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# The Newfoundland and Labrador House of Assembly

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*The purpose of this paper is to describe and analyze the Newfoundland and Labrador House of Assembly to increase public awareness of its procedural functions and provide the basis for a comparative analysis with other legislatures. The article includes a history of the legislature; the socio-demographics of MHAs; the resources of MHAs and party caucuses; and the relationship between government and opposition. The analysis includes the role of the Speaker, legislative committees, the procedure for bills, and the difficulties of mounting an effective opposition amidst lopsided majority governments.*

It is said that the Newfoundland and Labrador House of Assembly has probably been the scene of more political and constitutional crises than all other provincial legislatures combined.<sup>1</sup> The path to democratic government in Newfoundland, like many of its highways, has been a bumpy, winding and foggy journey. The European-influenced political era began when fishermen arrived in the late 15<sup>th</sup> century. Until 1610 the area was “a kind of no man’s land, without law, religion, or government...only ruled in a rough way” by merchants and pirates.<sup>2</sup> Land settlement occurred from the early 17<sup>th</sup> to the early 18<sup>th</sup> centuries, a period characterized by power struggles between fishing admirals and colonists, and which was followed by the rule of naval governors. In 1711 an assembly of the naval governors was convened and a code of laws was established. The governors were appointed by Britain and they ruled over the ship captains, known as fishing admirals, who governed fishing communities.

Political agitation by St. John’s residents such as William Carson in the early 19<sup>th</sup> century convinced the British Parliament to grant a bicameral legislature to the colony in 1832. Eligible male voters would now be able to elect 15 representatives to the lower house, the House of Assembly, by publicly announcing their

choice to election officials. The governor and seven appointees comprised the upper house, known as the Legislative Council. These unelected men held political control and made spending decisions for the island’s 75 thousand residents, but they were required to consider the views of the elected members. The nine electoral districts were located only on the eastern side of the island on the Avalon, Bonavista and Burin peninsulas.

The formation of the House of Assembly presents an interesting question: when democracy is first achieved but there is not yet a legislative building where do the members meet? The answer and the many subsequent movements of the Assembly symbolize developments in Newfoundland politics.

From the outset Newfoundland’s representative government was disorganized and haphazard. The first session of the legislature was held in 1833 in a St. John’s tavern and lodging house (across from the current war memorial). The appointed council, appropriately enough, met on the upper floor and the elected representatives gathered on the ground floor. However the establishment’s operator, Mary Travers, was not paid her monthly rent. As the story goes, she proceeded to sell the Speaker’s chair, a desk and the sergeant-at-arms’ regalia including the mace, sword, suit and hat at an auction.<sup>3</sup>

The second session convened that same year at another location, the Old Court House. However, not only was it too small, but proceedings had to be delayed because the legislature needed papers that had been stored in the desk taken by Travers, which the

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tavern operator refused to return unless she was paid for five months' rent. She was eventually compensated without apparently disclosing that the desk, and thus the papers, had in fact been sold. Many of the items were eventually bought back from the purchaser and meetings continued in the Old Court House while a permanent building was being planned and erected.

The bicameral legislature lasted for a decade. Initially, the lower house was "a very respectful body", but the Legislative Council and elected officials "immediately disagreed" over even "trivial details", and both houses proved to be uncompromising.<sup>4</sup> This contributed to inciting religious, class and partisan clashes including rioting during elections and many legislative deadlocks; electoral districts, after all, had been distributed on the basis of residents' religious denomination.<sup>5</sup> Due to all the feuding Britain suspended the Newfoundland constitution in 1842 and combined the appointed and elected members into a unicameral legislature.

The Amalgamated Assembly began meeting in 1843, with 10 appointed members of the Legislative Council sitting with 15 elected representatives, and the council continuing to retain executive powers. This was far more productive but residents' desires for responsible government persisted and in 1846 a petition was sent to Britain requesting as much. That same year, the Old Court House was destroyed by one of several fires that would consume St. John's, forcing the legislature to convene for two years at an orphan asylum. That is, until the orphanage's operators ejected the legislators so that the space could be again used for classrooms.

The unicameral experiment lasted only half a decade. In 1848 Britain re-established separate lower and upper houses, but rejected requests for responsible government, believing that the colony was unprepared for this development. For the next two years assembly meetings were held in a building owned by one of the members of the legislature. Finally, in 1850, sessions could be convened in the newly constructed Colonial Building on Military Road in St. John's. Nearly a century later, tobacco smoke would have to be removed from ceiling frescos during a restoration effort, and the neo-classical structure would be declared "Newfoundland's most important public building"<sup>6</sup> for its design and especially its political history.

### Responsible Government

Responsible government emerged in the colony of Newfoundland in 1855 which meant that the political executive would be accountable to the Assembly. The administrators of government ('cabinet') would now largely be elected MHAs, including the first premier (Philip Francis Little), a colonial secretary,

| Meeting Places of the House of Assembly               |                     |  |
|---|---------------------|--|
| Location (years)                                      | Reason for Vacating | Political Events at Time of Move         |
| St. John's Tavern (1833)                              | Rent not paid       | Representative government just granted   |
| St. John's Court House (1833-1846)                    | Destroyed by fire   | Petitioning for responsible government   |
| Orphan Asylum School (1846-1848)                      | Classrooms needed   | Reestablishment of bicameral legislature |
| Water Street Building owned by MHA (1848-1850)        | New building ready  | Five years before responsible government |
| Colonial Building (1850-1960)                         | New building ready  | Post-Confederation growth                |
| Confederation Building, floors 9 & 10 (1960-1991)     | Lack of fire exits  | Year before cod moratorium               |
| Confederation Building, floors 2 & 3 (1991 - present) | -                   | -  |

a receiver general and a surveyor general. These men were technically subservient to an appointed governor and their business was scrutinized by a 12-member appointed Legislative Council; Britain remained in control of international affairs. Thirty MHAs represented 15 districts, mostly coastal, and by now extending to the southwest of the island which contained about 124 thousand residents.

