should be noted that the gag has been used sparingly in the Northern Territory Legislative Assembly.
- (ii) That a motion in the terms of the Notice given by the Leader of Government Business (Mr Hanrahan) on 28 July 1987 be agreed to. Such a motion, if passed, would provide that, by sessional order, the overall length of debate on a censure motion would be limited to two hours and the present time limits, as laid down by Standing Order 77, would be adhered to. Thus, if each Member speaking took his permitted time, only two speakers per side and the mover of the censure motion in reply would speak.
- (iii) A further option would be to permit the debate on a censure motion to have an overall time limit of two hours (or longer if thought feasible) and for the time limits on speakers to be truncated by sessional order so that more speakers would be enabled to participate in the debate.

- 2.9 In the view of the Committee, the matter should be resolved by the Assembly following debate on an appropriate motion moved after Notice.

PERIODS OF SUSPENSION - The Possible Conflict between s. 21 of the Northern Territory (Self-Government) Act and Standing Order 241

- 3.1 Your Committee also gave consideration to potential problems associated with Standing Order 241 which relates to periods of suspension of a Member following a Resolution of the Legislative Assembly pursuant to Standing Order 240.

- 3.2 Standing Order 241 states:

"241. Periods of Suspension

If any Member be suspended under Standing Order 240, his suspension on the first occasion shall be for 24 hours; on the second occasion during the same year for 7 consecutive days excluding the day of suspension; and on the third or any subsequent occasion during the same year for 28 consecutive days excluding the day of suspension. For the purposes of this Standing Order, any suspension in a previous session shall be disregarded, and "year" means a year commencing on 1 January and ending on 31 December."

- 3.3 Section 21(2)(c), of the Northern Territory (Self-Government) Act 1978 states - "A Member of the Legislative Assembly vacates his office if - ... (c) he fails to attend the Legislative Assembly for three consecutive sitting days of the Assembly without the permission of the Assembly."

- 3.4 The word "permission" is normally construed to mean "leave" and Standing Orders 25 and 26 which govern leave of absence state:

"25. Leave of Absence

Leave of absence may be given by the Assembly to any Member, on motion without notice, stating the cause and period of absence; and such motion may be moved at any time provided that no other question is before the Chair.

26. Member Excused from Service

A Member shall be excused from service in the Assembly, or on any committee, so long as he has leave of absence."

- 3.5 The possibility exists that if a Member, having been suspended for either seven consecutive days or twenty-eight consecutive days, excluding the day of suspension, will be absent from the Assembly for three consecutive sitting days. There must be some doubt as to whether the word "permission" falls within the ambit of a suspension.
- 3.6 The possibility therefore exists that, if a Member is suspended for a period which encompasses three sitting days, it could be held that he has vacated his office.
- 3.7 Your Committee therefore recommends - That, to save any embarrassment to a Member or a possibility of litigation, the following sentence be added to Standing Order 241:

"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."


ROGER VALE
CHAIRMAN