



41<sup>st</sup> Parliament, Second Session

The Standing Committee on Procedure and House Affairs has the honour to present its

### **THIRD REPORT**

Your Committee, which has received an Order of Reference from the House of Commons on October 21, 2013, is pleased to report as follows:

#### **Order of Reference**

On October 21, 2013, the House of Commons instructed the Committee to conduct an open and public study with the view to replace the Board of Internal Economy with an independent oversight body; the self-stated purpose of that Order of Reference is “to bring full transparency and accountability to House of Commons spending.” The Order of Reference instructs the Committee to invite the Auditor General of Canada, the Clerk and the Chief Financial Officer of the House of Commons to participate fully in the study. It also mandates the Committee to study the administrative oversight practices of other Westminster-style jurisdictions, including that of the Canadian provinces and territories. The Order of Reference also enjoins the Committee to examine the subject-matter of four motions for which the Member for Papineau gave notice in the previous Session on June 10, 2013. The Order of Reference makes special provisions for the participation of Independent Members in the study. Your Committee is instructed to propose appropriate changes to any Act of Parliament, as well as any administrative policies and practices of the House of Commons. Finally, your Committee must report its findings no later than December 2, 2013.

The Order of Reference reproduces an Order of Reference adopted by the House on June 18, 2013 that died on the Order Paper with the September 13, 2013 prorogation.

#### **Participation of “Independent Members”**

The Order of Reference makes special provisions, as noted above, for the participation of Members of the House of Commons who are not members of a recognized party (“Independent Members”). It indeed provides that “one Member who is not a member of a recognized party be allowed to participate in the hearings as a temporary, non-voting member of th[e] Committee” when it is conducting the study.

Independent Members, as any other Member of Parliament, may *attend* the meeting of a committee they are not a member of, but the *participation* of a *temporary non-voting member* was

unprecedented. The Committee therefore had to address the extent of the participation of Independent Members before undertaking the study. After consultation with the nine Independent Members, the Committee decided that:

- More than one Independent Member would be able to attend meetings, but only one would be allowed to speak and participate in the proceedings of a meeting;
- One designated Member (the “active” Member) per meeting would have the right to speak and ask questions to witnesses;
- The “active” Member would be the first questioner of the third round of questioning and four minutes would be allocated to that Member;
- The Committee would accept to have a schedule submitted to the Clerk of the Committee to ensure a rotation between Independent Members to determine who would be the “active” Member;
- The “active” Member would not alternate between Independent Members during the same meeting;
- Independent Members would be allowed to submit proposed witnesses;
- The “active” Member would be allowed to attend *in camera* meetings related to the study;
- Independent Members would be allowed to attend the meeting where the report is drafted, but only the “active” Member would be able to “participate”;
- Independent Members would not be able to move motions;
- Documentation intended for the Committee would be distributed to all Independent Members (briefing notes, briefs, correspondence, etc.).

The Committee would like to commend Independent Members for their collaboration among themselves and with the Committee during the study. Their participation did not raise any issue during the study, and they collectively and individually made a valuable contribution to the study.

## **The Board of Internal Economy**

### ***History***

An administrative body responsible for making decisions concerning the internal economy of the Canadian House of Commons was first established by statute in 1868. During the first session of the first Parliament, among the first bills Parliament assented to was *An Act respecting the internal economy of the House of Commons, and for other purposes*.<sup>1</sup> This Act delegated the financial management of the House to a body of Members, known as Commissioners, consisting of the Speaker of the House and four members of the Privy Council (i.e. Cabinet ministers). The Commissioners oversaw the disbursement of funding for the indemnities and allowances of Members, and the salaries, allowances, services and contingent expenses of the House and its staff.

In 1886, Parliament integrated the earlier 1868 Act into *An Act Respecting the House of Commons*, as a section on internal economy. In 1906, the House adopted two procedural rules related to the management of its internal economy – a sessional reporting requirement (which is currently contained within Standing Order 148(1)) and an amendment was made to a rule in order to

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<sup>1</sup> *An Act respecting the internal economy of the House of Commons, and for other purposes*, 31 Vict., c. 27.

recognize the role played by the Commissioners in approving vacant positions filled by the Speaker.<sup>2</sup>

Changes to the organizational arrangement of the management of the House's internal economy, during the ensuing 70 years, were occasionally contemplated but not enacted. In 1964-65, the Special Committee on Procedure and Organization undertook a study of the functioning of the House and recommended in its *Sixth Report*<sup>3</sup> a reorganization of the internal management of House administration. The House did not adopt this report. In the mid-1970s, the Standing Committee on Privileges and Elections studied the appropriateness of only allowing Cabinet ministers to be eligible to be Commissioners of internal economy. In its *Twelfth Report*,<sup>4</sup> tabled in 1976, the Committee recommended that the term "Privy Council" be made more precise. This report was not adopted by the House.

Changes to the functioning of the internal management of the House occurred in 1979. That year, at the request of the House, the Auditor General of Canada undertook a comprehensive audit of the administrative systems and organization of the House. The audit found, among other things, "significant deficiencies in administrative organizational arrangements, in financial management and control, and in personnel administration in the House of Commons."<sup>5</sup> The results of the audit prompted a reform of certain internal administrative practices of the House, such as the documentation and distribution, to managers in the House's administration, of policies of the Commissioners of Internal Economy and other personnel management practices and procedures.

In 1985, the Special Committee on the Reform of the House of Commons (often referred to as the "McGrath Committee" after its chairperson, Mr. James McGrath) studied, among other matters, the administration and management of the House. In its *Third Report*,<sup>6</sup> tabled in the House in June 1985, the Committee asserted that Members should be more involved in the management of the House. It noted that a trend which existed toward burdening the Speaker with administrative matters needed to be reversed; that Members must both run the House and feel as though they were running it. The Committee tabled three reports, none of which were adopted, but all of which received government responses.

Later in 1985, the *Parliament of Canada Act*<sup>7</sup> consolidated the *Senate and House Commons Act*,<sup>8</sup> the *House of Commons Act*,<sup>9</sup> and the *Library of Parliament Act*<sup>10</sup> into one statute. Following recommendations made by the McGrath Committee, the consolidated statute included changes relating to the administration of the House. These included replacing the Commissioners of Internal Economy with the Board of Internal Economy, and establishing a membership for the Board which

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<sup>2</sup> House of Commons, *Annotated Standing Orders of the House of Commons*, 2<sup>nd</sup> ed., 2005, p. 456.

<sup>3</sup> House of Commons, *Journals*, 20 May 1964, p. 331-337.

<sup>4</sup> House of Commons, *Journals*, 13 July 1976, p. 1425.

<sup>5</sup> Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons for the Fiscal Year Ended March 31, 1980*, p. 123.

<sup>6</sup> House of Commons, Special Committee on the Reform of the House of Commons, *Third Report*, 1<sup>st</sup> Session, 33<sup>rd</sup> Parliament, p. 49.

<sup>7</sup> *Parliament of Canada Act*, R.S.C., 1985, c. P-1.

<sup>8</sup> *Senate and House of Commons Act*, R.S.C. 1970, c. S-8.

<sup>9</sup> *House of Commons Act*, R.S.C. 1970, c. H-9.

<sup>10</sup> *Library of Parliament Act*, R.S.C. 1970, c. L-7.

included a mix of cabinet ministers, members of the government caucus, members of the opposition, the Speaker and the Deputy Speaker.

In 1986, the *Parliamentary Employment and Staff Relations Act*<sup>11</sup> was enacted, making the Board the employer of the staff of the House of Commons (Note: this did not include Members' staff, who are deemed to be employed by the Members).

