If it ain't broken, stop trying to fix it:
Why the doctrine of ministerial accountability still works

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ABSTRACT

A number of critics suggest that the doctrine of ministerial accountability is broken when it is not. This has led to repeated and ill-conceived calls for scrapping the doctrine altogether in favour of a system that requires ministers to be accountable to Parliament for policy matters related to their departmental portfolios and for public servants to be separately accountable for administration. Citing the HRDC grants and contributions affair as an example, this paper suggests that despite modern realities the doctrine is still relevant for ensuring the accountability of government. The doctrine needs only to be better understood and consistently applied in order to remain effective. It demands that ministers, supported by their officials, be solely responsible for correcting administrative errors that occur within their departments, and that they provide related information to Parliament and Canadians. The doctrine solves problems of administration and sets in place processes to prevent future errors.

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INTRODUCTION

The old model of ministerial responsibility is broken and doesn't work.¹

Reg Alcock, President of the Treasury Board

I think the great frustration of Canadians, quite frankly, is they have a sense that no one [in government] is accountable...I think there is a sense that someone has to be responsible for these things when they go wrong, they have to be held to account and there has to be consequences.

Sheila Fraser, Auditor General of Canada

Within the traditional doctrine of ministerial responsibility, Cabinet ministers are solely accountable to Parliament for their portfolios and, as such, have a responsibility to identify and solve administrative errors within their departments and to provide answers regarding those activities². Some critics claim that this system of ministerial accountability in Canada is broken. More and more, it seems that even mentioning the words 'government' and 'accountable' in the same sentence will be met with responses marked by incredulous cynicism and even laughter. Whenever a scandal is highlighted in the media decrying yet another example of government mismanagement, there appears to

¹ The quotations of Mr. Alcock and Ms. Fraser were drawn from May Kathryn, "Our System is 'Broken': Alcock," (*Ottawa Citizen*: Ottawa, February 21, 2004).

² It is important to underscore that this paper is focused on the accountability of ministers for administrative errors that occur within their departments. The discussion will not focus on when a minister has acted unethically or criminally, both of which can require follow-up processes (e.g. resignation or criminal prosecution) separate than those required for errors in administration.

be a reflex for outside observers to suggest that Cabinet ministers are not being held sufficiently to account for the administration of their departments.

On the whole, the traditional system of ministerial accountability ensures a political responsibility for ministers to address errors, as opposed to a system limited to seeking revenge against officials and politicians. However, to many outside observers (most of whom are not students of political science) ministerial accountability can be summed up solely in the intense political debates covered regularly by the media. Almost daily, a person can see one side of the House of Commons screaming for resignations while the other side is defending some hapless minister. Where a minister is viewed as being impervious to such pressure because he/she is either individually powerful, or a member of a governing party in a majority position, the efficacy of ministerial accountability can appear to be in question.

As Kernaghan states, there is often "...little or no recognition of ministerial responsibility's far-reaching impact as it serves every day in many ways as the framework and foundation for innumerable interactions between politicians, public servants and the public."³ The subtle points of ministerial accountability, including the fact that it helps to ensure that government stays sensitized to the views and concerns of Parliament and the electorate, are lost when those who expect blood for mismanagement fail to get it.

³ Kernaghan, Kenneth, "Ministerial Responsibility: Interpretations, Implications and Information Access," Submission to the Access to Information Review Task Force www.atirtf-geai.gc.ca/paper-ministeriale.html (Ottawa, 2001), p. 5

In recent years, a number of attempts have been made by some parliamentarians to circumvent two time-honored cornerstones of the Westminster-form of government, namely the individual accountability of ministers and the anonymity of the public service. This has been seen in certain haphazard and ham-fisted efforts to assign individual blame and accountability to public servants for departmental errors.⁴ The fallacious belief that drives some of this behaviour is the feeling that since public servants are not directly accountable to Parliament, they are not accountable to anyone for their actions. When you add to this situation the fact that ministers have not been resigning for the errors that occur in their departments, a number of critics feel justified in suggesting that no one in government, elected or non-elected, is accountable to anyone for anything. The underlying premise here is that accountability is finding out who is personally at fault for an error and then subsequently punishing them for that mistake.

Some aspiring government reformers have sought to hold public servants directly accountable by splitting accountability between ministers and deputy ministers. The result would demand that deputy ministers be held accountable to Parliament for the administrative decisions and actions that they make on behalf of their ministers. This has been fed by repeated calls over the past three decades to strengthen the accountability of ministers by separating out the policy work of a government department from that which is administrative. Flowing from this demarcation, would be the creation of separate accountabilities wherein a minister would be directly accountable to Parliament for the policy functions related to the day-to-day activities of their departments as well as the

⁴ A famous example of this is the Al-Mashat Affair, which will be discussed later in this paper.

requirement that public servants be held accountable for the administration of departments.

Three possible reasons suggest themselves as to why prospective reformers would suggest that the traditional doctrine of ministerial accountability is now obsolete: 1) they do not understand the doctrine of ministerial accountability sufficiently, and how its resiliency secures its capacity to still be an effective means of holding government to account today; 2) they feel that there are genuine systemic constraints in Canada that undermine ministerial accountability; or 3) they do not have a vested interest in stating that the doctrine works. This third reason could capture those ministers who prefer to offload blame onto their officials as a means of avoiding political fallout for departmental errors, or it could encompass those political parties and media companies that profit from scandals in government and the suggestion that ministers and public servants are not sufficiently punished for their transgressions.

While there are some who suggest the doctrine of ministerial accountability is broken beyond redemption because it is seen as irrelevant and insufficient for addressing problems of administration within a modern and complex government, this paper contends that the doctrine works. Those who wish to improve government accountability need to move past ongoing rhetoric calling for a wholesale abolishment of ministerial accountability and, instead, focus their efforts on reforms aimed at improving those vehicles that exist to support ministerial accountability. Albeit, it is fair to say that the doctrine can sometimes appear broken, since it is being applied in accountability discussions and processes in a less than consistent fashion, and given that there are

certain modern realities that place pressure upon the doctrine. Nevertheless, the doctrine is by no means something to be discarded.

The doctrine is not about assigning personal blame and resulting sanctions; it is about ensuring better government by requiring that elected officials mitigate and, if required, fix problems in administration. It is the best means for ensuring that Parliament and the electorate have a single source, which is a Cabinet minister, from whom they can obtain answers and secure remedial action when government mismanagement occurs. By requiring ministers to be solely accountable for all of the activities of their departments, those same ministers cannot evade providing an account of their stewardship to Parliament by deflecting criticisms onto their own government officials.

