

**PROCEDURAL REPORT**

**YUKON  
LEGISLATIVE ASSEMBLY**



**FIRST SESSION**

**31ST LEGISLATURE**

**February 27, 2003 – May 1, 2003  
and  
June 12, 2003  
(Special Sitting in Mayo, Yukon)**

**Speaker: The Hon. Ted Staffen**



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## Preface

*“Parliamentary procedure...is at once the “means” used to circumscribe the use of power and a “process” that legitimizes the exercise of, and opposition to power.”<sup>1</sup>*

This report documents procedural events of note that occurred during the 2003 Spring Sitting of the First Session of the 31st Yukon Legislative Assembly and the special sitting that took place in Mayo on June 12, 2003. 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 this time. 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 providing by frequent reference to the *Standing Orders of the Yukon Legislative Assembly* and procedural authorities, particularly, *House of Commons Procedure and Practice* and *Beauchesne’s Rules & Forms of the House of Commons of Canada*.

Floyd W. McCormick, Ph.D.  
Deputy Clerk  
Yukon Legislative Assembly

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<sup>1</sup> Robert Marleau and Camille Montpetit (editors), *House of Commons Procedure and Practice*, (Montréal: Chenelière and Toronto: McGraw-Hill, 2000) page 209.



## Introduction

The two most distinct procedural events detailed in this report occurred on the first and last days covered.

The first occurred on February 27, 2003. This was the opening day of the 31<sup>st</sup> Legislature, the members having been elected in the general election of November 4, 2002. An opening day includes many events that occur at no other time during the life of a Legislature. The entire process is outlined in the entry 'Opening day of a new legislature.' Some of these events – the introduction and first reading of Bill No. 1, *Act to Perpetuate a Certain Ancient Right*, the election of presiding officers, the Speech from the Throne – can re-occur when a new session begins. These, and others, have individual entries in this report.

The second distinct procedural event was the special sitting held in Mayo on June 12, 2003. The sitting commemorated the 100<sup>th</sup> anniversary of the founding of the Village of Mayo. It was, as far as can be determined, the first time the Yukon Territorial Council/Legislative Assembly had met in a locale other than Whitehorse or Dawson City. This event required a substantial logistical effort, including transporting parliamentary accoutrements (the old Speaker's chair and table, the mace and the mace table, the bars of the House, etc.) to Mayo to give the community centre, the site of the special sitting, the appropriate *ambiance*. The routine of business was also altered for the occasion. More detail is provided in the entry 'Special Sitting in Mayo.'

In terms of procedural events during the normal business of the House perhaps the most out of the ordinary occurred on April 2, 2003 when the leader of the official opposition, Todd Hardy, requested leave of the Assembly to adjourn the ordinary business of the House to debate a matter of urgent public importance. As detailed in the entry 'Urgent pressing importance, motion of' the Speaker, hon. Ted Staffen, ruled the request out of order. Central to the Speaker's ruling was his conclusion that Mr. Hardy's request amounted to a request to re-order the agenda of government business. This request contravened Standing Order 12(2), which allows the government to call its business in the order it wishes.

Members made extensive use of Standing Order 14.3, unanimous consent to waive rules, during this Sitting. This was particularly true in Committee of the Whole where the standing order was used on several occasions to expedite dealing with bills before the Committee.

For their part the Presiding Officers made extensive use of Standing Orders 19(g), (h), (i) and (k) – those regarding unparliamentary language.



## Procedural Issues

### Absence of member, reference to

*House of Commons Procedure and Practice* advises

It is unacceptable to allude to the presence or absence of a Member or Minister in the Chamber. The Speaker has traditionally discouraged Members from signalling the absence of another Member from the House because “there are many places that Members have to be in order to carry out all the obligations that go with their office.”<sup>1</sup>

In keeping with this practice the Speaker, hon. Ted Staffen, intervened during debate on Motion No. 86 on April 16, 2003 when Hon. Ms. Taylor (Whitehorse West, Yukon Party) said, “It’s unfortunate that the Member for Kluane isn’t here...” (*Hansard* 838)

On April 23, 2003 during debate on Motion No. 80 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) rose on a point of order after hon. Mr. Edzerza (McIntyre-Takhini, Yukon Party) said, “the Member for Mayo-Tatchun (Eric Fairclough, NDP)...never had the decency to sit in here and be part of (debate on a previous motion).” The Speaker ruled with Ms. Duncan who stated, “it is inappropriate to comment on a member’s absence from the House.” (*Hansard* 926)

On April 29, 2003 during debate on the appropriations for the Department of Health and Social Services in Bill No. 4, *First Appropriation Act, 2003-04*, Gary McRobb (Kluane, NDP) began his remarks by saying he had “a couple of areas I’d like to ask the minister about.” He then mentioned the “government’s commitment to wilderness treatment centres.” In response the minister of Health and Social Services, hon. Peter Jenkins (Klondike, Yukon Party) said, “Well, Mr. Chair, if the member opposite was seated in the Legislature when the Member for Mayo-Tatchun...” At that point the Chair of Committee of the Whole, Patrick Rouble, intervened saying, “It’s inappropriate for a member to identify that another member was absent.” Hon. Mr. Jenkins then rephrased his remark as, “If the member opposite had been listening...” (*Hansard* 1022)

### Addressing remarks through the Chair

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. Presiding Officers will generally overlook the use of the second person (‘you’ and ‘your’) where it is used generally and not directed at a particular member, particularly in an accusatory manner.

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<sup>1</sup>Robert Marleau and Camille Montpetit (editors), *House of Commons Procedure and Practice*. (Montréal: Chenelière and Toronto: McGraw-Hill, 2000) page 522.

On March 3, 2003 during debate on the Address in Reply to the Speech from the Throne the Speaker intervened after the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), had used the terms 'you', 'your' and 'you're' several times. The Speaker reminded Mr. Hardy to speak through the Chair and not directly to other members. (*Hansard* 36) Similar interventions can be observed regarding Eric Fairclough (Mayo-Tatchun, NDP) on March 4, 2003 (*Hansard* 56), and Mr. Hardy on March 18 (*Hansard* 294).

## **Adjournment**

### ***Of ordinary business***

See: Urgent public importance, motion of

### ***Of the Assembly***

Standing Order 27(3)(g) says, "No notice shall be required" for a motion "for the adjournment of the Assembly." Standing Order 24(2) says a motion "for the adjournment of the Assembly... shall be decided without debate or amendment."

On April 16, 2003 the government House leader, hon. Mr. Jenkins (Klondike, Yukon Party), moved "that the House do now adjourn." (*Hansard* 838; *Journals* 71) While the motion was in order it was unusual for three reasons: First, because a motion, Motion No. 86, was under debate at the time; second, because hon. Mr. Jenkins did not move the adjournment of debate before he moved to adjourn the House; and third, because the motion to adjourn was moved early in the sitting day, at 3:11 p.m.<sup>2</sup> As the motion was in order the House adjourned until 1:00 p.m. the following day. As Motion No. 86 was under debate at the time debate on the motion is considered adjourned as well. Should Motion No. 86 be recalled debate shall resume from where it concluded on April 16.

### ***Of Sitting***

Pursuant to an all-party agreement the Assembly adopted Government Motion No. 169 on November 19, 2001. In so doing the Assembly amended the standing orders adding Chapter 14 which outlines, among other things, a procedure whereby members would determine the length of each sitting. These new standing orders came into effect immediately before the adjournment of the 2001 Fall Sitting and were first used in the 2002 Spring Sitting.

This chapter includes a mechanism for adjourning the Sitting once the maximum number of sitting days has been reached and the business before the Assembly is dealt with. This mechanism is contained in Standing Order 75(3).<sup>3</sup>

On May 1, 2003, the Commissioner, hon. Jack Cable, assented to the bills having passed the House and having been enumerated by the Clerk of the Legislative Assembly. At that point, following a ruling made on March 11, 2003 the Speaker, hon. Ted Staffen, made the following statement:

As the House has reached the maximum number of days permitted for this spring sitting, as established pursuant to Standing Order 75(3), and the House has completed consideration of the designated legislation, it is the duty of the Chair to declare that this House now stands adjourned until June 12, at which time it shall reconvene for a special sitting in Mayo, Yukon. (*Hansard* 1089; *Journals* 89)

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<sup>2</sup> Standing Order 2(1) establishes 6:00 p.m. as the normal hour of adjournment.

<sup>3</sup> See 'Sitting days, number of'

### ***Special adjournment motion***

At the end of each Sitting, Spring or Fall, an adjournment motion is required to indicate the means by which the Assembly will be called back into session. It is written in such a way that leaves the date of reconvening indeterminate. The adjournment motion required on May 1, 2003 was different in that the House knew when and where it would reconvene – in Mayo for a special sitting on June 12, 2003. The motion, which was agreed to, was introduced by the government House leader, hon. Peter Jenkins (Klondike, Yukon Party) and read as follows:

THAT the House, at its rising, do stand adjourned until Thursday, June 12, 2003, when it shall hold a special sitting in Mayo, Yukon, to honour that community on its 100<sup>th</sup> anniversary;

THAT the Speaker set the time at which the House shall meet on June 12 and give notice of that time to all members;

That the Speaker cause an Order Paper for the special sitting on June 12 to be produced and distributed to all members;

THAT the House shall meet prior to June 12 if it appears to the satisfaction of the Speaker, after consultation with the Premier, that the public interest requires that the House meet;

THAT the Speaker give notice that he is so satisfied, and thereupon the House shall meet at the time stated in such notice and shall transact its business as if it had been duly adjourned to that time; and

THAT, if the Speaker is unable to act owing to illness or other causes, the Deputy Speaker shall act in his stead for the purpose of this order. (*Hansard* 1070; *Journals* 87-88)

### **Amendments in and out of order**

*House of Commons Procedure and Practice* says, “A motion in amendment arises out of debate and is proposed either to modify the original motion in order to make it more acceptable to the House or to **present a different proposition as an alternative to the original.**”<sup>4</sup> In that sense changing the intent of a motion is in order. Where changing the intent is not in order is where an amendment “is a direct negative of the main motion and would produce the same result as the defeat of the main motion.”<sup>5</sup>

On March 12, 2003 Patrick Rouble (Southern Lakes, Yukon Party) moved an amendment to Motion No. 6 standing in the name of the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP). As Mr. Rouble spoke to the amendment Eric Fairclough (Mayo-Tatchun, NDP) raised a point of order. Mr. Fairclough argued that the proposed amendment “should be ruled out of order” because the intent of the motion would be substantially changed should the amendment be adopted. The government House leader, hon. Peter Jenkins (Klondike, Yukon Party), argued the proposed amendment was “consistent” with others proposed “on previous occasions.”

The Speaker, hon. Ted Staffen, ruled that there was no point of order. In doing so he said Mr. Fairclough had not provided enough detail to convince him that the intent had been changed.

