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**No. 32**

*Tuesday, April 16, 1996.*

2.30 o'clock p.m.

Prayers.

**Speaker's Ruling**

Mr. Speaker, having reserved his decision on a Point of Order raised by Hon. Mr. Valcourt on April 12, 1996, was pleased to give the following ruling:

On Friday last, upon receiving a Report from the Committee of Supply, the Honourable Leader of the Opposition raised a Point of Order as to the propriety of having the estimates of the Auditor General, the Office of the Ombudsman, and the Supervisor of Political Financing presented to the Committee of Supply by a member of the Executive Council.

In stating his Point of Order, the Honourable Leader of the Opposition referred to the separation of powers between the executive, the legislative and the judicial branches of government. The Honourable Leader stated that it was improper for these officials, being officers of the Legislative Assembly and independent of the executive branch of government, to report to the House through the president of the Executive Council. He submitted that it is the Speaker of the House who is responsible for these estimates and that I, as Speaker, should determine how to proceed with these estimates before they are considered in the Committee of Supply.

In speaking to the Point of Order, the Honourable Government House Leader referred to the comments he made earlier in Committee of Supply, which I have reviewed. He explained that prior to 1993 the estimates in question, including those directly relating to the Legislative Assembly, were all done through the Premiers Office or the Executive Council. The Government House Leader recalled that in 1992-93, the Legislative Administration Committee determined that the Speaker should be responsible for the estimates of the Legislative Assembly. He noted that to effect this, an amendment was made - not to our rules, but to the *Legislative Assembly Act*. He stated, however, that such changes referred only to the Legislative Assembly votes.

The Honourable Government House Leader suggested that the matter should be referred back to the Legislative Administration Committee and the recommendation made to look at these other Offices, because of their independence.

In deferring my decision, I undertook to review the background which led to my appearing before the Committee of Supply to present the estimates of the Office of the Legislative Assembly.

I have now had the opportunity to examine the matter.

In 1993, a number of important amendments were made to the *Legislative Assembly Act*. Included among the changes were provisions to modernize procedures for managing the internal affairs of the Legislative Assembly including salaries, allowances, the budget process, and reporting mechanisms. Provisions were added relating to the preparation and submission of the estimates of the Legislative Assembly by the Speaker.

Procedures, referrals and consideration of the estimates are provided for and are contained in section 35 of the *Legislative Assembly Act* as follows:

*35(1) The Speaker shall present annually to the Legislative Administration Committee the estimates of the sums of money that will be required to be provided by the Legislative Assembly for the purposes of this Act and the Committee shall review the estimates, make the alterations it considers proper and subsequently concur in the estimates.*

*35(2) The Speaker shall cause the estimates of the Office of the Legislative Assembly to be laid before the Legislative Assembly at the same time as and as a component of the main estimates.*

35(3) *The Legislative Assembly may refer the estimates of the Office of the Legislative Assembly to the Standing Committee on Estimates.*

35(4) *If the estimates of the Office of the Legislative Assembly are not referred to the Standing Committee on Estimates, they shall be considered in the Committee of Supply and shall be defended by the Speaker.*

In accordance with subsection 35(1) of the Act, the Speaker is required to present the estimates of the Legislative Assembly to the Legislative Administration Committee annually. This section clearly refers to the estimates of the sums of money that will be required for the purposes of the *Legislative Assembly Act*. Subsections (2) and (4) specifically refer to the Speakers tabling and defending the estimates of the Office of the Legislative Assembly. Since 1993, the estimates of the Office of the Legislative Assembly have been considered in the Committee of Supply and defended by the Speaker.

Section 33 of the *Legislative Assembly Act* defines and makes official the name Office of the Legislative Assembly. The Legislative Assembly Office provides a variety of support to the entire Assembly and to all individual Members of the Legislative Assembly. It consists of the offices of the Clerk, Legislative Library, Hansard and Debates Translation, Government Members Offices and Opposition Members Offices.

My interpretation of the sections of the *Legislative Assembly Act* I have referred to is, that the Speaker presents, tables and defends the estimates for which he or she is administratively responsible--that is the estimates of the Office of the Legislative Assembly, which includes Programs 01, 02 and 04. This does not include the estimates of the offices of the Auditor General, the Ombudsman and the Supervisor of Political Financing.

I believe the matters raised, and on which I have been asked to rule, are questions of policy as opposed to procedure. A decision to expand the scope of the Speakers responsibility to include these other offices involves a matter of policy. The change cannot and should not, in my view, be effected through a procedural ruling. If a change is to be made to the method in which certain offices appear before the Committee of Supply, it must be effected by another means. There are other avenues to change the process as it currently exists, such as referring the matter to the Legislative Administration Committee for its consideration.