S.L. Sutherland sums up well the necessity of the doctrine of ministerial accountability in supporting the proper functioning of a government that is accountable for its administrative errors:

After a major debate the government is publicly committed to review its policy, or alternatively, is put on notice to pay close attention to future outcomes of its allocation decisions. In contrast, a public that is bought off with an announcement that one or two officials have been dismissed has received no assurance whatsoever about the future. The government and the minister remain free to allocate resources as they please, with no accountability, so long as they enjoy a supply of officials to blame before the public.⁵

⁵ Sutherland, S.L., "The Al-Mashat Affair: Administrative Accountability in Parliamentary Institutions,"

There is no suggestion that ministerial accountability allows for public servants to escape any requirement to be accountable for their activities. Government officials are required by the doctrine to be accountable to their ministers and, further, public servants also have varying other accountabilities for the proper execution of their roles and responsibilities, which will be discussed later in this paper.

There has been the tendency for some ministers to suggest that they themselves should not be held accountable for certain administrative errors as they were not personally involved in causing them and, moreover, there is no capacity for them to even be aware of all potential problems that could occur in a large department. Picking up on this reasoning, there are some critics who claim that deputy ministers should be directly accountable to Parliament because, unlike their ministers, deputies are more involved in, and knowledgeable of, departmental administration. Such a suggestion is a weak argument for reform. How can a deputy minister, who may be in charge of thousands of employees, claim any more-specific knowledge and personal involvement than that of his/her respective minister when it comes to the array of possible management problems that could emerge?

Overall, the existing modes of governmental scrutiny continue to allow for an effective and open public process for holding ministers to account for the activities of their portfolios. These processes enable the public retrospective study of lapses in government administration and they facilitate sufficient corrective policy and

administrative changes for the future. While this paper contains some suggested reforms that may be necessary to buttress the institutional vehicles that support ministerial accountability, it is suggested that the doctrine itself is not in need of anything except for a wider understanding of what it is and why it is absolutely necessary to apply it in a consistent manner. Any move to fragment accountabilities between ministers and public servants would greatly exacerbate the challenges that exist now in keeping government accountable, thus undermining accountability of ministers altogether and detracting from other necessary discussions that do need to take place on how to improve existing accountability mechanisms.

This paper is designed to assist in clarifying what ministerial accountability entails and why, despite some noted challenges, it should remain intact as a fundamental underpinning to a government that is sufficiently accountable to Parliament and to the electorate. It begins with an exploration of the historical and theoretical foundations of the doctrine of ministerial accountability, to be followed by a more in-depth look as to what it means for a Cabinet minister to be accountable; which is not to resign for administrative errors, but to answer for them and to correct them. Discussion then turns to the roles and functions of the necessary components of Canada's system of accountability, including ministers, deputy ministers, Parliament and Question Period, the Public Account Committee, the Auditor General, and the media. Some of the challenges that exist for our accountability system will also be touched upon, with particular focus on ineffective efforts and suggestions that have been made to hold public servants and specifically deputy ministers directly accountable to Parliament. It will be suggested that

any transferring of accountability away from ministers will only serve to weaken the accountability of government and further complicate existing complexities within government. A case study of the Human Resource and Development Canada (HRDC) grants and contributions affair will also be presented as a testament to the effectiveness of the traditional doctrine of ministerial accountability in addressing administrative errors in a modern day government. The conclusion will include some suggested reforms for clarifying and strengthening ministerial accountability and the accountability vehicles that support it.

In addition to an analysis of available academic literature and primary documentation, research conducted in support of this paper was primarily focused on a series of personal face-to-face interviews with experts on the issue of ministerial accountability and/or on events surrounding the HRDC grants and contribution affair. Those interviewed include Frank Claydon, former Secretary to the Treasury Board; the Right Honourable Herb Gray, former Deputy Prime Minister; Ralph Heintzman, Vice-President of the Public Service Human Resources Management Agency; Arthur Kroeger, former deputy minister of multiple departmental portfolios; and Alan Winberg, former Assistant Deputy Minister at HRDC and current Executive Director of the Indian Specific Claims Commission. These interviews were approximately one-hour in length and were based on survey questions provided to the interviewees in advance that focused on whether ministerial accountability works in Canada, or whether it needs reforming. More specifically, the interviews primarily covered the following questions:

- Are Cabinet ministers adequately held accountable for the administration of their portfolios?
- Should ministers resign for administrative missteps or are other, if any, consequences required?
- What is the role the media plays in ensuring ministerial accountability?
- Are deputy ministers held sufficiently accountable? Should more be done in this area?
- Should accountabilities be split between ministers and deputy ministers and if so, how?
- What would be the repercussions for splitting accountabilities?
- Was Canada's accountability system effective in the handling of the HRDC grants and contributions affair?
- Is ministerial accountability a concept that is well defined and understood, or does it need to be clarified? How can it be clarified and communicated more effectively?
- Are there any other suggested reforms to ministerial accountability?

The information gleaned from these interviews was invaluable to informing major portions of this thesis. As will be seen in remarks cited in this paper, the interviewees exhibited a solid understanding of the theoretical and practical issues surrounding the applicability of ministerial accountability in Canada.

CHAPTER 1: FOUNDATIONS OF MINISTERIAL ACCOUNTABILITY

The proper application of ministerial accountability in Canada depends first on a proper understanding of the doctrine. While ministerial accountability is a doctrine that is 'traditional', it exists because it evolved in Westminster parliamentary systems as a very practical convention to hold governments accountable to Parliament. As a first step to defining and exploring issues surrounding individual ministerial accountability for administrative matters, it is necessary to explore the historical origins of responsible government and the rise of the public service. The doctrines of responsible government and ministerial responsibility were products of these historical trends, and they themselves form the theoretical foundation upon which the doctrine of ministerial accountability itself is derived.

Historical Foundations

The Origins of Responsible Government

The requirement for cabinet ministers to be held to individually to account for the activities of their respective ministry portfolios is rooted in the historical development of responsible government and the civil service in Great Britain. In its submission to the Lambert Commission, the Canadian Privy Council Office (PCO) outlined the evolution of responsible government, which entailed the process of the Crown being made "responsible to parliament for the exercise of its power."⁶ The submission underscored that in a parliamentary government, power flows from the monarchy:

⁶ Privy Council Office, "Responsibility in the Constitution: Submission to the Lambert Commission of Financial Management and Accountability," (Ministry of Supply and Services: Ottawa, 1977), Chapter 2, p. 1.

