

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
STANDING ORDERS COMMITTEE
SECOND REPORT
MARCH 1986

Membership of Committee

- 1.1 On 28 February 1984 the Standing Orders Committee was appointed with the following membership:

Mr Speaker
Mr B. Collins
Mr Ede
Mr McCarthy
Mr Robertson

- 1.2 On 26 February 1985, the Assembly passed the following motion "That, notwithstanding anything contained in Standing Orders, Mr Hanrahan be appointed a Member of the Standing Orders Committee."

Proposed Amendments to Standing Orders

- 2.1 On 29 August 1985, the Legislative Assembly adopted the Report of the Standing Orders Committee which recommended major changes to the Standing Orders.

Since that time, your Committee has had cause to give further consideration to a number of matters relating to the Standing Orders.

Your Committee reports that there are five Standing Orders which, in its opinion, should be amended by the Legislative Assembly. These Standing Orders, together with the recommended amendments and explanatory notes are set out hereunder.

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**2.2 Standing Order 35
Division Indicating Lack of Quorum**

"If it appears from the result of a division of the Assembly that a quorum of Members is not present, the Speaker shall adjourn the Assembly till the next sitting day; and no decision of the Assembly shall be considered to have been arrived at by such a division: provided that if the Speaker is satisfied there is likely to be a quorum within a reasonable time he shall announce that he will take the Chair at a stated time; but, if at that time there be not a quorum, the Speaker shall adjourn the Assembly to the next sitting day. Upon any such adjournment the resolution of the question upon which the division was held shall become an order of the day for the next sitting day."

Recommendation:

That Standing Order 35 be admended by omitting the words "Upon any such adjournment the resolution of the question upon which the division was held shall become an order of the day for the next sitting day".

Explanation:

In most cases, were there to be a lack of a quorum on a division it could be construed either (a) that there was no interest in the subject amongst most Members of the Assembly; or (b) that most Members of the Assembly wished to abstain from voting on the matter. Your Committee is of the opinion that the question upon which such a division was held should not automatically become an order of the day for the next sitting day. Upon the question being put on the next sitting day, a similar result would be likely to be achieved with the result that, once again, the Assembly would stand adjourned.

Your Committee is of the opinion that Standing Order 38 should apply were it desired to revive the question upon which the division was held and was followed by a count-out of the Assembly. Standing Order 38 reads:

"If proceedings be interrupted by a count-out followed by an adjournment of the Assembly, such proceedings may, on motion after notice, be resumed at the point where they were so interrupted."

**2.3 Standing Order 71(1)(a)
No Debate Permitted**

"(1) The following questions are not open to debate and, except as provided in this Order, shall be put without argument or opinion offered and without amendment

- (a) question that a Member 'be now heard' (S.O.52); 'be further heard' (S.O. 70); 'be not further heard' (S.O. 79); 'be permitted to continue' (S.O. 77);"

Recommendation:

That Standing Order 71(1)(a) be amended by omitting "'be permitted to continue'" and inserting in its stead "'be granted an extension of time'".

Explanation:

Your Committee does not consider that the appropriate motion for an extension of time, pursuant to Standing Order 77, is "That the Honourable Member for ... be permitted to continue". In its view, a more appropriate motion is "That the Honourable Member for ... be granted an extension of time".

2.4 Standing Orders 98 and 99

**Standing Order 98
Motion on Petition**

"Where any petition has been presented in accordance with Standing Order 97, any Member may move that the petition be read, and, in moving shall confine himself to a brief statement of the persons from whom the petition comes, of the number of signatures attached to the petition, of the material allegations contained in the petition, and of the purport of the prayer of the petition. If the motion is carried, the Clerk shall read the petition."

**Standing Order 99
Action on Petition**

"On presentation of a petition, no debate upon or relating to it shall be allowed, but it shall be laid upon the Table of the Assembly, or, on motion duly made and carried, shall be referred to a standing, select or other committee of the Assembly."

Recommendation:

That Standing Order 99 be amended to read:

"On presentation of a petition, no debate upon or relating to it shall be allowed, but it shall be laid upon the Table of the Assembly, and a Member may move, without notice, a motion to refer the petition to a standing, select or other committee of the Assembly and he may also move "that the petition be printed."

