

**PROCEDURAL REPORT  
2004 SPRING SITTING**

**YUKON  
LEGISLATIVE ASSEMBLY**

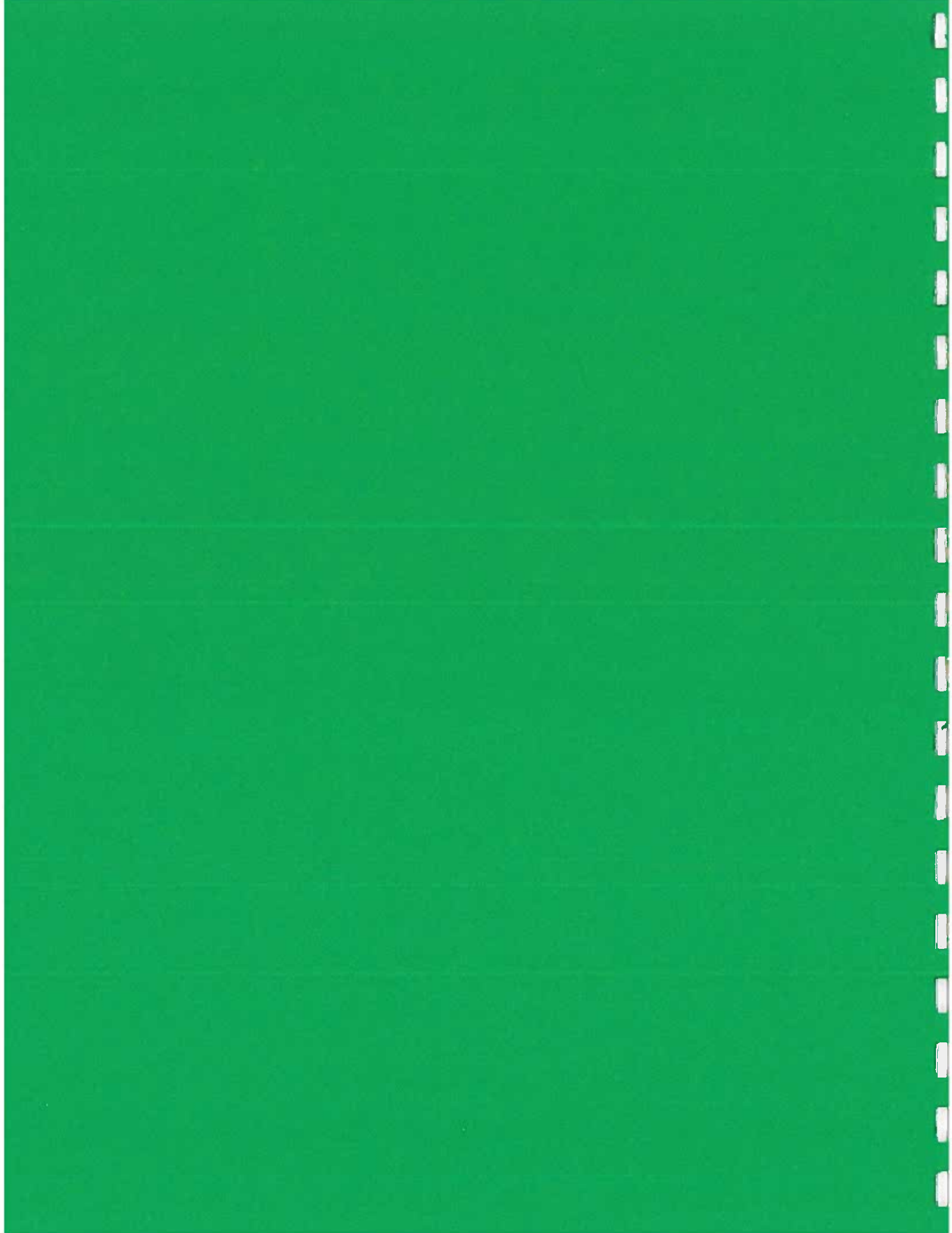


**FIRST SESSION**

**31<sup>ST</sup> LEGISLATURE**

**March 25, 2004-May 18, 2004**

**Speaker: The Hon. Ted Staffen**



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## Introduction

One procedural issue that drew substantial attention from the Chair during the 2004 Spring Sitting was that of members making charges against one another. A good number of these charges consisted of allegations of conflict of interest. These events are detailed in the entry 'Charge against another member.' The frequency of such charges led the Speaker to deliver a lengthy statement on the issue on April 8, 2004; one which he was compelled to remind members of on April 28, 2004.

Perhaps more worrying was the frequency of instances where members set themselves against the Chair. The entry 'Rulings, commentary upon' details those instances where members felt compelled to comment upon rulings by Presiding Officers. None of these instances constituted direct challenges to the rulings. Nonetheless, as illustrated in this text, such comments are not in order. In response to the frequency of such commentary the Chair of Committee of the Whole delivered a substantial statement on April 26, 2004.

Similarly, the entry 'Unparliamentary language, withdrawal of' illustrates the difficulty the Chair experienced, at times, in getting members to retract statements deemed unparliamentary. Again, members did not seek to challenge the Chair, but in many instances attempted to 'clarify' their remarks in a manner that did not constitute the unequivocal retraction requested.

The 2004 Spring Sitting also witnessed a number of instances where Members exhibited not only agreement, but unanimity. Most of these matters were procedural and are detailed in the entry 'Unanimous consent.' By far the most popular use of Standing Order 14.3 – Unanimous consent to waive rules – was to request the unanimous consent of the Assembly to deem all lines in a vote cleared or carried, as required. There were 21 instances where such a request was granted. Unanimous consent was also used to call a private member's motion – Motion No. 280 standing in the name of Lorraine Peter (Vuntut Gwitchin, NDP) – for debate on a day when opposition private members' business did not have precedence. Standing Order 14.3 was also used to deem all content of Bill No. 9, *Interim Supply Appropriation Act, 2004-05*, read and agreed to.

There was also agreement on substantive issues. For example, Bill No.9, Bill No. 44, *Act to Amend the Municipal Finance and Community Grants Act* and Bill No. 45, *Act to Amend the Assessment and Taxation Act* were unanimously supported at Second and Third Reading. Bill No. 43, *Act to Amend the Income Tax Act* also received unanimous support at Third Reading. Members unanimously supported an opposition amendment to Motion No. 43, a government private members' motion that advocated increased support in schools for students afflicted with Fetal Alcohol Spectrum Disorder. The motion, as amended, also received unanimous support. Motion No. 280, which urged the recognition of the role of First Nations in the 25<sup>th</sup> Anniversary Celebrations of the Dempster Highway, was also agreed to by all members voting on it.





## 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>2</sup>

The Speaker, Hon. Ted Staffen, cited this practice on April 5, 2004 after the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party) referred to “the few people who are left in the House here today.” The Speaker took this as a reference to members not present and said, “It’s inappropriate to comment on whether a member is or is not in the House.” (*Hansard* 1989)

### Adjournment

#### *Of the House*

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 of the Yukon Legislative Assembly*. The changes added Chapter 14 that includes, among other things, a mechanism for terminating a Sitting of the Legislative Assembly once the maximum number of sitting days has been reached and the business before the Assembly is dealt with. These new standing orders were first used in the 2002 Spring Sitting.

May 18, 2004 proved to be the final sitting day of the 2004 Spring Sitting. On that day, following the Assent to Bills by the Commissioner, Hon. Jack Cable, the Speaker adjourned the House saying

As the House has reached the maximum number of days permitted for the 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. (*Hansard* 2788; *Journals* 215)

#### *Of Debate*

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

These rules came into play on April 7, 2004 during debate on Motion No. 225. The motion urged the government to build a bridge across the Yukon River at Dawson City. Gary McRobb (Kluane, NDP) spoke to the motion for some time and then moved the adjournment of debate. The Speaker, Hon. Ted Staffen, put the motion to the Assembly. It was defeated. (*Hansard* 2053)

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<sup>2</sup> *House of Commons Procedure and Practice*, page 522

## **Amendment**

### ***To the Motion for Second Reading***

On March 31, 2004 the minister responsible for the Public Service Commission, Hon. John Edzerza (McIntyre-Takhini, Yukon Party), spoke first in reply to Bill No. 104, *Act to Amend the Public Service Act*. In so doing he proposed an amendment to the motion for Second Reading. Hon. Mr. Edzerza proposed that the usual motion that the bill "be now read a second time"

be amended by adding the following: "and that it be referred to a select committee of the Assembly; and

"THAT the membership and mandate of the select committee be established by a separate motion of the Assembly following consultation between the House leaders.

This proposed amendment was procedurally unusual. Most amendments to bills are proposed in Committee of the Whole when the individual components of a bill (clauses, schedules, the title, etc.) are dealt with in detail. However, Hon. Mr. Edzerza did not propose to amend the bill, just the motion for second reading. The leader of the third party, Pat Duncan (Porter Creek South, Liberal), rose on a point of order, and asked the Speaker, Hon. Ted Staffen, for clarification as to the procedural acceptability of an amendment to a motion for second reading. It was her understanding that the referral to a committee, either Committee of the Whole or a select committee would come after the bill had passed second reading.

The Speaker ruled, "It is in order that the reference to a committee be made at second reading stage." (*Hansard* 1921)

### ***Out of Order***

The Official Opposition made three attempts to amend the above-mentioned amendment to the Second Reading motion. The leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), proposed the first. His subamendment read:

THAT the amendment to the motion for second reading of Bill No. 104, standing in the name of the minister responsible for the Public Service Commission, be amended to read as follows: "...and proceed to Committee of the Whole for initial debate, following which it may be referred to a three-person select committee of the Assembly that is comprised of one member from each of the parties in the Assembly, that is chaired by a non-partisan chair, appointed by mutual agreement among the three parties, for the purpose of inviting and hearing submissions from interested persons and organizations, and that will report back to the Legislative Assembly no later than the fall 2004 sitting of the Legislative Assembly."

The Speaker ruled "The amendment proposed by the leader of the official opposition is not in order as it presents a totally separate proposition to the amendment moved by the minister responsible for the Public Service Commission." (*Hansard* 1924; *Journals* 160) The amendment proposed by Hon. Mr. Edzerza was that the bill go to a select committee immediately upon receiving second reading. Mr. Hardy's subamendment would have sent the bill to Committee of the Whole and then, perhaps, to a select committee.

Subsequently, Gary McRobb (Kluane, NDP) proposed a second subamendment. It read

THAT the amendment to the motion for second reading of Bill No. 104, standing in the name of the minister responsible for the Public Service Commission, be amended after the phrase "committee of the Assembly" by adding the following: "should Committee of the Whole fail to complete its study of the bill by the end of the current sitting day."

Once again the Speaker ruled the subamendment not in order. The Speaker explained that the subamendment "is offering a different proposition than posed by the mover of the amendment. The central point of the amendment moved by the minister is that Bill No. 104 stand referred to a select committee. The subamendment recommends that the bill go first to the Committee of the Whole; therefore, it is not in order." (*Hansard* 1926; *Journals* 160-161)

Finally, Eric Fairclough (Mayo-Tatchun, NDP) proposed

THAT the amendment to the motion for second reading of Bill No. 104, standing in the name of the minister responsible for the Public Service Commission, be amended after the phrase "committee of the Assembly" by adding the following: "whose function will be to develop appropriate whistle-blower protection legislation through an open and accountable process in time for the Legislative Assembly to consider it during the fall 2004 sitting"; and

THAT it be further amended in the final clause by replacing the phrase "House leaders" with the phrase "party leaders." (*Hansard* 1929; *Journals* 161)

This subamendment was in order as it was consistent with the purpose of the amendment – to send the bill to a select committee after Second Reading. What the amendment did was elaborate on the mandate of the select committee and stipulate that the party leaders, not the House leaders as in the original amendment, select the membership of the committee. The subamendment, though in order, was defeated on division. The motion to amend the motion for second reading was agreed to on division. (*Hansard* 1930-1931)

### **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 of Yukon, as identified in section 17 of the *Yukon Act*: the Commissioner and the Legislative Assembly. The Legislative Assembly indicates its support for a bill by passing a motion that a bill "be now read a third time and do pass." Once the Commissioner indicates 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.

For the Assent ceremony the Commissioner is escorted into the Chamber by the Sergeant-at-Arms and takes the Speaker's chair. The Speaker, standing to the right of the Chair, informs the Commissioner that "the Assembly has, at its present session, passed certain bills, to which, in the name and on behalf of this Assembly, I respectfully request your assent." The Clerk then reads out the names of the bills that have passed the Assembly. The Commissioner then says, "I hereby assent to the bills as enumerated by the Clerk."

During the 2004 Spring Sitting the Commissioner, Hon. Jack Cable, entered the Chamber on the following dates to grant assent to the following bills:

- March 31, 2004: Bill No. 9, *Interim Supply Appropriation Act, 2004-05*. (*Hansard* 1917; *Journals* 159)
- May 18, 2004: Bill No. 8, *Third Appropriation Act, 2003-04*; Bill No. 10, *First Appropriation Act, 2004-05*; Bill No. 43, *Act to Amend the Income Tax Act*; Bill No. 44, *Act to Amend the Municipal Finance and Community Grants Act*; and Bill No. 45, *Act to Amend the Assessment and Taxation Act*. (*Hansard* 2788; *Journals* 214-215)

### Charge against another member

According to *Beauchesne's Parliamentary Rules & Forms* "(i)n any case where the propriety of a Member's actions is brought into question a specific charge must be made."<sup>3</sup> *House of Commons Procedure and Practice* adds "a direct charge or accusation against a Member may be made only by way of a substantive motion for which notice is required."<sup>4</sup> Such remarks cannot merely be injected in debate.

On March 29, 2003 during Second Reading of Bill No. 9, *Interim Supply Appropriation Act, 2004-05*, the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), made the following comment. Mr. Hardy characterized the decision of the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), to acquire a special warrant from the Commissioner to authorize \$223.336 million in spending authority shortly before the Assembly reconvened for the 2004 Spring Sitting as a "contempt for the Legislature." (*Hansard* 1850) During the same debate the leader of the third party, Pat Duncan (Porter Creek South, Liberal), on three occasions, accused the government of having "contempt" for the Legislature. (*Hansard* 1852)

As part of a ruling delivered on March 30, 2004 the Speaker, Hon. Ted Staffen, made the following statement about such comments:

...both the leader of the official opposition and the leader of the third party used the phrase "contempt for the legislature" during second reading of Bill No. 9. As the Chair of Committee of the Whole pointed out in a statement on December 9, 2003, contempt for the Legislature is a specific and serious charge. Contempt for the Legislature is a finding that only the Assembly can make after consideration of a substantive motion to that effect. It is not a statement that members are free to interject into debate. The Chair appreciates that members have strongly held views that they wish to express. However, the use of the word 'contempt' in that context is not in order. (*Hansard* 1883; *Journals* 156)

On March 31, 2004 the Assembly debated Motion No. 217 standing in the name of Mr. Hardy. The motion urged the government to rescind its loan-collection plan for cabinet ministers and introduce a new one that would ensure those debts were paid to the government in full. During the course of debate Premier Fentie made certain comments about Ms. Duncan. Hon. Mr. Fentie said

So let's try the member opposite on for size...given the fact that past governments, when faced with this issue, walked away from it — we know the third party made an attempt to

<sup>3</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>4</sup> *House of Commons Procedure and Practice*, page 525.

attack one individual when it came to this portfolio, and that caused a huge uproar. It really did a disservice to this House and to the Yukon public. It resulted in engaging the Conflicts Commissioner. It turned into a real muddle — but again, because there was motivation to single someone out and not take a fair and equitable approach.

The Speaker, Hon. Ted Staffen, intervened at that point saying, “The Chair is uncomfortable with the direction that the hon. Premier is taking, in that the leader of the third party has not had an opportunity to speak to this motion yet. So, I would ask the hon. Premier not to put forth conjecture or opinion expressed by the leader of the third party, when she has not yet had an opportunity to express an opinion.” (*Hansard* 1941)

As *Beauchesne's* reminds us elected members “like all other citizens, have the right to be regarded as innocent until they are found guilty.”<sup>5</sup> This became an issue during Question Period on April 1, 2004. At that time the leader of the third party, Pat Duncan (Porter Creek South, Liberal) accused the Minister of Environment, Hon. Jim Kenyon (Porter Creek North, Yukon Party) of breaking contracting rules. The charge was made three times during the first and final supplementary questions. After Ms. Duncan made the charge a second time during her final supplementary question the Speaker intervened and asked for a “change in terminology.” (*Hansard* 1947)

The Speaker revisited this issue in a ruling delivered on April 5, 2004 saying:

The Chair would also like to clarify a statement he made last Thursday during Question Period. At that time, the leader of the third party asserted the Minister of Environment had broken the regulations regarding the issuance of a sole-source contract. The Chair intervened and said, “The leader of the third party can imply that the minister broke the rules, but you cannot say for sure that he has broken the rules.” To be clear, it is not in order for a member of this Assembly to inject into the debate a charge that another member has broken regulations or the law. Such charges may only be made by way of a substantive motion for which notice is required. (*Hansard* 1978; *Journals* 165-166)

The Speaker gave a more comprehensive statement on these issues before Orders of the Day were called on April 8, 2004. The Speaker said:

Before we proceed, the Chair would like to make a statement regarding a disturbing trend that has emerged in this House over the past two weeks. This trend is the making of allegations of, or allusions to, conflicts of interest by members.

On April 7, 2004, during debate on Motion No. 225 the Member for Kluane (Gary McRobb) suggested a potential conflict of interest on the part of the Member for Klondike (Hon. Peter Jenkins). This potential conflict had to do with benefits the Member for Klondike might receive from a project the government has indicated its intention to proceed with, the construction of a bridge across the Yukon River at Dawson City. The Member for Kluane suggested this potential personal benefit was the reason the Member for Klondike supported the building of the bridge and that he attempted to influence the views of his Cabinet and caucus colleagues for the same reason. (see *Hansard* 2048-2049)

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<sup>5</sup> *Beauchesne's* §28, page 12.

However, the Member for Kluane is not the only member to make such allusions recently. On March 31 during debate on Motion No. 217 the Premier (Hon. Dennis Fentie) alluded to a previous investigation by the Conflicts Commissioner and said the leader of the third party had "made an attempt to attack one individual." (see *Hansard* 1941) Members should note, for the record, that the Conflicts Commissioner found no real or apparent conflict of interest on the part of the leader of the third party.

Then, during Question Period on April 6, the Minister of Energy, Mines and Resources (Hon. Archie Lang) alluded to decisions taken by a previous government and the influence the Member for Kluane may have had on those decisions. (see *Hansard* 2012) Though the minister did not mention any personal gain the Member for Kluane might have received, government ministers have made such allegations in the past. As such the inference of conflict exists. The Member for Kluane said during the discussion on the point of order he raised that the Conflicts Commissioner investigated issues regarding the member's interests at Aishihik Lake. The Conflicts Commissioner found no conflict of interest on the part of the Member for Kluane.

During debate on Motion No. 225 the Member for Kluane said of the issues surrounding the holdings of the Member for Klondike, "maybe it should be a matter for the Conflicts Commissioner."

The Member for Kluane has correctly pointed out one direction he and any other member could follow in this regard. That is through laying a complaint with the Conflicts Commissioner pursuant to paragraph 17(d) of the *Conflict of Interest (Members and Ministers) Act*.

When the Assembly passed this legislation in 1995, it did uphold, in section 29 of the act, the Assembly's right to "control, discipline or punish its Members." However, the method by which a member can raise a question of conflict of interest in the House is restricted.