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<sup>4</sup> *House of Commons Procedure and Practice* page 452 (emphasis added)

<sup>5</sup> *House of Commons Procedure and Practice* page 453

The Speaker also added that to the extent that the amendment may have changed the intent of the motion this was consistent with past practice in the Assembly. (*Hansard* 221)

### **Assent**

Assent is the final stage in a bill becoming law. The Assent ceremony illustrates the agreement reached by the two components of the Legislature: The Commissioner and the Legislative Assembly. The Legislative Assembly has indicated its support for a bill by agreeing to a motion that a bill 'be now read a third time and do pass.' Once the Commissioner indicates his support by granting Assent the bill becomes law. The only remaining detail is the date on which the bill comes into force. This provision is enumerated in the bill.<sup>6</sup>

During the 2003 Spring Sitting the Commissioner entered the Chamber on three occasions to grant assent to eighteen bills that had passed the Assembly. Assent was granted to the following bills on the following dates:

- **March 20, 2003:** *Interim Supply Appropriation Act, 2003-04; Placer Mining Act; Quartz Mining Act; Territorial Lands (Yukon) Act; Waters Act; and Environmental Assessment Act.* (*Hansard* 363; *Journals* 38)
- **April 7, 2003:** *First Nation Indemnification (Fire Management) Act; Act to Amend the Forest Protection Act; and Act to Repeal the Government Accountability Act.* (*Hansard* 667; *Journals* 59)
- **May 1, 2003:** *Act to Amend the Fuel Oil Tax Act; Act to Amend the Income Tax Act; Act to Amend the Territorial Court Act; Act to Amend the Supreme Court Act; Act to Amend the Municipal Act; Fourth Appropriation Act, 2001-02; Third Appropriation Act, 2002-03; Act to Amend the Pioneer Utility Grant Act; and First Appropriation Act, 2003-04.* (*Hansard* 1089; *Journals* 88-89)

### **Bill No. 1, Act to Perpetuate a Certain Ancient Right**

The first bill to be introduced and given first reading when a new legislature convenes is *Act to Perpetuate a Certain Ancient Right*. The purpose of the bill "is to confirm the right of the Legislative Assembly to deliberate upon matters other than those it is summoned to deal with."<sup>7</sup> It is an expression of the freedom of speech claimed for the members by the Speaker in his address to the Commissioner and granted by the Commissioner. The version of this bill used in British Columbia, *An Act to Ensure the Supremacy of Parliament*, says such acts are part of "a tradition that dates back to the reign of Elizabeth I when on March 22, 1603, Parliament first recorded this assertion of independence from the Crown for purposes of legislation."<sup>8</sup>

Bill No.1 was introduced to the Assembly by the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) and given first reading on February 27, 2003 (*Hansard* 5; *Journals* 11) This bill is referred to as a *pro forma* bill because it never advances beyond the introduction/first reading stage.

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<sup>6</sup> Most bills come into force upon assent.

<sup>7</sup> Excerpt from the explanatory note attached to Bill No. 1, *Act to Perpetuate a Certain Ancient Right*, introduced in the Yukon Legislative Assembly on February 27, 2003.

<sup>8</sup> Explanatory note attached to *An Act to Ensure the Supremacy of Parliament* retrieved from [http://www.legis.gov.bc.ca/37<sup>th</sup>3rd/1<sup>st</sup>\\_read/gov01-1.htm](http://www.legis.gov.bc.ca/37<sup>th</sup>3rd/1<sup>st</sup>_read/gov01-1.htm)



### **Charge against another member**

*Beauchesne's Parliamentary Rules & Forms* advises that "In any case where the propriety of a Member's actions is brought into question a specific charge must be made."<sup>9</sup> Furthermore "a direct charge or accusation against a Member may be made only by way of a substantive motion for which notice is required."<sup>10</sup> Such remarks cannot merely be injected in debate.

On April 3, 2003 the Assembly debated Bill No. 27, *Act to Repeal the Government Accountability Act*. During that debate one of the issues raised was that, in introducing its main appropriation act for the 2003-04 fiscal year the government had not met certain requirements contained in the *Government Accountability Act*. The government argued it did not have to meet those requirements given its intention to repeal the act. During debate on Bill No. 27 Gary McRobb (Kluane, NDP) said, "Some of the fallout from this issue...involved breaking the law by every Cabinet minister." At that point the Speaker, hon. Ted Staffen, called for order saying, "The term "breaking the law" in that context is not in order." Mr. McRobb agreed with the Speaker and so withdrew the phrase and replaced it "by saying the actions of Cabinet ministers may not meet the legal requirements of the accountability act." (*Hansard* 618)

### **Committee of the Whole**

#### ***Appropriation bills, procedure on***

Committee of the Whole review of appropriation bills proceeds from general debate on the entire bill, to general debate on individual departments as indicated in Schedule A of the bill. Debate then proceeds to individual line item expenditures enumerated in the budget book that accompanies the bill. The focus of debate are those lines that indicate new appropriations. These require the agreement of members before debate moves to the next line item. Lines that do not involve new appropriations (zero amounts or reductions) can be discussed but do not need to be agreed to by the Committee.

On March 24, 2003 Committee of the Whole considered Bill No. 2, *Third Appropriation Act, 2002-03*. After the Department of Finance had been dealt with the leader of the third party, Pat Duncan (Porter Creek South, Liberal) raised the issue of revenue line items listed in the budget book and whether they would be taken up. The Committee Chair, Patrick Rouble, advised Ms. Duncan that discussion on revenue items is conducted during general debate on departments and are not taken up during line-by-line analysis. (*Hansard* 410)

The Chair made the same point later that day during committee consideration of the estimates for the Executive Council Office in Bill No. 2. During debate the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) concluded his response to a question from Ms. Duncan by referring to, "issues that we can certainly deal with on a line-by-line basis." The Chair intervened at that point indicating that the committee would only be "reviewing those lines that include an expenditure. We will not be reviewing lines that have a zero value or a negative amount. So the appropriate time to discuss those types of issues would be now during general debate." (*Hansard* 411)

During Committee consideration of the estimates for the department of Health and Social Services contained in Bill No. 2 the Chair clarified this practice. He said:

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<sup>9</sup> Alistair Fraser, W.F. Dawson, and John A. Holtby, *Beauchesne's Rules & Forms of the House of Commons of Canada with Annotations, Comments and Precedents* (6<sup>th</sup> edition) (Toronto: The Carswell Company Limited, 1989) §50, page 17.

<sup>10</sup> *House of Commons Procedure and Practice* page 525.

The Chair has reviewed past practices of the House regarding debate and discussion of budget documents. While the purpose of the debate is to approve (new) expenditures, past practices have allowed discussion of budget items of a negative amount or of a non-change. So when we proceed through, line by line, the Chair will provide the opportunity for questions on all budget items, including recoveries. We will deal with recoveries as a general question. (*Hansard* 489)

In referring to recoveries as a general question the Chair meant that each department's recoveries would be dealt with collectively ("Are there any questions on recoveries?"), rather than having the committee go through each recovery listed.

This procedural approach was applied on April 1, 2003 during Committee consideration of capital expenditures for the Department of Community Services in Bill No. 2. At that time Ms. Duncan sought to raise "a question specifically on the land development cost recovery." She then asked the Chair if he wanted her "to wait until we get to that line." (*Hansard* 549) The Chair informed Ms. Duncan that she could proceed with her question immediately. It is also in order to discuss recoveries during general debate on the department. Statistics should also be taken up during general debate. This issue was raised during consideration of the Health and Social Service estimates in bill No.4, *First Appropriation Act, 2003-04*, on April 29, 2003. (*Hansard* 1027)

On April 7, 2003 during general debate on the estimates for the Department of Education in Bill No. 2 Ms. Duncan asked the Minister of Education, hon. Mr. Edzerza (McIntyre-Takhini, Yukon Party) for "a complete list" of various school renovation projects. The minister responded by referring to specific amounts. Due to the specificity of the response the Chair asked if members were prepared to proceed to line-by-line consideration. However in this case the specificity was in the response given, not the question asked. Ms. Duncan indicated her intention to continue with general debate and general debate continued. (*Hansard* 658)

#### ***Clearing lines, procedure for***

During committee consideration of appropriation acts each line for new expenditures in each departmental allocation, as indicated in the budget information book, must be agreed to before debate can proceed to the next line. Agreement is indicated by members saying that the line has 'cleared.'

This procedure became the subject of debate after the Committee Chair, Patrick Rouble, cleared the line 'Oil and Gas Development and Pipeline' during Committee consideration of the estimates for the Department of Energy, Mines and Resources in Bill No. 4, *First Appropriation Act, 2003-04*, on April 14, 2003. At that point Gary McRobb (Kluane, NDP) indicated he had not agreed that the line be cleared. The Chair explained his acceptance that the line had cleared based on the fact that no member had indicated they were prepared to ask a question when he called the line for debate. Mr. McRobb insisted that the Chair wait for an explicit verbal indication from the opposition members that the line had cleared before moving on. While the Chair accommodates members as much as possible there is still the need to ensure debate proceeds expeditiously.

### **Count**

Standing Order 44 describes the procedure for conducting a count in Committee of the Whole. One of the differences between a count and a division (which takes place with the Speaker in the Chair) is that during a count only the aggregate number of members favouring or opposing a proposition is recorded. Members are not polled individually as they are with a recorded division. Also, unlike a division, the result of a count is not recorded in the *Journals*.

The government house leader, Hon. Peter Jenkins (Klondike, Yukon Party), moved a motion to report progress on March 13, 2003 during Committee consideration of Bill No. 5, *Interim Supply Appropriation Act, 2003-04*. The Committee Chair, Patrick Rouble, put the question to the Committee and, upon hearing the 'yeas' and 'nays', declared the motion carried. At that point a division was called for by two members rising simultaneously. The count was conducted and the motion was agreed to. (*Hansard* 259)

On April 17, 2003 Steve Cardiff (Mount Lorne, NDP) moved an amendment to the estimates for Vote 51, Department of Community Services in Bill No. 4, *First Appropriation Act, 2003-04*. When debate on the amendment concluded the Chair put the question to the Committee. A division was called for and conducted. The amendment was defeated. (*Hansard* 866)

### **General debate and line by line consideration**

As indicated below Committee of the Whole has a rule regarding relevancy of debate. Though difficult to apply this rule is needed to organize debate and ensure it proceeds as efficiently as possible.

On March 13, 2003 during general debate on Bill No. 5, *Interim Supply Appropriation Act, 2003-04*, the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), asked the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party), "why is there only \$1 in Economic Development?" At that point the Chair of Committee of the Whole, Patrick Rouble, called for order. Mr. Rouble said the nature of the question indicated a willingness to proceed from general debate to line by line consideration of a specific item as the amount to be appropriated for the Department of Economic Development was listed separately in the schedule to the bill. Mr. Hardy indicated that he did not wish to proceed to line by line and continued with more general questioning of the Premier. (*Hansard* 255)

This issue again arose on March 17, 2003 as general debate on Bill No. 5 continued in committee. This time the Chair intervened during questioning by the leader of the third party, Pat Duncan (Porter Creek South, Liberal), where the Chair believed "the discussion is getting into some specifics about specific votes and specific dollar amounts." In that case Ms. Duncan said her reference to a specific amount was directed toward "the philosophy of putting large amounts in to cover off (a) contract." (*Hansard* 269) The Chair accepted Ms. Duncan's explanation and debate continued.

Later that same day Gary McRobb (Kluane, NDP) entered the debate. He did so by saying, "I have a few questions about the Department of Economic Development and how it's going to be set up." Once again the Chair intervened based on the view that the question could be posed during general debate on that specific department. However Mr. McRobb indicated that his interest was "with what (the government) intends to do in general" in terms of re-establishing the department. As the question was directed to general government policy, and not to a specific allocation, the Chair accepted it as within the rules of procedure. (*Hansard* 271)

During debate on the Public Service Commission estimates in Bill No.4, *First Appropriation Act, 2003-04*, on April 30, 2003 Mr. Hardy asked questions that the Chair considered specific references to line items. Mr. Hardy indicated he did not intend to move to line by line consideration but wished the minister responsible, hon. John Edzerza (McIntyre-Takhini, Yukon Party) to “allow the few questions we have in this department on a couple of items that you consider line items to be answered.” The government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order arguing that “the past practice of the House has been...when the members opposite want to go into detail, then we go into line-by-line.” The Chair ruled there was no point of order but reiterated that the committee was still in general debate on the department. (*Hansard* 1059-1060)

Drawing the distinction between general and specific debate can be difficult for the Chair and members alike. The key distinction for the Chair is to discern whether a member’s question, while referencing a specific item, is intended as part of a more general debate on the issue at hand. Where that is the case debate can continue.

### ***Progress, motion to report defeated***

A motion to report progress in Committee of the Whole is classified as a superceding motion, one that requires no notice and is “proposed with the intention of putting aside further discussion of whatever question is before the House.”<sup>11</sup> If a motion to report progress is agreed to the Committee closes debate on that item of business and either moves on to another piece of business or recalls the Speaker to the Chair.

