



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

Second Session
Fifty-sixth Legislative Assembly
of the
Province of New Brunswick

November 28, 2007

MEMBERS OF THE COMMITTEE

Hon. Mr. McGinley, Q.C., Chair
Hon. Kelly Lamrock, Vice-Chair
Mr. Kenny
Mr. B. LeBlanc
Mr. R. Boudreau
Ms. Lavoie

Mr. Carr
Mr. Harrison
Mr. Robichaud

Legislative Building
Fredericton, New Brunswick
November 28, 2007.

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

Honourable Members:

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

Further to its permanent order of reference, the Committee held two meetings on November 13, 2007, and November 27, 2007, to review the Third Report of the Standing Committee on Procedure presented May 31, 2006, during the Third Session of the Fifty-fifth Legislative Assembly.

Your Committee agrees to retain the majority of the recommendations contained in the Third Report and to abandon several of the changes that were not in the best interest of the institution.

And your Committee asks leave to make a further report.

Respectfully submitted on behalf of the Committee.

(Sgd. :) _____
Hon. Kelly Lamrock, Vice-chair
M.L.A.

November 28, 2007

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 First Report of the Session.

Pursuant to Standing Rule 92, 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 met November 13 and November 27, 2007, to review the Third Report of the Standing Committee on Procedure presented May 31, 2006, during the Third Session of the Fifty-fifth Legislative Assembly, a copy of which is attached as "Appendix A".

The First Session of the 56th Legislature opened February 6, 2007, and prorogued July 6, 2007. During the 79-day session, more than 165 hours were spent considering budgetary estimates in Committee of Supply and over 70 hours were spent considering legislation in Committee of the Whole. The prolonged session prompted the government to reintroduce the aforesaid Third Report of the Standing Committee on Procedure.

The report proposes numerous changes to the *Standing Rules* to facilitate and expedite the transaction of business in the House. The proposed rules would cap debate on departmental estimates at 80 hours, would make the Standing Committee on Estimates the main committee for the consideration of estimates instead of the Committee of Supply, would allow government more discretion on controlling the various stages of Government Bills, would expedite the passage of appropriation Bills through the House, and would allow the Opposition to set the agenda on Thursdays with regard to Opposition Members' Business (Opposition Members' Public Bills and Motions).

On June 29, 2007, the Government introduced a resolution to concur in the recommendations contained in the said report. To allow further consideration, the House passed an amendment to the concurrence motion. The amendment, introduced by Government House Leader Hon. Stuart Jamieson, and seconded by Opposition House Leader Bev Harrison, stated: “that the amended rules would not come into effect should a subsequent report recommending alternative rule changes be presented within the first two sitting days of the resumption of the current session of the House or the commencement of the next session, as the case may be.” The adoption of the resolution as amended on June 29, 2007, allowed your Committee to review the changes proposed in the Committee’s Third Report.

Your Committee agrees that the Rules must be modernized to meet the pace of change and to reflect current practices in other jurisdictions, including the Parliament of Canada and the provincial legislatures. Many of the changes proposed in the Committee’s Third Report were drawn from procedural inquiries of other Canadian and Commonwealth legislatures. Your Committee agrees to retain the majority of the recommendations contained in the Third Report and to abandon several of the changes that were not in the best interest of the institution.

Throughout the review, your Committee was guided by three principles:

- 1) The Government must be able to reach its legislative proposals in a timely manner;
- 2) The Opposition must be able to criticize and put forward alternative proposals; and
- 3) Private Members must be able to raise other matters of concern to them and to their constituents.

With these principles in mind, your Committee recommends the following changes to the amendments proposed in the Third Report.

Proposal for Changes to Legislative Process

It is recommended

- (a) that the term “one day’s notice” of Government or Opposition Members’ Business be defined;
- (b) that a provision be added specifying that Opposition Member’s Public Business be considered until 6 p.m. each Thursday;
- (c) that a Government Public Bill reported from the Committee of the Whole House stand ordered for third reading at the next sitting unless third reading of the Bill is deferred to a subsequent day by the Minister acting as the Government House Leader;

- (d) that Government Public Bills given second reading and reported from a Committee other than a Committee of the Whole House stand referred to the Committee of the Whole House;
- (e) that the process for expediting the passage of Bills through their various stages in the House be limited to appropriations Bills based on estimates that have been concurred in by the House;
- (f) that the supply procedure outlined in the existing Standing Rules be retained and that the Committee of Supply remain the main committee for the consideration of estimates.

Changes to the term “Orateur”

The term “Orateur”, a literal translation of the term “Speaker”, is used throughout the Standing Rules. As part of a revision of the public Acts conducted by the Office of the Attorney General to update and improve the terminology contained in public statutes, the term “Orateur” was changed in the French version of the *Legislative Assembly Act* during the recent spring sitting to the more well-established and appropriate term “président de l’Assemblée législative”.

