



**THIRD REPORT  
OF THE  
STANDING COMMITTEE ON PROCEDURE**

Third Session  
Fifty-fifth Legislative Assembly  
of the  
Province of New Brunswick

May 30, 2006

**MEMBERS OF THE COMMITTEE**

Hon. Mr. Harrison, Chairman  
Hon. P. Robichaud, Vice-Chairman  
Hon. Mr. Green, Q.C.  
Mr. Huntjens  
Mr. C. LeBlanc  
Hon. Mr. MacDonald

Mr. Lamrock  
Mr. Allaby  
Mr. V. Boudreau

Legislative Building  
Fredericton, New Brunswick  
May 30, 2006

To The Honourable  
The Legislative Assembly of  
The Province of New Brunswick.

Honourable Members:

I present herewith the Third Report of the Standing Committee on Procedure.

Further to its permanent order of reference, the Committee held four meetings, on April 20, April 25, May 9 and May 29, 2006, and continued its review of the Stranding Rules and practices of the Legislative Assembly.

Your Committee's Report contains several recommendations for changes and improvements to the Standing Rules and practices of the House.

Respectfully submitted on behalf of the Committee.

(Sgd. :) \_\_\_\_\_  
Hon. Bev Harrison, Chair  
M.L.A., Hampton-Belleisle

May 30, 2006

To The Honourable  
The Legislative Assembly of  
The Province of New Brunswick

Honourable Members:

Your Standing Committee on Procedure begs leave to submit this their Third Report of the Session.

All Standing Rules and practices of the House, together with any matter referred by the Speaker stand permanently referred to the Standing Committee on Procedure. Further to its permanent order of reference, your Committee held four meetings on April 20, April 25, May 9 and May 29, 2006, and continued its review of the Standing Rules and practices of the Legislative Assembly.

At the meeting of the Committee held on April 25, 2006, Hon. Mr. Green resigned as Chair of the Committee.

On motion of Hon. Mr. Green, seconded by Mr. Sherwood, Hon. Mr. Harrison was elected Chair of the Committee.

The Standing Rules of the Legislative Assembly of New Brunswick were adopted in 1986. Although minor amendments have been made to meet the needs of Members, the Rules have remained essentially unchanged.

Your Committee is of the opinion that the Rules must be modernized to meet the pace of change and to reflect current realities and practices in other jurisdictions, including the House of Commons and other provincial legislatures. The changes being proposed will ensure the efficient, effective and orderly flow of the business of the House.

## Legislative Process

Under the current provisions of the Standing Rules, when a Government Public Bill is introduced and read a first time, it stands ordered for second reading at the next sitting of the House giving little time for Members to prepare for the second reading stage or for the business of the House to be managed in an orderly fashion. Similarly, Private Members' Public Bills given first reading stand ordered for second reading at the next sitting of the House.

All Public Bills given second reading stand referred to the Committee of the Whole House and are taken up for consideration at the discretion of the government. The majority of Canadian Legislatures allow for second and third reading of Government Public Bills to be taken up at the discretion of the government. Many Legislatures also place the control of Private Members' Public Bills in the hands of the Members and not the government.

Your Committee therefore recommends for adoption the following amendments to the Standing Rules:

- 1) Standing Rule 35 is amended
  - a) by striking out "Congratulatory Messages" and substituting "Messages of Congratulation and Recognition".
  - b) by adding after "Notices of Motions" the item "Opposition Members' Business on Notice".
- 2) Standing Rule 35.3 is repealed and the following is substituted:
  - 35.3(1) A maximum of ten minutes shall be allocated to the item of routine business "Messages of Congratulation and Recognition".
  - 35.3(2) A Member making a statement of congratulation or recognition shall speak for no more than sixty seconds.
- 3) Standing Rule 42(2) is repealed and the following is substituted:
  - 42(2) When a Government Bill has been read first time, it shall be carried daily on the Order and Notice Paper under "Government Bills and Orders" and shall be called for second reading at the discretion of the Minister acting as the Government House Leader.

42(3) For the purposes of subrule (2), a Government Bill includes a Public Bill introduced by a Minister of the Crown and notwithstanding Standing Rule 1, is deemed to include a Public Bill introduced by a Government Private Member.

42(4) The time limits set out in Standing Rules 44(6), (7) and (8) shall apply during any debate at the second and third reading stages of a Public Bill introduced by a Government Private Member.