Despite the arrival of responsible government, political and religious fighting persisted in both the bicameral legislature and in public. Factions squared off during elections and in 1861 soldiers shot at the St. John's rioters who had initially surrounded the Colonial Building, killing three of them. Nevertheless residents were unified by a developing Newfoundland identity and they bristled at the idea of a formal union of British North America's colonies. Two Newfoundland delegates participated in the 1864 Quebec conference on confederation but there were concerns about the terms of union. In 1869, two years after Ontario, Quebec, Nova Scotia and New Brunswick had united as the Dominion of Canada, pro-confederation candidates were soundly defeated in a general election in Newfoundland, formally signalling the public's rejection of a union with Canada.

Political frustrations inevitably arose between Newfoundland, Canada and Britain, particularly over the colony's desire to sign a trade pact with the United States. Once again there were internal tensions. In 1886 a mob seeking employment on the railway broke into the Colonial Building chamber and in 1874 Newfoundland's financial institutions crashed, and

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were replaced with Canadian banks, but there was still opposition to joining Canada. Newfoundland took another step to move beyond its colonial status when it became a semi-autonomous British dominion in 1907. When Britain's *Statute of Westminster* took effect in 1931 the Dominion of Newfoundland, as with the Dominion of Canada, was granted legal freedom from British laws where it so chose. However the legislature, unlike in Canada, did not adopt the *Statute* and therefore seemed content to be subservient to the British Parliament. At the time Newfoundland politicians were preoccupied with addressing a crippling post-war debt at the onset of the Great Depression. Newfoundlanders needed political leadership, stability and vision. What they got was political scandal.

One hundred years after Newfoundland had been granted the right to elect political representatives, its Minister of Finance, Peter Cashin, resigned. He publicly alleged that Prime Minister Richard Squires and the cabinet had been pocketing public money and falsifying minutes of council. This "crucial moment" in 1932 was the start of a chain of events that would lead to the collapse of responsible government.<sup>7</sup> The scandal brewed for months until a large mob stormed and ransacked the Colonial Building. The prime minister hid in the basement and only evaded harm by running through a residence, over some fences and into a taxi. It is less well known that the mace and the sergeant-at-arms' sword once again disappeared though, as with the Mary Travers incident, they were eventually returned. Newfoundland's politics, like its finances, was in shambles.

### **Commission of Government**

In response to this untenable economic situation, Britain formed the Amulree Royal Commission. The Commission's report into the colony's politics and finances predicted "imminent" bankruptcy<sup>8</sup> and determined that Newfoundland "required a rest from politics". In 1933 a Committee of the Whole (that is, all members sitting as a committee presided over by the deputy Speaker) in the House of Assembly decided to request an end to both responsible and representative government. The Newfoundland constitution would again be suspended and replaced with another system of government. The MHAs' decision met little public resistance. With that, democracy in the colony regressed by a century, and Newfoundland became "probably the only country in the world that voluntarily gave up self-government".<sup>9</sup>

Thus in 1934 Newfoundland again became a dependent territory with a colonial administration, known as the Commission of Government, ruling over the colony's approximately 290 thousand residents. Britain was

now responsible for the colony's debt, which was so large that interest payments were absorbing over half of Newfoundland's annual revenues. The unelected commission comprised three British bureaucrats who headed the government's economic departments and three Newfoundlanders who headed up social departments. It was chaired by the governor, who could also vote. There were inevitably some policy disputes and after some conflict and turnover only commissioners who would introduce locally palatable economic reforms were appointed.<sup>10</sup> As Newfoundland-born political scientist Henry Bertram Mayo observed, the Commission of Government was "a unique experiment" in the politics of the Commonwealth:

...there can be few examples in the world of a freely elected legislature, backed overwhelmingly by public opinion, subscribing frankly to the doctrines that democracy is less important than debt obligations, and that good government is preferable to self-government. Surely we may legitimately expect this experience of Newfoundland to give us some useful lessons on how to work democracy successfully...during its period of benevolent dictatorship.<sup>11</sup>

The need for such "benevolent dictatorship" waned as the government's budgets improved. However, London was unconvinced that Newfoundland was ready to have its constitution reinstated, and urged local discussion on the matter. At the end of the Second World War, and for the first time in a dozen years, Newfoundlanders were given the opportunity to vote. In 1946, they elected 45 delegates to a national convention based in St. John's, where representatives would deliberate options for forms of government that would seek majority support in a national referendum. Emotional debates ensued in the Colonial Building for the next 17 months. Interestingly, members occasionally behaved as though they had formed a government, for example in attempting to negotiate trade deals.

Two divisive national referendums on Newfoundland's political future would ultimately lead to a weak endorsement of finally joining Canada. The first referendum was held in June 1948: 44.6 per cent voted for a return to the 1933 version of government, 41.1 per cent chose confederation with Canada, and some 14.3 per cent opted for a five-year continuation of the Commission of Government. Since no option obtained a 50 percent majority, a second referendum on the top two choices was held in July 1948, with radio personality Joey Smallwood advocating union with Canada and former Minister of Finance Peter Cashin leading the anti-confederates. This time, the outcome was 52.3 per cent voting for confederation with Canada and 47.7 per cent voting for 1933's version of responsible government. On March 31, 1949 Newfoundland became Canada's 10<sup>th</sup> province. Representative and responsible

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government would reappear, but economic and political frustrations would persist.

The national referendums marked the first time that Labradorians were eligible to vote. Since 1809 Labrador has been under Newfoundland's authority, which was confirmed in a 1927 British court ruling, though the colony did subsequently try to sell Labrador to Canada. The massive land area was so sparsely populated, with just 4,000 residents in 1901,<sup>12</sup> that Labradorians would not elect their first MHA until Newfoundland joined Canada.

