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**No. 10**

Wednesday, December 11, 1996.

8.30 o'clock a.m.

Prayers.

**Speaker's Ruling**

Mr. Speaker delivered the following ruling:

*Honourable Members,*

*I rise now to rule on a point of order raised by the Honourable Leader of the Opposition on Thursday last.*

*On Thursday last, after the order was read for second reading of Bill 23, An Act to Amend the Municipal Assistance Act, the Honourable Leader of the Opposition rose on a point of order to request that I direct the withdrawal of the Bill, as it had not been first recommended to the House by message of Her Honour the Lieutenant-Governor.*

*The Honourable Leader referred to Rule 107 of the Standing Rules of the Legislative Assembly which states:*

*It shall not be lawful for the Legislature to adopt or pass any vote, resolution, address or Bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the House by Message of the Lieutenant-Governor in the session in which such vote, resolution, address or Bill is proposed. (The Constitution Act, 1867, Sections 54 and 90.)*

*The Honourable Leader suggests that Bill 23 proposes to appropriate part of the public revenue to municipalities in New Brunswick, and thus requires a Recommendation by the Crown before it can be considered. The Honourable Leader also suggests that Bill 23 violates Standing Rule 107 by proposing that in the future the Lieutenant-Governor in Council can by regulation change the appropriation.*

*In considering the Point of Order, I have reviewed the various parliamentary authorities referred to and carefully examined the subject Bill.*

*The requirement of a Royal Message of Recommendation flows from section 54 of the Constitution Act, 1867, which stipulates that Parliament may not approve any Bill that appropriates money without a recommendation by the Crown. Section 90 of the Constitution Act, 1867 extends this provision to the Provincial Legislatures.*

*Section 54 deals strictly with appropriations of public revenues or of taxes or impost and can be interpreted as the money required and appropriated for the annual goods and services of the Crown, through the estimates. The use of the Royal Recommendation is not limited to the estimates and resulting appropriation or supply bills, however. The interpretation of section 54 can be enlarged to include other financial bills that seek authority to appropriate money from the public revenue and grant government the power to do so through specific provisions in the Bills.*

*Financial bills, containing clauses that seek authority to draw specified amounts from the Consolidated Fund, should be accompanied by the Royal Recommendation. That is not the case here, however.*

*I refer you to Beauchesne's Parliamentary Rules & Forms, 6th Edition, which states in paragraph 613 at page 186 :*

*A bill, which does not involve a direct expenditure but merely confers upon the government a power for the exercise of which public money will have to be voted by Parliament, is not a money bill, and no Royal Recommendation is necessary as a condition precedent to its introduction.*

Sir Erskine May's Parliamentary Practice, Twenty-first Edition states at page 687 under the heading "Charges upon the public revenue":

*...Charges upon the public revenue are divided into charges payable out of moneys to be provided by Parliament, i.e. moneys voted year by year<sup>1</sup> in response to demands presented in the form of estimates; and charges payable directly out of the Consolidated Fund and the National Loans Fund, ie moneys payable out of the Funds under statute without further parliamentary authority.*

And further, at page 690, under the heading "Legislative authorization for objects of expenditure" it states:

*...Charges for novel purposes are charges which require to be authorized by specific legislation. They fall into two classes. Either the charge thus initiated is intended to be payable 'out of money to be provided by Parliament', in which case it will be effectively imposed by the voting of a consequential estimate, presented in the same or a succeeding session, and finally authorized and appropriated by an Appropriation Act. Alternatively the charge is imposed directly 'upon the Consolidated Fund', in which case the Act which authorizes the charge is the authority also for the appropriation of the money necessary to make good the charge.*

*It is my opinion that Bill 23 falls into the former category. I cannot find where authority is given by the Bill to draw on the Consolidated Fund. Bill 23 does not, by itself, serve to appropriate monies from the public revenues. It is enabling legislation only, providing the framework for a new unconditional grant formula and transitional arrangement, putting the actual mechanics of the formula into regulation.*

