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Journals

(Unrevised)

Legislative Assembly

Province of New Brunswick

Hon. Herménégilde Chiasson
Lieutenant-Governor

Speaker: Hon. Eugene McGinley

Wednesday, May 30, 2007

First Session of the 56th Legislative Assembly
Fredericton, New Brunswick

Wednesday, May 30, 2007.

10 o'clock a.m.

Prayers.

Hon. Mr. Albert, Minister Responsible for the Francophonie, welcomed to the House, His Excellency Daniel Jouanneau, the Ambassador of France to Canada. Mr. Mockler joined with the Minister in this regard.

Mr. Steeves, Member for Albert, laid upon the table of the House a petition signed by residents of New Brunswick who oppose Bill 17, *An Act to Amend the Off-Road Vehicle Act*. (Petition 39)

Mr. Kennedy, on behalf of Hon. Mr. Burke, from the Standing Committee on Law Amendments presented the First Report of the Committee which was read and is as follows:

May 30, 2007

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

Mr. Speaker:

I have the pleasure to present herewith the First Report of the Standing Committee on Law Amendments.

The Report is the result of your Committee's deliberations on Bill 32, *Franchises Act*, which was introduced in the Legislative Assembly on February 23, 2007, and referred to your Committee for consideration. Your Committee is pleased to recommend Bill 32 to the favorable consideration of the House with one proposed amendment.

On behalf of the Committee, I wish to thank those individuals and groups who submitted written briefs. In addition, I would like to express my appreciation to the members of the Committee for their contribution in carrying out our mandate.

And your Committee begs leave to make a further report.

Respectfully submitted,
(Sgd. :) Hon. Thomas J. Burke, MLA.
Chairman.

Ordered that the Report be received.

The full report of the Committee as presented follows:

May 30, 2007.

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 First Report of the Session.

Your Committee held an organizational meeting on February 22, 2007. On motion of Ms. Lavoie, Hon. Mr. Burke was elected Chairman of the Committee. On motion of Ms. Lavoie, Mr. Kennedy was elected Vice-Chairman.

Your Committee has had under consideration Bill 32, *Franchises Act*. The Bill was introduced in the House on February 23, 2007, during the First Session of the Fifty-sixth Legislature, and referred to the Standing Committee on Law Amendments for consideration. The proposed legislation is designed to ensure fairness in the relationship between a franchisee, who is often a small business owner, and a franchisor, which is generally, but not always, a large corporation. The Bill is based on a model Act that was adopted by the Uniform Law Conference of Canada in 2005. The Bill contains the following objectives: to impose a duty of fair dealing on a franchisee and franchisor in relation to their franchise agreement; to ensure that a franchisee may form or join an association of franchisees; to require a franchisor to provide a prospective franchisee with full disclosure of certain information before a franchise agreement is signed; to offer a framework for the mediation of disputes; and to void any provision in a franchise agreement which requires a franchisee to litigate disputes outside of New Brunswick.

It is important to note that Bill 32 is identical, except for minor adjustments to the French text, to Bill 6, *Franchises Act*, which was introduced during the Third Session of the Fifty-fifth Legislature. Bill 6 was referred to the Standing Committee on Law Amendments and the Committee agreed to receive written submissions on the merits of the Bill. However, on August 18, 2006, before the Committee could review the submissions and report to the House, the Legislative Assembly was dissolved. Upon dissolution of the House, the Committee ceased to exist and the Bill died on the Order Paper.

Your Committee met on May 1, 2007, and agreed that it should take into consideration the written submissions received to date. Accordingly, the following resolution was adopted:

That all written submissions received by the Standing Committee on Law Amendments, appointed by the Fifty-fifth Legislature, in relation to Bill 6, Franchises Act, introduced in the House on December 7, 2005, be deemed referred to this Standing Committee on Law Amendments, appointed by the Fifty-sixth Legislature, in order to facilitate the review by the Committee of Bill 32, Franchises Act.

Your Committee met again on May 16, 2007, to review Bill 32 and the written submissions referred to the Committee, and to hear from representatives of the Department of Justice and Consumer Affairs.

SUMMARY OF FINDINGS

Your Committee is pleased to report that the majority of the respondents who submitted written briefs are in favour of the proposed *Franchises Act*. However, while supportive of the Bill, some respondents also proposed certain changes to the Bill, or made suggestions for any proposed regulations thereto. Examples of such input include the following: to exempt large or mature franchisors from financial disclosure; to remove the requirement for “payments” from the definition of “franchise”; to omit or vary the mediation requirement; to allow for a disclosure document to be “substantially completed”; to permit the use of disclosure documents from other jurisdictions; to limit the scope of the information that must be disclosed; to ensure the provisions pertaining to volume rebates are consistent with other jurisdictions; to limit the liability of those who sign a disclosure document; and to allow franchisees to find an alternative source of supplies in certain circumstances.

