



Speaker's Ruling

Statement concerning status of the Leader of the Official Opposition by Alberta Speaker Gerald Amerongen, March 11, 1983



Hon. Gerald Amerongen

The background: Four opposition members were elected in the provincial election held on November 2, 1982; two members of the New Democratic Party (including party leader Grant Notley) and two independent members one of whom (Ray Speaker) was the Official Leader of the Opposition for the Social Credit Party during the previous legislature. Both Mr. Notley and Mr. Speaker asked to be recognized and enjoy the status as Leader of the Official Opposition in the new Assembly.

The ruling (Speaker Gerald Amerongen): I am grateful for the helpful and excellent briefs provided by the hon. opposition members. Six of these have come from the Independents; four others, plus a supplement, have been provided by the NDP. It is plain that none of the hon. members of the opposition regard the matter as being simple. The NDP briefs were each over 120 pages, including supporting material.

The excellent and thorough research done by the opposition members and their research staffs was augmented by the careful work of the research section of the Legislative Library.

A review of over 500 pages of material thus provided shows that no directly applicable precedents or compelling answers have been found in the experience of

any of the parliaments of the Commonwealth or in any of our rules or statutes.

In fact there are precedents for not recognizing any Official Opposition. In such a case, of course, there would be no Leader of the Official Opposition. The first question then is: does there need to be such a designation made for and in this House?

There are five reasons why the answer is yes.

The *Legislative Assembly Act* does not in any way make it obligatory to have such a leader, but it assumes that there will one and provides, for example, for a special salary. Of course, if for any reason there is no such person recognized, then it is impossible to pay the salary. However, to have such a leader can be an advantage to the opposition, or at least to that part of it that may be recognized as the Official Opposition.

I am assuming that during the term of this Legislative Assembly, an electoral boundaries commission will be appointed. The Electoral Boundaries Commission Act requires that two members of such a commission be nominated by the Leader of the Opposition.

Our rules of procedure, which we call the *Standing Orders*, also mention such a leader several times and imply that there will be a person holding that office.

Under our *Standing Orders*, the time limit for speeches by the Leader of the Opposition is 90 minutes instead of 30. If no one is recognized as holding that office, the opposition will lose that additional debating time.

The Leader of the Opposition has the right to designate some items of Assembly business for special attention or priority. Without such a leader, the opposition may lose those opportunities.

It is clear that if any reasonable basis can be found to recognize an Official Opposition and its leader, that should be done.

All opposition members agree that the question of recognition is a duty of the Speaker. It is not a government matter, nor a political or party matter. It is true that in Alberta prior to 1970, once or possibly twice the government seems to have become involved when there was a question of amending the *Legislative Assembly Act* to divide or change the amount of the opposition leader's special honorarium. Apart from those very rare exceptions, it appears that whenever the question has arisen, it has been a matter for the Speaker to deal with.

It is a question of a status within a parliament. Hence a determination should, if at all possible, be based on circumstances within the Assembly.

No precedent or rule has been discovered or given to me where the designation of an Office Opposition has been based on circumstances outside a parliament. However, given the need to make such a decision, it does seem advisable that if factors within these four walls do not provide a solution, one must go outside for an answer based on well-known facts.

Our hon. colleagues the Independents have emphasized that the decision must be made mainly on the basis of incumbency and continuity. Their argument says, in effect, that since the hon. Member for Little Bow (Ray Speaker) was Leader of the Opposition in the 19th Legislative Assembly, he is now an incumbent. Hence, the Independents conclude that where no other opposition group is larger than the one a former opposition leader leads, there is no one to replace him and, on the basis of continuity, he is still to be recognized as Leader of the Official Opposition. However, no precedent shows that incumbency or continuity has been the deciding factor, or any real factor at all, in recognizing an opposition leader.

There are, of course, examples where an opposition leader in one parliament has been recognized in the next. In each such example, there were reasons other than incumbency or continuity for the renewed recognition. The briefs and research do not show that a person became leader of an opposition by reason only of having been the leader previously.

If there were an incumbency rule, it would have to apply to individual members and the positions they previously held. However, we are dealing with recognition of a group. That is so because all the Speaker can really do is to recognize an Official Opposition; it is up to that group to designate its own leader. Hence, the incumbency or continuity argument would have to be stretched to say that an incumbency held by three members of a party in the last House continues to be held by two members who are not of a party in this House.

