

PROCEDURAL REPORT

YUKON LEGISLATIVE ASSEMBLY



SECOND SESSION

30TH LEGISLATURE

October 18, 2001 – December 3, 2001

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Speaker: The Hon. Dennis Schneider

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Preface

This report documents procedural events of note that occurred during the 2001 Fall Sitting of the Second Session of the 30th Yukon Legislative Assembly. It is meant to augment the *Standing Orders of the Yukon Legislative Assembly* and other procedural authorities by detailing how rules of procedure and established parliamentary practice were applied to specific incidents that arose during the 2001 Fall Sitting. It is hoped that this report will help readers gain a deeper understanding of parliamentary procedure and practice in the Yukon Legislative Assembly.

The idea for the Procedural Report is derived from the House of Commons Procedural Digest. The Procedural Digest is issued weekly and deals with events in chronological order. However this Procedural Report takes a different approach.

The report covers the entire Sitting and deals with procedural events thematically, as certain kinds of events (seeking unanimous consent to expedite business, incidents of unparliamentary language, for example) tend to recur over the course of a sitting. By approaching events thematically the report illustrates which kinds of incidents dominated proceedings and also the broader context of the issues involved in rulings and statements made by the Presiding Officers. Context is also provided by frequent reference to the *Standing Orders* and procedural authorities, particularly, *House of Commons Procedure and Practice* and *Beauchesne's Rules & Forms of the House of Commons of Canada*.

In using the report readers will note the distinction between the table of contents and the index. Both are arranged in alphabetical order. However, whereas the table of contents focuses on procedural events, the index refers to Members of the Legislative Assembly, bills, motions, standing orders, etc. that appear in numerous entries in the report.

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Introduction

This report details procedural events of note that took place during the 2001 Fall Sitting of the Second Session of the 30th Yukon Legislative Assembly. The Sitting began on October 18, 2001 and ended on December 3, 2001.

The procedural events of this Sitting were varied, however some recurred and seemed to dominate proceedings more than others. Controversies regarding the tabling of documents focussed on two issues: the provision of evidence for statements being made and the provision of copies of such evidence to all Members. As a rule Members do not have to provide documented evidence to support the claims they make in the Assembly. This is especially true where Members are citing documents in the public domain. One exception is where Members quote from private correspondence. Still, it is not necessary to provide enough copies for all Members and debate is not stopped while copies are being produced.

Presiding Officers also had to deal with issues of parliamentary behaviour. One recurring issue was the mis-stating of ministerial portfolios. The Chair intervened on occasions where such mis-stating was determined to be willful and meant to demean or embarrass the Minister involved. In other cases mis-statements were determined to be the benign use of short-forms or colloquialisms.

Unparliamentary language was also a regular feature of debate, both in the Assembly and in committee. Of particular concern were words and phrases that were, or were perceived to be, charges that a member had uttered a deliberate falsehood. In some cases it was arguable whether there was in fact an accusation of deliberate misbehaviour. However, given the sensibilities of Members on both sides of the Assembly the Presiding Officers felt it necessary to rule on the side of caution and encourage Members to steer clear of any language that might cause offence.

Not all business was characterized by conflict, however. On 29 occasions Members provided unanimous consent to expedite the business before the Assembly or in committee. This included, among other things, consent to withdraw motions from the Order Paper, to deem all clauses of bills read and agreed to without having to deal with each individually, and to deem votes (departmental allocations) in an appropriation bill agreed to after general debate. Of the 13 Government bills assented to in this Sitting six received unanimous support on division at second reading. One of those received unanimous support on division at Third Reading. Other bills received indications of support from both sides at Second Reading and Third Reading without the formality of a division.

Readers should note that all references in this report to the Standing Orders of the Yukon Legislative Assembly refer to the Standing Orders in force at the time of the event noted.

Procedural Issues

Amendments

Consequential

During Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, on November 27, 2001 Eric Fairclough (Mayo-Tatchun, NDP), Leader of the Official Opposition, posed a question with regard to a proposed amendment to the bill. At issue was the fact that clause 101 of Bill No. 46 was, in fact, a consequential amendment to the *Environment Act*. Mr. Fairclough sought the Chair's guidance as to whether it was proper to amend the *Environment Act* in this way or whether the government should bring forward the *Environment Act* to be amended. The Committee Chair, Mike McLarnon, assured Mr. Fairclough that a consequential amendment to another bill was in order. In so ruling the Chair referred to the *Estate Administration Act*, which the Assembly amended in 1998. At that time the Assembly made consequential amendments to six other pieces of legislation. This means of amending legislation is, to quote the Chair, an "accepted practice." (*Hansard* 2886)

Marginal notes

On October 29, 2001, during Committee of the Whole debate on Bill No. 54, *Interjurisdictional Support Orders Act*, Lorraine Peter (Vuntut Gwitchin, NDP) questioned the Minister of Justice, Hon. Pam Buckway (Lake Laberge, Liberal), about the titling of clause 12 in the bill. The Minister agreed to amend the title and clause 12 was stood over. However, when Bill No. 54 was again called in committee, the Chair, Mike McLarnon, informed the committee that

House of Commons Procedure and Practices (sic)...states on page 657, "Because the marginal notes attached to each of the clauses of a bill are not part of the text, they cannot be amended, nor can the headings of the various parts of a bill be amended." It is further stated in a footnote to that quotation that, "Editorial and technical amendments are not the responsibility of Parliament. That task falls instead to the legislative revisers who verify the accuracy of the marginal notes and headings before the statute is published." Accordingly, the Chair is not able to permit amendments to be proposed to the heading that appears on clause 12. (*Hansard* 2398)¹

Though the marginal notes are not subject to formal amendment the Minister said the title of clause 12 would be changed.

¹ See also Alastair Fraser, W.F. Dawson, and John A. Holtby, *Beauchesne's Rules & Forms of the House of Commons of Canada with Annotations, Comments and Precedents* (6th edition), (Toronto: Carswell, 1989), §633, page 194.

Out of order

On November 26, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, Gary McRobb (Kluane, NDP) proposed an amendment to clause 10(2). Committee Chair Mike McLarnon interrupted Mr. McRobb informing him that he had already asked if there was any further debate on clause 10 and seeing none had called for debate on clause 11. Mr. McRobb argued that "It's the practice of this House to go through the subs in the clauses and I just heard you explain that you haven't been doing that." However Mr. McLarnon had already stated, "I haven't been clearing subclauses anywhere. I will start now if you want, but I cleared the entire clause 10 and I asked this House specifically if there was any further debate. Clause 10 is cleared." That being the case he said he would "not broker any questioning of (his) decisions." Committee of the Whole then proceeded with clause 11. (*Hansard* 2864)

The Chair's handbook for Committee of the Whole outlines the 'Chair's Forms for Reading a Bill.'² Though it does not explicitly state that the Chair is to call for clauses and not subclauses, all the references in the outline refer to the calling of clauses, not sub-clauses.

Provision of copies

The *Chair's Handbook, Committee of the Whole*, states, "The signed original (of an amendment) should be given to the Chair when a Member moves the amendment and sufficient copies should be made available for distribution to all Members."³

On November 26, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, Gary McRobb (Kluane, NDP) proposed an amendment to clause 10. As he began speaking to the amendment the Minister of Renewable Resources, Hon. Dale Eftoda (Riverdale North, Liberal), raised a point of order stating, "We don't have it (the amendment) yet. So...it's very hard for me to follow a rationale without being able to reference the material." (*Hansard* 2863) Committee Chair Mike McLarnon called a two-minute recess so copies of the amendment could be made and distributed.

Bills, reading line-by-line

On November 26, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, the Minister of Renewable Resources, Hon. Dale Eftoda (Riverdale North, Liberal) tried to begin line-by-line reading of the bill with the preamble. Committee Chair Mike McLarnon interrupted the Minister and had him proceed with the bill in the prescribed order.

The prescribed order is outlined in the handbook of the Chair of Committee of the Whole. The sequence for reading a non-budgetary bill as follows:

1. Clause 1 – general debate; if short title only, question postponed.
2. Clause by clause study until consideration of Bill complete.
3. Schedule(s) (if any)

² Yukon Legislative Assembly, *Chair's Handbook, Committee of the Whole*, March 1996, page 19.

³ Yukon Legislative Assembly, *Chair's Handbook, Committee of the Whole*, March 1996, page 15.

4. Preamble (if any)
5. Clause 1 – if short title only
6. Title

Chair, speaking through the

Standing Order 17(1) says, "Every member desiring to speak shall rise in his or her place and address the Speaker." This standing order contains three components vital to the maintenance of order and decorum in the Assembly. The first component is that a member wishing to speak must rise to be recognized by the Presiding Officer. The second component is that, when the Speaker is in the Chair, the member must rise in his or her assigned place. The third component is that the member must address his or her remarks through the Speaker and not directly across the floor to another member. The practice of addressing remarks through the Speaker – like the practice of addressing members by their constituency or ministerial portfolio – is meant to help maintain order and decorum by de-personalizing debate. In operation this leads to an admonition against the use of the second person (e.g., 'you' and 'your') in debate. Presiding Officers will generally overlook the use of the second person where it is used generally and not directed at a particular member, particularly in an accusatory manner.

During Question Period on November 21, 2001 Mike McLarnon (Whitehorse Centre, Liberal) raised a point of order after Dennis Fentie (Watson Lake, NDP) said "If you cut 175 public service jobs, you're taking millions of dollars out of the Yukon economy in a time when it is needed. You're taking it right out of the cash registers of Yukon businesses. Instead of improving services to the public, you are jeopardizing those services to the public." (*Hansard* 2784) Mr. McLarnon objected to the use of the word "you"; the grammatical second person. Standing Order 17(1) says "Every member desiring to speak must rise in his or her place and address the Speaker."

