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**No. 30**

Wednesday, February 17, 1999.

*8.30 o'clock a.m.*

Prayers.

**Standing Committee on Ombudsman**

Mrs. Jarrett presented the First Report of the Standing Committee on the Ombudsman which was read and is as follows:

February 16, 1999.

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

Mr. Speaker:

Your Standing Committee on the Ombudsman begs leave to submit this, their First Report.

The Committee is mandated to meet annually, or as required, to review the Annual Report of the Ombudsman and to consider other questions relating to the Office of the Ombudsman as they may arise.

Your Committee met with the Ombudsman, Ellen King, on October 7, 1998, in the Legislative Council Chamber. Also appearing were Claire Pitre, legal counsel for the Office of the Ombudsman and Frank MacKinley, Executive Director of Civil Service Investigations and Appeals. The Committee reviewed the 1996-97 Annual Report of the Ombudsman and was briefed by officials on the activities of the Office for the year in question.

In its last report to the House dated February 13, 1998, your Committee outlined the many duties and responsibilities of the Office of the Ombudsman. The Committee noted that the increased responsibilities being placed on the Office in recent years had resulted in a greater demand for services and an increase in the number of investigations being carried out. During meetings with the Standing Committee, the Ombudsman addressed the Office's concerns that the allotted resources were inadequate to fulfill its mandate.

Accordingly, the Committee recommended that a review of staffing and resources be conducted within the Office of the Ombudsman.

In response to the Committee's recommendation, the Ombudsman carried out a thorough review of the responsibilities of the Office and the resources available to carry out its mandate.

The Ombudsman met with the Committee on November 12, 1998, to present the results of the review. The Ombudsman outlined the work undertaken by her Office in carrying out the review as follows:

During this review, the Office re-visited its challenging mandate under the several statutes from which its responsibilities are derived - the *Ombudsman Act*, the *Right to Information Act*, the *Civil Service Act*, the *Archives Act*, the *Official Languages Act*, the *Privacy Code* and the soon to be proclaimed *Protection of Personal Information Act*. In addition, the Office reviewed the evolving workload and the distribution of the current workload among the staff as well as the financial resources available. This Office also reviewed the method of providing service to the persons who come forward with complaints and how the complaints are currently being handled.

The Office also surveyed all of the other Provincial Ombudsman's Offices to obtain information in respect to jurisdiction, responsibilities, the number of complaints and staff complements. This survey enabled comparisons to be made with this Office regarding these matters.

The Office surveyed, as well, the Offices of the Provincial Privacy and Information Commissioners for information on statutory responsibilities and the implications of privacy matters on staffing and fiscal resources. This survey allowed for a comparative analysis to be completed.

### ***Ombudsman Act***

As a result of the review of staffing and resources, the Ombudsman concluded that the Office of the Ombudsman in New Brunswick has the broadest legislated mandate of all the provincial Ombudsman Offices in Canada. In addition to responsibilities under the many pieces of legislation mentioned above, the New Brunswick Ombudsman's Office is the only Office in Canada that has responsibilities under a *Civil Service Act*.

The Ombudsman noted that the overall budget allocation for the Office of the Ombudsman (\$582,000 in fiscal 1998-99) has decreased by \$15,100 in the last five years, a decrease of 2.5%. Over the same period, the number of complaints, inquiries and requests for information have increased by over 33%. The staff complement, however, has remained unchanged.

The average number of complaints, inquiries and requests for information for each staff member for the other provincial Ombudsman Offices is 364 per year. The equivalent number for each staff member in New Brunswick is 736, more than double the national average. In total, 5973 complaints, inquiries or requests for information were dealt with during in the 1996-97 year in New Brunswick.

In reviewing the evolving workload since the establishment of the Office of the Ombudsman in 1967, the Ombudsman found that it has been the experience of the Office that there has been a significant imbalance between the financial and human resources available and the duties the Office is expected to perform.

The Ombudsman concluded that three additional positions are required under existing legislation to reduce the overwhelming workload of current staff, to conduct more in-depth investigations and to be more effective and timely in carrying out responsibilities.

### ***Privacy Legislation***

The *Personal Privacy Code* came into effect in December 1994 and the Office of the Ombudsman was given the responsibility for investigating complaints regarding the government's information management practices. The *Protection of Personal Information Act* was introduced in 1998 and is expected to be proclaimed shortly. The Act will provide individuals with the right to ask the Ombudsman to investigate disputes and complaints about information and privacy rights. The mandate of the Ombudsman will be to provide an independent review of government decisions and practices concerning privacy.

In reviewing the additional responsibilities to be mandated to the Office and in comparing the staff complements with other jurisdictions, the Ombudsman found that the New Brunswick Office does not have the necessary resources to meet the obligations which will be placed on the Office under the new legislation. The requirement for additional resources was recognized by the Standing Committee on Law Amendments when reviewing the proposed privacy legislation. The Committee recommended that sufficient resources be provided to the Ombudsman to "adequately fulfill this responsibility".

The Ombudsman concluded that three additional positions are required to fulfill responsibilities under the privacy legislation, one to be filled immediately and the other two after the Act is proclaimed.

### ***Committee Observations and Recommendations***

Your Committee is cognizant of the fiscal restraints faced by government and the ongoing need to carefully evaluate and consider requests for additional funding.