### **The Present-day House of Assembly**

In joining Canada, Newfoundland maintained its valued ties to Britain, even while transferring some of its political and economic powers to mainland Canada. The British monarch, and his or her representatives, continued to be the formal executive but some political responsibilities, such as defence and offshore activities, shifted from London and from St. John's to a federal government based in Ottawa. Newfoundlanders were, and are, represented in Parliament by seven elected Members of Parliament (MPs) and by six appointed senators. As is the case in other provinces, the provincial government and the members of its unicameral House of Assembly are responsible largely for the administration of social matters such as health care and education.

Formally, the lieutenant governor wields executive power, as that person represents the Crown for provincial purposes. In practice, as in all provinces these powers are only used upon the advice of the first minister, an indirectly elected premier. The lieutenant governor opens and ends ('prorogues') sessions of the legislature; dissolves it, thereby requiring an election; endorses cabinet directives to make them official (as 'Governor-in-Council'); and signs bills ('Royal Assent') the final step in making them statutes (laws). He (no woman has ever served as lieutenant governor) performs ceremonial functions, such as reading the Speech from the Throne in the House of Assembly chamber at the start of each new session to identify the government's legislative and policy priorities; swears in cabinet ministers; awards medals; attends ceremonies; and addresses public gatherings. This includes hosting an annual public garden party at the lieutenant governor's official residence, Government House, on Military Road.

MHAs who belong to cabinet are the ones who collectively make government policy decisions and who individually oversee government departments and agencies, though the premier's office is often engaged in departmental affairs. In particular, Premiers Smallwood (Liberal, 1949-1972), Frank Moores (PC, 1972-1979),

Brian Peckford (PC, 1979-1989), Clyde Wells (Liberal, 1989-1995), Brian Tobin (Liberal, 1995-2000), and Danny Williams (PC, 2003-2010) have been charismatic populists who have themselves been likened to benevolent dictators.

The House is usually in session in the spring and fall, sitting on Mondays, Tuesdays and Thursdays from 1:30pm to 5:30pm and on Wednesdays from 2pm to 5pm. MHAs typically convene from early March until an Easter break and then until mid-May, and again in the autumn for four to six weeks which usually includes November. The parliamentary duties of members may include delivering statements in the chamber of the legislature, presenting petitions, attending debates, voting on bills and participating in committees. Their extra-parliamentary work includes attempting to resolve issues for constituents by liaising with applicable government offices and performing ceremonial roles such as delivering speeches at local events,<sup>13</sup> to such an extent that they inevitably act as "ombudsman, social worker, legal advocate and even father-confessor".

The business of the legislature has been in decline. The number of annual sitting days gradually increased after Confederation, peaking at an average of 80 days a year in the 1980s, but it has since returned to 1950s levels and averaged less than 44 days annually from 2000 to 2009.<sup>14</sup> One explanation is that a daily stipend for rural members was discontinued in the mid-1990s and consequently they now prefer expediency. Another explanation is that the parties, leaders, ministers and MHAs have adopted open line radio as a preferred medium for communicating public concerns such that the call sign of radio station VPCM has been dubbed by journalists as an acronym for "voice of the cabinet minister".<sup>15</sup> Furthermore unless there is an active legislative agenda the premier avoids providing an institutional forum for opposition. Even then House attendance is not ideal so that a recently adopted rule specifies that members, other than party leaders, who fail to attend sittings without a valid reason, are to be penalized \$200 per day. To date this penalty is observed rather than enforced because it is up to members to self-declare their absence.

The spring session is dominated by budget issues and is therefore the most integral to the government's operation. In approximately mid-March the Minister of Finance delivers a budget to which many MHAs may speak, sometimes multiple times if there are amendments. Over the next three weeks the estimates of expenditures for each government department and agency are examined by three standing committees, which report back to the House, and whose reports

are debated. By March 31, the end of the fiscal year, if the main supply bill has not yet been passed then an interim supply bill must be passed so that the government can access short-term funding to continue its operations. By comparison, the fall session tends to be characterized by the government's legislative business, such as debating bills and issues of the day.

Members who do not belong to cabinet have a small influence on public policy and have a more limited legislative presence than is the case in other provinces. In other parliamentary systems, members introduce a private member's bill to propose legislation in an attempt to raise public awareness of issues and to hold the government to account. In Newfoundland, non-cabinet members may speak for 15 minutes on Wednesdays (the designated private members day) when they can introduce motions, which could include urging policy change. But unlike other legislatures, the rules for a private member's bill require completion of all three readings in the same day, and the resulting impossibility of meeting such a stringent requirement is symbolic of the strength of the political executive and the lack of effective opposition. Consequently a private member's bill has never been passed.

Members of a legislature require coordination for business to be carried out efficiently. This organizational responsibility falls to each House leader who coordinates his or her political party's daily business in the legislature. Each morning the government House leader meets with the other House leader(s) to identify what the governing party hopes to accomplish that day. There is negotiation and cooperation so that all parties are aware in advance of the planned proceedings, as outlined on the *Order Paper*

which itemizes the day's agenda for the House when it is sitting. For instance, the government House leader will propose that a bill be dealt with earlier because the sponsoring minister is planning an out-of-town business trip, to which the opposition House leaders will usually agree unless they feel the need for more time to research the subject matter. It is rare for the government House leader to be obstinate in part because the opposition will react by making life difficult for the governing party, by stalling its legislative programme or in other ways. Nevertheless the opposition will, at times, be told that some business has to be dealt with expeditiously. As one MHA put it, "If you didn't have that behind the scenes cooperation on a daily basis—on an hourly basis when the House is open—the House wouldn't work."

