
The Office of the Auditor General in Ontario

by Rebecca Sciarra

Variations among democratic governments are endless but a common characteristic is the way control of the public purse is exercised. This is particularly true in Westminster style legislatures based on principles of responsible government. Even in democratic states where the confidence convention does not apply governmental disarray abounds when a government is exposed for inappropriately spending funds. Too often, when trying to 'measure' the health of a democracy we look for indicators such as gross national product levels, mortality rates, and the extent to which individual, collective and human rights are protected. Seldom is the focus upon the sphere of fiscal spending and the level of fiscal accountability contained within a political regime when attempting to posit an evaluative analysis on any given government's 'worth', health, or extent to which it is democratic. This article examines the Office of the Provincial Auditor in Ontario and its role in examining the spending of public funds. It also reviews the evolution of legislative auditing in that province and recent changes to the office's legislation.

The first session of the sixth parliament in Ontario marked the official birth of Ontario's first officer of the legislature, with the introduction of the *Audit Act, 1886*. Edward Blake's warnings and predictions regarding the potential for fiscal mismanagement among the executive and within the public service materialized when a discrepancy of \$14,680 was highlighted in the Treasury Department's financial books in 1885. The then Auditor, Charles Hood Sproule had noted the discrepancy and had reported it to the Treasurer of the time but had made no statement to the legislature, as he had no authority to do so. Additionally, the investigation of the fiscal discrepancy revealed that fraudulent activity had occurred.¹

The introduction of the *Audit Act* in 1886 envisioned a Provincial Auditor as part watchdog; part in-house expert on 'good' financial management. The 'watchdog' function was indicated by removal from executive control. The Provincial Auditor² and all his or her staff would be appointed by the Lieutenant Governor. Further, the Provincial Auditor was vested with the authority to examine any person on oath in connection with any account audited and to report all public accounts and expenditures to the Legislative Assembly.

Refining the Audit Act 1949-2004

The mandate and organizational structure of legislative auditing in Ontario, which we know today is quite different from the provisions outlined in the original *Audit Act* of 1886. The Office of the Provincial Auditor's mission is "to report to the legislative assembly objective information and recommendations resulting from independent audits of the government's program, its Crown agencies, and corporations."³ According to the legisla-

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tion, the Auditor shall be appointed as an officer of the Assembly by the Lieutenant Governor, after consultation with the chair of the all-party standing Public Accounts Committee of the Assembly (PAC). However, since 1992 an open competition has taken place when the Auditor's position has been vacant, in which all three parties represented on the Committee participate in interviewing worthy candidates and then recommending to the government the preferred candidate for the position of Auditor. The Auditor and all staff are independent of the government and its administration and are authorized to access all relevant information and records necessary to the performance of Auditor's duties. The chief mandate of the office, according to its 2004 Annual Report, is to "assist the Legislative Assembly in holding the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money in government operations."⁴ This function of providing elected representatives with thorough and objective information to use to assess the extent to which the executive has been fiscally responsible has been, up until recently, executed through three types of audits. The Office examines the receipt and disbursement of public money, the financial statements of the province and agencies of the crown, and examines the administration of government programs carried out by ministries and agencies.

There have been three pivotal amendments to the *Audit Act*. The removal of the Provincial Auditor from the authority of the Treasury Department in the 1950s; a phasing out of the Auditor's office performing pre-audit activities and conducting post-audits of government expenditures in the 1970s, and the entrenchment in the late 1970s of the Provincial Auditor conducting value-for-money audits were significant legislative changes made to the mandate of the office. These changes were the product of a number of forces – such as Provincial Auditors of the day, various Provincial Treasurers, and individual MPPs – working together to alter the function of this legislative institution.

