



Chapter 6

Structure

It may seem strange that the Clerk combines the somewhat academic precision of procedural matters with overall responsibility for the management of the House's services. In fact it would be strange if he were not to do so. He is the authority on all aspects of the House's core business ...

— Robert Rogers and Rhodri Walters¹

Restructuring As an Integral Part of the Reform Process

The Terms of Reference require me to make recommendations on policies and practices resulting from my review of the controls, accountability and compliance rules with respect to spending in the House. Implicit in my mandate to “ensure the accountability and compliance practices employed in the House of Assembly meet or exceed the best in the country” is the necessity of examining whether the formal statutory and administrative structures in which the policies and practices operate need adjustment.² Formal structures can often play a big part in facilitating or hampering the implementation and maintenance of proper systems of control and accountability.

In this chapter I will examine some of the key structural elements of the House administration and make recommendations for their improvement. Key components include the Commission of Internal Economy, the office of the Clerk, the organization of the House administration and the relationship between the House administration and the officers of the House, who, by statute, are regarded as heading independent operations. I will also comment briefly on ancillary matters, such as the provision of adequate resources to ensure that a revised legislative and administrative structure functions properly.

¹ Robert Rogers and Rhodri Walters, *How Parliament Works* 6th ed. (Harlow: Pearson Longman, 2006) pp. 57-58.

² Terms of Reference, Appendix 1.2, item 4.

The Office of the Clerk

The Clerk of the House of Assembly plays a pivotal role in the affairs of the House. The office involves two very distinct parts. The aspect of the role that has traditionally been associated with the office of the Clerk is that of parliamentary advisor to the Speaker. This is the aspect that former clerks in this province have emphasized and to which they have paid most attention. The other aspect of the role, which has grown exponentially over the years as the administration of House affairs has expanded, is that of chief permanent head of the organization responsible for management and administration of what is now a bureaucratic structure like other institutions in government.

In both roles, it is important that the Clerk be, and be seen to be, independent of the executive branch of government. As chief permanent head of the House administration, the Clerk's loyalty has to be to the legislative branch, which he or she serves. In matters where there is a conflict of positions between the executive and legislative branches, the Clerk has to be in a position to act on behalf of the whole House, unconstrained by any special obligations to the government side. As the parliamentary advisor to the Speaker, the Clerk's advice, given often in reliance on research from law clerks who should also be independent, must be scrupulously balanced so as to ensure that the impartiality of the Speaker is maintained.

At present, the Clerk is appointed by the Lieutenant-Governor in Council.³ As a Cabinet appointment, the choice will ultimately be made by the Premier or, at the least, with the Premier's approbation. In my view, executive control over the appointment of the Clerk is not appropriate. In some jurisdictions, the power of appointment is vested in the legislature or in the House board of management.⁴ The appropriate procedure, I believe, is for the House to make the appointment. The responsibility for initiating the process should rest with the Speaker. It is obviously important, however, to ensure that qualified candidates for the position are identified. The Speaker may not have the resources necessary to do a proper search. He or she should therefore be encouraged to take advice from the public service commission and the executive council as to the processes and means to be employed for selection. The chosen candidate should be presented to the House for ratification.

³ *Internal Economy Commission Act*, R.S.N.L. 1990, c. I-14, ss. 4(a).

⁴ In Saskatchewan, for example, the Clerk is appointed by the Board of Internal Economy on the recommendation of the Speaker. *The Legislative Assembly and Executive Council Act, 2005*, S.S. 2005, c. L-11.2, s. 79. In the Northwest Territories and Nunavut, the Clerk is appointed by the Commissioner on the recommendation of the Board of Management approved by motion of the Legislative Assembly. *Legislative Assembly and Executive Council Act*, S.N.W.T. 1999, c. 22, ss.54(1) and *Legislative Assembly and Executive Council Act (Nunavut)*, R.S.N.W.T. 1988, c. L-5, s. 49.

I therefore recommend:

- Recommendation No. 25***
- (1) The next Clerk of the House of Assembly should be appointed on nomination by the House; and***
 - (2) The Speaker should initiate the selection process and should consult with the House of Assembly Management Commission, the Clerk of the Executive Council and the Public Service Commission to determine the appropriate process for recruitment of suitable candidates for appointment.***

At present, the responsibilities of the Clerk, both in respect of the parliamentary role and the administrative role, are inadequately spelled out in the applicable legislation. The *Internal Economy Commission Act* merely provides for the appointment of the Clerk and assigns to him or her the role of secretary of the Commission of Internal Economy⁵ and the task of preparation of the budget of the House for the consideration by the Commission.⁶ On the other hand, the *Clerk of the House of Assembly Act* confers on the Clerk responsibility for “safe-keeping of the records of the House of Assembly and all dispatches, bills, petitions and documents presented to or laid on the table of the House.”⁷

The only other statutory provision dealing with the duties of the Clerk is section 5 of the *Clerk of the House of Assembly Act*, which provides:

5. The general duties of the clerks of the House of Assembly, where no special provision is made, shall be similar to those of the clerks of the House of Commons in England according to the practice of Parliament, or as may be provided by resolution of the House of Assembly.

I am not aware of any resolution of the House having been passed to better define the Clerk’s duties. The only other source of information as to what the expectations of the Clerk are, therefore, is the vague “default” provision that requires a reference to the situation in the United Kingdom Parliament.

It will be seen that these provisions, while at least addressing the role of the Clerk as parliamentary record-keeper, do not at all address the role of the Clerk as manager and administrator, except in respect of budgeting matters. This void in the legislative structure perhaps gives some support for the absence of a concerted focus on management by clerks of former years. The reality is, however, that regardless of what the legislation fails to say, the

⁵ Ss. 5(8).

⁶ S. 6.

⁷ *Clerk of House of Assembly Act*, R.S.N.L. 1990, c. C-19, s. 4.

management function has quite clearly devolved on the office of the Clerk, and expectations have been engendered that that role would be fulfilled. The very fact that it is commonplace to analogize the position of the Clerk, from an administrative point of view, to that of a deputy minister of a government department underscores this point. In addition, the reference, in section 5 of the *Clerk of the House of Assembly Act*, to practice in the United Kingdom reinforces the notion of the Clerk as a manager and administrator. There is no question that the role in Britain has evolved in this way as well.⁸

In my view, it is important that the two roles of the Clerk be carefully delineated, with the responsibilities of each being spelled out.

I will therefore make the following recommendation.