It is recommended that similar amendments be made to the Standing Rules of the Legislative Assembly to reflect established practice in this House and in other Canadian legislatures. The necessary revisions to change the term “orateur”, “l’orateur”, “L’orateur”, “d’Orateur”, “de l’Orateur” the various ways and numerous times it is used throughout the Rules are substantial and will be submitted in a separate report to the House.

The proposed amendments to the Standing Rules as outlined in this report represent the work of an earlier Committee with several changes incorporated in the interest of clarity and to ensure the orderly flow of the business of the House.

The changes being proposed may require further adjustments. The operation of the new rules will be reviewed by your Committee as part of its permanent order of reference once the House has had sufficient time to test them.

AMENDMENTS TO THE STANDING RULES

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 “Notice of Opposition Members’ Business”.

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

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

Stages of Government Bills

- 42.1(1) Subject to subrule (2), when a Government Bill is read a 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.
- 42.1(2) 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.
- 42.1(3) For the purpose of subrule (2), “one day’s notice” means “notice given at the earliest opportunity during the previous sitting of the House.”
- 42.1(4) 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.

42.1(5) When a Government Bill has received second reading and is reported from a Committee other than the Committee of the Whole House, it shall stand referred to the Committee of the Whole House.

42.1(6) A Government Bill reported from the Committee of the Whole House shall stand ordered for third reading at the next sitting of the House unless third reading of the Bill is deferred to a subsequent day by the Minister acting as the Government House Leader.

Stages of Private Members' Public Bills

42.2(1) A Public Bill introduced by a Government Private Member and given first reading shall be carried daily on the Order and Notice Paper under Government Bills and Orders, and subject to subrule 42.1(2), shall be called for second reading at the discretion of the Minister acting as the Government House Leader in the same manner as government business.

42.2(2) Standing Rules 44(7), (8) and (9) and the time limits prescribed therein shall apply during any debate at the second and third reading stages of a Public Bill introduced by a Government Private Member.

42.2(3) A Public 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 and shall be called for consideration in the Committee of the Whole House in the same manner as government business at the discretion of the Minister acting as the Government House Leader.

42.2(4) A Public Bill introduced by a Government Private Member and reported from the Committee of the Whole House shall stand ordered for third reading at the next sitting of the House unless third reading is deferred to a subsequent day by the Minister acting as the Government House Leader.

42.2(5) A Public Bill introduced by an Opposition Member and given first reading 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.

42.2(6) 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.

42.2(7) Opposition Members' Public Bills given second reading shall be called for consideration in the Committee of the Whole House in the same manner as government business at the discretion of the Minister acting as the Government House Leader.

42.2(8) 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.

Appropriation Bills

42.3(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.

42.3(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.

42.3(3) Subrules (1) and (2) do not apply to a special Appropriation Act introduced pursuant to subsection 34(4) of the *Financial Administration Act*.

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

"Opposition Members' Business".

- 6 Standing Rule 44 is repealed and the following is substituted:

44(1) The first Order of the Day commencing on the second Thursday of the session 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 6 p.m. on Thursdays.

44(3) Subject to subrule (2), 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, and in the application of this subrule, the rotation described in subrule (6) shall be observed.

44(4) Subject to subrule (6), an item of Opposition Members' Business may be considered in an order different from its order of priority or its order of presentation in the House provided that one day's notice has been given in the House under "Notice of Opposition Members' Business."

44(5) For the purpose of subrule (4), "one day's notice" means notice given at the earliest opportunity during the previous sitting of the House.

44(6) 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(7) An item of Opposition Members' Business shall be debated for not more than one hundred and twenty minutes.

44(8) 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(9) 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(7), the Speaker shall interrupt proceedings and recognize the sponsor of the Bill or the mover of the motion to close the debate.

44(10) 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 of the Crown or by a Government Private Member.

44(11) A motion for returns (tabling motion) shall not be considered as an item of Opposition Members' Business for the purposes of the rotation described in subrule (6) unless notice has been provided pursuant to subrule (4).

44.1(1) Motions introduced by Government Private Members 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 Minister acting as the Government House Leader in the same manner as government business.

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 as to whether a motion introduced by a Government Private Member deals essentially with the same subject matter of an Opposition Member's Motion.

44.1(4) Standing Rules 44(7), (8), and (9) and the time limits set out therein shall apply to the consideration of motions introduced by Government Private Members.

7 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".

8 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.

9 Standing Rule 77 is repealed.

10 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 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.

11 Standing Rule 85 is repealed.

12 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.

13 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.

14 The Standing Rules are amended by adding after Standing Rule 109 the following:

109.1(1) In each session, not more than 80 hours shall be allocated for the consideration of the Estimates and the Supplementary Estimates.

109.1(2) For the purpose of subrule (1), session means the period of time between the opening of a session and its prorogation.

109.1(3) At the expiration of the time allocated for the consideration of the estimates in subrule (1), 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.

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

(Sgd.) _____
Hon. Kelly Lamrock, Vice-Chair
M.L.A.