The main point found in previous rulings is that, if a member feels it is necessary to place allegations before the House about another member's actions, it is essential that this be done in the form of a motion containing the charge being made and a proposal for dealing with it. It must be understood that to raise allegations in any other proceeding than debate on such a motion will be in violation of the rules found in Standing Order 19 and that the member should, consequently, be ruled out of order.

A final point to be made is that members should respect the decisions of the Conflicts Commissioner. To question those conclusions during debate is disrespectful to the conflicts process established by law and, to an extent, defeats the purpose of having such legislation.

The Speaker then thanked members for their attention and the House proceeded to orders of the Day. (*Hansard* 2077-2078; *Journals* 172-173)

During Question Period on April 27, 2004 the leader of the third party, Pat Duncan (Porter Creek South, Liberal), addressed questions to the Minister of Justice, Hon. Elaine Taylor (Whitehorse West, Yukon Party) regarding a review of the *Liquor Act* and whether the act would be amended to allow for neighbourhood pubs. During the course of her first supplementary question Ms. Duncan asked, "Would the minister confirm that the reason the act is stalled is because of opposition from MLAs who have a financial interest in seeing that neighbourhood pubs stay banned?" The Speaker, Hon. Ted Staffen, called for order and asked Ms. Duncan if she

was "implying that members are benefiting financially from this transaction? If so, that is out of order." Ms. Duncan assured the Speaker that she did not mean to imply a conflict of interest but wanted to know why the review of the act had, in her view, stalled. (*Hansard* 2349)

The Speaker, Hon. Ted Staffen, accepted Ms. Duncan's explanation but revisited the issue during a ruling on April 28, 2004. At that time he said

Members will recall that on April 8 the Chair gave a lengthy statement regarding allegations of conflict of interest. That statement set out the proper procedure to be followed when members wish to address conflict of interest issues. One of those procedures is to lay a complaint with the Conflicts Commissioner pursuant to paragraph 17(d) of the *Conflict of Interest (Members and Ministers) Act*.

The procedure to be followed when a member feels it is necessary to place allegations about another member's actions before the House is to bring forward a motion containing the charge being made and a proposal for dealing with it. It is not in order to merely interject such an allegation into any other proceeding than debate on such a motion.

The leader of the third party assured the Chair that she did not intend to suggest a conflict of interest. However, if members consult the Blues they can see how such an allegation could be inferred. The Chair suggests, therefore, that members exercise caution in the language they use when dealing with matters raised in this House. (*Hansard* 2380; *Journals* 189)

During Question Period on May 18, 2004 the leader of the third party, Pat Duncan (Porter Creek South, Liberal) alleged that shortly after the general election of November 4, 2002 the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party) and Hon. Peter Jenkins (Klondike, Yukon Party) had "told the Minister of Justice that there would be no funding for a jail because the Yukon Party wanted to build a bridge in Dawson instead". Ms. Duncan described this as "a decision based on pure politics and completely lacking in ethics." Ms. Duncan also said, "Of course, that has been a main characteristic of the government: a complete lack of ethical and moral leadership." Before the Minister of Justice, Hon. Elaine Taylor (Whitehorse West, Yukon Party) responded the Speaker, Hon. Ted Staffen, intervened and said, "I would just like to remind the leader of the third party that when you challenge somebody's ethics, that's inappropriate and I would ask the member not to do that." (*Hansard* 2761)

Later in the same Question Period Premier Fentie said Ms. Duncan's party "(w)hen in government...clearly expressed...an anti-native sentiment...(and) were anti-women". The Speaker subsequently called for order and said, "Before the member asks the next question, I previously made a Speaker's statement on rhetoric and the use of descriptive adverbs. I'd ask the hon. Premier to respect that." (*Hansard* 2762-2763)

Later still in Question Period on May 18, 2004 the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party), alleged that Gary McRobb (Kluane, NDP) "when he was in government...manipulate(d) the Yukon Development Corporation". Before the next question was asked the Speaker ruled that comment unparliamentary and asked the minister to refrain from making similar comments in the future. (*Hansard* 2764)

## **Committee of the Whole**

### ***Proceeding from general debate to line-by-line***

Committee debate on appropriation and supplementary appropriation bills begins with general debate. Once general debate is concluded the committee opens clause 1 of the bill and then proceeds to the schedules. Schedule A contains a department-by-department breakdown of the appropriations. Only new appropriations are subject to debate. Questions about other information contained in Schedule A such as departmental lapses in funding and overall expenditures should be asked during general debate. Once the schedules have been carried the committee will return to Clause 1 to carry it.

On April 22, 2004 during general debate in Committee of the Whole on Bill No. 10, *First Appropriation Act, 2004-05*, the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party) commented that certain questions were related "to a specific department. It is not general debate; therefore, I move that we go into department-by-department debate, line-by-line debate." However, as the Chair indicated, Committee of the Whole does not proceed from general debate to line-by-line consideration of a bill by way of a motion. As the Chair said, "As long as there is general debate, and there appears to be, we will continue on." (*Hansard* 2306) If a minister feels a question belongs in debate on a specific department, rather than general debate, he or she may raise a point of order or choose to defer answering the question until that department is called for debate. Regardless, general debate ends by consent, not by motion.

### ***Progress, Motion to report***

On May 4, 2004 Committee of the Whole dealt with the estimates for the Department of Energy, Mines and Resources in Bill No. 10. Toward the end of the sitting day the minister responsible for the department, Hon. Archie Lang (Porter Creek Centre, Yukon Party), moved the motion to report progress. When he did so the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order. Mr. McRobb pointed out that there were still five minutes before the normal hour of adjournment and "(t)he public pays good money to have us in here and do its business, and it does not serve the public trust to pack up our gear and head home early."

Procedurally the Chair's only concern is whether the motion to report progress is in order, not whether it is being used wisely. That is up to the House to determine by its vote on the motion. The Deputy Chair of Committee of the Whole, Dean Hassard, therefore ruled the motion in order and put it to the House. The motion was agreed to. (*Hansard* 2495)

### ***Resuming debate on a department***

On May 17, 2004 Committee of the Whole was dealing with the line 'Community Affairs' in the Community Development program of the Department of Community Services in Bill No. 10 when progress was reported. When debate resumed in Committee of the Whole the following day the government chose to first deal with the Department of Economic Development in the same bill. The Committee dealt with the Department of Community Services once Economic Development had been dealt with.

The Chair, Patrick Rouble, resumed debate on the Department of Community Services by saying, "I understand we're now returning to Vote No. 51, Department of Community Services, and general debate." The minister responsible for the department, Hon. Glenn Hart (Riverdale South, Yukon Party), then commenced remarks appropriate to general debate. Shortly thereafter Steve Cardiff (Mount Lorne, NDP) rose on a point of order. Mr. Cardiff said, "I believe you



asked, "Is there any general debate?" I'd like to point out that yesterday when we left Community Services, we were in the lines, specifically on property and assessment taxation."

The Chair thanked Mr. Cardiff for the correction and admitted he had been in error. The Chair then confirmed that the Committee was indeed "in line-by-line debate in the budget item of Community Development on the line Community Affairs." The Committee then continued debate on the line Community Affairs. (*Hansard* 2774)

### **Correcting the Record**

On April 13, 2004 Committee of the Whole dealt with the estimates for the Department of Finance in Bill No. 8, *Third Appropriation Act, 2003-04*. During the debate Gary McRobb (Kluane, NDP) said of the Premier and Finance Minister, Hon. Dennis Fentie (Watson Lake, Yukon Party), "(o)n Thursday afternoon, we heard the minister stand up and take all the credit for what happens to be improved economic statistics in the territory." Mr. McRobb went on to state that it would be wrong for any one individual to take such credit as numerous factors affect the Yukon's economy. At that point Hon. Mr. Fentie rose on a point of order saying, "In the context of keeping the facts straight, I am compelled to correct the record. *Hansard* will show that the government side has stated clearly — we want to make it clear: we do not take all the credit, Mr. Chair, for the economic turnaround."

The Committee Chair, Patrick Rouble, ruled there was no point of order. (*Hansard* 2110) Correcting the record is never a point of order, but is taken simply as a dispute between members.

### **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 were tabled pursuant to this standing order during the 2004 Spring Sitting:

- April 1, 2004: The Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party) tabled the *Kluane First Nation Final Agreement*, the *Kluane First Nation Self-government Agreement* and a copy of Order-in-Council 2004/07, dated January 13, 2004, which approves and gives effect to these agreements. This tabling was done pursuant to subsections 3.1 and 3.2 of *An Act Approving Yukon Land Claims Final Agreements* and subsections 3.1 and 3.2 of the *First Nations (Yukon) Self-Government Act*. (*Hansard* 1945; *Journals* 163)
- April 20, 2004: The Minister of Education, Hon. John Edzerza (McIntyre-Takhini, Yukon Party), tabled the 2002-03 Yukon College annual report and audited financial statements, pursuant to Section 16(2) of the *Yukon College Act*. Hon. Mr. Edzerza also tabled the 2002-03 annual report of the Department of Education Public Schools Branch, pursuant to section 5(b) of the *Education Act*. (*Hansard* 2229; *Journals* 181)

The Speaker tabled other required tablings (see Presiding Officers, tabling by).

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 Sessional Papers and Filed Documents tabled during the 2004 Spring Sitting can be found in the *Hansard* index and in the *Journals* index.

### ***Requirement for Tabling***

Members regularly use documents when participating in debate. Occasionally other Members, who do not have this source of information handy, ask that such information be tabled so that all Members can fully participate in debate. *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>6</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.

On April 5, 2004 Committee of the Whole considered the estimates for the Department of Highways and Public Works in Bill No. 8, *Third Appropriation Act, 2003-04*. At one point in the debate the minister responsible for the department, Hon. Glenn Hart (Riverdale South, Yukon Party), read out a list of figures for the amounts of money allocated to various highway camps during the 2003-04 fiscal year. As he read out the list the leader of the third party, Pat Duncan (Porter Creek South, Liberal), rose on a point of order. Ms. Duncan said, “I believe it’s customary in this House if the minister is going to read from a document that the document be provided to all members.” The Committee Chair, Patrick Rouble, did not order that the document be tabled saying “(t)he Chair is not aware if this is a document or a briefing note, but it would seem that it would be appropriate that he would have that type of information in a briefing note.”

The Member for Kluane, Gary McRobb (NDP), indicated that opposition members would have appreciated receiving in writing the figures the minister was willing to read into the record. However, the Chair cannot require that members table speaking notes they prepare to aid them in debate. (*Hansard* 2003)

On May 4, 2004 Committee of the Whole considered the estimates for the Department of Education in Bill No. 10, *First Appropriation Act, 2004-05*. During debate regarding plans to build a new school in Carmacks the Minister of Education, Hon. John Edzerza (McIntyre-Takhini, Yukon Party), indicated his intention to read a letter of May 13, 1999 written by Eric Fairclough (Mayo-Tatchun, NDP) to then-Minister of Education Lois Moorcroft. The official opposition House leader, Gary McRobb (Kluane, NDP) then rose on a point of order saying, “I believe the House rules provide us to request a copy of any correspondence being cited, which is exactly what this minister happens to be doing.” Brad Cathers (Lake Laberge, Yukon Party) argued, “The letter that was being referred to by the Minister of Education is something that was sent by the current Member for Mayo-Tatchun to another member of that party while in government, and they should be in possession of that information.” The Chair, Patrick Rouble, ruled with Mr. Cathers saying, “As the letter in question came from a current member of our Assembly, one could reasonably assume that the member has a copy of that letter in his possession.” (*Hansard* 2480)

### **Electronic Devices, use of in the Chamber**

Committee of the Whole began general debate on Bill No. 10, *First Appropriation Act, 2004-05* on April 1, 2004. At one point the proceedings were interrupted by a noise in the Chamber. The

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<sup>6</sup> *House of Commons Procedure and Practice*, page 518.

Committee Chair, Patrick Rouble, called for order and the following exchange regarding the use of electronic devices transpired:

**Chair:** The Chair has just heard what sounds to be some type of electronic device and I'd like to remind all members that those are not allowed in our Chambers — that includes cellular telephones and anything similar in nature.

**Hon. Mr. Fentie:** How about pacemakers?

**Chair:** Pacemakers, as long as they're installed appropriately, are allowed and encouraged in our Assembly. (*Hansard* 1958)

The rule against electronic devices originated in a decision by Speaker Robert Bruce on April 20, 1998. The ruling was in response to a point of order raised by Pat Duncan (Porter Creek South, Liberal) regarding the use of a lap-top computer by a member during Committee of the Whole proceedings on April 15, 1998. In his ruling the Speaker noted that the Assembly did not have explicit rules regulating the use of computers in the Chamber. Further, he ruled that rather than making a decision on such use himself he would leave it to the Members of the Assembly to construct rules for the use of such devices. Speaker Bruce concluded, "Until the House has expressed its view on this issue, the Chair would ask that members respect the past practice of not bringing laptop computers into the Chamber." (*Hansard* 2950) The Speaker's ruling extends to the use of other electronic devices as well as there are no rules governing their use.

#### **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* adds "On occasions when the Opposition has protested a change in the projected order of business for a specific sitting day, the Chair has reminded Members of the government's prerogative."<sup>7</sup> The control the government has in calling its business is also reiterated in *Beauchesne*.<sup>8</sup>

The calling of government business has been a recurring issue in the 31<sup>st</sup> Legislature.<sup>9</sup> On April 5, 2004 Bill No. 8, *Third Appropriation Act, 2003-04*, was called as the first order of the day. The official opposition House leader, Gary McRobb (Kluane, NDP), immediately rose on a point of order. Mr. McRobb said:

I wish to draw to the attention of members of this House that what the government is doing is contrary to what was agreed to at this morning's House leaders' meeting. The order of business following Question Period was to continue general debate on the mains budget [Bill No.10, *First Appropriation Act, 2004-05*]. It wasn't until the noon hour when the government House leader tried to change it. Neither House leader from the opposition parties agreed to the change.

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<sup>7</sup> *House of Commons Procedure and Practice*, pages 406-407

<sup>8</sup> See §372, page 111.

<sup>9</sup> See Yukon Legislative Assembly, *Procedural Report, First Session, 31<sup>st</sup> Legislature: February 27, 2003-May 1, 2003 and June 12, 2003 (Special Sitting in Mayo)*, (Whitehorse: Yukon Legislative Assembly Office, 2004) pages 16-18; and Yukon Legislative Assembly, *Procedural Report, First Session, 31<sup>st</sup> Legislature: October 30, 2003-December 16, 2003* (Whitehorse: Yukon Legislative Assembly Office, 2004) pages 15-16.

I realize there is nothing in the House rules to accommodate this. Our only recourse is to bring this matter to the attention of the people, so they could see how dictatorial this government is in how it treats the opposition parties.

Consistent with previous decisions the Speaker, Hon. Ted Staffen, ruled, “there is no point of order. It’s outside the purview of the Speaker.” (*Hansard* 1982)

This issue was again raised during Committee of the Whole on April 19, 2004. At the beginning of Committee deliberations on that day Mr. McRobb rose on a point of order and said

I understand that we’re now dealing with Bill 8, the supplementary budget. That is not the business identified by the government House leader at the House leaders’ meeting this morning. We were advised that we’d be dealing with Bill No. 43, *Act to Amend the Income Tax Act*...Now that order has been switched up without any explanation.

Committee Chair Patrick Rouble thanked Mr. McRobb for bring this matter to his attention. The Chair added, “Unfortunately the Chair has no control over the business that is called.” The Committee then proceeded with Bill No. 8. (*Hansard* 2203)

A similar event occurred on May 17, 2004 as Committee of the Whole considered Bill No. 10. Once the estimates for the Yukon Liquor Corporation were dealt with the Chair informed the Committee it was his understanding that the next item of business was Vote 51, the Department of Community Services. At that point Mr. McRobb rose on a point of order saying,

We need to cooperate at least to the degree that the government informs the opposition of which departments are called next. The government House leader awhile back said he has done that. He’s wrong, Mr. Chair. We were informed right now that Yukon Development Corporation is supposed to be up.

The Chair ruled there was no point of order and the Committee proceeded with Vote 51. (*Hansard* 2748)

#### **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. The established procedure is that words spoken in languages other than English are not included in the text unless a transcript is provided to Hansard. If no script is provided a notation will appear in Hansard, i.e., [*Member spoke in...script unavailable*]. An English translation is not provided.

Where members use phrases that are commonly known no such process is necessary. On May 11, 2004 Committee of the Whole considered the estimates for the Department of Highways and Public Works in Bill No. 10, *First Appropriation Act, 2004-05*. At one point the leader of the third party, Pat Duncan (Porter Creek South, Liberal), and the minister responsible for the department, Hon. Glenn Hart (Riverdale South, Yukon Party), discussed the role of the Bureau of French Language Services. The minister committed to discuss the bureau’s position within government with the Association Franco-Yukonnaise (AFY). At that point the following exchange took place:

**Ms. Duncan:** Do we have a time frame on when the minister expects to reach a decision on this particular issue, or has he committed to a time frame when he intends to get back to l'AFY?

**Hon. Mr. Hart:** Après session, s'il vous plaît.

**Ms. Duncan:** Merci beaucoup.

In this case the members did not supply a translation to Hansard as one was not needed. Translation is also not needed for certain common First Nations words such as "Mahsi'cho" and "Günilshish." (see *Hansard* 2721)

On May 18, 2004 members paid tribute to Aboriginal Awareness Week. Lorraine Peter (Vuntut Gwitchin, NDP) addressed the House in Gwitchin. Her remarks appeared in *Hansard* as

Juuk driin dinjii juu gwitchin thuk enjit chii driin gwaa lia. Dii ginjik chit trig geenhii, sut nitso trigwundii thuk dii yanjit gwii yandoo gwii zii. Dii gii, sut dii chaii enjit gwandoo chil aa.

Mrs. Peter also translated her remarks for members as, "this week is set aside to acknowledge First Nation people in our country. Our language and our culture are very important to us, especially for our children and our grandchildren." (*Hansard* 2757)

## Members

### *Recognition of*

Standing Order 17(1) says, "Every member desiring to speak shall rise in his or her place and address the Speaker."

An unusual event regarding the recognition of a member occurred on March 29, 2004 during Second Reading debate on Bill No. 10, *First Appropriation Act, 2004-05*. At that time the Speaker, Hon. Ted Staffen, recognized Dean Hassard (Pelly-Nisutlin, Yukon Party) to speak. Mr. Hassard then immediately took his seat without addressing the bill. The Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), then rose to address the bill and indicated his intention, as the sponsor of the bill, to close debate. He said, "It's now the opposition's turn in rotation. If they do not want to debate, then I feel I'm compelled to stand and close debate on the issue." The Speaker then advised the House, "If the member now speaks, he'll close debate. Does any other member wish to be heard?"

At that point the leader of the third party, Pat Duncan (Porter Creek South, Liberal), rose on a point of order seeking clarification as to which member properly had the floor. The Speaker ruled

The Member for Pelly-Nisutlin stood up, was recognized, then declined; he therefore has used his position in the debate. The hon. Premier stood up and attempted to close debate. The leader of the third party stood up to make a point of order. There is no point of order. The Premier can stand up at any time and, if he speaks, will close debate.

So it is up to the House who would like to speak next. If the hon. Premier stands up, he will close debate if no other member wishes to speak. (*Hansard* 1866)

Ms. Duncan objected to the suggestion that the Premier would close debate. As Ms. Duncan indicated her intention to speak to the bill the Speaker gave her the floor. Debate on Bill No. 10 continued.