Recommendation No. 26

The roles, duties, and responsibilities of the Clerk of the House as (i) parliamentary advisor to the Speaker and (ii) as chief permanent head of the management and administration of the House should be set out in detail in legislation.

I recognize, of course, that the role of the Clerk as parliamentary advisor to the Speaker is not, *in itself*, within my mandate. However, it is nevertheless necessary to comment on it because a disproportionate emphasis on that role will have a potentially serious and detrimental impact on the ability of the Clerk to perform his or her managerial and administrative role. I believe, therefore, that the responsibilities of *both* roles should be dealt with in legislation.

With respect to the parliamentary role, I must note in passing that I have been advised that the role of the Clerk in this regard may have been recently changed. The former Clerk, who retired in August of 2006, performed the duties of law clerk within the House. It was he to whom the Speaker turned primarily for parliamentary advice. I am told that, since the appointment of the new Clerk, it is expected that the Speaker will seek advice from the office of the Legislative Counsel. That office is a division of the Department of Justice, not the House of Assembly.⁹ The *Statutes and Subordinate Legislation Act* specifically provides that “the chief legislative counsel is the Law Clerk of the House of Assembly.”¹⁰ While it is true that the office of the Legislative Counsel is a separate division within the Department of

⁸ See, Rogers and Walters, p. 58: “It may seem strange that the Clerk combines the somewhat academic precision of procedural matters with overall responsibility for the management of the House’s services. In fact it would be strange if he were not to do so. He is the authority on all aspects of the House’s core business not just the drier matters of procedure - and no one is in a better position to understand from long experience how the main functions of the House need to be supported and how they can be made more effective.”

⁹ *Statutes and Subordinate Legislation Act*, R.S.N.L. 1990, c. S-22, s. 17.

¹⁰ S. 20.

Justice, the fact remains that the Speaker will, under the current arrangement, receive his advice, not from within the House, but from within the executive branch of government. For anyone interested in ensuring the independence of the House from influence by the executive and promoting the impartiality of the Speaker of the House, this should be a matter of concern.

Consider the following scenario:

The Minister of Justice is on his feet in the House. Another Member raises a point of privilege or some other procedural matter. The Speaker has to make a ruling. He needs advice on the matter. Instead of turning to the Clerk, the Speaker consults with legal officials in the Department of Justice - a department that has as one of its functions the duty to support the Executive in general and the Minister of Justice in particular - and then he makes his ruling.

I would venture to say that the notion of the Speaker taking advice from officials of the department that is charged with supporting the very minister whose position is being challenged in the House is not designed to engender any degree of confidence in other Members who are expecting a fair and impartial ruling. The ruling may ultimately be correct, but the perception that there may have been some improper influence brought to bear, or that the advice may have been coloured in favour of the minister, may linger.

In my view, it is important for the maintenance of the integrity of the office of the Speaker that the parliamentary advice to which the Speaker has access be, and be seen to be, completely independent of the executive branch. I believe that the time has come for the House of Assembly to have its own law clerk, who can assist the Clerk in his parliamentary advice-giving role and in providing the myriad of other legal services that may be required, under the direction of the Clerk, to the House of Assembly, its committees and the Commission of Internal Economy. While there is no uniformity across the country, I do note that in some jurisdictions the office of law clerk is expressly denominated as an officer of the legislative branch and as responsible for providing legal services to the legislature.¹¹

¹¹ The Office of the Legislative Counsel in Nova Scotia is under the direction of the Chief Legislative Counsel who is responsible to the Speaker of the Nova Scotia House of Assembly. The position of Legislative Counsel was created in Nova Scotia on April 5, 1941, replacing the Law Clerk. The Legislative Counsel assumed all of the duties of the Law Clerk. The position of Chief Legislative Counsel was created November 6, 1979. The legislative counsel are the lawyers for the Nova Scotia House of Assembly. They are not only legislative counsel, but also parliamentary counsel. As parliamentary counsel, they provide legal counsel to the House of Assembly, the Speaker and the Office of the Speaker. The Office of the Legislative Counsel provides legal counsel and some support services to committees of the House (primarily the Committee on Assembly Matters, the Law Amendments Committee and the Private and Local Bills Committee) and to the Legislature Internal Economy Board. The Office of the Legislative Counsel publishes the Rules and Forms of Procedure of the House of Assembly. One member of the legislative counsel also serves as the Assistant Clerk of the House of Assembly: Nova Scotia Legislature, online: < <http://www.gov.ns.ca/legislature/legc/~office.htm> > and House of Assembly Act, R.S.N.S. 1989,

Accordingly, I make the following recommendation:

- Recommendation No. 27***
- (1) The Clerk of the House should be charged, in legislation, with the responsibility of being the chief parliamentary advisor to the Speaker;***
 - (2) The provisions of the Statutes and Subordinate Legislation Act appointing the chief legislative counsel and other legislative counsel as law clerks of the House of Assembly should be repealed;***
 - (3) The Clerk should be provided with sufficient resources to be able to perform that function without relying on legal and other advice from the executive branch of government; and***
 - (4) An office of law clerk should be created within the House of Assembly to advise and assist the Clerk in the performance of his or her functions.***

Turning now to the role of the Clerk as chief permanent head of the legislative branch, it is vitally important that this side of the Clerk's duties be clearly stated and understood. The Clerk is no less than the chief administrative officer and the highest ranking financial officer of the House.¹² This description fits well with a current description of the Clerk of the House of Commons in the United Kingdom, which, as section 5 of the *Clerk of the House of Assembly Act* (referred to above) mandates, is the touchstone for determining the scope of this province's Clerk's duties:

He is Chief Executive of the House Service, chairs the Board of Management, which is responsible for providing the services that support the work of the House, its committees and members and is the principal adviser to the House of Commons Commission [analogous to this province's Commission of Internal Economy] ... He is Accounting Officer for the House of Commons Administration Estimate and the Members Estimate and

c. 1 (1992 Supp.), s. 52.