During Committee of the Whole consideration of Bill No. 2, *Third Appropriation Act, 2002-03*, on March 20, 2003 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) moved that the committee report progress on the bill. The Committee Chair, Patrick Rouble, put the motion to the committee. It was defeated. The Committee then continued with general debate on the bill. (*Hansard* 384)

### ***Progress, motion to report out of order***

Standing Order 43(1) says, “A motion that the Chair do now leave the Chair is always in order, shall take precedence over any other motion, and shall not be debatable.” In practice the motion “that the Chair do now leave the Chair” is the motion to report progress. That is, a motion that the Committee end its consideration of a piece of business and move on to a new piece of business or consider a motion that the Committee resolve out of committee and that the Speaker resume the Chair. Standing Order 43(2) says, “Such motion, if rejected, shall not be moved again until after some intermediate proceeding has taken place.”

During committee consideration of Bill No. 2, *Third Appropriation Act, 2002-03*, on March 24, 2003 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) moved a motion to report progress. The motion was defeated. Later in the same debate the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), attempted to move another such motion. The Chair, Patrick Rouble, pursuant to Standing Orders 43(1) and 43(2) ruled the motion out of order.

As it turned out the Committee was close to the normal hour of adjournment at the time. So though the motion was defeated the Chair took the initiative, at 6:00 p.m., to recall the Speaker to the Chair. However there is some question what would happen if the motion to report

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<sup>11</sup> *House of Commons Procedure and Practice* page 454.

progress had been defeated earlier in the day. One difficulty with these standing orders has to do with the stipulation regarding 'intermediate proceeding.'

*Beauchesne's Parliamentary Rules & Forms* defines this term as meaning "a proceeding that can properly be entered on the Journals."<sup>12</sup> The term does not cover speeches and "is construed as relating to procedure and not to debates."<sup>13</sup> The problem, from the perspective of the Yukon Legislative Assembly, is that the only Committee proceeding entered in the *Journals* is the piece(s) of business considered by the committee and whether progress was reported on it or whether the committee concluded its deliberations. This presents the prospect that once a motion to report progress is defeated members are marooned in Committee until the normal hour of adjournment.

There are ways out of this dilemma, such as the use of Standing Order 14.3 (unanimous consent). However as the rules now stand the defeat of a motion to report progress is potentially problematic.

#### ***Recognition of member by the Chair***

On April 22, 2003 during Committee of the Whole consideration of the appropriations for the Executive Council Office in Bill No.4, *First Appropriation Act, 2003-04*, a point of order was raised regarding comments made by the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party). One member who intervened on the point of order was the government House leader, hon. Peter Jenkins (Klondike, Yukon Party). After his remarks the leader of the third party, Pat Duncan (Porter Creek South, Liberal), questioned whether hon. Mr. Jenkins should have been recognized as he was not in his place at the time. The Chair ruled that in accordance with the less formal atmosphere of Committee of the Whole "members do not have to be in their seat to be recognized." (*Hansard* 893)

#### ***Speeches, length of***

Standing Order 42(3) limits speeches in Committee of the Whole to 20 minutes, though members may enter debate as often as they wish. Committee Chair Patrick Rouble invoked this standing order on March 24, 2003 with the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) speaking in general debate on Bill No. 2, *Third Appropriation Act, 2002-03*. (*Hansard* 393)

#### ***Witnesses, appearing in***

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." This standing order has recently fallen into disuse. Presently the practice is that a motion authorizing the appearance of witnesses must be made in Committee. No notice is required for such a motion.

On April 24, 2003 the government House leader, hon. Peter Jenkins (Klondike, Yukon Party), moved two motions regarding the appearances of witnesses before Committee of the Whole. The motions stipulated who was to appear before the Committee, the date and time at

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<sup>12</sup> *Beauchesne's* §385(1), page 112.

<sup>13</sup> *Beauchesne's* §385(2), page 113.

which they were to appear, and for how long. Both motions were agreed to without debate. (*Hansard* 940; *Journals* 79-80)

### **Correcting the record**

At the conclusion of debate on the motion for second reading of Bill No. 25, *Waters Act*, on March 13, 2003 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) rose on a "point of privilege." Ms. Duncan said, "Mr. Speaker...the record must state correctly...what I said...I'm sorry. I believe the Premier has erred in his statement on the record, and on a point of privilege, it should be recorded correctly, Mr. Speaker." (*Hansard* 246)

The Speaker did not rule on the matter and the motion for second reading of Bill No. 25 was subsequently agreed to. Parliamentary procedure does allow for members to rise on a point of personal privilege to, among other things, correct their own statements.<sup>14</sup> There is no procedural outlet that allows members to correct statements by other members.

On March 20, 2003 during general debate in Committee of the Whole on Bill No. 2, *Third Appropriation Act, 2002-03* Ms. Duncan rose on a point of order following comments by the Premier and Finance Minister, hon. Mr. Fentie (Watson Lake, Yukon Party). Ms. Duncan referred to the Premier's comments and said, "I'm sure it is not the Finance minister's intention to mislead. I think he has made an error in his comments and I would just invite him to examine that." The Committee Chair ruled there was no point of order. (*Hansard* 374)

A similar ruling was made regarding a point of order raised by Gary McRobb (Kluane, NDP) on May 1, 2003. (*Hansard* 1080) As the Chair has no way of verifying the facts presented by members, correcting the record is never a point of order but is taken simply as a dispute between members.

### **Division**

#### ***Calling for division***

Standing Order 25(1)(a) indicates that for a recorded division to be called "two members (must) rise in their places and say "division.""

This rule came into play on March 20, 2003 after the Assembly concluded debate on the motion for second reading of Bill No.2, *Third Appropriation Act, 2002-03*. When the Speaker, hon. Ted Staffen, asked the members if they were prepared for the question division was called for. Though two members did rise, the Speaker determined that one member was not in his or her place. The Speaker again put the question to the House. Division was again called for, this time in accordance with Standing Order 25(1)(a), and the division was proceeded with. (*Hansard* 367)

#### ***Correction of the count***

On April 3, 2003 a division was called for once members had indicated they were prepared for the question on the motion for second reading of Bill No. 27, *Act to Repeal the Government Accountability Act*. Having polled the House the Clerk of the Legislative Assembly announced the results as "nine yea, six nay." At that point the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order saying, "I believe the count is incorrect. I believe the Member for Mayo-Tatchun said, "Agree." The Speaker, hon. Ted Staffen, then asked the Member for Mayo-Tatchun, Eric Fairclough (NDP), if he had voted in favour of the second reading motion. Mr. Fairclough said he had, making him the only opposition member to vote in favour of the motion. The Clerk then announced the corrected count. (*Hansard* 621)

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<sup>14</sup> *House of Commons Procedure and Practice* page 137.

### **Documents, tabling of**

Standing Order 38(1) says, "Any return, report or other paper required to be tabled in the Assembly in accordance with an Act or pursuant to any resolution or Standing Order of this Assembly shall be tabled during Tabling Returns and Documents." Required tablings are entered into the Assembly's working papers as 'Sessional Papers.' The following documents are among the required tablings tabled pursuant to this standing order during the 2003 Spring Sitting:

- March 4, 2003: Hon. Archie Lang, Minister responsible for the Yukon Development Corporation/Yukon Energy Corporation, tabled the 2001 annual report of the Yukon Development Corporation and Yukon Energy, and 2001 annual report for the Energy Solutions Centre, pursuant to section 19 of the *Yukon Development Corporation Act*. (*Hansard* 43; *Journals* 15)
- March 11, 2003: Hon. John Edzerza, Minister of Education, tabled the 2001-02 Public Schools Branch Annual Report, pursuant to section 5(b) of the *Education Act*. (*Hansard* 165; *Journals* 23)
- April 7, 2003: Hon. Glenn Hart, minister responsible for the Yukon Liquor Corporation, tabled the Yukon Liquor Corporation 2001/02 Annual Report, pursuant to section 14 of the *Liquor Act*. (*Hansard* 641; *Journals* 58)

Other required tablings were tabled by the Speaker (see Presiding Officers, tabling by). The complete list of Sessional Papers tabled during the 2003 Spring Sitting can be found in the *Hansard* index at pages xiv-xv and in the *Journals* index at pages 17-19.

Standing Order 38(2) allows members to table documents "for the information of members." Such documents are tabled either in support of arguments made in debate or because members believe the information contained in them should be public knowledge. These documents are entered into the Assembly's working papers as 'Filed Documents.' The complete list of Filed Documents tabled during the 2003 Spring Sitting can be found in the *Hansard* index at page xv and in the *Journals* index at page 11.

Sometimes members will, during the course of debate, use documents that have not been tabled. 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. *House of Commons Procedure and Practice* advises that "where information is given to the House, the House itself is entitled to the same information as the honourable member who may quote the document."<sup>15</sup> In the Yukon Legislative Assembly this only applies to private correspondence not available to members by other means. Documents in the public domain or that are otherwise in the possession of members need not be tabled.

### **Government Business, calling of**

Standing Order 12(2) says, "When government business has precedence, that business may be called in such sequence as the government chooses." *House of Commons Procedure and Practice* affirms this rule as a general practice, adding "On occasions when the Opposition has protested a change in the projected order of business for a specific sitting day, the Chair has

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<sup>15</sup> *House of Commons Procedure and Practice* page 518.

reminded Members of the government's prerogative."<sup>16</sup> The control the government has in calling its business is also reiterated in *Beauchesne*.<sup>17</sup>

On March 5, 2003 the Minister of Environment, hon. Jim Kenyon (Porter Creek North, Yukon Party), moved Government Motion No. 5. Immediately after the motion was read from the Chair the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order. Mr. McRobb requested "some clarification" from the Chair "about the appropriateness of the government calling this motion without identifying it in advance in this House." Mr. McRobb's concern was that this practice "seriously limits the ability of opposition MLAs to prepare for meaningful and constructive debate" on issues he characterized as "important" to all Yukoners, "complex" and "serious."

In response the government House leader, hon. Peter Jenkins (Klondike, Yukon Party), noted that government motions are identified in advance in that they appear on the Order Paper every sitting day. The leader of the third party, Pat Duncan (Porter Creek South, Liberal), pointed to the practice that government business is identified at the House Leaders meeting on sitting days. Hon. Mr. Jenkins argued that such advance notice was given at the House leaders meeting that morning.

The Speaker, hon. Ted Staffen, ruled that Standing Order 27(1)(g) required that before a substantive motion, like Motion No. 5

can be called for debate, it must appear on the Notice Paper for a day. In the case of government motions, they are then moved to the Order Paper and may be called at any time under government-designated business. The House leaders may have certain understandings about how the business is to be called, but those are between the House leaders and do not enter into the Speaker's domain. In conclusion, Motion No. 5 meets the requirements of the rules in reference to notice and the manner in which it has been called for debate.

The motion is before the House, and the Minister of Environment has the floor.  
(*Hansard* 100-101)

One anomaly in this case was that the event occurred on a Wednesday. The standing orders reserve Wednesdays for private members' business. However on Tuesday, March 4, this day was identified as a day for consideration of the Address in Reply to the Speech from the Throne. This consideration had concluded immediately before Motion No. 5 was called.

The Speaker's ruling also clarified that procedurally the government is under no obligation to identify which item of its business standing on the Order Paper it intends to call on a day designated for government business. This is in contrast to Standing Order 14.2 that says private members' business (government or opposition) must be identified on the sitting day immediately preceding the call of private members' business.

Mr. McRobb raised a similar point of order at the beginning of Committee of the Whole proceedings on March 13, 2003. Mr. McRobb objected to the fact that neither opposition House leader had been "advised that we would be going into Committee on any bills this afternoon." Mr. McRobb argued that one purpose of the daily House leaders meeting "is to establish the items to be dealt with in the afternoon in this Assembly." In this case, he argued, the actions of

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<sup>16</sup> *House of Commons Procedure and Practice* pages 406-407.

<sup>17</sup> See §372, page 111.



the government House leader contradicted the information given at the House leaders meeting which only dealt with certain bills being called for second reading. Mr. McRobb also stated that the government House leader “failed to provide us with a document of the bills to be dealt with this afternoon, as agreed in this morning’s House leaders’ meeting.”