At the same time, your Committee takes seriously the concerns expressed by the Ombudsman regarding the limitations on the ability of the Office to respond to the continuing high demands for service and for service to be provided in an efficient and timely manner.

Your Committee has faith in the abilities of the Ombudsman and her staff to carry out the responsibilities of the Office in a professional manner. However, the mandate of the Office is continuing to expand and the cases are becoming increasingly complex. It appears that the resources allocated to the Office have not kept pace with workload increases.

### ***Recommendation:***

Your Committee strongly recommends that the government take into consideration the concerns expressed by the Ombudsman and give due consideration to implementing the recommendations pertaining to staffing and resources referred to herein.

And your Committee begs leave to make a further report.

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

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During Oral Questions, Mr. Speaker reminded Members that questions and answers must be brief and although he does allow the Premier and the Leader of the Opposition some leeway, he cannot extend such privileges to all Members.

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### **Bills Introduced**

The following Bills were introduced and read the first time:

By Hon. Mr. Byrne,

Bill 42, *An Act to Amend the Legislative Assembly Act.*

Bill 43, *An Act to Amend the Security Frauds Prevention Act.*

By Hon. Mrs. Mersereau,

Bill 44, *An Act to Amend the Municipalities Act.*

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

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The following Private Bill was introduced and read the first time:

By Mr. Duffie,

Bill 45, *An Act to Incorporate Royal Bank of Canada Trustees International Limited.*

Ordered referred to the Standing Committee on Private Bills.

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### **Notices of Motions**

Hon. Mr. Byrne gave Notice of Motion 123 that on Tuesday, February 23, 1999 he would move the following resolution, seconded by Mr. Allaby:

THAT, notwithstanding Standing Rule 29(1), and following the adoption of this motion, the time for the daily meeting and sitting of the Assembly shall be as follows:

Tuesday 1.00 p.m to 6.00 p.m.  
7.00 p.m. to 10.00 p.m.

Wednesday 8.30 a.m. to 12.30 p.m.  
2.00 p.m. to 6.00 p.m.  
7.00 p.m. to 10.00 p.m.

Thursday 8.30 a.m. to 12.30 p.m.  
2.00 p.m. to 6.00 p.m.  
7.00 p.m. to 10.00 p.m.

Friday 8.30 a.m. to 12.30 p.m.  
2.00 p.m. to 6.00 p.m.

That this Special Order shall remain in effect for the current session of the Legislative Assembly.

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

Hon. Mr. Byrne announced it was the intention of the government that the House would resolve itself into a Committee of Supply to consider the estimates of the Department of Health and Community Services.

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## Second Reading

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

Bill 41, *An Act to Amend the Lotteries Act.*

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## Committee of Supply

The House, according to Order, resolved itself into a Committee of Supply with Ms. de Ste. Croix in the chair.

And after some time, the Chairman 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.

The Committee resumed with Ms. de Ste. Croix in the chair.

And after some time, Mr. Speaker resumed the Chair and Ms. de Ste. Croix, the Chairman, after requesting that Mr. Speaker revert to Presentations of Committee Reports, reported that the Committee had made some progress in the consideration of the matters referred to them and asked leave to sit again.

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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## Government Motions re Business of House

Mr. Allaby announced it was the intention of the government that the House would resolve itself into a Committee of the Whole to consider legislation; in particular Bill 25, *Gas Distribution Act, 1999.*

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## Committee of the Whole

The House resolved itself into a Committee of the Whole with Mr. Flynn in the chair.

During consideration of Bill 25, *Gas Distribution Act, 1999*, Mr. Mesheau moved an amendment to section 4 and the amendment was negated.

During further consideration of Bill 25, Mr. Mesheau moved the following amendment to section 4(1):

### AMENDMENT

By adding after "a general franchise" the following: "or a franchise area,"

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 - 8

|               |               |             |
|---------------|---------------|-------------|
| Mr. Mesheau   | Mr. D. Graham | Mr. Mockler |
| Mr. Lord      | Mr. Sherwood  | Mr. Green   |
| Mr. Robichaud | Mr. Volpé     |             |

NAYS - 20

|          |             |     |
|----------|-------------|-----|
| Hon. Mr. | Hon. Mr. H. | Mr. |
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|                     |               |                   |
|---------------------|---------------|-------------------|
| Blanchard           | Doyle         | Johnson           |
| Hon. Mr. Tyler      | Mr. Allaby    | Mr. Armstrong     |
| Hon. Mrs. Breault   | Mr. Duffie    | Mr. Kennedy       |
| Hon. Mrs. Mersereau | Mrs. Jarrett  | Mr. Wilson        |
| Hon. Mr. Savoie     | Mr. Smith     | Ms. de Ste. Croix |
| Mr. LeBlanc         | Mr. Steeves   | Mr. J. Doyle      |
| Mr. McAdam          | Mr. A. Landry |                   |

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

That the Committee had directed him to report progress on the following Bill:

Bill 25, *Gas Distribution Act, 1999*.

And the Committee asked leave to make a further report.

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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And then, 6 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 upon the table of the House pursuant to Standing Rule 39:

- Documents requested in Notices of Motions 114 and 120 - February 16, 1999