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Tuesday, June 15, 2004.

*1 o'clock p.m.*

Prayers

Mr. S. Graham laid upon the Table of the House a petition signed by residents of East Branch urging the government to upgrade and repair the Stothard Road. (Petition 43)

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Mr. Speaker welcomed to the House His Excellency Dr. Alvaro Moerzinger, Ambassador of the Uruguay and Mrs. Ana Luisa Moerzinger.

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The following Bill was introduced and read a first time:

By Mr. Lamrock,

Bill 60, *An Act to Amend the Youth Assistance Act.*

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

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Mr. MacIntyre gave Notice of Motion 113 that on Tuesday, June 22, 2004, he would move the following resolution, seconded by Mr. S. Graham:

That an address be presented to His Honour the Lieutenant-Governor praying that he cause to be laid upon the table of the House all correspondence, letters, e-mails, memoranda, briefing notes, handwritten notes, reports and analyses between John McGarry and the Department of Health and Wellness regarding Mr. McGarry's report on support services within the provincial health care system.

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Mr. MacIntyre gave Notice of Motion 114 that on Tuesday, June 22, 2004, he would move the following resolution, seconded by Mr. S. Graham:

That an address be presented to His Honour the Lieutenant-Governor praying that he cause to be laid upon the table of the House all correspondence, letters, e-mails, memoranda, briefing notes, handwritten notes, reports and analyses between Mr. Jim Wolstenholme and the Department of Health and Wellness regarding Mr. Wolstenholme's report on the population health and its impact on the provincial health care system.

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Mr. MacIntyre gave Notice of Motion 115 that on Tuesday, June 22, 2004, he would move the following resolution, seconded by Mr. S. Graham:

That an address be presented to His Honour the Lieutenant-Governor praying that he cause to be laid upon the table of the House copies including electronic copies, of the Hay Benchmarking Study prepared in conjunction with CIHI for Miramichi Regional Health Authority, Southeast Health Authority, Beausejour Health Authority and Atlantic Health Sciences Health Authority for 2002-2003 and 2003-2004.

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Mr. MacIntyre gave Notice of Motion 116 that on Tuesday, June 22, 2004, he would move the following resolution, seconded by Mr. S. Graham:

That an address be presented to His Honour the Lieutenant-Governor praying that he cause to be laid upon the table of the House all correspondence, letters, e-mails, memoranda, briefing notes, handwritten notes, reports and analyses between Mr. Édouard Hendriks and the Department of Health and Wellness regarding Mr. Hendriks' report on the sustainability of clinical services within the provincial health care system.

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Mr. Burke gave Notice of Motion 117 that on Tuesday, June 22, 2004, he would move the following resolution, seconded by Mr. Murphy:

That an address be presented to His Honour the Lieutenant-Governor praying that he cause to be laid upon the table of the House a compilation of how many court appointed lawyers have been paid by Government and what this has cost, since March 1, 2004.

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On motion of Hon. P. Robichaud, seconded by Hon. Mr. Green:

Resolved, THAT when the Assembly adjourns on Wednesday, June 16, 2004, it stand adjourned until Thursday, June 17, 2004, at 10 o'clock a.m.

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Hon. P. Robichaud announced that it was the intention of government that following second reading of Bills, and with the unanimous consent of the House to dispense with Private Members' Motions, the House would resolve itself into a Committee of Supply to resume consideration of the estimates of the Department of Health and Welfare.

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It was agreed by unanimous consent to dispense with the two hours allotted for the consideration of Private Members' Motions.

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The Order being read for second reading of Bill 58, *An Act to Amend the Occupational Health and Safety Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 58 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 58, *An Act to Amend the Occupational Health and Safety Act*, was read a second time and ordered referred to the Committee of the Whole House.

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The Order being read for second reading of Bill 59, *An Act to Amend the Liquor Control Act*, a debate arose thereon.

And after some time, the debate was, on motion of Hon. Mr. Steeves, adjourned over.

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

And after some time, Mr. Betts took the chair as Acting Chairman.

And after some further time, Mr. Holder resumed the chair.

And after some time, Mr. S. Graham, seconded by Mr. MacIntyre, moved the following motion:

THAT the Committee, when it reports on the estimates of the Department of Health & Wellness, inform the House that the Committee urges the Government to delay any and all bed cuts until such time as:

1. it has presented a long-term care strategy to the House, and;
2. the aforementioned long-term care strategy has been implemented in New Brunswick.

Hon. Mr. Green rose on a Point of Order and requested that the Chairman rule on whether the motion moved by the Leader of the Opposition was in order.

At 3.31 o'clock p.m., the Chairman declared a recess and left the chair.

*4.12 o'clock p.m.*

The Committee resumed with Mr. Holder in the chair.