Ms. Duncan also intervened on the point of order repeating that opposition House leaders had been “expressly advised that we would not be resolving into Committee of the Whole today.” In response hon. Mr. Jenkins said that he had requested an agreement to adjourn the sitting day at 5:00 p.m. so members could attend a reception with visiting dignitaries. He also said he “clearly indicated” the bills that would be dealt with that day. Hon. Mr. Jenkins also said he did not receive information he had requested from opposition House leaders, specifically how much time they felt would be required to deal with various bills. Hon. Mr. Jenkins also said that given that the House had dealt with all the designated bills at second reading it was logical that the House would proceed to Committee of the Whole rather than adjourning for the day.

Mr. McRobb re-entered the debate on the point of order suggesting that the parties agree “to a special two-hour evening sitting in one week’s time” in order to “make up for the two hours of business lost today...”

The Committee Chair, Patrick Rouble, ruled that there was no point of order as “The manner in which this House resolved into Committee of the Whole conform(ed) to the Standing Orders.” He added that “the interaction among the House leaders is among them. It is not an area in which the Chair has a responsibility to rule or to determine.” The Committee then proceeded to deal with Bill No. 5, *Interim Supply Appropriation Act, 2003-04 (Hansard 251-252)*

### **Interrupting a member speaking**

Standing Order 6(6) says, “When a member is speaking, no member shall interrupt, except to raise a point of order or a question of privilege.”

On April 23, 2003 the Minister of Environment, hon. Jim Kenyon (Porter Creek North, Yukon Party) addressed the Assembly during debate on Motion No. 80. At one point when his comments elicited responses from the opposite side of the Chamber hon. Mr. Kenyon raised a point of order asking the Speaker, hon. Ted Staffen, to rule who had the floor. The Speaker ruled that hon. Mr. Kenyon had the floor and asked “members opposite to keep the chatter down, please.” (*Hansard 928*) Hon. Mr. Kenyon soon concluded his remarks.

But just as Standing Order 6(6) prohibits members from interrupting a member who has the floor, it also allows members to do so if they have a point of order or question of privilege to raise. The Presiding Officers had to remind the Assembly of this fact on a few occasions during the 2003 Spring Sitting

During Committee of the Whole on March 27, 2003 Hon. Peter Jenkins (Klondike, Yukon Party) made certain remarks that caused the leader of the third party, Pat Duncan (Porter Creek South, Liberal) to raise a point of order, arguing that the government House leader was casting aspersions on her. The Committee Chair, Patrick Rouble, ruled there was no point of order. After the ruling hon. Mr. Jenkins said, “As I was saying before I was so rudely interrupted...” At that point the Chair intervened saying, “If a member wishes to call a point of order, a member is certainly entitled to do that.” (*Hansard 492*)

During debate on Motion No. 12 on April 2, 2003 the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) raised a point of order during remarks by Gary McRobb (Kluane, NDP). The Speaker, hon. Ted Staffen, ruled that there was “no point of order, simply a dispute between members.” In resuming his speech Mr. McRobb said, “That was merely a rude

interruption from the Premier.” The Speaker then intervened saying, “To characterize an interruption as rude is unparliamentary, and I’d ask that you withdraw that.” Mr. McRobb withdrew the remark. (*Hansard* 594)

During Committee of the Whole consideration of Bill No. 4, *First Appropriation Act, 2003-04*, on April 7, 2003 Mr. McRobb rose on a point of order during remarks by hon. Mr. Jenkins wherein hon. Mr. Jenkins cautioned the opposition regarding the amount of time left to debate the budget. Mr. McRobb argued that hon. Mr. Jenkins was wasting time. The Chair ruled that there was no point of order. Thereafter hon. Mr. Jenkins said, “we were just rudely interrupted.” At that point Mr. McRobb raised a point of order regarding the manner in which his intervention had been characterized. The Chair ruled with Mr. McRobb saying, “It’s not out of order to raise a point of order.” (*Hansard* 666)

During committee consideration of a proposed amendment to the estimates for Vote 51, Department of Community Services in Bill No. 4 hon. Mr. Jenkins raised a point of order regarding the relevance of comments made by Steve Cardiff (Mount Lorne, NDP). The Chair ruled there was no point of order. Subsequently Mr. Cardiff said, “That was nice to be interrupted right at the end of what I was saying.” The Chair reminded the House that “it is entirely appropriate for a member to raise a point of order if a member does so wish.” (*Hansard* 866)

The point made in these rulings is that members are free to raise points of order. As this is completely within the rules of debate their interventions should not be characterized as “interruptions”, rude or otherwise.

#### **Languages, other than English, use of**

The working language of the Yukon Legislative Assembly is English. Simultaneous translation in other languages is not provided. Members are free, however, to speak in other languages if they so choose.

On March 5, 2003 during the Address in Reply to the Speech from the Throne hon. Glenn Hart (Riverdale South, Yukon Party) made a few remarks in French. These remarks appear in French in the Hansard text as the translation was provided to Hansard. (*Hansard* 91-92)

On two occasions Lorraine Peter (Vuntut Gwitchin, NDP) spoke in Gwitchin and the text appears in the transcript in that language. The first occasion was a tribute in recognition of First Nations leadership delivered on March 13, 2003 (*Hansard* 232). The second was on April 22, 2003 during debate on the appropriations for the Executive Council Office in Bill No.4, *First Appropriation Act, 2003-04*. (*Hansard* 891)

It is not necessary to provide translations for certain common words and phrases from languages other than English. Words such as ‘merci’ and ‘mahsi cho’ appear in *Hansard* as spoken.

There were two occasions during the period covered by this report when non-members addressed the Assembly in a language other than English. On February 27, 2003 Sam Johnston, former MLA and Speaker of the Yukon Legislative Assembly, was invited to give the prayer at the opening of the new legislature. Some of Mr. Johnston’s remarks were delivered in Tlingit. As no translation was provided to the Hansard office the following notation appeared in the transcript: [*Member spoke in native language. Translation unavailable.*](*Hansard* 5) A similar event occurred on June 12, 2003, during the special sitting in Mayo, when Jimmy Johnny, head of the Elders Council of the First Nation of Na Cho Nyäk Dun, gave the opening prayer in

Northern Tutchone. Once again the *Hansard* notation read [Mr. Johnny gives the invocation in his native language. Translation unavailable.]

### **Members, references to**

*Beauchesne's Parliamentary Rules & Forms* advises, "It is the custom in the House that no Member should refer to another by name." Instead Members should identify one another by the constituency they represent, or the ministerial portfolio or other office they hold (premier, leader of the official opposition, House leader, etc.).<sup>18</sup>

During Question Period on March 6, 2003, in response to a question from Gary McRobb (Kluane, NDP) regarding communications infrastructure, hon. Mr. Hart (Riverdale South, Yukon Party) used the phrase, "as you probably heard in Mr. Cathers' responses." The Speaker, hon. Ted Staffen, reminded hon. Mr. Hart to refer to the member in question as the Member for Lake Laberge. (*Hansard* 117)

During Question Period on March 31, 2003 Mr. McRobb made reference to the government having "115 days to get its house in order before coming into this Legislature. I remember the Piers McDonald government had less than 60 days. The Pat Duncan government had the same." At that point the Speaker intervened and asked Mr. McRobb to "not mention the leader of the third party by name." (*Hansard* 518) Mentioning the former government leader, Mr. McDonald, by name was acceptable since he is no longer a member of the Assembly.

During debate on Motion No. 56 on April 23, 2003 the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP) opened his speech saying, "I seem to have adopted a deep voice, like Brad (Cathers, the Member for Lake Laberge) sometimes adopts. Mine is based on my cold, though, so please bear with me." At that point the Speaker intervened saying, "it's not appropriate to mention a member by name... Voice tone is fine; the name is not appropriate." Mr. Hardy apologized adding, "I am out of line on that. I thought I was in my living room or something." (*Hansard* 909)

### **Members of the public, references to**

*House of Commons Procedure and Practice* advises the following as the established practice regarding references by name to members of the public:

Members are discouraged from referring by name to persons who are not Members of Parliament and who do not enjoy parliamentary immunity, except in extraordinary circumstances when the national interest calls for the naming of an individual. 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.<sup>19</sup>

Essentially this practice is designed to ensure the member's parliamentary privilege of freedom of speech is used judiciously and not to the disadvantage of persons who do not enjoy a similar privilege. It does not prevent a member from bringing up an issue of public importance. It only cautions the member about naming individuals involved in the issue.

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<sup>18</sup> *Beauchesne's* §484(1), page 142.

<sup>19</sup> *House of Commons Procedure and Practice*, page 524.

On March 24, 2003, during debate on the appropriations for the Executive Council Office in Bill No. 2, *Third Appropriation Act, 2002-03*, the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) and the leader of the third party, Pat Duncan (Porter Creek South, Liberal) discussed the issuance of sole-sourced government contracts. In reference to decisions taken when Ms. Duncan was premier Premier Fentie asked, "Does the famous Mr. Almstrom and the \$377,000 of contracts issued – was that an employee or was that a contractor?" Subsequently the Committee Chair, Patrick Rouble, intervened saying he was "not comfortable with individuals being named, and I would strongly caution members from going down that avenue." (*Hansard* 413)

During Question Period on April 2, 2003 Ms. Duncan prefaced her main question by saying, "yesterday in this House we learned that the government had rewarded, through appointment, a long-time Yukon Party friend...Today I have some questions for the Premier relating to contracts issued to another of the very good friends, former Yukon Party candidate Lynn Ogden..." At that point the Speaker, hon. Ted Staffen, called for order and asked Ms. Duncan "not to name individuals who cannot defend themselves in the House, please." Ms. Duncan explained that "These are names that are on the contract. I don't have a business name." (*Hansard* 576) While this can make it difficult for members to be specific in posing questions, the prohibition against naming persons who cannot defend themselves must be adhered to.

#### **Ministers, references to**

*Beauchesne's Parliamentary Rules & Forms* advises that "A Minister is normally designated by the portfolio held."<sup>20</sup> The most common violation of this rule comes in the form of referring to the Minister by name, rather than portfolio.

During general debate in Committee of the Whole on Bill No. 2, *Third Appropriation Act, 2002-03* on March 20, 2003 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) made reference to "the Commissioner's warrant passed by Mr. Fentie's government." The Committee Chair, Patrick Rouble, asked Ms. Duncan to "refrain from speaking of a member in here by name." (*Hansard* 380)

During debate on Motion No. 12 on April 2, 2003 hon. Archie Lang (Porter Creek Centre, Yukon Party), in discussing why he entered politics said, "I was asked by the Premier, Mr. Fentie..." The Speaker, hon. Ted Staffen, asked hon. Mr. Lang to not name members of the Assembly. (*Hansard* 586)

During debate on Motion No. 54 on April 23, 2003 the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP) quoted from a report which read, "An ongoing slump in resource sectors have (*sic*) forced the economy to depend on government spending, a trend Mr. Dennis Fentie says can't continue." At that point the Speaker asked Mr. Hardy to "Please refer to the member as the Premier and not by name." Mr. Hardy replied that he "assumed that when (he) was quoting something, (he) had to read the whole thing." (*Hansard* 933) In fact members have to ensure that they adhere to proper form at all times. If they are quoting from a text that violates proper form, either by naming members or containing unparliamentary language, they must paraphrase the material to remove any offending parts.

A related issue is the manner in which members refer to government departments. During Question Period on April 29, 2003 Mr. Hardy referred, in his main question, to "the phantom Department of Economic Development." After he concluded his question the Speaker intervened

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<sup>20</sup> *Beauchesne's* §484(1), page 142.

and asked Mr. Hardy to not use the term “phantom department” and instead refer to the department by its proper name. (*Hansard* 1005)

### **Moment of silence**

Tributes are the first item of business in the Daily Routine, as outlined in Standing Order 11(2). Occasionally tributes given in the Assembly include a moment of silence. The placement of the moment of silence can be problematic, however, if more than one member wishes to participate in the tribute.