The separation of the Provincial Auditor from the Treasury Department was spurred by the PAC in March 1949. In particular, an opposition member of the PAC, Liberal MPP for Waterloo North, Mr. Brown, clearly criticized the incestuous relationship between the Treasurer and the Provincial Auditor and how this compromised the "explicit duty" of the office. As a result of discussions led by Mr. Brown in the PAC, the committee passed a motion recommending that the Act be amended in order to effect greater fiscal accountability. By March 1950, the bill to amend the *Audit Act* passed second reading. The amendment to the *Audit Act* reflected the spirit of the dis-

cussions in the PAC, as Mr. Brown commented after the act received royal assent, "The strength of the entire Act is summed up in section 25 of the Act, outlining the annual report of the Auditor, to whom he must report and on what he must report."⁵

The next significant change to the scope of legislative audit in Ontario was realized through a shift from the office performing pre-audits of government expenditures to post-audit expenditures. How this change was enacted varied somewhat from the previous process through which amendments to the *Audit Act* were made in the 1950s. The pre to post audit amendments took substantially longer to be adopted by government.

As early as the mid 1950s, the real-world application of pre-audit practices became harder as budget sizes and expenditures grew. As the province of Ontario boomed in the 1950s, spheres of provincial responsibility began to supersede those controlled by Ottawa, and the size and scope of government dramatically increased. As a result, conducting pre-audits were identified as practically impossible by the then Provincial Auditor. The Auditor's Annual Report in 1956-57, called attention to the fact that not only were pre-audits logistically unfeasible, they were also ill-suited to sufficiently act as a control and review mechanism on government expenditures. The sheer volume of transactions made by government combined with the monetary size of these transactions made the performance of pre-audit functions a deficient tool of legislative auditing.

Despite acknowledgement by the Provincial Auditor in the 1950s regarding the inevitable paralysis of legislative auditing if it continued to perform only pre-audits, a response by government was not heard until the 1970s. It was only when the Committee on Government Productivity began looking at the *Audit Act* in 1970 that the warnings effaced in the early 1950s found their way through the legislative process.

In 1971, the first reading of the bill to amend the *Audit Act* reflected the instrumental role, which the Committee on Government Productivity played in enacting amendments to the *Audit Act*. New amendments to the *Audit Act* established that legislative auditing would be performed through performing post-audit activities, rather than through pre-audit activities. The committee reasoned that in addition to pre-audits becoming a virtual impossibility with the sheer size of government spending, the act of the Auditor being involved in a spending control function, in fact compromised his role as a servant of parliament. The committee argued that to maintain a system of legislative auditing, where the Auditor performed a pre-audit function as a service to the executive, in fact perverted the motives of government and made legisla-

tive auditing a tool used by the executive rather than as an accountability tool designed to keep the executive in check.

The widening of the Auditor's mandate in combination with the birth of media, as a tool of politicians, and the longevity of the Progressive Conservative rule in Ontario, perhaps resulted in a significant perspective put forth by the official opposition in regards to legislative auditing. In particular, in the mid 1970s, members of PAC who were members of the official opposition began to stress the need for every measure to be taken to ensure that now the Auditor had the power to comment on the government's fiscal management, it was in fact an entity responsible solely to parliament and therefore the citizenry and was not under the thumb of the Treasury. Recommendations from PAC and the Leader of the Official Opposition in the early 1970s led to the adoption of value-for-money audits when amendments to the *Audit Act* were passed in 1978.

The 1978 amendments were, up until November 2004; the most recent revisions made to the mandate and structure of the Provincial Auditor's office in Ontario and to the implications of legislative auditing as a tool designed to serve parliament. As a result of the 1978 amendments, the Provincial Auditor not only acted as a source of information for how and where public moneys were being spent but also provided an evaluative judgment on government expenditures. The Auditor was now empowered to comment upon the economy, efficiency, and effectiveness of government programs, examine the accounting records of recipients of provincial transfer payments, and to audit agencies of the crown and crown controlled corporations.

Until 1978, the legislation defining the mandate of the Provincial Auditor in Ontario and the scope of legislative auditing was a work in progress that was prodded along by the work and authority of legislative committees; with the PAC being the most influential. When provincial governments grew to be very relevant and big spending machines in the 1960s and 1970s, the scope of legislative auditing was revised to both reflect and respond to these changes. The birth of agencies of the crown and crown controlled corporations, the extent of provincial transfer payments, and increases in governmental programming demanded that the legislative auditing regime be made more congruent with the behaviour and evolution of government.