42(5) No Bill shall be read a second time unless the Bill has been printed and copies thereof have been deposited with the Clerk of the House and have been distributed to the Members.

42(6) Before a Government Bill is read a second time, a minimum of one day's notice shall be provided by the Minister acting as the Government House Leader.

42(7) A Government Bill introduced by a minister of the Crown and given second reading shall stand referred to the Committee of the Whole House or other Committee designated by the sponsor of the Bill.

42(8) A Government Bill introduced by a Government Private Member and given second reading shall stand referred to the Committee of the Whole House unless referred to another Committee by a majority of the House.

42(9) Government Bills reported from the Committee of the Whole House or other Committee shall be called for third reading at the discretion of the Minister acting as the Government House Leader.

42(10) When an Opposition Member's Public Bill has been read a first time, it shall be carried daily on the Order and Notice Paper under "Opposition Members' Business" and shall be taken up for consideration as set out in Standing Rule 44.

42(11) Opposition Members' Public Bills given second reading shall stand referred to the Committee of the Whole House unless referred to another Committee by a majority of the House.

42(12) Opposition Members' Public Bills shall be called for

consideration in the Committee of the Whole House in the same manner as government orders.

42(13) Opposition Members' Public Bills reported from the Committee of the Whole House or other Committee shall stand ordered for third reading and shall be carried daily on the Order and Notice Paper under Opposition Members' Business and shall be taken up for consideration as set out in Standing Rule 44.

- 4) Standing Rule 77 is repealed.

### **Appropriations or Supply Bills**

Currently in our House, all Appropriations Bills must pass through the same stages in the House as other Bills. This includes First Reading, Second Reading, Committee of the Whole consideration, and Third Reading.

The majority of Canadian Legislatures expedite the passage of Appropriation Bills after their introduction in the House. In practice in New Brunswick, Appropriations Bills receive all three readings and committee consideration on the same sitting day by unanimous consent.

Your Committee therefore recommends for adoption the following amendments to the Standing Rules.

The Standing Rules are amended by adding after Standing Rule 42 the following:

42.1 (1) Notwithstanding anything else herein contained, upon introduction and first reading of a Bill for an *Appropriations Act* that is based on estimates concurred in by the House, the questions for second and third reading shall be forthwith put, without amendment and the Bill shall not be committed.

42.1(2) Debate at the second and third reading stages of an *Appropriations Act* introduced pursuant to subrule (1) shall not exceed one sitting day. At ten minutes prior to the adjournment of the House, the Speaker shall interrupt proceedings and put every question necessary if the debate has not concluded by that time.

42.1(3) Subrules (1) and (2) do not apply to a special *Appropriation Act* introduced pursuant to subsection 34(4) of the *Financial Administration Act*.

42.1(4) Notwithstanding anything else herein contained, upon introduction and first reading of a Bill for the implementation of

a tax measure or other financial matter outlined in the Budget, consideration of all stages of the Bill, including consideration in Committee of the Whole or other committee, shall proceed forthwith and shall not exceed one sitting day. At ten minutes prior to the adjournment of the House, the Speaker or the Chairman shall interrupt proceedings and put every question necessary if debate has not concluded by that time.

### **Private Members' Public Business**

Under the current Standing Rules, two specific days (Tuesdays and Thursdays) are allotted for dealing with Private Members Motions and other matters of interest to Private Members. Generally speaking, the term Public Business includes motions for returns and debatable motions. One hundred and twenty minutes are allotted each Tuesday and Thursday for Private Members' Motions. Since Opposition Members are most likely to take advantage of this period reserved for Private Members, Tuesdays and Thursdays have often been referred to as Opposition Days.

Private Members Motions are considered in their order of introduction with no discretion given to Private Members to take up the motions in a different order. In the majority of Canadian Legislatures, the time reserved for Private Members Business provides backbench Members with their main opportunity to put legislative proposals and motions before the House. The Committee proposes changes to the period reserved for Private Members to include consideration of Bills and to give greater control to Private Members on items of interest and priority to them.

Your Committee therefore recommends for adoption the following amendments to the Standing Rules.

1) The heading "Private Members' Public Business" preceding Standing Rule 44 is repealed and the following is substituted:

"Opposition Members' Business".

2) Standing Rule 44 is repealed and the following is substituted:

44(1) The first order of Business on Thursday shall be "Opposition Members' Business" which shall have precedence over all other business except the daily routine of the business of the House.