On April 28, 2003 hon. Mr. Hart (Riverdale South, Yukon Party) rose in recognition of Workers’ Day of Mourning for those workers killed or injured on the job. Following contributions by Steve Cardiff (Mount Lorne, NDP) and the leader of the third party, Pat Duncan (Porter Creek South, Liberal), hon. Mr. Hart again rose and requested the Speaker’s permission “to allow the members gathered here to rise and remember workers and their families in a moment of silence.” The Assembly then observed a moment of silence. (*Hansard* 967; *Journals* 81)

### **Motions**

#### ***For the production of papers***

Standing Order 14 mentions motions for the production of papers as an item of private members’ business and allocates it a place in the order of business on those days when private members’ business has precedence. However the Standing Orders do not discuss such motions in detail. Pursuant to Standing Order 1, therefore, the House refers to the practice of the House of Commons of Canada in determining how to deal with such motions.

*House of Commons Procedure and Practice* advises that the basic purpose of notices of motion for the production of papers is to allow members to request “that the government compile or produce certain papers or documents and table them in the House.”<sup>21</sup> In the Yukon Legislative Assembly the process for calling such motions for debate is the same as that for calling private members’ substantive motions. If a motion for the production of papers is adopted it becomes an order of the House; that is, the government must comply with the request made in the motion.

Fourteen notices of motion for the production of papers, all by opposition members, were given during the 2003 Spring Sitting. None of these notices were called for debate.

#### ***Withdrawal from the Order Paper***

According to *Beauchesne’s Parliamentary Rules & Forms*, “It is the Speaker’s duty to call the attention of the mover and of the House to the irregularity of a motion; whereupon the motion is usually withdrawn or so modified as to be no longer objectionable.”<sup>22</sup>

Motions may become irregular for a variety of reasons. The most unusual reason in the 2003 Spring Sitting had to do with changes to the *Yukon Act*. On March 3, 2003 the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) gave written notice of Government Motion No. 3 regarding appointments to the Advisory Committee on Finance. Such appointments were required pursuant to section 14 of the *Yukon Act*. However this committee ceased to exist once the new *Yukon Act* came into force on April 1, 2003. As the appointments were no longer required the motion was outdated. On April 10, 2003 the Speaker, hon. Ted Staffen, ordered that Motion No. 3 be removed from the Order Paper. (*Hansard* 737)

<sup>21</sup> *House of Commons Procedure and Practice* page 398

<sup>22</sup> *Beauchesne’s* §566(3), page 174-175.

It is not out of order to have two or more similar motions on the order paper at the same time. However, once one is decided upon (agreed to or defeated) the other is, or others are, dropped from the Order Paper as it is accepted that the House has decided upon the question. Removing motions from the Order Paper in this way does not require the unanimous consent of the Assembly, only an order from the Speaker. Unanimous consent is required where a member wishes to have one of his or her motions withdrawn from the Order Paper.

On March 11, 2003 the Speaker ordered Motion No. 5, standing in the name of the Minister of Environment, hon. Jim Kenyon (Porter Creek North, Yukon Party), dropped from the Order Paper. The reason was that the motion was "similar in intent and subject matter to Motion No. 41, which (had) just been adopted by this House." (*Hansard* 174; *Journals* 24)

On April 24, 2003 the Speaker ordered the withdrawal of Motions No. 92 and 93 for similar reasons. The Speaker said

Members will be aware that Motion No. 92 and Motion No. 93 on today's Notice Paper relate to calling witnesses from the Yukon Workers' Compensation Health and Safety Board and the Yukon Development Corporation to appear before the Committee of the Whole. The House has heard in today's report from the Chair of Committee of the Whole that the Committee has dealt with the calling of the witnesses proposed in Motion No. 92 and Motion No. 93. The Chair therefore orders that Motion No. 92 and Motion No. 93 not be transferred from the Notice Paper to the Order Paper. (*Hansard* 965; *Journals* 80)

#### **Opening day of a new legislature**

On February 27, 2003 the 31<sup>st</sup> Legislature gathered for the first time following the general election of November 4, 2002.

There are a number of unique events associated with the opening of a new legislature. The day begins with a proclamation from the Commissioner, read by the Clerk of the Legislative Assembly, Patrick L. Michael, summoning the members to meet in the Legislative Assembly Chamber. Once the proclamation is read the Clerk reads a report to the Assembly on the members elected, enumerating the electoral districts they represent and their names. At that point the Commissioner enters the Chamber with his aides-de-camp. However the Clerk informs the Assembly that the Commissioner will not address the Assembly until the Assembly has elected a Speaker. The Speaker is then elected by a motion moved by the Premier. Having been elected the Speaker addresses the Assembly. At that point the Clerk leaves the Chamber to get the Commissioner who returns to the Assembly. The Speaker then addresses the Commissioner claiming for the members "their undoubted rights and privileges, especially freedom of speech in their debates, access to your person when necessary, and your favourable consideration of their proceedings." The Commissioner then responds wherein he accedes to the claim made by the Speaker on behalf of the members and "grant(s) and allow(s) the Assembly's constitutional privileges." The Commissioner then delivers the Speech from the Throne.

After the Speech from the Throne is delivered the House may be called to order. On February 27, 2003 the House was not called to order immediately. This was delayed so a former member and Speaker, Mr. Sam Johnston, could deliver the prayer from the floor of the House. At the conclusion of prayers the Speaker, hon. Ted Staffen, called the House to order and began a modified daily routine. First was the introduction of pages, followed by the introduction of bills. Only one bill, Bill No.1, *An Act to Perpetuate a Certain Ancient Right*, was introduced. (*Hansard* 5; *Journals* 11) The House then proceeded to the tabling of the Speech from the

Throne after which the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) moved that the speech be considered on a day following. After that motion was agreed to the government House leader. Hon. Peter Jenkins (Klondike, Yukon Party), informed the House that consideration of an Address in Reply to the Speech from the Throne would begin on Monday, March 3, 2003. The House then proceeded to Notices of Motion, with one notice being given. The government House leader then moved the adjournment of the House. This motion was agreed to and the House stood adjourned until Monday, March 3, 2003. (*Hansard* 6; *Journals* 11)

For more detail regarding the opening of a new legislature see the entries in this report for 'Presiding officers, election of the Speaker'; 'Presiding Officers, Speaker's address to the Commissioner'; 'Bill No. 1, *Act to Perpetuate a Certain Ancient Right*'; and 'Speech from the Throne.'

### **Petitions**

A petition must be presented to the Assembly by a Member of the Legislative Assembly during a sitting day. In doing so the member is answerable for any improper material in the petition. A member presenting a petition must endorse it either by signing the petition or by signing a statement stating that the petition contains "proper matter for consideration by the Yukon Legislative Assembly."

A petition can be presented in two ways. A member may send the petition to the Clerk's Table at any time during the sitting day. Or a member may present a petition during that part of the daily routine called 'Petitions.' If a member presents a petition in this way he or she may make a brief statement about the petition, including the subject of the petition, the number of signatures, and the redress requested by the petitioners. The member presenting the petition can not make any statement in favour of, or against, the petition as there is no debate allowed at this time.

A petition must be addressed to the Legislative Assembly, state a grievance and ask the Assembly to do something. A petition can be printed or hand written, but the signature of at least three petitioners must be on the sheet that contains the statement of grievance. The petition must contain original signatures (not photocopies), but petitioners do not have to give their address, phone number or other contact information. Petitions do not have to be dated.

### ***Non-conforming***

A petition that does not conform to the above rules can still be tabled in the House. However, non-conforming petitions are not formally received by the Assembly. As such, ministers are not obliged to respond to non-conforming petitions. Two non-conforming petitions were tabled during the 2003 Spring Sitting.

On March 20, 2003 Steve Cardiff (Mount Lorne, NDP) tabled "a non-conforming petition containing 490 signatures of Yukoners opposed to the Whitehorse Copper land development and a brief statement of their concerns." (*Hansard* 358; *Journals* 37)

On April 1, 2003 Eric Fairclough (Mayo-Tatchun, NDP) tabled "a non-conforming petition signed by 470 Dawson City residents asking the Minister of Health and Social Services to reinstate full funding to the Dawson Shelter Society." (*Hansard* 543; *Journals* 50)

### ***Received***

Standing Order 66(1) says

extraneous comments made during a point of order.” The Chair added that “making a personal attack is clearly out of order and I would ask that the member withdraw the remark.” Hon. Mr. Jenkins initially appeared confused as to what comment had drawn the ire of the Chair but subsequently stated, “That the member is not conforming to the standards set in the Legislature. If it does not meet with the Chair’s approval — I withdraw the remark, Mr. Chair.” The Chair then concluded that he had heard hon. Mr. Jenkins’ remark as “an unqualified withdrawal.” Mr. McRobb however expressed his view that “the record will show that it was a qualified apology by the Member for Klondike.” He then went on to say, “but we, on this side, have learned not to expect much more from that member so we’ll just ignore him and move on to much more constructive matters, Mr. Chair, and perhaps over the summer he can review the House rules so that he understands where he went wrong.” (*Hansard* 1082-1083)

In this particular case one member (hon. Mr. Jenkins) made extraneous comments during the original point of order (regarding Mr. McRobb’s appearance) and another member (Mr. McRobb) made extraneous comments regarding the ruling of the Chair and hon. Mr. Jenkins. Neither type of comment is in order.

### **Sitting days, number of**

On November 19, 2001, pursuant to an all-party agreement, the Assembly adopted Government Motion No. 169. In so doing the Assembly amended the standing orders by adding Chapter 14 which outlines, among other things, a procedure whereby members would determine the length of each sitting. These new standing orders were first used in the 2002 Spring Sitting.

Standing Order 75(2) says

When the Government has introduced all legislation, including appropriation bills, to be dealt with during a Sitting, the House Leaders shall meet for the purpose of achieving agreement upon the number of sitting days for that Sitting. The minimum number of sitting days for any Sitting shall be 20. The maximum number of sitting days for any Sitting shall be 40.

Pursuant to Standing Order 74 the government tabled all bills to be dealt with during the 2003 Spring Sitting by the fifth sitting day, March 6, 2003. The House leaders then met to determine the number of sitting days to be allotted to the 2003 Spring Sitting.

Standing Order 75(4) says “The Government House Leader shall inform the Assembly of the results of the House Leaders’ meetings, held pursuant to Standing Order 75(2), within two sitting days of all Government legislation having been introduced.” Pursuant to this standing order the government House leader, hon. Peter Jenkins (Klondike, Yukon Party), informed the Assembly on March 11, 2003 that the House leaders had agreed that the Sitting would last 36 sitting days.

Having received the government House leader’s report the Speaker, hon. Ted Staffen, ruled that the sitting would last 36 sitting days, the last sitting day being May 1, 2003. (*Hansard* 170; *Journals* 23)

### **Special Sitting in Mayo**

On June 12, 2003 the Legislative Assembly held a special sitting in Mayo to commemorate that village’s centenary. This sitting marked the first time (as far as can be determined) that the



Assembly had convened in a Yukon community other than Whitehorse or Dawson City, which was the territorial capital until 1953.

As this was a special sitting the order of business also deviated from the normal routine. The evening sitting began with a prayer offered in Northern Tutchone by Mr. Jimmy Johnny, head of the Elders Council of the First Nation of Na Cho Nyäk Dun. (*Hansard* 1091; *Journals* 90) The Speaker, hon. Ted Staffen, then introduced special guests including Her Worship Shanon Cooper, Mayor of the Village of Mayo; Chief Steven Buyck of the First Nation of Na Cho Nyäk Dun; and the Consul-General of France, Jean-Yves Defay. The Speaker also gave a special introduction for Mrs. Jean Gordon, former member for Mayo and the first woman elected to the Yukon Territorial Council, as the legislative assembly was known when she was elected on September 11, 1967. (*Hansard* 1091; *Journals* 90)

The special sitting also received a special order paper. There was no daily routine. The only piece of business to be taken up was, appropriately enough, Motion No. 100, standing in the name of Eric Fairclough, the Member for Mayo-Tatchun (NDP). The motion read:

THAT the Speaker of the Yukon Legislative Assembly, through the Mayor of the Village of Mayo and the Chief of the First Nation of Na Cho Nyäk Dun, forward the following address to the people of Mayo:

WHEREAS the people of Mayo celebrated the 100<sup>th</sup> anniversary of the creation of the Village of Mayo on June 3, 2003;

WHEREAS the history and heritage of Mayo, including both its land and its people, should be recognized and valued; and

WHEREAS the lives, traditions and cultures of the people of the First Nation of Na Cho Nyäk Dun and of all others who have come to this land deserve honour and respect;

NOW THEREFORE BE IT RESOLVED THAT the Yukon Legislative Assembly, on behalf of all Yukoners, congratulates the people of Mayo on the occasion of the 100<sup>th</sup> anniversary of the creation of the Village of Mayo. (*Hansard* 1091; *Journals* 90)

The motion passed unanimously.