The 2004 Amendments

On November 30, 2004, a new mandate was established for the Office of the Provincial Auditor, as Bill 18, the *Audit Statute Amendment Act, 2004* received Royal As-

sent. At first blush, a mandate review, adoption of legislative amendments and a parliamentary consent to expand the powers entrusted to the Provincial Auditor in Ontario, appear to have occurred quickly and smoothly. A mere two months after the 2003 General Election, the Minister of Finance, Gregory Sorbara, introduced Bill 18.

The passing of the Audit Statute Law Amendment Act 2004 saw the Provincial Auditor of Ontario become the Auditor General of Ontario.

It also marked the adoption of an expanded scope of legislative auditing which suggested that in order for parliament to have a clear and accurate sense of how the government is spending tax payer dollars, the mandate of legislative auditing must include value-for-money audits of grant recipients. When the *Audit Statute Law Amendment Act, 2004* received Royal Assent, a substantial amount of media commentary abounded. One newspaper article in particular encapsulated the main provisions included in the amendments with its headline of "Ontario's Auditor gets new title, more clout; Can investigate colleges, hospitals, crown companies; All three parties approve changes in unanimous vote."⁶

According to the current Auditor, Jim McCarter, the fundamental shift in mandate scope includes an "expansion of value- for money auditing to organizations in the broader public sector, such as hospitals, colleges, universities and school boards and any other organization meeting the definition of grant recipient and includes an expansion of value-for-money auditing to the electricity sector corporations and other Crown controlled corporations. The expanded mandate; however, does not apply in the case of municipalities."⁷

As these amendments have now passed into law, with the broader public sector audit mandate effective on April 1, 2005, the adaptation of the legislative auditing mandate in Ontario appears to be healthy. That the Legislative Assembly of Ontario, with all party support, endorsed legislative amendments to allow value-for-money audits by the Auditor of broader public sector organizations that receive government grants is a positive indicator of ensuring fiscal accountability and a system of checks and balances on the executive level of government. Allowing the Provincial Auditor to report on transfer payments to grant recipients and to comment upon the economy and efficiency of how taxpayer dollars are spent in the broader public sector is certainly progressive. As a result, Ontario's officer of parliament responsible for exacting fiscal accountability,

Ontario's political institutions, and Ontario's legislators appear to emerge as 'actors' who are effective, adaptable, and committed to governmental accountability and transparency.

Origins of the 2004 Amendments

How were the 2004 amendments to the *Audit Act* adopted and devised? Did the PAC pass a motion, which led to the government introducing a bill to amend the *Audit Act*? Did the Provincial Auditor act as an advocate for the adoption of new amendments? To answer these questions interviews were conducted with the previous Provincial Auditor, Erik Peters, and senior staff members from the Provincial Auditor's office. Secondly, Annual Reports published by the Provincial Auditor's office between 1990 and 2004 and *Hansard Debates* from 1996 through to 2004 were studied to conceptualize how the legislative arena responded to possible mandate reviews.

As early as 1989, amendments to the *Audit Act*, of the nature that were passed in Bill 18 in November 2004, were discussed as part of public hearings held by the Standing Committee on Public Accounts. The then Provincial Auditor, Douglas Archer, had suggested at these hearings that there needed to be an evolution of how legislative auditing was conducted in regards to grant recipients. At that time, the Provincial Auditor's office was only permitted to conduct an examination of accounting records of provincial grant recipients. Simply put, the Provincial Auditor's office was only allowed to examine financial records of broader public sector institutions that received government grants. It was fairly clear to the Provincial Auditor's office at the time that about 50% of provincial expenditures were allotted to transfer payment agencies. Consequently, there was a view that suggested there was a certain level of inanity inherent in the Provincial Auditor's office acting as an authority on the fiscal accountability of the province. Without being able to conduct value-for-money audits in the agencies that received a substantial portion of the provincial budget, the Provincial Auditor's office highlighted in the PAC hearings that their ability to provide accurate and useful information to members of the legislature regarding the fiscal responsibility of the government, was severely impaired. As a result, in 1990 the Standing Committee on Public Accounts supported this principle and was of the opinion that all provincial government agencies and all transfer payments recipients should be subject to value for money audits by the Office of the Provincial Auditor, in an effort to enhance accountability.

