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# *The Audit Committee of the Newfoundland and Labrador House of Assembly*

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by Elizabeth Marshall, MHA

*Every jurisdiction in Canada has a board of internal economy of some type or management committee. They are responsible for financial accountability and ensuring that dollars are spent appropriately on the operation of the legislature. This article describes the situation in Newfoundland and Labrador which introduced a number of changes following the report of a Commission of Inquiry on the subject of accountability.*



The House of Assembly of Newfoundland and Labrador has taken a rather unique approach to scrutinizing the expenditures of the Assembly and its members and it is important to give a bit of background about why we now have an Audit Committee.

In February 2000 I was Auditor General and was carrying out a regular audit at the House of Assembly. Very early on I identified what I termed to be questionable expenditures primarily made by one member of the House of Assembly who also happened to be a minister. The inappropriate expenditures involved the purchase of artwork and wine in large quantities.

This issue was raised with the Speaker as to why exactly taxpayers' money was being spent on items such as artwork and wine. Much to my amazement, the entire internal economy commission, instead of dealing with the issue and addressing it, questioned the role of the Auditor General to be conducting an audit. It effectively removed the Auditor General from auditing those accounts. The members of the House of Assembly also started to question the role of the Comptroller General. When requests were made

to the Comptroller General to issue cheques, why should the House of Assembly supply substantiating documentation for those expenditures?

Basically, the Internal Economy Commission and the House of Assembly seemed to shut down the audit activity within the House of Assembly. They introduced Bill 25, An Act to Amend the Internal Economy Commission Act. It received minimal debate, no discussion, and received unanimous approval of all the members of the House of Assembly.

Now, ordinarily, when an auditor is kicked out of an organization in the middle of an audit, alarm bells should ring and tell you there is something going on within this organization. But, unfortunately, that did not happen. Bill 25 did several things, and it was really carried out in, what I considered at the time, a backhanded way. The Auditor General could no longer audit the House of Assembly unless he or she was invited to do so by the House.

The House also decided that for cheques that were going to be issued for members, no supporting documentation would be provided. Rather, the Comptroller General would be told how much the cheque should be made out for, and the Comptroller General would write the cheque, no questions asked. At that same time it was decided that the Comptroller General would no longer have access to the House of Assembly for internal audit purposes.

I retired as Auditor General and for a couple of years, there was no audit oversight within the House of Assembly by either the Auditor General or

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the Comptroller General. For all I knew, there were private-sector auditors in there.

In any event, a couple of years down the road in 2003, a new government was elected, and as part of its platform, it said that a proper system of control would be put in place for the auditing of expenditures of the House of Assembly. When that government was elected in October 2003, it was only a matter of months before the Auditor General was invited back into the House of Assembly.

I was elected to the House in 2003 and I was on the Internal Economy Commission which was overseeing the administrative and financial oversight of the House of Assembly. As part of that process, expenditures of the House of Assembly were being provided to both the Auditor General and the Comptroller General again.

It seemed from an audit perspective everything had been resolved, until June 2006 when the Auditor General dropped a bombshell on members of the House. He released five very controversial and damning reports. The first three reports were on three sitting MHAs. The fourth report was on one former MHA. There was a fifth report covered four major suppliers who had conducted business with the House of Assembly and had provided items such as pins, rings and magnets, and the Auditor General was questioning whether the House of Assembly had actually received those items.

For the three sitting MHAs and the one former MHA, the question revolved around how those members spent their constituency allowances, which were the monies provided to run their constituency offices and also whether the members had, in fact, exceeded the amounts allocated to them. Most members received an allocation of about \$18,000. Some who lived far away from the capital city, received up to about \$80,000 per member per year. But some of the four members had, in fact, spent hundreds of thousands of dollars running their constituency offices.

### **The Establishment of an Inquiry**

Once we received those five reports, the media went into a frenzy, and the taxpayers of Newfoundland and Labrador were not very impressed with their MHAs. The MHAs sitting in the House at that time really felt the stress. We were receiving calls from our constituents. The media were phoning looking for information. In response to this intense reaction, the Premier stepped in and appointed a Justice of the Supreme Court, Justice Derek Green, to conduct a review of constituency

allowances. He also asked Justice Green to look at the salary levels of MHAs and the pension benefits.