A special committee of the House, chaired by then-Deputy Speaker Mr. Marcel Danis (the "Danis Committee"), was struck in 1989 to review the provisions of the *Parliament of Canada Act*. The Special Committee on the Review of the *Parliament of Canada Act* made several recommendations for amendments to the act concerning the internal management of the House. These included, among others, an assertion that the Board remained the foremost arbiter of financial and administrative matters related to the House; a clarification of the jurisdiction of the Board; the ability of the Board to make legally binding by-laws; the right of a second party in opposition to have a representative on the Board; the designation of the Clerk of the House as Secretary to the Board; and the provision for an alternate chairperson in the event of the absence of the Speaker.

Following up on certain of the recommendations made by the Danis Committee, the *Parliament of Canada Act* was amended in 1991. Bill C-79, An Act to amend the Parliament of Canada Act, established the central role of the Board in governing parliamentarians' use of funds, goods, services and premises provided to them by Parliament in order to carry out their parliamentary functions. The Act also designated the Clerk of the House to act as the Secretary of the Board.

The *Parliament of Canada Act* was again amended in 1997. Bill C-13, An Act to amend the Parliament of Canada Act, confirmed that the Deputy Speaker was no longer automatically a member of the Board, while also modifying the composition of the Board to accommodate, in its membership, a larger number of recognized parties, while maintaining an overall parity between government and opposition members. These marked the final changes of note to the manner in which the Board functions and its powers.

### ***Current Board of Internal Economy***

The *Annotated Standing Orders of the House of Commons* describes the powers possessed by the 1868 Commissioners of Internal Economy as being essentially the same as the 2013 Board of Internal Economy.<sup>12</sup>

As mentioned above, the current composition, powers and functions of the Board are defined in the *Parliament of Canada Act*, along with the Standing Orders of the House of Commons, and the *Parliamentary Employment and Staff Relations Act*.

The membership of the Board is prescribed by section 50(2) of the *Parliament of Canada Act*. The Board is chaired by the Speaker and its membership includes two ministers of the Crown, and the leader of the official opposition (or his or her representative). In the case where there is only

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<sup>11</sup> *Parliamentary Employment and Staff Relations Act*, R.S.C., 1985, c. 33 (2nd Supp.).

<sup>12</sup> *Annotated Standing Orders of the House of Commons*, p. 456.

one recognized party in opposition, that party may appoint two additional members to the Board, and the government one additional member. If there are two or more recognized parties in the House, each may appoint one member to the Board, and the government may appoint to the Board an additional number of members to create overall parity with the number of opposition members.

It is the Board's duty to act on all financial and administrative matters respecting the House, its premises, its services, the staff, and all Members. In this role, the Board examines and approves the annual estimates of the House (Main Estimates and Supplementary Estimates); acts as the employer of the staff of the House; and governs the security of the House of Commons Precinct. The Board also approves and controls the budget expenditures of committees and official International and Inter-parliamentary activities of the House.

In carrying out its functions, the Board is empowered to enter into contracts, memoranda of understanding or any other arrangement, and do so in the name of the Board or the House of Commons. In carrying out its powers and functions, the Board has the capacity of a natural person.

Section 52.5 of the *Parliament of Canada Act* designates the Board as responsible for making legally binding by-laws for the House. The Speaker must table by-laws within 30 days of their creation by the Board, including any amendments made to the by-laws. These by-laws pertain to the use, and the terms and conditions, of the funds provided to Members for goods, services and premises made available to them in order to carry out their parliamentary functions. They also prescribe the use of funds allocated to committees; the general governance and administration of the House; and the rules of practice and procedure of the Board in respect of the call and conduct of its own meetings.

The Board further possesses the exclusive right to determine and give its opinion on whether the utilization of funds, goods, services or premises provided to current or former Members was proper.

The Board holds its meetings *in camera* at intervals of approximately once every two weeks when the House is sitting. Transcripts, written or otherwise, are not made available to the public. The Minutes of the Board's meetings have, since the 35<sup>th</sup> Parliament (January 1994), been tabled in the House, which makes the documents public. Since the 41<sup>st</sup> Parliament (June 2011), the Minutes of the Board's meetings have been posted on the parliamentary website. Parliamentary privilege grants Parliament exclusive jurisdiction over its own proceedings; these are therefore not subject to the *Access to Information Act*.<sup>13</sup>

In recent years, the Board has increased the amount of information and detail concerning its own activities, as it has increased the depth and breadth of disclosure of expenses claimed by Members in the discharge of their parliamentary functions. Currently available to the public on Parliament's website is:

- general information about the Board, its membership, its role and Minutes of its meetings;
- the current by-laws as created by the Board;

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<sup>13</sup> *Access to Information Act*, R.S.C., 1985, c. A-1.

- Members' expenditure reports – these reports include details on an Member's employees' salaries and services contracts, travel, hospitality and events, advertising, printing, and offices. In an October 2013 announcement, the Board set out measures to be implemented on April 1, 2014 to enhance disclosure of Members' expenditures to further improve public reporting;
- the financial statements for the House – these are reports produced at the end of each fiscal year containing the results of an audit of the House's Financial Statements conducted by an independent accounting firm hired for this purpose by the House; and
- reports from the administration of the House – these include a “strategic outlook” report which outlines objectives and major initiatives for the forthcoming year for the House and its administration, along with a report which provides to the public an update of general parliamentary activities of the House and its Members.

In a broader organizational context, the Board occupies a preeminent position in the governance structure of the administration of the House. The Board's decisions regarding the administration of the House are overseen by the Speaker through the Clerk and are carried out by the heads of the six services of the House administration (Parliamentary Precinct Services, Office of the Law Clerk and Parliamentary Counsel, Procedural Services, Information Services, Finance Services and Human Resource Services). The heads of these six service areas comprise the Clerk's Management Group. Among its tasks, the Clerk's Management Group makes recommendations to the Speaker and the Board regarding the administration of the House.

## **Evidence**

The Order of Reference called upon your Committee to conduct an ambitious study while imposing on it a strict timeline to accomplish this mandate. The Committee held five meetings on November 5, 7, 19, 20 and 21, 2013 during which it heard not only from the witnesses referred to in the Order of Reference, but also from two former Speakers of the House of Commons and chairs of the Board of Internal Economy, one former Law Clerk and Parliamentary Counsel of the House of Commons, the Information Commissioner, the Privacy Commissioner, and other parties as well. The following summarizes the main points of these testimonies.

On November 5, 2013, the Committee began its study with the appearance of the Clerk of the House of Commons, Ms. Audrey O'Brien, who is also secretary to the Board of Internal Economy. She was accompanied by the Chief Financial Officer of the House of Commons, Mr. Mark G. Watters. They both re-appeared before the Committee on November 21, 2013.

Ms. O'Brien and Mr. Watters provided the Committee with a briefing on the history, and current structure, role and mandate of the Board of Internal Economy. They also submitted a briefing package on those issues.

Ms. O'Brien referred to the information relating to the Board which is available publicly, and the steps taken by the Board recently to make more information in relation to the Board and Members' expenditures available publicly. She referred to the practice in place since the 34<sup>th</sup> Parliament whereby the Minutes of meetings are tabled in the House of Commons, and to the Board's decision of June 3, 2013 whereby all Minutes of meetings of the 41<sup>st</sup> Parliament and of future meetings are

posted on the Internet. Ms. O'Brien also noted the new practice adopted by the Board to accelerate the approval of Minutes of past meetings which results in them being made available to the public in a more timely manner.