In late 1990, following the Committee's report to the legislature and their recommendation that proposed

amendments to the *Audit Act* be drafted and introduced for First Reading as soon as possible, Douglas Archer submitted his draft of the legislation to the Treasurer and Minister of Economics. Whereas, previous submissions made to the Minister responsible for the *Audit Act* had resulted in the immediate introduction of legislation in periods of mandate review; this submission resulted in a series of ministerial consultations. Between 1991 and 1992, the government of the day explained that before legislation that had been drafted by the Provincial Auditor could be introduced, a series of consultations needed to be conducted with all of the parties that would be effected by the proposed amendments; namely the major transfer payment partners.⁸

As government consultations continued during the period of appointing a new Provincial Auditor, the arrival of a new head for this office of the legislature continued to push for a substantial mandate review of the office. As Erik Peters commented in an interview,

when I came aboard [in 1993] we were already agitating [for a mandate review and amendments to the *Audit Act*]. I held this view because I felt that we should not be auditing into a vacuum and that was what was exactly happening, so long as transfer payment agencies were not subject to value-for-money audits. The point was that, about half of government spending was not done by ministries and we therefore didn't have access to look at if those funds were being spent prudently.⁹

The appointment of Erik Peters as Provincial Auditor saw an endorsement for the same amendments suggested in 1990. Taking into consideration that the expansion of a workable legislative auditing mandate was not only a matter of enacting it by statute, Peters recommended that clear management responsibilities and accountability frameworks be established for the transfer payment agencies. The Standing Committee on Public Accounts subsequently unanimously passed a motion in June 1993 giving approval in principle to the Provincial Auditor to pursue the establishment of a workable legislated accountability framework with central agencies before any amendments were made to the *Audit Act*.

With this motion, the next period of mandate review was comprised of consultation and collaboration between the then Provincial Auditor and senior officials stationed in the various transfer payment agencies, which would be effected by amendments made to the Act. It became clear that senior officials within the central agencies did not agree on the need for a legislated accountability framework.¹⁰ Ultimately, it appeared that developing a widened mandate alongside the partners most affected was not possible at this time. The Provincial Auditor then returned to steering the mandate review and expansion through legislative channels and

actors. Mr. Peters wrote a letter to the Standing Committee on Public Accounts and requested that the committee recommend to the Minister of Finance that an “amendment be made to the *Audit Act* which would provide the Provincial Auditor with the discretionary authority to audit a recipient of a government grant on a basis consistent with the full scope of the *Audit Act*.”¹¹ The committee agreed and recommended that public hearings be held. As of 1994, the status of amendments to the *Audit Act* exactly mirrored the status achieved in 1990.

Upon conclusion of the public hearings in June 1996, the Provincial Auditor submitted draft proposals for amending the *Audit Act* to the Standing Committee on Public Accounts. The committee endorsed the proposals and adopted a motion that stated that the “Committee requests a response and action plan from the Minister of Finance by the Committee’s first meeting following the summer recess.”¹² The Minister of Finance, Ernie Eves, returned a supportive but cautionary response by the suggested date. He wrote that the proposals “represent a significant step towards the fundamental reform of the public sector accountability system and I agree with the principles upon which it is based.”¹³ Ultimately though, the Minister of Finance responded that despite his agreement with the principles underlying the proposed amendments, the entrenchment of the office’s mandate review would have to follow a public policy initiative being led by the government regarding restructuring of transfer payments in the province, otherwise known as the ‘Who Does What’ implementation during the first mandate of the Mike Harris Government.