House leaders must therefore be trustworthy and be prepared to act as their parties' spokespersons on procedural matters. They also work within their party with the "Whip", an MHA who is appointed by the party leader to ensure that MHAs attend and vote as directed. Party discipline is severe, particularly for government members, to such an extent that the premier's office may coordinate an intense public attack on any dissenters. Elected officials therefore tend to express constituents' concerns in private but voice the position of the party in public. Quorum is 14 MHAs plus the Speaker.

The Newfoundland legislature also includes six statutory offices. The Citizens' Representative—the equivalent to the Ombudsman in other provinces—investigates public concerns with the government after all other manners of appeal have been pursued.<sup>16</sup> The Office of the Chief Electoral Officer (CEO) administers

Representation in Canadian Provinces (April 2010)

| Province                  | # Members  | # Female Members | Constituents (mean)* | House Sitting Days (Mean, 2000-2009) | Salaries (2009)** |
|---------------------------|------------|------------------|----------------------|--------------------------------------|-------------------|
| Ontario                   | 107        | 29               | 122,752              | 88.0                                 | \$116,550         |
| Québec                    | 125        | 36               | 62,960               | 69.6                                 | \$100,371         |
| British Columbia          | 85         | 25               | 52,873               | 59.1                                 | \$101,859         |
| Alberta                   | 83         | 17               | 44,721               | 52.6                                 | \$78,138          |
| Manitoba                  | 57         | 18               | 21,561               | 64.2                                 | \$85,564          |
| Nova Scotia               | 52         | 12               | 18,091               | 50.7                                 | \$86,619          |
| Saskatchewan              | 58         | 13               | 17,897               | 68.1                                 | \$87,195          |
| New Brunswick             | 55         | 6                | 13,648               | 64.2                                 | \$85,000          |
| Newfoundland and Labrador | 48         | 10               | 10,642               | 43.5                                 | \$102,984         |
| Prince Edward Island      | 27         | 7                | 5,231                | 42.4                                 | \$63,750          |
| <b>Total</b>              | <b>697</b> | <b>173</b>       | <b>48,681</b>        | <b>60.2</b>                          | <b>\$90,803</b>   |

Sources: Parliament of Canada, Statistics Canada, Members' Compensation Review Committee

\*Ratio of provincial members to provincial population as of January 1, 2010

\*\*Includes tax-free allowances

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provincial elections, including election finance disclosure, through Elections Newfoundland and Labrador. The CEO is also typically the Commissioner for Legislative Standards who maintains ethical standards in the legislature, such as directing MHAs to complete asset disclosure statements. The Office of the Information and Privacy Commissioner examines complaints related to access to information and privacy protection. The Office of the Auditor General audits the government accounts and financial statements and delivers reports to the House about all entities of the provincial government, including departments, Crown agencies and Memorial University of Newfoundland. A newer addition, the Office of the Child and Youth Advocate, promotes the interests of children to the government.

Canadian cabinets are often selected on the basis of social characteristics, including geography, rather than strictly on merit. This was certainly the case in Newfoundland during the Smallwood era when he endeavored to maintain a religious balance in his cabinets but by the Peckford era religious denomination was no longer a significant social criterion in appointments. Today religion has no evident role in the executive or legislative branches of government whatsoever, other than in the provincial motto *Quaerite Prime Regnum Dei* or, "Seek Ye First the Kingdom of God".

Though the Conservative and Liberal parties have dominated Newfoundland politics a number of political parties have competed for votes over the years. During the late 19<sup>th</sup> century political and religious alignments roughly followed socio-economic divisions, with St. John's business elites identifying with the Conservatives, and less wealthy rural residents with the Liberals. Other pre-Confederation labels emerged, such as the People's party, the Unionist party, and the United Newfoundland party, but all parties went into hibernation during the Commission of Government era when there were no elections to contest. The provincial (Progressive) Conservative and Liberal parties that materialized in 1949 were cousins of their Canadian namesakes and have been so similar ideologically that crossing the floor is not uncommon. Other post-Confederation political organizations such as the United Newfoundland Party, the New Labrador Party, the Liberal Reform Party and lately the New Democratic Party (NDP) have not threatened the party duopoly. As of 2010, the Liberal and NDP organizations enjoy a close relationship with their federal counterparts; conversely the PC party's ties with the federal Conservatives are so weak that Premier Williams orchestrated an 'ABC' ('anything but Conservative') campaign against the Harper government during the 2008 federal election.

The widespread support that Newfoundland's populist leaders enjoy indicates that, to varying degrees, members of all socio-demographic groups rally behind their premiers.

Increasingly the presence of women in Newfoundland politics is scrutinized. In 1925, the suffrage movement achieved the right for women to vote, though this had already been conferred across Canada, except in Quebec and the Northwest Territories. The first female MHA, Helena Squires (wife of Newfoundland Prime Minister Squires), won a 1930 by-election but the dominance of men in Newfoundland politics was such that it would be 45 years before another woman would be elected to the House. The first woman elected in the Confederation era was Liberal Hazel McIsaac (in 1975). Lynn Verge established a number of benchmarks by becoming one of the first female cabinet ministers (with PC Hazel Newhook in 1979), the first female Minister of Justice (1985), the first female Deputy Premier (in 1989) and the first female PC leader (in 1995). Liberal Joan Marie Aylward became the first female Minister of Health (in 1997) and first female finance minister (in 2001). PC Kathy Dunderdale became the province's first female Premier (in late 2010).

