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No. 25

Tuesday, February 4, 1997.

1 o'clock p.m.

Prayers.

Standing Committee on Procedure

Hon. Mr. Frenette from the Standing Committee on Procedure, presented the Second Report of the Committee which was read and is as follows:

February 3, 1997.

Mr. Speaker:

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

Your Committee met in the Legislative Council Chamber on Wednesday, January 15, 1997 and reviewed the application for the enactment of a Private Bill entitled *An Act to Amend An Act Respecting the New Brunswick Medical Society and the College of Physicians and Surgeons of New Brunswick*.

The Clerk of the House reported to the Committee that notice with respect to this application was insufficient. Advertising had not been completed, or was otherwise not in compliance with the Rules of the House.

Pursuant to the provisions of Standing Rule 114(2), the applicant requested that the Clerk of the House place the application before the Standing Committee on Procedure for consideration. The said application was originally filed in 1996 for presentation during the First Session of the Legislative Assembly. Publication of the notices of legislation for the 1996 application was completed in compliance with the Standing Rules of the Legislative Assembly. The Private Bill *An Act to Amend An Act Respecting the New Brunswick Medical Society and the College of Physicians and Surgeons of New Brunswick* was introduced in the House on April 18, 1996. With Prorogation of the First Session on November 26, 1996, the said Bill did not proceed.

Under the provision of Standing Rule 114(2), the Standing Committee on Procedure may waive any requirements of the Standing Rules, or may issue such order as it deems appropriate.

In order that the above-mentioned Private Bill be considered at the present session of the Legislature, your Committee waives the requirements of Standing Rules 110 and 111 to permit the introduction of the Bill.

And your Committee asks leave to make a further report.

(Sgd.) Hon. J. Raymond Frenette.

Chairman.

Ordered that the report be received, that leave be granted, and the Committee continued.

Documents Tabled

Hon. Mr. King laid upon the table of the House a document entitled "A Renewed Vision for Canada's Health System - Conference of Provincial/Territorial Minister of Health."

Hon. Mr. Speaker rose to address the house with respect to Points of Order raised on January 17, 1997. Mr. Speaker stated that having reviewed the transcripts, he was satisfied that the matters raised

had been adequately dealt with at that time. Mr. Speaker cautioned Members to be careful with language used in the House, and to avoid lengthy preambles and answers during Question Period.

Message from His Honour the Administrator

Hon. Mr. Blanchard, Minister of Finance, delivered to Mr. Speaker a Message from His Honour, the Administrator, and the said Message was read by Mr. Speaker, all the Members standing, and is as follows:

February 4, 1997.

His Honour the Administrator transmits the Supplementary Estimates 1996-1997 of the sums required for the services of the Province, not otherwise provided for, for the year ending March 31, 1997, and in accordance with the provisions of the Constitution Act, 1867, recommends these Estimates to the House.

(Sgd.) William L. Hoyt.

Administrator.

Bills Introduced

Hon. Mr. Blanchard moved that the following Bill be now read a first time: Bill 44, *Harmonized Sales Tax*.

Mr. Speaker put the question and the motion for first reading was carried on the following recorded division:

YEAS - 36

Hon. Mr. Blanchard	Hon. Mr. Savoie	Ms. de Ste. Croix
Hon. Mr. McKenna	Mrs. Jarrett	Mr. Kavanaugh
Hon. Mr. Frenette	Mr. McAdam	Mr. Olmstead
Hon. Mr. Graham	Hon. Mr. MacIntyre	Mr. DeGrâce
Hon. Mr. Lee	Hon. Mr. Richard	Mr. O'Donnell
Hon. Mr. King	Hon. Mrs. Day	Mr. Byrne
Hon. Mrs. Barry	Mr. Allaby	Mr. MacLeod
Hon. Mr. Blaney	Mr. Wilson	Mr. Doyle
Hon. Mrs. Breault	Mr. LeBlanc	Mr. D. Landry
Hon. Mr. Tyler	Mr. Jamieson	Mr. Armstrong
Hon. Mr. Smith	Mr. A. Landry	Mr. Devereux
Hon. Mrs. Trenholme	Mr. Johnson	Mrs. Kingston

NAYS - 7

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

Accordingly, Bill 44, *Harmonized Sales Tax Act*, was read a first time.

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

The following Private Bills were introduced and read the first time:

By Mr. DeGrâce,

Bill 45, *An Act to Incorporate the New Brunswick Chiropractors Association*.

By Mr. Allaby,

Bill 46, *An Act to Amend the Pharmacy Act*.

Ordered referred to the Standing Committee on Private Bills.