I want to thank the Leader of the Opposition for raising this important matter and I appreciate his comments and those of the Government House Leader.

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## **Petitions**

Mr. Olmstead, Member for Mactaquac, presented a petition signed by citizens of the Keswick Valley area who urge the government to ensure that Grade Nine students remain at Keswick Valley Memorial School in the short term with a view to establishing a high school once more. (Petition 6)

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## **Documents Tabled**

At the request of Hon. Mr. Blanchard, Mr. Speaker reverted to the Order of Answers to Petitions and Written Questions and Hon. Mr. Blanchard laid upon the Table of the House answers to Written Questions 2, 4 and 6 filed March 27, 1996.

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## **Bills Introduced**

The following Bill was introduced and read a first time:

By Hon. Mr. King,

Bill 84, *An Act Respecting the Sexual Abuse of Patients by Health Professionals.*

Ordered that the said Bill be read a second time at the next sitting.

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## **Government Motions re Business of House**

Hon. Mr. Frenette announced that following Private Members' Motions the order of business would be the consideration of estimates in Committee of Supply, including the estimates of Intergovernmental Affairs, Advanced Education and Labour, and the remaining votes under Legislative Assembly. The

Committee will also consider the supplementary estimates introduced by the Minister of Finance last week.

The Government House Leader noted that as a result of Mr. Speaker's ruling today, he would give an undertaking that the matter would be addressed at a future meeting of the Legislative Administration Committee.

Hon. Mr. Frenette advised that it was the intention of government to refer certain Bills remaining on the Order and Notice Paper to the Standing Committee on Law Amendments; and, in particular, he noted that the disposition of Bill 84, which was introduced earlier in the sitting, would be discussed with the opposition parties, and could remain on the Order Paper until the fall sitting.

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Before Orders of the Day, Hon. Mr. Valcourt rose, pursuant to Standing Rule 45 and moved the adjournment of the House to discuss a matter of urgent public importance; namely, the treatment of inmates in the province's correctional institutions. [The motion was seconded by Mr. Robichaud.]

Hon. Mr. Frenette having risen to speak on the propriety of the motion, Hon. Mr. Valcourt rose on a Point of Order, his Point of Order being that according to Standing Rule 45(5), after notice for an emergency debate has been given, the Speaker shall decide, without any debate, whether or not the matter is proper to be discussed.

Mr. Speaker ruled that the Point of Order that was raised by the Honourable Leader of the Opposition was well taken and then ruled as follows with respect to Hon. Mr. Valcourt's motion for emergency debate:

I accept that point, Honourable Leader of the Opposition. The Honourable Leader of the Opposition did send to my attention, in the required amount of time, notice of the motion in question. In that respect, the Honourable Leader of the Opposition is in order.

Standing Rule 45(5) states: "The Speaker shall decide, without any debate, whether or not the matter is proper to be discussed." Having given thought in the two hours since the motion was presented, and having reviewed the motion, I have, in fact, come up with a decision.

I acknowledge, Honourable Leader of the Opposition, the importance of the issue. Having considered all of those matters, I have, however, decided that, under Standing Rule 46, the matter proposed for discussion does not relate to a genuine emergency. For that reason, I will not put the question on the emergency debate.

There are other avenues, however, where this debate may find itself on the floor of the House, whether it be through a standard motion or, as we did have this morning, through question period. On that, I have given my ruling.

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### **Private Members' Motions**

Debate resumed on the amendment to Motion 34 proposed by Hon. Mr. Blanchard moved, seconded by Hon. Mr. Frenette, as follows:

#### **AMENDMENT**

THAT Motion 34 be amended by:

1. Striking the words "the cornerstone of its 'cut and slash'" and substituting "a component of its" in the first whereas clause.
2. Deleting the second whereas clause.
3. Striking everything after the word "efficient" in the third whereas clause.
4. Inserting the word "fairly" after the word "to" in the first line of the resolution clause.
5. Striking the words "consider among other measures, reducing the size of cabinet significantly with the view of" in the second and third lines of the resolution clause and substituting "continue its efforts at".

During the debate, Hon. B. Thériault requested the Honourable Leader of the Opposition to withdraw certain unparliamentary remarks, which he did.