However, this did not solve the issue of Mr. Hassard being able to address the budget at Second Reading. The practices of the Assembly being what they are this would, in all likelihood, be Mr. Hassard's only opportunity to address the bill given that government private members rarely address matters in Committee of the Whole and extended debate rarely occurs at Third Reading. On March 30, 2004 as debate continued on Bill No. 9, *Interim Supply Appropriation Act, 2004-05*, at Second Reading the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order. Hon. Mr. Jenkins sought the unanimous consent of the Assembly to allow Mr. Hassard to address Bill No. 10 at Second Reading, notwithstanding the events of the day before. Unanimous consent was denied. (*Hansard* 1894)

The issue was resolved in favour of Mr. Hassard on April 1, 2004. After Question Period the House proceeded to Orders of the Day, the first order to be called being Bill No. 10. Immediately upon Bill No. 10 being called the official opposition House leader, Gary McRobb (Kluane, NDP), requested the unanimous consent of the Assembly to allow Mr. Hassard to address Bill No. 10. Unanimous consent was granted. (*Hansard* 1949)

### *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>10</sup>

The Speaker, Hon. Ted Staffen, intervened on this point during debate on a proposed amendment to Motion No. 225 on April 7, 2004. The motion urged the government to build a bridge across the Yukon River at Dawson City. During his remarks Eric Fairclough (Mayo-Tatchun, NDP) referred to the proposed structure as "the Peter Jenkins bridge" in reference to the Member for Klondike. The Speaker asked that members not refer to each other by name. Mr. Fairclough assured the Speaker he would avoid doing that in the future though he professed some difficulty on this point as "the general public is saying the same thing." (*Hansard* 1069) However, members are required to adhere to the proprieties of the House, public usage notwithstanding.

On April 15, 2004 during consideration of the estimates for the Department of Tourism and Culture in Bill No. 8, *Third Appropriation Act, 2003-04*, the Chair, Patrick Rouble, intervened when the Minister of Tourism and Culture, Hon. Elaine Taylor (Whitehorse West, Yukon Party), referred to the Minister of Community Services as "Minister Hart." The Chair reminded Members "not to refer to each other by name but instead to refer to the portfolio or the riding they represent." (*Hansard* 2173)

On May 4, 2004 during consideration of the estimates for the Department of Education in Bill No. 10, *First Appropriation Act, 2004-05*, debate focussed on events surrounding the decision to build a new school in Carmacks. During debate the Minister of Education, Hon. John Edzerza (McIntyre-Takhini, Yukon Party), referred to a letter sent, "[o]n May 13, 1999 [from] the MLA at the time, Eric Fairclough...to the minister, Lois Moorcroft." At that point the Chair indicated, "[i]t is inappropriate for members to refer to other members by name in our Assembly." In response to a question from Hon. Mr. Edzerza the Chair clarified that the

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<sup>10</sup> *Beauchesne's* §484(1), page 142.

prohibition covers current members (like Mr. Fairclough) not former members (like Ms. Moorcroft). (*Hansard* 2474)

It is also not in order to modify the names of individuals or their parties in a derogatory manner. The Speaker, Hon. Ted Staffen, mentioned this point during a ruling delivered on March 30, 2004. The Speaker ruled that a reference by the Minister of Environment, Jim Kenyon (Porter Creek North, Yukon Party), to the leader of the third party, Pat Duncan (Porter Creek South, Liberal) as "the leader of the last party" (*Hansard* 1873) was "a disparaging remark and is not in order. Members are to refer to one another by their recognized titles in this House." (*Hansard* 1883; *Journals* 156)

The Speaker intervened in a similar manner on April 7, 2004 during debate on Motion No. 225 when the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party), referred to the official opposition as "the no-development party." (*Hansard* 2059)

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

*House of Commons Procedure and Practice* advises the following as the established practice regarding references 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>11</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 urges discretion be used by members when naming individuals involved in an issue.

On March 29, 2004 during Second Reading of Bill No. 10, *First Appropriation Act, 2004-05*, the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), was discussing the appointment of individuals to public boards and committees. In doing so he said, "party faithful – Yukon Party people – are being put in place...It is definitely not ensuring that the best, the brightest and the most dedicated are being put on these committees. That doesn't seem to be the criteria. I think the criteria we are seeing now are not only just that but, "Are you a Yukon Party supporter?"

At that point the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order arguing that Mr. Hardy had slighted "members of our community and society...(who) are unable to defend themselves here in this Legislature." He then said Mr. Hardy should withdraw those statements. The Speaker, Hon. Ted Staffen, ruled there was no point of order. However he cautioned members "when addressing the Chamber that one ensures that one is not maligning members of boards and committees who, as was pointed out, are not here to defend themselves."

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<sup>11</sup> *House of Commons Procedure and Practice*, page 524.

Mr. Hardy then continued and repeated his assertion that certain individuals are on certain boards and committees because of their partisan affiliation, adding that this had been said publicly by some of these appointees. At that point Patrick Rouble (Southern Lakes, Yukon Party) rose on a point of order arguing that government ministers had denied that party affiliation was germane to appointments made and that therefore Mr. Hardy was attributing a false or unavowed motive to them. The Speaker advised the House that he would take the point of order under advisement and return with a ruling the next day. (*Hansard* 1855-1856)

The following day, March 30, 2004 the Speaker delivered the following ruling:

Before we proceed to Orders of the Day the Chair will deliver its ruling on a point of order raised yesterday by the Member for Southern Lakes.

The Member for Southern Lakes argued that the leader of the official opposition had imputed false or unavowed motives to members of the Assembly who are responsible for appointing members of the public to boards and committees.

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."

In reviewing the Blues the Chair finds that the leader of the official opposition did not speculate on the motives of any individual member or members of the House. Rather, his criticism was cast more generally as a criticism of government practice. The Chair therefore rules that there was no point of order in that regard.

However the Chair would caution members, as he did yesterday, to choose their words carefully so as not to damage the reputation of persons who are not members of this House and cannot defend themselves against statements made in this House. The Chair accepts the statement of the leader of the official opposition that he had no intention of maligning anyone; however, members should keep in mind that their words and actions can have unintended consequences. (*Hansard* 1882-1883; *Journals* 156)

### **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, 2004 the minister responsible for the Yukon Workers' Compensation Health and Safety Board, Hon. Peter Jenkins (Klondike, Yukon Party), rose in recognition of Workers' Day of Mourning for those workers killed or injured on the job. At the end of his tribute Hon. Mr. Jenkins informed the House that, following tributes from the opposition parties, the Speaker would ask members to rise for a moment of silence. Following contributions by Steve Cardiff (Mount Lorne, NDP) and the leader of the third party, Pat Duncan (Porter Creek South, Liberal), the Speaker asked "all members of the House, in honour of the Day of Mourning, to please rise for a moment of silence." The Assembly then observed a moment of silence. (*Hansard* 2378; *Journals* 188)



### **Ministers, references to**

As noted above *Beauchesne's Parliamentary Rules & Forms* advises that Members should identify Ministers by their ministerial portfolio.<sup>12</sup> This requires that ministerial titles and portfolios be referred to properly.

This became an issue during Question Period on April 15, 2004. At that time Steve Cardiff (Mount Lorne, NDP) asked some questions of the Minister of Community Services, Hon. Glenn Hart (Riverdale South, Yukon Party), regarding the minister's appointment of a trustee to oversee the operations of the Town of Dawson City. This was done in the wake of the minister's decision to relieve the mayor and council of their duties. Noting that the trustee reports to the minister, Mr. Cardiff referred to Hon. Mr. Hart as "Dawson's super-mayor." The Speaker, Hon. Ted Staffen, intervened saying that Hon. Mr. Hart "is the Minister of Community Services and I would appreciate it if you would address him as such." (*Hansard* 2171)

The Speaker reminded the House of this practice during Question Period on April 20, 2004. The leader of the third party, Pat Duncan (Porter Creek South, Yukon Party), began her main question by saying she had, "some questions for the Minister of Community Services, in his new role as the mayor of Dawson City." Later in the same question she again referred to "[t]he Minister of Community Services, as the new mayor of Dawson..." Once she had concluded her main question the Speaker intervened saying

Before the minister answers the question, I remind the leader of the third party that the minister is the Minister of Community Services. He's not the mayor of Dawson City; he's the Minister of Community Services and I would ask that you address him as such. (*Hansard* 2231)

This issue again arose during Question Period on May 3, 2004. At that time the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), posed questions regarding the Dawson City chief administrative officer. During the course of his final supplementary question Mr. Hardy asked, "Is the **mayor** aware of any correspondence on this matter from restaurant owners in Dawson to the former finance supervisor or the former city council, and would he table that correspondence?" (emphasis added) The Speaker called for order and said, "I'm sure that the leader of the official opposition did not intend to call the Minister of Community Services the mayor." (*Hansard* 2446) It was clear from the context and the atmosphere in the House that Mr. Hardy had simply misspoken himself. However, given the previous comments the Speaker was obliged to bring the issue to Members' attention.

### **Motions, Irregular**

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. If the motion is of such a nature that objection cannot be removed, the Speaker may refuse to put the motion to the House."<sup>13</sup>

Motions may become irregular for a variety of reasons. The following chart illustrates those motions modified or removed from the Order Paper and the reasons for doing so:

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<sup>12</sup> *Beauchesne's* §484(1), page 142.

<sup>13</sup> *Beauchesne's* §566(3), pages 174-175.

Date	Motion	Sponsor	Action	Reason	Reference
March 25	No. 68	Fairclough	Removed	Outdated	<i>Hansard 1819; Journals 151</i>
	No. 108	Cathers	Removed	Outdated	
	No. 130	Hardy	Removed	Outdated	
	No. 123	Hassard	Removed	Outdated	
	No. 201	Duncan	Removed	Outdated	
	No. 120	Hardy	Removed	Related to a bill that passed	
	No. 125	Duncan	Removed	Related to a bill that passed	
	No. 134	Cathers	Removed	Related to a bill that passed	
	No. 10	Fairclough	Modified	To make the motion current	
April 19	No. 236	Duncan	Removed	Outdated	<i>Hansard 2196; Journals 180</i>
April 21	No. 109	Duncan	Removed	Outdated	<i>Hansard 2257; Journals 183</i>
May 17	No. 185	Jenkins	Removed	Superseded by another motion	<i>Hansard 2730; Journals 209</i>
May 18	No. 293	Duncan	Removed	Action requested was done	<i>Hansard 2765; Journals 211</i>

#### Notice required for Private Member's Bill

During debate on Bill No. 10, *First Appropriation Act, 2004-05*, the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order on a matter unrelated to the bill. The matter that concerned Hon. Mr. Jenkins was the notice required before the official opposition could call a private member's bill for debate on a day designated for opposition private members' business.

Nonetheless, the Speaker, Hon. Ted Staffen, allowed Hon. Mr. Jenkins to proceed with his point of order. Hon. Mr. Jenkins said:

Today the official opposition tabled a bill (Bill No. 104). That bill was *Act to Amend the Public Service Act*. Pursuant to Standing Order 14.2(3), when opposition private members' business has proceeded, no later than the time at which the Assembly proceeds to Orders of the Day on the sitting day preceding the call of opposition private members' business, the leader of the official opposition or designate may on behalf of the members of the official opposition identify the order in which the items standing in their names on the Order Paper or on the Notice Paper shall be called.

Subsequent to that, the official opposition identified the bill that they had tabled just today as being the item that they would call for debate tomorrow. Pursuant to Standing Order 54(2), it is proceedings on bills. "Bills, printing and distributing" is the title of that category. Part 2 reads, "No bill shall receive Second Reading until it has been printed and distributed for one clear sitting day." It would appear that the only exemption to this rule is part 3, where an appropriation bill bringing forward the main capital or operating and maintenance budget may receive second reading on the same sitting day on which it has received the first reading.

So I would submit that the request to call the bill that was tabled today — that you rule on it and I see it as being out of order according to the Standing Orders of this Legislature.

Eric Fairclough (Mayo-Tatchun, NDP) responded that Hon. Mr. Jenkins' point of order was lengthy and referenced numerous standing orders and he therefore requested some time to "review what the government House Leader is requesting...so we can comment." The Speaker agreed with Mr. Fairclough's request and said he rule on the point of order "[l]ater on today or first thing at tomorrow's sitting." Mr. Fairclough also requested that the official opposition be given the opportunity to provide a written submission to the Speaker. The Speaker agreed with that request. (*Hansard* 1894)

The Speaker revisited this issue immediately before adjourning the House for the day. The Speaker said:

Prior to standing the House adjourned, the point of order raised by the government House leader with regard to the *Act to Amend the Public Service Act* — the Chair is in a conundrum. We have past practices versus Standing Orders. I am going to ask the House leaders to meet in my office tomorrow morning at 9:00 a.m. to assist the Chair in finding a fair and equitable settlement to this issue. (*Hansard* 1911; *Journals* 158)

The following day, when Orders of the Day were called, the official opposition House leader, Gary McRobb (Kluane, NDP), informed members that an agreement had been reached that the Assembly would proceed with Bill No. 104 that day. The Speaker then stated:

The Chair thanks the House leaders for coming to this agreement. As they are aware, at our meeting this morning, the point of order raised by the government House leader posed a very difficult decision for the Chair. The Chair, of course, respects and agrees to follow the wishes of the House leaders in this matter. However, the Chair, through this point of order, has been made aware of some serious issues that the House should address. The Chair will therefore provide a statement to the House on those issues at a later date. (*Hansard* 1917-1918; *Journals* 159-160)

## **Order and Decorum**

### ***Deportment in the Chamber***

On May 17, 2004 Committee of the Whole considered the estimates for the Yukon Housing Corporation in Bill No. 10, *First Appropriation Act, 2004-05*. During the course of that debate Brad Cathers (Lake Laberge, Yukon Party) rose on a point of order regarding the deportment of members in the Chamber. Mr. Cathers said

Mr. Chair, a few minutes ago, the MLA for Kluane had removed his shoes and placed his feet on top of the desk, following which he placed his feet inside the lid of the desk. I believe this is contrary to the standards of decorum for this Assembly, and I ask that you direct the Member for Kluane to respect the standards of decorum in this House.

Gary McRobb (NDP), the member in question, said in response, "the Member for Lake Laberge is completely wrong in his assessment of what took place, and I would urge all government

members to get on with the public's business." In ruling on the point of order the Chair, Patrick Rouble, indicated that the was

not aware of any breaking of the Standing Orders. I would like to take this opportunity, though, to remind all members of our Standing Orders and the level of decorum and ask that members do keep their shoes on and do not attend the Assembly in a T-shirt and running pants. It's the Chair's responsibility to ensure decorum, and I would ask all members to act appropriately. (*Hansard* 2745)

### *Extraneous comments*

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." The Presiding Officers intervened on numerous occasions to enforce this standing order during the 2004 Spring Sitting.

An interruption of an unusual sort occurred during debate on Motion No. 225 on April 7, 2004. During her remarks on a proposed amendment to the motion the leader of the third party, Pat Duncan (Porter Creek South, Liberal), mentioned whistling and the movie *Bridge on the River Kwai*. When Ms. Duncan addressed the main motion she again mentioned the movie. At this point some members began to whistle the movie's theme song. The Speaker called for order saying, "No whistling. As wonderful as it is, it's not allowed." (*Hansard* 2062)

However, of particular interest is one intervention where it appeared a member's privileges were in jeopardy. During Question Period on May 17, 2004 the Speaker intervened during questions from Haakon Arntzen (Copperbelt, Independent). Mr. Arntzen had recently left the government caucus to sit as an independent member. As he was asking his main question the Speaker detected extraneous comments from certain members of the House. After the Minister of Community Services, Hon. Glenn Hart (Riverdale South, Yukon Party), answered Mr. Arntzen's main question the Speaker said

Before the member asks the first supplementary question, I would like to remind all members that the questioner has the floor, then the answerer has the floor. I would appreciate no extraneous comments.

The Speaker then directed Mr. Arntzen to ask his first supplementary question. (*Hansard* 2727) However, the Speaker viewed the incident as serious enough to warrant further commentary. Before the House proceeded to Question Period on May 18, 2004 the Speaker gave the following statement

The Chair sensed some disorder in the Assembly during the question raised by the Member for Copperbelt. It appears to the Chair that some members expressed displeasure with the question asked by that member. It is in this regard that I would draw attention to annotation 75 of *Beauchesne's Parliamentary Rules and Forms* which states: "The privilege of freedom of speech is both the least questioned and the most fundamental right of the Member of Parliament on the floor of the House and in Committee."

As Speaker, I have a duty to ensure that the rights and privileges of all members are protected. I would ask all members to respect each other's privileges in this Assembly. (*Hansard* 2760; *Journals* 211)

### ***Speaking through the Chair***

Standing Order 17(1) says, "Every member desiring to speak shall rise in his or her place and address the Speaker." In practice this requires that members address their questions through the Speaker, not directly to one another.

On March 31, 2004 during debate on the amendment to the motion for Second Reading of Bill No. 104, *Act to Amend the Public Service Act*, the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), the sponsor of the bill, addressed the minister responsible for the Public Service Commission, Hon. John Edzerza (McIntyre-Takhini, Yukon Party). In doing so, Mr. Hardy said, "If that's the attitude and if that's the argument that that minister makes, then resign, because you're not a leader. You're following the Liberals. And I thought you ran for a different party that had a stronger fortitude and willpower. Instead, you say, "No, the Liberals." The Speaker intervened at that point and reminded Mr. Hardy to address the Chair. (*Hansard* 1923)

During Question Period on May 12, 2004 Mr. Hardy and the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party) engaged in a rather animated debate regarding the differences, if any, between reindeer and caribou. At one point Mr. Hardy said, "Reindeer are caribou. Caribou are wildlife, not game-farm animals — get it into your head." At the conclusion of his question the Deputy Speaker, Patrick Rouble, called for order and said, "Before the member answers the question, I would like to remind all members that it is inappropriate to make specific comments to specific members ["get it into your head"]. All comments should be directed through the Chair." (*Hansard* 2666-2667)

### **Petitions**

#### ***Received***

Standing Order 66(1) says

On the sitting day following the presentation of a petition, the Clerk shall present a report upon the petition...and every petition so reported upon...which, according to the Standing Orders or practice of the Assembly, can be received, shall then be deemed to be read and received.

On December 16, 2003 the leader of the official opposition, Todd Hardy, (Whitehorse Centre, NDP), presented Petition No. 2 which bore "the signature(s) of 391 Yukon people calling on Cabinet ministers who owe money to the taxpayers to pay up or resign." (*Hansard* 1787; *Journals* 145)

On March 30, 2004 the Clerk of the Legislative Assembly, Patrick L. Michael, made the following report to the Assembly regarding Petition No. 2

Mr. Speaker, and hon. members of the Assembly: I have had the honour to review a petition, being Petition No. 2 of the First Session of the 31<sup>st</sup> Legislative Assembly, as presented by the leader of the official opposition on December 16, 2003.

The members will be aware that Standing Order 66(1) required that this report be delivered to them on the first sitting day of this spring sitting. It is to be hoped that the generosity for which members of this Assembly are renowned will be fully exercised in this regard and that the unfortunate delay of the Clerk in meeting his obligation will be quickly and silently forgotten.

With respect to Petition No. 2, a number of the pages of the petition were photocopies of facsimiles. The majority of the petition, however, does contain original signatures and the photocopies therefore do not render it invalid. Also it should be noted that an argument may be made that the language of the petition strains the bounds of that considered appropriate. For future reference, members and petitioners may wish to keep in mind the expectation set out in annotation 1029(1) of *Beauchesne* that the language of a petition be respectful and temperate. In this case, however, Petition No. 2 is found to meet the requirements as to form of the Standing Orders of the Yukon Legislative Assembly.