¹² The duties and roles of the Clerk as chief administrative and financial officer of the House should not be confused with those of the Chief Financial Officer of the House. The chief administrative and financial officer's usual title is that of the Clerk - the longer title is used to indicate the breadth and depth of what the Clerk's full duties should be. The Chief Financial Officer is usually referred to as the CFO, and is primarily responsible for managing the financial risks of the legislature under the supervision of the Clerk. The CFO is also responsible for budgeting and maintaining the financial records of the House, again under the Clerk, as well as for reporting on finances to the Clerk and the IEC.

so is personally responsible for the propriety and economy of expenditure. He is the House's corporate officer and so formally holds property and enters into contracts on the House's behalf, and is legally responsible for the actions of the House administration. He is also the professional head of the Clerk's Department, which is the part of the House Service most closely connected with the work of the House and its committees.¹³

While our legislature is small compared to the House of Commons in the United Kingdom, nevertheless the Clerk has to deal with all the administrative complexities that arise in any legislature. It is surprising then that the office of the Clerk of our House of Assembly would not have had a more visible profile. As the discussion in Chapters 3 and 4 demonstrates, there has been, to some extent, an unbalanced attention to the parliamentary side of the Clerk's duties in the past to the detriment of the administrative side. This has led, in my view, to a lack of appreciation of the importance of the Clerk's office as the managerial lynchpin around which the administration of the House should operate.

Given its onerous responsibilities of administration and financial management, the Clerk's office can only function properly if its place in the administrative structure of the House is affirmed and emphasized. As part of this reemphasis, it is important that the specific duties and responsibilities of the Clerk be spelled out in legislation. That will bring home not only to the Clerk but to others, both within and outside of the legislative branch, the importance of his or her role in providing direction to the whole organization. In so doing, it will also assist in reestablishing a proper "tone at the top" within the administrative structure, to complement a proper tone on the political side.

Later in this report, I will be recommending that a comprehensive piece of legislation be enacted dealing with a variety of matters requiring reform.¹⁴ Included within that draft legislation are sections specifying duties and responsibilities of the Clerk.¹⁵ I will not itemize them further here except for two matters.

These matters relate to the notions of *accounting officer* and *management certification*. In Chapter 5, I recommended that the concept of an accounting officer be introduced into the House administration and that the Clerk be designated as the person with ultimate responsibility for accounting directly to the Public Accounts Committee of the House for specific aspects of his or her management responsibilities.¹⁶ In Chapter 7, I will be discussing, and recommending, a management certification process that should be implemented within the House.¹⁷ This process will require the Clerk to certify in a formal way to the Speaker, the Commission of Internal Economy and the House that, amongst other things, a proper system of internal controls is in place that will provide reasonable assurance

¹³ Rogers and Walters, pp. 57-58.

¹⁴ See Recommendation 80. The draft legislation is contained in Schedule I of Chapter 13. (Renewal)

¹⁵ See Draft Act at ss. 28, 29, 30 and 31.

¹⁶ See Recommendation 18.

¹⁷ See Recommendation 48.

as to the reliability of financial reporting and that that system is operating effectively.

I have made both of these recommendations even though similar concepts do not, as yet, apply throughout the rest of the government service. I have done so because I believe that the time has come to recognize the appropriateness and usefulness of these two processes within government generally, and also because their existence specifically within the House will be helpful in giving assurance to the public and people within the government system that the House administration is operating according to sound management and financial standards.

These two processes will place specific responsibilities on the Clerk that do not apply to deputy ministers or other senior bureaucrats in the executive branch of government. As noted in Chapter 7, however, the process of management certification cannot be imposed on the Clerk and implemented overnight. The Clerk must therefore be given a reasonable period of time to develop a certification plan and to put in place new systems in which he can have confidence before being held to the certification requirement.

I am therefore prepared to recommend:

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| <p><i>Recommendation No. 28</i></p> <p>(1) <i>The role of the Clerk as the chief permanent head of the management and administration of the House should be affirmed and the Clerk's principal duties and responsibilities should be specified in legislation;</i>¹⁸</p> <p>(2) <i>The duties of the Clerk, as specified in the legislation, should include:</i></p> <p>(a) <i>acting as accounting officer for the House;</i></p> <p>(b) <i>being responsible for management certification in accordance with a certification plan prepared by the Clerk and approved by the House of Assembly Management Commission;</i></p> |
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¹⁸ The list of duties contained in Ss. 28, 29, and 30 of the draft legislation in Schedule I of Chapter 13 should be deemed to have been incorporated here.

- (3) *The imposition of responsibility for the management certification process should be delayed for one year to enable a proper management certification plan to be developed;***
- (4) *The Clerk should be provided with sufficient additional resources to enable him to perform the additional duties and responsibilities flowing from the recommendations in this report; and***
- (5) *The Clerk of the House of Assembly Act should be repealed.***

It goes without saying that the role of the Clerk will change in this new environment. There are increased responsibilities. Under the present regime, the Clerk's position is at times regarded as analogous to that of a deputy minister. The Clerk will now have to spend significantly more time on matters of administration than before. Yet he or she will have the responsibilities of directing, coordinating and causing to be provided to the Speaker the parliamentary advice the Speaker requires. In addition, the Clerk will have responsibilities of accounting officer and management certification which no other senior bureaucrat in the government service has. In short, the office of the Clerk will have, under the new recommended regime, significantly more responsibility and accountability than before.

I therefore make the following recommendation:

Recommendation No. 29

A review of the classification and remuneration of the office of the Clerk should be undertaken forthwith by the House of Assembly Management Commission, with the assistance of the Public Service Secretariat, to determine whether an adjustment in the remuneration of the office should be made commensurate with the office's level of responsibility and unique position in the government service.

Commission of Internal Economy

I have outlined in some detail in Chapter 4 my view that one of the contributing causes of systemic failure was the way the Commission of Internal Economy operated, and, in some cases, failed to operate,¹⁹ including a failure to place sufficient importance on fundamental notions of governance, accountability and transparency.²⁰ I also expressed

¹⁹ See Chapter 4 (Failures) under the heading "Notable Inappropriate Decisions."

²⁰ See Chapter 4 (Failures) under the heading "Lack of Commitment of Governance, Transparency and

concern about what I described as an “ever-weakening legislative framework” within which the IEC operated.²¹

I have already made recommendations in Chapter 5 with regard to some aspects of IEC operations, all with a view to improving the “tone at the top.” These recommendations²² included:

- defining of the *collective* responsibilities of the IEC for financial stewardship;
- imposing *individual* duties of diligence, good faith and prudence on IEC members;
- making detailed rules as to how the IEC should operate;
- increasing accountability and transparency through a public meeting process and a better means of publication of minutes of meetings;
- improving mechanisms to enhance informed decision-making, such as the circulation of agendas and briefing materials in advance; and
- providing orientation and training programs for IEC members, especially new members.

For the IEC to operate effectively, I believe that it must operate within an improved legislative structure.

The present structure, with a majority of members from the government side of the House, effectively allows for domination of the affairs of the IEC by the government in power. Some would say this is appropriate, since all other committees of the House also have a majority of government members on them. But the IEC is a committee like no other. It is charged with very specific management and administrative responsibilities for overseeing a bureaucracy, and has specific, decision-making powers that affect the finances of the House and that should be exercised in a relatively non-partisan manner.