Constitutionally, the power of the state flows from the Crown and generally speaking may only be exercised by or on the authority of the Crown.

Parliamentary and Cabinet government is a system that has evolved to ensure that power is exercised responsibly by the Crown and its advisers.⁷

In feudal times, the monarchy had control of executive, legislative and judicial power. To aid the exercise of that power, the Crown would appoint and make use of a 'government' comprised of a council of advisers (ministers) who would also hold various offices of state. In the thirteenth Century, the right of the Crown to impose high taxes on the nobility to finance war efforts, and the resulting mutiny of the English barony, led to the creation of the *Magna Carta*. This document forced the Crown to seek the expressed consent of the nobility for all future taxations imposed. When taxation was later imposed on the 'commoners', the principle of prior consent was extended to include them as well, thus spurring the creation of the Commons assembly to deliberate the granting of such consent.

In the seventeenth Century, Charles the First sparked a civil war by imposing new taxes without the prior consent of the Commons. The subsequent victory of the Commons was followed by the passing of various pieces of legislation, including a *Bill of Rights* that made the Crown dependent upon the Commons for imposing new taxes. The Commons also had authority for the expenditure of funds. However, the King reserved

⁷ Ibid.

the sole right to propose taxes or expenditures. On the advice of the council of his “ministers”, the King’s proposals would be developed and submitted to the Commons for approval and implementation. The King’s ministers then became responsible to the Commons for the money allocated to them for the governing of their respective governmental offices. Ministers gave account to Parliament for their actions, and could be impeached if Parliament lost confidence in their abilities to continue to fulfill their duties satisfactorily: the convention of ‘individual ministerial responsibility’ to Parliament was born.

By the time of the Hanoverian Succession to the Throne in the eighteenth century, the King’s prerogative to appoint his ministers began to bleed away as the new emerging political parties in the Commons began to support certain groupings of ministers. Also, the Lord of the Treasury, as the King’s first (or ‘prime minister’), began to take control over the Crown’s role of appointing other ministers to the King’s Council. The ministers worked to coordinate their efforts to defend their proposals to the Commons, and the Lord of the Treasury played a key role in this effort. He would be responsible for defending the government ‘Estimates’ of expenditures, and would oversee a Treasury Board of ministers that, through deliberation, would develop well-considered expenditure proposals to be submitted to the Commons.

By the mid-nineteenth century, the Lord of the Treasury was known officially as the ‘Prime Minister’, and the King’s Council was replaced by the ‘Cabinet’: a collection of ministers chaired by the Prime Minister. The Prime Minister’s role was to achieve the consensus of ministers (drawn from his own political party) on important policy or

administrative proposals in order to provide a united front before the Commons to facilitate approval of those proposals. Cabinet deliberations were kept confidential from outside scrutiny or interference to underpin collective representation before the Commons. Following the *Reform Act* of 1832, the failure of any major proposal in the House of Commons was viewed as a 'want of confidence' and the Prime Minister and his ministers would be required to resign.

The political party system assisted the capacity of the government in power to secure the needed majority votes in the Commons or, on the contrary, provided a vehicle for members of opposing political persuasions to organize and vote the government out of power. With the passage of the *Reform Act*, the convention of 'collective ministerial responsibility' and, indeed, 'responsible government', were fully adopted.

Responsible government came to Canada in the nineteenth century as well. The seeds of its implementation were sown in the report of Lord Durham, who was assigned by the British Government to make recommendations to alleviate the conditions that sparked the Lower and Upper Canada rebellions of 1837. In order to address the power struggles that were occurring between the elected legislative assemblies of the colonies and their respective powerful British Governors, Lord Durham recommended the adoption of responsible government in Canada, making "parliamentary leaders responsible to the legislature for the advice they give to the Crown."⁸ The Cabinet of the new Province of Canada (formed by the joining of Lower and Upper Canada) would be

⁸ Aucoin, Peter and Jennifer Smith, and Geoff Dinsdale, "Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth," (Canadian Centre for Management Development: Ottawa, 2004), p. 18.

responsible to the legislative assembly, as opposed to the Crown.⁹ After a series of reforms by political parties in Nova Scotia and the Province of Canada, both colonies created functioning responsible governments by 1848. By 1855, Prince Edward Island, New Brunswick and Newfoundland had all followed suit. The western provinces came under responsible government with the adoption of the *Constitution Act of 1867*.

The *Constitution Act of 1867* did not explicitly contain provisions pertaining to responsible government, but it did explicitly invoke the common law from which it evolved. The *Act* defined:

...the composition of Parliament, and in that it assumed that in the exercise of executive authority the Crown would be responsible to and dependent upon the approval of the Senate and the House of Commons. Indeed, not only did convention demand that the ministers answer to the House of Commons for the advice of the Crown, but the responsibility of the ministry before Parliament may have been said to have been implicit in the Act.¹⁰

In Canada, Parliament would have control over taxation and expenditure, while spending proposals would only be made by the Crown (through the Prime Minister and Cabinet).

⁹ *The Canadian Encyclopedia: year 2000 edition*, James H. Marsh (ed.), (McClelland & Stewart Inc.: Toronto, 1999).

¹⁰ "Responsibility in the Constitution," Chapter 4, p. 1.

The Rise of the Public Service

During the nineteenth century, the British Parliament also increased its role in overseeing and controlling the machinery of government. In the early part of that century, administrative power was in the hands of largely independent boards that were appointed by the Crown, and whose members were not necessarily parliamentarians. According to Matthew Flinders¹¹, parliamentary reliance on appointed boards waned due to the increased theoretical and practical factors that underpinned Parliament's newfound support for the individual responsibility of ministers. As Flinders underscores, the attractiveness of the doctrine of ministerial responsibility was its simple formula: "responsibility is focused (on the minister), the line of accountability is clear (Official→ Minister→ Parliament), and the ministers are culpable."¹² Government ministries were representative and responsible. Government was also stronger and more stable. Government operations were protected from excessive political parliamentary interference, and ministers were afforded a greater degree of "stability and tenure" in their positions.

Institutions of public administration (e.g., public service) were created and made accountable to ministers of departments, who in turn were responsible to Parliament. This ensured parliamentary control of government administration. Department officials were to be non-partisan and accountable to their ministers, and not before Parliament. Officials could not seek to be a member of Parliament. As such, they could only address

¹¹ Flinders, Matthew, "The Enduring Centrality of Individual Ministerial Responsibility within the British Constitution," *The Journal of Legislative Studies*, VI: 3 (Autumn 2000), pp. 73-92.

¹² *Ibid.*, p. 77.