Another series of recent initiatives taken by the Board and underlined by Ms. O'Brien relate to the Members' Expenditures Report. The Report is made available online since 2001-2002, and the level of information in the report has constantly increased since then. For example, in 2001-2002, Members' expenses out of the Members' Office Budget were reported only through three categories of expenses: Staff and other expenses, Travel, and Office lease. In 2009, the Board decided to give more details with respect to the Members' expenditures which were, starting with the *Members' Expenditures Report 2009-2010*, grouped into six distinct categories (Employees' salaries and service contracts, Travel, Hospitality and events, Advertising, Printing, and Offices) that themselves include subcategories. The *Members' Expenditures Report 2012-2013* includes further details with respect to the type of travels (and the type of travellers: Members, designated travellers or dependents), and Members' expenses relating to accommodation, per diem, and secondary residence. Ms. O'Brien informed the Committee of a further initiative agreed upon by the Board in October 2013 that will again enhance disclosure of Members' expenditures by providing additional details; the Members' Expenditures Report will also be published on a quarterly basis from thereon. These changes will take effect on April 1, 2014.<sup>14</sup> She also announced that the *Members' Allowances and Service Manual* and the public registry of designated travellers will soon be made available online.

Ms. O'Brien also warned the Committee against what she called "a false kind of parallel"<sup>15</sup> between the Proactive Disclosure of Travel and Hospitality Expenses for Ministers and other selected government officials and disclosure of Members' expenditures. She indicated that the government's proactive disclosure practices are disclosed on a per-trip basis. Expenses are reported for each trip of a Minister or government official. Ms. O'Brien stated that the same notion would not necessarily be applicable to Members as they are constantly travelling between their riding where they live and Ottawa. She suggested that the current traveller status, and compensation for Members who are travelling, is appropriate and suited to their situations.

As mentioned above, Mr. Watters, Chief Financial Officer of the House of Commons, appeared before the Committee with Ms. O'Brien. Mr. Watters shared with the Committee his analysis of the system in place in other jurisdictions. He indicated that in Canada, all the legislative assemblies have a system similar to that of the House of Commons, except for Manitoba, Nova Scotia, and Newfoundland-and-Labrador. He underlined that the House of Commons operates in a different environment than the assemblies of these three jurisdictions: they are smaller, they have less annual sitting days, and their jurisdiction covers only a province as opposed to the House of Commons whose Members represent the country. Mr. Watters also reviewed briefly the UK House of Commons' experience with the establishment of the Independent Parliamentary Standards Authority (IPSA) in 2009 and the challenges that arose during the implementation of IPSA.

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<sup>14</sup> House of Commons, Board of Internal Economy, Statement – *Improved Reporting of Members' Expenditures*, Ottawa, October 23, 2013.

<sup>15</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, November 5, 2013.

Mr. Watters briefed the Committee on the payment verification process in place in the Finances Service at the House of Commons. In an average fiscal year, 70,000 claims and payments are made; of these, 4,300 are altered before payment and what Mr. Watters called “regret letters” are sent to Members. Eleven matters were raised and dealt with by the Speaker, and only seven requests for exemption were made to the Board. Mr. Watters underlined the high standard of ethics of his 21-person team, and indicated that a high number of them are governed by a professional code of ethics. Mr. Watters’ testimony assured the Committee of the robustness of the House of Commons Finance Services. He nonetheless noted that improvements could be made, and that the existing structure could be supplemented with external advisors who could provide an additional perspective on this issue.

Ms. O’Brien and Mr. Watters took a strong stand against the replacement of the Board of Internal Economy, maintaining that it is “a viable governing authority for the House of Commons.”<sup>16</sup> They acknowledged that the Board was not perfect and that there is and will always remain areas where improvement could be made. They referred to the recent changes mentioned above with respect to transparency and disclosure to assert that the Board was responsive to changing needs; and that they would welcome any recommendation from the Committee. Ms. O’Brien and Mr. Watters reappeared before the Committee at the end of its study. They reiterated the substance of their previous appearance and clarified some aspects of their earlier testimony; they also brought their perspective on proposals made by other witnesses.

On November 7, 2013, Mr. Rob Walsh, former Law Clerk and Parliamentary Counsel of the House of Commons, and Mr. Gregory Thomas, Federal Director of the Canadian Taxpayers Federation, appeared before the Committee.

Mr. Walsh began his testimony with two considerations. Firstly, the House of Commons is where democracy plays itself out between elections; partisan politics is an inherent feature of the Canadian system and must be accommodated in any administrative restructuring. Secondly, echoing the parliamentary privilege of the House to govern its internal affairs without outside interference, he stated that administrative independence is essential to the constitutional function of the House of Commons.

Mr. Walsh formulated six recommendations. Firstly, he suggested that the name of the Board of Internal Economy be changed to reflect its function in contemporary language. While he presented this change as an obvious one, he did not suggest an alternative name. Secondly, he proposed that the composition of the Board be changed so that it no longer reflects the composition of the House; he proposed that each recognized party be represented equally on the Board. Later in his testimony, he proposed that the Board could include three non-voting “lay members;” these “public representatives” could be appointed by the Speaker provided they had had experience in an elected office. Thirdly, Mr. Walsh further suggested that Board members be appointed by the caucus of each party, and that ministers (except the whips) be ineligible for appointment. This would ensure that the Board acts independently of the government. Fourthly, he suggested that the Board meet in public, and that a subcommittee on financial matters and a subcommittee on administrative matters be established. These subcommittees would meet *in camera*, but report publicly to the Board.

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<sup>16</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, November 5, 2013.

Fifthly, Mr. Walsh recommended that the Minutes of the Board be tabled no later than the first sitting day immediately following the next Board meeting. Finally, he proposed that the Auditor General of Canada audit all expenses of Members of Parliament and of each caucus at the end of each Parliament with the view to recover any funds inappropriately spent.

Mr. Thomas' testimony generally and succinctly referred the reforms proposed in 2006 by the *Federal Accountability Act*<sup>17</sup> which provides, in his opinion, a "strong template for future reform"<sup>18</sup> He called upon the House "to continue to embrace the spirit of those reforms and bring some of those reforms home into the House of Commons."<sup>19</sup> Mr. Thomas specifically recommended the implementation of a proactive disclosure system, similar to that of the Government of Alberta and the City of Toronto, where all expenses and related receipts of elected officials are made available online for public scrutiny; he suggested to "let [...] constituents be the auditors."

On 19 November 2013, the Auditor General of Canada, Mr. Michael Ferguson, and Mr. Clyde MacLellan, Assistant Auditor General, appeared before the Committee. The Auditor General had previously provided a discussion paper to the Committee before his appearance.<sup>20</sup> The Auditor General stated that, in his opinion, three principles contribute to the fulfilment of Members' responsibilities: transparency, accountability, and good governance. He stated that transparency is the foundation of accountability, and that accountability could be furthered through detailed disclosure of Members' expenses, clear policies and processes. Good governance could be strengthened by having an independent body to either advise the Board of Internal Economy or be delegated responsibility to oversee Members' expenses and allowances. He referred to the June 2012 audit report of the House of Commons that had already recommended the establishment of such a body.<sup>21</sup> Mr. Ferguson expressed his preference for a body that possessed "some sort of authority."<sup>22</sup> The Auditor General underlined whether the body was authoritative or advisory, the importance is the independence and non-partisan membership of that body. The Auditor General also suggested that comprehensive financial, compliance, and performance audits, of the House of Commons be conducted. He suggested that the Committee may consider an amendment to the *Auditor General Act*<sup>23</sup> to allow his Office to conduct such audits at his discretion. These audits would strengthen Members' accountability and enhance public confidence. Such an amendment to the Auditor General's enabling legislation would change the current unique relationship between both Houses of Parliament and the Auditor General whereby audits are conducted on an invitation basis. It would also align the *Auditor General Act* with its provincial equivalents. The Auditor General informed the Committee that there would be opportunity costs to this mandate if the resources of his Office were not adjusted.

