

From: Martin [REDACTED]
Sent: February 21, 2025 8:15 PM
To: Office of the Legislative Counsel
Subject: Law Amendments Committee re: Bill 1

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To: Members of the Law Amendments Committee

I am writing to express my concern regarding proposed changes to the Auditor General Act - in particular to subsection 3(5).

I had the honour to serve as the province's independent Director of Public Prosecutions (DPP) for more than 20 years.

During my tenure as DPP, I experienced an environment free of fear of government interference, except when the McNeil Government attempted in 2019 (unsuccessfully) to remove full collective bargaining rights from the Province's Crown Attorneys through legislation.

I learned first hand that there are no more valuable indicia of independence than security of tenure and the ability to report directly to the Legislature.

For an officer of the Legislature, independence means the ability to operate free from government influence or control while maintaining accountability to the Legislature. This independence is crucial for ensuring impartial oversight of government actions and protecting public trust. A key aspect of independence for such an officer is that they can only be removed for cause, safeguarding them from arbitrary dismissal.

Viewed from the Auditor General's perspective, one can only feel threatened by this legislative move which diminishes the independence of the Office.

Currently, the Auditor General Act provides that the AG may only be removed "for cause or incapacity" by a 2/3 vote in the House of Assembly. That is consistent with legislation in all other provinces except Alberta and Manitoba - the only two that give their assemblies an unconditional power to fire an AG with a 2/3 vote.

BC, Saskatchewan, NB, Ontario, PEI, and Newfoundland and Labrador ALL require cause as well as a 2/3 vote. Quebec requires a committee report.

Changes to the legislation governing the Auditor General's office should enhance democratic control, public accountability and sound decision-making, not weaken it.

Democratic institutions around the world, and in particular, in the United States are under attack. Why is the Government so intent on challenging the independence of this vital Office? No satisfactory answer has been provided to this question.

I strongly encourage you to alter this wrongheaded course of action and to ensure that those who put their trust in you and our Democratic institutions are not disappointed. The proposed changes to subsection 3(5) should be withdrawn as they diminish the independence of the Office of the Auditor General.

Thank you for your consideration.

**Martin E. Herschorn KC
(Retired) Director of Public Prosecutions
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