*I refer Honourable Members to section 3 of said Bill, which provides for the fixing by regulation of the total amount of unconditional grant for municipalities. The moneys needed to finance this amount will still have to be appropriated in the estimates. The Act authorizes the charge, but such charge will only be effectively imposed by the voting of a consequential estimate and finally authorized and appropriated by an Appropriation Act.*

*There is nothing in Bill 23 that would impose a charge directly upon the Consolidated Fund. Such a bill would require a Royal Recommendation but that is not the situation here. The Bill does not grant to the government the power to draw from the public revenues without further parliamentary authority.*

*In my opinion, Bill 23 is not a money bill. It does not provide for an appropriation of funds and therefore does not require a recommendation of the Crown.*

*I therefore recommend that the Bill be allowed to proceed.*

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During Oral Questions, Mr. Speaker advised the House that it is the right of any Private Member, including Government Private Members, to ask questions during the Oral Question Period.

It was agreed by unanimous consent to extend the period for Oral Questions by five minutes.

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### **Bills Introduced**

The following Bill was introduced and read the first time:

By Hon. Mr. Graham,

Bill 27, *An Act to Amend the Fish and Wildlife Act.*

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

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

On motion of Hon. Mr. Frenette, seconded by Hon. Mr. Tyler,

RESOLVED, that when the House adjourns, it stand adjourned until Thursday, December 12, 1996, at 2.30 o'clock p.m.

Hon. Mr. Frenette announced that today the Order of Business would be Third and Second Reading of Bills and the consideration of legislation in the Committee of the Whole House.

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### Third Reading

The following Bills were read the third time:

Bill 17, *An Act to Amend the Municipalities Act*.

Bill 18, *An Act Amend the Sheep Protection Act*.

Bill 19, *Statute Law Amendment Act 1996*.

Bill 20, *An Act to Repeal the Pension Fund Societies Act*.

Bill 21, *An Act to Amend the Loan and Trust Companies Act*.

Bill 22, *An Act Respecting Health Professionals*.

Ordered that the said Bills do pass.

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### Second Reading

The Order being read for second reading of Bill 23, *An Act to Amend the Municipal Assistance Act*, a debate arose thereon.

And after some time, Mr. MacDonald, Deputy Speaker, took the chair.

Mr. Deputy Speaker declared it to be 12.30 o'clock p.m. and left the chair, to resume again at 2 o'clock p.m.

2 o'clock p.m.

Mr. Speaker resumed the chair.

And the debate continuing on the motion that Bill 23, *An Act to Amend the Municipal Assistance Act*, be now read a second time,

After some time, Hon. Mr. Valcourt moved in amendment, seconded by Mr. Robichaud:

#### AMENDMENT

That the motion for second reading be amended by deleting all the words after "that" and substituting the following:

Bill 23, *An Act to Amend the Municipal Assistance Act*, be not now read a second time, but that the order for second reading be discharged and the subject matter of the bill be referred to the Standing Committee on Law Amendments.

And the question being put, a debate ensued.

And the debate being ended, and the question being put, the amendment was negatived on the following recorded division:

YEAS - 6

Mr. Sherwood	Mr. Mockler	Mr. Volpé
Mr. Robichaud	Ms. Weir	Mr. D. Graham

NAYS - 34

Hon. Mr. Lee	Hon. Mr. Savoie	Mr. Johnson
Hon. Mr. King	Mrs. Jarrett	Mr. Kavanaugh
Hon. Mr. Blaney	Mr. McAdam	Mr. Olmstead
Mr. McKay	Hon. Mr. MacIntyre	Mr. O'Donnell
Hon. B. Thériault	Hon. Mr. Richard	Mr. MacDonald
Hon. Mrs. Breault	Hon. Mrs. Day	Mr. Byrne
Hon. C. Thériault	Mr. Steeves	Mr. MacLeod
Hon. Mr. Tyler	Mr. Wilson	Mr. Doyle
Hon. Mrs. Mersereau	Mr. LeBlanc	Mr. Armstrong

And the question being put on the motion that Bill 23, *An Act to Amend the Municipal Assistance Act*, be now read a second time, Mr. Robichaud moved in amendment, seconded by Mr. Mockler:

#### AMENDMENT

That the motion for second reading be amended by deleting all the words after "that" and substituting the following:

Bill 23, *An Act to Amend the Municipal Assistance Act*, be not now read a second time but that it be read a second time this day six months hence.