On November 19, 2013, the Committee also heard from Mr. John Sills, Director of Policy and Communications, Independent Parliamentary Standards Authority (IPSA) via videoconference with

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<sup>17</sup> *Federal Accountability Act*, S.C. 2006, c. 9.

<sup>18</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, November 7, 2013.

<sup>19</sup> *Ibid.*

<sup>20</sup> Auditor General of Canada, *Strengthening Accountability, Transparency, and Governance – Discussion Paper for the House of Commons Standing Committee on Procedure and House Affairs*, November 2013, Ottawa.

<sup>21</sup> Auditor General of Canada, *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons – Administration of the House of Commons of Canada*, June 2012.

<sup>22</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, November 19, 2013.

<sup>23</sup> *Auditor General Act*, R.S.C., 1985, c. A-17.

London, United Kingdom. Mr. Sills provided the Committee with both a general overview of the operation, mandate and structure of IPSA, along with details concerning its procedures and practices. Mr. Sills indicated that IPSA was created by statute in 2009; this statute was refined by amendments passed in 2010. IPSA's creation was in response to an expense scandal involving UK parliamentarians in 2008. The seriousness of this scandal, in his view, deeply shook the public's confidence in Parliament and warranted the creation of an independent body to oversee and regulate members' costs and expenses. In the very short timeframe of approximately eight months, IPSA became a fully functioning organization. It operates independently of Parliament, and is run by a board of five members, selected following an open competition and parliamentary approval, for terms of three years. IPSA fulfills the following roles (formerly performed in-house by the UK House of Commons): it regulates the system of costs and expenses; sets members' pay and pensions; and administers and pays members' salaries, business costs, staff salaries and expenses. The legislation also provided for the role of a Compliance Office, independent of IPSA, to investigate complaints by members or the public in respect of members' expense claims. IPSA's board, generally, meets once per month. Its meetings are not open to the public but Minutes of meetings are posted on IPSA's website. Prior to preparing rules and regulations which affect members, IPSA consults widely with the public, stakeholders and Members. IPSA is audited on an annual basis by the National Audit Office, and received parliamentary scrutiny by the House Public Accounts Committee. IPSA is also subject to the UK's *Freedom of Information Act*.

In respect of members' expense information that is made public by being posted online, Mr. Sills indicated that practically all information is posted, the only exceptions being expenses related to matters involving security or personal disability. He noted, however, that due to costs and potential divulgation of personal information, Members' receipts are not posted by IPSA. Mr. Sills stated that every two months, IPSA publishes the details of over 30,000 claims made by members. On a yearly basis, IPSA dispensed approximately £160 million of funding. As an organization, its costs were approximately £6 million. Mr. Sills noted that IPSA's costs were slightly below those of the House's financial services for performing the same functions, but stated that meaningful comparisons between the organizations were difficult to make, as the financial services provided by the House formed part of a larger organization. Mr. Sills commented that, overall, the establishment of IPSA was a learning process for both members and for IPSA. He noted that some hostility existed at first towards IPSA, but these had, for the most part, subsided as members and their staff grew accustomed to the rules and the IT system.

On November 20, 2013, the Hon. Peter Milliken, former Speaker of the House of Commons (2001-2011) and the Hon. John Allen Fraser, former Speaker of the House (1986-1994), appeared before the Committee.

Mr. Milliken indicated that the Board of Internal Economy, as the governing body for the financial administration of the House, was presently serving the House, and the Canadian public, in a competent and capable manner. To the best of his recollection, Mr. Milliken stated that the Board had, during his tenure as its chair, worked on a consensus basis. He indicated surprise at a discussion to replace the Board as it had long functioned well and its operations and regulations had not lent themselves to abuses. Mr. Milliken emphasized that one of the Board's strengths was that its meetings were held *in camera*. He noted that private meetings acted as a check against counterproductive partisan exchanges. In his view, it was most sensible for the Board to hold *in*

*camera* discussions given the sensitive nature of the issues being discussed by the Board. He added that it was important that the Board's decisions (the Minutes of Meetings) were not secret, nor were the rules which govern its decision-making processes (the by-laws). Mr. Milliken clarified that remuneration of members and their pensions and benefits were not set by the Board.

Mr. Fraser began his appearance by raising a number of considerations for the Committee to examine should it desire to replace the Board with an alternate governing body. These included needing to determine its structure, mandate, membership, and the role of the Speaker in respect of his or her administrative duties. He also indicated that should an alternative governing body count members of the public among its membership, these individuals could potentially lack the sense of duty to the public interest possessed by members. Mr. Fraser indicated that, to the best of his recollection, there were no major problems with the operation of the Board, nor were there any serious differences of opinion among its membership over a given issue, during his tenure as chair. He noted that, in his experience where instances of disagreements occurred, members modified their opinions in order to reach agreeable decisions and that it was the role of the chair to facilitate consensus-building. Mr. Fraser further stated the Board often dealt with matters that needed to be discussed *in camera*. He indicated that should the rules be changed to provide for public meetings of the Board, the Board would still need to go *in camera* to discuss certain issues and would, therefore, still be the target of the same criticisms as it is targeted with at present. Mr. Fraser advised the Committee that, prior to changing the status quo, it should be confident the alternative would produce better outcomes. Further, the Committee needed to identify exactly what is the cause driving the need for change. He did concede that the present operation of the Board did leave room for improvement, especially in what concerns the public's perception of the misuse of public money. Mr. Fraser also indicated that he had no objection to finding a way to accommodate representation of Independent members on the Board or during a particular meeting.

Mr. Nick Taylor-Vaisey, Vice-President, Canadian Association of Journalists (CAJ), also appeared before the Committee on November 20, 2013. Mr. Taylor-Vaisey indicated that the primary interest held by the CAJ, in respect of this study, was to advocate for greater general openness and transparency in the operations of the House's governing body. He acknowledged that certain sensitive matters were better served by discussions held *in camera* by the Board, and by parliamentary committees generally. Mr. Taylor-Vaisey stated that it was nonetheless the view of the CAJ that openness of the Board ought to be the rule, not the exception. He indicated that the CAJ agreed with those recommendations brought forward by Mr. Walsh which provided for greater public access to meetings of the Board. Greater and more specific disclosure and detail, in the view of the CAJ, would assist journalists, and therefore the public, to better understand how public money is spent. Better access to greater information concerning members' expenditures would provide journalists with a clearer picture of a politician's judgment and would also help boost public confidence that abuses and misuses were not occurring with systematic frequency. Mr. Taylor-Vaisey indicated that the CAJ did not have any specific recommendations to make relating to the particular composition of a re-structured Board.

The Information Commissioner, Ms. Suzanne Legault, appeared on November 21, 2013. Ms. Legault stated that greater transparency, accountability and effective oversight could only be achieved by submitting the parliamentary institutions: both Houses of Parliament, the Library of Parliament, the Senate Ethics Officer and the Conflict of Interest and Ethics Commissioner, to the

access to information regime established by the *Access to Information Act*, provided that the necessary exemptions and exceptions are made for parliamentary privilege and personal information, for example. Ms. Legault stated that timely proactive disclosure is necessary, but not sufficient in and of itself. She reiterated that Parliament must be brought under the *Access to Information Act* regime, and that the population had the right to know how public funds appropriated to Parliament are spent.