The Minister of Finance and the Provincial Auditor finally began to communicate directly following receipt of the Minister’s response to the PAC. On October 2, 1996, the Minister of Finance, met with Erik Peters to discuss the nature of the proposed amendments. The meeting between the Minister and the Provincial Auditor concluded with an endorsement of the principles underlying the proposed amendments. However, the Minister of Finance still reasoned that it was best to await the outcome of the transfer payment restructuring exercise that his government had initiated. It was suggested that by 1997, the outcomes would be fully realized and the government could then turn attention to introducing complementary amendments to the *Audit Act*.

Throughout 1998 and 1999, Erik Peters continued to urge the government to consider implementing the proposed amendments to the *Audit Act*, however to no avail. Each year, the Auditor’s Annual Reports outlined the lack lustre status of amendments to the *Audit Act*. In 2000, Erik Peters wrote another letter to Minister of Finance, Jim Flaherty. The Minister replied that the ministry was

still examining the full range of accountability issues, of which the proposed changes to the *Audit Act* form a part. Following this unhelpful response, the Provincial Auditor continued to lobby for a meaningful mandate review and turned strategies back towards working through the PAC.

Examination of the Provincial Auditor’s Annual Reports embarrassingly illustrate the repeated efforts of the Provincial Auditor to initiate a mandate review and the consistency of the proposed amendments, as well as the non-response of government. The 2001 Annual Report noted that the government announced in its Speech from the Throne on April 19, 2001, that it would be introducing sweeping reforms to ensure that all public sector institutions are accountable to the citizens of Ontario and “in the planned reforms was a commitment to make amendments to the *Audit Act*.”¹⁴ Disappointingly enough, the 2002 Annual Report explained that despite references to public sector accountability in the 2001 throne speech, “inconclusive discussions on a comprehensive set of amendments took place during the summer and fall of 2001 between the Provincial Auditor’s office and the then Minister of Finance.”¹⁵ The 2003 Annual Report offers, by far, the most unsettling recounting of Ontario’s institutional adaptability and the government’s regard for fiscal accountability. The 2003 Annual Report reiterated that amendments have been proposed since 1989 without substantial response or support from government. Further, the Provincial Auditor also referenced a letter that had been submitted to the Premier of Ontario in April 2003 in the name of pursuing amendments to the *Audit Act*. The 2003 Annual Report, states that no response from the Premier was ever received, but “nevertheless, and in spite of the repeated setbacks we have experienced over the years in our efforts to have the *Audit Act* amended, the Office remains committed to pursuing amendments to the Act so that we may better serve the Legislative Assembly.”¹⁶

Legislative Involvement

Between 1996 and 2001, a number of Private Members’ Bills were introduced which almost perfectly encapsulated the recommendations that were flowing back and forth between the Provincial Auditor of the day, the PAC and the Ministry of Finance during the same time. In November 1996, PC member Bart Maves introduced Bill 89, *The Accountability Improvement Act*. Bill 89 ironically mirrored the explanatory note contained in Bill 18, as it explained that it “amends the *Audit Act* to improve the accountability of hospitals, school boards, universities, colleges, municipalities and other organizations which receive payments from the government.”¹⁷ This bill was

eventually referred to the Standing Committee on General Government and then 'died' when the house prorogued.

Reviewing the *Hansard* record of the Second Reading debates of Bill 89 illustrates a broad agreement in principle of the tenets expressed in the bill, with the exception of the NDP member from Nickel Belt and former Minister of Finance, Floyd Laughren. Members from the Official Opposition of the day, the Liberal Party of Ontario, and the NDP member who participated in the Second Reading debate agreed in principle on the bill. Ultimately though, the political debate did not become one of accountability for taxpayer dollars but was reduced to opposition politics and reflected partisan cohesion.¹⁸