I have been told by some former members of the IEC, as well as others, that the members of the IEC find it difficult to leave the partisanship, which is perfectly appropriate in other forums, out of the IEC meetings and decision-making process. In the end, with the government members voting as a block, the government can always have its way. As a result, members of the opposition have felt that the IEC sometimes is nothing more than a rubber stamp for executive financial policy, contributing to cynicism as to its effectiveness in

Accountability.”

²¹ See Chapter 4 (Failures) under the heading “Ever Weakening Legislative Framework.”

²² See Recommendations 10-17.

managing the finances of the House independently from the executive branch. This is reinforced, it has been suggested, by the fact that the Minister of Finance is often (though not required to be) a member of the IEC and is believed by some to try at times to impose his views on financial matters on the IEC's financial decisions.

The current structure of the IEC also excludes any representation from any opposition party other than the Official Opposition.²³ This in effect marginalizes the members of other parties and makes it very difficult for them to have their legitimate needs heard and addressed.

I am not satisfied that it is either necessary or appropriate to structure the IEC so that the government has a majority on it. In some jurisdictions, bodies analogous to the IEC do not have government majorities, and, in fact, sometimes have a majority of opposition members.²⁴ Having considered this issue carefully, I believe that the best approach is to restructure the IEC so that there are an equal number of government and opposition members on it, including representatives from all registered parties that have Members in the House. The Speaker, who is usually (but not necessarily) from the government party, is expected to be non-partisan in his or her rulings and should nevertheless have the right to break a tie vote, if necessary, where consensus breaks down.

I am not concerned that the inability of the government to necessarily carry the day on financial matters at the IEC will lead, as has been suggested, to IEC decisions that are fiscally irresponsible or in opposition to executive policies for overall sound provincial fiscal management. It must be remembered that, although the convention is that the IEC's budget should be placed on the floor of the House as part of the overall estimates for the province without alteration by the executive, the convention is subject to the constitutional requirement that money bills can only be introduced into the House with the consent of the executive.²⁵ In extreme cases, therefore, there would have to be negotiation between the executive and the IEC before that consent would be given. In any event, even if a budget for the IEC made it to the floor of the House in a form that the government did not approve of, the government (except possibly in a minority situation) would be able to control the vote to achieve its ends at the end of the day.

The idea of the opposition parties being able to have as much weight in the expression of their views in a management forum that should be non-partisan may well lead

²³ Ss. 5(3)(f) of the *Internal Economy Commission Act* in theory contemplates the possibility of a representative of a third party ("one member ... who sits in opposition to the government") being placed on the IEC, but since it provides that that person is to be "designated by the members of the House ... who sit in opposition to the government," it means effectively that all opposition members, regardless of party, voting as a bloc, will likely designate a member of the Official Opposition, rather than a member of a third party, especially since only one such person is to be designated in this way.

²⁴ In the United Kingdom, the House of Commons Commission, the equivalent body to the IEC, "*has never had a majority of government members*": Rogers & Walters, footnote 1, p. 60.

²⁵ *Constitution Act, 1867*, Ss. 54, 90; *Newfoundland Act*, Sch. Term 3. This is discussed in further detail in Chapter 7 (Controls) under "Legislative Controls on Spending of Public Money."

to a greater focus on principle than on political expediency. It may lead to a breaking down of voting by party and a greater ability to reach decision by consensus. It is also my hope that the fact that the meetings of the IEC will, for the most part, be public will also foster this more co-operative approach. Even where that does not happen, the equality of party membership should lead to a “creative tension”²⁶ within the IEC, as the members search for a solution that will work for all. Furthermore, the possibility of decisions emanating from the IEC that may not be the result of executive domination may also lead to a “creative tension” between the IEC and the executive in the resolution of financial matters and may enhance *proper* legislative independence.

I am also of the view that, although it is appropriate to have a Minister of the Crown on the IEC, it is not necessary to have the Minister of Finance serve in that role. While it is important that there be some overlap in membership so that the IEC can have access to information about the Executive’s approach to financial and management matters, the number of ministerial representatives need not predominate. The number of representatives of the Executive Council should therefore be fewer than at present, thereby reducing the possibility of undue executive influence.

The Public Accounts Committee should, as suggested in Chapter 5,²⁷ have a much more prominent role to play in holding not only the government, but also the IEC, to account for their stewardship of public funds. In the past, members of the PAC have also served on the IEC. In some cases, as is the situation recently, even the chair of the PAC served as a member of the IEC. There is an inherent conflict in these two roles when it comes to the examination by the PAC of allegations of improper management of the House by the IEC. I believe, therefore, that persons serving on one of these bodies should not serve at the same time on the other. Furthermore, it is important for members of the PAC, when considering matters relating to the IEC, to be alert to ensure that they do not participate in hearings of the PAC if they were serving on the IEC when the matters under consideration were decided, even though they may not be on the IEC when the hearing is being held.

I considered the advisability of recommending the appointment of one or more *lay* (i.e., non-political) persons to the IEC to represent the public interest. I agree that an argument can be made for doing so, especially in light of the less-than-forthright manner in which the IEC authorized the payment of \$2875 to MHAs in May of 2004 (and possibly in previous years as well), and the public denunciations that followed when that decision became public in February 2007. The presence of an independent member of the public on the IEC could also, it might be suggested, reduce the possibility that “backroom deals” that

²⁶ I have borrowed this phrase from Thierry Dorval, *Governance of Publicly-Listed Corporations* (Toronto: Lexis-Nexis Canada Inc., 2005) pp. 11-13. Dorval uses it in the corporate sphere to describe the desirability of maintaining a climate of “creative tension” between an independent board of directors and the management of the corporation so that the board will retain its independence and not become unduly influenced by management. He describes this as “an attitude of constructive skepticism.” While the context is quite different, the concept does, I think, have application, perhaps with a slightly different emphasis, to the present discussion.

²⁷ Recommendation 19.

go against the public interest might be made between government and opposition IEC members before the formal meeting is held.

Notwithstanding these arguments, in the end, I decided against recommending it. The IEC is a form of committee of the House, but it has special decision-making powers. In our parliamentary tradition, decisions respecting the House should be made by elected members of the House. The injection of non-elected persons into the decision-making process would fundamentally violate that principle. Furthermore, based on recent events, the primary concern about the proper operation of the IEC relates to decisions in respect of financial matters. The IEC, of course, deals with other types of matters as well. Whatever the merit may be of having lay participation in financially related decisions, I am not convinced that it would be appropriate to allow for general participation in all of IEC affairs, which a general membership on the IEC would necessarily permit.