Mr. Holder, the Chairman delivered the following ruling with regard to the motion moved by Mr. S. Graham:

## STATEMENT BY CHAIRMAN

With respect to the point of order raised by the Leader of the Opposition, I would like to refer to *House of Commons Procedure and Practice*, edition 2000.

I would like to refer to *House of Commons Procedure and Practice*, 2000, page 737, which states:

*The report of a committee on Estimates ought to correspond, both in its form and as to its substance, with the authority with which the committee is invested. As it is the Estimates which have been referred to the committee by the House, it is the Estimates (as agreed to, reduced or negated) which should be reported back to the House. In making other substantive recommendations, the committee is clearly going beyond the scope of its order of reference, which was to deal with the Estimates. The Speaker has expressed strong reservations regarding the inclusion of substantive recommendations in committee reports on Estimates.*

I would also refer to *Beauchesne's* sixth edition, page 261, paragraph 951, which states: "It is not allowable to attach a condition or an expression of opinion to a Vote or to change the destination of a grant."

There is little relevant practice in our House with respect to the consideration of substantive motions in Committee of Supply other than motions to approve, reduce, or negative the estimates. The motion, as proposed by the Leader of the Opposition, does not deal directly with the amounts in the estimates. It is the opinion of the chair that notwithstanding any previous practice in this House, the motion amounts to a substantive recommendation which goes beyond the scope of the committee's order of reference, which is to approve, reduce, or negative the estimates and reports brought to the House.

Furthermore, the motion appears to attach a condition to the coming vote on the estimates of the Department of Health and Wellness. Such a motion can only be presented in the House with the required notice. I therefore declare the motion out of order.

Pursuant to Standing Rule 80, Mr. Lamrock requested that the ruling of the Chairman, with respect to the motion moved by the Leader of the Opposition in Committee of Supply, be appealed to the Speaker.

Mr. Lamrock submitted that there was precedent in New Brunswick for allowing a substantive motion to be moved in Committee of Supply. Mr. Lamrock referred to the motion that was moved without objection on May 8, 1986, during consideration of the Estimates in

Committee of Supply. Mr. Lamrock also enquired whether the point of order with respect to whether the motion in question was in order was raised at the earliest opportunity.

Mr. Speaker resumed the chair, and Mr. Holder, 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 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.

Mr. Holder, Chairman of the Committee of Supply, then rose and informed the Speaker that Mr. S. Graham had moved a motion during Committee of Supply, that the motion was ruled out of order, and that the ruling had been appealed by the Member for Fredericton-Fort Nashwaak.

Mr. Speaker delivered the following ruling.

#### STATEMENT BY SPEAKER

In the delay following the ruling of the chair of the committee, I have had time to review the appeal made by the member for Fredericton-Fort Nashwaak. I would like to begin by reiterating the crux of the ruling of the chairman of the committee, because I think this is most relevant. It is the opinion of the chair, to repeat what was already said by the chairman, that notwithstanding any previous practices of this House, the motion amounts to a substantive recommendation that goes beyond the scope of the committee's order of reference, which is to approve, reduce, or negative the estimates and report back to the House. That is the crux of the ruling.

The member for Fredericton-Fort Nashwaak referred to a similar motion that was moved in committee on May 8, 1986. At that time, there was no objection raised, and the motion proceeded. The fact that a matter was allowed to proceed, however, does not, in itself, create an absolute precedent that is binding on the House or on a subsequent Speaker.

Where it is found that a prior decision of the House was not in keeping with the relevant parliamentary authorities and practices of the House, except for that one situation, it is therefore not necessarily binding on a subsequent Speaker or chairman.

In this instance, I have had the opportunity to review the ruling of the chair of committee and I also reviewed the relevant authorities referred to, and I am satisfied that the chair has ruled correctly. Therefore, his decision is sustained. However, I also want to indicate that there is a difference between the procedures of estimates in this case, which was referred to by the chairman's original ruling, and the difference between a substantive motion in the House. That would apply differently. The fact that the debate had occurred today was only really a very short beginning, even, on the debate. Had it gone on through a number of speakers, it might have been a little more serious in that sense, but it was simply a delayed reaction, and it was brought to the attention of the House that, in fact, there is an appropriate way to do business in committee which is different from a substantive motion of the House. That is the crux of the matter.

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The House resolved itself into a Committee of Supply with Mr. C. LeBlanc in the chair.

And after some time, Mr. Betts took the chair as Acting Chairman.

And after some further time, Mr. LeBlanc resumed the chair.

And after some further time spent in Committee of Supply, Mr. Speaker resumed the chair, and Mr. C. LeBlanc, 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 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 6 o'clock p.m. the House adjourned.