The House then briefly recessed to hear speeches of welcome from Ms. Cooper and Chief Buyck. One point of procedural interest came at the end of the recess when the Assembly was supposed to proceed to the adjournment motion. Before the Speaker could call the House to order Mrs. Gordon rose on a point of order and asked for leave to address the Assembly. Despite the unorthodox nature of the request the Speaker quickly offered Mrs. Gordon the floor and the Sergeant-at-Arms, Rudy Couture, escorted her to the podium. At the conclusion of her remarks Mrs. Gordon received a standing ovation from the members and spectators.

This was the first time (as far as can be determined) that an individual in the public gallery had successfully raised a point of order and thereby gained the floor. The Table Officers have not yet catalogued the numerous Standing Orders and established practices breached by this action. However, the consensus at the Table is that this shall not serve as a precedent.

Following the remarks by Mrs. Gordon the Speaker called the House to order. The government House leader, hon. Peter Jenkins (Klondike, Yukon Party), then moved a special adjournment motion:

granted. The committee then moved on to dealing with the capital expenditures in Bill No. 5. (*Hansard* 274)

#### *To waive notice*

Standing Order 27 deals with the notice required for the consideration of various kinds of motions. Substantive motions, those “used to elicit an opinion or action of the House”<sup>29</sup>, are covered under Standing Order 27(1)(g) and require one clear day’s notice. However the House can, by unanimous consent, waive the notice period for a substantive motion.

On March 11, 2003 the government House leader, hon. Mr. Jenkins, requested the unanimous consent of the House to waive the notice provisions so that Motion No. 41, standing in the name of the Premier, hon. Dennis Fentie (Watson Lake, Yukon Party) could be called for debate. Unanimous consent was granted. (*Hansard* 170; *Journals* 23)

#### *To withdraw a subamendment*

On March 19, 2003 hon. Mr. Jenkins proposed an amendment to an amendment to Motion No. 32. Hon. Mr. Jenkins, Ms. Duncan, the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP) and Premier Fentie then spoke to the subamendment. Afterward hon. Mr. Jenkins rose on a point of order and requested the unanimous consent of the committee to withdraw the subamendment. The House agreed to allow the subamendment to be withdrawn. Shortly thereafter the amendment was agreed to, as was the motion as amended. (*Hansard* 350; *Journals* 36)

Though the request was agreed to without controversy, it is not clear that Hon. Mr. Jenkins’ request was in order. It is clear that it is out of order for a member to use a point of order to move the adjournment of debate.<sup>30</sup> A motion (or amendment or subamendment) before the House can be withdrawn upon the request of the mover and with the unanimous consent of the House.<sup>31</sup> However it is not clear that seeking such unanimous consent is properly done as a point of order, or whether the request must be made by a member who has the floor for the purpose of debate. Therefore, it is not clear that hon. Mr. Jenkins could have the floor to make such a request as he had already spoken to the subamendment.

One course of action that would have clearly been in order would have been for the House to call for the question on the subamendment and defeat it, thereby allowing the House to resume debate on the amendment. Should a request such as that of hon. Mr. Jenkins be made again in the future it would have to be assessed on its own merits for as *Beauchesne’s* advises, “Whenever the House proceeds by way of unanimous consent, that procedure does not constitute a precedent.”<sup>32</sup>

#### **Unparliamentary language**

As *House of Commons Procedure and Practice* advises, “By far, the most important right accorded to Members of the House is the exercise of freedom of speech in parliamentary proceedings.”<sup>33</sup> However, this right is limited. Rules against the use of unparliamentary language are one limit on this right.

<sup>29</sup> *House of Commons Procedure and Practice*, page 450.

<sup>30</sup> *House of Commons Procedure and Practice*, page 541.

<sup>31</sup> *House of Commons Procedure and Practice*, page 499.

<sup>32</sup> *Beauchesne’s Parliamentary Rules & Forms*, §19, page 7.

<sup>33</sup> *House of Commons Procedure and Practice*, page 71.

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.<sup>34</sup>

In the Yukon Legislative Assembly language is generally regulated by Standing Order 19 which 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.” This standing order was not invoked in the 2003 Spring Sitting.

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.

#### *Imputing false or unavowed motives*

Standing Order 19(g) says, “A member shall be called to order by the Speaker if that member imputes false or unavowed motives to another member.” This rule is supplemented by Guideline No. 8 of the Assembly’s Guidelines for Oral Question Period, which is an addendum to the Standing Orders. Guideline No. 8 says, “A question must adhere to the properties of the House in that it must not contain inferences, impute motives, or cast aspersions upon persons within the House or out of it.” In the 2003 Spring Sitting this standing order was most often invoked where a member suggested another member had a nefarious reason for raising an issue. Parliamentary practice dictates that statements by members must be accepted without ascribing ulterior motives to them. Instances that drew comment from the Chair in this regard included:

- “the leader of the third party...(is) looking at grabbing...the attention of the cameras so she can blab it all over the Yukon...” Hon. Peter Jenkins (Klondike, Yukon Party), March 13, 2003 (*Hansard* 239)
- “this question that the member is hung up on is nothing more than an attempt for political grandstanding” Hon. Dennis Fentie (Watson Lake, Yukon Party), March 18, 2003 (*Hansard* 300)
- “when in government the member opposite went through great difficulties in Committee of the Whole...I would assume some of that is reflected in the motivation here” Hon. Mr. Fentie, March 18, 2003 (*Hansard* 303)
- “We see...cover-ups about jobs that are disappearing from the territory” Eric Fairclough (Mayo-Tatchun, NDP), March 19, 2003 (*Hansard* 326)
- “...this Premier has used his (spending) trajectory to challenge and attack the women of this territory.” Todd Hardy (Whitehorse Centre, NDP), March 24, 2003 (*Hansard* 389)
- “there was an obvious attempt by the third party to try and offload” Hon. Mr. Fentie, March 24, 2003 (*Hansard* 392)
- “How conveniently that member does not put that on the floor of the House in an attempt to create perception.” Hon. Mr. Fentie, March 24, 2003 (*Hansard* 415)

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<sup>34</sup> *House of Commons Procedure and Practice*, page 525.

- “the other (reason this motion has been brought to the floor) is just the fear that’s generated by the Yukon Party.” Mr. Fairclough, March 26, 2003 (*Hansard* 460)
- “It never fails to amaze me what he will do in front of a TV set.” Hon. Archie Lang (Porter Creek Centre, Yukon Party), April 1, 2003 (*Hansard* 550)
- “the minister has made no bones about the fact that he wants a more employer-friendly workers’ compensation process.” Steve Cardiff (Mount Lorne, NDP), April 8, 2003 (*Hansard* 670)
- “I guess that’s the role of the opposition, to take the statistics and utilize them in the way that best portrays their position or the position they want to put forward.” Hon. Mr. Jenkins, April 10, 2003 (*Hansard* 758)
- “all is not as sinister as the member would have us believe.” Hon. Mr. Fentie, April 15, 2003 (*Hansard* 795)

### ***Charging a Member with uttering a deliberate falsehood***

Standing Order 19(h) says, “A member shall be called to order by the Speaker if that member charges another member with uttering a deliberate falsehood.” It is fundamental to orderly debate that members must be taken at their word. As *Beauchesne’s Parliamentary Rules & Forms* puts it

It has been formally ruled by Speakers that statements by Members respecting themselves and particularly within their own knowledge must be accepted. It is not unparliamentary to temperately criticize statements made by Members as being contrary to the facts; but no imputation of intentional falsehood is permissible. On rare occasions this may result in the house having to accept two contradictory accounts of the same incident.<sup>35</sup>

During Question Period on March 10, 2003 Mr. Fairclough put questions to the Minister of Health and Social Services, hon. Mr. Jenkins, regarding child care services. During the course of his first supplementary question Mr. Fairclough quoted from a recent newspaper article. Mr. Fairclough apologized in advance for the fact that the quote contained unparliamentary language. However, he then read an accusation that certain individuals “are extremely disappointed in the Yukon territorial government for lying to the child care community...” The Speaker, hon. Ted Staffen, intervened before Mr. Fairclough posed his final supplementary question and reminded him that unparliamentary language is never acceptable even if it is quoted from another source. (*Hansard* 132)

The Speaker’s statement brings up two points about parliamentary procedure. First, that members may not do indirectly what they cannot do directly. Second, that if members wish to quote from material that contains unparliamentary language they must paraphrase to remove the offending material. Other examples where this Standing Order was applied during this sitting included:

- “the member is making...false accusations” Hon. Mr. Fentie, March 12, 2003 (*Hansard* 200)
- “The statements from the member opposite about these figures he pulls out of the air, these part truths...,” Hon. Mr. Lang, April 1, 2003 (*Hansard* 544)

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<sup>35</sup> *Beauchesne’s* §494, page 151.

- “To continually refer to (YPAS) as having been eliminated is not only incorrect, it is misleading the public directly” Hon. Jim Kenyon, (Porter Creek North, Yukon Party) (*Hansard* 611)
- “it is misleading to talk about figures” Mr. Hardy, April 3, 2003 (*Hansard* 627)
- “It is misleading, so I can’t use that document.” Mr. Hardy, April 7, 2003 (*Hansard* 663)
- “This government tries to portray itself as facing some sort of budget crisis, and we know that nothing is further from the truth.” Mr. Fairclough, April 24, 2003 (*Hansard* 939)
- “it sounds very interesting how he’s shifting the sands of truth.” Mr. Hardy, May 1, 2003 (*Hansard* 1066)

### ***Abusive or insulting language***

Standing Order 19(i) says, “A member shall 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.” During this Sitting this occurred where one member made an unflattering description of another member, or that member’s words or actions.

During Committee of the Whole consideration of the estimates for the Department of Highways and Public works on May 1, 2003 Gary McRobb (Kluane, NDP) raised the issue of “political statements on signage.” He asked the minister responsible, hon. Glenn Hart (Riverdale South, Yukon Party) if he intended “to repeat the practice of the former government putting large names of himself and the Premier up on these signs, or will he provide more accurate messaging such as how the U.S. taxpayer is paying for this project?” Hon. Mr. Hart responded that the government planned to “put up the normal signage that’s required. However, I will not be putting up a sign with my picture on it, or anything like that.” Mr. McRobb then proceeded to “thank this minister for sparing Yukoners the trauma that would otherwise happen had the pictures been part of the signs, and I’m sure I speak on behalf of all Yukoners in making those comments.” At that point the Committee Chair, Patrick Rouble, called for order saying, that Mr. McRobb’s comments “could be interpreted...(as) drawing attention to one’s personal appearance, and I would ask the member not to make comments such as that and to withdraw the remark.” Mr. McRobb withdrew the remark.