The Privacy Commissioner, Ms. Jennifer Stoddart, did not appear before the Committee, but provided a written brief. Her submission stated at the outset that transparency and accountability are effective means to promote open government, but that they must also be balanced with privacy and confidentiality. Before publishing all details of Members' expenditures, she encouraged the Committee to consider the necessity, effectiveness, and proportionality of such a measure. She proposed a series of questions to examine the potential privacy risk: Is the measure necessary to achieve the objective or are there possible alternatives? Will it achieve the objective? Does the benefit expected outweigh the privacy implications? She suggested that, in some circumstances, possible alternatives to publishing all details of Members' expenditures "may be to limit the scope of disclosure to aggregate numbers, disclosing certain categories of information [...] or to withhold (or anonymize) the names of individuals with whom Members interact, or disclose the names of their organization or affiliations instead."<sup>24</sup>

Finally, your Committee received briefing materials from the Library of Parliament with respect to the administrative oversight practices of other Westminster-style jurisdictions, including that of the Canadian provinces and territories.

The Committee appreciates greatly the contribution made by all these witnesses.

## **Discussion**

Numerous recommendations were formulated by witnesses; some of them were discussed in depth during the hearings while others were not. After having carefully considered the proposals made by witnesses and the terms of the Order of Reference, the Committee is pleased to make the following recommendations.

In accordance with the October 21, 2013, Order of Reference, the Committee canvassed the administrative bodies and oversight regimes in place in other Westminster-style jurisdictions to ascertain the best practices that these jurisdictions employed. Common elements, in terms of mandate, structure and functions, were perceived among these administrative bodies. Each jurisdiction had a scheme in place to determine the legislature's administrative guidelines, oversee and act on financial and administrative matters, and set the goods and services to be provided to staff of the legislature and to members in the execution of their parliamentary functions. A noted difference between the structures of the administrative bodies and oversight regimes canvassed by the Committee was in the degree of independence the authoritative body had, from the legislature. Generally, independence meant that not all of its members would be sitting members of the legislature. It could either entail the establishment of an entirely independent, authoritative

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<sup>24</sup> Privacy Commissioner of Canada, *Submission to the Committee*, November 19, 2013.

administrative and oversight body, or an advisory body, composed of non-sitting members, which would, in turn, advise an administrative body of sitting members.

The Committee found the jurisdictions which best served the needs of its members, staff and the public to have possessed the following features: a fair and efficient functioning based on consensual decision-making; the existence of adequate safeguards to ensure public money was properly spent; the provision to the public of adequate and accurate information concerning expenditures made by the legislature and its members; and clarity as to the decisions made by the administrative body, along with sufficient information concerning the manner in which such decisions had been made.

During its study, the Committee sought the expertise of witnesses to provide information on any element concerning the Board that could or ought to be put in place in order to improve it, or replace it. The Committee noted a common thread in witness testimony concerning any or all modifications that could or ought to be made to the Board: assess and identify what problems or issues, if any, exist with the current functioning of the Board and put in place solutions which are adequate and proportionate to resolve these problems or issues.

The Committee canvassed a wide number of jurisdictions, and heard from a variety of expert witnesses. The Committee recognizes that positive improvements can and must continue to be made to the Board in order to meet public expectations, in terms of transparency and oversight. The Committee nonetheless agrees with the non-partisan Clerk and remains satisfied that the present structure and mandate of the Board is the most appropriate model for the functions it performs. The Board characteristics, in terms of consensual decision-making and rigorous financial processes appear to match, if not exceed, those of its counterparts in other jurisdictions. The Finance Services of the House of Commons process Members' claims in a thorough and independent manner, as the number of "regret letters" sent to Members per year indicates. More importantly, the Committee has failed to identify, in the Board and its functioning, the large issues that prompted the establishment of a separate independent body that other jurisdictions felt circumstances made necessary.

### **Proactive Disclosure**

The Committee has noted that the level of detail of information disclosed in the Members' Expenditures Report has continuously increased in recent years. The Board of Internal Economy has, in October 2013, announced that effective April 1, 2014, the Members' Expenditures Report would be prepared on a quarterly basis, and provide more details respecting expenses. The Committee supports such initiatives and encourages the Board to take any further steps that would increase public disclosure, while remaining mindful of privacy implications and administrative constraints. The Committee supports the Board of Internal Economy considering putting into place proactive disclosure for Members in the same fashion as Ministers are currently doing for travel and hospitality.

Therefore, the Committee recommends:

**That the Board of Internal Economy further consider how it could enhance the Members' Expenditures Report by providing additional information.**

### **Auditor General Act**

At present, the House of Commons, and the Senate, have a unique relationship with the Auditor General in that he or she must be invited to conduct audits of either House's administrative activities while other institutions are subject to audits by the Auditor General at his or her own discretion. While the financial statements of the House of Commons are audited every year by an independent firm, it has also been suggested that the *Auditor General Act* be amended so that audits be conducted more often and at the discretion of the Auditor General.

The Committee does not believe that the mandate of the Auditor General with respect to the House of Commons should be modified. While the current "invitation" system has worked well, and has resulted in the House of Commons being periodically audited, the Committee believes these "invitations" should nonetheless become more frequent. These audits would supplement the regular audit and verification process already in place. The Committee is also of the opinion that the Board of Internal Economy should work with the Auditor General to undertake mandatory performance audits of the House of Commons Administration every three years and develop guidelines under which the Auditor General will be invited to perform more detailed audits of House of Commons' spending. These guidelines should be made public.

The Committee therefore recommends:

**That the Auditor be invited by the Board of Internal Economy to conduct audits with greater frequency; and**

**That the Board of Internal Economy, in consultation with the Auditor General, develop publicly-available guidelines with respect to audits of House of Commons' spending.**

### **Structure of the Board of Internal Economy**

The Board of Internal Economy is chaired by the Speaker, and the rest of its membership is evenly divided between government and opposition members; all recognized parties are also guaranteed representation on the Board. Mr. Rob Walsh, former Law Clerk and Parliamentary Counsel of the House of Commons, proposed that all recognized parties be represented equally on the Board, that its membership should not include Ministers, and should be appointed by their respective caucus.

The Committee does not believe that the membership of the Board should be changed. The current composition with the Speaker as the neutral arbiter between equal numbers of government and opposition members serves the interests of the House of Commons well. It ensures that all recognized parties are represented and that neither the government nor the opposition, regardless of the strength in the House, can use its majority to impose their will on other members. This balanced representation between the government and the opposition is, to your Committee, essential for creating an environment where decisions are made by consensus. The Committee is of the opinion

that it would not be appropriate to limit the government caucus to the same representation as that of all other recognized parties and to exclude ministers from the membership of the Board. The government is an essential component of our parliamentary institutions – its exclusion would potentially put the Board at odds with the House. The Board must, and does, represent the relative strength of each recognized party. It appropriately balances the interests of the government and the opposition. For these reasons, the Committee does not see fit to recommend any changes to the composition of the Board of Internal Economy.

### **Meetings of the Board**

The meetings of the Board of Internal Economy are conducted *in camera*, and its Minutes of meetings are prepared and made publicly available on-line. There have been recommendations made with respect to these two subjects.