The Speaker, Hon. Ted Staffen, therefore deemed Petition No. 2 to have been read and received. (*Hansard* 1877; *Journals* 155)

#### ***Response by Minister***

Standing Order 67 says, "The Executive Council shall provide a response to a petition which has been received within eight sitting days of its presentation." As Petition No. 2 was presented on December 16, 2003 and deemed received on March 30, 2004 the cabinet had to respond to it by April 7, 2004. On that day the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party) responded to the petition. (*Hansard* 2039; *Journals* 170)

#### **Points of Order.**

##### ***Discussing***

In a ruling delivered on March 30, 2004 the Speaker, Hon. Ted Staffen, made the following statement regarding the contribution of members to discussions of points of order:

In responding to the issue [before the House] the official opposition House leader asserted that there was no point of order. Other members have, in the past, made similar statements. When the Chair recognizes a member to speak to a point of order he is seeking advice about which rules or practices ought to be considered and how those rules or practices ought to be interpreted. Simply advising the Chair that there is, or is not, a point of order does not accomplish this. (*Hansard* 1882; *Journals* 156)

##### ***Improper***

On May 6, 2004 Committee of the Whole considered the estimates for the Department of Energy, Mines and Resources in Bill No. 10, *First Appropriation Act, 2004-05*. At one point the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order during remarks by Gary McRobb (Kluane, NDP). Hon. Mr. Jenkins said, "Mr. Chair, pursuant to Standing Order 19(1), the member opposite is whining." The Committee Chair, Patrick Rouble, ruled there was no point of order as there is no such standing order. The Chair added, "It's entirely inappropriate for a member to raise such a point of order. As well as being insulting, it leads to the deterioration of conduct in this House, and I would ask all members to rise above that." (*Hansard* 2574-2575)

Before adjourning committee business for the day the Chair made a further statement on this incident. He said

Earlier today the government House leader brought up a point of order regarding a comment made by the Member for Kluane. The comments made by the government House leader were not in order. His comments were insulting to the Member for Kluane, a violation of Standing Order 19(i). The invention of a standing order is also a violation of Standing Order 19(k) in that his comments offended the practices and precedents of the Assembly. Further, the government House leader left the Chamber as the Chair was ruling on the point of order. This is a violation of Standing Order 6(4), which requires members to take their seats whenever the Chair is speaking. The Chair would ask that all members respect the Chair and the Standing Orders. (*Hansard* 2599)

### ***Raising***

During Question Period on March 30, 2004 the Speaker, Hon. Ted Staffen, called Eric Fairclough (Mayo-Tatchun, NDP) to order after Mr. Fairclough said the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party), had “mised the House yesterday.” In continuing his question Mr. Fairclough asked Hon. Mr. Jenkins “if he would like to correct (the) false impression he made yesterday.” In responding to the question Hon. Mr. Jenkins said “I would construe that as being another point of order. There was nothing false about anything I said, and I would ask you to rule, Mr. Speaker.” Hon. Mr. Jenkins then took his seat.

Procedurally the problem for the Speaker was that Hon. Mr. Jenkins had not raised the issue as a point of order. The Speaker then advised Hon. Mr. Jenkins that “(f)or the Chair to recognize a point of order, one must stand up on a point of order. If the minister has a point of order, please stand up.” Hon. Mr. Jenkins then rose on a point of order arguing that Mr. Fairclough had violated Standing Order 19(g). Mr. Fairclough defended his choice of words. The Speaker said he would review the matter. (*Hansard* 1880-1881)

On April 8, 2004 Committee of the Whole dealt with the estimates for the Department of Finance in Bill No. 8, *Third Appropriation Act, 2003-04*. At one point during the discussion the Premier and Finance Minister, Hon. Dennis Fentie (Watson Lake, Yukon Party), rose on a point of order in response to a comment from Gary McRobb (Kluane, NDP). As Mr. McRobb responded to the point of order another member attempted to raise a second point of order. Procedurally this is out of order. There can not be two points of order on the floor at the same time. The first must be dealt with before the second can be addressed. Consequently, the Committee Chair, Patrick Rouble, allowed Mr. McRobb to continue. (*Hansard* 2099-2100)

### **Presiding Officers**

#### ***Absence of the Speaker***

Section 24 of the *Legislative Assembly Act* says

If the Legislative Assembly is informed by the clerk at the table of the absence of the Speaker, the Deputy Speaker, if present, shall take the chair and shall perform the duties and exercise the authority of the Speaker in relation to all proceedings of the Legislative Assembly until the meeting of the Legislative Assembly on the next sitting day.<sup>14</sup>

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<sup>14</sup> Yukon, *Revised Statutes of the Yukon, 2002* (Whitehorse: The Queen’s Printer for the Yukon, 2002), Volume 5, Chapter 136, page 13.

On May 10, 2004 the Clerk of the Legislative Assembly, Patrick L. Michael, informed the Assembly of the absence of the Speaker, Hon. Ted Staffen. Following the notice the Deputy Speaker, Patrick Rouble, took the Chair. (*Hansard* 2601; *Journals* 200) This process also occurred on May 11, 2004 (*Hansard* 2633; *Journals* 202); May 12, 2004 (*Hansard* 2663; *Journals* 204) and May 13, 2004 (*Hansard* 2693; *Journals* 206).

#### ***Appointment of Acting Chair of Committee of the Whole, spontaneous***

As the time neared the normal hour of adjournment on May 13, 2004 Lorraine Peter (Vuntut Gwitchin, NDP) moved that progress be reported on Bill No. 10, *First Appropriation Act, 2004-05*. The Committee Chair, Patrick Rouble, put the motion to the Committee and it was agreed to. Subsequently, the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), moved that the Deputy Speaker, Mr. Rouble, resume the Chair. This motion was also agreed to. After assuming the Chair the Deputy Speaker called the House to order. Unfortunately, the Deputy Speaker made a slight mispronunciation, instead saying, "I will now call this horse to order." When the Deputy Speaker asked for a report from the Deputy Chair of Committee of the Whole, Dean Hassard (Pelly-Nisutlin, Yukon Party), the Deputy Chair was laughing so hard at this *faux pas* that he was unable to give the report. Into the breach stepped the Member for Lake Laberge, Brad Cathers (Yukon Party), who spontaneously assumed the role of Acting Chair of Committee of the Whole and delivered the report; thereby ensuring the integrity of parliamentary democracy for another day. (*Hansard* 2720)

#### ***Documents tabled by***

The practice of the Yukon Legislative Assembly is that the Speaker tables documents produced by the Clerk of the Legislative Assembly, the Chief Electoral Officer, the Ombudsman and Information and Privacy Commissioner, the Auditor General and the Conflicts Commissioner. During the 2004 Spring Sitting the Speaker, Hon. Ted Staffen, tabled the following documents:

- April 7, 2004: Deductions from the indemnities of Members of the Legislative Assembly made pursuant to subsection 9(6) of the *Legislative Assembly Act*: Report of the Clerk of the Yukon Legislative Assembly (dated March 25, 2004) (*Hansard* 2039; *Journals* 170)
- April 27, 2004: Political Contributions, 2003: Report of the Chief Electoral Officer of the Yukon (dated April 2004) (*Hansard* 2347; *Journals* 187)
- May 3, 2004: Travel Expenses of Members of the Yukon Legislative Assembly 2003/04 (dated April 2004) (*Hansard* 2443; *Journals* 192)
- May 17, 2004: The Auditor General of Canada's "Report on Other Matters" for the years 2000 to 2003, pursuant to subsection 30(2) of the *Yukon Act*. (*Hansard* 2722; *Journals* 208)
- May 17, 2003: Ombudsman and Information and Privacy Commissioner 2002 Annual Report (*Hansard* 2722; *Journals* 208)

#### ***Participation in debate***

Standing Order 4(1) says, "The Speaker shall not participate as a private member in any business before the Assembly." This rule is in place to safeguard the neutrality that is at the core of the Speaker's authority in the Chamber. However, Standing Order 4(3) says, "The Speaker may participate as a private member in the business of Committee of the Whole."

Just as the Speaker tables reports from House Officers, the Speaker also speaks on their behalf in budget deliberations regarding their entities. In that role the Speaker, Hon. Ted Staffen, took part in Committee of the Whole debate on two occasions. On April 5, 2004 Hon. Mr.



Staffen appeared in Committee to explain the estimates for the Yukon Legislative Assembly and the Office of the Ombudsman in Bill No. 8, *Third Appropriation Act, 2003-04*. (*Hansard* 1992-1993) On May 17, 2004 the Speaker appeared in Committee to explain the estimates for the Yukon Legislative Assembly, the Elections Office, and the Office of the Ombudsman in Bill No. 10, *First Appropriation Act, 2004-05*. (*Hansard* 2739-2741)

No restrictions comparable to Standing Order 4(1) apply to the Deputy Speaker or the Deputy Chair of Committee of the Whole. They are free to participate in debate as private members in the Assembly.

### ***Role of***

On April 1, 2004 Committee of the Whole began general debate on Bill No. 10, *First Appropriation Act, 2004-05*. One subject of debate was the Government of Yukon's financial position. At one point the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), asked the Premier and Finance Minister, Hon. Dennis Fentie, (Watson Lake, Yukon Party): "What were the net financial resources at the beginning of the year 2002-03?" Hon. Mr. Fentie's response was, "The member has the documentation. He has the number." At this point Mr. Hardy asked the Chair of Committee of the Whole, Patrick Rouble, "to direct the member to answer the question." (*Hansard* 1963)

The Chair's Handbook for Committee of the Whole says, "Although any...matter can be raised (in general debate), a Minister has the right to refuse to answer any question on any issue."<sup>15</sup> It is not within the role of Presiding Officers to direct members to answer questions. Nor is it within their role to judge the content of questions. The role of the Presiding Officers is to ensure that established rules, practices and proper parliamentary form are followed. Procedurally, then, the Chair is not concerned with whether a question is answered. The Chair's only concern is that any answer given adheres to the proprieties of the House, such as ensuring that parliamentary language is used, that the response is directed through the Chair, that the member is properly addressed, etc.

### **Private Members' Business**

The Yukon Legislative Assembly reconvened on Thursday, March 25, 2004. The order of Private Members' Business for the Sitting was:

March 31: Opposition Private Members  
April 7: Government Private Members  
April 14: Opposition Private Members  
April 21: Government Private Members  
April 28: Opposition Private Members  
May 5: Government Private Members  
May 12: Opposition Private Members

Pursuant to Standing Order 14.2(2) the roster for determining the order of business on Wednesdays when Opposition Private Members' Business has precedence is:

Position 1: Official Opposition  
Position 2: Official Opposition

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<sup>15</sup> Yukon Legislative Assembly, *Chair's Handbook Committee of the Whole* (February 2003) page 16.

Position 3: Third Party  
 Position 4: Third Party  
 Position 5: Official Opposition  
 Position 6: Third Party

The progress of private members' business in the 2004 Spring Sitting is illustrated by the following table.

Date	Position	Item	Sponsor	Outcome	Speaker
March 31	1. Official Opposition	Bill No. 104	Hardy	Debate adjourned on the bill; the motion for Second Reading having been amended.	Jenkins
	2. Official Opposition	Motion No. 217	Hardy	Debate adjourned.	Fentie
April 7	Government Private Members	Motion No. 225	Cathers	Debate adjourned on the amendment.	
April 14	3. Third Party	Motion No. 232	Duncan	Debate adjourned on the amendment	
April 21	Government Private Members	Motion No. 254	Arntzen	Debate adjourned.	
April 28	4. Third Party	Motion No. 231	Duncan	Debate adjourned on the amendment	Jenkins
May 5	Government Private Members	Motion No. 43	Rouble	Agreed to as amended.	
	Official Opposition <sup>16</sup>	Motion No. 280	Peter	Agreed to.	
	Government Private Members	Motion No. 276	Hassard	Debate adjourned on the amendment	Hardy

Note that May 12 was a day designated for Opposition Private Members' Business. However, the Opposition Private Members did not identify any business for that day.

### Props, use of

*House of Commons Procedure and Practice* advises that "Speakers have consistently ruled out of order displays or demonstrations of any kind used by Members to illustrate their remarks or emphasize their position. Similarly props of any kind, used as a way of making a silent comment on issues, have always been found unacceptable in the Chamber."<sup>17</sup>

During Second Reading of Bill No.43, *Act to Amend the Income Tax Act*, the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order. Mr. McRobb said, "it is against the House rules to have props in this Legislature, I would draw your attention to the desk in front of the Minister of Energy, Mines and Resources. It appears he has a statue of a squirrel over there. I don't quite know what it is about, Mr. Speaker — whether there is maybe

<sup>16</sup> Unanimous consent was granted to proceed with Opposition Private Members Business on this day.

<sup>17</sup> *House of Commons Procedure and Practice*, page 520

lots of food for the squirrel or what, but I would remind you that it is against the rules.” The Speaker, Hon. Ted Staffen, ruled with Mr. McRobb saying, “We are not allowed to use props in this House. I would ask the member to place the prop — whatever the heck it is — under his desk, please.” (*Hansard* 2202)

As the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party) did not address the House during debate on Bill No. 43 he obviously was not using the squirrel to illustrate remarks or emphasize a position. The Speaker must have concluded that Hon. Mr. Lang’s display constituted silent comment on the issue before the House. The comment was not only silent but also oblique as the relationship between a squirrel statue and the extension of the Yukon mineral exploration tax credit (the object of Bill No. 43) was not clear.

### **Question Period**

#### ***Providing answers***

On April 19, 2004 Eric Fairclough (Mayo-Tatchun, NDP) put a question to the minister responsible for the Public Service Commission, Hon. John Edzerza (McIntyre-Takhini, Yukon Party) regarding the designation of permanent and auxiliary positions in the ambulance services. The response came from the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party). During the course of his first supplementary question Mr. Fairclough asked, “why is the Minister of Health standing up to answer questions for the minister responsible for the Public Service Commission?” Once the question was concluded the Speaker, Hon. Ted Staffen, intervened saying, “it is a collegial responsibility of the Cabinet that they will stand up and answer questions at any given time. Any member of the Cabinet can do so”. (*Hansard* 2199)

This issue again arose on April 22, 2004. At that time Lorraine Peter (Vuntut Gwitchin, NDP) directed a question to the Minister of Justice, Hon. Elaine Taylor (Whitehorse Centre, Yukon Party), regarding the segregation cell at the Whitehorse Correctional Centre. Hon. Mr. Jenkins again responded. Mrs. Peter began her first supplementary question by saying

The government House leader, Mr. Speaker, is not the Minister of Justice. As far as I know, he’s not the Acting Minister of Justice. I’m also not aware that the Minister of Justice has any conflict of interest that would prevent her from doing her job and answering to the Yukon —

At that point Hon. Mr. Kenyon (Porter Creek North, Yukon Party) rose on a point of order. He said

On October 22, 2001, the Chair ruled the questions are addressed to the government or to the Cabinet as a whole. They may be addressed to individual ministers; however, the ministers of the Cabinet may make their own decisions. I ask the Speaker to bring this ruling to the member opposite’s attention.

Mr. Fairclough intervened on the point of order saying, “There’s no violation of the Standing Orders here, Mr. Speaker. The question was directed to the minister. It is the government side’s own choice as to who answers the question.”

Hon. Mr. Kenyon was correct. However, while Mrs. Peter did comment on which minister had addressed her question she did not make a procedural issue of it. Therefore the Speaker, Hon. Ted Staffen, ruled there was no point of order and reiterated that “the Cabinet is a collegial body, and any member of the Cabinet can stand up and answer a question.” (*Hansard* 2290-2291)

### ***Question not in order***

According to *House of Commons Procedure and Practice* the Oral Question Period “is that part of the parliamentary day where the government is held accountable for its administrative policies and the conduct of its Ministers, both individually and collectively.”<sup>18</sup> As such questions are to be directed to government ministers in their role as ministers.

During Question Period on April 8, 2004 Steve Cardiff (Mount Lorne, NDP) sought information about a review of the *Workers' Compensation Act*. In doing so he initially posed his question to the chair of the review panel, a government private member, Patrick Rouble (Southern Lakes, Yukon Party). As the Speaker ruled, questions to private members are not in order during Question Period. Mr. Cardiff then directed his question to the minister responsible for the Workers' Compensation Health and Safety Board, Hon. Peter Jenkins. (*Hansard* 2076)

Standing Order 37(1)(b) says “(w)ritten questions may be placed on the Order Paper seeking information from private members, including Committee Chairs, relating to any bill, motion or other public matter connected with the business of the Assembly in which such members may be concerned.” Therefore, Mr. Cardiff could have put his question to the Chair of the *Workers' Compensation Act* review as a written question. However oral questions to private members on similar matters are not in order.

### ***Supplementary questions***

Guideline No. 7 of the Guidelines for Oral Question Period says, in part, “A repeat of a question that a Minister did not hear does not constitute a supplementary.” This guideline came into play on April 19, 2004. After an intervention by the Speaker, Hon. Ted Staffen, the minister responsible for the Public Service Commission, Hon. John Edzerza (McIntyre-Takhini, Yukon Party), indicated that he had “lost track of the question” and asked the questioner, Eric Fairclough (Mayo-Tatchun, NDP) to repeat it. Speaker Staffen, indicated that Mr. Fairclough would be given an additional supplementary question. (*Hansard* 2199)

### **Quorum Count**

Section 15 of the *Yukon Act* stipulates that “A majority of the members of the Legislative Assembly, including the Speaker, constitutes a quorum.” Standing Order 3(2) says that

If, at any time during a sitting of the Assembly, the Speaker's attention is drawn to the fact that there does not appear to be a quorum, the Speaker shall cause the bells to ring for four minutes and then do a count.

Quorum was called for on four occasions with the Speaker in the Chair:

- April 5, 2004 by Brad Cathers (Lake Laberge, Yukon Party) during Second Reading of Bill No. 8, *Third Appropriation Act, 2003-04*. (*Hansard* 1987; *Journals* 166)

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<sup>18</sup> *House of Commons Procedure and Practice*, page 416

- April 14, 2004 by Mr. Cathers during debate on Motion No. 232. (*Hansard* 2157; *Journals* 176)
- April 28, 2004 by Mr. Cathers during debate on Motion No. 231. (*Hansard* 2396; *Journals* 190)
- May 5, 2004 by Hon. Peter Jenkins (Klondike, Yukon Party) during debate on Motion No. 276. (*Hansard* 2526; *Journals* 197)

Standing Order 3(4) says, "While in Committee of the Whole, if the Chair's attention is drawn to an apparent lack of a quorum, the Chair shall ring the bells for four minutes and then do a count." Quorum was first called for in Committee of the Whole on May 3, 2004 by Hon. Mr. Jenkins during consideration of the estimates for the Department of Education in Bill No. 10, *First Appropriation Act, 2004-05*. (*Hansard* 2449; *Journals* 192)

On May 6, 2004 Committee of the Whole considered the estimates for the Department of Energy, Mines and Resources in Bill No. 10. During comments by Gary McRobb (Kluane, NDP) Mr. Cathers brought the Chair's attention to an apparent lack of quorum. Mr. McRobb interceded arguing that there was no point of order as, "It's the practice of this House to excuse this particular House rule for a quorum during Committee debate." The Committee Chair, Patrick Rouble, called for order and made the following statement:

Order please. Mr. McRobb has raised an interesting point. There seems to be a long-standing practice in this Assembly and an understanding; however, that understanding may be in contravention of our Standing Orders which state that when a member brings to the attention of the Chair that there is not a quorum, then a quorum must be called. I'll ask the member [for Lake Laberge] again if it's his intention to bring to the Chair's attention that there doesn't appear to be a quorum.