Later in this chapter, I will be recommending the creation of an audit committee of the IEC to bring some scrutiny to the audit process and related financial issues. This committee should have on it at least two members of the public who are experienced in financial matters. This is the more appropriate area for the participation of the public. I believe that the interests of the public can be adequately represented and protected by an audit committee that functions properly in accordance with the guidelines that I will be recommending later in this chapter. Inasmuch as the audit committee is recommended to act as an advisory committee to the IEC, the presence of lay members on it does not violate the principle of the House making its own decisions in the same way as if lay representatives were on the IEC itself. It must also not be forgotten that I have recommended that the IEC conduct its meetings in public, with only some limited exceptions, and that all recommendations (including dissenting opinions by audit committee members) of the audit committee, and any IEC decisions flowing therefrom, must be made part of the public record.

Accordingly, I make the following recommendations:

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| <p><i>Recommendation No. 30</i></p> <p><i>(1) The Commission of Internal Economy (House of Assembly Management Commission) should be restructured to consist of:</i></p> <p><i>(a) the Speaker, who will vote in case of a tie;</i></p> <p><i>(b) the Government House Leader;</i></p> <p><i>(c) the Official Opposition House Leader;</i></p> |
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- (d) two members from the government party, only one of which should be a Cabinet minister;*
- (e) one member from the Official Opposition (unless there is no third party in the House, in which case there should be two members from the Official Opposition); and*
- (f) one member from a third party that is a registered political party under the Elections Act, 1991;*
- (2) The right of a third party to have a representative on the Commission should not be dependent on having any minimum number, beyond one, of elected members in the House;*
- (3) No member of the Commission should also serve concurrently as a member of the Public Accounts Committee of the House;*
- (4) A member of the Public Accounts Committee should not participate in any hearings relating to decisions of the Commission when he or she may have been a previous member at the time those decisions were made;*
- (5) A quorum of the Commission should be 50% of its members provided the Speaker or Deputy Speaker and at least one member representing a party in opposition to the government be present; and*
- (6) The Clerk of the House of Assembly should act as secretary of the Commission.*

Controls on Decision-Making by the Commission of Internal Economy

Two of the major criticisms with respect to the manner in which the IEC made its decisions in the past were that (i) the decisions were made in private and the resulting reports of those decisions were sometimes inadequate or misleading and (ii) the range of decision-making was so broad that the IEC was effectively a “law unto itself,” without any effective checks and balances with respect to all matters of MHAs’ salaries, allowances and other financial benefits.

The first of these criticisms has been addressed by previous recommendations relating to public meetings and improvements in the manner of the formal recording and reporting of the decisions emanating from those meetings.

The second criticism will be addressed here. The problem stems from the

progressive assigning, by periodic amendments to the governing legislation, of greater and greater discretion to the IEC to make what changes it saw fit to members' salaries and allowances.²⁸ It will be recalled that the regime moved from a situation in 1989 where all salaries and allowances were to be determined by an independent commission whose determinations were to be binding, to a situation, by 1999, where the IEC itself was given unfettered discretion to "make rules respecting indemnities, allowances and salaries to be paid to members."²⁹ The events that have been documented in previous chapters paint an unhealthy picture of what can happen when a body of MHAs, like the IEC, is left with unfettered discretion to make decisions relating to their own personal financial interests without there being any real prospect of having to be called to account in the ordinary course.

The restoration of public confidence in the integrity of the system of setting Members' salaries, allowances and other benefits requires, in my view, some visible restrictions on the ability of the IEC to make changes as they see fit.

Accordingly, I recommend:

- Recommendation No. 31***
- (1) The salary levels of members of the House of Assembly, and all other officers of the House, such as the Speaker and House leaders, should be specified in legislation; and***
 - (2) The legislation should specify that a Bill to adopt an amendment to the legislation to change salary levels may only be enacted where first, second and third readings on the Bill are held on separate days in the session.***

The result of this recommendation would be to take any change to salary levels out of the hands of the IEC. It would further ensure that, before any change were to be made, there would have to be a public disclosure and debate in the public chamber of the House. By stipulating that an amending Bill must be read on at least three successive days, it would prevent the practice - which has occurred in the past - of passing amendments to legislation pertaining to the IEC in a rush at the close of the day by conducting all three readings of the Bill one after the other, with the unanimous consent of the House.³⁰ There would therefore be a greater prospect that there might be some reflective debate, or at least discussion, on the

²⁸ In one of the headings in Chapter 4 (Failures), I described this process as an "ever-weakening legislative framework."

²⁹ S.N.L. 1999, c. 14, s. 3 (amending s. 14 of the *Internal Economy Commission Act*).

³⁰ Dispensing with procedural restrictions on the manner and form of doing things in the House is recognized by the Newfoundland and Labrador House of Assembly *Standing Orders* (adopted May 18, 1951, with amendments to and including March 16, 2005), Standing Order 84.

wisdom and appropriateness of changing salary levels - and an opportunity for public reaction and comment (assuming the media does its job and reports, and possibly editorializes, on the matter) - before the change takes effect.

I recognize, of course, that the notion of stipulating in advance certain restrictions on the legislature's law-making functions may be regarded as problematic, as trenching on parliamentary supremacy. I believe, however, that restricting the speed with which a Bill may pass through the House involves merely "manner and form," rather than substantive, legislation. It is recognized that a legislative body may be bound by self-imposed procedural restraints on its enactments.³¹ Accordingly, I see no impediment to placing this restriction on the amendment process in this area.

A further control on the ability to make changes in salary levels for MHAs will also come from the recommendation I will be making later in the report that no changes be undertaken unless the appropriateness of making a change is first examined and recommended by an independent commission charged with reviewing the whole compensation landscape.³²

With respect to changes to allowances, it would be impractical to stipulate that current levels be embodied in legislation and to prevent any adjustment except by legislative amendment and on recommendation of an independent commission. I acknowledge that there will be occasions, between the periodic appointment of independent commissions, when it will be necessary for the IEC, for very legitimate reasons, to revise the allowance regime affecting Members. Costs may escalate, electoral boundaries may change and travel infrastructure within and between districts may alter, to name but a few examples. The IEC must have the flexibility to ensure that MHAs are treated fairly with respect to being reimbursed for legitimate expenses incurred in performing their duties.