In a ruling offered the next day the Speaker, Hon. Dennis Schneider, said

It is a standard requirement of our rules of debate that all remarks be addressed through the Chair. This normally leads to speaking in the third person and not using the word "you". In this instance, though, there is some doubt as to the necessity of having the Chair step in because it appeared that the member for Watson Lake was using the word in a more general sense than intending that it apply directly to a particular member or body. The test that can be applied is to ask whether the statements would make sense if the word "one" were substituted for the word "you"; if so, then using the second person is usually acceptable. (*Hansard* 2820)

Committee membership, changes to

Before the commencement of the 2001 Fall Sitting the Premier, Hon. Pat Duncan (Porter Creek South, Liberal), announced that Jim McLachlan (Faro, Liberal) would succeed Cynthia Tucker (Mount Lorne, Liberal) as Government House Leader. The practice of the current government has been to have the Government House Leader sit on the Standing Committee on Rules, Elections and Privileges (SCREP). The change of Government House Leader

therefore required a change of membership on the committee. Since SCREP is a committee of the Assembly this change required the Assembly's approval of a motion to change membership on the committee. On October 18, 2001 Hon. Sue Edelman (Riverdale South, Liberal) gave notice of a motion (No. 140) to that effect. Mrs. Edelman moved the motion on October 29, 2001. It was agreed to without debate.

Documents, tabling of

Members regularly use documents when participating in debate. Occasionally other Members, who do not have this source of information handy, ask that such information be tabled so that all Members can fully participate in debate. On October 24, 2001 the Government House Leader, Jim McLachlan (Faro, Liberal), rose on a point of order requesting that Eric Fairclough (Mayo-Tatchun, NDP), the Leader of the Official Opposition, table a letter from which he was quoting. Because the letter was a private correspondence not available to all Members the Speaker, Hon. Dennis Schneider, ruled that, "if the member wants to refer to the document, the member's going to have to table it." Mr. Fairclough was willing to table the document.

The Speaker's ruling was based on an established practice of the Yukon Legislative Assembly that is different from that outlined in *Beauchesne's Parliamentary Rules & Forms*. As *Beauchesne's* says, "a document which as been cited out to be laid upon the Table of the House, if it can be done without injury to the public interest. The same rule, however, cannot be held to apply to private letters or memoranda."⁴

Hon. Ms. Buckway (Lake Laberge, Liberal) raised another point of order because Mr. Fairclough continued with debate while the letter was being photocopied for distribution to Members. Speaker Schneider ruled that "it is not required that all members receive a copy of the tabled document" before debate continues. (*Hansard* 2325) In fact Standing Order 38(2) requires only that

Any document presented to the Assembly by a member for the information of members may be tabled if accompanied by sufficient copies for distribution to all House Leaders and to the Table for placement in the working papers of the Assembly.

During Question Period on November 21, 2001 Mike McLarnon (Whitehorse Centre, Liberal) raised a point of order after Dennis Fentie (Watson Lake, NDP) asked the Acting Premier, Hon. Ms. Buckway, to "now tell us, once and for all: is the layoff target bigger or smaller than the 175 that senior government officials used in meetings with community groups?" (*Hansard* 2784) Mr. McLarnon argued, "when facts introduced to this House are contrary to any publicly documented process, it's normal that those facts are tabled. What I'm asking the Member for Watson Lake to do is table any public official statement that has been made, saying that these numbers are, in fact, true. Without that, Mr. Speaker, what we have is a statement attacking the civil service, without names, without any process, being brought up in this House as fact." (*Hansard* 2784) The Speaker ruled that there was no point of order.

⁴ *Beauchesne's* §495(2), page 151 (emphasis added)

The Chair has reviewed the comments of the Member for Watson Lake, who was speaking when the point of order was raised, and notes that the member did not, during his question, quote from or directly cite any particular document. It is clear, then, in this instance, that there was simply a dispute between members about the facts of a matter and that there could be no requirement for the tabling of a document. (*Hansard* 2820)

In this case Mr. Fentie was recounting a figure he said a senior government official had used during community meetings. There was, therefore, no document to table.

Mr. McLarnon's request could also be interpreted as a demand that Mr. Fentie supply evidence to the Assembly in support of the statement he was making. However, Members are under no such obligation. In fact, "It has been formally ruled by Speakers that statements by Members respecting themselves and particularly within their own knowledge must be accepted."⁵

Later that day during debate on Motion No. 168 Gary McRobb (Kluane, NDP) quoted a review of Bill No. 46, *Parks and Land Certainty Act*, prepared by the Sierra Legal Defence Fund. Mr. McLachlan raised a point of order saying, "when a member is quoting from a document, he (should) provide sufficient copies for all members in the Legislature from which to review the legal opinion the member is quoting." However, as noted above, Standing Order 38(2) does not require sufficient copies for all Members.

In reply to Mr. McLachlan's statement Mr. Fentie said, "Past practices in this Legislative Assembly are that, during debate, members in this House can briefly quote from documents. It is not a standard practice that we table all those documents unless we are referring to the document that's being spoken to in its entirety." (*Hansard* 2788).

The Speaker ruled on these issues on November 22, 2001.

The Chair notes that the Member for Kluane, when quoting from the document, said that the Minister of Renewable Resources had been provided this material. The Chair, therefore, concluded that the document being quoted from was not private in nature and that it was not necessary to order its tabling. In reference to the comment of the official opposition House leader, the rule requiring tabling is, of course, not based on it being quoted from in its entirety. In fact, the need for a document to be tabled is often related to the fact that it is not being quoted from in its entirety and it is only fair that the House should be able to reflect on the limited quotations being made in the context of the whole document. (*Hansard* 2818)

The following procedural conclusions can be drawn from these events:

- A Member is not required to provide evidence to support statements made in the Assembly.

⁵ *Beachesne's* §494, page 151.

Ministers

Addressing by proper title

Beauchesne's Parliamentary Rules & Forms advises that "A Minister is normally designated by the portfolio held."⁷

During Question Period on October 23, 2001 the Speaker, Hon. Dennis Schneider felt compelled to intervene in order to uphold this long established and honoured practice. At issue was the use of the term "this minister of damage control" (*Hansard* 2265-6) by Dennis Fentie (Watson Lake, NDP) in reference to Hon. Dale Eftoda (Riverdale North, Liberal), the Minister of Education. Speaker Schneider found this unacceptable, saying, "The Assembly is not an amateur hour, and I would request that the members try to be a little more respectful in their addresses." (*Hansard* 2266)

The Speaker reminded the Assembly of this point on October 25, 2001 when Peter Jenkins (Klondike, Yukon Party), the Leader of the Third Party, referred to Hon. Mr. Eftoda as "the Minister of Education for Riverdale." (*Hansard* 2352) These words could be interpreted as a suggestion that the Minister was putting the interests of his constituents above those of other Yukoners.

This issue was revived on October 31, 2001. During a response to a ministerial statement Mr. Jenkins made reference to "the Minister of Education *from* Riverdale." (emphasis added) (*Hansard* 2425). The Speaker found the difference in wording to be immaterial. Therefore he ruled the Member's words improper though he did not ask that they be withdrawn.

Debate was interrupted during Question Period on November 1, 2001 when Mr. Jenkins made reference to "the minister of parks in the Yukon, who is currently the head of CPAWS in the Yukon...". Mr. McLarnon (Whitehorse Centre, Liberal) raised a point of order interpreting Mr. Jenkins' remarks as having wrongly referred to a government minister as a minister of parks (when no such portfolio exists) and alleging that the minister is also the head of CPAWS in the Yukon, which would be factually inaccurate. Jim McLachlan (Faro, Liberal), the Government House Leader, said Mr. Jenkins "has continued to trivialize terminology and proper nomenclature of ministers in this Legislature." (*Hansard* 2461)

The Speaker did not rule on the issue but said he "would expect members to be referred to by their proper portfolios." (*Hansard* 2462)

The Speaker interceded in debate shortly thereafter when Mr. Jenkins again referred to "the minister for parks in Yukon." The Speaker reiterated that Members be properly referred to. Mr. Jenkins defended his choice of words by saying he was "not referring to anyone in the House." In that light one can interpret Mr. Jenkins' remarks not as a derogatory reference to a government minister but as the portrayal of another person, the head of CPAWS in the Yukon, as a *de facto* minister for his alleged influence over government policy.

The Speaker gave Mr. Jenkins "one more chance to ask the question without trying to create disorder..." (*Hansard* 2642) The Speaker dealt with this issue in depth in a lengthy ruling delivered November 5, 2001. In it the Speaker said

⁷ *Beauchesne's* §484(1), page 142.

It is a long-standing tradition that members are to refer to one another by their constituency, ministerial portfolio, or other position they hold in this House. While inadvertent mistakes do happen, deliberate misstatements are not acceptable. Clearly there is no "minister for parks" in the Government of Yukon. However, the Member for Klondike raised an important issue in his defence. The member defended his use of this term on the grounds that he was not referring to another member. The Chair thanks the Member for Klondike for providing the opportunity to address this issue. Members are advised that the distinction made by the Member for Klondike offers members no protection. Guideline 8 in our Guidelines for Oral Question Period states: A question must adhere to the proprieties of the House in that it must not contain inferences, impute motives or cast aspersions upon persons within the House or out of it. While the guideline refers specifically to Question Period, members should adhere to this principle during all proceedings in this House. As *The House of Commons Procedure and Practice* notes at page 524:

The Speaker has ruled that members have a responsibility to protect the innocent, not only from outright slander but from any slur directly or indirectly implied, and has stressed that members should avoid as much as possible mentioning by name people from outside the House who are unable to reply and defend themselves against innuendo.

To put it simply, inventing names of portfolios to embarrass members of this House, or persons outside this House, will not be accepted. (*Hansard* 2490)

During Committee of the Whole debate on Bill No. 7, *Second Appropriation Act, 2001-02*, on November 8, 2001 Hon. Mr. Eftoda raised a point of order after Gary McRobb (Kluane, NDP) referred to Hon. Pam Buckway (Lake Laberge, Liberal), the Minister of Community and Transportation Services, as "the minister of transportation." In dealing with the issue the Committee Chair, Mike McLarnon ruled Mr. McRobb was not out of order given the informality of committee deliberations and the fact that the term used by Mr. McRobb was a colloquialism, not an intended slight.