Parliament, or be held accountable to it, through their respective ministers.

Parliament also reformed its procedures to entrench its oversight and control of ministries and to hold individual ministers to account. This was accomplished through the initiation of supply debates, the substitution of petitioning Parliament with Parliamentary Question, and through the creation of the Public Accounts Committee and the offices of the Comptroller General and Auditor General. Ministers were given the authority to manage their portfolios on behalf of Parliament, and were thereby accountable to Parliament for their administration.

Matthew Flinders suggests that the virtue of ministerial responsibility may have also served to undermine the original intent in the creation of the concept. Indeed, ministerial responsibility ensured that direct control of administration was vested in an executive body (Cabinet) as opposed to the wider Parliament. However, as a result, Parliament secured administrative control through the diminishing of appointed boards and the promotion of the institutions of ministerial responsibility but, in turn, placed direct governance of that administration in the hands of only a select subset of Parliament (i.e. cabinet ministers)¹³. Nevertheless, through this process government administration would be strong and stable and protected from excessive parliamentary interference. The Cabinet's control of government functioning meant that they were collectively responsible for the quality of its administration.

In the case of Canada, Lord Durham found the civil service of the colonies to be corrupt and incompetent. Conflict of interest ruled the day with elected officials

¹³ Ibid., p.p. 88-89.

assuming civil service roles, and introducing and voting for proposals (e.g. public works contracts) in Parliament that would directly benefit them. The civil service suffered from a scarcity of organized government administration, a lack of cross-cutting administrative rules and regulations, and little executive control over the use of public works funding.¹⁴ In addition, there were not any heads of departments who could be held to account for government administration. Civil servants also owed their job stability to the patronage of ministers.

Inspired by the trends in Britain, reform was enacted in Canada by way of the *Civil Service Act* of 1857, which created government departments and a “hierarchy of responsibilities” for the civil service (with a “deputy minister” designated as a government department head). This, in turn, allowed for the capacity to make officials accountable.¹⁵

By 1918, all civil service appointments were out of the hands of ministers and under a Civil Service Commission. While public servants would serve their ministers loyally, they no longer needed to court the favour of a minister to gain employment, and could enjoy a ‘permanent’ career that would continue as succeeding governments rose and fell in power. The removal of their formerly symbiotic employment relationship with ministers, freed public servants to provide unpopular, but helpful advice to ministers without fear of recrimination for ‘speaking truth to power’. Public servants also became protected from criticism outside of government by enjoying anonymity in the advice and

¹⁴ Savoie, Donald J., Breaking the Bargain: Public Servants, Ministers and Parliament (University of Toronto Press: Toronto, 2003), p. 23.

¹⁵ Ibid. p. 27.

support provided to their respective ministers.

Theoretical Foundations

Within the Westminster parliamentary system, ministerial accountability flows from the concepts of *responsible government* and *ministerial responsibility*.

Responsible Government

As we have seen already, historical patterns have led to the establishment of responsible government within Canada. The Prime Minister and Cabinet are endowed with the constitutional and legal authority to govern. They are individually and collectively responsible for the provision of government, are held accountable before Parliament for the conduct in the exercise of executive power, and must have the support of the majority of members of parliament (MPs) in order to remain as the government in power. The confidence enjoyed by the government is tested during votes of “confidence”, on items such as identified key legislation, the federal budget and the Main Estimates of expenditures. A loss of confidence in Parliament ultimately results in the matter being brought to the people through the calling of a new federal election.

Ministerial Responsibility

Placed within the context of a responsible government, the convention of *ministerial responsibility* requires that a small subset of ministers are responsible for the administration and conduct of government, and are accountable to Parliament and the electorate for the exercise of that responsibility. The relevant spheres of accountability flowing from ministerial responsibility include “political accountability for policies and other political acts, administrative accountability for management and administration, and

financial accountability for use of funds.”¹⁶ Ministerial responsibility can be sorted into the separate conventions of: 1) *collective responsibility*; 2) *individual responsibility*; and 3) the *permanency and anonymity of the public service*.

a) Collective Ministerial Responsibility

Within the convention of *collective responsibility*, a Cabinet of ministers is identified as having a collective “...duty to submit and defend their policies before Parliament, and to resign if defeated in the House of Commons on an issue of confidence.”¹⁷ In this convention the government stands or falls as one administration, and speaks with one collective voice. Cabinet ministers are required to show solidarity and to collectively approve policy decisions in a consensual manner. Every minister must completely accept and support the decisions of the Cabinet.

In the past, solidarity was first used by cabinet ministers to shield themselves from the influence of the Crown. In modern times, Cabinet solidarity is used to protect individual ministers who are being targeted by opposing political forces within Parliament. A government would not be able to actually govern effectively if an opposing political party could censure and oust a cabinet minister at will. Without the protection of Cabinet solidarity, the government could conceivably be placed in a tenuous state if situations occur where competent and experienced cabinet ministers could be removed by opposing political forces trying to score cheap political points.

¹⁶Franks, C.E.S., Parliament of Canada (University of Toronto Press: Toronto, 1987), p. 227.

¹⁷Sutherland, S.L., “Responsible Government and Ministerial Responsibility: Every Reform Is Its Own Problem,” Canadian Journal of Political Science XXIV:1 (March 1991), p. 95.

Political parties are important components of Cabinet solidarity and collective responsibility. Political parties ensure that a stable majority government can be maintained within Parliament.¹⁸ The party system helps to ensure that a government has the capacity to control and protect its membership and to meaningfully accept “responsibility for its direction and impact as a government.”¹⁹ A majority government will know through its political party’s caucus as to whether it has control over its members, and that its Cabinet will be able to dominate in the House of Commons.

A party in power is elected, in part, to implement a policy package. Accordingly, a governing party that is seen to be unsuccessful in delivering its promised policies can be rejected, as a whole, by the electorate for another more-desirable political party. As such, within the concept of collective responsibility, an identifiable group of individual ministers act and speak as one voice, and are held directly and collectively accountable to Parliament and the people. It is part the oversight function of Parliament to expose lapses or wrongdoing by the government. The electorate, in this atmosphere of increased public exposure may, in turn, oust an offending government in a subsequent election for perceived failings in key responsibility areas.

There are not many who disagree with the Privy Council’s statement that “collective responsibility is the cement of our government.”²⁰ Collective responsibility is

¹⁸“The Al-Mashat Affair,” p. 577.

¹⁹“Responsible Government and Ministerial Responsibility,” p. 96.