It does not follow from this, however, that the IEC should be given unfettered discretion in this regard. As in the case of changes to salaries, I believe there should be procedural restrictions imposed to ensure that, with publicity, there is time for reflection and potential public comment and debate before any changes are adopted. There must be a formal process for making changes in this fundamental area.

In addition to *procedural* restrictions, there is one area where the IEC should be restricted with respect to making *substantive* changes as well. That area encompasses the creation or payment of non-accountable discretionary allowances. Given recent past history, especially in relation to discretionary year-end payments, it should not be regarded as acceptable for the IEC, on its own motion, to approve non-accountable payments either on an *ad hoc* basis or as a category of allowance. The potential for abuse is too great. Furthermore, I do not believe that the concept would have any degree of acceptance by the

³¹ Peter Hogg, *Constitutional Law of Canada*, 4th ed. (Toronto: Carswell, 1997), pp. 314-31.

³² See Chapter 9 (Compensation), Recommendation 63.

public without independent examination and recommendation.

In this area, therefore, I believe that the IEC should be prohibited from creating any category of non-accountable allowances or authorizing any such type of payment unless it is recommended by an independent commission.

I therefore recommend:

- Recommendation No. 32***
- (1) The allowance regime for MHAs should be embodied in rules formally passed by the House of Assembly Management Commission as subordinate legislation;***
 - (2) No changes to the allowance regime should be capable of being made by the Commission except by the passage of an amendment to the rules;***
 - (3) No change to the rules respecting the allowance regime that would have the effect of creating a category of non-accountable discretionary allowance or authorizing such type of payment should be allowed to be made except in response to a review commission's recommendations;***
 - (4) No rule respecting changes to the allowance regime should be capable of being made and rendered legally in force unless:***
 - (a) the motion proposing it is made at a public meeting of the Commission, posted on the House's website and not voted on until at least the next meeting thereafter;***
 - (b) the rule, as passed by the Commission, is submitted to the House of Assembly and an affirmative resolution approving it is passed; and***
 - (5) All rules made by the Commission should be deemed to be subordinate legislation within the Statutes and Subordinate Legislation Act and subject to the filing and publication requirements of that statute.***

No doubt, questions will come up from time to time as to the application of rules respecting allowances in particular cases. The rules themselves may require interpretation. There ought to be mechanisms in place to ensure that clarifications can be made. In Chapter 5, I recommended one method of doing this: a means of obtaining an advance ruling by the Speaker as to whether an item of expenditure is reimbursable or claimable under the rules

respecting allowances.³³ In addition, the IEC itself ought to have the authority, either by way of appeal from a ruling of the Speaker, or on its own motion, to issue clarifications and interpretations of specific rules to clear up any confusion that may exist. In the past, many of the determinations of the IEC were made in an informal manner and were not given broad currency among MHAs. Their effectiveness in guiding behaviour was therefore hampered. Clarifying determinations by the IEC should have a formal character about them. They should be embodied in formal directives.

I recommend:

Recommendation No. 33

- (1) The House of Assembly Management Commission should have the authority to entertain appeals from rulings of the Speaker as to the application of the rules to particular cases in which advance rulings have been sought from the Speaker by an MHA;***
- (2) The Commission should have the authority, by the issuance of formal directives, to alter rulings on appeal from the Speaker, and to issue clarifications, amplifications and explanations generally with respect to the application of rules respecting MHA allowances; and***
- (3) All directives of the Commission should be carefully filed, collated, indexed and numbered and should be:***
 - (a) available for consultations by MHAs and for inspection by the public;***
 - (b) summarized and referred to in the annual report of the Commission to the House;***
 - (c) published on the House's website;***
 - (d) included in an indexed Members' manual in an orderly fashion; and***
 - (e) made available to House staff charged with administering the allowance regime.***

³³ See Recommendation 20.

It will be seen that I envisage a number of ways in which the IEC should formally exercise its decision-making power. The first, and most formal, is by making *rules* (or regulations). The second is by the issuance of formal *directives*. It is important to understand, however, that the issuance of directives should not be used as a means of circumventing the requirement that *substantive changes to the allowance regime* may only be made by making formal rules. The issuance of directives, insofar as they relate to allowances, must be limited to *clarifying, explaining or amplifying* existing provisions, not substantively changing them.

The remainder of the IEC's decision-making power should be exercised by making *orders* recording decisions on the myriad of other matters that call for determination and action. By stipulating limits on the manner in which the IEC may make a legally effective decision, it will, I hope cause the IEC to reflect, each time it is proceeding to make a decision, on whether the manner of doing so is correct. In so doing, the propriety of the type of decision-making is more likely to be assured.

I recommend:

Recommendation No. 34

The decision-making authority of the House of Assembly Management Commission should be exercised by (a) making rules, (b) issuing directives and (c) making orders; and that the circumstances under which each method of decision-making may be exercised should be set out in legislation.

Audit Committee

Within the corporate sector, the notion of an audit committee composed of independent directors, with a mandate to review financial statements before they are approved by the full board, and to perform a variety of other tasks related to financial governance, is well recognized.³⁴ In fact, publicly traded corporations are required by law to have an audit committee.³⁵ The members of the committee are expected to be “financially

³⁴ The National Commission on Fraudulent Financial Reporting (known as the Treadway Commission), a private sector initiative in the United States, sponsored by a number of leading accounting associations including the American Institute of Certified Public Accountants, recommended that all public corporations be required to set up audit committees composed entirely of independent directors, stating in its report that “primary responsibility for the company’s financial reporting lies with top management, overseen by the board of directors”. *Report of the National Commission on Fraudulent Financial Reporting*, (Washington, 1987), p. 40.