On November 28, 2001 during Committee of the Whole debate on Bill No. 39, *An Act to Amend the Jury Act*, Mr. Jenkins referred to Hon. Ms. Buckway as "the minister of towns and trucks." Mr. McLachlan raised a point of order saying this was not a proper title for a minister. The Committee Chair, Mr. McLarnon, agreed that "technically" Mr. McLachlan was correct and that there was a point of order. Mr. Jenkins agreed, however he pointed out that the term "minister of towns and trucks" had historically been regarded as a term of affection. (*Hansard* 2920)

Generally the rule regarding the manner in which Members are addressed is, as the Speaker pointed out, based on respect. The Speaker will intervene, therefore, where the name of a ministerial portfolio or constituency is being, in the Speaker's view, willfully mis-stated as an expression of disrespect to the Member or Minister so addressed. The Speaker will tend

not intervene (except, perhaps, to correct a Member) where honest mistakes are made or where no disrespect is intended.

Addressing questions to

It is not unusual for opposition Members to address a question to a government minister of their choosing only to find that another minister rises to answer the question. The Member posing the question often decries this practice. On October 22, 2001 this practice became the subject of a point of order. At issue was a series of questions asked by Dave Keenan (Ross River-Southern Lakes, NDP) which he addressed to Hon. Wayne Jim (McIntyre-Takhini, Liberal), the Minister of Government Services, regarding training for government mailroom staff to deal with the threat of anthrax. Hon. Pam Buckway (Lake Laberge, Liberal) answered the questions. This prompted Dennis Fentie (Watson Lake, NDP), the Official Opposition House Leader, to rise on a point of order that he termed “a matter of clarity”:

We on this side of the House weren't aware that the Minister of Government Services is now the Member for Lake Laberge. Could we have that clarified, please? (*Hansard* 2232)

In ruling on the point of order the Speaker, Hon. Dennis Schneider, informed the Assembly that

...questions are addressed to the government or to the Cabinet as a whole. They may be addressed to individual ministers; however, the ministers of the Cabinet may make their own decisions as to who answers the question. There is no point of order here. (*Hansard* 2232)⁸

Motions

For concurrence in a committee report

The Standing Committee on Rules, Elections and Privileges (SCREP) is responsible for, among other things, dealing with proposed changes to the Standing Orders of the Assembly.

During meetings held between the Spring and Fall Sittings in 2001 the committee members came to an agreement on various recommended changes to the Standing Orders. SCREP does not have the authority to implement these recommendations. The Standing Orders can only be amended upon a resolution of the Assembly.

On October 23, 2001 Hon. Scott Kent (Riverside, Liberal), Chair of SCREP, tabled the second report of the committee, which contained the recommended amendments. Later that day Hon. Mr. Kent gave notice of a motion requesting that the House concur in the report and that the recommended amendments to the Standing Orders be adopted.⁹ The

⁸ See *Beauchesne's* §418, page 123.

⁹ See Motions Respecting Committee Reports No. 1, Re: Adoption of Second Report of Standing Committee on Rules, Elections and Privileges. Index to Hansard Second Session of the Thirtieth Legislative Assembly, Volume 5, page xiii.

motion required the regular amount of notice, meaning it would appear on the notice paper the following day and on the Order Paper the day after. The Assembly agreed to the motion, without debate, on October 25, 2001.

Standing down

Wednesday afternoons are reserved for private members' business. Government private members' business and opposition private members' business occur on alternate Wednesdays. After Question Period on each Tuesday the Government House Leader or the Opposition party House Leaders will rise pursuant to Standing Order 14.2 and identify the private members' business to be called the following day.

Jim McLachlan (Faro, Liberal), the Government House Leader, followed the usual routine on Tuesday, October 30, 2001 identifying Motion No. 149, standing in the name of Mike McLarnon (Whitehorse Centre, Liberal), as the item to be called on Wednesday, October 31, 2001. However, when Private Members' Business was called on October 31, 2001, Mr. McLarnon indicated that he would prefer that the Assembly deal with government business and asked that his motion be stood down.

Standing down a motion identified for debate requires the unanimous consent of the Assembly. Unanimous consent was denied.

Order Paper, changes to

On October 18, 2001 the Speaker, Hon. Dennis Schneider informed the Assembly of the marriage of the Member for Vuntut Gwitchin. Where the Member had previously been identified as Ms. Lorraine Netro, she would now be identified as Mrs. Lorraine Peter. The name change necessitated some changes to the Order Paper. Motions that formerly stood in the name of Ms. Netro would now stand in the name of Mrs. Peter. This change did not require a motion.

The appointment of Scott Kent (Riverside, Liberal) to Cabinet also necessitated some changes to the Order Paper. Motions placed in his name as a private member (Motions other than Government Motions) were removed from the Order Paper. The Speaker announced this change on October 18, 2001.

Personal Privilege, point of

During the Daily Routine on December 3, 2001, Peter Jenkins (Klondike, Yukon Party), Leader of the Third Party, rose on a point of personal privilege.

A point of personal privilege is an opportunity for a Member "to explain a matter of a personal nature although there is no question before the House."¹⁰ According to *House of Commons Procedure and Practice* a point of personal privilege

...is an indulgence granted by the Chair. There is no connection to a question of privilege, and as Speaker Fraser once noted, "There is no legal authority, procedural

¹⁰ Robert Marleau and Camille Montpetit (eds), *House of Commons Procedure and Practice*, (Montreal & Toronto: Chenelière/McGraw-Hill, 2000), page 136.

or otherwise, historic or precedential, that allows this.” Consequently, such occasions are not meant to be used for general debate and Members have been cautioned to confine their remarks to the point they wish to make. The Speaker has also stated that, as these are generally personal statements and not questions of privilege, no other Members will be recognized to speak on the matter.¹¹

Mr. Jenkins used this opportunity to apologize to the Premier, Hon. Pat Duncan (Porter Creek South, Liberal), “this House and government officials...for the hardship...created” by a conflict of interest investigation conducted pursuant to a charge laid against the Premier by Mr. Jenkins (*Hansard* 2968).

In his report of the investigation, tabled in the Assembly on November 29, 2001, Yukon Conflicts Commissioner E.N. (Ted) Hughes, QC, found the Premier was not in conflict.

Petitions, responses to

The proper form for a petition is appended to the Standing Orders (Appendix 2). Any member may present a petition to the Assembly. The requirements for a petition to be in order are that the petition’s title page must: be addressed to the Assembly; state the reasons for submitting the petition; and ask some action of the Assembly. The petition must also contain original signatures, at least three of which must be on the title page. Standing Order 67 says the Executive Council (Cabinet) shall provide a response to every petition received and declared in order.

Pursuant to that standing order Hon. Pam Buckway (Lake Laberge, Liberal) responded to Petition No. 3 on October 24, 2001. Hon. Don Roberts (Porter Creek North, Liberal) responded to Petition No. 4 on November 2, 2001. At the time of Hon. Ms. Buckway’s response the Assembly was operating according to Standing Orders adopted November 1, 2000. These standing orders stipulated that the Cabinet had “two weeks” to respond to a petition, and there was no limit to the length of the minister’s response. The former stipulation raised some question as to whether the two weeks included time when the legislature was not sitting, although in practice it had not. Amendments to Standing Order 67 effective October 25, 2001 require a response within eight sitting days. The amendments also resulted in ministerial responses to petitions being limited to five minutes.

Presiding Officers

Chair, challenging the authority of the

During debate on Motion No. 168 on November 21, 2001 the Speaker, Hon. Dennis Schneider, intervened after Mike McLarnon (Whitehorse Centre, Liberal) said, “when I listen to criticism, I generally...judge the credibility of the person criticizing me. In this case, there is no credibility at all on this issue.” Speaker Schneider cautioned Mr. McLarnon to “not get personal.” In response, Mr. McLarnon argued that the personality of Members and the credibility of their statements could not be separated. Subsequently, the Official Opposition

¹¹ *House of Commons Procedure and Practice*, page 137.

House Leader, Dennis Fentie (Watson Lake, NDP), raised a point of order saying that Mr. McLarnon was “challenging the Chair” and that this should not be allowed to continue. Standing Order 6(1) says, in part, that “No debate shall be permitted on any...decision (by the Speaker), and no decision shall be subject to an appeal to the Assembly.” If a Member wishes to see a Speaker’s ruling overturned the Member must “move a substantive motion to that effect.” (*Hansard* 2555)

The Speaker, Hon. Dennis Schneider, did not rule on the issue at the time but promised to give a ruling once he had had a chance to review *Hansard*. (*Hansard* 2801) In his ruling of November 22, 2001 Speaker Schneider said

On review of the remarks of the Member for Whitehorse Centre, and taking into account the tone and temper of yesterday’s debate, the Chair can see how an impression was left that the Chair was being challenged. That should not happen and the Chair must ask that all members pay greater heed to the respect required of the Chair’s authority and of the decorum required in this Assembly. (*Hansard* 2820-2821)

Deputy Chair of Committee of the Whole. election of

Standing Order 5(2) says, “The Assembly may, from time to time as necessary, elect a Deputy Chair of Committee of the Whole who shall be entitled to take the Chair of Committee.” The normal procedure for such an election is by way of a government motion that a member be appointed as Deputy Chair.

On June 12, 2001 Scott Kent (Riverside, Liberal) was appointed Minister of Economic Development. Previously, as a Government Private Member, Mr. Kent had held the position of Deputy Chair of Committee of the Whole. Upon his appointment to Cabinet, Hon. Mr. Kent was no longer eligible to hold the Deputy Chair’s position.

On October 18, 2001 the Speaker, Hon. Dennis Schneider, informed the Assembly that Hon. Mr. Kent had resigned as Deputy Chair of Committee of the Whole effective upon his appointment to cabinet. This required that another Private Member be appointed Deputy Chair. Jim McLachlan (Faro, Liberal), the Government House Leader, brought forth Motion No. 139 moving the appointment of Cynthia Tucker (Mount Lorne, Liberal) as Deputy Chair. The motion required no notice. It was agreed to without debate.