Officially, Liberal Wally Anderson was the first Aboriginal MHA (elected in 1996) and the first to be appointed to cabinet (in 2003). It is widely thought that he was preceded by PC Joe Goudie, a Labradorian who was elected in 1975 and appointed to cabinet in 1979; the discrepancy appears to be that Métis did not have special legal status at that time and that Goudie did not self-identify as such.<sup>17</sup> The youngest MHA was Bill Rowe, who was 24 years old when elected in 1966 and, at 26 years, he became one of Canada's youngest cabinet ministers. The first Newfoundland-born francophone, PC Tony Cornect, was elected in 2007 and at least one openly declared lesbian, Gemma Schlamp-Hickey, has run for office (in 2007 with the NDP).

The occupational background of members has been changing. During the struggle for responsible government MHAs tended to be businessmen and lawyers, though that did not necessarily mean they were wealthy. Today, MHAs are more likely to have been teachers, municipal politicians or office assistants (including former political staffers), and about half of MHAs have post-secondary education. The presence of family connections has been slowly changing too. In the 19<sup>th</sup> century Newfoundland politics was "built on a foundation of elite family participation,"<sup>18</sup> nearly half of legislative councillors and members of the executive were closely related to each other, and about a quarter of House of Assembly representatives were related. These tended to be fathers, sons and brothers, as well as members

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related by marriage. Representation is more diverse today though family connections persist. In 1997, PC MHAs Sheila and Tom Osborne became the first mother and son to sit simultaneously in a Canadian legislature, and six years later they were joined by her brother, Bob Ridgley, meaning that in 2010 three of the five St. John's-named seats continued to be held by members of the same family.

### **Relationship between Government and Opposition**

Daily business in the House follows parliamentary procedures, the most notable of which are the *Standing Orders*—the formal rules of the House—which are enforced by the Speaker. This MHA follows standardized practices in attempting to maintain order in the House including during debates. Though elected as a member of a political party, the Speaker behaves in a non-partisan manner, and does not vote in the legislature unless there is a tie. Since 1999 a standing order has specified that MHAs use a secret ballot to elect the Speaker. This first occurred in 2003. A deputy Speaker, who is appointed by the premier, performs duties that the Speaker is unavailable for and is likewise assisted by a deputy chair of committees.

Decorum in the House varies, though it is not noticeably better or worse than in other Canadian chambers. Members are supposed to talk directly to the Speaker and therefore indirectly to another member. MHAs tend to preface their remarks with "Mr. Speaker," but they typically face the member they are speaking to and regularly swivel in their seats so that their backs are to the Speaker, which personalizes the debate. There is a dress code, with men having to wear dress shirts and neckties, and though food is not allowed members often snack discretely. Occasionally props, such as an opposition member placing dog food on a minister's desk, and other such shenanigans occur. Members are allowed to use portable electronic devices when Orders of the Day are called, as long as they do not receive calls or otherwise disrupt proceedings, though occasionally some pretend to tie their shoes while speaking on the phone. Generally this allows MHAs to communicate with their staff and improves the speed at which ministers can have documents delivered to them. Laptops are also permitted but are rarely used, perhaps because there are currently no wireless Internet facilities other than for handheld devices.

If there is an audience in the gallery and/or if a party leader is not present some members may be more prone to heckle off-camera. A senior member may subtly direct a junior member to jeer an opponent and MHAs routinely thump on their desks. *Hansard*—the verbatim transcript of House proceedings—politely records such verbal feistiness as "Hear, hear!" or "Oh,

oh!" which is often followed by the Speaker saying, "Order please!" *Hansard* does not record the laughter which can often be heard from the public galleries and inevitably from the Speaker himself. For members such banter tends to be a welcome interruption to the monotony of chamber business. Short witty interruptions with double-entendres are generally welcomed by all; but mean-spirited shouting with the intent of muzzling a recognized speaker is usually seen as unacceptable.

The most contentious event since the House of Assembly moved to the Confederation Building occurred on May 27, 1971, when it "devolved into chaos".<sup>19</sup> In an evening meeting the PC leader, Bill Marshall, read a news report that identified Premier Smallwood's wife as a slum landlord. In response Liberal MHA Bill Smallwood, the premier's son, punched Marshall in the face. Bill Smallwood was suspended from the House for seven days; other members, including Bill Marshall and John Crosbie, were suspended or walked out around this time too.

The documentation of proceedings has changed significantly in recent years. *Hansard* was not publicly available during most of the 1960s when reporters relied upon a voice recording system. Until relatively recently citizens could only hear MHAs on the radio or hear them on television "with their voices played over still photographs, freeze frames or sketches".<sup>20</sup> Using the Saskatchewan legislature as a model, the House undertook changes to televise proceedings. Since November 2001, five robotic cameras in the chamber have enabled live broadcasts on cable television, and since March 2009 this video has been accessible on the House of Assembly website.<sup>21</sup> This has greatly increased citizens' ability to observe proceedings which tend to be more professional now that members are mindful that they may be seen in their constituents' living rooms. As one member remarked:

It's unreal the number of people that watch this at home...Hundreds, literally hundreds, of people in my district say, "I saw you on TV the other night." They watch the stuff. For some people, it's their soap opera, and they watch it.

To help maintain order the Speaker is assisted by the Clerk of the House who oversees the operations of the legislature. The Clerk provides advice on parliamentary procedure and supervises the administration of legislative business, such as the preparation of the *Order Paper*. Approximately 35 staff report to the Clerk, of whom 18 deal with information services (including four in the legislative library, three for broadcast services and nine for *Hansard* transcripts of debates) and 17 handle financial duties (such as accounting, financial reporting,

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purchasing, human resources and payroll). A Clerk assistant and a law clerk provide procedural and legal support, while the sergeant-at-arms is responsible for security and public tours.

As with any legislature, at times demonstrators occupy the lobby, shout down proceedings in the chamber or block the entrances. Though precautions have increased after the September 2001 U.S. terrorist attacks, the House of Assembly remains quite accessible. There are no restrictions on vehicles' proximity to the building, employees swipe an identification card upon entry and visitors are signed in at friendly security desks. It is only when attempting to access the public galleries to view chamber proceedings that people are required to pass through a metal detector.