Justice Green started his review, but, unfortunately, before he got into it very far, the Auditor General was back on the scene with four supplementary reports. He provided further negative comments on the three sitting MHAs and also identified a fourth sitting MHA. So we were all now very concerned wondering what was coming next. The interesting thing about the MHAs that were identified and questioned is that it was not isolated to one political party. There are three parties in Newfoundland and Labrador legislature. We have the Progressive Conservatives, the Liberals, and the NDP. There was at least one MHA from each party named by the Auditor General.

There were an additional two reports issued by the Auditor General on two more sitting MHAs. We were all beginning to wonder then, are we all going to be incriminated, in some way, by the Auditor General?

In his 13th report in January 2007, the Auditor General talked about the absence of proper financial controls within the House of Assembly. We thought, at that time, the 13th report would be a lucky number, and that would be the end of the audit reports.

In May 2007, Justice Green released his report. It was quite a lengthy document. It included about 280 recommendations aimed at reforming the House of Assembly. Also included in his report was a new *House of Assembly Accountability, Integrity and Administration Act*. Attached to that piece of legislation, he also proposed new Members' Resources and Allowances Rules, which stated what members were entitled to spend and what they could spend it on.

The House of Assembly was sitting at the time and I think we set a new record for bringing new legislation into the House of Assembly. *The House of Assembly Accountability, Integrity, and Administration Act* was passed with very little amendment. I think that, at the time, if there was any indication that we were going to meddle or change what Justice Green had recommended, there probably would have been a very negative reaction within Newfoundland and Labrador.

In September 2007, the Auditor General released a report on all MHAs who had sat in the House since 1989. He wrote about how they had spent their constituency allowance and released his report the day before a provincial election was called. We all thought, at the time, it would have an impact on the outcome of the election, but it did not appear to. All of the Government members were re-elected. It seemed that

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even though the general public were very unhappy with what had occurred in the House of Assembly, they were satisfied that something was being done and they were willing to at least give the members a second chance.

### **Management Commission and Audit Committee**

Let me now talk about the Audit Committee and how it functions. We no longer have what we call the Internal Economy Commission. The new legislation introduced a new body which was called the House of Assembly Management Commission. Section 18 of the new legislation established the commission.

The format of the commission is quite interesting in that there are seven members. The Speaker of the House chairs the commission with six other members – three from the Government side and three from the Opposition side. As you can imagine, because there is no group with dominant control, the discussions are quite interesting on the Management Commission and some of the activity of the commission has become quite controversial.

The legislation introduced in June 2007 was quite lengthy. There are a couple of sections that relate almost entirely to the Audit Committee, Section 23 and Section 43. It is important to recognize that the entire Act is relevant to the Audit Committee, and that, as a member of the Audit Committee, we have to be familiar with the legislation and make sure that we are complying with all aspects of it.

Section 23 starts out by simply saying there is to be a committee of the commission known as the Audit Committee. It should be acknowledged that the Audit Committee does not have any authority in its own right, that it is a committee of the House of Assembly Management Commission. It reports to the Management Commission, but having said that, it does fulfill a very important function.

The composition is also very interesting. Justice Green, in writing his report, did an excellent job. You can tell by reading his report that probably there was a lack of trust with regard to the House of Assembly being able to manage its own affairs, and the composition of the Audit Committee is very unusual in that Justice Green, in the legislation, indicates that two members of the commission of the Audit Committee shall come from the commission and he wanted at least one not to be on the government side.

So there is an opposition member on the Audit Committee. There is also a government member on the Audit Committee. But the legislation also requires

that there be two persons from outside the House of Assembly. This is to provide layperson oversight as to what is going on within the House of Assembly. Justice Green did invite all the members of the House of Assembly to discuss with him various aspects of the work that he was doing. I indicated to him that I would have a problem if the management of the House of Assembly, the Management Commission, was turned over to people other than the members of the House of Assembly.

So the Management Commission includes only members of the House of Assembly. But he obviously disagreed with me when he looked at the composition of the Audit Committee because we do have two members from outside the House of Assembly, and those two members are chosen by the Chief Justice of the province. He is a former Premier of Newfoundland and Labrador.

I want to give you an idea as to the calibre of people that we have serving on the committee. We have Mr. Donald Warr, who is a Chartered Accountant and was a partner with a national accounting firm. He is now a partner in his own firm. Ms. Janet Gardiner is a very well-known businesswoman in Newfoundland and Labrador. Both Mr. Warr and Ms. Gardiner are well respected within the business community. Mr. Kelvin Parsons, who is the Opposition House Leader and a former Minister, is also serving on the Audit Committee. He is a lawyer by profession. I also serve on the committee and I was selected as chair of the committee in 2008. I am a chartered accountant by profession.