²⁰ “Responsibility in the Constitution,” Chapter 3, p. 2.

a powerful force, since a government can be held accountable and rejected for failures in its administration as a whole.

b) Individual Ministerial Responsibility

Individual ministerial responsibility requires that ministers are personally responsible to Parliament for the actions of their respective departmental portfolios. Complementarily, every act of a public servant is viewed as an act of their respective minister.²¹ As underscored by S.L. Sutherland, individual ministerial responsibility creates a “timeless focal point for legal, political and administrative responsiveness”²² within Parliament. Sutherland fleshes out the three principles of individual ministerial responsibility: legal responsibility; political responsibility; and administrative responsibility.²³

Legal responsibility is the requirement that a minister, as opposed to the Monarchy itself, is legally responsible for acts of the Crown. Under this principle, an individual minister is the legal person to whom complaints or requests can be addressed with respect to the departmental portfolio, of which they are the sworn head, and/or with respect to the actions of their departmental officials.

Sutherland relates *political responsibility* as legal responsibility acted out in the political realm of Parliament. It involves the subordination of government to Parliament as a whole. In this sense, ministers are the link between Cabinet and the House of

²¹ Parliament of Canada, p. 227.

²² “Responsible Government and Ministerial Responsibility,” p. 95.

²³ “The Al-Mashat Affair,” p.p.578-581.

Commons, in that they are the sole spokesperson for their respective portfolios and they must answer to Parliament for the actions of their departments. This principle ensures a focus and a face to an issue and "...has the impact of making it comparatively easy to get an item onto a political agenda - and to keep it there - ensuring discussion, debate, an avenue for the pressure of public opinion, and a forum for creating public opinion."²⁴

The fact that a minister must also speak and be answerable for all actions of their departments, *past and present*, is an important function in that it ensures that only one specific minister, and the government, can assume sole control and guidance in areas of key responsibility. Ministers and governments come and go, but it is always clear to whom the country can look to within the government of the day for answers and solutions to problems.

A minister's *administrative responsibility* flows from the principles of legal and political responsibility. The minister acts as guide for their department as to how to implement the desired policy direction of the elected government. A minister's role as head of a department puts into place pressures that "push important business to the minister for analysis and approval."²⁵ While a minister reserves the right for final approval of departmental actions, it is not required that a minister be aware of every decision and issue under his/her portfolio. However, every act or decision is available for review and adjustment by the minister.

²⁴Ibid., p. 578.

²⁵Ibid.

Due to the large range of issues captured within departments, ministers must learn where to focus their attention and influence in order to be as effective as possible.

Sutherland discusses how a good minister will learn the mission of their department as well as policy areas through which their political party will want to be influential, and then sufficiently communicate those interests to departmental officials. The criticism waged by other political parties in Parliament helps to ensure that ministers will communicate regularly with their officials, and learn what they need to know to act as an adequate spokesperson for their department on pertinent issues.

Sutherland summarizes the ultimate democratic purpose for administrative responsibility as being to ensure an “avenue of political control over both routine administration and the implementation of policy by the bureaucracy.”²⁶ It is about infusing meaning of government ideas into a departmental portfolio, and correcting or amending policies as required. While a minister is not realistically expected to dominate all action managerially, political accountability can ensure that important issues for action are brought to the attention of the minister.²⁷

As previously discussed, a minister’s discretionary powers are conferred upon them through statute. Within the doctrine of ministerial responsibility, such legislation often gives all authority of a portfolio, both policy and administrative, to the minister. This authority is a necessary precursor to ministerial responsibility. Without authority for a departmental portfolio a minister cannot be held personally responsible for

²⁶Ibid.

²⁷“Responsible Government and Ministerial Responsibility,” p. 100.

administrative problems, nor would a minister be able to take appropriate corrective measures to remedy a situation. As a result of this requisite authority, a minister must remain as the sole person who answers for both present issues as well as for those past problems that occurred under preceding ministers responsible for the same portfolio. A standing minister is the only person with the authority to internally investigate and fix an issue within their departmental purview.

c) **Permanent and Anonymous Public Service**

The status of the public service as permanent and anonymous is an important element to be considered when discussing ministerial responsibility. As an important counterweight to the impermanency of governments coming to and falling out of power, we have seen that a permanent public service emerged in Canada and Britain that was both equally loyal to serving each successive government, and yet not so closely linked as to require changes in staff with the rise and fall of a new governing political party.

To ensure effective government, a permanent professional public service emerged as a pool of expertise and advice from which ministers could draw. In order to feel free to advise ministers with the best information possible, the civil service needed to be shielded from outside scrutiny or attack. As such, the employment status of civil servants became permanent, with job security being assured regardless of which political party formed a government. Public servants were assured that they would be promoted on the basis of merit, not political affiliation. Decent working conditions, remuneration, and pensions ensured that public servants would not have to be distracted by the need to pursue material stability. In exchange for limiting their partisan and political rights,

public servants were provided with a safe environment in which they could provide fearless and honest advice to ministers. The ability to influence governmental policy would still remain, perhaps even be augmented, for public servants. However, such influence would have to be exercised within the private realm of a ministerial portfolio as opposed to the public realm of political activism.

In the development of the Westminster form of government, the role of the public servant became anonymous, in that civil service officials have no “independent standing before Parliament or accountability to Parliament.”²⁸ The assessment, advice and actions proffered by the civil service became anonymous and insulated from the public eye, thus ensuring that the quality of assistance provided was not diminished by threats or other outside influences, either positive or negative. With privacy protections enveloping ministerial advice and those who provided such advice, vested interests had fewer points of access through which they could sway, by carrot or stick, governmental policy and administration. As such, the minister of the department as the solitary face of a departmental portfolio was further entrenched. Policies developed from the bottom-up found expression through a minister. Conversely, with a minister as the sole portal to provide top-down guidance to a department, the civil service could only receive politically-motivated guidance from one person, ensuring that such guidance was appropriately focused, as opposed to diffuse or potentially contradictory.

A minister directs the policy of his/her department, and the officials are responsible for the execution of that policy. All actions of public servants are initiated on

²⁸ Mitchell, J.R., “Reply to C.E.S. Franks,” Canadian Public Administration 40:4 (Winter 1997), p.654.

behalf of a minister. Ministers are solely responsible for the management and direction of departmental officials, and thus accountable to Parliament for the actions of those officials. They are expected to answer to Parliament and the public for their department's administration, while protecting their officials from outside influence and discipline. They are not pass blame onto their officials, or to publicly discipline them. Herman Finer underscores the importance of maintaining this unique minister-to-department relationship, otherwise "...civil servants may be publicly attacked by one party and praised by another and that must lead to a weakening of the principle of impartiality."²⁹ In the Canadian context, neither law nor tradition has looked kindly upon ministers who have named or blamed their officials as a means of deflecting the ownership of criticism.