Privilege, Question of

On November 7, 2001 Dennis Fentie (Watson Lake, NDP) raised a Question of Privilege regarding rulings on points of order by the Speaker, Hon. Dennis Schneider, during Question Period the previous day. The term ‘Parliamentary Privilege’

refers...to the rights and immunities that are deemed necessary for the House of Commons, as an institution, and its Members, as representatives of the electorate to fulfil their functions. It also refers to the powers possessed by the House to protect itself, its Members, and its procedures from undue interference, so that it can effectively carry out its principal functions which are to inquire, to debate and to

legislate. In that sense parliamentary privilege can be viewed as special advantages which Parliament and its Members need to function unimpeded.¹²

House of Commons Procedure and Practice informs us that "[T]he rights and immunities accorded to Members individually are generally categorized under the following headings: freedom of speech; freedom from arrest in civil actions; exemption from jury duty; exemption from attendance as a witness."¹³

Essentially, parliamentary privilege belongs to the Assembly as a whole and extends itself to cover individual Members only in the performance of their parliamentary duties. For example, a Member's right of freedom of speech is only supplemented by parliamentary privilege when the Member participates in parliamentary proceedings. Outside of those proceedings the Member enjoys no greater right of freedom of speech than any other Canadian.

A Member may raise a Question of Privilege whenever the Member feels these have been infringed. When a Question of Privilege is raised the Speaker must decide whether there appears, on the face of it, to be a case of breach of privilege. If the Speaker decides there is a *prima facie* breach of privilege the Speaker then gives priority to a motion proposing an action to deal with the apparent breach. The usual motion put forward in such situations is to refer the matter to the Standing Committee on Rules, Elections and Privileges for review and recommendation.

The gist of Mr. Fentie's Question of Privilege was that "there is an appearance of (the Member's) right as a member of this Assembly to freedom of speech being compromised." This threat emanated from what Mr. Fentie saw as inconsistency in the Speaker's rulings regarding unparliamentary language and the need to identify individual standing orders when raising a point of order. Mr. Fentie noted that on November 6, 2001 he had been asked to cite a specific Standing Order when raising a Point of Order where the Minister of Education, Hon. Dale Eftoda had not been so required. Mr. Fentie also pointed out that he had been called to order for alleging the government was engaged in a "cover-up" (*Hansard* 2520), whereas the Hon. Mr. Eftoda was not called to order for saying the opposition was engaged in a "smear campaign." (*Hansard* 2521) Mr. Fentie therefore asked the Speaker for "clarification" on the rulings made on November 6. (*Hansard* 2555)

In ruling on the Question of Privilege Speaker Schneider noted that Mr. Fentie had followed proper procedure in bringing the question forward. However he noted that seeking clarification is not proper grounds for a Question of Privilege. The Speaker also noted that raising a Question of Privilege is not the proper means of questioning decisions of the Chair. This must be done by way of a substantive motion. The Speaker therefore ruled that he could not find "any basis for the matter raised by the official opposition House leader to be found a breach of privilege." (*Hansard* 2555) As the Speaker noted

¹² *House of Commons Procedure and Practice*, page 50.

¹³ *House of Commons Procedure and Practice*, page 51.

The primary privilege of members in the Assembly is freedom of speech. It is a well-established practice that a Speaker's ruling on language is not a violation of that privilege, even if the ruling is contentious or in error.

Standing Order 6(1) states, in reference to Speakers' decisions, that "No debate shall be permitted on any such decision, and no decision shall be subject to an appeal to the Assembly." Therefore, the normal way for members to deal with a Speaker's decision that they disagree with and want overturned is to move a substantive motion to that effect. (*Hansard 2555*)

Though Mr. Fentie had not brought forward a substantive motion questioning the Speaker's ruling of November 6 Speaker Schneider took it upon himself to elaborate on the events of the previous day. In doing so he stated

The Chair, in reference to the events of yesterday, has reviewed the Blues and discussed this matter with our table officers. On reflection, the Chair feels the opposition House leader has made a legitimate point and that yesterday's decisions by the Chair could be seen to be inconsistent...(T)he official opposition House leader...is quite right in arguing that, in the context they were used yesterday, the terms "smear campaign" and "cover-up" belong in the same category and both were equally deserving of being ruled unparliamentary. The official opposition House leader is also correct in questioning the need to cite any specific rule when raising a point of order about unparliamentary language. Doing so is helpful to the Chair but it is not essential when requesting a ruling on language. (*Hansard 2555-6*)

Question Period

Length of

Standing Order 11(2) indicates that part of the Assembly's Daily Routine is an Oral Question Period of 30 minutes. The length of Question Period is not precisely timed, however, as the Speaker would not close Question Period while a Member is asking a question or providing an answer. In fact a Member is allowed to complete a cycle of the main question and up to two supplementary questions regardless of where the 30 minute mark falls in that sequence.

On October 18, 2001 Gary McRobb (Kluane, NDP) rose on a point of order arguing that the Speaker, Hon. Dennis Schneider, had declared Question Period over after only 26.75 minutes whereas the 'cut-off point' for introducing a new main question, established by practice, is supposed to be 28.5 minutes. Speaker Schneider took Mr. McRobb's submission under consideration but did not rule on it. Question Period on that day terminated as per the Speaker's direction.

Part of the discrepancy in the timing of Question Period on that day had to do with the time allotted to a point of order raised by Jim McLachlan (Faro, Liberal), the Government House Leader. Procedurally the question was, what should be done with the time taken to deal with the point of order? Should it be counted as part of Question Period or should the time be 'added on'?

The standard operating procedure is as follows:

- If a Government Member raises a point of order that is upheld by the Speaker the time taken to deal with the point of order is considered part of Question Period.
- If a Government Member raises a point of order that is not upheld the time is added on. This prevents Government Members from abbreviating Question Period by invoking points of order.
- If an opposition Member raises a point of order that is upheld by the Speaker time will be added on to Question Period
- If an opposition Member raises a point of order that is not upheld by the Speaker the time taken to deal with the point of order is considered part of Question Period. This practice prevents Opposition Members from prolonging Question Period by raising points of order.

However this procedure is not a hard and fast rule. For example, the Speaker may not add or subtract the full amount of time taken to deal with a point of order regardless of the ruling. This could happen in different circumstances. One circumstance is where the amount of time taken to deal with a point of order is considered excessive due to the need for research or deliberation.

A second circumstance applies to the events of October 18, 2001. Here the Speaker decided that though there was no point of order *per se* the issue raised by Mr. McLachlan and the explanation offered by the Speaker were so worthy of consideration by the Assembly that they contributed overall to Members' understanding of the Assembly's procedures and practices. That being the case the Speaker considered enough of Mr. McLachlan's intervention to be part of Question Period that the Assembly had indeed gone beyond 28.5 minutes before the time to begin a new main question had begun.

Length of questions and answers

On October 25, 2001, Jim McLachlan (Faro, Liberal), the Government House Leader, raised a point of order regarding the length of a question being asked by Gary McRobb (Kluane, NDP).

Guideline 7 of the "Guidelines for Oral Question Period" (Addendum 1 to the Standing Orders) reads (in part), "A brief preamble will be allowed in the case of the main question and a one-sentence preamble will be allowed in the case of each supplementary question." Based on this guideline Mr. McLachlan said, "...by my count he is into his fifth sentence at this point." In response Dennis Fentie (Watson Lake, NDP), the Official Opposition House leader, did not argue the point as to the wording of the guideline. Instead he argued that this guideline has not, in fact, governed practice in the Assembly.

In a statement the Speaker, Hon. Dennis Schneider, advised Members of his practice in timing questions:

the Chair is familiar with the guidelines for Oral Question Period...However, since I have occupied the Chair - and, I believe, as have previous Speakers - I have tended

more to have the questions in line with the time allotment, which is one minute for the question and 1.5 minutes for the answer. The Chair normally gives a warning to the questioner at the 50-second mark that the one minute is about to expire, and the Chair normally gives a warning to the answerer at 10 seconds before the time is up. From time to time, questions and answers do exceed the time, and the Chair does everything in his power to try to make it fair and equal. (*Hansard* 2334-5)

Recess, request for

On November 26, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, Gary McRobb (Kluane, NDP) requested that the committee take a 15 minute recess to review amendments tabled by the Minister of Renewable Resources, Hon. Dale Eftoda (Riverdale North, Liberal). Committee chair Mike McLarnon asked the committee if it desired a recess. The committee's response was in the negative. Mr. McRobb continued debate by explaining why he felt the recess was necessary and again requested a 15-minute break.

Standing Order 24(2) says, "...motions for the adjournment of the Assembly or of debate, shall be decided without debate or amendment." Furthermore Standing Order 15(1) says, "A motion to adjourn...shall always be in order, but no second motion to adjourn shall be made until after some intermediate proceeding has taken place."

With these standing orders in mind the Chair responded that if Mr. McRobb's request had been

...in the form of a formal motion, there would be required an intervening step - in fact, somebody else speaking before we would allow that motion to be put forward. But it's actually much simpler than that, since we have already just previously asked the question. It's the exact same question. There is no indication that that will change and so, as a result, we would ask you to continue, Mr. McRobb. Otherwise we will have to have an intervening action. (*Hansard* 2854)

Note that the Chair interpreted the "intermediate proceeding" (or as he put it "intervening step" or "intervening action") required by Standing Order 15(1) as being "somebody else speaking", that is, another Member having the floor.

However *Beauchesne's Parliamentary Rules & Forms* says "speeches are not an "intermediate proceeding"" as the term is understood to relate "to procedure and not to debate." In this context the requirement that intermediate proceeding refers to "a proceeding that can properly be entered into the *Journals*" is somewhat problematic for Committee of the Whole.¹⁴ Few committee activities are entered into the Journals. In an explanatory note Marleau and Montpetit suggest "In a Committee of the Whole, an intermediate proceeding could be the moving of an amendment, the disposal of a clause or the motion that "the Chairman leave the Chair"."¹⁵ This understanding underlies the common practice in the

¹⁴ *Beauchesne's* §385 and §386, pages 112-113.

¹⁵ *House of Commons Procedure and Practice*, page 787, note 131.

Yukon Legislative Assembly. Regardless Mr. McRobb's action did not have the benefit of an intermediate proceeding (under any definition) and, as Mr. McLarnon ruled, even if it had been put in the form of a formal motion it would not have been in order.