Suggestions were made to have the Board of Internal Economy meet in public, and pros and cons were discussed. Public meetings may improve the public perception of the Board, and demonstrate that the Board strives for more transparency and openness. The Committee, however, does not see fit to recommend to the Board, as a general rule, that its meetings be held in public. By the very nature of its responsibilities as the corporate body and “board of directors” of the House of Commons, the Board ought to meet *in camera* more often than not *in camera*. This is reflected in the oath or affirmation of secrecy that all Board members have to make to “not communicate or allow to be communicated to any person without due authority in that behalf any information relating to matters of employment and staff relations, tenders, security and investigations in relation to a member of the House of Commons.”<sup>25</sup> Mr. Peter Milliken, former Speaker of the House of Commons, and the Clerk of the House, Ms. Audrey O’Brien, also warned against having the Board meet in public. Ms. O’Brien stated that, while such an initiative would improve the public perception of the Board, it may not be in an overall sense beneficial as it could force members into rigid partisan positions incompatible with successful consensus-building. As a result, she worries that the actual discussion would take place underground in corridor discussions. Former Speaker Milliken unequivocally stated that *in camera* meetings contributed to a non-partisan environment conducive to consensual decision making:

The strengths were that, because the meetings were *in camera*, you had almost no partisan fights [...]. Members didn't bother drawing on partisan differences. They said, “We have to fix problems that arise here between parties or with members and the board, in terms of compliance with the rules that the board issued”.

The Committee agrees, and for these reasons, it does not see fit to make recommendations in that regard.

An important issue which would need to be addressed should the Board meet more often in public is the protection afforded by the parliamentary privilege to its members. This question has been raised with Mr. Walsh during his appearance. He stated that parliamentary privilege would protect Members if the matter discussed relates to the privilege of the House to manage its internal affairs, but would not otherwise. In answering the same question, Ms. O’Brien stated that the issue was not

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<sup>25</sup> *Parliament of Canada Act*, form 3.

settled, and that as the Board was not a parliamentary committee that some of its proceedings, those that do not relate to the deliberations of the House or its committees, would not be covered by parliamentary privilege. As the Committee does not recommend a change of practice with respect to the meetings of the Board, it is not necessary to solve the matter definitively at this time. However, had the Committee decided otherwise, it would have been disinclined to make such a recommendation without assurances that the members and the proceedings of the Board would be protected by parliamentary privilege.

Minutes of the Board were formerly tabled annually in the House of Commons; they are now made available on-line after approval by the Board. Mr. Walsh suggested that the Minutes of the Board be tabled no later than the first sitting day immediately following the next Board meeting. The new practice of the Board whereby Minutes are approved at the following meeting and then made available publicly is in line with the proposal formulated by Mr. Walsh, although it does not unnecessarily adhere to a strict timeline and leaves flexibility for Minutes to be tabled at a later date if, for example, the tabling must coincide or happen after a precise event such as the tabling of the Public Accounts of Canada.

The Committee recommends that:

**The Board of Internal Economy continue its practice to make available publicly and in a timely manner the Minutes of its Meetings.**

### **Access to Information Act**

Both Houses of Parliament, and the other parliamentary institutions, are not subject to the *Access to Information Act*. Both the Information Commissioner and Mr. Gregory Thomas, from the Canadian Taxpayers Federation, proposed that the Act be amended to include the parliamentary institutions as “government institutions.” They both linked access to information to proactive disclosure. The Commissioner declared that proactive disclosure was not in and of itself sufficient, that there must be access to information to achieve full transparency and accountability. Mr. Thomas saw access to information as the necessary complement to proactive disclosure.

The Committee does not believe that it is appropriate at this time to recommend that Parliament be subject to the Access to Information Act. The study conducted by your Committee focussed on the Board of Internal Economy and Members’ expenses. It would not be appropriate to make a recommendation that would have a considerable impact on other parliamentary institutions and involve issues that were not covered by the terms of reference of your Committee, and consequently, not examined in depth. The Committee would like to note that its *Forty-Second Report*<sup>26</sup> of the previous session already proposed further means of access to parliamentary information. While the Report died on the Order Paper before it could be readopted, this issue is to be reconsidered by the Committee. The Committee also believes that the level of proactive disclosure already available is sufficient for the transparency and accountability of the House and its Members.

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<sup>26</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Forty-Second Report*, 1<sup>st</sup> Session, 41<sup>st</sup> Parliament, presented on March 7, 2013.

## **Conclusion**

The Committee has carefully considered the Order of Reference from the House of Commons. It believes that its recommendations would strengthen the House's commitment towards more transparency and openness. As the representative House of the people, we are accountable to the Canadian public and must continuously earn their trust. The House ought to continue to strive to meet new contemporary expectations.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos.4, 5, 6, 7, 8, 9, and 10](#)) is tabled.

Respectfully submitted,

JOE PRESTON  
Chair

## DISSENTING OPINION – NEW DEMOCRATIC PARTY OF CANADA

December 2, 2013

The New Democratic Party members of the Standing Committee on Procedure and House of Affairs respectfully submit this dissenting opinion:

The NDP motion that was adopted unanimously by all parties in the House on June 18, 2013 and reaffirmed on October 21, 2013 instructed the Procedure and House Affairs Committee (PROC) to conduct hearings with a view to replace the secretive Board of Internal Economy (BOIE). The NDP motion intended that the Committee consider all appropriate steps that could be taken to establish an independent body charged with administering the financial matters of the House, especially in regard to members' expenditures. The NDP does not agree with the Committee's conclusion that the status quo is adequate.

**"THE NDP DOES NOT AGREE WITH THE COMMITTEE'S CONCLUSION THAT THE STATUS QUO IS ADEQUATE"**

The NDP is disappointed that the Committee report does not reflect the full nature of the discussion in relation to the order of reference:

*"In order to bring full transparency and accountability to House of Commons spending, the Standing Committee on Procedure and House Affairs be instructed to: (i) conduct open and public hearings with a view to replace the Board of Internal Economy with an independent oversight body"*

### Independent Oversight Body

**"UNDER THE CURRENT SYSTEM, FULL PUBLIC CONFIDENCE IN THE BOARD'S DECISIONS CANNOT BE ACHIEVED"**

The NDP considers the current structure of the Board of Internal Economy for carrying out the financial matters of the House, specifically in regard to Member of Parliament (MP) expenses, to be flawed. Under the current system, full public confidence in the Board's decisions cannot be achieved.

In a written submission to the Committee, the Auditor General of Canada, Mr. Michael Ferguson, stated that "In my view, creating oversight mechanisms that are independent of Parliament should be considered to improve governance of parliamentary expenses and enhance public trust in the parliamentary system. International experience once again provides examples to support this approach".

The NDP stands firmly with the Auditor General in believing that an independent oversight body to replace the BOIE's role as regards MP expenses is a needed part of the efforts to bring transparency to MP expense reporting. Canadians will have greater confidence in the

**"AN INDEPENDENT OVERSIGHT BODY WOULD BE ACCOUNTABLE TO THE CANADIAN PUBLIC WHEREAS THE BOIE IS ACCOUNTABLE ONLY TO MEMBERS OF PARLIAMENT"**

accuracy of expense rules and approvals if the responsible body is independent of MPs, rather than being like the BOIE where MPs are required to police themselves. An independent oversight body would be accountable to the Canadian public whereas the BOIE is accountable only to Members of Parliament.

The NDP believes that the determination, process and oversight of Members' expenditures should be entrusted to an independent body similar in principle to that of the Independent Parliamentary Standards Authority (IPSA) currently in place in the UK Parliament. The Auditor General stated that IPSA is an international experience that provides an example of independent oversight. Offering such a model better reflects the mandate of the motion which tasked the Committee to conduct public hearings with a view to replace the BOIE.

The NDP does not believe that there first needs to be explosive MP expense scandals (like we are seeing with Senators in the Senate) before implementing proactive improvements in the Canadian House of Commons.