And the question being put, a debate ensued.

And the debate being ended, and the question being put, the amendment was negated on the following recorded division:

#### YEAS - 6

Mr. Sherwood	Mr. Mockler	Mr. Volpé
Mr. Robichaud	Ms. Weir	Mr. D. Graham

#### NAYS - 33

Hon. Mr. Lee	Hon. Mr. Savoie	Mr. Olmstead
Hon. Mr. King	Mrs. Jarrett	Mr. Flynn
Hon. Mr. Blaney	Mr. McAdam	Mr. DeGrâce
Hon. B. Thériault	Hon. Mr. Richard	Mr. O'Donnell
Hon. Mrs. Breault	Hon. Mrs. Day	Mr. MacDonald
Hon. C. Thériault	Mr. Wilson	Mr. Byrne
Hon. Mr. Tyler	Mr. LeBlanc	Mr. MacLeod
Hon. Mrs. Mersereau	Mr. Jamieson	Mr. Doyle
Hon. Mr. Lockyer	Mr. A. Landry	Mr. Armstrong
Hon. Mr. Smith	Mr. Johnson	Mr. Devereux
Hon. Mrs. Trenholme	Mr. Kavanaugh	Mrs. Kingston

Debate was resumed on the motion that Bill 23, *An Act to Amend the Municipal Assistance Act*, be now read a second time.

And the debate being ended, and the question being put that Bill 23, *An Act to Amend the Municipal Assistance Act*, be now read a second time, it was resolved in the affirmative on the following recorded division:

#### YEAS - 36

Hon. Mr. Blanchard	Hon. Mr. Savoie	Mr. Kavanaugh
Hon. Mr. Frenette	Mrs. Jarrett	Mr. Olmstead
Hon. Mr. King	Mr. McAdam	Mr. DeGrâce
Hon. Mr. Blaney	Hon. Mr. MacIntyre	Mr. O'Donnell
Hon. B. Thériault	Hon. Mr. Richard	Mr. MacDonald
Hon. Mrs. Breault	Hon. Mrs. Day	Mr. Byrne
Hon. C. Thériault	Mr. Steeves	Mr. MacLeod
Hon. Mr. Tyler	Mr. Wilson	Mr. Doyle
Hon. Mrs. Mersereau	Mr. LeBlanc	Mr. D. Landry
Hon. Mr. Lockyer	Mr. Jamieson	Mr. Armstrong
Hon. Mr. Smith	Mr. A. Landry	Mr. Devereux

NAYS - 6

Mr. Sherwood

Mr. Mockler

Mr. Volpé

Mr. Robichaud

Ms. Weir

Mr. D. Graham

Accordingly, Bill 23, *An Act to Amend the Municipal Assistance Act*, was read a second time and ordered referred to the Committee of the Whole House.

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### **Committee of the Whole**

The House resolved itself into a Committee of the Whole with Mr. O'Donnell in the Chair.

And after some time, Mr. Speaker resumed the chair and Mr. O'Donnell, the Chairman, after requesting Mr. Speaker revert to the Order of Presentations of Committee Reports, reported:

That the Committee had directed him to report the following Bills as agreed to:

Bill 24, *An Act to Amend the Gasoline and Motive Fuel Tax Act*.

Bill 25, *An Act to Amend the Revenue Administration Act*.

Bill 26, *An Act to Amend the Employment Standards Act*.

And the Committee asked leave to make a further report.

Pursuant to Standing Rule 78.1, Mr. Speaker then 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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And then, 5.30 o'clock p.m., the House adjourned.

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

Main Estimates 1997-1998 - December 10, 1996