Other instances that drew the Chair’s intervention in this regard included:

- “The Premier is flapping like a beached whale over there...” Mr. McRobb, March 11, 2003 (*Hansard* 187)
- “I appreciate the wannabe Premier giving the Premier advice...” Pat Duncan (Porter Creek South, Liberal), March 17, 2003 (*Hansard* 291)
- “I would urge the member of the third party to not go over the top on issues in their zeal to paint the perception of having this government discredited...” Hon. Mr. Fentie, March 20, 2003 (*Hansard* 360)
- “That minister...reminds me of Caillou, a little whining included.” Mr. Fairclough, March 25, 2003 (*Hansard* 428)
- “It’s the good old three Rs from the good old boys...” Mr. Fairclough, March 26, 2003 (*Hansard* 450)
- “I will reiterate once again for the member opposite, because he seems to be a little hard of hearing” Hon. Elaine Taylor (Whitehorse West, Yukon Party), March 26, 2003 (*Hansard* 452)

- “I’m surprised the member from the third party is not happy with this motion, with all her capable background in government – her 24 long months.” Hon. Mr. Lang, March 26, 2003 (*Hansard* 472)
- “I don’t know what the member is harping on.” Hon. Mr. Jenkins, March 27, 2003 (*Hansard* 486)
- “The minister has made his archaic views on Workers’ Compensation well known over the years.” Mr. Cardiff, April 2, 2003 (*Hansard* 577)
- “What we have here is the official opposition harping constantly” Hon. Mr. Jenkins, April 3, 2003 (*Hansard* 609)
- “If the member has an objection to that, maybe it is reflected by the member’s attitude in dealing with First Nations.” Hon. Mr. Fentie, April 8, 2003 (*Hansard* 692)
- “I can assume (the Premier) approved of those increases and approves of them now, which is kind of hypocritical...” Mr. Hardy, April 8, 2003 (*Hansard* 698)
- “The Minister of Economic Development, of this \$1 department – some people are calling it the “loonie” department...” Mr. Hardy, April 15, 2003 (*Hansard* 794)

The following comment was seen as violating this Standing Order due to the violent nature of the language:

- “...the community development fund...(was) killed by the Yukon Party...” Mr. Fairclough, March 4, 2003 (*Hansard* 58)

#### ***Offending the practices and precedents of the Assembly***

Standing Order 19(k) says, “A member shall be called to order...if that member introduces any matter in debate that...offends the practices and precedents of the Assembly.” One kind of matter that falls into this category is comments that suggest a member is not fulfilling his or her responsibilities as a member of the Assembly. When they are sworn in members take oaths affirming that they will do their duties faithfully. To allege otherwise is not in order.

During Question Period on March 20, 2003 Ms. Duncan called for the resignation of the Minister of Health and Social Services, hon. Mr. Jenkins. During the course of her first supplementary question she said, “The Minister of Health has betrayed the elderly...and is now carelessly risking the safety plans of women and children in Dawson...” Before Premier Fentie responded to the question the Speaker intervened expressing his discomfort with that language and asked “the members to tighten their language up a little.” (*Hansard* 360-361)

During Committee of the Whole on March 25, 2003 Ms. Duncan said of hon. Mr. Jenkins that “His disdain for his colleagues in this Legislature knows no bounds.” The Chair intervened at that point saying, “The phrase “his disdain for his colleagues” is quite unparliamentary.” Ms. Duncan withdrew the remark. (*Hansard* 433)

Later in the same debate Ms. Duncan said, “the member opposite has a tendency to...shed himself of responsibility.” (*Hansard* 437) The Chair indicated this kind of remark had already been ruled out of order. On March 20, 2003 Premier Fentie was ruled out of order when he referred to Ms. Duncan’s “arguments in trying to shed the responsibility of this massive spending that took place over two years.” (*Hansard* 382) Other examples of this type of language ruled out of order include:

- “I wish to follow up with the minister responsible for Yukon Energy Corporation – although there is some reason to doubt that particular word...” Mr. McRobb, March 31, 2003 (*Hansard* 517)
- “They’re trying to escape accountability.” Mr. McRobb, May 1, 2003 (*Hansard* 1081)

During Question Period on April 1, 2003 Mr. Hardy accused the government of being, “arrogant and secretive” and speculated about a “secret-deals section” to the party’s election platform. Ms. Duncan spoke of “secret contracts to former candidates” while Mr. McRobb asked about “the secret deal apparently made between the department (of Energy, Mines and Resources) and the former owner of the Keno Hill properties.”

During Committee of the Whole on that day Mr. McRobb commented that he was

troubled by what the minister said in that he believes the way the previous government conducted itself around this secret deal was open and accountable. Mr. Chair, let’s be realistic here.

I would like to know if this minister, in his term as Minister of Energy, Mines and Resources, would consider engaging in any similar type of activity that isn’t completely open to Yukoners and the details aren’t provided to us on this side of the House.

Would the minister ever engage in anything like that?

At that point Ms. Duncan rose on a point of order saying she was “having difficulty with the member’s numerous references to a supposed “secret deal”. To me, that suggests that there were false or unavowed motives on the part of the previous minister. The question is also hypothetical. He is asking if this conduct had occurred — which did not — would the minister engage in it? It is entirely hypothetical.”

At that point the government House leader, Hon. Mr. Jenkins, intervened arguing that the issue constituted “a dispute between members. It is a dispute on the interpretation of the facts surrounding the mine in Elsa, and it is on the record.” At that point Mr. McRobb re-entered the discussion on the point of order to inform the House that “this is one of these extremely rare occasions when I would agree with the government House leader.” Conversely, the Minister of Environment, Hon. Jim Kenyon, took the floor to state that he was “in agreement with the leader of the third party. When the Member for Kluane, within five minutes, uses phrases like “hide-and-run government”, “secret deal”, “backroom deal”, “mirage to get through the election” and “secret deal” again, I suggest that this is extremely unparliamentary.”

The Chair found “that there (was) no point of order. There is a dispute amongst members.” However, the Chair also expressed his concern “about the language that is being used and would urge members to conduct themselves in a manner expected of parliamentarians and in a manner in which the people of the Yukon expect us to behave.” (*Hansard* 551)

As a result of these exchanges the Speaker made a statement, before Question Period on April 2, 2003, regarding the kinds of accusations being made:

Before we proceed with Question Period, the Chair wishes to address an issue that arose in the House yesterday during Question Period and during Committee of the Whole. Numerous references were made to members being secretive or having concluded or participated in secret deals or backroom deals. These accusations were levelled at

*Government Accountability Act*....could have and should have been dealt with prior to this situation occurring.” Her final point was that the approach taken by the government had placed it “above the law.” Ms. Duncan asserted that, “No one is above the law. Laws are passed and they are meant to be upheld, and they apply equally and fairly to all of us. It may be that individuals do not hold the vision of accountability in the same esteem. That is their prerogative; however, the law is the fact and the law must be lived up to.”

Ms. Duncan then added comments about why the legislation was brought in. She concluded by urging that Mr. Hardy be given leave to present a motion to adjourn the ordinary business of the House.

The government House leader, hon. Peter Jenkins (Klondike, Yukon Party) derided Mr. Hardy’s request for leave as “a feeble attempt by the leader of the official opposition to delay the proceedings of this Assembly.” He suggested the Assembly had a full agenda and should proceed with, and not adjourn, the ordinary business. As to the issue of accountability legislation hon. Mr. Jenkins said, “at the end of the day, the accountability terms are virtually met, but in a different format” than in the existing legislation. Hon. Mr. Jenkins concluded his remarks by asserting that “no laws or rules (have been) broken” and that the request for leave was an attempt to “circumvent the Standing Orders of this Assembly” which “clearly spells out that only governments have the ability to call government bills — full stop.”

The Speaker, hon. Ted Staffen, then ruled on Mr. Hardy’s request for leave. He said

The leader of the official opposition met the requirements of Standing Order 16(2) by delivering to the Speaker’s office a written statement of the matter proposed to be discussed more than two hours prior to the opening of this sitting day.

Standing Order 16(5) requires the Speaker to rule on whether this request for leave to move adjournment of the ordinary business of the House is in order and of urgent public importance.

The leader of the official opposition, in his written statement, said, “I wish to advise you of my intention to seek leave to move that ordinary business be adjourned this afternoon to permit the House to debate a matter of urgent public importance, namely Bill No. 27, an *Act to Repeal the Government Accountability Act*.”

This request for leave is not in order because Standing Order 16 cannot be used for the purpose of calling Bill No. 27 for debate, as the leader of the official opposition suggests in his letter. Standing Order 12(2) states that government business is to be called in such sequence as the government chooses. Standing Order 16 cannot be used to override the government’s control of its own business under Standing Order 12.

Further, the leader of the official opposition has made statements that the Minister of Finance and other ministers are not complying with certain laws. It is stated at page 525 of *House of Commons Procedure and Practice* that, “A direct charge or accusation against a Member may only be made by way of a substantive motion for which notice is required.”

The leader of the official opposition could be understood to be verging on, if not making, a charge in this matter. The procedure followed in Standing Order 16 does not lead to a substantive motion as the motion before the House under the standing order would be, “That the ordinary business of the Assembly be adjourned.” Therefore, if the leader of the official opposition wishes to pursue a charge, it is not procedurally in order



to do so under Standing Order 16; rather, he must give notice of a substantive motion outlining the charge and the action he proposes be taken.

I must, therefore, rule that the request for leave does not meet the requirements of Standing Order 16 and that the ordinary business of the Assembly should not be set aside at this time. (*Hansard* 581; *Journals* 52-53)

As the request was not in order there was no need for the Speaker to rule whether the matter was of urgent public importance. The House then proceeded to Orders of the Day. (*Hansard* 579-581)

In terms of the Speaker's ruling it is worth noting that pursuant to Standing Order 16 (11) "The right to move the adjournment of the ordinary business of the Assembly under this Standing Order is subject to the following restrictions: (c) the motion shall not anticipate a matter that has been previously appointed for consideration by the Assembly." As Bill No. 27 was a government bill on the order paper it had been, procedurally speaking, appointed for consideration, though the precise time for consideration was not set.

#### **Vote, clarification of the result**

On April 2, 2003 the Assembly dealt with Motion No. 12, standing in the name of the Member for Southern Lakes, Patrick Rouble (Yukon Party). At one point an amendment was moved. The amendment was put forward by an opposition member and it was one which government members spoke against. One could anticipate, then, that the amendment would be defeated when it came to a vote. When the Speaker put the question on the amendment he listened to the voice vote and then declared, "I think the ayes have it. I declare the amendment defeated." The leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP) then rose on a point of order. "For clarification" said Mr. Hardy, "I believe you said, 'I think the ayes have it.'"" The Speaker then corrected himself indicating that the nays did have it and that the result, the defeat of the amendment, stood. (*Hansard* 597)

#### **Wasting time**

During Committee of the Whole consideration of Bill No. 4, *First Appropriation Act, 2003-04*, on April 7, 2003 the official opposition House leader, Gary McRobb (Kluane, NDP) rose on a point of order during remarks by the government House leader, hon. Peter Jenkins (Klondike, Yukon Party). Hon. Mr. Jenkins had cautioned the opposition regarding the amount of time left to debate the budget. Mr. McRobb said, "it's difficult for us to listen to that diatribe without responding to it...I would like to say that such elongated speeches are unnecessary and in themselves consume time. We are still waiting for a lot of information from this government so we can debate the budget constructively. We want to do that and use our time efficiently and constructively. If the minister and his colleagues would respond in kind, we would be further ahead in matters at the end of the day." (*Hansard* 666)

The Committee Chair, Patrick Rouble, ruled there was no point of order. The standing orders give the Chair the authority to restrict members' comments in terms of time, needless repetition and irrelevance. As long as a member's speech does not violate those standing orders the Chair is not in a position to rule that a member is 'wasting time' simply because the member is speaking at length.