Explanation:

Standing Orders permit only two motions to be moved on the presentation of a petition - (a) That the petition be read and/or (b) That the petition be referred to the ... Committee on ... However, on presentation in certain other Parliaments, it is not unusual practice to permit a motion to print a petition to be moved.

The passage of such a motion will of course ensure that privilege attaches to the petition and it may be considered by the Assembly that a petition is sufficiently noteworthy for it to be included in the Parliamentary Papers Series of documents.

2.5 **Standing Order 188**
Order of Consideration

- "(1) Except as provided hereinafter, the following order shall be observed in considering a bill and its title:
- (a) clauses, as printed and new clauses, in their numerical order;
 - (b) schedules, as printed and new schedules in their numerical order;
 - (c) postponed clauses (not having been postponed until after certain other clauses);
 - (d) preamble; and
 - (e) title.
- (2) In considering the bill upon recommittal the same order shall be followed.

- (3) In considering an Appropriation or Supply Bill, any schedule expressing the services for which the appropriation is to be made shall be considered before the clauses and, unless the Committee otherwise orders, that schedule shall be considered by proposed expenditures in the order in which they are shown.
- (4) In considering a bill to impose taxation, any schedule shall be considered before the clauses."

Recommendation:

That Standing Order 188 be amended by omitting paragraph (2) and inserting in its stead -

"(2) In reconsidering a Bill or in consideration of a Bill upon recommittal, the same order shall be followed."

Explanation:

When the clauses, title etc. of a Bill have been fully considered in Committee, the Chairman puts the question "That this Bill be reported with/without amendment(s)". It may be that when that stage of the consideration of a Bill has been reached, it becomes apparent that an additional amendment is required, or that some further consideration of the Bill is necessary. House of Representatives' Practice permits a Committee to reconsider a clause or clauses of a Bill, but only by leave. If the Bill is a contentious one, it may be that leave will not be granted and the Assembly would then have to come out of Committee and pass a motion to recommit the Bill, or certain clauses of the Bill, in order to reconsider the appropriate clauses. Senate Practice, pursuant to Senate Standing Order 199, permits the moving of a motion "That clause (or clauses)... be reconsidered".

Oggers' 5th Edition at p 434 states "This procedure for moving for the reconsideration of clauses, rather than moving for recommittal of the Bill at a later stage, is a most convenient process. It is done before the Bill goes out of Committee and when everything is fresh in the minds of those who have been dealing with it. It saves the chairman leaving the Chair. This process, however, has its limitations, to the extent that a recommittal must intervene before any new clause or amendment can be proposed which is substantially the same as one already negatived by the Committee, or which is inconsistent with one that has been already agreed to by the Committee."

Your Committee believes that this procedure should be available to the Legislative Assembly Committees of the Whole.

2.6 **Standing Order 218**
Divisions

- "(1) Divisions shall be taken and decided in Committee in the same manner as in the Assembly itself, except that the Chairman shall be entitled to a deliberative vote only, which vote shall be optional.
- (2) When votes are equal, the question shall be resolved in the negative."

Recommendation:

That the present Standing Order 218 be amended to read:
 "Divisions shall be taken and decided in Committee in the same manner as in the Assembly itself and the Chairman shall be entitled to a deliberative vote, which vote shall be optional, and shall also, where there is an equality of votes on any question, have a casting vote."

Explanation:

Section 27(2) of the Northern Territory (Self-Government Act 1978 states:

"Subject to sub-section 21(3), the Speaker or other member presiding at any meeting of the Legislative Assembly shall in all cases be entitled to vote and shall also, where there is an equality of votes on any question, have a casting vote."

Should the Legislative Assembly in the future be equally divided because of sickness or death of a Member, the casting vote of the Speaker would permit the passage of the second reading of a Bill. However, whilst Standing Order 218 remains in force in its present form, unless the Standing Orders are suspended to by-pass the Committee of the Whole stage, the Bill could be defeated at the Committee stage. This, your Committee believes, was not the intention of the Northern Territory (Self-Government) Act.

Your Committee is firmly of the view that the Chairman should have both a deliberative and a casting vote when occupying the Chair in Committee of the Whole.

In considering the matter your Committee took into account an opinion given by the Secretary of the Department of Law on the legal validity of amending Standing Order 218 to give the Chairman of Committees a deliberative and a casting vote. That opinion is attached as Appendix "A"

ROGER STEELE
CHAIRMAN