Relevance

Standing Order 42(2) says, "Speeches in Committee of the Whole must be strictly relevant to the item or clause under discussion." Insistence on relevance has, historically, been one mechanism for ensuring the expeditious dealing with the public's business. However applying the rule of relevance in particular circumstances can be difficult.

During Committee of the Whole debate on Bill No. 7, *Second Appropriation Act 2001-02*, on November 1, 2001 Jim McLachlan (Faro, Liberal), the Government House Leader, raised a point of order based on his belief that the opposition member then debating the bill, Gary McRobb (Kluane, NDP), had "got the debates mixed up on the two budgets" (the first being the supplementary appropriation act for 2001-02 and the second being the main capital estimates for 2002-03). Committee Chair, Mike McLarnon, ruled that there was no point of order given that "debate on general money bills is general debate. It is far ranging. There is no difference between a supplementary budget and a main budget in the form of general debate." (*Hansard* 2475)

The Deputy Chair of Committee of the Whole, Cynthia Tucker, made a similar determination during committee debate on the same bill on November 5, 2001. Ms. Tucker added that a minister is free to not answer a question he or she considers irrelevant.

On November 8, 2001 during Committee of the Whole debate on Bill No. 7, *Second Appropriation Act, 2001-02*, Hon. Pam Buckway (Lake Laberge, Liberal) Minister of Community and Transportation Services, suggested that Gary McRobb (Kluane, NDP) was raising questions during debate on that department's estimates that properly belonged elsewhere. The Chair, Mike McLarnon, reiterated the generality of general debate and added, "if the minister doesn't feel like they want to answer a question because it is not in their department, the minister doesn't have to, either." (*Hansard* 2603)

On November 28, 2001 during Committee of the Whole debate on Bill No. 39, *An Act to Amend the Jury Act*, Mr. McLachlan invoked Standing Order 42(2) in response to comments by Peter Jenkins (Klondike, Yukon Party), Leader of the Third Party, whose comments included references to fishing and logging in New Brunswick. The Committee Chair, Mr. McLarnon found no point of order saying, "relevance is essentially tied to a larger question, and I cannot, in specific instances, pick relevance out. If he's talking about fishing in New Brunswick, he's also maybe talking about privacy in New Brunswick." (*Hansard* 2923)

Repetition

Standing Order 19(c) says, "A member will be called to order by the Speaker if that member persists in needless repetition or raises matters which have been decided during the current session." According to Marleau and Montpetit the rule against repetition works in conjunction with the rules regarding relevance to ensure that the Assembly can use its time efficiently: "The rule against repetition ensures that once all that is relevant to the debate has

been presented, the question will be determined once and for all, at least during the current session.”¹⁶

Members thrice raised points of order pursuant to Standing Order 19(c) during the 2001 Fall Sitting.

During debate on Motion No. 168 on November 21, 2001 Dave Keenan (Ross River-Southern Lakes, NDP) brought this standing order to the attention of the Speaker, Hon. Dennis Schneider in regard to comments made by Mike McLarnon (Whitehorse Centre, Liberal). At issue was Mr. McLarnon’s comments regarding a statement by the Speaker. According to Mr. Keenan, Mr. McLarnon’s comments had gone beyond challenging the Speaker and into the realm of repetition. The Speaker said he would take the point of order under advisement and return with a ruling if one was required. A ruling was not required. (*Hansard* 2801)

On November 26, 2001 Hon. Dale Eftoda (Riverdale North, Liberal) raised the point of order in regard to comments by Gary McRobb (Kluane, NDP) during general debate in Committee of the Whole on Bill No. 46, *Parks and Land Certainty Act*. Committee Chair Mike McLarnon ruled that there was no needless repetition. (*Hansard* 2853)

On November 28, 2001 during Third Reading of Bill No. 49, *An Act to Amend the Medical Profession Act*, Dennis Fentie (Watson Lake, NDP), the Official Opposition House Leader, rose on a point of order pursuant to Standing Order 19(c). Mr. Fentie argued

We on this side of the House have already voted for this bill and have already heard the very same rationale for this bill coming forward. In the spirit of expediting the business of the public in this Legislative Assembly, I would urge the minister to allow us to vote in third reading to pass the bill, and let's move on. We've already heard his speech. (*Hansard* 2908)

In responding to the point of order Jim McLachlan (Faro, Liberal) pointed out, “The Speaker has recognized the minister to speak. He has the right to be listened to. We haven't voted.” Speaker Schneider found no point of order, ruling “A minister has the right to introduce his bill at third reading...” (*Hansard* 2908)

According to Marleau and Montpetit rules regarding repetition apply only “to the Members’ remarks only within the same stage of debate on a bill. Arguments advanced at one stage may legitimately be presented at another.”¹⁷

Unanimous consent

Standing Order 14.3 says, “The Assembly may, by unanimous consent, suspend its Standing Orders or waive procedural requirements and precedents.” This Standing Order was invoked during the 2001 Fall Sitting to:

- By-pass general debate and proceed to line-by-line reading of a bill;

¹⁶ *House of Commons Procedure and Practice*, page 527.

¹⁷ *House of Commons Procedure and Practice*, page 530.

- Deem all clauses of a bill read and carried;
- Deem all lines in a vote cleared or carried;(as required)
- Deem amendments read and carried;
- Deem a motion to have been read from the Chair;
- Stand over clauses and bills; and
- Withdraw a motion from the Order Paper.

By-pass general debate and proceed to line-by -line

On November 22, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, Hon. Dale Eftoda (Riverdale North, Liberal), Minister of Renewable Resources, requested unanimous consent to by-pass general debate and proceed directly to line-by-line consideration of the bill. Mr. Eftoda argued that, “a good portion of yesterday's debate was focused on YPAS and Motion No. 168.” Unanimous consent was denied. (*Hansard* 2836) Mr. Eftoda made the same request on November 26, 2001 and was again denied unanimous consent to proceed to line-by-line consideration of the bill. (*Hansard* 2849)

Deem all clauses of a bill read and carried

On October 30, 2001: Peter Jenkins (Klondike, Yukon Party), Leader of the Third Party, moved that Bill No. 49, *An Act to Amend the Medical Profession Act*, which was then in clause by clause consideration in Committee of the Whole, be considered read and carried. Unanimous consent was granted. (*Hansard* 2401)

On November 27, 2001 during line by line consideration of Bill No. 47, *Education Staff Relations Act*, Dennis Fentie (Watson Lake, NDP) indicated that the Official Opposition and the Third Party were prepared to deem the entire bill “read and carried.” One factor that complicated the proposition was the fact that there were five amendments accompanying the bill. The Committee Chair, Mike McLarnon informed the committee that unanimous consent would be required to deem the entire bill – and the amendments - read and carried and to have the amendments entered into *Hansard* as if they had been read and agreed to in the normal fashion. The committee granted unanimous consent. (*Hansard* 2989-9)

Deem all lines in a vote cleared or carried

On November 22, 2001 during Committee of the Whole debate on Bill No. 7, *Second Appropriation Act, 2001-02*, Dennis Fentie (Watson Lake, NDP), Official Opposition House Leader, requested unanimous consent that all lines in Vote No. 7 (Economic Development) be deemed cleared or carried as required. Unanimous consent was granted. (*Hansard* 2836)

On December 3, 2001 during Committee of the Whole debate on Bill No. 8, *First Appropriation Act, 2002-03*, various Members requested unanimous consent to deem all lines in votes 1, 2, 3, 7, 8, 9, 12, 13, 14, 15, 16, 18, 23, 24 cleared or carried as required. Unanimous consent was granted in all cases.

Deem amendments read and carried

On November 27, 2001 during line by line consideration of Bill No. 48, *Wildlife Act*, Dennis Fentie (Watson Lake, NDP) Official Opposition House Leader said, "After reviewing the amendments and listening to the minister's response as this relates to the French translation, we are prepared to move that the remaining amendments in clauses 73, 74 and 75 can be deemed read and carried, so that we can expedite the business of the House." Committee Chair Mike McLarnon advised Members

For us to do this, the amendments must be included in *Hansard*, so that there is a record of the proceedings, but this certainly can happen under the rules of the House. We need unanimous consent from the members of the House to have these amendments deemed read and carried and also included in *Hansard*. Do we have unanimous consent?" (*Hansard* 2895)

Unanimous consent was granted. Subsequently Mr. Fentie moved that clauses 76-219 of Bill No. 48 be deemed read and agreed to. The Committee Chair asked for unanimous consent. Unanimous consent was granted.

Deem a motion to have been read from the Chair

On November 19, 2001, pursuant to an agreement among the House Leaders, Jim McLachlan (Faro, Liberal), Government House Leader, requested unanimous consent for Motion No.169 to be called without notice. Mr. McLachlan also asked "in recognition of the length of the motion, I would request the unanimous consent of the House for the motion to be taken as having been read from the Chair and for it to appear in *Hansard* as having been read." Unanimous consent was granted for both requests. (*Hansard* 2720)

Stand over clauses and bills

On November 26, 2001 during line-by-line consideration of Bill No. 46, *Parks and Land Certainty Act*, Eric Fairclough (Mayo-Tatchun, NDP), Leader of the Official Opposition, requested that clause 13 be stood over and that debate proceed with clause 14 and the rest of the bill. Standing over a clause requires the unanimous consent of the committee.¹⁸ Mike McLarnon, Chair of Committee of the Whole, asked if there was unanimous consent to stand the clause over. Unanimous consent was denied. (*Hansard* 2869)

On November 28, 2001 during debate on Bill No. 39, *An Act to Amend the Jury Act*, Peter Jenkins (Klondike, Yukon Party), Leader of the Third Party, asked for unanimous consent that the committee "stand down" the bill and move on to other business. The conventional approach would be for a Member to move that the committee report progress on the bill. If a majority of the committee voted in favour of the motion it could then move on to other business. Mr. Jenkins' request for unanimous consent was denied. (*Hansard* 2917-8)

¹⁸ Yukon Legislative Assembly, *Chair's Handbook, Committee of the Whole*, March 1996, page 17.