Mr. Cathers responded that in his view "Standing Order 3(4) is clear. Past practice of this House notwithstanding, there does not appear to be a quorum present." The Chair proceeded to ring the bells. (*Hansard* 2593; *Journals* 198)

As the Chair's statement makes clear informal practices often develop in the Assembly in order to expedite the business of the House. While such informal practices can aid in the interpretation of the standing orders they never supersede the standing orders.

Mr. McRobb made a similar argument on May 17, 2004 when Mr. Cathers again called for a quorum count as Committee of the Whole considered the estimates for the Yukon Liquor Corporation in Bill No. 10. Despite Mr. McRobb's protestations the Chair was obliged to conduct the quorum count. (*Hansard* 2746; *Journals* 209)

On all occasions where quorum was called in Committee of the Whole the bells were rung and a quorum was established.

#### **Quotation, Use of in debate**

During Question Period on April 7, 2004 the leader of the third party, Pat Duncan (Porter Creek South, Liberal), quoted extensively from comments aired on a local radio station. Subsequently, the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), rose on a point of order arguing that Ms. Duncan had, in employing the quote, imputed false or unavowed motives to him. Ms. Duncan responded that "I am stating the facts and I have stated a direct quote. I'm

stating the facts as I know them to be.” The Speaker, Hon. Ted Staffen, deferred his ruling on the matter. (*Hansard* 2042) In a ruling on April 13, 2004 the Speaker said:

The government House leader argued that the leader of the third party, during the course of posing a question, had violated Standing Order 19(g) by attributing to him a false or unavowed motive. Upon reviewing the Blues, the Chair finds that there is no point of order.

However, the Chair notes that in speaking to the point of order, the leader of the third party defended her choice of words by saying that the words were a direct quote, though the author of the words was not named.

Members are familiar with the principle of order and decorum that, "members may not do indirectly what they may not do directly." In cases such as this, it means that while members are at liberty to quote the words of others in legislative proceedings, they must take responsibility for them. The fact that such words were first uttered by another provides no protection if those words are not parliamentary. (*Hansard* 2103; *Journals* 174)

## Relevance

### *In debate*

*House of Commons Procedure and Practice* advises that “The requirement of relevance is necessary in order that the House might exercise its right to reach a decision and to exclude from debate any discussion which does not contribute to that process.”<sup>19</sup> Accordingly, Standing Order 19 (b)(i) says, “A member shall be called to order by the Speaker if that member speaks to matters other than the question under discussion.” Standing Order 35 says, “When taking part in a debate on an amendment to a motion:

- (a) the member moving an amendment has the right to speak both to the main question and the amendment in one speech;
- (b) a member, other than the mover, shall confine debate to the subject of the amendment.

Nonetheless the procedural authorities acknowledge the difficulty in defining and enforcing rules against irrelevant content. According to *House of Commons Procedure and Practice*, “It is not always possible to judge the relevance...of a Member’s remarks until he or she has made some progress in or completed his or her remarks.”<sup>20</sup>

On March 31, 2004 during debate on Motion No. 217 the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order during remarks by the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party). In doing so he asked the Speaker, Hon. Ted Staffen, “to steer the Premier back to the motion and away from his budget.” Hon. Mr. Fentie argued he was “making a point here on the difference between the opposition focusing on the issues important to Yukoners, or do we want to focus on an issue that singles out two individuals who I have earlier in my debate shown clearly, by presenting the evidence, are making a very valuable contribution to this territory?” The Speaker ruled there was a point of order saying, “We are moving away from the discussion on the motion. I know that the Premier is perfectly capable of speaking to this motion. I would ask that he carry on in that vein.” (*Hansard* 1939)

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<sup>19</sup> *House of Commons Procedure and Practice*, page 527

<sup>20</sup> *House of Commons Procedure and Practice*, pages 527-528.

Later, during the same debate, the Speaker intervened saying, "Hon. Premier, the Chair is again having trouble making the connection between the delivery of health care and this motion. I would ask the Premier to carry on, please." (*Hansard* 1941)

On April 7, 2004 the Assembly debated Motion No. 225 which urged the government to build a bridge across the Yukon River at Dawson City. At one point during debate Mr. McRobb moved an amendment to the motion. The essence of the amendment was that the bridge be built only upon the recommendation of a select committee of the Legislative Assembly. During the course of her remarks on the amendment the leader of the third party, Pat Duncan (Porter Creek South, Liberal), made reference to whistling and the movie *The Bridge on the River Kwai*. At that point the Speaker intervened saying he failed to see the connection between Ms. Duncan's remarks and the amendment to the motion. The Speaker asked Ms. Duncan to "please focus on the amendment." (*Hansard* 2056)

On May 5, 2004 the Assembly debated Motion No. 43, standing in the name of Patrick Rouble (Southern Lakes, Yukon Party). The substance of the motion was to urge the Government of Yukon to undertake an action plan to deal with fetal alcohol spectrum disorder. Eric Fairclough (Mayo-Tatchun, NDP) proposed an amendment to the motion. The amendment would have added the provision of "appropriate resources at the community level to enable voluntary screening of adult persons who may have undiagnosed FASD" as a feature of the action plan. During his remarks on the amendment Hon. Peter Jenkins (Klondike, Yukon Party) acknowledged that the governing party did not "have a monopoly on good ideas." He then made reference to a motion standing in the name of Lorraine Peter (Vuntut Gwitchin, NDP). Hon. Mr. Jenkins referred to the fact that he had requested unanimous consent for the motion to be called for debate that day. He also began to discuss the merits of that motion. However, as FASD was not the subject of that motion the Speaker, Hon. Ted Staffen, called for order and asked Hon. Mr. Jenkins to speak to the amendment, rather than to the merits of a different motion. (*Hansard* 2509)

The leader of the third party, Pat Duncan (Porter Creek South, Liberal), also addressed the amendment. During the course of her remarks Ms. Duncan said if the government is

truly serious about recognizing and dealing in a responsible and effective manner with fetal alcohol spectrum disorder, we have to deal with the root cause – and the key word in that phrase is "alcohol." In that respect, if the government is serious about dealing with this, they have to deal with the *Liquor Act*.

Ms. Duncan then proceeded to "share again with the House the response I have received from the government when asked about the *Liquor Act*." Speaker Staffen, intervened at that point saying he failed "to understand what the *Liquor Act* has to do with the amendment to the motion." (*Hansard* 2512)

Procedurally, Ms. Duncan's discussion of the *Liquor Act* was not in order as her comments addressed an issue broader than the amendment before the House at the time. The amendment dealt specifically with whether the government's action plan should provide "appropriate resources at the community level to enable voluntary screening of adult persons who may have undiagnosed FASD." While the broader issues could be germane to the motion, they were not relevant to the amendment.

### *In Committee of the Whole*

Standing Order 42(2) says, "Speeches in Committee of the Whole shall be strictly relevant to the item or clause under consideration."

On April 5, 2004 Committee of the Whole dealt with appropriations for the Department of Highways and Public Works in Bill No. 8, *Third Appropriation Act, 2003-04*. At one point Gary McRobb (Kluane, NDP) referred to "Shakwak funding." He then asked the Minister of Highways and Public Works, Hon. Glenn Hart (Riverdale South, Yukon Party), to "identify for (the House) what agreement is in place and how much in the way of funding it will provide in the near future?" Hon. Mr. Hart began his response by saying, "Although it doesn't refer to the supplementary, I will respond to the member opposite." Mr. McRobb prefaced his next question by saying, "First of all, there's nothing restricting our discussion to the supplementary budget. We are in general debate and it has been past practice of this House, Mr. Chair, to debate anything under the sun in the departments. This particular highway agreement is very important to the territory and we need to explore it a bit more."

The Chair's Handbook for Committee of the Whole advises: "When the Chair first calls a Departmental Vote for debate, a wide-ranging debate on the whole department is allowed. Basically all matters can be raised."<sup>21</sup> What this means is that general debate on a department can also include a discussion of policy issues in addition to the specific appropriations laid out in the bill. The Handbook also says, "The Chair would usually not interfere in general debate unless he/she was of the opinion that it was completely off topic or might better be covered within a specific Program."<sup>22</sup>

However, there are limits to debate, even to general debate on an appropriation act. The procedural issue in this case is not that Mr. McRobb's comments should have been made in line by line discussion rather than general debate, but that – as Hon. Mr. Hart suggested – that the comments should have been reserved for a different bill. Yet it is difficult for the Chair to intercede if the question is framed as a policy issue. When it comes to relevance, the Handbook also advises:

In borderline cases (of relevance)...the Member should be given the benefit of the doubt. In fact, it would be a rare instance when the Chair would intervene on the question of relevancy or repetition.<sup>23</sup>

However, while such interference would be rare the Chair does have the authority to ensure that Members confine debate to the matter before the Committee.

On April 26, 2004 during debate on the estimates for the Department of Finance in Bill No. 10, *First Appropriation Act, 2004-05* the Chair called for order saying

Before we continue, I would just like to take a moment to remind all members that speeches in Committee of the Whole shall be strictly relevant to the item or clause under consideration.

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<sup>21</sup> *Chair's Handbook Committee of the Whole*, page 16.

<sup>22</sup> *Chair's Handbook Committee of the Whole*, page 16.

<sup>23</sup> *Chair's Handbook Committee of the Whole*, page 7.



We've concluded general debate and are now on general debate of the Department of Finance. The Chair is not seeing the connection, though, between the department and some of the matters that have come up in debate recently.

I would just encourage all members to focus their energy and their attention on the Department of Finance. (*Hansard* 2345)

In this case the Chair's remarks were not directed toward a particular member but that the drift of debate appeared to be away from the matter before the Committee.

On May 6, 2004 Committee of the Whole considered the estimates for the Department of Energy, Mines and Resources in Bill No. 10. At one point in the debate the minister responsible for the department, Hon. Archie Lang (Porter Creek Centre, Yukon Party), commented about his department's economic development initiatives. He then began to talk about other government-sponsored economic development initiatives, specifically mentioning the film industry, an area not under the purview of this department. Shortly thereafter the Committee Chair, Patrick Rouble, intervened saying

The Chair appreciates that there is some latitude given to members in general debate on a department; however, the Chair is failing to see the connection between film and the Department of Energy, Mines and Resources. I'd ask the member to continue on in debate and to direct his comments and answers to the matter at hand. (*Hansard* 2579-2580)

Later in the same debate Mr. McRobb put questions to Hon. Mr. Lang regarding the governance structure of the Yukon Energy Corporation and Yukon Development Corporation. Hon. Mr. Lang began his response by saying, "Understand that the Yukon Development Corporation and Yukon Energy Corporation are overseen by myself as the Minister of Energy, Mines and Resources." After the minister had finished his response the Chair said

Before we continue on with debate, I would just like to take a quick moment to remind members that we are discussing Vote 53, Energy, Mines and Resources, and that I expect we will get to Vote 22, Yukon Development Corporation. But the matter before the Committee this afternoon is Energy, Mines and Resources. (*Hansard* 2595)

The case before the Committee at that time was an interesting one. As the Chair indicated, during budget debate the Department of Energy, Mines and Resources and the Yukon Development Corporation are presented to the Assembly as two separate votes; suggesting they should be discussed separately and that questions regarding one should not be asked when the other is before the Committee. However, there is some overlap between the objectives of the two entities. The YDC corporate objective is "To develop and promote the development of energy systems and the generation, production, transmission and distribution of energy in all its forms in a manner consistent with sustainable development."<sup>24</sup> The objectives of the Department of Energy, Mines and Resources include, "Promot[ing] investment in and responsible development of Yukon's...energy...resources" and "Providing energy policy leadership and energy program

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<sup>24</sup> Yukon Finance, *Main Estimates 2004-05, Operation & Maintenance and Capital* (Whitehorse: Department of Finance under the direction of Management Board, 2004) page 17-1.

coordination including support of alternative energy programs.”<sup>25</sup> One of the objectives of the Energy and Corporate Policy program is “To provide policy and program advice to the government on energy matters, including developing a comprehensive Yukon Energy Framework Strategy and a Climate Change Strategy.”<sup>26</sup>

This interconnection raises procedural questions about relevance, specifically what kinds of questions would not be in order. What would clearly be out of order is a question about a specific line item in a vote not before the Committee. At the level of policy, however, there appears to be enough overlap that the Chair would allow questions to be put as occurred in the case above. As Hon. Mr. Lang is the minister is responsible for both entities it was his option to respond to the question or defer a response until Vote 22 was called. The Chair could not compel the minister to respond.

On May 12, 2004 Committee of the Whole considered the estimates for the Department of Highways and Public Works in Bill No. 10. While the Committee was still in general debate on the department Steve Cardiff (Mount Lorne, NDP) sought to ask “One more question in the property management area. In the capital, there appears to be a fairly large reduction in capital construction and maintenance and a large increase in project management services. I’m just wondering if the minister could give us a brief explanation of the rationale behind that. If he can’t, I’d be happy to receive it as a legislative return.” The Chair intervened at that point. Though he did not rule the question out of order the Chair advised the Assembly that, “The member appears to be asking a particular question about a particular line item. I would just remind the Assembly that we are still in general debate.” (*Hansard* 2678)

On May 18, 2004 the Committee considered the estimates for the Department of Economic Development in Bill No. 10. During debate on the line ‘Investment’ the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), made certain comments about the opposition’s desire to clear the lines in departments by unanimous consent once general debate had concluded. The Chair, Patrick Rouble, reminded the Committee that, “The item under debate currently is the investment expenditure of \$191,000.” He then asked if “there (was) any further debate on the line ‘Investment’, \$191,000?” (*Hansard* 2769)

### **Rulings, commentary upon**

Standing Order 6(1) says, “The Speaker shall preserve order and decorum, and shall decide questions of order...No debate shall be permitted on any such decision, and no decision shall be subject to an appeal to the Assembly.” Should a member wish to challenge a Speaker’s ruling the member must do so by way of a substantive motion for which proper notice is required. The 2004 Spring Sitting did not see any outright challenges to rulings from the Chair. However some members, at times, felt the need to comment upon certain rulings. Such commentary, as illustrated below, is not in order.

During Second Reading of Bill No. 10, *First Appropriation Act, 2004-05*, on March 30, 2004 Gary McRobb (Kluane, NDP) commented about certain procedural tactics employed by Yukon Party members during the 2003 Fall Sitting. He said, “(w)hat we saw last fall was nothing less than despicable. It was a gross evasion of accountability.” Subsequently, Brad Cathers (Lake Laberge, Yukon Party) rose on a point of order arguing that Mr. McRobb had violated Standing Orders 19(g) and 19(i). The Speaker, Hon. Ted Staffen, ruled there was “no point of order; however, the Member for Kluane, using terms like “despicable” could lead to discord, and I

<sup>25</sup> *Main Estimates 2004-05, Operation & Maintenance and Capital*, page 8-2.

<sup>26</sup> *Main Estimates 2004-05, Operation & Maintenance and Capital*, page 8-9.

would ask you not to do that.” Mr. McRobb then said, “I’ll have to start packing a thesaurus with me because it’s difficult to find replacements for some of the classic terminology used in the past and reconcile that with the constraints of a modern Yukon Legislature where only more tempered language is permissible.” (*Hansard* 1907)

During Committee of the Whole debate on Bill No. 10 on April 1, 2004, the Committee Chair, Patrick Rouble, intervened after some comments by the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP). The Chair was concerned about some of Mr. Hardy’s language and asked the member to “temper his comments and to continue on with debate.” At that point Mr. Hardy said, “I have heard the word “temperance” lately in this House, and I’m really starting to wonder if I’m in a church or I’m in the Legislature.” This comment incited interventions from other members. Mr. Hardy insisted that he was not challenging the Chair. However his comments had led to disorder. The Chair then called for order and said:

The role of the Chair is to preserve order and decorum in our Assembly. In our brief time that we have been back in session now, the Chair has recognized an exuberance with considerable extraneous comments and back-and-forth chatter, discussion going on that isn’t being moderated through the Chair. In order to encourage appropriate, vigorous debate in our esteemed Assembly, I would just kindly remind members to acknowledge and follow our Standing Orders, to treat each other with respect and dignity. We can conduct — and again I will use the phrase — “conduct ourselves in a manner in which Yukoners are expecting us to conduct ourselves and behave.” The Chair doesn’t take pleasure in interrupting debate and discussion; however, I’m becoming quite conscious and somewhat alarmed at the amount of extraneous comments going on. I’d like the debate to continue now, please. (*Hansard* 1964)

During Second Reading of Bill No. 44, *Act to Amend the Municipal Finance and Community Grants Act*, on April 6, 2004 Speaker Staffen intervened after Mr. McRobb referred to Hon. Peter Jenkins’ speech as “a bunch of hogwash.” The Speaker said, “The term “hogwash”, although not unparliamentary, could lead to discord. I know the term “temperance” is not a good one, but I would ask the member to be temperate.” Mr. McRobb then said, “I guess I’ll have to start packing a thesaurus with me, because quite often the most appropriate word is one that is not allowed in here, and I guess we will all have to adjust to that.” (*Hansard* 2016)

Mr. McRobb alluded to the Speaker’s statement in a humorous vein during debate on Motion No. 225 on April 7, 2004. In reference to the speech of the sponsor of the motion, Brad Cathers (Lake Laberge, Yukon Party) Mr. McRobb said, “Well, Mr. Speaker, there is a word to describe what we just heard but you ruled it unparliamentary yesterday. Let’s just say that there are a lot of clean hogs wandering around.” (*Hansard* 2048)

During the same debate the Speaker intervened after the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party) referred to the official opposition as “the no-development party.” The Speaker informed Hon. Mr. Lang that it is inappropriate to modify the names of parties in the House in a derogatory manner. In response Hon. Mr. Lang said, “It’s a grey area, but I agree.” The Speaker then reminded Hon. Mr. Lang that “The Speaker’s rulings aren’t up for debate. Please carry on.” (*Hansard* 2059)

On April 22, 2004 during general debate in Committee of the Whole on Bill No. 10 the Chair called Mr. Hardy to order after he referred to the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party) as “ranting and raving and yelling.” During his ruling the Chair reminded

Members “In our Assembly, we are all bound by using parliamentary language while engaging in appropriate debate, strong discussion and a vigorous examination of the issues. I believe we can all do that and accomplish the objectives of our Assembly without stooping to baser levels. So I would just ask all members to raise the bar a bit and continue to use appropriate language — the language that the people of the Yukon would expect us to use in this Assembly.” Mr. Hardy commented in future he would “try to restrict my language to a very narrow, defined box.” (*Hansard* 2316)

On April 26, 2004 the Chair made a statement about these events before the Committee began consideration of Bill No. 10. He said

Last Thursday the Chair intervened after the leader of the official opposition used the terms "rant", "rave" and "tirade" to describe comments made by the Premier. Afterwards the leader of the official opposition said he would try to restrict his language to what he called "a very narrow, defined box". The Chair is not without empathy for the leader of the official opposition. The Chair appreciates that he, like other members, wishes to express strongly held views. The Chair also acknowledges that the leader of the official opposition and some other members have expressed the view that rulings and statements from the Chair are unduly limiting their freedom of speech as regards their choice of words.