³⁵ *Canada Business Corporations Act*, R.S. 1985, c. C-44, s. 171; *Corporations Act* R.S.N.L 1990, c. C-36, s.

literate.”³⁶ In some jurisdictions, the criteria stipulate financial or accounting expertise.³⁷ The duties of audit committees have expanded over the years, especially since the events involving *Enron*, and now often include such things as recommending the choice of external auditors, overseeing internal control and risk management, and overseeing disclosure of financial information.³⁸

The notion of an audit committee is also being adopted in the public sector. In the recently enacted *Federal Accountability Act*, for example, provision is now made for the creation of audit committees within each department of the federal government.³⁹ The notion is that persons external to the department can strengthen financial management and governance issues within the department. This provision does not apply to Parliament, however. In the United Kingdom, on the other hand, the notion of an audit committee as a committee of the House of Commons’ board of management is well established. It is described this way:

[The Audit Committee] consists of two members of the [House of Commons] Commission (one as chairman) and two external members. It has general oversight of internal audit and review, with emphasis on achieving value for money; it advises the Clerk of the House in the exercise of his responsibilities as accounting officer, and on the program of internal audit; and it has the task of encouraging best financial practice, use of resources and governance in the House administration.⁴⁰

The idea of having *lay* persons serve on regulatory organizations in other areas has proved a valuable means of improving the method whereby the point of view of the public is taken into account when important governance issues are at stake. For example, the *Law Society Act* provides for the appointment of a number of persons who are not lawyers to the Benchers, the governing body of the Society.⁴¹

In my view, the time for implementing an audit committee, as a committee of the Commission of Internal Economy, with financially literate members of the public on it, has arrived. It will help with governance issues generally by providing an independent and informed point of view on financially related matters to the Commission. It will also indirectly provide a “foil” of independent thinking against which the positions of the MHAs on the IEC can be judged. In that sense, it can become a “watchdog” for financial mismanagement.

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³⁶ See e.g. Canadian Securities Administrators, *Multilateral Instrument 52-110: Audit Committees*, ss. 3.1(4).

³⁷ See e.g. *Sarbanes-Oxley Act of 2002*, Pub. L. No. 107-204, 116 Stat. 745, s. 407.

³⁸ See e.g. *Multilateral Instrument 52-110*.

³⁹ *Federal Accountability Act*, S.C. 2006, c. 9, s. 261 (adding s. 16.2 to the *Financial Administration Act*).

⁴⁰ Rogers and Walters, footnote 1, p. 61.

⁴¹ *Law Society Act*, S.N.L. 1999, c. L-9.1, s. 8.

The committee should have statutory recognition and should have its mandate carefully spelled out. It should consist of both IEC members and lay members. I see nothing wrong with equality of numbers between these two groups. Where there is fundamental disagreement on a matter, both points of view can be presented to the IEC for consideration. Recommendations should be publicly recorded.

It will be important that the lay persons chosen to serve on the audit committee have the confidence of the public that they are independent and have no government or close political connection. I suggest that they be chosen by the Chief Justice of Newfoundland and Labrador as the representative of the third branch of government, the judiciary.

I therefore recommend:

- Recommendation No. 35***
- (1) An Audit Committee of the House of Assembly Management Commission should be created by statute;***
 - (2) The committee should consist of two members of the Commission and two members who are residents of the province, but who are not MHAs, and have demonstrated knowledge and experience in financial matters;***
 - (3) The two lay members of the committee should be chosen by the Chief Justice of the province;***
 - (4) The lay members should have fixed terms that provide for rotation over time;***
 - (5) The mandate of the committee should include:***
 - (a) making recommendations to the Commission with respect to choice and terms of engagement of auditors;***
 - (b) reviewing financial statements, audit reports and recommendations and giving advice thereon to the Commission;***
 - (c) reviewing any compliance audits undertaken by the Auditor General;***
 - (d) making recommendations respecting internal audit procedures;***

- (e) reviewing with the Clerk the effectiveness of internal control;*
- (f) reviewing a code of conduct applicable to the Clerk and House staff;*
- (g) reviewing disclosure practices of the Commission; and*
- (h) advising the Clerk with respect to the exercise of his or her responsibilities as accounting officer;*
- (6) The committee should be required to meet regularly and frequently enough to discharge its duties;*
- (7) Lay members on the committee should be paid from public funds with the level and type of remuneration being determined by the House of Assembly Management Commission; and*
- (8) In the case of disagreement between the lay members of the committee and the Commission members, both points of view should be passed on to the Commission and recorded in the Commission minutes.*

I must, however, make one additional comment on the role of an audit committee. The Treadway Commission, which recommended audit committees in the private sector in the United States, admonished: “Establishment of such committees, of course, does not relieve the other directors of their responsibility with respect to the financial reporting process.”⁴² So, also, should it be for the members of the IEC.

Resources of the House

No administrative structure can operate effectively and accomplish its objectives without the necessary financial and human resources to make it work. Although I have not undertaken a full management study of the existing resources of the House administration, I am certainly satisfied that, even with the existing structure, the House has been inadequately provided with staffing resources in the past. My review of other jurisdictions indicates that, speaking generally, more administrative support staff are provided in those places than has been made available to the House in this province.

With the restructuring proposed in this report and the recommended additional

⁴² *Report of the National Commission on Fraudulent Financial Reporting*, p. 40.

procedures to be followed for transparency and controls, there is no doubt in my mind that there will have to be additional resources provided to the House to enable it to function properly in the new environment. While the spending of public money should always be a concern, I am satisfied that whatever financial resources are reasonably necessary to implement the recommendations in this report should be made available. The legislature is one of the three branches of government, the other two being the executive and the judicial system. Democratic government as we know it cannot function unless the three fundamental branches of government can operate at a minimally effective level. This is so regardless of the strains that may be put from time to time on important social services like education and health. The basic functions of government - law-making, law implementation and law-applying - must continue even in the toughest of times, or else we will not have a civil structure within which all other social activities can be carried on.

There is little point in operating an underfunded House of Assembly that does not provide the level of operating efficiency and accountability necessary to preserve and protect public funds. That would hardly be an appropriate way of inspiring public confidence that the identified problems of the past are in fact a thing of the past.

Accordingly, I recommend:

- Recommendation No. 36***
- (1) The House of Assembly Management Commission should require the Clerk to prepare revised estimates of what may be required to operate the House of Assembly at a reasonably acceptable level, taking into account the recommendations in this report;***
 - (2) The estimates so prepared should be submitted as part of the overall budget of the House pursuant to section 6 of the existing Commission of Internal Economy Act or any applicable successor legislation; and***
 - (3) If the budget process has been concluded for the current year, the Commission should seek a special warrant under the Financial Administration Act to ensure that funds are made available at the earliest opportunity.***

Relationship Between House Administration and the Statutory Offices

Since 1990, the House of Assembly head of expenditure in the estimates of the province has continually grown, with the addition, every few years, of the financing requirements of another independent office of the House. These offices, like the Citizens' Representative and the Child and Youth Advocate, are all constituted and regulated to a

certain degree by their own separate statutes.⁴³ They do have, however, a number of features in common: the holder of each office is declared to be an “officer” of the legislature, and each office must prepare and submit its budget to the Commission of Internal Economy for approval before having it placed in the estimates of the province.