Withdraw a motion from the Order Paper

Standing Order 34 deals with withdrawing motions from the Order Paper. The standing order describes how Members may withdraw one or more of their motions. No notice is required to make this request. However, the Assembly must give its unanimous consent for motions to be withdrawn. This request was made twice during the 2001 Fall Sitting.

On October 23, 2001 Jim McLachlan (Faro, Liberal), the Government House Leader, requested unanimous consent to withdraw 29 motions “based upon an agreement of all members in whose names certain motions are standing on the Order Paper, and on agreement between the House leaders...” (*Hansard* 2266).

On November 1, 2001 Hon. Pam Buckway (Lake Laberge, Liberal) introduced Motion No. 155, which, if adopted, would have amended the Standing Orders to include time allocation. After some negotiation the three party leaders agreed to a different set of amendments that would establish a parliamentary calendar for the Assembly. Consequently, on November 19, 2001 Mr. McLachlan requested unanimous consent to withdraw Motion No. 155 from the Order Paper. (*Hansard* 2722)

In both cases the Assembly granted unanimous consent, and the Speaker, Hon. Dennis Schneider, directed the Clerk to amend the Order Paper accordingly.

Unparliamentary Language

As Marleau and Montpetit advise, “By far, the most important right accorded to Members of the House is the exercise of freedom of speech in parliamentary proceedings.”¹⁹ However, this right is limited. Rules against the use of unparliamentary language are one limitation on this right. As Marleau and Montpetit put it

The proceedings of the House are based on a long-standing tradition of respect for the integrity of all Members. Thus, the use of offensive, provocative or threatening language in the House is strictly forbidden. Personal attacks, insults and obscene language or words are not in order. A direct charge or accusation against a Member may only be made by way of a substantive motion for which notice is required.²⁰

In the Yukon Legislative Assembly language is generally regulated by Standing Order 19 that outlines when the Speaker may call a member to order during debate. The same rules, as far as unparliamentary language is concerned, apply in Committee of the Whole. In addition to the standing orders discussed below Standing Order 19(j) forbids Members from speaking “disrespectfully of Her Majesty or any of the Royal Family.” Standing Order 19(k) forbids Members from introducing “any matter in debate which, in the opinion of the Speaker, offends the practices and precedents of the Assembly.” Neither standing order was invoked in the 2001 Fall Sitting.

¹⁹ *House of Commons Procedure and Practice*, page 71.

²⁰ *House of Commons Procedure and Practice*, page 525.

The application of standing orders against unparliamentary language is highly contextual and the Speaker reserves the right to exercise discretion in applying the rules of debate.

One issue that emerged regarding language during this Sitting was the standards Members would wish to see enforced by the Chair. On November 14, 2001 Speaker Schneider asked Members to reflect upon this. In response to a point of order raised by Mr. Keenan the Speaker found no point of order though he agreed that the term at issue

could be offensive to other people and it could lead to disorder. But...how petty are we going to get in here? The Chair would have to interrupt nearly continually where some person could find certain terms used to be offensive. The Chair is not going to rule on this, whether or not it is unparliamentary, but what the Chair is going to ask is all members - all members - if we are going to be so sensitive, please be tempered in their comments because it goes back and forth. The Chair can't rule on one and not on another, and if the Chair were to step in, we would get no work done in here. (*Hansard 2655*)

The Speaker made a similar point during Question Period on November 29, 2001. At that time Mr. McLarnon raised a point of order when Mr. Keenan said of Don Roberts (Porter Creek North, Liberal), the Minister of Health and Social Services, "...this minister continues to pretend that he is caring and that he is competent...that is not the opinion or view of anyone who has to work with him." The Speaker responded

There's no doubt that some of the remarks tend to create disorder and maybe are disrespectful to members opposite, but this has been continuing on in this House since we started this sitting, by members on both sides...Yesterday, we heard things in this House like, "The member doesn't care; the members are lazy; the member is irresponsible." If the Speaker were to get into the middle of these things every time there is a word passed in here that some member may find offensive, there would be no debate.... Far be it for the Speaker to interrupt every time somebody doesn't like a word that is being said. The Speaker is not going to rule on this, because it's up to the members to decide where they're going to go in this House and what they're going to do...So, what I'm going to ask right now is that all members kindly be cautious in their choice of words...(*Hansard 2940*)

The events detailed below indicate Members still have yet to exercise due caution at all times.

Imputing False or Unavowed Motives

Standing Order 19(g) says "A Member will be called to order by the Speaker if that member...imputes false or unavowed motives to another member..."

On October 18, 2001, during the Budget Speech, Peter Jenkins (Klondike, Yukon Party), the Leader of the Third Party, rose on a point of order, invoking Standing Order 19(g).

Mr. Jenkins argued that “(b)y stating that the Liberal Party is the only political party in the Yukon that supports the Alaska Highway pipeline, the Premier is imputing falsehoods.” (*Hansard* 2224) Jim McLachlan (Faro, Liberal), the Government House Leader, argued that this was simply a dispute between members. Dennis Fentie (Watson Lake, NDP), the Official Opposition House Leader, also intervened at this point. Rising on a question of privilege Mr. Fentie argued that the Premier’s statements “are a figment of the Premier’s imagination and simply must be struck from the record, and I respectfully ask that the Premier do so.” (*Hansard* 2225)

The Speaker, Hon. Dennis Schneider, misinterpreted Mr. Fentie’s intervention as a contribution to the debate on the point of order, not a separate question of privilege, and so did not rule on the question of privilege. In ruling on the point of order the Speaker concurred with the interpretation offered by Mr. McLachlan.

In reference to Mr. Fentie’s “question of privilege” it is unlikely that the Speaker would have found a *prima facie* case to have been made. The deliberate or innocent misinterpretation (or alleged misinterpretation) of the words or views of a Member does not constitute a breach of the parliamentary privilege of freedom of speech. Members have an opportunity to offer their version of “the facts” the next time they have the floor. Also, there is nothing in the Standing Orders or the procedures and practices of the Assembly that provide for words to be ‘struck from the record.’

During debate on Motion No. 155 on October 31, 2001 Mr. McLachlan raised a point of order suggesting Mr. Fentie had imputed false motives by describing the motion as bringing in “closure” rather than “time allocation” as per the wording of the motion. Speaker Schneider ruled there was no point of order but, rather, a dispute between members.

During Committee of the Whole debate on Bill No. 7, *Second Appropriation Act, 2001-02* on November 8, 2001 Mr. Jenkins said the reason the Deep Creek Community Plan “has stalled at the minister’s desk (is) because the minister wants to ensure that a friend of hers, and of the Premier’s, gets a land grab in that area.” (*Hansard* 2607) The Committee Chair, Mike McLarnon, intervened saying Mr. Jenkins had imputed false or unavowed motives to Hon. Pam Buckway (Lake Laberge, Liberal), the Minister of Community and Transportation Services.

Despite the Chair’s intervention debate remained heated and later in the proceedings Hon. Ms. Buckway said Mr. Jenkins “is well known for inventing situations out of nothing.” (*Hansard* 2609) The Chair again intervened cautioning Members that they should not express as fact what is clearly their opinion.

This did not, however, restore decorum to the debate and Hon. Ms. Buckway subsequently raised a point of order after Mr. Jenkins repeated his allegation arguing Mr. Jenkins was “stating as fact something that is clearly his opinion.” (*Hansard* 2609). The Chair informed Members he would review *Hansard* and return with a ruling which he did on the following sitting day, November 13, 2001.

In that ruling the Chair acknowledged that his guidance that Members not express opinions as facts, “is not getting us where we need to be in terms of the tone and content of debate, as well as demeanor.” (*Hansard* 2629). The Chair then advised Members of how he will deal with similar situations in the future. “Members”, he said, will be “free to offer their

version of events. This version may clash with others.” That is the essence of a dispute as to facts. “Members cannot” the Chair cautioned, “question the motives of another member in doing what they have done. That is not allowed under our Standing Orders...” Further any expression of opinion or fact will not be accepted if it “contains an accusation...” (*Hansard* 2630) As mentioned in the preamble to this section on unparliamentary language, Members are not at liberty to interject accusations of impropriety into debate. Any such charge must be made by way of a substantive motion. In other words the conduct of a Member may only be discussed when that conduct is the subject of the motion before the Assembly.

Determining the imputation of “false or unavowed motives” can be difficult. Generally the question of motive addresses not what a person has said or done, or is alleged to have said or done. The question of motive addresses the reason a person has, or has not, undertaken a certain action. For the Premier to suggest, as above, that neither the New Democratic Party nor the Yukon Party support the building of an Alaska Highway natural gas pipeline is to attribute (arguably) a false or unavowed *position*, not a false or unavowed *motive*. The Assembly, therefore, is left with a dispute among Members as to facts, not a violation of the Standing Orders.

Other incidents that drew the intervention of the Chair in this regard include:

- During Question Period on November 6, 2001 Mr. Fentie said “The Minister of Education may simply have been a pawn in a cover-up engineered from the Premier’s office.” The Speaker ruled “cover-up” unparliamentary.
- Moments later the Minister of Education, Hon. Dale Eftoda said, “(Members opposite) started this smear campaign in the first place.” When these words were first uttered Mr. Fentie raised a point of order asking the Speaker to rule that phrase out of order. The Speaker did not so rule at the time. (*Hansard* 2520-2521) Upon further review however the Speaker ruled that “smear campaign” was also unparliamentary. (See Question of Privilege, above.)
- On November 13, 2001 during Committee of the Whole debate on the appropriation for Community and Transportation Services in Bill No. 7, *Second Appropriation Act, 2001-02*, the Minister, Hon. Ms. Buckway, accused Mr. Jenkins of “...once again insulting the very capable group of officials who work for this government.” The Chair of Committee of the Whole, Mike McLarnon, called for order and asked all Members “to be very careful and judicious in (their) statements.”
- Later that same day Mr. Jenkins questioned Hon. Ms. Buckway about the government’s response to a report by the Auditor General of Canada regarding the Yukon Government’s land inventory. In doing so Mr. Jenkins said, “What I see coming down the pipe is this document being tabled in probably the last five minutes of debate on the capital budget in Community and Transportation Services.” Hon. Ms. Buckway raised a point of order arguing Mr. Jenkins had imputed “a false motive to me in suggesting that I

would delay until the last five minutes to table such a document.” Committee Chair Mike McLarnon did not find that Mr. Jenkins had questioned Hon. Ms. Buckway’s motives.(*Hansard* 2633-4).