44(2) Opposition Members' Business shall consist of, in order of priority, Opposition Members' Public Bills and Opposition

Members' Motions and shall be taken up until the daily hour of adjournment on Thursday.

44(3) The order of consideration of items of Opposition Members' Business shall be determined by the order in which such items have been presented in the House unless notice has been provided in accordance with subrule (4) to consider items in a different order. In the application of this sub-rule, the rotation described in subrule (5) shall be observed.

44(4) An item of Opposition Members' Business may be considered and taken up in a different order than provided for in subrule (3) providing that one day's notice has been given in the House under Opposition Members' Business on Notice.

44(5) Items of Opposition Members' Business shall be considered according to the following rotation:

(a) seven items introduced by Members of the party forming the Official Opposition;

(b) one item introduced by Members of the party having the third largest membership in the House.

44(6) An item of Opposition Members' Business shall be debated for not more than one hundred and twenty minutes.

44(7) The proposer of an item of Opposition Members' Business may speak for up to twenty minutes, and all other Members up to fifteen minutes. The proposer when speaking in reply shall not speak for more than ten minutes.

44(8) At the expiration of one hundred and ten minutes of the time allocated for the consideration of an item of Opposition Members' Business under subrule(6), the Speaker shall interrupt proceedings and recognize the sponsor of the Bill or the mover of the motion to close the debate.

44(9) Notwithstanding Standing Rule 64, a motion to adjourn the debate shall not be in order with respect to an item of Opposition Members' Business if moved by a minister or a Government Private Member.

44(10) A motion for returns (tabling motions) shall not be considered as an item of Opposition Members' Business for the



purposes of the rotation described in subrule (5) unless notice has been provided pursuant to subrule (4).

44.1(1) Motions introduced by a Government Private Member shall be carried daily on the Order and Notice Paper under Government Bills and Orders, and subject to subrule(2), shall be called by the Government House Leader in the same manner as Government Orders.

44.1(2) If a Government Private Member introduces a Motion that deals essentially with the same subject matter of an Opposition Member's Motion standing on the Order and Notice Paper, the Motion by a Government Private Member shall not be called for consideration until the Opposition Member's Motion has been considered by the House.

44.1(3) For the purpose of subrule (2), the Speaker shall make the final determination whether a motion introduced by a Government Private Member deals essentially with the same subject matter as an Opposition Member's Motion.

44.1(4) Standing Rule 44(6), (7), and (8) shall apply to the consideration of motions introduced by Government Private Members.

### **Process of Consideration of Estimates**

Since 1987, estimates have been considered almost exclusively on the floor of the House in the Committee of Supply. In accordance with Standing Rule 109, departmental estimates may be referred to the Standing Committee on Estimates on government motion, seconded by the Leader of the Opposition.

During the Second Session of the Fifty-fifth legislature, a number of departmental estimates were referred to the Standing Committee on Estimates which met during a period of adjournment of the House to consider the estimates. This process expedited the passage of the estimates.

A number of Canadian Legislatures surveyed currently provide for the referral of estimates to a subcommittee of the Committee of Supply or to another legislative committee. Your Committee also notes that over fifty percent of Canadian Legislatures have time limits for the consideration of the estimates.

Your Committee therefore recommends for adoption the following amendments to the Standing Rules.

1) Standing Rule 103(3) is repealed and the following is substituted:

103(3) No more than three substitutions shall be permitted for the purpose of subrule (1) for each Member of a Committee unable to be present at a meeting of that Committee.

103(4) Only one member designated as a substitute in accordance with subrules (1) and (2) shall be considered the official substitute for financial purposes.

2) Standing Rule 108 is repealed and the following is substituted:

108(1) Subject to Standing Rule 109, Estimates or Supplementary Estimates once transmitted to the House shall be deemed referred to the Standing Committee on Estimates.

108(2) All Estimates standing referred to the Committee of Supply which have not been passed by the Committee prior to the commencement of this standing rule shall be deemed to have been referred to the Standing Committee on Estimates pursuant to subrule (1).

3) Standing Rule 109 is repealed and the following is substituted:

109(1) Subject to subrule (2), the Leader of the Official Opposition or Opposition House Leader may, by giving written notice to the Government House Leader, designate which department's estimates are to be considered by the Committee of Supply.

109(2) Up to four departments' estimates may be designated for the purpose of subrule (1).

109(3) A maximum of eighty hours shall be allocated in accordance with subrules (4) and (5) for the consideration of Main and Capital Estimates in any session of the House.