Because the estimates for the statutory offices are grouped as subheads under the head of expenditure for the legislature, they are subject to the ordinary rules with respect to transfers of money between subheads throughout the year. This is the means whereby significant transfers were made from such offices as the Auditor General to other subheads within the House administration to enable extra funds to be paid on a variety of expenditures, including constituency allowances.⁴⁴

In addition, in all offices except that of the Auditor General, the hiring of employees requires the approval of the IEC. It is unclear from the *Internal Economy Commission Act* or from the constituent legislation of each office just what degree of administrative authority and control is exercisable by the financial staff of the House administration over the operations of each statutory office; and whether financial, human resource and general administrative policies promulgated by the IEC and sought to be implemented by the Clerk may be applied to the respective administrations of each statutory office.⁴⁵ Reference should again be made to the organization chart in Chapter 3, which attempts to graphically describe the existing administrative structure of the House.⁴⁶ It will be seen that “dotted lines” are used in some places to depict an uncertain relationship with the statutory offices.

The matter is compounded by the fact that, when the new position of Chief Financial Officer of the House was created in 2006, the job description included a degree of financial and administrative responsibility for the statutory offices. Indeed, I understand that there is an ongoing, day-to-day relationship between the CFO and staff in most of these offices. The oddity, however, is that it is generally regarded that the Clerk, who is the superior official to whom the CFO reports, does not have any financial or administrative relationship with, or authority over, the statutory offices. Certainly, there is nothing in any legislation that suggests that such a relationship or authority is contemplated.

This creates a very unsatisfactory situation. It should be clarified. Although reform of the statutory offices in themselves is outside the mandate of my Commission, I do regard

⁴³ *Auditor General Act*, S.N.L. 1991, c. 22 as amended; *Child and Youth Advocate Act*, S.N.L. 2001, c. C-12.01 as amended; *Citizens’ Representative Act*, S.N.L. 2001, c. C-14.1 as amended; *Elections Act, 1991*, S.N.L. 1992, c. E-3.1 as amended; *Conflict of Interest Act, 1995*, S.N.L. 1995, c. C-30.1 as amended; *Access to Information and Protection of Privacy Act*, S.N.L. 2002, c. A-1.1 as amended; *House of Assembly Act*, R.S.N.L. 1990, c. H-10 as amended.

⁴⁴ See, in particular, the discussion of the undocumented extra payment apparently made to MHAs in 2003 in Chapter 4 (Failures) under the heading “Notable Inappropriate Decisions.”

⁴⁵ The one clear exception, at least with respect to personnel policies, is that of the Auditor General. The *Auditor General Act*, ss. 23(2) provides that “the personnel management policies of the Treasury Board as they relate to the public service of the province apply to” that office.

⁴⁶ Chart 3.1 in Chapter 3 (Background).

the role and function of the office of the Clerk to be very much a part of my mandate. To the extent to which the functioning of the Clerk is affected by his relationship, or lack of relationship, with the statutory offices, I believe it is appropriate to comment on it.

Earlier in this chapter, I advocated a broad managerial and administrative role for the Clerk as being necessary to achieve the degree of financial control and accountability necessary to make the House operate effectively. In addition, I recommended in Chapter 5 that the Clerk fulfill the role of accounting officer with respect to, amongst other things, measures taken to implement appropriate financial management policies and to maintain effective systems of internal control. As well, I noted that the Clerk should also have responsibility for a “management certification” role to certify to the IEC that appropriate systems of internal control are in place and operating effectively. Insofar as the financial affairs of the statutory offices remain under the legislative head of expenditure in the estimates, the Clerk will of necessity have to be involved, to some degree, in the financial and administrative side of those offices, in order to be able to do his job effectively and with proper accountability.

In my view, there is nothing in the notion of “independence” of these offices, especially in light of the control that the IEC presently exerts in budgetary and hiring matters, that necessarily requires the complete autonomy of the offices in respect of financial matters. Indeed, it should not be forgotten that, in recent years, the Auditor General had expressed concerns about the financial management practices in two of those offices. I believe, therefore that it is appropriate for the Clerk to have, just as the CFO presently appears to have, a broader and clear role with respect to financial and administrative policies applicable to those offices. If at a later date, it was decided as a matter of government policy to set up completely independent administrative structures for some or all of the offices, then the matter could be revisited at that time. Until then, with the IEC and the CFO already having an involvement on the financial and administrative side, the Clerk should likewise have authority, as chief permanent officer of the House administration. While he should be the manager of House operations, his authority should stop at matters of general administrative policy with respect to the statutory offices.

Accordingly, I recommend:

Recommendation No. 37

- (1) The Clerk should be designated in legislation to be the chief administrative and financial officer responsible to the Speaker and, through the Speaker, to the House of Assembly Management Commission for the management of the operations of the House and***

the general administration of the statutory offices, including, in relation to the statutory offices:

- (a) providing administrative, financial and other support services;*
 - (b) establishing of general administrative policies;*
 - (c) commenting to the Commission on the budget submissions of the statutory offices;*
 - (d) reporting to the Commission regarding the financial and budgetary performance of the statutory offices;*
 - (e) reporting to the Commission and the audit committee on the status of audits;*
 - (f) assessing and maintaining the effectiveness of internal controls in the statutory offices; and*
 - (g) accounting to the Public Accounts Committee for their administration;*
- (2) The office of the Auditor General should be exempted from the foregoing until such time as new legislation being considered for the revamping of that office is implemented;*
- (3) The Commission should continue with its current practice of approving appointments to the staff of the statutory offices except for the office of the Auditor General; and*
- (4) The Public Service Commission Act, except for section 11 with respect to appointments, should apply to the staff of the House and the statutory offices except where varied by directive of the Commission.*

It is important that the new administrative structure of the House, including the statutory offices, be carefully documented and depicted in appropriate organization charts. As well, the structure within the House administration relating to House operations proper should be described and identified.

I recommend:

Recommendation No. 38

- (1) The Clerk should prepare and distribute appropriate organization charts depicting the organization of the House administration and its relationship with the statutory offices;***
- (2) The Clerk should prepare and distribute appropriate administrative and financial policies outlining the degree of administrative supervision the office of the Clerk intends to apply to the statutory offices and how that supervision is to be effected; and***
- (3) The administration of the House operations, other than the statutory offices, should be designated the “House of Assembly Service” and consist of the following divisions:***
 - (a) the office of the Speaker;***
 - (b) the office of the Clerk;***
 - (c) Financial and Administrative Services;***
 - (d) the Legislative Library;***
 - (e) the office of Hansard; and***
 - (f) the Broadcast Centre.***