However, the Chair hopes that members will appreciate that the Chair's duty is to maintain order and decorum during debate. In this regard, the Chair is also guided by the desires members have expressed to elevate the level of decorum in the Chamber. When strong language is used on one side of the Chamber, it will then be heard coming from the other side. Invariably this leads to disorder when members begin making derogatory comments about one another rather than discussing the issues before the Committee.

I hope, therefore, that members will appreciate why the Chair is making the rulings and statements that he is and adhere to them. (*Hansard* 2323)

On April 27, 2004 during Committee of the Whole consideration of the estimates for the Department of Tourism and Culture in Bill No. 10, Mr. Hardy asked the Minister of Tourism and Culture, Hon. Elaine Taylor (Whitehorse West, Yukon Party), questions regarding the impact a bridge over the Yukon River at Dawson City would have upon tourism. After one of the minister's responses was greeted with applause from the government caucus Mr. Hardy said, “I'm glad the cheering squad's in here to prop her up after that ridiculous answer.” At that point the Chair intervened and said

A challenge of the Chair is listening to adjectives, and in this case the term "ridiculous" does not seem conducive to critical debate. The Chair has cautioned people in the past about choices of language. I'm just asking members to be conscious of language and to work toward constructive debate.

Mr. Hardy then thanked the Chair and said, “I will search my thesaurus to find words that describe answers that actually didn't even answer the question that I asked.” (*Hansard* 2358)

On April 28, 2004 members debated Motion No. 231 standing in the name of the leader of the third party, Pat Duncan (Porter Creek South, Liberal). Gary McRobb (Kluane, NDP) began his remarks on a proposed amendment by saying, “The Member for Southern Lakes [who

spoke first in reply] went on for a good two hours, thereby depriving other members of time to speak and also running out the clock so this Chamber couldn't deal with the second item of business today." At that point Brad Cathers (Lake Laberge, Yukon Party) rose on a point of order and argued that Mr. McRobb had violated Standing Order 19(g) by attributing a false or unavowed motive to the Member for Southern Lakes, Patrick Rouble. The Speaker ruled there was no point of order.

Mr. McRobb then referred to Mr. Cathers' point of order as a "rude interruption." The Speaker then called for order saying, "any member can stand up and make a point of order at any given time in this Assembly, and it's not considered a rude interruption. I'd ask the Member for Kluane to carry on." Mr. McRobb then said, "It was my understanding that it was not unparliamentary to refer to an interruption as being a rude interruption. Maybe I should revisit your past rulings, if indeed it is the case." At this point the Speaker asked if Mr. McRobb was challenging the Chair. Mr. McRobb assured the Speaker he was not; however he again repeated the comment that perhaps he should "revisit some of the past rulings, Mr. Speaker, and brush up on this. I wasn't aware it was against the rules." The Speaker again called for order and said, "The member, as opposition House leader, knows full well that it is context, not specific words. I'd ask the member to carry on, with that in mind." Mr. McRobb carried on, presumably with that in mind. (*Hansard* 2407)

#### **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 2004 Spring Sitting by the fourth sitting day, March 31, 2004. The House leaders then met to determine the number of sitting days to be allotted to the 2004 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), rose at the end of the sixth sitting day, April 5, 2004 to inform the Assembly of the results of the discussion among the House leaders. Hon. Mr. Jenkins informed the House that:

the House leaders have met for the purpose of achieving agreement on the maximum number of sitting days for the current sitting.

The opposition parties have agreed between themselves to 28 sitting days. The government side recognizes that the largest budget ever has been tabled and deserves the

complete understanding by all members of this House and has recommended 32 or 36 sitting days.

Mr. Speaker, I respectfully request that we be granted until tomorrow to report to the House pursuant to another meeting between House leaders, to reach final agreement on this outstanding matter.

The official opposition House leader, Gary McRobb (Kluane, NDP), then rose in response to Hon. Mr. Jenkins remarks. Mr. McRobb expressed his opinion that “no further time is required” to reach an agreement. “The position of the two opposition parties was based on consensus and cooperation”, he said, and expressed confidence that the House could “complete the public’s business in good stead by merely improving the information flow in this Legislature.”

The leader of the third party, Pat Duncan (Porter Creek South, Liberal), also contributed to the discussion. Ms. Duncan said “the consensus reached by the opposition parties was put forward to the House leader. He did not indicate a desire for an additional meeting; therefore, I would suggest that 75(3) applies, that when an agreement cannot be reached the sitting shall be a maximum of 30 days.”

It was evident from this discussion that Ms. Duncan was correct; there was not an agreement among the House leaders as to the length of the 2004 Spring Sitting. Furthermore, there was no indication of unanimous consent needed to fulfil Hon. Mr. Jenkins’ request that the provisions of Standing Order 75(4) be waived to allow extra discussion time. As a result the Speaker, Hon. Ted Staffen, ruled

Standing Order 75(3) states when, pursuant to Standing Order 75(2), an agreement cannot be reached between the government House leader and at least one other House leader representing a majority of the members in the Assembly, each of the spring and fall sittings shall be a maximum of 30 sitting days. Accordingly I declare that the current sitting shall be a maximum of 30 sitting days, with the 30<sup>th</sup> sitting day being May 18, 2004. (*Hansard* 2007; *Journals* 167)

### **Termination of the Sitting, as per Standing Orders**

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. The changes added Chapter 14 that includes, among other things, a mechanism for terminating a Sitting of the Legislative Assembly once the maximum number of sitting days has been reached and ensuring that government business before the Assembly is dealt with. These new standing orders were first used during the 2002 Spring Sitting.

Pursuant to Standing Order 75(2) the Speaker, Hon. Ted Staffen, declared that the 2004 Spring Sitting would last 30 sitting days, the 30<sup>th</sup> day being May 18, 2004. (see ‘Sitting Days, number of’ above) That being the case the following process was followed to terminate proceedings on that day.

### ***Termination of Committee of the Whole***

Standing Order 76(1) says

On the sitting day that the Assembly has reached the maximum number of sitting days allocated for that Sitting pursuant to Standing Order 75, the Chair of the Committee of the Whole, if the Assembly is in Committee of the Whole at the time, shall interrupt proceedings

at 5:00 p.m. and, with respect to each Government Bill before Committee that the Government House Leader directs to be called, shall:

- (a) put the question on any amendment then before the Committee;
- (b) put the question, without debate or amendment, on a motion moved by a Minister that the bill, including all clauses, schedules, title and preamble, be deemed to be read and carried;
- (c) put the question on a motion moved by a Minister that the bill be reported to the Assembly; and
- (d) when all bills have been dealt with, recall the Speaker to the Chair to report on the proceedings of the Committee.

Pursuant to this standing order the Chair of Committee of the Whole, Patrick Rouble, called for order as the Committee debated the estimates for the Department of Environment in Bill No. 10, *First Appropriation Act, 2004-05* on May 18, 2004. At that time he said, "The time has reached 5:00 p.m. on this, the 30<sup>th</sup> day of the 2004 Spring Sitting." The Chair then read Standing Order 76(1) and asked the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), "to indicate which bills now before the Committee of the Whole should be called." Hon. Mr. Jenkins identified three bills – Bill No. 10, Bill No. 44, *Act to Amend the Municipal Finance and Community Grants Act* and Bill No. 45, *Act to Amend the Assessment and Taxation Act* – to be called. The Chair then called each of these bills in their turn and asked the sponsor of each bill to move a motion pursuant to Standing Order 76(1)(b) and 76(1)(c). Once the three bills had cleared the Committee the Chair rose to report to the House. The Chair's report, that the three bills be reported without amendment, was subsequently carried. (*Hansard* 2785-2786; *Journals* 211-212)

### ***Third Reading of bills***

Once the bills were reported the House proceeded to deal with all bills then standing at Third Reading. The process began with the Speaker, Hon. Ted Staffen, reading out Standing Order 76(2) that states

On the sitting day that the Assembly has reached the maximum number of sitting days allocated for that Sitting pursuant to Standing Order 75, the Speaker of the Assembly, when recalled to the Chair after the House has been in the Committee of the Whole, shall:

- (a) call for the report from the Chair of the Committee of the Whole;
- (b) put the question, in the usual fashion, on the motion to concur in the Chair's report on the proceedings of Committee of the Whole;
- (c) with respect to each Government Bill on which debate has been adjourned at the Second Reading stage and designated to be called by the Government House Leader, put the question, without further debate, on the motion that the bill be read a second time, and, if that motion is carried, order that the bill stand immediately ordered for Third Reading; and
- (d) with respect to each Government Bill standing on the Order Paper for Third Reading and designated to be called by the Government House Leader,

- (i) receive a motion for Third Reading and passage of the bill, and
- (ii) put the question, without debate or amendment, on that motion.

Speaker Staffen then asked Hon. Mr. Jenkins “to identify which of the bills now standing at third reading the government wishes to be called.” Hon. Mr. Jenkins identified Bill No. 8, *Third Appropriation Act, 2003-04*, Bill No. 43, *Act to Amend the Income Tax Act*, Bill No. 10, Bill No. 44 and Bill No. 45. The Speaker then called each of these bills in their turn. The sponsor of each bill then moved the motion that the bill in question “be now read a third time and do pass.” The Speaker then put the motion to the House, with the additional instruction, pursuant to Standing Order 76(2)(d)(ii) that no debate or amendment is permitted. Each of the five bills passed the House on division. (*Hansard* 2786-2788; *Journals* 212-214)

#### **Urgent and Pressing Necessity, Motion of**

Standing Order 28(1) says, “A motion may, in case of urgent and pressing necessity previously explained by the mover, be made by unanimous consent of the Assembly without notice having been given.” Standing Order 28(2) says, “Unanimous consent for a motion under this Standing Order shall be requested during the Daily Routine in the period following the Ministerial Statement and prior to the beginning of Oral Question Period.”

On March 25, 2004 the official opposition House leader, Gary McRobb (Kluane, NDP), rose pursuant to Standing Order 28 and sought the “unanimous consent of the Legislature to put a motion of urgent and pressing necessity before (the) House.” Mr. McRobb explained he sought “to waive second reading of Bill No. 10, *First Appropriation Act, 2004-05*, and move directly into Committee of the Whole debate on this important bill.” His reasons for the request were the following:

- (1) from the flurry of public announcements made during the past few weeks, it is obvious that this appropriation bill will be of staggering proportions. It is therefore both prudent and essential to examine the budget in close detail and to allow as much time for that as is practical;
- (2) Yukon people have already waited far too long for this House to resume and to examine closely how the government plans to spend their money;
- (3) there is no need to listen to an hour and a half of the Finance minister’s rhetoric trumpeting his budget. In fact, the flurry of recent news releases has rendered his speech redundant;
- (4) the (Finance) minister’s decision to grant himself over \$200 million by special warrant rather than waiting for an interim supply vote has ignored the authority and legitimacy of this House and should not be rewarded by further indulgence on the part of each elected member of this Assembly;
- (5) the Premier has already stated publicly that he intends to spend approximately \$160 million on capital projects to stimulate the economy following a year and a half of neglect; (and) finally,
- (6) while a motion such as this might be unprecedented in the Yukon, Mr. Speaker, I would remind all members, before they vote, to also recognize that so is the extent of pre-budget announcements made in recent weeks.

Mr. McRobb then requested the unanimous consent of the House to “move the public’s business forward in this way without any further delay.” The Speaker, Hon. Ted Staffen, then put the



request for unanimous consent to the House. Unanimous consent was denied. (*Hansard* 1821; *Journals* 152) The Premier and Finance Minister, Hon. Dennis Fentie, (Watson Lake, Yukon Party) delivered the budget speech later that day.

### **Unanimous consent**

Standing Order 14.3 says, "The Assembly may, by unanimous consent, suspend its Standing Orders or waive procedural requirements and precedents." An unusual use of this standing order was two attempts - one unsuccessful, one successful - to allow a member to address Bill No. 10, *First Appropriation Act, 2004-05* at Second Reading after that member had relinquished that opportunity. For an explanation of the circumstances see the entry above under 'Members, recognition of.'

Other, more usual, examples of the use of this standing order during the 2004 Spring Sitting include:

#### ***For a recess***

Standing Order 2(1) says "The time for the meeting of the Assembly shall be 1:00 p.m. on each Monday, Tuesday, Wednesday and Thursday unless otherwise ordered. The normal hour of adjournment shall be 6:00 p.m." The Standing Orders do not make provision for recesses to be taken during the sitting day. Where recesses are taken they are by unanimous consent.

On April 13, 2004 Committee of the Whole continued debate on Bill No. 8, *Third Appropriation Act, 2003-04*. After the Committee finished Vote 12, Department of Finance, it moved on to Vote 53, Department of Energy, Mines and Resources. At that point the Committee Chair, Patrick Rouble, indicated that a suggestion had been made for a five-minute recess so that the official who would be assisting the minister could get to the Chamber. The Chair put the request to the Committee. The official opposition House leader, Gary McRobb (Kluane, NDP), said, "Mr. Chair, we've already established that the minister has a speech he wants to read. It was prepared by his officials. They don't have to be here to hear it; they wrote it. So why don't we just proceed?" The Chair informed the Committee that "Unanimous consent is required to take a recess. When the Chair asked if there was unanimous consent, we didn't have it. Therefore, we'll continue on." However, the official had reached the Chamber by the time the issue had been resolved. (*Hansard* 2114)

On May 6, 2004 Committee of the Whole considered the estimates for the Department of Energy, Mines and Resources in Bill No. 10, *First Appropriation Act, 2004-05*. At one point in the debate the Chair called for order and said, "As we've passed our normal time for a recess, do members wish to break for a recess now?" As there was not unanimous consent to recess debate continued. (*Hansard* 2590)

On May 17, 2004 Committee of the Whole considered the estimates for the Yukon Housing Corporation in Bill No. 10. Once these estimates had been agreed to the Chair asked members if they wished a recess. The official opposition House leader, Gary McRobb (Kluane, NDP), said

we will agree to a break if (the government House leader) will undertake to provide us with a list of the departments and the order in which they will be called from now on. We expect it by the end of the 10-minute break. If he is willing to do that, we'll stop for a break.

The Chair then asked the members if there was unanimous consent to recess. There was not unanimous consent so the Committee moved on to Vote 19, Yukon Liquor Corporation. (*Hansard* 2746)

***To call a private member's motion for debate***

Standing Order 14 outlines the method by which private members' business is called for debate. Generally, private members' business is called on Wednesdays, with opposition private members' business and government private members' business having precedence on alternating Wednesdays. Notice of business to be called is given on the sitting day preceding the Wednesday in question. The standing orders also require that there be one clear day between the notice of motion and the motion being called for debate.

On May 5, 2004 the government House leader, Hon. Peter Jenkins (Klondike, Yukon Party), asked the House for unanimous consent to waive applicable standing orders so Motion No. 280 could be called for debate. This motion stood in the name of Lorraine Peter (Vuntut Gwitchin, NDP). The purpose of the motion was to urge that the role of First Nations be recognized in celebrations of the 25<sup>th</sup> anniversary of the completion of the Dempster Highway. Unanimous consent was necessary as Hon. Mr. Jenkins sought to allow an opposition private members' motion to be called on a day when opposition private members' business did not have precedence. As the notice of motion occurred on May 4, 2004 the notice of motion sat on the Notice Paper, meaning it could not be called even if this was a day on which opposition private members' business had precedence. Unanimous consent was denied. (*Hansard* 2502; *Journals* 195) Hon. Mr. Jenkins made the same request later on the same day. This time unanimous consent was granted. (*Hansard* 2519; *Journals* 196)

***To deem all content of a bill read and agreed to***

In dealing with bills the normal process in Committee of the Whole is to first debate the bill in general and then proceed to read each clause individually. This process takes place after the bill has received second reading. Occasionally the Committee will consider the bill to have been thoroughly debated once general debate in Committee of the Whole is complete. On those occasions a member will request unanimous consent to deem all clauses and the title (and schedules, if necessary) of the bill read and carried. The bill is then reported with or without amendment as the case may be.

On March 30, 2004 Committee of the Whole considered Bill No. 9, *Interim Supply Appropriation Act, 2004-05*. At the conclusion of general debate the leader of the third party, Pat Duncan (Porter Creek South, Liberal) requested the unanimous consent of the Committee to "deem all clauses, schedules and the title of Bill No. 9 read and carried." The Chair, Patrick Rouble, then put the request to the Committee. At that point some members called for a division. However, as the Chair informed the Committee a request for unanimous consent is not a motion, and a division to determine which members agreed or disagreed was not in order. Either unanimous consent existed or it did not. Unanimous consent was granted and Bill No. 9 was reported without amendment. (*Hansard* 1888)

***To deem all lines in a vote cleared or carried as required***

In dealing with appropriation bills the normal process in Committee of the Whole is to first have general debate on the bill as a whole, then general debate on each department (also referred to as a 'vote'). Once general debate on a vote is concluded the Committee will proceed through the departmental appropriation line-by-line. Occasionally the Committee will consider the departmental appropriation to have been thoroughly dealt with in general debate. On such

occasions a member will request unanimous consent to deem all lines in that vote cleared or carried, as required. Instances of such a request being made during the 2004 Spring Sitting include:

Date	Member	Vote	Bill	Result	Reference
April 8	Fairclough	15. Health and Social Services	8	Granted	<i>Hansard 2094</i>
April 13	Duncan	8. Justice	8	Granted	<i>Hansard 2123</i>
	Duncan	52. Environment	8	Granted	<i>Hansard 2127</i>
	Cardiff	51. Community Services	8	Granted	<i>Hansard 2129</i>
April 15	Duncan	54. Tourism	8	Granted	<i>Hansard 2180</i>
	Duncan	10. Public Service Commission	8	Granted	<i>Hansard 2185</i>
	Duncan	3. Education	8	Granted	<i>Hansard 2193</i>
April 19	Duncan	18. Yukon Housing Corporation	8	Granted	<i>Hansard 2206</i>
May 4	Fairclough	3. Education	10	Granted	<i>Hansard 2488</i>
May 11	Duncan	53. Energy, Mines & Resources	10	Granted	<i>Hansard 2647</i>
May 12	McRobb	55. Highways & Public Works	10	Granted	<i>Hansard 2683</i>
May 13	Fairclough	15. Health and Social Services	10	Granted	<i>Hansard 2713</i>
May 17	Duncan	8. Justice	10	Granted	<i>Hansard 2734</i>
	Duncan	2. Executive Council Office	10	Granted	<i>Hansard 2739</i>
	Duncan	12. Finance	10	Granted	<i>Hansard 2739</i>
	Duncan	1. Legislative Assembly	10	Granted	<i>Hansard 2740</i>
	Hardy	24. Elections Office	10	Granted	<i>Hansard 2740</i>
	Hardy	23. Office of the Ombudsman	10	Granted	<i>Hansard 2741</i>
	Peter	11. Women's Directorate	10	Granted	<i>Hansard 2742</i>
	Cardiff	18. Yukon Housing Corporation	10	Granted	<i>Hansard 2746</i>
	McRobb	19. Yukon Liquor Corporation	10	Granted	<i>Hansard 2748</i>
	Cardiff	51. Community Services	10	Denied	<i>Hansard 2754</i>
May 18	McRobb	7. Economic Development	10	Denied	<i>Hansard 2768</i>
	McRobb	51. Community Services	10	Denied	<i>Hansard 2774</i>
	Duncan	10. Public Service Commission	10	Denied	<i>Hansard 2779</i>
	Peter	52. Environment	10	Denied	<i>Hansard 2784</i>

### ***To stand a department***

The Chair's Handbook for Committee of the Whole says:

Should the government decide to consider making amendments to a certain clause (or clauses) the clause may, with unanimous consent, be 'stood.' This means that the disposition of the clause is postponed and allows the Committee to continue its business of considering further clauses. When the Minister is prepared to proceed with any clauses that have been stood, the Chair will call in numerical order any clause stood. If an amendment is proposed, the question is put and the clause carried (as amended) or defeated.<sup>27</sup>

<sup>27</sup> *Chair's Handbook Committee of the Whole*, page 11.