Your Committee has considered these proposed changes and finds that the majority of these suggestions should be addressed in the regulations to Bill 32, specifically with respect to the disclosure requirements and mediation process. As such, your Committee recommends that the government take into consideration the input received through the public consultation process when drafting the regulations to Bill 32. In addition, your Committee recommends, for clarification purposes, an amendment to Bill 32 that permits the Lieutenant-Governor in Council to make regulations defining words or expressions in the Bill that are not already defined.

RECOMMENDATIONS

Your Committee therefore recommends *Bill 32, Franchises Act*, to the favorable consideration of the House.

Your Committee further recommends that the Legislative Assembly consider the advisability of amending *Bill 32, Franchises Act*, to permit the Lieutenant-Governor in Council to make regulations defining words or expressions in the Bill that are not already defined.

Your Committee further recommends that the government take into consideration the input received through the public consultation process when drafting the regulations to *Bill 32, Franchises Act*.

During Oral Questions, Mr. Speaker interrupted proceedings and requested that Mr. Alward, the Member for Woodstock, withdraw the word “untrue” in relation to statements made by Hon. Mr. Doucet, Minister of Fisheries. Mr. Alward withdrew the remark.

And after some time, Mr. Speaker requested that Mr. Robichaud, Member for Lamèque-Shippagan-Miscou, withdraw the word “false” in relation to statements made by Hon. Mr. Doucet. The Member withdrew the remark.

The following Bills were introduced and read a first time:

By Hon. Mr. Haché,

Bill 76, *An Act to Amend the Community Planning Act*.

Bill 77, *An Act to Amend the Community Planning Act*.

By Hon. Mr. Byrne,

Bill 78, *An Act to Amend the Land Titles Act*.

By Hon. V. Boudreau,

Bill 79, *Loan Act 2007*.

Bill 80, *An Act to Amend the Gasoline and Motive Fuel Tax Act*.

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

Hon. Mr. Jamieson, Government House Leader, announced that following third and second reading, it was the intention of the government that the House resolve itself into a Committee of the Whole to consider Bills 51 and 63; following which, with the unanimous consent of the House, Bills 51 and 63 would be ordered for third reading forthwith.

The Government House Leader announced that His Honour the Lieutenant-Governor would attend at 4 o'clock p.m. for the Royal Assent Ceremony; following which, the House would resume the adjourned debate at second reading of Bills 44, 58 and 17.

The following Bills were read a third time:

Bill 41, *An Act to Amend the New Brunswick Income Tax Act*.

Bill 43, *Special Appropriation Act 2007*.

Bill 65, *Petroleum Act*.

Bill 67, *An Act to Amend the Mining Act*.

Bill 68, *An Act to Amend the Quarriable Substances Act*.

Ordered that the said Bills do pass.

Due to the unavoidable absence of Mr. Speaker, Mr. R. Boudreau, the Deputy Speaker, took the chair as Acting Speaker.

The Order being read for second reading of Bill 72, *An Act Respecting Elections New Brunswick*, a debate arose thereon.

And the debate being ended and the question being put that Bill 72 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 72, *An Act Respecting Elections New Brunswick*, was read a second time and ordered referred to the Committee of the Whole House.

The Order being read for second reading of Bill 73, *An Act to Amend the Ombudsman Act*, a debate arose thereon.

And the debate being ended and the question being put that Bill 73 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 73, *An Act to Amend the Ombudsman Act*, was read a second time and ordered referred to the Committee of the Whole House.

The Order being read for second reading of Bill 74, *Child and Youth Advocate Act*, a debate arose thereon.

And the debate being ended and the question being put that Bill 74 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 74, *Child and Youth Advocate Act*, was read a second time and ordered referred to the Committee of the Whole House.

The Order being read for second reading of Bill 75, *An Act to Amend the Legislative Assembly Act*, a debate arose thereon. And the debate being ended and the question being put that Bill 75 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 75, *An Act to Amend the Legislative Assembly Act*, was read a second time and ordered referred to the Committee of the Whole House.

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

At 12.30 o'clock p.m., the Chairman left the chair to resume again at 2 o'clock p.m.

2.10 o'clock p.m.

The Committee resumed with Mr. R. Boudreau in the chair.