In his book *Breaking the Bargain*, Donald Savoie provides a synopsis of how this minister-public servant relationship is operationalized in Canada. Public servants are ultimately accountable to their minister, either directly or via the series of reporting relationships that form the departmental hierarchy of management. Public servants speak only on behalf of their minister when called as a witness by a parliamentary committee, or when addressing the media or some form of public audience: "Officials provide factual answers and explain policies , but they do not defend or debate them."³⁰ As servants of the crown, "career officials are expected to provide to the government of the day non-partisanship, loyalty, impartiality, discretion and professionalism in return for anonymity

²⁹ Finer, Herman, *The British Civil Service* (London: Allen and Unwin, 1937), p. 196.

³⁰ Office of the Auditor General of Canada, *November 2003 Report of the Auditor General of Canada* (Ottawa, 2003), Chapter 2, p. 7.

and security of tenure.”³¹ Savoie points out that this may require great sacrifices on the part of a public servant, such as a lessening of political identity and public recognition.

Self-discipline is a necessary, but sometimes difficult, requirement for an individual public servant. For example, a current day Justice Canada official, who personally believes strongly in legalizing marihuana, could conceivably have an uncomfortable experience of appearing before a parliamentary committee to defend the government’s policy to continue to keep marihuana use as a listed criminal offence. As a trade-off, the same official is protected from losing his/her job regardless of the incongruity between the personal views of the public servant and the official policy of the government of the day. As long as a public servant provides loyal, professional and impartial service, that same person may enjoy protected employment status and the opportunity to build expertise in their policy field and to perhaps influence the policy agenda from within government without fear of recrimination. If a civil servant were to do an ‘end run’ around a minister by publicly contradicting the governments’ policy, the authority and control of their minister (and the political government they represent) would be undermined.

As a public servant must give up partisanship to enjoy the benefits of public service, so must a minister make certain sacrifices for the stability of government. Ministers are traditionally forbidden from deflecting criticism from themselves to their officials who, because of their anonymity, are unable to speak in their own defence.

³¹ Breaking the Bargain, p. 42.

They are also unable to influence the hiring or firing of public servants.³² As a consolation for this, these same ministers enjoy the support of officials who are both competent and loyal.

Summary

When looking to understand the doctrine of ministerial accountability, it is first necessary to consider the historical patterns and theoretical constructs that underpin the doctrine. We have seen that evolution of responsible government and ministerial responsibility in Canada has created conventions that inform our political and parliamentary processes. With respect to issues relating to accountability, it has been shown that the doctrines of responsible government and ministerial responsibility require that the governing political party is responsible and accountable to Parliament for its exercise of executive power. In this respect, the government's Cabinet ministers are collectively held accountable and rejected for failures in administration. Individual ministers alone are also personally accountable to Parliament for the past, present and future actions of their respective departmental portfolios. Public servants, who support the accountability requirements of Cabinet ministers, are themselves only accountable to their ministers and not to Parliament.

³² Historically, a strong tool in cabinet minister's arsenal of influence was the ability to reward supporters with employment and to, conversely, remove detractors from their posts.

CHAPTER 2: UNDERSTANDING MINISTERIAL ACCOUNTABILITY

One of the primary reasons that ministerial accountability needs to be clarified is that what it means for a minister to be ‘accountable’ is often misinterpreted. While many in Canada may have a general understanding as to what ministerial responsibility entails, there is little evidence of a commonly shared and consistent understanding of the doctrine of ministerial accountability.

Meaning of Accountability

In their more general usages, quite often the terms ‘responsibility’ and ‘accountability’ are used interchangeably, although they are in fact quite different. While conferring responsibility involves the provision of authority to a person or organization, the requirement of accountability is by definition the imperative to render an account for the use or misuse of that same authority. Citing the International Encyclopedia of Public Policy and Administration, Savoie suggests that at its most basic level the term ‘accountability’ implies “some measurement or appraisal of performance and an obligation to answer to a person or group.”³³ The Privy Council Office has posited that “accountability is a means of making responsible the use of power.”³⁴ Accountability and responsibility are often used synonymously within public management literature, as both are “defined by the office holder’s authority”.³⁵

Aucoin and Heintzman suggest that there are three functions to accountability within government: to prevent the misuse of public authority; to assure the public of the

³³ Breaking the Bargain, p. 160.

³⁴ “Responsibility in the Constitution,” Chp. 7, p. 1.

³⁵ Tait, John C., *A Strong Foundation: Report of the Task Force on Public Service Values and Ethics* (Canadian Centre for Management Development: Ottawa, 1996), p. 9.

proper disposition of resources and adherence to the law and public service values; and to promote continuous learning and improvement in governance and public management.³⁶

According to Mary Franceschet, institutions or people can only reasonably be held accountable if they have significant control (i.e. authority and resources) to fulfill responsibilities. Franceschet outlines four necessary aspects to accountability relationships:

1. assignment or negotiation of responsibilities;
2. the obligation or duty to report on performance;
3. monitoring of the performance by someone else; and
4. a consequence for behaviour (either positive or negative).³⁷

A joint paper released in 1998 by the Office of the Auditor General and the Treasury Board Secretariat, suggested that accountability relationships must have clearly specified performance expectations and must take into account the capacity of the parties to the relationship to meet those expectations. The paper specified that as part of the performance review and feedback requirements of an accountability relationship, “achievement and difficulties should be recognized and necessary corrections made.”³⁸ It has also been recognized that the duty to report on performance includes indicating actions to prevent reoccurrences as part of the correcting of any identified problems, and

³⁶ Aucoin, Peter and Ralph Heintzman, “The dialectics of accountability for performance in public management reform,” *International Review of Administrative Sciences*, vol. 66, no.1 (March, 2000), p. 45.

³⁷ Franceschet, Mary, “Public Accountability and Access to Information,” Submission to the Access to Information Review Task Force www.atirtf-geai.gc.ca/paper-account1-e.html (Ottawa, 2001).