The following Bill was introduced and read a first time:

By Hon. Mr. Frenette, on behalf of Hon. Mr. McKenna,

Bill 47, *An Act to Amend the Political Process Financing Act*.

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

Notices of Motions

Mr. Sherwood gave Notice of Motion 100 for Tuesday, February 11, 1997, he would move the following resolution, seconded by Mr. D. Graham:

That an address be presented to Her Honour the Lieutenant Governor, praying that she cause to be laid upon the table of the House copies of all documents relating to any successful application for an expropriation by the Lieutenant-Governor-in-Council pursuant to section 7 of the *Expropriation Act*.

Third Reading

The following Bills were read the third time:

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

Bill 33, *International Wills Act*.

Bill 34, *An Act to Amend the Wills Act*.

Bill 35, *An Act to Amend the Provision for Dependants Act*.

Bill 36, *An Act to Amend the Property Act*.

Bill 37, *An Act to Amend the Probate Court Act*.

Bill 38, *An Act to Amend the Workplace Health, Safety and Compensation Commission Act*.

Bill 40, *An Act to Amend The Residential Tenancies Act*.

Ordered that the said Bills do pass.

Second Reading

The following Bill was read the second time and ordered referred to the Committee of the Whole House:

Bill 42, *An Act to Amend the Dairy Products Act*.

Government Motions re Business of House

Hon. Mr. Frenette announced that it was the intention of the government following Private Members' Motions to proceed with consideration of the estimates of the Department of Health and Community Services in the Committee of Supply.

Private Members' Motions

Debate resumed on Motion 66 by Hon. Mr. Valcourt, seconded by Mr. Robichaud, as follows:

WHEREAS the Department of Health and Community Services is ploughing ahead with an insensitive "Long Term Care Strategy" despite the protests of nearly all families and service providers directly

affected by this policy;

WHEREAS, in the words of the NB Association of Community Living, "*this Long Term Care Strategy is a radical leap into a discredited past*"; and

WHEREAS the Minister has refused to release or table any scientific sociological, medical and psychological impact analysis and/or research in support of the "New Residential Model" implemented by the Department of Health and Community Services beginning January 2, 1997;

BE IT RESOLVED that the Legislative Assembly ask the government to consider suspending immediately the application of the new "Residential Model" component of the Long Term Care Policy and to consider adopting instead the citizenship / support model of service delivery in order that it may honour the government's formal 1995 election campaign pledge to "*work with provincial organizations representing people with disabilities to implement a plan to facilitate the participation of people as full participants in New Brunswick society and in the economy.*"

And after some time, Mr. Robichaud moved in amendment, seconded by Mr. D. Graham:

AMENDMENT

That Motion 66 be amended by adding the following paragraph at the end of the motion:

"BE IT FURTHER RESOLVED that the new model be subject to public consultation before its implementation."

Hon. Mr. Frenette rose on a Point of Order, his point of order being that it may not be in order for the seconder of a motion to propose an amendment to that motion. Mr. Speaker heard various members on the point of order and declared a short recess at 3.03 o'clock p.m.

3.19 o'clock p.m.

Mr. Speaker resumed the chair and ruled the amendment moved by Mr. Robichaud would be allowed, citing paragraphs 555 and 585 of *Beauchesne's Parliamentary Rules and Forms*, 6th Edition, and previous precedents of the House.

Mr. Speaker then put the question and a debate ensued.

And after some time, Mr. Speaker interrupted proceedings and advised that the time allotted for Private Members' Motions had expired.

It was agreed by unanimous consent that all tabling motions on the Order and Notice Paper for today, with the exception of tabling motion 47, which would stand to Thursday next, be withdrawn; namely, Motions 4, 5, 6, 9, 10, 11, 13, 19, 21, 25, 31, 37, 39, 41, 44, 56, 64, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, and 97.

Standing Committee on Law Amendments

At the request of Hon. Mr. Duffie, Mr. Speaker reverted to the Order of Presentations of Committee Reports and Hon. Mr. Duffie presented the Second Report of the Committee which was read and is as follows:

February 4, 1997

To The Honourable

The Legislative Assembly of

The Province of New Brunswick

Mr. Speaker:

Your Standing Committee on Law Amendments begs leave to submit this their Second Report.

This Report is the result of your Committee's deliberations on following matters referred to it by the House, namely:

I. White Paper, *Proposal for the New Brunswick Education Act*

II. Bill 66, *An Act to Amend the Municipalities Act*

Your Committee wishes to express its appreciation to the many presenters who appeared at the public hearings, and to the individuals and organizations that submitted written briefs.