And the debate being ended and the question being put, the amendment to Motion 34 was carried on the following recorded division:

YEAS - 37

Hon. Mr. Duffie Mrs. Jarrett Ms. de Ste. Croix

Hon. Mr. Frenette Mr. McAdam Mr. Olmstead

Hon. Mr. Graham Hon. Mr. MacIntyre Mr. Flynn

Hon. Mr. Lee Hon. Mr. Doucet Mr. O'Donnell

Hon. Mr. King Hon. Mr. Richard Mr. MacDonald

Hon. Mrs. Barry Hon. Mrs. Day Mr. Byrne

Mr. McKay Mr. Allaby Mr. MacLeod

Hon. B. Thériault Mr. Steeves Mr. Doyle

Hon. Mrs. Breault Mr. Wilson Mr. D. Landry

Hon. Mr. Tyler Mr. LeBlanc Mr. Armstrong

Hon. Mr. Lockyer Mr. Jamieson Mr. Devereux

Hon. Mrs. Trenholme Mr. Johnson Mrs. Kingston

Hon. Mr. Savoie

NAYS - 5

Mr. Sherwood Hon. Mr. Valcourt Mr. D. Graham

Mr. Robichaud Mr. Volpé

Debate continued on Motion 34 as amended as follows:

WHEREAS the government has made the objective of the Balanced Budget Legislation a component of its economic and fiscal policy;

WHEREAS this government has undertaken major reforms in various departments with the view of streamlining them and making them more efficient;

BE IT RESOLVED THAT to fairly allocate the impact of cuts to public services this Assembly recommend to the government that it continue its efforts at making government more efficient and less costly to New Brunswickers.

During the debate, Mr. Speaker reminded Members to refrain from referring to the presence or absence of Members in the House.

Hon. Mr. Valcourt rose on a Point of Order, his Point of Order being that the Member for Tracadie-Sheila was not referring to the presence or absence of any particular Member.

Hon. Mr. Frenette rose and stated that Members of the Opposition were often absent.

Mr. Speaker advised that it was not in the interest of the Assembly to reflect on the presence or absence of Members in the House.

Mr. Speaker asked that Members use care in referring to persons who are no longer Members of the House and to reflect on comments they may make in this regard.

And the debate being ended and the question being put, Motion 34 as amended was carried on the following recorded division:

YEAS - 36

Hon. Mr. Duffie Hon. Mr. Savoie Mr. Johnson

Hon. Mr. Frenette Mrs. Jarrett Ms. de Ste. Croix

Hon. Mr. Graham Mr. McAdam Mr. Kavanaugh

Hon. Mr. King Mr. Kennedy Mr. Olmstead

Hon. Mrs. Barry Hon. Mr. MacIntyre Mr. Flynn

Mr. McKay Hon. Mr. Richard Mr. O'Donnell

Hon. B. Thériault Hon. Mrs. Day Mr. MacDonald

Hon. Mrs. Breault Mr. Allaby Mr. MacLeod

Hon. Mr. Tyler Mr. Steeves Mr. Doyle

Hon. Mrs. Mersereau Mr. Wilson Mr. D. Landry

Hon. Mr. Lockyer Mr. LeBlanc Mr. Armstrong

Hon. Mrs. Trenholme Mr. Jamieson Mrs. Kingston

NAYS - 5

Mr. Sherwood Hon. Mr. Valcourt Mr. D. Graham

Mr. Robichaud Mr. Volpé

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### **Committee of Supply**

The House, according to Order, resolved itself into a Committee of Supply with Mr. MacDonald in the Chair.

And after some time, the Chairman declared it to be 6 o'clock p.m. and left the Chair to resume again at 8 o'clock p.m.

*8 o'clock p.m.*

The Committee resumed with Mr. O'Donnell in the Chair.

And after some further time spent in Committee of Supply, Mr. Speaker resumed the Chair and Mr. MacDonald, the Chairman, after requesting that Mr. Speaker revert to Presentations of Committee Reports, reported that the Committee had had under consideration the matters referred to them, had made some progress therein, and asked leave to sit again.

Pursuant to Standing Rule 78.1, Mr. Speaker put the question on the motion deemed to be before the House, that the report be concurred in, and it was resolved in the affirmative.

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### **Bills Introduced**

At the request of Hon. Mr. Frenette, Mr. Speaker reverted to Introduction of Bills.

The following Bills were then introduced and read a first time:

By Hon. Mr. King,

Bill 85, *An Act to Amend the Hospital Act.*

Bill 86, *An Act to Repeal the New Brunswick Extra-Mural Hospital / Hôpital extra-mural du Nouveau-Brunswick Act.*

Ordered that the said Bills be read a second time at the next sitting.

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And then, 11 o'clock p.m., the House adjourned.

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The following documents having been deposited with the Clerk of the House, were deemed laid before the Table of the House pursuant to Standing Rule 39:

Documents requested in Notice of Motion 15 April 11, 1996