Bill 89 resurfaced in the Ontario legislature four years later, although under a different name and on behalf of a different party. In December 2000, the Liberal Member for Kingston and the Islands, John Gerretsen, introduced Bill 180 as a private member's bill. Upon prorogation of the house, Bill 180 'died' but was re-introduced by the same member, virtually unchanged, in April 2001. John Gerretsen introduced Bill 5, whose explanatory note again reflected the work being conducted outside the chamber, between the Provincial Auditor, the PAC, and the Minister of Finance, and which was also contained in Bart Maves' private member's bill of 1996 and Gerretsen's earlier version with Bill 180. Bill 5, *The Audit Amendment Act*, contained an explanatory note that read, an act, "to insure greater accountability of hospitals, universities and colleges, municipalities and other organizations which receive grants or other transfer payments from the government or agencies of the Crown."¹⁹

Once again, the introduction and Second Reading of Bill 5 and its amendments to the *Audit Act*, broadening the scope of legislative auditing to allow for value-for-money audits to be conducted on grant recipients and within the MUSH sector, illustrated an agreement in broad principle across all parties. Despite an opposition member bringing the bill forward, members of both the Progressive Conservatives and the New Democrats spoke in ardent favour. Particularly though, members of the Progressive Conservative caucus endorsed its proposals while illustrating their own government's alleged work conducted towards its objectives. Debate, and eventually progress, regarding the principle of the legislative auditing mandate review became subservient to partisan promotion.²⁰ The fate of Bill 5 was sealed when the bill was discharged from the Standing Committee on Public Accounts in November 2002, a motion was put forward in the house to move third reading, and it disappeared from the legislative books by the end of December 2002.

Finally, Bill 89, Bill 180, and Bill 5 experienced a reincarnation again in the Ontario legislature on May 1, 2003 when John Gerretsen introduced Bill 6, the *Audit Statute Law Amendment Act, 2003*, for first reading. This bill's life span was relatively short, in legislative terms. As the house rose for the summer in June 2003 and a provincial election was called in early September 2003, Bill 6 never made it past first reading. The Ontario legislature was spared a fourth round of so-called debate regarding progressive steps being taken towards enacting a higher and more modern degree of fiscal accountability for the expenditure of taxpayer dollars.

Ultimately, this evolution of mandate review has a positive end, albeit a very qualified one. The 2003 provincial election saw the Liberal Party campaign on a number of 'promises'; including amendments to the *Audit Act*. Following a strong victory in October 2003, the Ministry of Finance consulted the Office of the Provincial Auditor regarding the Minister's intention to introduce legislation immediately. The acting Provincial Auditor, Jim McCarter, and senior staff worked with Ministry of Finance staff to draft legislation, incorporating the amendments flushed out between 1989 and 2003. Relatively little work was required for technical preparation. The lawyer in the Ministry of Finance, which had been involved during the early 1990s already had a good handle on the underlying principles and the legislative language for the amendments that were being considered. The Auditor's office signed off. The Ministry signed off. Bill 18 was introduced in December 2003 and received Royal Assent approximately one year later. The Auditor's new expanded mandate became effective on April 1, 2005.

Conclusion

Ontario's process of reviewing the mandate of its chief observer of governmental fiscal accountability and of the economy, efficiency and effectiveness of government operations is clearly convoluted. The sheer length of time required to achieve amendments gives even a novice political observer pause to worry. More importantly though, the unravelling of this institutional development raises several very important questions.

The emergence of legislative auditing or the incorporation of an official Provincial Auditor's Office was never designed to direct government spending. Further, this office was not designed to determine how, where, when, and why tax dollars were allotted to particular ministries, agencies, programs, or sectors. Rather, the process of legislative auditing since the 1970s, anyway, has been a tool of parliament to be used after the expenditure of money to clearly see where money is going and whether or not that money is being spent in the most prudent

manner, as defined by rigorous auditing standards. That the evolution of legislative auditing has always occurred a step behind the evolution of a political system or parliament makes sense. Legislative auditing is a 'check' on government, and by virtue of that purpose, its functions can only be applied after government has acted. Similarly, changes and revisions to how legislative auditing is conducted, either provincially or federally, should always reflect changes first adopted by the political institution or system in question.