I would also like to thank the members of the Committee for their contribution in carrying out the Committee's mandate.

And your Committee begs leave to submit a further report.

Respectfully submitted,

Hon. Paul Duffie, Q.C.

Chairman.

The full report of the Committee as presented follows:

February 4, 1997

To The Honourable

The Legislative Assembly of

The Province of New Brunswick

Mr. Speaker:

Your Standing Committee on Law Amendments begs leave to submit this their Second Report.

This Report is the result of your Committee's deliberations on following matters referred to it by the House, namely:

I. White Paper, *Proposal for the New Brunswick Education Act*

II. Bill 66, *An Act to Amend the Municipalities Act*

III. Discussion Paper, *A Privacy Act for New Brunswick*.

Your Committee wishes to express its appreciation to the many presenters who appeared at the public hearings, and to the individuals and organizations that submitted written briefs.

I. WHITE PAPER, PROPOSAL FOR THE NEW BRUNSWICK EDUCATION ACT

The White Paper, *Proposal for the New Brunswick Education Act*, was tabled in the House on December 19, 1996 by Hon. James E. Lockyer, Minister of Education. The document was referred to the Standing Committee on Law Amendments for review and input.

The White Paper outlines the framework for a proposed new *Education Act*, intended to replace the current *Schools Act* which is to be repealed during the current session of the Legislature.

The *Education Act* will provide the necessary authority for the operation of the system, and will establish the balance of responsibility between the Minister of Education and the parental structure. The Act, as proposed in the White Paper, will reaffirm the education system's fundamental principles of equality, duality and equity. The new Act will contain four main sections: Learning, Teaching, Governance and Administration.

An organizational meeting of the Committee was held on December 19, 1996 and it was agreed that public hearings would be held to obtain input on the White Paper proposal. Advertisements were placed in provincial newspapers giving notice of the hearings and inviting individuals and organizations to appear or submit a written brief.

Public hearings on the White Paper, *Proposal for the New Brunswick Education Act* were held in the Legislative Council Chamber in Fredericton on January 21, 22, 23 24 and 28, 1997. A list of the organizations and individuals that appeared or submitted briefs is attached hereto as Appendix "A".

Your Committee met on January 29 and 30, 1997 to consider the submissions received and the presentations made during the public hearings.

As a result of its deliberations, your Committee makes the following recommendations to the House:

RECOMMENDATION 1

That the preamble of the new *Education Act* should have a clear statement stating that each child is entitled by right to a free education.

RECOMMENDATION 2

That in the preamble and throughout the Act, the Department consider using language that is collegial in tone, and supportive of parents and the other partners in education. The preamble should contain firm language, with a determination to have an excellent education system, but it should include language that is supportive of teachers, parents, and pupils.

RECOMMENDATION 3

That the new *Education Act* clearly identify the roles and powers of the Minister and the elected parents or representatives, and that each will carry out their responsibilities in accordance with the power conferred on them respectively in the Act.

RECOMMENDATION 4

That the new *Education Act* consider issuing a New Brunswick Graduation Diploma, with uniform standards required to obtain the diploma. The new *Education Act* should consider having other types of diplomas, or other levels of diploma as determined by graduation norms and standards.

RECOMMENDATION 5

That when drafting the section on responsibilities of parents and pupils, the new *Education Act* should use language to clearly state that these are statements of principle only. The language should be such as to encourage parents to assist their children in achieving their educational goals. This section should also recognize that professional administrators and teachers can and should assist parents in carrying out these responsibilities.

RECOMMENDATION 6

That the preamble of the new Education Act recognize the principle of inclusivity for all pupils.

That the term *special needs pupils* be changed to *exceptional needs pupils* in the new *Education Act*.

It is further recommended that whereas gifted pupils have not been well served by this section of the Act, they should not be included within the definition of exceptional needs pupils. However, to ensure the needs of gifted children are addressed, the Department of Education should ensure that bright or gifted children receive the best enrichment opportunities as a matter of practice and as determined by policy within the system of Education.

RECOMMENDATION 7

That pupils with learning disabilities receive the necessary resources and services in order to reach their full potential, both as a matter of practice and as determined by policy within the system of education.

RECOMMENDATION 8

That mandatory entrance at the Kindergarten Level be introduced with provisions that criteria will be established for exemptions and flexible attendance.

RECOMMENDATION 9

Your Committee does not agree with the extension of mandatory education from 16 to 18 years old and recommends this provision not be pursued. Your Committee does recommend, however, that the Department consider the provision of additional resources to meet the needs of pupils at risk within that age group. Your Committee further recommends that the Department of Education collaborate with other appropriate government departments, to provide the supports necessary for pupils at risk to continue their education to graduation.