- On November 28, 2001 during Committee of the Whole consideration of Bill No. 39, *An Act to Amend the Jury Act*, Mr. Jenkins ,asked the Minister of Justice, Hon. Ms. Buckway why she “has...no respect for the privacy of Yukoners?” The Committee Chair, Mr. McLarnon, ruled that Mr. Jenkins was “imputing unavowed motives” and asked him “to refrain from that line of questioning.”(*Hansard* 2915).
- On November 29, 2001 during Committee of the Whole debate on Bill No. 8, *First Appropriation Act, 2002-03*, the Leader of the Official Opposition, Eric Fairclough, said “...the Finance minister, out of guilt, decided maybe they’d better talk to some people in the Yukon, just to try and justify the budget.” Committee Chair Mike McLarnon stated that the reference to guilt attributed an unavowed motive to the Minister of Finance, Hon. Pat Duncan.(*Hansard* 2951).

Charges of uttering a deliberate falsehood

Standing Order 19(h) says, “A member will be called to order by the Speaker if that member charges another member with uttering a deliberate falsehood.” Generally the practice regarding the use of words and phrases that reflect upon the truth or falsity of statements is this: A Member is always free to affirm the truth of his or her statements. No Member is at liberty to question the truthfulness of the statements of other Members. The application of Standing Order 19(h) during the 2001 Fall Sitting illuminated certain other principles about unparliamentary language.

Two general points about unparliamentary language are that:

- Quoting unparliamentary words uttered by another person offers a Member no protection; and
- Spelling an unparliamentary word during debate is as out of order as saying the word.

These points were brought to light on November 5, 2001. During Question Period Dennis Fentie, prefaced his main question by saying, “...let’s look at what the union head did say, and what he called the Minister of Education. I believe the word starts with an “i”, has an “i-a” and ends with an “r”.”. The Speaker ruled this unparliamentary.. Mr. Fentie retracted the remark. (*Hansard* 2494)

Inventing new phrases or using words in new ways doesn’t protect a member either, if the Member’s intent (in the view of the Chair) is unparliamentary. On November 7, 2001, during debate on Motion No. 152, Gary McRobb said, “The minister (Hon. Sue Edelman) likes to pump up that program as being highly successful, but there has been virtually no truthing of the figures she likes to use.” At that point the Speaker called for order. In his defence Mr. McRobb said, “the word “truthing” is different from the root word “truth” used

in this context.” The Speaker disagreed and found the phrase implied a lack of truth in the Minister’s statement and was therefore “completely out of order.” Mr. McRobb agreed to be more judicious in his choice of words. (*Hansard* 2571).

Questioning a Member’s credibility can also be out of order. During Question Period on November 13, 2001 Gary McRobb (Kluane, NDP) put questions to the Minister of Renewable Resources, Hon. Dale Eftoda about the Yukon Protected Areas Strategy. In response to the Minister’s response to his first supplementary question Mr. McRobb said, “Why should we believe this minister now...” Mike McLarnon (Whitehorse Centre, Liberal) raised a point of order arguing the phrase was unparliamentary. The Speaker agreed, saying, “the language used by the Member for Kluane seemed to question the factual accuracy or the truth of the minister, and I will rule that that language is unparliamentary.” (*Hansard* 2617)

Note that Standing Order 19(h) speaks of accusing a Member of “uttering a deliberate falsehood.” (emphasis added) Often it is not clear whether the Member making the accusation is suggesting the alleged falsehood is being made deliberately or not. Regardless, Presiding Officers have taken the view that any imputation of falsehood can be ruled out of order. However at times it is clear that an imputation of deliberate falsehood is being made. During Question Period on November 21, 2001 the Acting Premier, Hon. Pam Buckway said, in reference to opposition Members, “They should be ashamed of themselves for spreading information that they know is wrong.” (*Hansard* 2784) The statement did not raise a point of order or the intervention of the Chair at the time. In his ruling of November 22, 2001 Speaker Schneider reflected on this comment saying, “To say that a member is spreading information they know to be wrong is to accuse a member of uttering a deliberate falsehood and is, therefore, using unparliamentary language.” (*Hansard* 2820)

On occasion the Presiding Officer has to ensure that a retraction of an unparliamentary word or phrase is, itself, in order. On November 26, 2001 during Committee of the Whole debate on Bill No. 46, *Parks and Land Certainty Act*, Gary McRobb (Kluane, NDP) responded to what he believed was an view expressed by the Minister of Renewable Resources, Hon. Dale Eftoda (Riverdale North, Liberal) that the Official Opposition has been disrespectful of civil servants. Mr. McRobb said, “For the minister to allege that has occurred is simply false.” Committee Chair Mike McLarnon asked Mr. McRobb to rephrase his statement. Mr. McRobb’s first attempt at rephrasing - “It is simply not true” – did not pass muster with the Chair. Mr. McLarnon then asked Mr. McRobb to again rephrase or withdraw completely his remark. Mr. McRobb chose to “withdraw it completely.” (*Hansard* 2853)

Occasionally a Presiding Officer will have to deal with a statement that infringes more than one rule simultaneously. On November 28, 2001 during Committee of the Whole debate on Bill No. 39, *An Act to Amend the Jury Act*, the Minister of Justice, Hon. Pam Buckway, described assertions made by Mr. Jenkins as “wrong” and “misleading.” Hon. Ms. Buckway added, “The member is choosing not to understand the intent of this amendment, Mr. Chair.” In ruling on the matter Committee Chair Mike McLarnon pointed out that the accusation “misleading” violated Standing Order 19(h), while “choosing not to understand” also imputed a false or unavowed motive in contravention of Standing Order 19(g)” (*Hansard* 2921)

Finally, it should be noted that the rules regarding unparliamentary language also apply when Members are dealing with individuals who are not MLAs during parliamentary proceedings. On November 28, 2001 the Committee of the Whole heard from witnesses from the Yukon Workers' Compensation Health and Safety Board. During the course of questioning the witnesses Dave Keenan (Ross River-Southern Lakes, NDP) asked "...given that one of the duties of the board is to promote basic awareness of the obligations of both workers and employers, does the board feel that one of their members has misled the public?" Committee chair Mike McLarnon ruled, "The Rules of the House still apply here, so we'll make sure that we use parliamentary language, as far as "misled". Mr. Keenan apologized for the remark. (*Hansard* 2929-30)

Other incidents that drew the intervention of the Chair in this regard include:

- On October 22, 2001 Gary McRobb (Kluane, NDP), upon being recognized by the Speaker, the Hon. Dennis Schneider, said, "Mr. Speaker following the Member for Lake Laberge certainly won't be a tough act, because I think what the public has been told and what the truth is are two completely different things..."(*Hansard* 2257) The Speaker informed Mr. McRobb that "It's unparliamentary to refer to truths or untruths in here..." Mr. McRobb apologized for his choice of words but offered his belief that "in that context (the use of the word 'truth') was within the bounds of this Legislature." (*Hansard* 2257)
- During Question Period on October 29, 2001 Hon. Dale Eftoda (Riverdale North, Liberal), the Minister of Education, responded to a question by saying opposition Members, "never do stick to the true facts. They work on rumour and a number of other factors." Dennis Fentie (Watson Lake, NDP), the Official Opposition House Leader, rose on a point of order saying, "it is a standard practice in this House that we do not refer to the truth or non-truth in this Assembly." Speaker Schneider agreed with Mr. Fentie saying, "we are right on the line there with non-parliamentary comments...". However, rather than rule the phrase out of order, or request that the Minister withdraw his remarks the Speaker asked, "the minister to stay away from those types of comments but to continue on with the answer."(*Hansard* 2366)
- On October 30, 2001 during Committee of the Whole debate on Bill No. 7, *Second Appropriation Act, 2001-02*, Eric Fairclough (Mayo-Tatchun, NDP), the Leader of the Official Opposition, said that a statement made by the Premier, Hon. Pat Duncan (Porter Creek South, Liberal), "was not true." The Chair intervened and Mr. Fairclough withdrew the remark. (*Hansard* 2405)
- During Question Period on October 31, 2001 Dave Keenan (Ross River-Southern Lakes, NDP) raised a point of order after Hon. Wayne Jim (McIntyre-Takhini, Liberal), the Minister of Government Services, said, "the member opposite seems to be painting a picture that we have no intentions of local hire. That's not true." The Speaker concluded

that there was a point of order, saying, "The Member for Ross River-Southern Lakes is correct; we have ruled many times in this House that referring to the truth or "misleading" or similar phrases is not acceptable." (*Hansard* 2429)

- On November 1, 2001 during Committee of the Whole debate on Bill No. 7, *Second Appropriation Act 2001-02*, Mr. McRobb said Hon. Pam Buckway (Lake Laberge, Liberal), the Minister of Community and Transportation Services, was attacking him. He then added, "In the context of truth, that is the furthest to mention from it." (*Hansard* 2472) Committee Chair, Mike McLarnon intervened ruling the phrase unparliamentary.
- On November 5, 2001 during Committee of the Whole debate on the appropriation for the Department of Community and Transportation Services in Bill No. 7, *Second Appropriation Act, 2001-02*, Peter Jenkins, said "...I might point out to the minister (Hon. Pam Buckway) that her comparison to Highway 10...is completely false.". The Deputy Chair of Committee of the Whole, Cynthia Tucker, ruled the reference to falsity unparliamentary. (*Hansard* 2500)
- On November 21, 2001 during debate on Motion No. 168, Gary McRobb (Kluane, NDP) accused the Minister of Renewable Resources, Hon. Dale Eftoda (Riverdale North, Liberal) of having "...spent his time firing off media releases, spreading falsehoods and speculation about NDP caucus discussions." The Speaker asked Mr. McRobb to withdraw his remarks and he did. (*Hansard* 2790)
- During Question Period on November 22, 2001, in response to the first supplementary question of Dave Keenan (Ross River-Southern Lakes, NDP), the Minister responsible for the Yukon Housing Corporation, Hon. Wayne Jim, said, "...the members opposite seem to be very deceptive and always like to steer the public's perception (in)...wrong directions." Hon. Mr. Jim began his response to Mr. Keenan's second supplementary question by saying "the members like to speak in terms of deception." At that point Speaker Schneider reminded Mr. Jim that terms like 'deceive' and 'deception' have been found at times to be unparliamentary and asked him to use different words. Mr. Jim apologized. (*Hansard* 2818)