And after some time, Mr. Speaker resumed the chair and Mr. R. Boudreau, the Chairman, after requesting that Mr. Speaker revert to Presentations of Committee Reports, reported:

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

Bill 51, *An Act Respecting the Transfer of Responsibilities to Service New Brunswick*.

Bill 63, *An Act to Amend the Assessment Act*.

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.

It was agreed by unanimous consent that Bills 51 and 63 be read a third time forthwith.

The following Bills were read a third time:

Bill 51, *An Act Respecting the Transfer of Responsibilities to Service New Brunswick*.

Bill 63, *An Act to Amend the Assessment Act*.

Ordered that the said Bills do pass.

Debate resumed on the motion that Bill 44, *An Act to Amend the Credit Unions Act*, be now read a second time.

And the debate being ended and the question being put that Bill 44 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 44, *An Act to Amend the Credit Unions Act*, was read a second time and ordered referred to the Committee of the Whole House.

The order being read that the House resume the adjourned debate on the motion that Bill 58, *An Act to Amend the New Brunswick Income Tax Act*, be now read a second time, and the question being put, it was resolved in the affirmative.

Accordingly, Bill 58, *An Act to Amend the New Brunswick Income Tax Act*, was read a second time and ordered referred to the Committee of the Whole House:

The order being read that the House resume the adjourned debate on the motion that Bill 17, *An Act to Amend the Off-Road Vehicle Act*, be now read a second time, and the question being put, it was resolved in the affirmative.

Accordingly, Bill 17, *An Act to Amend the Off-Road Vehicle Act*, was read a second time and ordered referred to the Committee of the Whole House:

At 3.50 o'clock p.m., the Deputy Speaker declared a recess and left the chair.

4.17 o'clock p.m.

Mr. Speaker resumed the chair and advised the House that, having reviewed the transcript of Hansard, he should not have requested that Mr. Robichaud withdraw the word "false" during Oral Questions, as the Member had not used the word.

His Honour, the Lieutenant-Governor, was announced, and having been bidden to enter, took his seat in the chair upon the Throne.

Mr. Speaker addressed His Honour as follows:

May It Please Your Honour:

The Legislative Assembly of the Province of New Brunswick has passed several Bills at the present sittings of the Legislature to which, in the name and on behalf of the said Legislative Assembly, I respectfully request Your Honour's assent.

The Clerk Assistant then read the titles of the Bills as follows:

- Bill 3, *An Act to Amend the Liquor Control Act.*
Bill 12, *An Act to Amend the Gasoline and Motive Fuel Tax Act.*
Bill 22, *An Act to Amend the Forest Products Act.*
Bill 24, *An Act to Amend An Act to Amend the Police Act.*
Bill 25, *An Act to Amend the Police Act.*
Bill 41, *An Act to Amend the New Brunswick Income Tax Act.*
Bill 43, *Special Appropriation Act 2007.*
Bill 47, *An Act to Incorporate The New Brunswick Registered Barbers' Association.*
Bill 49, *An Act to Amend the Legislative Assembly Act.*
Bill 50, *An Act to Amend the Political Process Financing Act*
Bill 51, *An Act Respecting the Transfer of Responsibilities to Service New Brunswick.*
Bill 52, *An Act to Amend the Provincial Offences Procedure Act.*
Bill 53, *An Act to Amend the Energy and Utilities Board Act.*
Bill 54, *An Act to Amend the Petroleum Products Pricing Act.*
Bill 55, *An Act to Authorize an Easement Through Certain Lands in The City of Saint John for Natural Gas Pipeline Purposes.*
Bill 56, *An Act to Incorporate the Filles de Jésus Moncton.*
Bill 59, *An Act to Amend the Natural Products Act.*
Bill 61, *An Act to Amend the Support Enforcement Act.*
Bill 62, *An Act to Amend the Securities Act.*
Bill 63, *An Act to Amend the Assessment Act.*
Bill 65, *Petroleum Act.*
Bill 67, *An Act to Amend the Mining Act.*
Bill 68, *An Act to Amend the Quarriable Substances Act.*

His Honour signified His Assent as follows:

It is the Queen's wish. La reine le veut.

To these Bills, His Honour's assent was announced by the Clerk Assistant of the Legislative Assembly in the following words:

In Her Majesty's name, His Honour the Lieutenant-Governor assents to these Bills, enacting the same and ordering them to be enrolled.

His Honour then retired and Mr. Speaker resumed the chair.

And then, 4.35 o'clock p.m., the House adjourned.