In the 1980s and increasingly throughout the 1990s, the flow of provincial dollars changed somewhat dramatically. As of March 31 1996, \$28 billion or 48% of government funds were spent by separately governed recipients. By 2004, government transfers to the same recipient organizations was approaching \$37 billion. In order for a mechanism within a political institution to remain relevant and effective, it must evolve in tandem with, or at least shortly after, changes are experienced within that political institution. Further, if the mechanism in question is one, which acts as a safeguard against the tyranny of power exercised by a government and is supposed to be a tool of parliament and ultimately the 'people', is unable to remain effective, questions of institutional functionality and democratic robustness become very serious questions.

In an interview with Erik Peters, I asked him what led him to hold the perspective that the Auditor's mandate should be expanded. He replied that,

the government was handing over money...without the government having any sense of the quality of the services provided... were they a fat organization? Were they delivering quality services? Did they have the same volume as last year? All these questions had to be asked and they had to be answered and there was only limited information.... we felt that within an accountability framework and within an accounting regime these questions needed to be answered.²¹

Further I also asked if the *Audit Act* or other pieces of provincial statute clearly define how a mandate review is supposed to occur. He replied:

...not really and I think that there is a very real problem in this area. The *Audit Act* falls under the Minister of Finance... so what it came down to was how keen the Minister was.... it became very clear to me in January 1993 that there was a real problem with how the province dealt with its public accounts. In the first few years that I was the Provincial Auditor, I had gone to the standing committee on finance and told them that I felt the budget was problematic... I said do not budget this way... use accounting rules. My view had always been that if we were going to be dealing with amendments to the *Audit Act*, we should deal directly with the minister and not through the bureaucracy.²²

The theory that individual parliamentarians can adequately steer a mandate review of a legislative auditing regime within the legislative arena contains several challenges.²³ With this particular case, where locally run entities, such as hospitals, school boards, universities, and colleges are the bodies in question there is a normative difficulty in having MPPs stand up and demand a higher degree of accountability of these organizations and to sanction a provincial officer of the legislature with the authority to conduct value-for-money audits of these organizations. Individual MPPs face a number of challenges and objectives when standing in the legislature. On one hand, they face an executive-steered system of government, which they are compelled to keep in check through a series of mechanisms, where legislative auditing is one. On the other hand though, they are there to accomplish another job and that is one where they are to act as the voices of groups, sectors, and individuals in their riding. Finally, individual MPPs, increasingly so in Ontario during the 1990s and today, also face a parliament that is characterized to some extent by fierce partisan divides. The days of collective politicking and centre of the road politics are gone and therefore the necessity to marry yourself to your party is paramount. The conjecture that suggests that individual parliamentarians are certainly compelled by wanting to hold the executive to task, regardless of what side you sit on,²⁴ is somewhat of an outdated thesis to apply, particularly within Ontario over the last two decades and in regards to this specific policy question concerning locally delivered services and locally operated agencies.

The failures of the private members' bills dealing with amendments to the *Audit Act* reflect these institutional and normative challenges. They also underscore the need to devise a more functional system of mandate review for all legislative bodies. So long as there is not a clearly established and formal process of mandate review required to occur between the Minister responsible for the legislation that the officer of the legislature is charged to administer, the legislative committee responsible (if there is one), and the appointed head of the office of the legislature in question; the method of last resort falls to an understandably schizophrenic group of individual parliamentarians whose range of tools consist of the forever-destined to fail-private member's bill.