Another argument by the Independents that may be said to be in-House goes under the name of seniority. The reasoning under this heading is that where there is no other way of deciding who may lead the opposition, one must count the number of years of service as a member and give the nod to the member with longer service. This overlooks the essential that group recognition comes first and leader recognition is the decision of that group. Longer serving members are often given special deference in our parliaments, but that deference is not a basis for rights. Seniority does not, in our parliaments, confer the acknowledged rights or pre-eminence that it may command in elected Houses south of our border.

A third in-House factor could be the declaration signed by the two Independent members that they will work as a team. At the most, this could have the effect only of making the two opposition teams equal in the Assembly.

There is an argument submitted by the hon. members of the NDP based on a section of the *Legislative Assembly Act* which deals with a "recognized party". However, the recognized party concept does not apply at all. Firstly, the *Legislative Assembly Act* requires that there be a minimum of four members in a recognized party. Secondly, a recognized party is a second opposition group, over and above an Official Opposition.

Then there is a further argument by the NDP members based on the *Election Finances and Contributions Disclosure Act*. The NDP organization, outside the House is a registered party under that Act. However, that Act says absolutely nothing

about what goes on in the Legislative Assembly. Instead it regulates the collecting, donating, and spending of money for political purposes.

None of the research has indicated any Act or rule which would provide a reasonable basis for a decision in the present circumstances.

A still further suggestion by the NDP members is that customarily an Official Opposition is composed of elected members of a party. That does indeed appear to be the case. During the period of service of my predecessor in this Chair, the Rev. Peter Dawson, some Independent members did in fact constitute the Official Opposition in the Legislative Assembly of Alberta. Their leader was recognized as the Leader of the Opposition. A great deal of material from the *Journals*, newspapers, and other sources was submitted to help establish whether or not the Independent members in those days were in fact members of a political party. It does appear that in many ways the Independent movement, as it was sometimes called, acted as a political party. The NDP argument, then, is that where there is an equality in numbers, as there is here, between two groups each claiming the designation, it should go to that group whose members belong to the same party.

It does seem that the limited validity of that idea must be recognized. It is limited because if there were within this House a majority team in the opposition composed of Independents, there is simply no question that that team would have the right to be designated as the Official Opposition, regardless of whether its elected members belonged to any party.

One ought to hesitate to make a decision in this matter on the narrow point just mentioned. There is, however, a circumstance outside the Assembly which also has some significance in relation to work done inside the Assembly. It is this: party organizations outside the Assembly are known to assist members with their work in the Assembly. In the present case, that also must be taken into account because of the equal numbers of the two opposition teams in this House.

Then there is the so-called popular vote argument. It can be verified by the figures published by the Chief Electoral Officer that the NDP candidates throughout the province garnered in the last election almost as many votes as all the other non-PC candidates combined. This argument is somewhat overstated, however, when a claim is made that all those who voted for the candidates of a certain party throughout

the province are represented by the candidates of that party who were elected.

It must be recognized that many voters vote for a candidate rather than for a party. Obvious examples are the members of this House who were elected as Independents, without party ties. Another very clear example is that of our former colleague Mr. Gordon Taylor. He has retained his support and has been successful whether he ran as a Social Crediter, an Independent, or a Progressive Conservative.

If as MLAs we represent only those people who voted for us or for our respective parties, then that must necessarily mean that no one represents those who voted for parties that elected no candidates: the Liberals, Social Credit, Western Canada Concept, or Alberta Reform Movement. There's little doubt that every member of this House would reject the notion that she or he does not represent all of his or her constituents.

Nevertheless it must be acknowledged that in many instances, voters who belong to or support a party may prefer to go with their concerns to elected members of that party.

Given the need to designate an Official Opposition so that its leader may serve as Leader of the Official Opposition, and given also the equality in numbers between the teams seeking the designation and for the reasons mentioned above, I recognize the hon. members for Spirit River-Fairview (Grant Notley) and Edmonton Norwood (Ray Martin) as the Official Opposition, at least for the time being, in this 20th Legislative Assembly.

I say "for the time being" only because this choice stands on a narrow base. A significant change of circumstances within the House could easily compel a change in that recognition. The hon. members I have just referred to have fairly acknowledged, in their brief of November 15, 1982, that a change in numbers might necessarily require a change in designation. They said: "Numerical superiority would provide adequate argument for a group of Independent Members forming the Official Opposition". Clearly this is so.

Just as the Independents have indicated that their leader would be the hon. member for Little Bow (Ray Speaker), so too the NDP members have indicated that their leader is the hon. member for Spirit River-Fairview. Therefore, I have the honor to recognize now my colleague the hon. member for Spirit River-Fairview as the Leader of the Official Opposition.