RECOMMENDATION 10

That the new *Education Act* contain a strong statement with respect to discipline, and a code of good conduct to be respected by pupils.

That each Provincial Board of Education establish a code of good conduct to promote and encourage a positive learning environment in our schools, and that such a code be adopted at both the District Parent Council level and at the School Parent Committee level.

That through education policy guidelines, matters such as in-school suspensions, alternate programming and other initiatives should be developed and implemented by each Provincial Board of

Education.

That in the regulations a principal should have the right to suspend for up to five days, any pupil for cause, and without appeal. The principal shall report all suspensions and reasons therefore to the parent advisory committee from time to time, or as required by policy. There shall be no consecutive suspensions without appeal.

RECOMMENDATION 11

Your Committee supports the roles and responsibilities of the School Parent Advisory Committees that have been outlined in the White paper.

Your Committee therefore recommends:

That a budget be allocated or resources identified, for each committee for administrative purposes, to ensure that these committees can communicate in a reasonable fashion with the parents.

That guidelines be developed and issued to principals of each school advising them that school committees should not be created by the principal or teachers without approval of the School Parent Advisory Committee.

RECOMMENDATION 12

That the roles and responsibilities as outlined in the White Paper for the District Parent Advisory Councils be accepted, and that a mechanism be investigated and implemented to provide an opportunity for consultation between the School Parent Advisory Committees and the District Parent Advisory Councils.

RECOMMENDATION 13

That the roles and responsibilities of Provincial Boards of Education as outlined in the White Paper be accepted, but that such roles and responsibilities be clearly defined.

That the Department consider increasing the number of parental representatives on each Provincial Board of Education.

Your Committee further recommends:

A) That it must clearly be stated that each Provincial Board of Education will be seized with decision making powers over the educational provincial plan and the provincial financial plan.

B) That each Provincial Board of Education have decision making powers over all provincial curriculum proposed by the curriculum advisory committee or the Minister.

C) That each Provincial Board of Education establish and approve provincial outcomes, educational goals and standards.

D) That each Provincial Board of Education participate in the selection and criteria of superintendents and directors of education and approve their hiring.

E) That each Provincial Board of Education, along with developing the educational plan, should be responsible for developing methods to evaluate its performance in carrying out its mission. For these purposes the boards should have access to personnel within the Department of Education to assist them in their duties, or otherwise have access to support services and staff as determined and required by the Board.

F) That each Provincial Board of Education establish a mechanism whereby the Board can communicate and consult with the District Parent Advisory Councils.

G) That Provincial Boards of Education be required to publish, on an annual basis, a public report detailing how the educational objectives of the Province have been met as a result of the board's activities.

RECOMMENDATION 14

That when drafting the Act, the Department of Education be mindful of the constitutional applications as proposed by Section 23 of the Charter of Rights and Freedoms.

RECOMMENDATION 15

That following the introduction of the new Act, the Minister of Education should consider whether a reference case might be considered by Cabinet to establish the constitutional validity of the Act.

RECOMMENDATION 16

That as the inclusion of a provision such as Section 68 of the current *Schools Act*, which provides for the paramountcy of a collective agreement over public legislation, is highly unusual and unnecessary in light of other adequate protections available, it should not be included in the new *Education Act*.

Your Committee is divided on the issue of whether a provision similar to Section 68 of the current *Schools Act* should be included in the new *Education Act*. Opposition Members of the Committee are in favour of including such a provision in the new Act and are therefore not in agreement with the above recommendation.

RECOMMENDATION 17

That clear and uniform policies be established with respect to school fees, including fees or extra fees charged to students for academic purposes, such as fees for school supplies, extra-curricular or other activities. Your Committee further recommends that guidelines be established with regard to permissible types of fundraising activities.

RECOMMENDATION 18

That a clear immersion policy be established, and that the Department of Education ensure the policy is properly implemented, and that parents receive punctual and accurate information with respect to the program.

RECOMMENDATION 19

That clear consultation be carried out with respect to the value of streaming and destreaming and the value of the Foundation Years program for Grades 9 and 10.

RECOMMENDATION 20

That the Minister of Education consider holding further public hearings after the new *Education Act* has been introduced.

RECOMMENDATION 21

That the Minister, after a full year of operations under the new governing structure, undertake a comprehensive review of the functions and good operations of the new structure.