Committees are one of the most important institutions of a parliamentary legislature. These are the quasi-public forums where small groups of members, particularly backbenchers, can scrutinize government business. Committee chairs oversee meetings and are tasked with reporting back to the House; they are selected by its membership and are usually government MHAs. Legislative committees thus act as a check on the political executive – which explains why they are so inconspicuous in Newfoundland.

A committee of the whole house includes all MHAs present in the chamber and is by far the most prevalent type of committee in Newfoundland. However this is not really a committee given that it is a meeting of all members who wish to attend. It is chaired by the deputy Speaker who allows members to speak multiple times about the details of proposed legislation. Typically this includes examining the budget estimates of expenditure for the legislature, for the executive council and for the consolidated revenue fund. Unlike standing and special committees, the committee of the whole is not permitted to hear from witnesses, nor can it engage in other forms of public participation.

There are several types of specialist committees in the House of Assembly. After each election a striking committee of five MHAs is formed to identify members to serve on the seven standing committees. The most integral, but underutilized, are the government services committee, the resource committee and the social services committee, each of which comprised seven MHAs and is responsible for scrutinizing roughly five departments. For decades, the emphasis of these three committees has been on reviewing every department's proposed expenditures each spring. Shortly after the budget has been delivered in the House the minister of the department or agency whose estimates are being scrutinized is accompanied to the committee meeting by the deputy minister, assistant

deputy ministers, communications director and/or other department personnel. Research staff from the opposition offices may attend as well. For about three hours questions are answered by department officials, after which participants might go out for a meal together, though that practice has been waning. On occasion amendments are recommended.

The minimalist existence of legislative committees, and the presence of one or more ministers on some such committees, speaks to the lack of independent scrutiny of the executive branch's decisions. In many parliamentary systems such groups of members closely review draft legislation after second reading before it is referred back to the House. In Newfoundland, bills are immediately referred to committee of the whole, and the last time legislation was referred to standing committees was in late 2001.<sup>22</sup> Furthermore these committees do not tend to solicit outsiders' opinions in part because the small size of the Newfoundland community is such that expert witnesses are reluctant to publicly critique the government.<sup>23</sup> Matters are instead discussed in a meeting of a committee of the whole House which is more inclusive but far less specialized. The presence of opposition party leaders and sometimes ministers reduces the opportunity for non-partisan study, limits backbench MHAs' ability to gain expertise or question their party's policies, and increases the likelihood of televised posturing.

One premier's attempt to address this parliamentary flaw was unsuccessful. During the Peckford era committee work was weakened by the shuffling around of committee membership; by the opposition experiencing difficulty devoting MHAs; and by members being less likely to attend if they believed that there would be no media interest. In 1989 Premier Wells instructed that standing committees be used to scrutinize legislation, which included the calling of witnesses. However within a few years this practice fell into disuse and the practice of stakeholders meeting privately with department executives returned. Consequently the scope of the government services, the resource and the social services committees returned to foremost being a brief annual review of the budget and so they have become known as simply 'estimates committees'. These committees meet so rarely that an MHA who is promoted to Cabinet will remain as a member until annual adjustments are made in preparation for the committee's review of the budget estimates. The media rarely pays attention to such work.

Other standing committees include select and special committees that investigate matters as directed by the House and which cease to exist after they deliver their reports. Meetings of these committees are uncommon.

The public accounts committee (seven members), which is traditionally chaired by an opposition MHA, reviews the Auditor General's annual report and spending by the House and looks into related financial matters. The standing orders committee (five members) meets privately as needed to review the procedural rules of the legislature. The privileges and elections committee (minimum four members) rarely meets; it deals with matters relating to the freedom of MHAs, including the development of a code of conduct, though these meetings are also behind closed doors. There are also provisions for a miscellaneous and private bills committee, if needed, to discuss emerging matters that may not otherwise be referred to a committee. None of the province's standing committees meets more than seven days a year<sup>24</sup> though, as political scientist Susan McCorquodale observed, this lack of activity does not necessarily mean "that the committees are useless".<sup>25</sup>

Currently the most watched statutory body is the House of Assembly management commission. The commission is responsible for the House's administrative and financial policies. This committee is comprised of the Speaker (the chair), the Clerk (a non-voting position) and six MHAs, including the two main parties' house leaders and the member of a third political party if one is represented in the House. Importantly, its proceedings are public and are both televised and webcast. Furthermore the latest activities of the commission are available on the House's website, as are MHAs' expense reports. MHAs and their staff are also provided with a *Members' Resources and Allowances Rules Manual* that details procedures for filing expense claims and associated allowances. The management commission is assisted by an audit committee, which meets at least four times a year to review internal spending controls, such as the audit plans of the Auditor General. That committee is composed of two commission MHAs, one of whom must be an opposition MHA, and of two non-MHAs who are chosen by the province's Chief Justice.