The same process can be applied to votes (departments), programs or individual lines in a budget bill.

On April 5, 2004 during Committee of the Whole consideration of Bill No. 8, *Third Appropriation Act, 2003-04* the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), asked that the Committee stand aside the estimates for the Department of Finance. At issue was a bad debt expense of \$400,000. The Premier and Finance Minister, Hon. Dennis Fentie (Watson Lake, Yukon Party), informed the Committee that the Department of Community Services could provide detail on the expense and that debate on the issue should resume once that department was before the Committee. Mr. Hardy suggested that the Finance estimates be revisited once Community Services had been dealt with. The Chair, Patrick Rouble, informed the Committee that "obtaining agreement to stand aside an issue would require unanimous consent."

He then asked Mr. Hardy if it was his wish that a request be made for unanimous consent so that vote 12, Department of Finance, could be stood aside. Mr. Hardy indicated that did want such a request put to the Committee. The Chair put the request to the Committee, however unanimous consent was denied. (*Hansard* 1995-96)

### **Unparliamentary Language**

*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>28</sup> However, this right is limited. Rules against the use of unparliamentary language are one limit on this right:

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>29</sup>

In the Yukon Legislative Assembly language is generally regulated by Standing Order 19 that outlines when the Speaker may call a member to order during debate. The same rules 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 2004 Spring Sitting.

The application of standing orders against unparliamentary language is highly contextual and the Presiding Officers reserve 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 proprieties of the House in that it must not contain inferences, impute motives, or cast aspersions upon persons within the House or out of it." Responses to questions should also adhere to this guideline.

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<sup>28</sup> *House of Commons Procedure and Practice*, page 71.

<sup>29</sup> *House of Commons Procedure and Practice*, page 525.

During Question Period on April 14, 2004 the leader of the third party, Pat Duncan (Porter Creek South, Liberal), asked questions of the Minister of Community Services, Hon. Glenn Hart (Riverdale South, Yukon Party), regarding the financial position of Dawson City. During the course of her questions Ms. Duncan said, "The MLA for Klondike [Hon. Peter Jenkins] hired an old friend from B.C. to come up and destroy the former mayor and council in Dawson" and "\$42,000 has been spent on an old friend from B.C. to get rid of the Dawson City council and mayor." (*Hansard* 2136) Later in that question period, before Ms. Duncan rose to ask her second main question, the Speaker intervened saying, "Before the leader of the third party starts her set of questions, I would just like to make a request. Your last set of questions came relatively close to imputing [false or unavowed] motives. I understand that you are not trying to do that, so I would just ask the members to be cautious." (*Hansard* 2139)

On April 19, 2004, during general debate in Committee of the Whole on Bill No. 10, *First Appropriation Act, 2004-05*, the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), referred to comments made by Eric Fairclough (Mayo-Tatchun, NDP). Premier Fentie said, "The member is doing things, when it comes to debate, to try to create a situation between not only First Nations, but between the government and First Nations." At that point the Committee Chair, Patrick Rouble, intervened and reminded members of Standing Order 19(g). He added, "I don't believe that the Member for Mayo-Tatchun made a comment saying that was the reason why he was putting forward the points he was putting forward, and I would ask the member not to put forward such unavowed motives and to withdraw that statement."

Hon. Mr. Fentie withdrew the remark but then added, "However, the incorrectness of the statements being brought forward by the Member for Mayo-Tatchun are consistent and they continue day in and day out in this House. One can only wonder why that is." In doing so the Premier still suggested that Mr. Fairclough had an unavowed motive, though he was no longer explicit about what he believed that motive to be. (*Hansard* 2224)

During Question Period on April 27, 2004 the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), addressed questions to the Minister of Community Services, Hon. Glenn Hart (Riverdale South, Yukon Party), regarding sewage disposal in Dawson City. During the course of his final supplementary question Mr. Hardy said, "There seems to be no limit to what members of this government will do to discredit people they don't like." He also referred to the government as "intolerant and vindictive." At that point the government House leader, Peter Jenkins (Klondike, Yukon Party) rose on a point of order citing Standing Order 19(g) saying Mr. Hardy had attributed "false or unavowed motives to another member of this Legislature." In response the official opposition House leader, Gary McRobb, (Kluane, NDP), said, "The opposition leader was not referring to an individual; he was referring generally to a government." The Speaker, Hon. Ted Staffen, deferred his ruling until he could consult the *Blues*. The Speaker delivered his ruling before Question Period on April 28, 2004. At that time he said

It is not clear to the Chair that the issue is one of motive. However, it is clear that the language used by the leader of the official opposition was unparliamentary. Standing Order 19(i) says the Speaker shall call a member to order if that member uses abusive or insulting language in a context likely to create disorder. Likewise, Guideline 8 of our Guidelines for Oral Question Period says a question must not contain inferences, impute motives or cast aspersions upon persons within the House or out of it.

The Chair will also remind members of the statement given by the Chair of Committee of the Whole on Monday of this week. At that time, the Chair of Committee of the Whole said he appreciated that members have strongly held views that they wish to express. At the same time, the Chair reiterated that the presiding officers have a duty — bestowed upon them by this House — to maintain order and decorum.

As the Chair noted, members have expressed a desire to elevate the level of decorum in this Chamber.

Strong language, like that used yesterday by the leader of the official opposition, has a tendency to incite a similar response. This leads to disorder where members begin making derogatory comments about one another rather than discussing the issues before them.

Members know that this House is not the only avenue in which they can express their opinions; however, when they are in this House, they must adhere to the proprieties of the House. The Chair does not believe that any member — on either side of the House — would want to be described in the manner employed by the leader of the official opposition. (*Hansard* 2380; *Journals* 189)

The Speaker made reference to this ruling during Question Period that same day. At that time the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party), said in response to a question from Mr. Hardy, “I didn’t think the member was as good at taking numbers and misrepresenting them, Mr. Speaker, as he is.” The Speaker intervened saying, “Did I just not read a statement talking about adverbs, verbs, descriptions of members to all members of the House?” He then asked the minister to carry on. Hon. Mr. Jenkins withdrew the statement. (*Hansard* 2381)

Later during the same question period the leader of the third party, Pat Duncan (Porter Creek South, Liberal) asked questions of the minister responsible for the Yukon Workers’ Compensation Health and Safety Board, Hon. Peter Jenkins (Klondike, Yukon Party). In response Hon. Mr. Jenkins said, “What the member opposite is trying to suggest is that there is a misspending of funds by the chair of the board...” At that point Ms. Duncan rose on a point of order and asked if “the member [is] suggesting that I implied motive in the question? That is not what I did, and I would respectfully request that the member abide by the ruling delivered earlier today. I did not suggest there had been a misspending of funds, as stated by the minister opposite. I asked for an accounting of funds.” The Speaker ruled with Ms. Duncan and asked Hon. Mr. Jenkins to refrain from making such references. (*Hansard* 2383) Other words and phrases that drew comment from the Chair in this regard include:

- “this scaremongering we have from the members opposite” Hon. Archie Lang (Porter Creek Centre, Yukon Party), April 5, 2004 (*Hansard* 1990)
- “the real reason this project is proceeding is it was part of a deal to throw the leadership of the Yukon Party a couple of years ago.” Gary McRobb (Kluane, NDP), April 7, 2004 (*Hansard* 2049)
- “the member opposite [is] playing politics with that kind of thing in this House at this time” Hon. Mr. Lang, April 15, 2004 (*Hansard* 2170)
- “[when premier] the leader of the third party...provoked the first teachers’ strike in the history of Yukon.” Hon. Mr. Jenkins, April 29, 2004 (*Hansard* 2409)

### ***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 be taken at their word. As annotation 494 of *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>30</sup>

The Speaker, Hon. Ted Staffen, called Eric Fairclough (Mayo-Tatchun, NDP) to order during Question Period on March 30, 2004 after Mr. Fairclough said the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party), had "mislead the House yesterday." In continuing his question Mr. Fairclough asked Hon. Mr. Jenkins "if he would like to correct (the) false impression he made yesterday." This choice of words caused Hon. Mr. Jenkins to rise on a point of order pursuant to Standing Order 19(g). The Speaker advised the House that he would review the matter. (*Hansard* 1880-1881)

On April 19, 2004, during general debate in Committee of the Whole on Bill No. 10, *First Appropriation Act, 2004-05*, the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), said of the leader of the third party, Pat Duncan (Porter Creek South, Liberal), "I don't think the member is interested in looking at the actual figures. The member is trying, as usual, to put incorrect information on the floor." The Committee Chair, Patrick Rouble, subsequently called for order and expressed concern

about a statement that was made just a moment ago that the member was trying "to put incorrect information on the floor". The accusation of trying to put inaccurate information out there would imply that the member was aware that the information was inaccurate before putting it forward, [such an accusation] is against our House rules.

The members often do have very different opinions about the facts of the matter, but putting forward that another member is uttering a deliberate falsehood is outside the Standing Orders of our Assembly. (*Hansard* 2215)

On May 10, 2004 Committee of the Whole continued consideration of the estimates for the Department of Energy, Mines and Resources in Bill No. 10. During debate the minister responsible for the department, Hon. Archie Lang (Porter Creek Centre, Yukon Party), said

What we have to get out...is factual information for the general public, for their constituents and our constituents, to make sure that we're acting in a responsible way. To insinuate anything else is unfair to Yukoners and to the government of the day.

At that point the Chair intervened and said

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<sup>30</sup> *Beauchesne's* §494, page 151.

Before debate continues, the Chair is somewhat uneasy and uncomfortable with one of the comments that was just raised. To insinuate that other members are not being factual could lead to some people understanding or drawing the conclusion that that member was intentionally misleading, which I'm sure was not the member's intention.

...I'm probably being overly cautious in this matter, but I would just like to again bring it to the attention of members that to charge members with deliberately uttering a falsehood is strictly against our Standing Orders. (*Hansard* 2617)

During Question Period on May 12, 2004 the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), asked questions of Hon. Mr. Lang regarding ownership of the reindeer herd at the Northern Splendor Reindeer Farm. In response to one question Hon. Mr. Lang said, "for the members opposite to insinuate that the government owns the herd is in fact a falsehood. It is not true. They are privately owned." The official opposition House leader, Gary McRobb (Kluane, NDP), then rose on a point of order saying, "Uttering words like "falsehood" is clearly in contravention of the House rules." The Deputy Speaker, Patrick Rouble, deferred his ruling and said he would "review the Blues in this matter and examine the context in which it was used." (*Hansard* 2667) The following day the Deputy Speaker returned with the following ruling:

At issue was the statement by the Minister of Energy, Mines and Resources that, "for the members opposite to insinuate that the government owns the herd is in fact a falsehood. It is not true."

The Member for Kluane is correct in his assertion that the use of the term "falsehood", in that context, violates Standing Order 19(h), in that the Minister of Energy, Mines and Resources charged another member with uttering a deliberate falsehood.

Unfortunately, other such statements were made yesterday. Members will recall that the Chair expressed his discomfort with the term "misinformation", as employed by the leader of the official opposition. The term "false excuses" was also used.

The Chair appreciates that members disagree about issues raised in the House. However, members must be judicious in how they express such disagreement. As a rule, members are free to assert the truthfulness of their own statements. It is not in order for them to question the truthfulness of statements made by other members.

The Deputy Speaker then read annotation 494 of *Beauchesne's Parliamentary Rules and Forms* and thanked members in advance for their cooperation. (*Hansard* 2694; *Journals* 206-207)

On May 13, 2004 Committee of the Whole considered the estimates for the Department of Health and Social Services in Bill No. 10. At one point the debate focused on the transfer of responsibility for the ambulance service to the Yukon Hospital Corporation. Eric Fairclough (Mayo-Tatchun, NDP) asked, "Now there is a concern with the ambulance attendants that their jobs would be terminated with this transfer and they have to be rehired under the Hospital Corporation. Is that correct?" The minister responsible for the department, Hon. Peter Jenkins (Klondike, Yukon Party), said, "These are personnel matters and my officials advise me that they all have been told that this is patently incorrect. It is not true. That is misinformation." The Chair, Patrick Rouble, then called for order and said



The Chair is very conscious of members' statements regarding what is true and the use of "misinformation" as is apparent by the ruling from the Chair earlier today. While it is appropriate to have a dispute over the facts, it is certainly not appropriate to charge another member with stating something that's not true or stating that the member opposite is misleading. I would ask the member to retract that statement. He may, however, wish to give his own version of the facts.

Hon. Mr. Jenkins then clarified that he was "not saying the member opposite is making a suggestion of untruth. I'm saying the staff at emergency medical services, the full-time staff, have been told that the issue of a layoff is false; it's not true." The Chair took the minister at his word and debate continued. (*Hansard* 2704-2705) Other statements that drew the intervention of the Chair in this regard include:

- "That couldn't be further from the truth." Mr. Fairclough, April 20, 2004 (*Hansard* 2241)
- "the minister, again, is not telling the whole story." Gary McRobb (Kluane, NDP), May 3, 2004 (*Hansard* 2447)
- "That could not be further from the truth." Hon. Archie Lang (Porter Creek Centre, Yukon Party) May 4, 2004 (*Hansard* 2494)
- "the yarn the minister keeps spinning" Todd Hardy (Whitehorse Centre, NDP), May 6, 2004 (*Hansard* 2569)
- "his job is to put misinformation out" Hon. Mr. Lang, May 6, 2004 (*Hansard* 2578)
- "This is not the time to jump up in the House and give half-truths out." Hon. Mr. Lang, May 11, 2004 (*Hansard* 2635)
- "the wealth of misinformation and inaccurate information the minister put out for public consumption yesterday" and "The misinformation coming from (the minister) is astounding." Mr. Hardy, May 12, 2004 (*Hansard* 2665 and 2666)
- "on this issue, all they can do is stall, evade and doubletalk." Mr. Hardy, May 13, 2004 (*Hansard* 2696)

#### ***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."

On April 22, 2004 during general debate in Committee of the Whole on Bill No. 10, *First Appropriation Act, 2004-05*, the Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), brought up the political history of the leader of the third party, Pat Duncan (Porter Creek South, Liberal). In response Ms. Duncan said, "I was a supporter of the federal Progressive Conservative Party. The Yukon Party demonstrated then, as they demonstrate now, that there's no room for women in that party. That's why I'm not there." Hon. Mr. Fentie then rose on a point of order saying, "The Member for Whitehorse West [Hon. Elaine Taylor] is of the female gender." Committee Chair Patrick Rouble ruled there was no point of order but encouraged members "not to make personal comments." (*Hansard* 2304-2305)

Later in the same debate Lorraine Peter (Vuntut Gwitchin, NDP) referred to comments by Hon. Mr. Fentie as "a little rant I received from the Premier." The Chair intervened, saying "It is not parliamentary to characterize another member's presentation to this Assembly as a "rant."

While it was used earlier this week by one of our own members to characterize his own speech, that doesn't mean that it should come into casual use in our Assembly." (*Hansard* 2314)

Later again in the same debate the leader of the official opposition, Todd Hardy (Whitehorse Centre, NDP), referred to Premier Fentie as "ranting and raving and yelling. And, as he likes to admit, he goes on tirades, because we dare ask a question of accountability." The Committee Chair then called for order saying he had

commented within the hour about the use of the term "rant". That would include the use of the term "tirade". If a member wants to characterize his own comments as a "tirade", that's one thing. But again, that doesn't open the door for all members of the Assembly to use that type of language. In our Assembly, we are all bound by using parliamentary language while engaging in appropriate debate, strong discussion and a vigorous examination of the issues. I believe we can all do that and accomplish the objectives of our Assembly without stooping to baser levels. So I would just ask all members to raise the bar a bit and continue to use appropriate language — the language that the people of the Yukon would expect us to use in this Assembly. (*Hansard* 2316)

Other instances that drew the attention of the Chair due to their insulting nature include:

- "words right out of the mouth of the horse" (in reference to another member), Mr. Hardy, March 29, 2004 (*Hansard* 1854)
- "The rookie MLA is obviously just too thin skinned." Gary McRobb (Kluane, NDP) March 29, 2004 (*Hansard* 1856). See Speaker's ruling March 30, 2004 (*Hansard* 1883)
- "listening to the Premier crowing about how this is the largest capital budget in history." Pat Duncan (Porter Creek South, Liberal) March 29, 2004 (*Hansard* 1867)
- "that relentless tirade of partisan drivel." Hon. Dennis Fentie (Watson Lake, Yukon Party) March 31, 2004 (*Hansard* 1928)
- "the long-winded blowhard" Mr. Hardy, April 1, 2004 (*Hansard* 1959)
- "what a bunch of hogwash" Mr. McRobb, April 6, 2004 (*Hansard* 2016)
- "rule of thumb" Hon. Mr. Fentie, April 13, 2004 (*Hansard* 2111)
- "if that's the member's position... (he) needs help, maybe some professional help" Hon. Mr. Fentie, April 21, 2004 (*Hansard* 2260)
- "The Minister of Health dishes out nonsense" Mrs. Peter, April 22, 2004 (*Hansard* 2291)
- "the member opposite is harping time and time again" Hon. Peter Jenkins (Klondike, Yukon Party), April 26, 2004 (*Hansard* 2321)
- "the member opposite...if he gets out of the lip-lock of his lists" Hon. Jim Kenyon (Porter Creek North, Yukon Party), April 26, 2004 (*Hansard* 2322)
- "There are people on the streets in the territory who call this government the Beverly Hillbillies." Mr. Hardy, April 26, 2004 (*Hansard* 2343)

The reference to violent language in this standing order is meant to prevent members from using language that threatens other members, or other persons. On April 1, 2004 Mr. McRobb rose on a point of order after Premier Fentie said, "the leader of the official opposition and the NDP will pay for the accusation that this government is using First Nations." In raising the point of order Mr. McRobb said "the House rules clearly prohibit threats in this Legislature, and that's what the Premier just did; he threatened us."

The Speaker, Hon. Ted Staffen admitted to being "in a bit of a quandary" over the language used and deferred his ruling until the next sitting day." (*Hansard* 1947) The Speaker delivered his ruling on April 5, 2004:

The official opposition House leader objected to the Premier's statement that, "the leader of the official opposition and the NDP will pay for the accusation that this government is using First Nations." The official opposition House leader interpreted this statement as a threat in contravention of the Standing Orders. 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."