II. DISCUSSION PAPER - A PRIVACY ACT FOR NEW BRUNSWICK

On April 19, 1996, the House agreed that the discussion paper on proposed privacy legislation, being prepared by the Department of Justice, be filed with the Clerk of the Legislative Assembly when complete, and referred to the Standing Committee on Law Amendments. The Discussion Paper, *A Privacy Act For New Brunswick*, was filed on July 10, 1996 and referred to the Committee for public consultation.

Public hearings on the Discussion Paper were held in the Legislative Council Chamber in Fredericton on October 2 and November 7, 1996. A list of the organizations and individuals that appeared or submitted briefs is attached hereto as Appendix "B".

The Discussion Paper outlines the provisions of a proposed Privacy Act for the Province, intended to ensure the protection and confidentiality of personal information being held by the provincial government and its agencies. The Privacy Act would provide a legislated code of conduct, in the form of general principles and exceptions, to guide the personal information management practices of government bodies.

Your Committee approves in general terms, the privacy discussion paper introduced by government. However, if the provincial Ombudsman is to be given the task of overseeing and enforcing the Act, the Ombudsman must be allotted the appropriate and sufficient resources to adequately fulfill this responsibility.

Your Committee therefore recommends:

RECOMMENDATION 1

That the proposed *Privacy Act* be adopted in principle, and that a bill be introduced at the appropriate time, subject to having the Ombudsman responsible for the Act, with sufficient staff and resources to carry out these duties. In the alternative, the government should consider the appointment of a full-time Privacy Commissioner under the Act.

Your Committee heard from various presenters that privacy legislation should apply not only to government bodies and agencies, but should be extended to the private sector. It was submitted that

whether the body controlling personal data is within a government department or a private sector firm, personal information on private individuals must still be protected from inappropriate access.

RECOMMENDATION 2

Your Committee strongly recommends that the government prepare a discussion paper forthwith, for referral to public hearings, with regard to the extension of privacy legislation to the private sector.

III. BILL 66, AN ACT TO AMEND THE MUNICIPALITIES ACT

Bill 66, *An Act to Amend the Municipalities Act*, was introduced in the House on April 9, 1996 by Hon. Ann Breault, Minister of Municipalities, Culture and Housing. The Bill was subsequently referred to the Standing Committee on Law Amendments for review and input.

Public hearings on Bill 66, *An Act to Amend the Municipalities Act*, were held in the Legislative Council Chamber in Fredericton on June 12, 1996. A list of the organizations and individuals that appeared or submitted written briefs is attached hereto as Appendix "C".

The proposed amendment would provide municipalities with statutory protection against legal action under the law of nuisance, for damages caused by the escape of water or sewage from a water, sewage or storm drainage system. The Bill would eliminate the municipalities' responsibility except where negligence is determined to be a factor.

Your Committee is concerned that under the proposed Bill, if a water or sewage system were to break or back up and cause a homeowner damage, the municipality, responsible for maintaining the system, would no longer be responsible for the damage it caused. Conceivably, a third party homeowner would be responsible for the damages arising out of situation over which the homeowner had no control. Canadian courts, including the Supreme Court of Canada, have held that it would be unjust for a homeowner to be responsible for damages in such a situation. Homeowners, paying utility charges and taxes, deserve a system that is operating in a proper fashion.

RECOMMENDATION

Your Committee therefore recommends:

That the Minister reconsider Bill 66, *An Act to Amend the Municipalities Act*, as your Committee believes it is not in the best interests of the citizens of the Province of New Brunswick.

Respectfully submitted this 4th day of February, 1997.

(Sgd.) Hon. Paul Duffie, Q.C.

Chairman

Ordered that the report be received and that leave be granted and the Committee continued.

Committee of Supply

The House, according to Order, resolved itself into a Committee of Supply with Mr. O'Donnell in the chair.

And after some time, unanimous consent was granted for the House to sit beyond the regular time of adjournment to afford the Minister of Health the opportunity to complete his remarks.

And after some further time spent in Committee of Supply, Mr. Speaker resumed the chair and Mr. O'Donnell, 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.

And then, 6.09 o'clock p.m., the House adjourned.

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

Documents requested in Notices of Motions 8, 56 - January 17, 1997

Fifteenth Annual Report of the New Brunswick Police Commission - January 17, 1997

Documents requested in Notices of Motions 6, 9, 19, 25, 39 - January 21, 1997

Fifty-Ninth Annual Report of the Superintendent of Insurance - January 21, 1997

Documents requested in Notices of Motions 67, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 82, 93, 94, 95, 96, 97 - January 23, 1997

Documents requested in Notices of Motions 4, 11, 21, 31, 37 - January 30, 1997

Annual Report of the Mental Health Commission of New Brunswick - January 31, 1997