109(4) A maximum of forty hours shall be allocated for the consideration of the estimates designated in accordance with subrules (1) and (2). Any unused time shall be allocated for the consideration of Estimates in the Standing Committee on Estimates.

109(5) Subject to subrule (4), a maximum of forty hours shall be

allocated for the consideration of the Estimates by the Standing Committee on Estimates.

109(6) At the conclusion of its consideration of departmental estimates, the Standing Committee on Estimates shall report those estimates back to the House for concurrence therein.

109(7) At the expiration of the time allocated for the consideration of the Estimates, the Chair of the Committee of Supply or the Standing Committee on Estimates, as the case may be, shall interrupt the proceedings and forthwith put every question, if the debate has not concluded by this time.

4) The Standing Rules are amended provisionally for the Third Session of the Fifty-fifth Legislature by adding after Standing Rule 109 the following:

109.1 Any time spent to consider Main and Capital Estimates in the Committee of Supply from May 9, 2006 and onward shall be included in calculating the time allocated for the consideration of estimates in Standing Rule 109(3).

### **Reports of Committees of the Whole House and Standing Committee on Estimates**

During consideration of the estimates of the Department of Transportation in the Committee of Supply on May 3, 2006, several supply resolutions of the said department were negatived. A review of the Parliamentary authorities and precedents from other Legislative Assemblies demonstrate that the situation the Committee of Supply finds itself in is not unique and the measures that the House could take would not be unprecedented.

The House does have final authority over decisions made in its Committees, even if it means having the Committee of Supply re-vote the same question. However, it is the opinion of your Committee that simply instructing the Committee of Supply to reconsider its vote may not achieve the desired objective, particularly if the same decision is reached. Another method must be found to resolve this impasse.

There is a need for the Legislature to be allowed to function in an effective and efficient manner. Your Committee is therefore proposing changes at the report stage of Bills and estimates to allow defeated Bills or estimates to be reinstated. The changes to the rules to allow for the reinstatement of estimates have precedent in the National Assembly of Quebec and the Canadian House of Commons.

Your Committee therefore recommends for adoption the following amendments to the Standing Rules.

Standing Rule 78.1 is repealed and the following is substituted:

78.1 On the presentation of a report from the Committee of the Whole House or the Standing Committee on Law Amendments, a motion that the report be concurred in shall be deemed to be before the House. The motion to concur in the Report of the Committee of Whole or the Standing Committee on Law Amendments shall be put forthwith by the Speaker and decided without debate and no amendment shall be received unless it is moved by a minister for the purpose of reinstating a Bill, a clause of a Bill or an amendment to a Bill. If a minister moves an amendment as provided herein, the debate on such amendment shall be limited to one hour and no Member shall speak for more than ten minutes. The debate having been concluded, the question shall be put on any amendment so moved, then in the concurrence of the report, be it amended or not.

78.2 On the presentation of a report from the Committee of Supply or the Standing Committee on Estimates, a motion that the report be concurred in shall be deemed to be before the House. The motion to concur in the report of the Committee of Supply or the Standing Committee on Estimates shall be put and decided without debate and no amendment shall be received unless it is moved by a minister for the purpose of reinstating some estimate or estimates reduced or negatived in Committee. If a minister moves an amendment as provided herein, the debate on such amendment shall be limited to one hour and no Member shall speak for more than ten minutes. The debate having been concluded, the question shall be put on any amendment so moved, then in the concurrence of the report, be it amended or not.

Your Committee recommends for adoption the following additional amendments to the Standing Rules:

1) Standing Rule 45(2) is amended by striking out "Speaker and the offices of all leaders of recognized parties" and substituting "Speaker, the offices of all leaders of recognized parties and the Government and Official Opposition House Leaders".

2) Standing Rule 66 is amended

a) by striking out the period at the end of paragraph (j) and substituting a semi-colon;

b) by adding after paragraph (j) the following:

(k) for concurrence in Reports of the Standing Committee on Law Amendments.

3) Standing Rule 85 is repealed.

4) Standing Rule 97 is repealed and the following is substituted:

97(1) Subject to subrule (2), no standing or select committee shall, except by order of the House, sit concurrently with the House.

97(2) The Standing Committee on Estimates and the Standing Committee on Law Amendments shall have the authority to sit concurrently with the House.

All of which is respectfully submitted and the Committee asks leave to make a further report.

(Sgd.) \_\_\_\_\_  
Hon. Bev Harrison, Chair