The consequences of a legislative auditing regime, which subsisted in a state of, arrested development for the better part of fifteen years is beyond the scope of this paper. However, the procedures used to establish, review, and update the mandates of officers of the legislature are certainly essential to explore. A more transparent and regularized system of mandate review

requires attention. Declaring a fixed date and an agreed upon group of representatives would likely facilitate the process of reviewing mandates of Ontario's legislative officers. Further, Ontario's legislature has often been based on a model consisting of three overlapping spheres: members of parliament, political parties, and committees.²⁵ Analyses of officers of the legislature, in and of themselves, and how they interact with these three spheres, via periods of mandate review, inform our understanding of their overall functionality. To further nuance how a legislature functions, one might also look to other officers of the legislature and how their mandates have been reviewed over the last two decades. Such a study would explore the efficacy of parliamentary procedures and mechanisms, such as the role of legislative committees, as well as the actions of legislative actors, such as individual members and political parties. Additionally, to further untangle the multitude of components, which form a legislature and ultimately a democratic system, one might also look internally at officers of the legislature and how they themselves are held accountable, either informally or formally.

Notes

1. Office of the Provincial Auditor of Ontario, *The First One Hundred Years* (Toronto: August 1986), 7.
2. This title will be used despite an official name change in the title of the office in November 2004 to the Office of the Auditor General.
3. Office of the Provincial Auditor, 2004 Annual Report (Toronto: 2004), Chapter 6, <http://www.Auditor.on.ca/english/reports/en04/6en04.pdf>
4. Ibid.
5. Office of the Provincial Auditor of Ontario, 18.
6. Robert Benzie, "Ontario's Auditor Gets More Clout" in *The Toronto Star*, November 23, 2004, A7.
7. Ontario Legislative Internship Programme meeting with then Acting Provincial Auditor Jim McCarter, September 2004.
8. Interview with senior staff from the Office of the Provincial Auditor, April 2005.
9. Interview with former Provincial Auditor Erik Peters, January 2005.
10. Interview with former Provincial Auditor Erik Peters, January 2005.
11. Office of the Provincial Auditor, 1994 Annual Report of the Office of the Provincial Auditor of Ontario (Toronto: 1994), 226-227.
12. Office of the Provincial Auditor, 1996 Annual Report of the Office of the Provincial Auditor of Ontario (Toronto: 1996), 19.
13. Office of the Provincial Auditor, 1998 Annual Report of the Office of the Provincial Auditor of Ontario (Toronto: 1998), Section 2.02.
14. Office of the Provincial Auditor, 2001 Annual Report of the Office of the Provincial Auditor of Ontario, (Toronto: 2001), Chapter 2, <http://www.Auditor.on.ca/english/reports/en01/en01fm.htm>
15. Office of the Provincial Auditor, 2002 Annual Report of the Office of the Provincial Auditor of Ontario (Toronto: 2002), 18.
16. Office of the Provincial Auditor, 2003 Annual Report of the Office of the Provincial Auditor of Ontario (Toronto: 2003), 18.
17. Bill 89, *The Accountability Improvement Act*, 1996. http://www.ontla.on.ca/documents/bills/36_parliament/session1/M96089e.htm
18. See Ontario. *Hansard Debates*. 21 November, 1996. <http://hansardindex.ontla.on.ca/hansardeissue/36-1/1126.htm>
19. Bill 5, *Audit Amendment Act*, 2001. http://www.ontla.on.ca/documents/Bills/37_Parliament/Session2/b005_e.htm
20. See Ontario. *Hansard Debates*. 20 June 2002. <http://hansardindex.ontla.on.ca/hansardeissue/37-3/1024a.htm>
21. Interview with former Provincial Auditor Erik Peters, January 2005.
22. Interview with former Provincial Auditor Erik Peters, January 2005.
23. See Paul G. Thomas' article entitled "The Past, Present, and Future of Officers of Parliament" in *Canadian Public Administration*, Volume 46, No. 3 (Fall 2003).
24. See Paul G. Thomas' article entitled "The Past, Present, and Future of Officers of Parliament" in *Canadian Public Administration*, Volume 46, No. 3 (Fall 2003).
25. See Graham White's article entitled "The Legislature: Central Symbol of Ontario Democracy" in *The Government and Politics of Ontario* (ed. Graham White) (Toronto: University of Toronto Press, 1997).