The legislation goes on for pages and pages as to what the responsibilities of the Audit Committee are, so I am just going to touch very briefly on a few areas. We are required to review the audit plans of the Auditor General and the legislation does not just say review the audit plans. It is very precise and it gets into detail as to how we are to review those audit plans and exactly what we are to look at.

We are also required to review the financial statements, the Auditor's Report and the recommendations of the Auditor and advise the commission with regard to those matters.

Section 23 of the Act also requires us to review all internal audit reports and make recommendations to the commission. We also have to review, with the clerk of the House, the effectiveness of internal controls and other financial matters within the House of Assembly. We are also required to meet at least four times a year.

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Those are just some examples of what we are required to do.

The other section of the Act that deals almost exclusively with the Audit Committee is section 43, and it discusses the accounts of the House of Assembly. It states that the accounts of the House of Assembly and its statutory offices—that would include the Child and Youth Advocate, the Chief Electoral Office, etc., have to be audited annually. Before this legislation came into effect, the audit of the House of Assembly was conducted as part of the audit of the financial statements of the province and, as a result, did not get the same going-over that Justice Green felt that they should have gotten. So there is now a requirement that the audit of the House of Assembly, be performed as a separate entity, and that requires much more detailed audit work.

Justice Green did not just criticize the members of the House of Assembly. He also had some criticism for the Auditor General and indicated exactly what an audit by the Auditor General should include. So, when you look at section 43 of the legislation, it says that the audit has to consist of a financial statement audit, there has to be an expression of opinion on those financial statements, and on the expenses. There also has to be an expression of opinion as to whether the Clerk's assessment of internal controls is fairly stated. While the Clerk might think that the controls are adequate within the House of Assembly, the Auditor General has to go in and do a review and indicate whether he agrees or disagrees with the Clerk.

The legislation also requires that a compliance audit be carried out by the Auditor General every General Assembly. For those of you who are familiar with a value-for-money audit, it is probably the closest thing you can get, without calling it a value-for-money audit. The Auditor General has not indicated yet when he will be carrying out his next compliance audit. I am most anxious for that audit to be undertaken because we are functioning under new legislation and new rules, and I want to find out how we are doing. He has yet to inform us, but a compliance audit will be a real test for the members of the House of Assembly.

The members of the Audit Committee have been looking at a number of things to make sure that we are covering off everything that we think needs to be done to meet Justice Green's recommendations.

We have gone back and we have looked at the legislation, not just sections 23 and 43 but all sections. We have looked at the members' resources and allowance rules, and the last thing we have done is

review the best practices of Audit Committees and trying to make sure that we have covered our bases.

I want to briefly review four items to give you an idea as to what we have been doing.

We have been reviewing audit plans of both the Auditor General and the Internal Audit Division, to make sure that the scope of the audit is appropriate. There is also a requirement or a suggestion that management should respond to audit reports within 60 days, so we have been having discussions with officials of the House of Assembly to make sure that we meet that requirement.

Secondly, we are reviewing the audit plans of the Auditor General—the financial statements, audit report, the management letter. We are also required to establish procedures for the receipt and treatment of complaints regarding accounting and internal controls.

In the area of members' resources and allowance rules, which is the third area, we have to be conscious of ensuring that we are complying with the rules, including the rules relating to claimable expenses by members, and we also have to ensure that the financial reports are being produced and provided not only to the members but also to the House of Assembly Management Commission.

The last area is best practices. We have been working on an Audit Committee action plan. We are looking at a professional development program for members. We have also conducted an assessment of the internal audit function.

As chair of the Audit committee, I am conscious that there is a risk that, if something does go wrong, people will be looking to the Audit Committee. Two other areas concern me a little bit—one is that, as chair of the Audit Committee, there will be times when I am going to be disagreeing with other members of the House of Assembly and members of my caucus. I expect that that will not make me very popular at times.

The last issue, of course, is that it is intrusive. When you have an Audit Committee, you spend a lot of time with the staff of the House of Assembly, and, as our Speaker is probably aware, I spend quite a lot of time meeting with staff members of the House of Assembly obtaining information and documents, discussing issues with them. So there is a downside, but, I think that the benefits of the Audit Committee will far outweigh any negatives.