Events in the House of Assembly, when it is sitting, follow a daily pattern.<sup>26</sup> Each day there are eight routine proceedings that occur in the same order. Activities begin with statements by members, which are 60-second announcements by MHAs about something in their district, such as congratulatory messages to constituents or noteworthy local events. For instance an MHA may announce that he attended the annual banquet of a swim team; one may congratulate the builders of a memorial park; and another may praise her brother for winning a volunteer award.<sup>27</sup> This is followed by statements by ministers, which tend to be remarks on government policy, and to which the opposition

| Committee Structure and Membership in the Executive and Legislative Branches (Spring 2010)  |           |         |                 |            |
|---|-----------|---------|-----------------|------------|
| Committee   | Ministers | Speaker | Opposition MHAs | Other MHAs |
| <b>CABINET</b>  |           |         |                 |            |
| Economic Policy   | 9         | -       | -               | -          |
| Planning & Priorities   | 7         | -       | -               | -          |
| Social Policy   | 10        | -       | -               | -          |
| <b>LEGISLATURE</b>  |           |         |                 |            |
| Government Services   | -         | No      | 4               | 5          |
| Management Commission*  | 2         | Yes     | 3               | 2          |
| Of the Whole  | All       | No      | All             | All        |
| Privileges & Elections  | 1         | No      | 3               | 3          |
| Public Accounts**   | -         | No      | 3               | 4          |
| Resource**  | -         | No      | 4               | 5          |
| Social Services**   | -         | No      | 4               | 5          |
| Standing Orders   | 2         | Yes     | 2               | -          |
| Striking  | 1         | No      | 2               | 2          |
| Source: House of Assembly<br>*The Clerk of the House is a non-voting Member<br>**Assumes removal of MHAs who joined cabinet since the previous budget estimates |           |         |                 |            |

is given time to respond. These are typically attempts by ministers to bring attention to issues that might otherwise go unnoticed, such as announcing funding for an energy-efficient interpretation centre, or providing an update on the expansion of broadband Internet in rural areas. As an unofficial courtesy the minister's office provides opposition critics with a copy of the statement immediately beforehand so that critics can quickly prepare a response.

Such statements are humdrum affairs compared to the 30-minute spectacle that follows. Since the modern daily oral question period was established in 1972 it has become a theatrical event where opposition MHAs put questions to ministers who either respond in a positive manner or avoid a direct answer. This event attracts the greatest attendance from 'strangers', including the journalists who peer down from the press gallery, political staffers, bureaucrats and members of the public seated in the public viewing galleries. Notably, attendance among the MHAs themselves, especially ministers, also peaks during question period. Many of these people, including members, tend to shuffle out of the chamber as soon as the Speaker announces that the time for oral questions has expired.

Often the queries during question period are predictable because they reflect issues that were in the morning news or on talk radio; they may address concerns uncovered in the 'estimates committees'; it may even be that a friendly opposition MHA, who prefers a productive outcome

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over scoring political points, has informed a minister in advance of the question. This is the forum from which political reporters take their cue as they gather in a scrum area adjacent to the chamber entrance and summon select MHAs, usually beginning with the premier.

While the media scrum is being organized the next proceeding is already underway in the chamber. The presentation of reports by committees is the opportunity for a committee chair to table a report from his or her committee and to make a brief statement about it. The tabling of documents, wherein ministers formally share reports and studies, follows. Next, notices of motion are made so that MHAs are informed in advance of significant upcoming motions, such as the planned introduction of a bill. This is followed by answers to questions for which notice has been given, wherein ministers address matters placed on the *Order Paper* or table written responses. The final proceeding is petitions, during which members present petitions signed by citizens on issues of concern; an MHA presenting a petition is given three minutes to speak to the issue.

How does an election campaign promise become a bill and then law? When the governing party, through cabinet, determines that it wishes to introduce, amend or repeal a law then the matter is referred for study by ministers in the corresponding cabinet committee (such as economic policy, social policy, or the planning and priorities committee). In these committees ministers are tasked with examining proposed legislation or policies, often with support from bureaucrats in the relevant department(s) and from the cabinet secretariat. At times they invite delegations to deliver presentations and occasionally they hold meetings around the province. The ministers then refer a bill back to cabinet for approval before it can be introduced in the legislature by the relevant minister. Cabinet committees are far more active and functional than are the legislative committees which are comprised primarily of non-cabinet MHAs.

In the parliamentary system of government a bill passes through three distinct stages in the legislative chamber before it can be endorsed by the Crown and thus become law. Once notice has been given, a minister may introduce the bill for distribution to MHAs and the public at 'first reading'. Discussion and debate occur during 'second reading'. Here the proposing minister may speak for up to an hour, as may the opposition MHA who replies directly. Other MHAs are allowed to speak for up to 20 minutes about the bill, after which the minister has the opportunity to speak again, ending the debate.

The rules permit standing committees to scrutinize bills, and to propose and debate amendments, both

before these are introduced at first reading or after second reading. This is rare in Newfoundland and instead the clauses of the bill are typically examined by the committee of the whole house (which means that all MHAs present may speak multiple times). If the bill is endorsed by a majority of MHAs present, and if it has not been sent back to a standing committee, it then moves on to 'third reading'. This is a final vote that is largely a formality and one that does not usually involve supplementary debate or further amendments. Having passed third reading the bill is sent to the lieutenant governor for signature to receive Royal Assent and thus become law.

As elsewhere in Canada members are elected under the single member plurality (SMP) electoral system, whereby the winner in an electoral district needs only one vote more than the runner-up. This can result in the legislature being thoroughly dominated by members of the governing party, as with recent cases in British Columbia, Alberta, and New Brunswick, but unlike in some provinces there has never been a serious effort to change the system in Newfoundland. The main check on the political executive is the responsible government convention that if the government loses a "confidence" vote in the legislature it must either resign to permit another government to take its place or (more frequently) to advise the lieutenant governor to dissolve the House and hold an election. In line with other legislatures, in 2004 the Williams administration amended the *House of Assembly Act* to require a general election every fourth October, unless the government is defeated earlier in the House on a confidence matter.

There is relatively little that opposition members can do to restrict the actions of a premier who has a majority of seats. In the 18 general elections held between 1949 and 2007 there was only one minority outcome (1971, which resulted in another election five months later). Since Confederation, the province has experienced prolonged control by the Liberals (1949-1971, 1989-2003) and the PCs (1972-1989, 2003-) to such an extent that when a governing party has been re-elected it has averaged control of 80 per cent of the seats. The size of such majorities, such as the Williams-led PCs winning a super majority of 44 of 48 seats in the 2007 general election, means that there are very few non-government members and consequently less scrutiny of government decisions.