As the Auditor General affirmed, the key consideration is for the public to have confidence in the reporting system. The NDP strongly agrees with the AG's concluding statement: "I therefore believe that the changes the committee will decide to make, while respecting the many unique aspects of the institutions, need to be significant enough that a reasonable person with a healthy degree of skepticism would be satisfied that the rules are being consistently applied and sufficiently monitored." As such, like the AG, the NDP believes that an independent body would better serve the interest of Canadians in terms of transparency and accountability.

***"I THEREFORE BELIEVE THAT THE CHANGES THE COMMITTEE WILL DECIDE TO MAKE, WHILE RESPECTING THE MANY UNIQUE ASPECTS OF THE INSTITUTIONS, NEED TO BE SIGNIFICANT ENOUGH THAT A REASONABLE PERSON WITH A HEALTHY DEGREE OF SKEPTICISM WOULD BE SATISFIED THAT THE RULES ARE BEING CONSISTENTLY APPLIED AND SUFFICIENTLY MONITORED." – AUDITOR GENERAL OF CANADA***

### **Auditor General Act**

***"THE NDP AGREES WITH THE AUDITOR GENERAL THAT HIS OFFICE SHOULD BE GIVEN A CLEAR LEGISLATIVE MANDATE TO AUDIT THE SPENDING OF THE HOUSE OF COMMONS, INCLUDING MP EXPENSES"***

When calling for independent oversight of MP expenses, the Auditor General suggested that his office would welcome the mandate to conduct audits into member's expenditures. He stated in his written submission: "I would welcome a clear statutory mandate as the auditor of the House of Commons".

The NDP agrees with the Auditor General that his office should be given a clear legislative mandate to audit the spending of the House of Commons, including MP expenses.

The Auditor General Act should be amended to authorize the Auditor General of Canada to conduct audits of the House of Commons, including MP expenses.

The NDP believes that the Committee’s recommendation to keep the Auditor General audits as “invitation only” is clearly inadequate. The time, scope and frequency of those audits should be left to the discretion of the Auditor General.

The Auditor General stated that “taking on this type of a mandate, if we did it within existing resources would have an opportunity cost”. Because we have seen significant cutbacks in support to the Auditor General’s office from the current government, it is important to underline that this new mandate for the Auditor General would have to be accompanied with additional resources so that the capacity of the AG to conduct independent comprehensive audits of MPs’ expenses would not affect the AG’s current work in other areas that are equally important.

### **Access to Information Act and Proactive Disclosure**

The NDP does not agree with the Committee that “the level of proactive disclosure already available is sufficient for the transparency and accountability of the House of Commons”.

The NDP agrees with the Information Commissioner that the House of Commons’ administration should be subject to the Access to Information Act. The detailed recommendations on applying the Act to Parliament contained in the 2002 Access to Information Review Task Force and the 1986 report by the Standing Committee on Justice and Solicitor General should be followed.

***“THE NDP AGREES WITH THE INFORMATION COMMISSIONER THAT THE HOUSE OF COMMONS’ ADMINISTRATION SHOULD BE SUBJECT TO THE ACCESS TO INFORMATION ACT”***

The NDP strongly believes that subjecting Parliament to the Act must be combined with a complete streamlined full disclosure of MP expenses with independent oversight. The independent oversight body should also be subject to the Access to Information Act. This would enhance the public trust in their elected representatives.

MPs cannot continue both to police themselves and choose to disclose only expenses partially and without adequate documentation. Canadians have a right to know how their public money is being spent. An oversight body should be responsible for ensuring that all Members of Parliament regardless of party affiliation follow the same exacting rules and guidelines for expense reporting.

As the Auditor General and the Information Commissioner affirmed, any such independent oversight body or mechanism must be accompanied with more appropriate resources.

### **Structure of the Board of Internal Economy**

By handing over the oversight of MP expenses to an independent body, the BOIE would continue to function beyond that role with its other House administrative responsibilities. The NDP does not

agree that the current composition of the Board is optimal for decision making and would welcome a review of its composition to ensure better representation of Members of Parliament.

The NDP will continue the fight to end self-policing. Until we can achieve that goal – in the context that the Conservatives continue to impose the status quo where the BOIE will continue to manage MP expenses, which we strongly disagree with – the NDP agrees with and endorses the following from the committee report:

***Proactive Disclosure***

*The Committee has noted that the level of detail of information disclosed in the Members' Expenditures Report has continuously increased in recent years. The Board of Internal Economy has, in October 2013, announced that effective April 1, 2014, the Members' Expenditures Report would be prepared on a quarterly basis, and provide more details respecting expenses. The Committee supports such initiatives and encourages the Board to take any further steps that would increase public disclosure, while remaining mindful of privacy implications and administrative constraints. The Committee supports the Board of Internal Economy considering putting into place proactive disclosure for Members in the same fashion as Ministers are currently doing for travel and hospitality.*

*Therefore, the Committee recommends:*

*That the Board of Internal Economy further consider how it could enhance the Members' Expenditures Report by providing additional information.*

**Conclusion**

For years now, the NDP has been trying to fix the problems in Ottawa that contribute most to Canadians' growing mistrust of Parliament and its two Chambers.

***“THE NDP FIRMLY REJECTS THE STATUS QUO OF SELF-POLICING AND WILL KEEP FIGHTING FOR GREATER TRANSPARENCY AND ACCOUNTABILITY”***

In response to the NDP motion calling for independent oversight of MP expenses, the House of Commons asked the Committee to put forward proposals to end self-policing of MPs by MPs. Independent oversight of House of Commons spending, including MP expenses, would finally lead to effective public scrutiny of House of

Commons spending. The only way to maintain the public's trust and to ensure real accountability is to end the secrecy and to ensure that all MP's expenses are thoroughly governed and verified by an independent body.

The NDP firmly rejects the status quo of self-policing and will keep fighting for greater transparency and accountability.

## **Supplementary Opinion of the Liberal Party of Canada**

Canadians have been clear that they expect transparency, accountability, and good governance when it comes to how taxpayer dollars are being spent. This is why the Liberal Party, in moving towards a more accountable and transparent reporting model, has been proactively disclosing travel and hospitality expenses of Members of Parliament, Senators and staff since September. Both the Conservative and New Democratic Party have yet to commit to any changes in expense reporting. Our party believes that by enhancing the Members' Expenditure Reports, mandating proactive disclosure of travel and hospitality expenses for all Members of Parliament, engaging with the Auditor General, implementing an independent commissioner, and making meetings of the of the Board of Internal Economy open to the public, we will facilitate even more accountability and transparency.

### **Increasing Access to Expense Reports**

We believe the current model used to report Member's expenses can be enhanced with the addition of travel and hospitality reporting in line with the guidelines used by the government for proactive disclosure of ministerial expenses, a system that was established by a Liberal government in 2003. We recommend that a similar model be made available on the Parliament of Canada website on a quarterly basis. Gregory Thomas, the federal director for the Canadian Taxpayers Association, testified before the committee and supported such measures as changes to include proactive disclosure using the ministerial model are both positive and necessary.<sup>1</sup>

Furthermore, pursuant to the *By-Laws of the Board of Internal Economy*, Member's expenditure reports are only tabled and therefore posted online on an annual basis. To ensure that Canadians have more timely access to these reports, the Liberal Party recommends that the *By-Laws of the Board of Internal Economy* be amended to allow for *Individual Member's Expenditures* report to be tabled on a quarterly basis. This information should then be posted online in a format more accessible to the public.