A similar situation arose during Committee consideration of the departmental estimates for Highways and Public Works in Bill No. 4, *First Appropriation Act, 2003-04*. At one point in

**Table 4: Time devoted to debate on individual bills**

<b>Bill # &amp; Name</b>	<b>Second Reading</b>	<b>Committee of the Whole</b>	<b>Third Reading</b>	<b>Total</b>
4. <i>First Appropriation Act, 2003-04</i>	9 hours 36 minutes	39 hours 26 minutes	none	49 hours 2 minutes
2. <i>Third Appropriation Act, 2002-03</i>	16 minutes	23 hours 48 minutes	none	24 hours 4 minutes
24. <i>Territorial Lands (Yukon) Act</i>	10 minutes	2 hours 48 minutes	none	2 hours 58 minutes
5. <i>Interim Supply Appropriation Act</i>	5 minutes	2 hours 31 minutes	none	2 hours 36 minutes
27. <i>Act to Repeal the Government Accountability Act</i>	1 hour 11 minutes	1 hour 14 minutes	none	2 hours 25 minutes
22. <i>Placer Mining Act</i>	14 minutes	1 hour 29 minutes	none	1 hour 43 minutes
26. <i>Environmental Assessment Act</i>	6 minutes	1 hour 13 minutes	none	1 hour 19 minutes
33. <i>Act to Amend the Forest Protection Act</i>	5 minutes	52 minutes	none	57 minutes
3. <i>Fourth Appropriation Act, 2001-02</i>	5 minutes	47 minutes	none	52 minutes
21. <i>Act to Amend the Pioneer Utility Grant Act</i>	14 minutes	30 minutes	none	44 minutes
23. <i>Quartz Mining Act</i>	9 minutes	32 minutes	none	41 minutes
25. <i>Waters Act</i>	6 minutes	23 minutes	none	29 minutes
28. <i>Act to Amend the Fuel Oil Tax Act</i>	13 minutes	15 minutes	none	28 minutes
31. <i>Act to Amend the Income Tax Act</i>	4 minutes	16 minutes	none	20 minutes
34. <i>Act to Amend the Municipal Act</i>	10 minutes	6 minutes	none	16 minutes
32. <i>First Nations Indemnification (Fire Management) Act</i>	10 minutes	3 minutes	none	13 minutes
29. <i>Act to Amend the Territorial Court Act</i>	5 minutes	7 minutes	none	12 minutes
30. <i>Act to Amend the Supreme Court Act</i>	4 minutes	2 minutes	none	6 minutes
<b>Total</b>	<b>13 hours 3 minutes</b>	<b>76 hours 22 minutes</b>	<b>none</b>	<b>89 hours 25 minutes</b>

Note: First Reading is not included as Standing Order 52(2) says "A motion for First Reading of a bill shall be decided without introductory statement, debate or amendment."

**Table 5: Appropriation Bills, Committee of the Whole debate by department**

Department	Bill No.2		Bill No. 4		Total	
	hours	minutes	hours	minutes	hours	minutes
Health & Social Services	7	26	8	47	16	13
General debate	3	52	4	59	8	51
Education	1	53	3	7	5	00
Energy, Mines & Resources	1	10	3	45	4	55
Executive Council Office	2	9	2	25	4	34
Community Services	1	30	1	58	3	28
Business, Tourism & Culture	1	14	2	6	3	20
Environment		25	2	44	3	9
Finance		17	2	4	2	21
Justice		33	1	45	2	18
Public Service Commission		50	1	24	2	14
Infrastructure/ Highways & Public Works		17	1	53	2	10
Legislative Assembly	1	14		12	1	26
Yukon Housing Corporation		20		40	1	00
Economic Development	not applicable.			39		39
Yukon Development Corporation	none			19		19
Women's Directorate	not applicable			15		15
Yukon Liquor Corporation	none			15		15
Elections Office		2		4		6
Office of the Ombudsman		2		3		5
Loan Capital & Loan Amortization	none			2		2
<b>Total</b>	<b>23</b>	<b>48</b>	<b>39</b>	<b>26</b>	<b>63</b>	<b>14</b>

Note: Beginning with the 2003-04 fiscal year the department of Business, Tourism & Culture was changed to the department of Tourism & Culture; the department of Community & Transportation Services became Community Services, the department of Economic Development was reinstated and the allocations for the Women's Directorate was separated from those of the Executive Council Office.

**Table 6: Motions**

Motions	Government	Private Members	Total
Notice of	14	81	95
Debated	3	14	17
Adjourned Debate	1	4	5
Agreed to	6	9	15
Negatived	0	1	1
Withdrawn	0	0	0
Ordered Removed	4	0	4

**Table 7: Time devoted to debate on motions**

Motion # & Subject	Debate		Disposition
	hours	minutes	
18. re Address in Reply to Speech from the Throne	10	28	Agreed to
6. re Adoption of Foreign Policy Concerning the Role of Canadian Military	4	15	Debate adjourned
12. re Government Relationship with First Nation Governments	3	28	Agreed to as amended
67. re Funding Agreements with Non-Governmental Agencies	3	28	Agreed to as amended
80. re Provision of Information to Opposition Members	1	57	Agreed to
32. re Development of a Pan-Northern Solution to Health Care Needs	1	52	Agreed to as amended
65. re Addressing Social Worker and Supervisor Staffing Shortfalls	1	51	Agreed to as amended
86. re Canada/US Relations re Pipeline and Railway Proposal	1	36	Debate adjourned
56. re Garnishment of Cabinet Ministers' Wages in Repayment of Government Loans	1	35	Negatived
5. re Reinstating the Yukon Placer Authorization	1	34	Debate adjourned
36. re Establishment of International Joint Commission Regarding the Development of the Alaska Railroad Proposal	1	18	Agreed to as amended
100. re Congratulations to Village of Mayo on the celebration of the 100 <sup>th</sup> anniversary of its creation	1	13	Agreed to
59. re Preservation of WP&YR Right-of-Way Access Corridor		36	Agreed to as amended
41. re Minister of Fisheries and Oceans Retain Existing Placer Authorization		34	Agreed to
8. re Special Sitting of Legislative Assembly to Commemorate Mayo Centennial		30	Agreed to
46. re House Urging Standing Committee on Fisheries and Oceans to Visit the Yukon to Conduct Public Hearings		18	Agreed to
54. re Yukon Party Government's Commitment to Retain Government Workforce		17	Debate adjourned
Motion re adjourning ordinary business, pursuant to Standing Order 16		14	Not in order <sup>38</sup>
49. re Appointments to Yukon Human Rights Commission		3	Agreed to
<b>Total (19 motions debated: 7 agreed to, 6 agreed to as amended, 4 debate adjourned, 1 negatived, 1 ruled out of order.)</b>	<b>37</b>	<b>7</b>	

<sup>38</sup> See Urgent public importance, motion of.

**Motions Agreed to Without Debate**

Motions re Appointment of Presiding Officers: 3

Procedural Motions: 4

Committee of the Whole Motions re witnesses appearing in: 2

**Table 8: Time devoted to the appearance of witnesses**

<b>Date</b>	<b>Witnesses representing</b>	<b>Time</b>
April 28, 2003	Yukon Development Corporation	1 hour 55 minutes
April 24, 2003	Yukon Workers' Compensation Health & Safety Board	1 hour 54 minutes
<b>Total</b>	<b>2</b>	<b>3 hours 49 minutes</b>

**Other Motions for which notice was given**

Motions for the production of papers: 14

**Other Business**

Tributes: 35

Visitor Introductions: 86

Ministerial Statements: 2

Written Questions: 2

Committee Reports: 0

Petitions Presented: 1

Responses to Petitions: 1

**Table 9: Documents Tabled**

<b>Type</b>	<b>#</b>
Legislative Returns	17
Sessional Papers	43
Filed Documents	15
<b>Total</b>	<b>75</b>

**Table 10: Questions posed in Question Period by Party**

	Main	First Supp.	Final Supp.	Total
Official Opposition (NDP)	186	186	175	547
Third Party (Liberal)	38	38	38	114
<b>Total</b>	<b>224</b>	<b>224</b>	<b>213</b>	<b>661</b>

**Table 11: Question Period Statistical Review**

Sitting Day/ Date	Main Questions	First Supp.	Final Supp.	Total Questions	Total Time	Question Time	Response Time	Points of Order	Questions over limit	Responses over limit
1. February 27	No Oral Question Period									
2. March 3	8	8	7	23	32:05	16:20	15:45	0:00	1	1
3. March 4	6	6	6	18	28:40	14:25	14:15	0:00	1	0
4. March 5	6	6	6	18	30:35	15:50	14:45	0:00	4	2
5. March 6	7	7	6	20	30:40	15:50	14:50	0:00	4	1
6. March 10	7	7	6	20	32:40	15:50	16:50	0:00	1	0
7. March 11	7	7	6	20	29:55	16:00	13:55	0:00	2	2
8. March 12	6	6	6	18	31:45	16:00	14:50	0:55	6	1
9. March 13	5	5	5	15	28:50	14:50	14:00	0:00	8	0
10. March 17	7	7	7	21	31:15	16:50	14:25	0:00	2	0
11. March 18	7	7	7	21	28:55	17:55	11:00	0:00	6	0
12. March 19	6	6	6	18	32:20	18:00	14:20	0:00	8	0
13. March 20	6	6	6	18	28:35	15:35	12:40	0:20	4	0
14. March 24	8	8	8	24	30:20	16:55	13:15	0:10	1	0
15. March 25	7	7	7	21	31:30	17:35	13:45	0:10	2	0
16. March 26	6	6	6	18	30:20	14:55	14:30	0:55	3	0
17. March 27	7	7	7	21	31:40	16:55	14:25	0:20	4	0
18. March 31	6	6	6	18	33:15	17:40	14:35	1:00	7	0
19. April 1	7	7	7	21	29:55	16:40	13:00	0:15	3	1
20. April 2	6	6	6	18	29:50	17:40	12:10	0:00	6	0
21. April 3	7	7	7	21	33:20	16:45	15:35	1:00	3	1
22. April 7	7	7	7	21	31:30	18:05	13:25	0:00	5	0
23. April 8	6	6	6	18	31:00	15:30	14:45	0:45	5	0
24. April 9	7	7	7	21	30:10	16:55	13:15	0:00	1	0
25. April 10	6	6	6	18	28:45	15:40	13:05	0:00	4	0
26. April 14	6	6	6	18	30:55	15:45	14:40	0:30	2	1
27. April 15	6	6	6	18	32:40	15:45	16:25	0:30	6	0
28. April 16	5	5	5	15	30:05	13:25	16:40	0:00	4	2
29. April 17	5	5	5	15	30:15	14:20	15:55	0:00	5	1
30. April 22	7	7	7	21	31:40	17:00	14:40	0:00	2	0
31. April 23	5	5	5	15	29:30	14:20	15:10	0:00	4	0
32. April 24	5	5	5	15	29:00	15:05	13:55	0:00	7	0
33. April 28	7	7	5	19	34:10	14:45	19:25	0:00	3	3
34. April 29	7	7	5	19	29:05	14:55	14:10	0:00	1	0
35. April 30	7	7	5	19	29:10	16:10	13:00	0:00	6	0
36. May 1	6	6	5	17	31:15	15:20	15:55	0:00	6	1
37. June 12	No Oral Question Period									
Total	224	224	213	661	17:55:35	9:21:30	8:27:15	6:50	137	17

Most Main & First Supplementary Questions: 8 – March 3 and March 24  
Fewest Main & First Supplementary Questions: 5 – March 13, April 16, April 17, April 23 and April 24  
Most Final Supplementary Questions: 8 – March 24  
Fewest Final Supplementary Questions: 5 – March 13, April 16, April 17, April 23, April 24, April 28, April 29, April 30, May 1  
Most total questions: 24 – March 24  
Fewest total questions: 15 - March 13, April 16, April 17, April 23 and April 24  
Longest Question Period: 34:10 – April 28  
Shortest Question Period: 28:35 – March 20  
Most time devoted to questions: 18:05 – April 7  
Least amount of time devoted to questions: 13:25 – April 16  
Most time devoted to responses: 19:25 – April 28  
Least amount of time devoted to responses: 11:00 – March 18  
Most time devoted to points of order: 1:00 – March 31 and April 3  
Most questions over the time limit: 8 – March 13 and March 19  
Fewest questions over the time limit: 1 – March 3, March 4, March 10, March 24, April 9, April 29  
Most responses over the time limit: 3 – April 28





## References

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<sup>39</sup> Note: Certain sections of the act did not come into force on April 1, 2003. See the section of the act entitled 'Amendments Not In Force.'