³⁸ Office of the Auditor General of Canada and the Treasury Board Secretariat, *Modernizing Accountability Practices in the Public Sector*, www.tbs-sct.gc.ca (Ottawa, 1998), p. 6.

that any requirement for personal consequences should be limited to those circumstances where someone could have reasonably acted to avoid the occurrence of a problem, but failed to do so.³⁹

As a former holder of multiple successive deputy minister positions, Arthur Kroeger provides an informed summarization of the relationship between responsibility and accountability⁴⁰. According to him, to be responsible for an organization is to be in charge of it. As a logical consequence of being in command, the person in charge is accountable for their conduct in relation to that organization. This accountability is an obligation to account for the use of the authority conferred. In workplace terminology, one is accountable to a boss. As such, that same boss investigates how well an employee is working and imposes sanctions or offers rewards, depending on the conclusions drawn regarding the account given for the employee's conduct.

Kroeger delineates a distinction between being accountable and being to blame. While a person is accountable for an organization of which they are in charge, whether they are to blame for a certain issue depends on what that person did or failed to do. As the Minister of Finance in the Mulroney government, Michael Wilson was responsible for his department (because he was in charge of it), and as a result he was accountable to Parliament (because that is where he derived his authority). During his tenure, one of his officials leaked part of the Budget to the media. Mr. Wilson was accountable for what happened, even though he had nothing to do with it directly, because he was in charge of the department and was required to give an account for what occurred. However, he was

³⁹ *A Strong Foundation*, p. 9.

⁴⁰ Personal Interview with Arthur Kroeger (2003).

in no way to blame for that action, because he did not make the error himself and he was not guilty of negligence. However, as the responsible minister, he had to give an account to the public and to Parliament of what happened.

Conversely, John Fraser, a former Minister of Fisheries, ignored his officials when they informed him that tuna being produced in a certain plant in Atlantic Canada was tainted and not fit for human consumption. He ignored this information because of how a departmental response to that information could affect employment at the tuna-producing plant. When this incident became public, the minister resigned. Kroeger felt that the minister was correct to resign, not because he was the minister responsible for the Department of Fisheries, but because he had to give an account to the public and Parliament for the poor decision that he made. Personal blame was attached to his actions.

Kroeger also underscores that in addition for being to blame for an action, one can also be blamed for a lack of action. An example would be if a departmental security officer failed to run a reference check on a new employee who had a criminal history, and that employee subsequently began stealing money from the department. However, Kroeger quickly points out that in the realm of ministerial accountability, such easy examples are rare, and that often it is not apparent whether a respective minister is blameworthy.

The issue of blame can be very difficult to assess objectively when looking at reasonable standards of due diligence. After an incident has occurred, it is easy for an outside observer to say that someone should not have allowed that to happen. Sometimes

a person can anticipate that a problem will occur and, as a result, implement a proactive solution. However, this is often not the case, as most people in charge of an organization assume operations are running well unless they have a specific reason for a closer examination. As Kroeger asserts, “it is difficult to start peering into the nuts and bolts of every unit in a department unless there is a known reason to.”

Whether a minister is to blame or not, Kroeger underscores the importance of adhering to the anonymity of the public service, and of not engaging in “public hangings”. Using an amusing example, Kroeger explains that the CEO of the Royal Bank of Canada would never stand up at an annual meeting and say that: “Our financial results would have been better this year if it were not for the fact that my stupid Vice President from Latin America agreed to some bad loans!” Instead, the CEO would deal with the Vice President directly. Regardless of whether officials are at fault, ministers should never issue statements naming officials or calling for public apologies.

How is a Minister Accountable?

In the broader context of government, Nick d’Ombrain places accountability as the requirement for elected and non-elected office-holders to “explain the actions taken through the use of powers conferred upon them by Parliament or delegated to them by ministers or other office-holders.”⁴¹ Within Canadian Parliament, ministers are judged politically by their peers and must render an account to the House of Commons for the use of their powers, and respond to questions posed by members of parliament.

However, the Prime Minister acts as the final arbiter; either by calling on the Cabinet to

⁴¹ d’Ombrain, Nicholas, “Alternative Services Delivery: Governance, Management and Practice,” *Change, Governance and Public Management* (KPMG and Public Policy Forum: Ottawa, n.d.), p.111.

provide support within the House for a beleaguered minister or, conversely, by withholding such support and calling for a resignation. As has been noted, public servants are accountable to their ministers for the use of the ministerial responsibilities delegated to them. As such, they are also accountable to their ministers for the improper or ineffectual use of those powers.

Nevertheless, John Langford calls the concept of “accountability” within government a “badly used term that means different things to different people.”⁴² In Canada, there is a divergence of views with respect to what is the accepted understanding of what is intended by making ministers accountable for the administration of their departmental portfolios: 1) does this accountability entail only that ministers be punished for errors in the administration of their portfolios (by way of forced resignations or worse); or 2) is the convention such that it ensures that there is one person solely responsible for answering for the actions of a ministry and for correcting any past or future problems that may arise in its administration?

Sanctioning of Ministers

Atkinson and Thomas attest that accountability is “the liability to reveal, explain, and justify how one discharges responsibilities (financial or other) and to be subject to sanctions for non-performance.”⁴³ There are many who unduly latch onto the latter sanctions component of the definition, thus viewing accountability solely as a question of

⁴²Langford, John, “Responsibility in the Public Service,” Canadian Public Administration XXXVII:1 (March, 1984), p. 520.

⁴³ Atkinson, Michael M. and Paul G. Thomas, “Studying the Canadian Parliament,” Legislative Studies Quarterly XVIII:3 (August, 1993), p. 432.

who should be punished for a mistake. There is, indeed, an oft-cited tendency for political opponents to blame a minister and to subsequently demand a resignation.⁴⁴ Under such threatening conditions, the doctrine of ministerial responsibility could be threatened as ministers may be tempted to abrogate their own accountability and instead shift the blame and scrutiny onto the public service.

It is ill-conceived for critics to attack the effectiveness of the traditional doctrine of ministerial responsibility by pointing to a recent lack of ministerial resignations for departmental errors. There has never been a history of these sorts of resignations to which one can compare and bemoan the current reality as being weaker than the past. In Canadian history, not one minister has ever resigned due to condemnation by Parliament for administrative errors made by their officials.⁴⁵ However, the Prime Minister could reasonably call for the resignation of a minister for a large-scale administrative error where that same minister was personally involved and directly responsible, as was seen in the above-mentioned incident involving John Fraser, the former Minister of Fisheries.

Contrary to popular belief, Parliament cannot remove a minister; this can only be effected by the Prime Minister. Nevertheless, the Opposition parties can often force the issue of resignations where a minister is personally involved in actions that were not ethical or legal. However, these resignations only take place when the Prime Minister and the Cabinet have decided not to extend their political protection to the minister in question, either because the issue is so blatantly indefensible and/or because the political stakes are too high (in terms of immense public pressure or due to the government in

⁴⁴ *A Strong Foundation*, p. 10.