### **Engaging with the Auditor General**

It is important to the Liberal Party and Canadians that the House Administration functions in an efficient and cost-effective manner. Therefore, we recommend that the Board of Internal Economy work with the Auditor General to undertake mandatory performance audits of the House of Commons administration every three years, and develop guidelines under which the Auditor General will be invited to perform more detailed audits of Parliamentary spending, and that these guidelines be made public.

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<sup>1</sup> Mr. Gregory Thomas, Federal Director, Canadian Taxpayer Federation, Committee Evidence, Meeting No. 5, November 7, 2013, 1125.

## **Independent Commissioner**

Testimony from witnesses indicated that the Board of Internal Economy is a viable governing authority for the House of Commons that functions almost exclusively on a consensus basis.<sup>2</sup> As such, the Board should continue to serve as the primary body overseeing Member's expenditures. The addition of an independent mechanism to further strengthen accountability and transparency was emphasized by Michael Ferguson, the Auditor General of Canada.<sup>3</sup> Therefore, we believe an independent commissioner should be appointed to manage matters relating to Member's salaries, allowances, and retirement benefits similar to the model used in Manitoba. Further, Members should be given the opportunity to appeal directly to the commissioner.

## **Board of Internal Economy**

The Liberal Party believes that transparency can be enhanced by mandating that Board of Internal Economy meetings be held in public, and that the meeting could only go in camera if the Board is discussing matters relating to security, employment, staff relations or a tender, or if unanimous consent of all members of the Board who are present is obtained.

Furthermore, we recommend that the Board be required to post minutes of its meetings online on the Parliament of Canada website within 14 days of the meeting taking place.

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<sup>2</sup> Ms. Audrey O'Brien, Clerk of the House of Commons, House of Commons, Committee Evidence, Meeting No. 4, November 5, 2013, 1210, 1105; Hon. Peter Miliken, Former Speaker of the House of Commons, As an individual, Committee Evidence, Meeting No. 7, November 20, 2013, 1905.

<sup>3</sup> Mr. Michael Ferguson, Auditor General of Canada, Office of the Auditor General of Canada, Committee Evidence, Meeting No. 6, November 19, 2013, 1100.

## **Dissenting Opinion by Members of the Bloc Québécois, Member of the Green Party and Independent Members**

Through our participation in the study of the House of Commons Standing Committee on Procedure and House Affairs on the Board of Internal Economy, we believe to have shown that Members from non-recognized parties and Independent Members can make a significant contribution and we hope that the committees will draw on this experience in the future.

### ***1. Membership of the BOIE***

We are presenting a dissident report because the government majority does not seem to recognize the importance of the accountability that must be taken by public office holders, such as Members, who spend public money. The status quo is unacceptable at a time when the public is entitled to expect greater transparency, exemplary accountability and good governance. We believe that the Board of Internal Economy (BOIE) is not representative of the House of Commons because Members from non-recognized parties and Independent Members have no voice and we have no opportunity to even know what decisions have been reached nor why. Without upsetting the government/opposition balance, it would be possible to “democratize” the BOIE, as argued in testimony by the former Speaker of the House of Commons, the Hon. John Fraser, and the Clerk of the House of Commons, Audrey O’Brien. While we support the suggestion of the former Law Clerk and Parliamentary Counsel, Rob Walsh, to allow members of the public to sit on the BOIE, we believe priority should be given to having all Members represented on the BOIE first.

### ***2. Transparency***

We believe that steps to increase transparency must be taken in collaboration with the Auditor General so that he may give his opinion on how to provide information to the public and when to provide such information so that it is done in a timely manner. Currently, the *Members By-Law* of the Board of Internal Economy provides for the disclosure of Members’ overall expenses but does not provide for the form or frequency of such disclosure:

**13.** The Speaker of the House of Commons shall publish, on the Parliament of Canada Web site, at such time as may be determined by the Board, a report of Members’ expenses setting out the expenditures made from each Member’s Office Budget and all other expenditures relating to goods and services provided by the House of Commons.

The disclosure of overall expenses by “expenditure item” that is done annually clearly falls short in providing information on Members’ actual activities. We therefore propose that the *Members By-Law* be amended – or at least that all parliamentarians agree that it be amended – so that all financial details involving Members, once verified, be made public. Rather than voluntary disclosure that can vary from party to party and Member to Member, we furthermore propose that the Speaker of the House of Commons publish **all** details of Members’ expenses in a uniform manner on the House of Commons website.

### **3. *Uniform information***

Rather than voluntary disclosures that can vary from party to party and Member to Member, we suggest a simple solution. Members are already required to provide the House Administration with all details of their expenses and the House of Commons already has all the relevant financial information to set out the facts on Members' expenses. The only thing that needs to be done therefore is to publish the full details, rather than be stuck with a hodgepodge of "expenditure items." This would make it possible to provide the public with credible, uniform, comparable tables on Members' expenses. We support this full disclosure with one exception: that the identity of the person/group/association Members' meet with be suppressed. This is a basic requirement: in no way should Members' expenses be used by the party in power or political opponents to stigmatize certain groups, attack individuals directly or betray the trust between Members and their constituents. Think only of a whistleblower who reveals government abuse to a Member of the opposition. If this person's identity were spelled out in black and white in Members' expenses, that person would bear the brunt of reprisal. This holds true as well for groups and organizations that do not share the ruling government's vision. In this sense, the opinion of the Privacy Commissioner, Jennifer Stoddart, supports us in our effort to strike a balance between the disclosure of information and the protection of personal information and privacy.

### **4. *Decisions of interest and concern***<sup>1</sup>

The primary focus of this report and of the recognized political parties has been the transparency surrounding members' expenses. While those questions are important, many policy decisions related to management of the House are of keen interest to Independent MPs and those from non-recognized parties.

Operations of the House should meet a triple bottom line – economic, social and ecological. How are we to influence the important decisions about use of 100% post-consumer recycled paper (once a requirement under the standards established by former Speaker John Fraser in the "Greening of the Hill" programme)? That programme also required that cars on Parliament Hill were not allowed to idle -- yet now they do. The purchasing policies of the restaurant are not rooted in sustainability principles. One of the only expenses associated with our work as MPs for which there is no possibility of reimbursement is carbon credits.

In the area of social responsibility is the question of what kind of employers are we collectively. We lay off lower waged workers when the House is not in session, yet expect them to return when we do. But these workers have an even harder time collecting EI due to punitive changes targeting seasonal workers. Cost saving measures have hit lower waged workers. Were there other options? MPs in our position are unable to know or to make effective presentations to improve House operation.

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<sup>1</sup> Mr. Rathgeber does not concur with the section of the report entitled Decisions of Interest and Concern.

## 5. Conclusion

The testimony we heard, the briefs we read and our own experience have led us to recommend significant changes to the BOIE. The creation of an independent agency like the one in the United Kingdom should be considered if parliamentarians refuse to make these changes that are based on representation and transparency, as noted in the preceding paragraphs. We nevertheless continue to believe that the current system can be changed. We also support allowing the Auditor General to go through Members' and Senators' expenses with a fine-tooth comb, at his discretion. We also support the request of the Information Commissioner, Suzanne Legault, that Parliament be made subject to the *Access to Information Act*, while respecting the balance we noted earlier between disclosure and privacy.

André Bellavance, MP  
Richmond—Arthabaska  
Bloc Québécois House Leader

Elizabeth May, MP  
Saanich—Gulf Islands  
Leader, Green Party of Canada

Bruce Hyer, MP (Ind)  
Thunder Bay—Superior North

Maria Mourani, MP (Ind)  
Ahuntsic

Brent Rathgeber, MP (Ind)  
Edmonton—St. Albert



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