The interpretation of this Standing Order has been that members are not to make threats of bodily harm against one another or another person. Neither should members threaten retribution against another's constituents. The Chair interprets the hon. Premier's comments as meaning that he believed the official opposition statements on an issue would not be looked upon favourably by the voters come the next election. It was not a threat of bodily harm or retribution against constituents. The Chair therefore concludes there is no point of order. (*Hansard* 1978; *Journals* 165)

#### ***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 category of offensive matter is language considered beneath the dignity of the House. Steve Cardiff (Mount Lorne, NDP) violated this standing order in this regard during Question Period on March 30, 2004 when he said the individual hired by the government to supervise the financial affairs of Dawson City "has essentially been paid \$40,000 to take a dump in their back yard." The Speaker, Hon. Ted Staffen, ruled the phrase unparliamentary. (*Hansard* 1878)

A similar event occurred in Committee of the Whole on May 18, 2004. At that time the Committee was debating the estimates for the Film Commission in the Department of Economic Development in Bill No. 10, *First Appropriation Act, 2004-05*. The Premier, Hon. Dennis Fentie (Watson Lake, Yukon Party), expressed his frustration with the fact that opposition members did not wish to discuss this line item. In apparent reference to opposition members' concerns about the sewage treatment situation in Dawson City, Premier Fentie said, "Mr. Chair, I find it somewhat disturbing that the members opposite are focused on the downstream end of a flushing toilet instead of the future of the Yukon economy." At that point the Chair, Patrick Rouble, called for order and said, "Such references are beneath the dignity of this Assembly." (*Hansard* 2770)

Another category of offensive matter is language that questions the integrity of members. During Question Period on March 30, 2004 Gary McRobb (Kluane, NDP) was called to order after he said "I'm not a member of the Yukon Party, so I don't put my own interests first." The Speaker ruled that the member's comment "(a)lthough humorous, (was) unparliamentary." (*Hansard* 1882)

Another comment falling into this category occurred during Second Reading of Bill No. 10 on March 30, 2004. At that time the Minister of Energy, Mines and Resources, Hon. Archie Lang (Porter Creek Centre, Yukon Party), said, "the members opposite...say one thing to their constituents and they do another thing in this House." The official opposition House leader, Gary

McRobb (Kluane, NDP), raised the matter as a point of order. The Speaker ruled there was a point of order and asked the minister to not use that phrase. (*Hansard* 1899)

During Question Period on May 11, 2004 the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party), in response to a question about emergency medical services management said, "The spin that the official opposition and the third party are trying to put on this is that this is tantamount to treason almost, Mr. Deputy Speaker. But that is not the case —." At that point the official opposition House leader, Gary McRobb (Kluane, NDP), rose on a point of order and said, "Accusing members of the official opposition of treason is definitely contrary to our House rules." The Deputy Speaker, Patrick Rouble concurred with Mr. McRobb and asked Hon. Mr. Jenkins to retract the statement, which he did. (*Hansard* 2637)

The Speaker also deemed inappropriate comments where "members of this House (were) judging each other." Eric Fairclough (Mayo-Tatchun, NDP) made the comment in question during Second Reading of Bill No. 10. At the time Mr. Fairclough said, "I think some people found (the budget speech) kind of boring, Mr. Speaker. As a matter of fact, when I looked over and saw the Minister of Environment, within three minutes into the budget speech, he was asleep. That holds the same for the Minister of Health and Social Services, who, not long after the Minister of Environment, fell asleep too." The Speaker termed the comments inappropriate and asked Mr. Fairclough to withdraw them. (*Hansard* 1895)

The fact that a member knowingly offends the practices and precedents of the Assembly offers that member no protection. During Committee of the Whole debate on Bill No. 9, *Interim Supply Appropriation Act, 2004-05*, the leader of the third party, Pat Duncan (Porter Creek South, Liberal), accused the Premier and Minister of Finance, Hon. Dennis Fentie (Watson Lake, Yukon Party), of "arrogance." She did so "knowing full well that it may incite disorder." The Chair of Committee of the Whole subsequently stated:

it is...inappropriate for members to make a statement and then immediately seek the indulgence of the Assembly for knowingly breaking our Standing Orders. We are here to conduct the people's business in a civil and straightforward manner. We have all agreed to the Standing Orders that govern our behaviour in this Assembly, and I would ask all members to pay attention to our Standing Orders, to follow them, and to engage in vigorous, thorough debate and to conduct the people's business in the manner in which they expect us to conduct it. (*Hansard* 1887)

### ***Withdrawal of***

Presiding Officers will sometimes request that a member withdraw unparliamentary words or phrases they have uttered. Such withdrawals should be unequivocal. To do otherwise is to debate a ruling from the Chair, a violation of Standing Order 6(1).

On March 29, 2004 during Second Reading of Bill No. 10, *First Appropriation Act, 2004-05*, the leader of the third party, Pat Duncan (Porter Creek South, Liberal), said, "It has been interesting, listening to the Premier crowing about how this is the largest capital budget in history." At that point the Speaker, Hon. Ted Staffen, intervened saying, "To characterize a member as "crowing" is not parliamentary, and I would ask the member to withdraw that, please." However, instead of an unequivocal withdrawal Ms. Duncan said, "Certainly, I withdraw that, Mr. Speaker. I meant no disrespect to our territorial bird, the raven." (*Hansard* 1867) Obviously, such a withdrawal is not adequate. The rules of the House are meant to protect members, not the territorial bird, from expressions of disrespect.

On March 30, 2004 Speaker Staffen asked Eric Fairclough (Mayo-Tatchun, NDP) to withdraw comments made about the Minister of Environment, Hon. Jim Kenyon (Porter Creek North, Yukon Party), and the Minister of Health and Social Services, Hon. Peter Jenkins (Klondike, Yukon Party). In doing so Mr. Fairclough said, "Mr. Speaker, I believe that was past practice and it has been said in this House — about people nodding off or not paying attention and that type of thing. That's what I was getting to, but if it is the wish of the Speaker for me to withdraw that, then I will." (*Hansard* 1895)

On April 19, 2004, during general debate in Committee of the Whole on Bill No. 10, the Committee Chair, Patrick Rouble, intervened after the Premier and Finance Minister, Hon. Dennis Fentie (Watson Lake, Yukon Party), made remarks that the Chair interpreted as an accusation that Ms. Duncan had attempted to deliberately mislead the House. The Chair asked Hon. Mr. Fentie to retract the offending statement. Hon. Mr. Fentie did apologize, however he then added

I didn't mean "trying". I meant "is" putting incorrect information on the floor, as per usual. The member is always putting incorrect information on the floor. It's a standard practice by the third party.

Ms. Duncan then rose on a point of order saying, "While I generally try to appreciate the Finance minister's humour, I find it somewhat lacking this afternoon in challenging your ruling. I would appreciate the apology and the retraction." The Chair concurred with Ms. Duncan. Hon. Mr. Fentie then said, "I did apologize. The point of order interrupted my retraction." (*Hansard* 2215)

In this case Hon. Mr. Fentie had apologized, but then compromised his apology with subsequent remarks. In cases where the Chair requests a retraction Members should do so without qualifying statements.

On April 20, 2004 during general debate in Committee of the Whole on Bill No. 10 Mr. Fairclough said Premier Fentie, "says that when it comes to the captive wildlife issue, the minister responsible has been consulting with First Nations. That couldn't be further from the truth." The Chair subsequently called for order and said

Before debate continues — when the member was asking his question, he used the phrase "couldn't be further from the truth", and I would remind the member that on May 13, 2002, that statement was ruled out of order and, at the time, the member was asked to retract that statement.

I would remind all members to speak within the confines of our Standing Orders, to review the past rulings, and I would ask that member to withdraw that remark.

Mr. Fairclough phrased his withdrawal as, "It is hard to withdraw a truth, but I will do that." At that point the Chair expressed his discomfort "with the preamble and the qualification placed on the retraction of that comment. I would ask for an unqualified withdrawal of the remark, please." Mr. Fairclough then withdrew the remark without qualification. (*Hansard* 2242)

On April 26, 2004 during general debate in Committee of the Whole on Bill No. 10 discussion, at one point, focused on the provision of certain statistical information. During this discussion Premier Fentie said

the statistics we have do not break down the unemployment rate by community. They don't do it. Now I know that the official opposition will probably invent one or they will bring forward incorrect information about one, but that's typical.

At that point the Chair called for order saying, "It's entirely inappropriate to make those comments. It's unparliamentary language and I'd ask the Premier to retract his statement." Hon. Mr. Fentie retracted the word "invent" and replaced it with "bringing forward incorrect information", which, he said, "is something the members opposite are doing continually." This retraction did not satisfy the Chair who again called for order and said

The comment that the members opposite are continually bringing forward inaccurate information casts upon the opposition the assumption that they knowingly bring forward that information, that they know it's incorrect and they're bringing it forward anyway, and that is unparliamentary. The Premier is aware of that and I would ask for an unqualified retraction of that statement.

Hon. Mr. Fentie then retracted that statement, but added "but the member is wrong. The member is wrong. That's all I can say. The member is wrong." Again the Chair intervened asking for "an unqualified retraction of a statement." This time Hon. Mr. Fentie retracted "wrong" and replaced it with "made a mistake." This was still not satisfactory to the Chair who insisted on

a complete retraction of the statement, without substitution of other qualifiers. The Chair is aware that all members are aware of our Standing Orders. We must abide by them. They are the rules that govern our Assembly and I'd ask that all members follow them and that the member retract the statement.

Hon. Mr. Fentie then retracted the statement to the satisfaction of the Chair. (*Hansard* 2328)

On May 6, 2004 Committee of the Whole considered the estimates for the Department of Energy, Mines and Resources in Bill No. 10. At one point the minister responsible, Hon. Archie Lang (Porter Creek Centre, Yukon Party), said of Gary McRobb (Kluane, NDP), "his job is to put misinformation out and my job is to give you facts." At that point the Chair called for order and said, "The member knows full well that the comments he just made are out of order. I would again ask the member to retract that statement and to continue on debate that is consistent with...the Standing Orders of our Assembly." Hon. Mr. Lang then continued saying, "Thank you, Mr. Chair. Moving along on the budget speech or to talk on my budget —." The Chair then called for order and said, "Prior to moving on in debate, I'm asking the member to retract the statement he made." Hon. Mr. Lang indicated that he thought he had done so, but complied with the Chair's request. (*Hansard* 2578) In this case it appears that Hon. Mr. Lang attempted to apologize before being recognized by the Chair. As such the apology was not clearly made. Members should always wait until the Chair recognizes them before addressing the Assembly, whether it is to debate matters before the House or offer a retraction of remarks made.

## Statistical Summary

**Table 1: Sitting Days**

	Monday	Tuesday	Wednesday	Thursday	Total
March	1	1	1	1	4
April	3	4	4	5	16
May	3	3	2	2	10
<b>Total</b>	<b>7</b>	<b>8</b>	<b>7</b>	<b>8</b>	<b>30</b>

**Table 2: Allocation of Sitting Time**

	Number	Time consumed	Percentage of sitting time
Debate on Bills	7	93 hours 3 minutes	63.4%
Debate on Motions	10	23 hours 1 minute	15.7%
Question Period	30	15 hours 34 minutes	10.6%
Other	n.a.	15 hours 7 minutes	10.3%
<b>Total</b>	<b>n.a.</b>	<b>146 hours 45 minutes</b>	

Note: In this case 'Other' includes elements of the Daily Routine other than Question Period, prepared statements and rulings by the Speaker and the Chair of Committee of the Whole and Assent proceedings.

**Table 3: Documents Tabled**

Type	#
Legislative Returns	1
Sessional Papers	27
Filed Documents	19
<b>Total</b>	<b>47</b>

**Table 4: Daily Routine**

Item	#
Tributes	37
Visitor Introductions	41
Ministerial Statements	1
Written Questions	0
Committee Reports	0
Petitions Presented	1
Responses to Petitions	1

**Table 5: Bills**

Bills	Government	Private Members	Total
Introduced	6	2	8
Debated	6	1	7
Passed	6	0	6
Negatived	0	0	0
Assented to	6	0	6

**Table 6: Time devoted to individual bills**

Bill #	Name	Second Reading	Committee of the Whole	Third Reading	Total
8	<i>Third Appropriation Act, 2003-04</i>	1 hour 25 minutes	18 hours 52 minutes	3 minutes (division)	20 hours 20 minutes
9	<i>Interim Supply Appropriation Act, 2004-05</i>	28 minutes	41 minutes	9 minutes (division)	1 hour 18 minutes
10	<i>First Appropriation Act, 2004-05</i>	10 hours 16 minutes	54 hours 26 minutes	4 minutes (division)	64 hours 46 minutes
43	<i>Act to Amend the Income Tax Act</i>	16 minutes	52 minutes	3 minutes (division)	1 hour 11 minutes
44	<i>Act to Amend the Municipal Finance and Community Grants Act</i>	1 hour 43 minutes	1 minute	3 minutes (division)	1 hour 47 minutes
45	<i>Act to Amend the Assessment and Taxation Act</i>	54 minutes	1 minute	3 minutes (division)	58 minutes
104	<i>Act to Amend the Public Service Act</i>	2 hours 43 minutes			2 hours 43 minutes
	Total (7)	17 hours 45 minutes	74 hours 53 minutes	25 minutes	93 hours 3 minutes

## Notes on bills:

1. Introduction and 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."
2. Bill No. 10, Bill No. 44 and Bill No. 45 were expedited through Committee of the Whole pursuant to Standing Order 76(1). (See 'Termination of the Sitting as per Standing Orders')
3. All bills, except Bill No. 9, expedited through Third Reading pursuant to Standing Order 76(2). (See 'Termination of the Sitting as per Standing Orders')



**Table 7: Appropriation Bills, Committee of the Whole debate by department**

Department	Bill No. 8		Bill No. 10		Total	
	hours	minutes	hours	minutes	hours	minutes
General debate		4	13	20	13	24
Energy, Mines & Resources	1	5	9	18	10	23
Education	1	34	7	52	9	26
Tourism & Culture	1	47	6	37	8	24
Highways & Public Works	3	13	4	38	7	51
Health & Social Services	3	23	3	26	6	49
Economic Development	1	49	1	9	2	58
Justice		25	1	58	2	23
Community Services		12	1	24	1	36
Public Service Commission		42		34	1	16
Yukon Housing Corporation		43		26	1	9
Environment		33		33	1	6
Executive Council Office		13		38		51
Finance		45		1		46
Women's Directorate		12		11		23
Yukon Liquor Corporation		none		23		23
Legislative Assembly		2		4		6
Office of the Ombudsman		2		1		3
Elections Office		1		2		3
Yukon Development Corp.		none		No debate		0
Loan Capital & Amortization		none		No debate		0
<b>Total</b>	<b>16</b>	<b>44</b>	<b>52</b>	<b>35</b>	<b>69</b>	<b>19</b>

Notes on departments:

1. Bill No. 8 was a supplementary appropriation act; Bill No. 10 was the main appropriation act for the 2004-05 fiscal year.
2. The term 'none' refers to those departments or corporations that did not have an appropriation in Bill No. 8.
3. The term 'No debate' refers to those departments or corporations whose appropriations in Bill No. 10 were not debated due to the termination of Committee proceedings pursuant to Standing Order 76(1) (see: 'Termination of the Sitting, as per Standing Orders).
4. 'Loan Capital & Amortization' is only applicable to main appropriation acts.
5. Bill No. 9, *Interim Supply Appropriation Act, 2004-05* is not listed in this table as all departmental votes were cleared by unanimous consent.

**Table 8: Motions**

Motions	Government	Private Members	Total
Notice of	2	110	112
Debated	2	8	10
Adjourned Debate	0	6	6
Agreed to	2	2	4
Negatived	0	0	0
Withdrawn	0	0	0
Ordered Removed <sup>31</sup>	1	11	12
Not placed	0	0	0

**Table 9: Time devoted to debate on motions**

Motion # & Subject	Debate		Disposition
	hours	minutes	
254. re Yukon Government Continuing to Take a Balanced Approach to Environmental Protection and Responsible Economic Development	4	23	Debate adjourned
232. re Urging Government to Begin Redevelopment of the Whitehorse Correctional Centre Immediately and Bring Forward a Supplementary Budget in the Next Sitting of the Legislature	4	21	Debate adjourned on amendment
225. re Urging Government to Build a Bridge at Dawson City	4	14	Debate adjourned on amendment #2
231. re Introduction of a Teacher School Supply Tax Credit	3	57	Debate adjourned on amendment
43. re Support in Schools for FASD Students and their Families	3	7	Carried as amended
217. re Rescinding Loan-Collection Plan for Cabinet Ministers and Introducing a New One	1	36	Debate adjourned
276. re Government Continuing the Yukon Film Incentive Program		55	Debated adjourned on the amendment
289. re Federal Government's Fiduciary Responsibility to Provide Health Care to All Aboriginal Canadians		16	Carried
280. re Recognizing the Role of First Nations in the 25 <sup>th</sup> Anniversary Celebrations of the Dempster Highway		11	Carried
301. re Rescinding Appointments of Hon. Dennis Fentie and Hon. Peter Jenkins and Appointing Dean Hassard and Brad Cathers to the Standing Committee on Public Accounts		1	Carried
<b>Total (10: 4 Carried, 6 Debate Adjourned)</b>	<b>23</b>	<b>1</b>	

<sup>31</sup> See 'Motions, Irregular' for further information.

**Table 10: Statistical Review of Question Period**

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. March 25	7	7	7	21	30:25	14:35	15:50	0:00	3	2
2. March 29	7	7	6	20	33:25	15:35	17:50	0:00	2	1
3. March 30	7	7	7	21	33:10	16:35	15:05	1:30	5	0
4. March 31	6	6	6	18	32:00	16:45	15:15	0:00	7	1
5. April 1	6	6	6	18	29:50	13:15	15:05	1:30	4	0
6. April 5	7	7	7	21	29:35	16:20	13:15	0:00	3	1
7. April 6	5	5	5	15	28:40	14:05	14:05	0:30	4	1
8. April 7	7	7	7	21	34:35	17:25	14:55	<b>2:15</b>	4	1
9. April 8	6	6	6	18	29:00	14:20	14:40	0:00	1	0
10. April 13	6	6	6	18	29:00	13:35	15:10	0:15	2	0
11. April 14	8	8	8	24	30:30	18:25	<i>11:45</i>	0:20	5	1
12. April 15	7	7	7	21	30:05	15:00	14:05	1:00	1	0
13. April 19	8	8	8	24	33:45	<b>20:25</b>	12:45	0:35	4	0
14. April 20	7	7	7	21	<i>28:30</i>	15:25	12:55	0:10	0	0
15. April 21	6	6	6	18	28:40	14:10	14:15	0:15	3	0
16. April 22	6	6	4	16	30:10	13:20	14:50	2:00	4	0
17. April 26	6	6	4	16	<i>28:30</i>	13:35	14:55	0:00	3	0
18. April 27	7	7	7	21	33:50	16:10	16:50	0:50	2	0
19. April 28	6	5	5	16	31:15	15:15	15:20	0:40	7	1
20. April 29	7	7	4	18	31:50	16:55	14:55	0:00	7	1
21. May 3	7	7	7	21	30:20	16:55	12:50	0:35	1	0
22. May 4	7	7	7	21	31:50	17:25	14:25	0:00	3	0
23. May 5	6	6	5	17	30:45	15:20	15:25	0:00	3	0
24. May 6	6	6	6	18	29:25	14:05	15:00	0:20	1	1
25. May 10	5	5	5	<i>15</i>	28:45	<i>13:00</i>	15:45	0:00	2	1
26. May 11	7	7	7	21	34:05	16:20	17:10	0:35	3	0
27. May 12	7	7	4	18	33:00	14:10	18:05	0:45	3	2
28. May 13	7	7	5	19	30:55	16:45	13:55	0:15	6	1
29. May 17	9	9	7	25	33:15	18:55	14:20	0:00	2	0
30. May 18	<b>15</b>	3	2	20	<b>34:55</b>	14:05	<b>19:05</b>	1:45	2	1
Total	208	195	178	581	15:34:00	7:48:10	7:29:45	16:05	97	16

Note: Highest totals in bold; lowest totals in *italics*.

**Table 11: Questions posed in Question Period by Party**

	Main	First Supp.	Final Supp.	Total
Official Opposition (NDP)	171	160	144	475
Third Party (Liberal)	34	32	32	98
Independent member	3	3	2	8
Total	208	195	178	581

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