

65



Journals

(Unrevised)

Legislative Assembly

Province of New Brunswick

Hon. Graydon Nicholas
Lieutenant-Governor

Speaker: Hon. Roy Boudreau

Tuesday, April 13, 2010

**Fourth Session of the 56th Legislative Assembly
Fredericton, New Brunswick**

Tuesday, April 13, 2010.

1 o'clock p.m.

Prayers.

Mr. Speaker delivered the following ruling with respect to Notice of Motion 67:

Honourable Members,

At this time I would like to address Notice of Motion 67 which stands on the Order and Notice Paper in the name of the Member for Riverview.

The resolution clause of the proposed motion states as follows:

“BE IT RESOLVED that this Legislative Assembly unanimously commit to not raising the Harmonized Sales Tax in the Province of New Brunswick.”

With respect to Private Members' Motions in general, the *House of Commons Procedure and Practice*, Second Edition, states at page 1119:

Private Members motions are used to introduce a wide range of issues and are framed either as orders or resolutions, depending on their intent. Motions attempting to make a declaration of opinion or purpose, without ordering or requiring a particular course of action, are considered resolutions. Hence, such motions which simply suggest that the government initiate a certain measure are generally phrased as follows: “That, in the opinion of this House, the government should consider...”. The government is not bound to adopt a specific policy or course of action as a result of the adoption of such a resolution since the House is only stating an opinion or making a declaration of purpose. This is in contrast to those motions whose object is to give a direction to committees, Members or officers of the House or to regulate House proceedings and, as such, are considered orders once adopted by the House.

No motion sponsored by a Member who is not a Minister can contain provisions for either raising revenue or spending funds, unless it is worded in terms which only suggest that course of action to the government.

In my opinion, Motion 67 is framed as an order of the House, as it would commit the Legislative Assembly itself - as opposed to government - to a specific course of action.

With respect to Financial Procedures in Parliament, *House of Commons Procedure and Practice*, Second Edition, states at page 819:

The development of parliamentary procedure is closely bound up with the evolution of the financial relationship between Parliament and the Crown.

It goes on to say:

The Crown, on the advice of its Ministers, makes the financial requirements of the government known to the House of Commons which, in return, authorizes the necessary "aids" (taxes) and "supplies" (grants of money). No tax may be imposed, or money spent, without the consent of Parliament.

The effect of Motion 67, if it were to pass, is to commit the Legislative Assembly to not raising the Harmonized Sales Tax. The motion would essentially bind the Legislative Assembly with respect to future decisions on a specific tax, prior to the Crown having made known its financial requirements in this regard. This would essentially fetter the financial initiative of the Crown.

In essence, the motion would limit the ability of the Crown to propose to the House an increase in the HST, as a decision of the House had already been made. This is not in keeping with accepted parliamentary practice nor is it in accordance with the established financial relationship between Parliament and the Crown.

Accordingly, I find Motion 67 to be out of order as it infringes on the financial prerogative of the Crown in taxation matters. I order that the motion be removed from the Order and Notice Paper.

Mr. MacDonald, Member for York North, laid upon the table of the House a petition on behalf of residents of Campbell Settlement Road, Hartfield, Waterville, Central Waterville, Rossville and surrounding area urging the government to undertake a reconstruction of the Campbell Settlement Road from Morrison Road to Route 105 at Southampton. (Petition 255)

Mr. Burke gave Notice of Motion 68 that on Friday, April 16, 2010, he would move the following resolution, seconded by Ms. MacAlpine-Stiles:

Whereas the Province of New Brunswick has a shared responsibility for ensuring health, educational and child welfare outcomes for all persons residing in New Brunswick;

Whereas a number of these services are delivered by First Nations with funding partnerships that include both the Provincial and Federal governments;

Whereas the Province commissioned the Child and Youth Advocate to prepare a report on child welfare on-reserve and has now received the report entitled *Hand-in-Hand – A Review of First Nations Child Welfare in New Brunswick* with a comprehensive set of recommendations;

Whereas the Province wishes to provide greater certainty and equal treatment to all children in the area of government services; and

Whereas the Province wishes to demonstrate its intention to show early progress in improving health, educational and child welfare outcomes for children and youth residing in First Nation Communities;

Therefore be it resolved that Members of the Legislative Assembly endorse a tripartite partnership of First Nation, Provincial and Federal governments to:

1. Develop an agreement on the application of Jordan's Principle that would see the agency of first contact pay for the necessary public services required by the First Nation's child or youth. Where required, funding disputes would be resolved with a dispute resolution mechanism but disagreements would not delay the provision of service.
2. Negotiate a new tripartite agreement for child welfare based on an enhanced prevention approach incorporating the recommendations of the Child and Youth Advocate in Part I of *Hand-in-Hand - A New Model for First Nations Child and Family Services Delivery*.
3. Develop a tripartite plan for addressing the underlying causes that contribute to poor child welfare outcomes based on the recommendations in Part II of *Hand-in-Hand – Improving Lives and Opportunities for First Nations Children*.

Be it further resolved that, mindful of the years First Nations children have waited for clarity in social services, health, and education, this Legislative Assembly urge the Provincial government to take all reasonable and responsible measures to ensure First Nations children and youth receive necessary public services they require including, without limitation that the Attorney General seek clarity for all governments through a judicial reference to the New Brunswick Court of Appeal should tripartite negotiations fail to provide clarity within a reasonable time.

Hon. Mr. Byrne, Government House Leader, announced that it was the intention of government that Bills 58, 54, 55, 56 and 26 be called for second reading; following which, the House would resolve itself into a Committee of the Whole to consider Bills 37, 38, 39 and 49.

The Order being read for second reading of Bill 58, *An Act Respecting Health Services and Language*, a debate arose thereon. And after some time, the debate was, on motion of Hon. Mr. Brewer, adjourned over.

The Order being read for second reading of Bill 54, *An Act to Amend the Motor Vehicle Act*, a debate arose thereon.

And after some time, due to the unavoidable absence of Mr. Speaker, Mr. Fraser, the Deputy Speaker, took the chair as Acting Speaker.

And the debate being ended, and the question being put that Bill 54 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 54, *An Act to Amend the Motor Vehicle 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 55, *An Act to Amend the Financial Corporation Capital Tax Act*, a debate arose thereon.

And after some time, Ms. Robichaud, the Deputy Speaker took the chair as Acting Speaker.

And after some further time, the Deputy Speaker interrupted proceedings and advised Mr. Volpé to limit his remarks to the principle of the Bill.

And the debate being ended, and the question being put that Bill 55 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 55, *An Act to Amend the Financial Corporation Capital Tax Act*, was read a second time and ordered referred to the Committee of the Whole House.

Mr. Fraser resumed the chair as Acting Speaker.

The Order being read for second reading of Bill 56, *An Act to Amend the Medical Services Payment Act*, a debate arose thereon.

And the debate being ended, and the question being put that Bill 56 be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 56, *An Act to Amend the Medical Services Payment Act*, was read a second time and ordered referred to the Committee of the Whole House.

Debate resumed on the adjourned debate on the motion that Bill 26, *An Act to Amend the Medical Services Payment Act*, be now read a second time.

And after some time, Mr. Speaker resumed the chair.

And after some further time, Mr. Speaker interrupted proceedings and advised that the ordinary hour of daily adjournment had arrived.

And then, 6 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:

Responses to Petition Nos. 227 and 230	April 8, 2010
Documents requested in Notice of Motion 55	April 9, 2010