Abusive or Insulting Language

Standing Order 19 (i) says, "A member will be called to order by the Speaker if that member uses abusive or insulting language, including sexist or violent language, in a context likely to create disorder." There were no incidents of sexist language during the 2001 Fall Sitting. The only example of violent language occurred during Question Period on October 24, 2001 when Dave Keenan accused the Minister of Health and Social Services, Hon. Don Roberts (Porter Creek North, Liberal) of "bullying" opposition Members. The Speaker, Hon. Dennis Schneider, ruled "bullying" unparliamentary and it was withdrawn. (*Hansard* 2301)

Later that day during debate on Motion No. 141 Dennis Fentie (Watson Lake, NDP) said of Government Members: "You have contradicted your oath and your commitment to the Yukon public, and you have broken faith with the Yukon public." At that point the Speaker intervened and asked Mr. Fentie if he was making an accusation against any individual Member. Such an accusation would be out of order since it could only be made by way of a substantive motion, not as an incidental comment during debate on another subject. Mr. Fentie assured the Speaker that he was not making an accusation but merely "laying out information as we in the official opposition perceive it to be." Nonetheless the Speaker felt Mr. Fentie's words constituted "an attack on integrity and casts aspersions and questions... truthfulness." The Speaker added, "it's insulting and likely to create order in the House." Mr. Fentie withdrew the remark. (*Hansard* 2306)

For the most part violations of this standing order during the 2001 Fall Sitting consisted of personal insults designed to portray another Member in an unflattering manner. Three such incidents occurred on October 24, 2001. During debate on Motion No. 141 Mr. Fentie said "the Premier had placed the crown upon her head, (and) anointed herself Premier..." (*Hansard* 2308). The Government House Leader, Jim McLachlan (Faro, Liberal), rose on a point of order arguing that Mr. Fentie had "cast aspersions" on the Premier. In ruling on the matter the Speaker cautioned that he had "no desire to limit debate." Nonetheless he found there was a point of order, as the terms used constituted "an attempt to create disorder or embarrass other members of the House." (*Hansard* 2310)

Later in the same debate Mr. McLachlan was called to order after he said Mr. Fentie "clearly wants to be the circus clown." Mr. Fentie raised the point of order and asked Mr. McLachlan to retract the statement. Mike McLarnon (Whitehorse Centre, Liberal) interceded on the point of order saying, "the last time I checked, circus clown is a paid and honourable position in our society that no one demeans and, in fact, is trained in some of our schools in this society. I cannot see how, in any way, that would be demeaning. Nonetheless the Speaker ruled Mr. McLachlan's words "an attempt to create disorder in the House." The Speaker did not ask that the phrase be withdrawn, but that Members be more judicious in their use of language. (*Hansard* 2317)

Still later in the debate on Motion No. 141 Mr. McLarnon referred to Mr. Fentie as "the Hyland Hyena." The Leader of the Third Party, Peter Jenkins (Klondike, Yukon Party) raised a point of order arguing the phrase "was a completely derogatory statement against the Member for Watson Lake. It's not deserving of being presented in this Legislature." The Speaker ruled the phrase "insulting" however Mr. McLarnon had already withdrawn the words by the time the Speaker had ruled. (*Hansard* 2323)

Two incidents of the same nature occurred on November 14, 2001. During Second Reading of Bill No. 47, *Education Staff Relations Act*, Mr. Fentie portrayed the Minister of Education, Hon. Dale Eftoda (Riverdale North, Liberal) as "caught with his trousers around his ankles, stumbling headlong into a teachers' strike" earlier in 2001. The Speaker stated that such comments detract "from the professionalism (of the) Assembly" and constituted "insulting language." Mr. Fentie apologized for the comments. (*Hansard* 2654)

Later that day during Committee of the Whole consideration of the appropriation for the Department of Government Services in Bill No. 7, *Second Appropriation Act, 2001-02*,

Mr. Keenan said of the Minister, Hon. Wayne Jim, "Now I can see the minister just a-shuckin' and a-grinnin' over there and thinking this is just fun and, "God, I can hardly wait to get out there and maybe do another pub crawl." The Committee Chair, Mr. McLarnon, urged Members to not use "language to cause uproar in the House." (*Hansard* 2673)

Urgent and Pressing Necessity, Motion of

Under Standing Order 28 a Member may request unanimous consent to move, without notice, a motion of urgent and pressing necessity.

On November 27, 2001 following the call for Ministerial Statements and before Oral Question Period Dennis Fentie (Watson Lake, NDP), Official Opposition House Leader, rose on a matter of urgent and pressing necessity. In doing so he sought the unanimous consent of the Assembly to debate a motion calling for the adjournment of the legislative sitting until such time as the Premier and Minister of Finance, Hon. Pat Duncan (Porter Creek South) was present to explain and defend the government's 2002-03 capital budget, rather than having the estimates defended by an Acting Finance Minister.

Mr. Fentie then proceeded to explain the necessity of his motion. At that point Jim McLachlan (Faro, Liberal), the Government House Leader, raised a point of order saying, "there has been no call for debate on the motion." (*Hansard* 2874) Mr. Fentie responded that he was simply explaining the necessity of moving the motion, as required by Standing Order 28(1). The Speaker, Hon. Dennis Schneider, ruled in Mr. Fentie's favour citing Standing Order 28(1) that says

A motion may, in case of urgent and pressing necessity previously explained by the mover, be made by unanimous consent of the Assembly without notice having been given.

Once Mr. Fentie had completed his explanation Speaker Schneider asked if there was unanimous consent to proceed with the motion. Unanimous consent was denied.

Witnesses, appearing in Committee of the Whole

Occasionally Committee of the Whole will call upon witnesses to contribute information regarding a matter before the committee. Standing Order 48(1) says, "No witness shall attend before any Committee unless a written statement has first been filed with the Chair of the Committee by a member thereof, stating that the evidence to be obtained from the witness is material and important." A motion authorizing the appearance of witnesses must be made in committee.

During notice of government private members' business on November 27, 2001 Jim McLachlan (Faro, Liberal), the Government House Leader, informed the Assembly that "during the business of Committee of the Whole, it is my intention to introduce a motion for the Committee to hear witnesses from the Yukon Workers' Compensation Health and Safety Board to appear here on Wednesday, November 28." (*Hansard* 2879) Mr. McLachlan moved the motion once Committee of the Whole was called to order. The motion read

THAT Arthur Mitchell, alternate chair of the Yukon Workers' Compensation Health and Safety Board, and Tony Armstrong, president and chief executive officer of the Yukon Workers' Compensation Health and Safety Board, appear as witnesses before Committee of the Whole from 5:00 p.m. to 6:00 p.m. on Wednesday, November 28, to discuss matters relating to the Yukon Workers' Compensation Health and Safety Board. (*Hansard* 2879)

This is the regular form for a motion used when witnesses are asked to appear before Committee of the Whole. The motion did not require notice and was cleared with opposition House Leaders before being moved. The motion was agreed to without debate. Pursuant to the motion regular committee business was interrupted on November 28, 2001 to allow the witnesses to be called at the appointed time.

Statistical Summary

Sitting Days: 25.

Sitting Time: 119 hours and 34 minutes.

Tributes: 25

Visitor Introductions: 48

Documents Tabled: 60

Legislative Returns: 23

Sessional Papers: 37

Committee Reports: 1

Petitions Presented: 1

Responses to Petitions: 2 (Both to petitions presented in the previous Sitting)

Bills Introduced: 12

Government Bills: 12.

Government Bills receiving Assent: 13. (Note: Bill No. 39, *An Act to Amend the Jury Act*, introduced during the 2001 Spring Sitting received Third Reading and Assent in this Sitting.)

Private Members' Bills: 0

Motions: 49

Government Motions

Notice of: 5

Agreed to: 4

Withdrawn: 1

Motions other than Government Motions

Notice of: 41

Agreed to: 2

Negatived: 2

Adjourned Debate: 3

Withdrawn: 29 (all introduced in previous Sittings)

Ordered Removed: 5 (Member appointed to Cabinet. All introduced in previous Sittings.)

Motions respecting committee reports: 1 (agreed to)

Motions respecting witnesses appearing in Committee of the Whole: 1 (agreed to)

Motions of urgent and pressing necessity: 1 (Unanimous consent to proceed denied.)

Ministerial Statements: 14

Question Period Time: Approximately 12.5 hours

Percentage of Sitting Time spent in Question Period: Approximately 10.45%

Main Questions Posed in Question Period: 160

By the Official Opposition: 130

By the Third Party: 30

References

Fraser, Alistair; W.F. Dawson and John A. Holtby, *Beauchesne's Rules & Forms of the House of Commons of Canada with Annotations, Comments and Precedents* (6th edition). Toronto: Carswell. 1989.

Hansard Yukon Legislative Assembly. Second Session of the 30th Legislative Assembly, volumes 4 and 5, issues 71-95, October 18, 2001-December 3, 2001. Published under the authority of the Speaker of the Yukon Legislative Assembly.

Marleau, Robert; and Camille Montpetit (editors), *House of Commons Procedure and Practice*. Ottawa: House of Commons, and Montreal-Toronto: Chenelière/McGraw-Hill. 2000.

Yukon Legislative Assembly, *Chair's Handbook, Committee of the Whole*. March 1996.

Yukon Legislative Assembly, *Standing Orders of the Yukon Legislative Assembly*. Effective November 1, 2000.

Yukon Legislative Assembly, *Standing Orders of the Yukon Legislative Assembly*. Effective October 25, 2001.

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