The Official Opposition is therefore often a small group of overwhelmed MHAs while a third party, if one exists, is a fringe organization. Opposition MHAs may find themselves responsible for multiple critic portfolios and it is unrealistic that they can be sufficiently informed about myriad topics or fully attend to all of their expected duties. The leader of the third party is

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especially stretched, being unable to delegate speaking time, committee work or House leader duties.

There is a significant workload imbalance, whereby ministers and opposition MHAs may feel overwhelmed, while some government backbenchers have little to do in the House other than to praise the budget or speak on matters concerning their electoral districts. The low number of opposition MHAs also makes it difficult to keep discussion going. For instance during committee of the whole, debate may continue as long as there is an intervening speaker every 10 minutes, meaning that to prolong discussion the opposition members must alternate talking. Sometimes the Speaker bends the rules to extend an opposition MHA's speaking time to help compensate for that party's lack of members.

Most of the interaction between government and opposition members is restricted to the chamber. Staff in the premier's office may chat with staff in the opposition parties, such as at scrums after question period, but the premier rarely meets with the other party leaders. Courtesy calls may be initiated by the premier's staff to inform the opposition of a government decision, but sometimes this occurs moments before the premier makes a public announcement stating that consultation has taken place. Letters written by opposition members to the premier are unlikely to receive a substantive response. There is no interaction between the cabinet secretariat and the opposition, other than when the governing party initiates a briefing on a significant issue, which may be delivered by the Clerk of the Executive Council on short notice in an attempt to get the opposition onside.

The small size of the opposition therefore increases the burden of scrutiny on journalists, academics and, lately, on political bloggers. However compliance makes life easier and the media tends to back off when the premier becomes aggressive. On a number of occasions Williams publicly berated inquisitive or opinionated journalists with CBC radio, CBC TV, *The Independent* (now defunct), and VOXM, and then implemented a communications moratorium with them and/or their employers. McCorquodale's observation that for "most of the media, news originates with the press release, the press conference, or the daily sittings of the House of Assembly" is, sadly, still valid.<sup>28</sup>

## Conclusion

In many respects parliamentary democracy in Newfoundland and Labrador is failing to meet modern standards. Historians would surely point to its democratic struggles whilst decorum in the chamber is top of mind for most visitors. But there are currently serious political problems that, if not addressed, will continue to sustain

an executive dominance that is inconsistent with modern democratic principles that themselves are witnessing a centralization of power in Westminster governments.

Three themes are of primary concern. The first is an elected premier's unyielding control of the provincial government. Lopsided majorities, harsh party discipline, overwhelmed opposition parties, backroom pluralism, tepid journalism and unproductive committees are all symptomatic of a system that is failing to keep the executive accountable. This is a self-sustaining situation, for just as the lack of criticism contributes to the premier's celebrity status and that celebrity contributes to his or her power, the general lack of policy alternatives contributes to a groupthink of infallibility. The conclusion McCorquodale reached over two decades ago that "it would be more democratic and effective if the executive could carry its legislative branch with it as partner not adversary" is just as relevant today.<sup>29</sup>

The second theme is the declining relevance of the legislature. The House is closed 88 percent of the year and talk radio has effectively replaced it as the people's voice. Legislation is not sufficiently scrutinized: the committee of the whole is greatly overused, there are too few opposition MHAs to assess bills sufficiently, and standing committees are embarrassingly underused to the point of being dysfunctional. Backbench government MHAs have such a limited role that they are both overpaid and underworked: they routinely vote with their party, they rarely speak in the chamber, they do not introduce private member's bills, they do not always attend the House when it is sitting, they do not represent a large number of constituents, and they get paid extra for the little bit of additional duties that they have. That the legislature's shortcomings have persisted suggests a degree of indifference among the public.

A final, but perhaps most critical, theme is the politics of deference towards charismatic power-hungry elites and an outdated paternalistic ethos. Backbenchers, bureaucrats and journalists are scared to be on the wrong side of the executive for fear of harsh repercussions that can harm their careers. A massive spending scandal in the legislature occurred because, unlike Peter Cashin had done years before, nobody in the legislature had the courage or whistleblower protections to speak up about questionable expenses. Political participation is sufficiently limited that interest groups prefer to meet behind closed doors and family networks continue to hold considerable sway within party politics. There is a historical pattern of democratic fragility and of Newfoundlanders and Labradorians trusting elites to represent their interests.

This is not to say that gradual progress is not occurring in the House of Assembly. The influence

of religion has diminished and women are gradually assuming more powerful positions. MHAs and their staff provide important assistance services for their constituents. Financial systems in the legislature are now of a professional standard. House proceedings and management commission meetings are available on television and online. That a similar spending scandal was subsequently uncovered in Britain and Nova Scotia, and that in May 2010 the auditor general was barred in Ottawa from reviewing parliamentarians' expenses, indicates that the Newfoundland legislature's accountability problems are hardly unique. Furthermore premiers tend to be exceedingly popular long into their tenures. But the fact remains that policy alternatives are primarily discussed in cabinet and within the bureaucracy, which are secretive; in the media, which leans towards sensationalism and government propaganda; and, for 45 days a year, in meetings of all members of the legislature such as question period rather than in smaller specialist groups. Strengthening the quality of political decision-making in Newfoundland politics is important because, as one MLA put it, the House plays such an integral role in Newfoundlanders' and Labradorians' lives, whether they know it or not.

## Notes

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21. Proceedings have been audio recorded since 1960 and are on file at the broadcast centre in the House of Assembly. House of Assembly, personal email (September 28, 2009).
22. House of Assembly, Personal e-mail, (March 29, 2010).
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25. McCorquodale, p. 186.
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29. McCorquodale, p. 188.