⁴⁵ "Responsible Government and Ministerial Responsibility," p. 104.

power being in a minority position within Parliament).

While there are those who see accountability as a licence to place blame on a minister, it should be assumed that the complexity of the task of managing an entire ministry portfolio is sufficient enough that it would be unfair to expect a minister to have a direct involvement, or even awareness, of every administrative lapse that may have occurred within a department. As stated within the Tait report, “I am responsible” does not necessarily mean “I am to blame”.⁴⁶

Former Deputy Prime Minister the Right Honourable Herb Gray, who served as minister in a variety of portfolios over his long years of service, takes issue with the fact that views have shifted as to the extent that ministers are able to be aware of, and to have control over, everything that goes on in their departments⁴⁷. Mr. Gray attests that with increasingly large departments it is unfair to expect for a minister to have to resign for administrative lapses. He states that if ministers had to lose their jobs after everything that would go wrong in a huge department, then nobody would hold their position for more than a couple weeks at a time: for “99.9% of things that could go wrong, a minister does not know about them and there is no way that he or she could have known about them.”⁴⁸

Mr. Gray states a minister should not have to lose his/her job for “something done in a regional office by a lower-level person assessing an application,” especially since that minister has no say in the hiring or firing of departmental employees. As such, he

⁴⁶ *A Strong Foundation*, p. 9.

⁴⁷ Personal Interview with Herb Gray (2003).

⁴⁸ *Ibid.*

suggests that a minister cannot be accountable for his/her officials in the same way as the head of a private company who has hired staff.

According to Mr. Gray, a minister is accountable in the sense that if something goes wrong, the problem will be searched out and steps will be taken to correct it. Where possible, systems are also improved to avoid future mishaps.

Answerability of Ministers

The fact that ministers are not resigning every week does not mean that ministers are no longer held accountable. Indeed, whether a minister is directly responsible for an administrative lapse or not, he/she is always responsible for answering for all actions within a ministerial portfolio. This is where we turn to the former component of the previously-mentioned Atkinson and Thomas definition of accountability; that is the “liability to reveal, explain, and justify”.

As mentioned previously in her discussion of *political responsibility*, Sutherland suggested that a minister’s accountability includes being answerable for all actions of their departments. There is much debate in Canada as to what such “answering” requires. The Tait Report suggests that it is not uncommon for some to view “answerability” as a synonym for “accountability”, which includes the requirement for personal consequences in addition to the requirement to inform and explain.⁴⁹

“Answerability” is not a synonym for “accountability”. Similar to the requirement for personal consequences within the concept of accountability, answerability is also a subset of the over-all definition. Often seen as the more important

⁴⁹ *A Strong Foundation*, p. 9.

component of accountability, answerability is the process through which ministers render an account, by way of reporting to Parliament for the activities of their departments. In this reporting to Parliament, ministers are supported by their officials, who may be required to collect information necessary for the assessment of departmental performance (such as annual reports, Reports on Plans and Priorities, and Departmental Performance Reports, etc.), and to provide such information to the minister for his/her further dissemination to Parliament. Where a problem has come to light, public servants are to investigate the issue and collate that information for their ministers. Further, this support role can also require public servants to prepare answers to ‘hot button’ questions that may come up in Question Period. In some cases officials may be required to answer directly to the media on some issues, or to appear before parliamentary committees on their minister’s behalf. It is important to underscore here that an official speaks on behalf of minister only in the sense of providing factual or descriptive information to parliamentarians: public servants are not to “defend or promote the policies, decisions or actions of their ministers.”⁵⁰ It is up to ministers, and not their officials, to defend politically the policies of the governing party.

PCO noted that the responsibility of a minister for a department ensures that they are in a position to answer for the departmental activities done on their behalf. Parliament oversees the minister through “a variety of mechanisms such as written and oral questions, motions for papers, study of the estimates, scrutiny of government bills,

⁵⁰ “Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth,” p. 37.

and review of the Public Accounts and the reports of the Auditor General.”⁵¹ It is the responsibility of public servants to assist their ministers in these areas of answerability.

Summary

The question does present itself that since ministers are not forced to resign for administrative errors for which they are responsible, does this suggest that there are absolutely no consequences for them? Is accountability a toothless tiger, in that even though it requires a minister to answer for a department, there are no meaningful consequences to encourage a minister to adequately respond to discovered errors, or to be vigilant in ensuring that future errors not occur again? As will be discussed in later portions of this paper, there are a number of vehicles through which a minister is held accountable and can suffer consequences. These vehicles can be very effective controls on a minister who understands what consequences might arise when a departmental error is sufficiently egregious in the public eye.

Even though it is unlikely that a minister will have to resign for administrative errors, the reputation of a minister can suffer greatly from bad publicity and repeated demands for a resignation. Opposition parties often exploit a vulnerable minister for reasons of political capital. During Question Period, parliamentary committee meetings, and public speaking engagements, Opposition members often seek to further expose the extent of the ‘error’ in question, and to portray the government’s response to the problem as insufficient or over late. If the pressure is effectively maintained in such a way as to have a long term effect on the reputation of a minister’s or the governing party’s

⁵¹ “Responsibility in the Constitution.” Chapter 7, p. 2.

reputation that minister may, at a future date, be shuffled by the Prime Minister into a lower Cabinet posting or right out of Cabinet altogether: a not insignificant sanction.⁵²

Overall, a resignation need never take place for a minister to suffer emotionally from the stress of constant partisan attack and from fear for one's own professional future. Indeed, that political future may suffer in a severe and humiliating fashion by way of a public news release announcing that some minister has been shuffled out to the backbenches.

The fear of consequences places a necessary pressure on ministers to do their best to keep abreast of the issues of their departments, including the possible political and administrative time bombs that may end up on the front page of a national newspaper. If one of those issues explodes on the public and political stage, the increased scrutiny of Parliament will motivate an exposed minister to investigate, understand and correct the problem, and more importantly providing regular information updates to fellow parliamentarians and to the electorate. The Privy Council Office sums up by stating:

...responsibility is honed by the ever-present possibility that in particular circumstances minister may be embarrassed, suffer loss of prestige weakening themselves and the government, jeopardize their standing with their colleagues and hence the political future, or even be forced to submit to public enquiry possibly resulting in censure and loss of office...⁵³

⁵² Kernaghan, Kenneth, "Power, Parliament and Public Servants in Canada," Canadian Public Administration 22:4 (Winter 1979), p.387.

⁵³ "Responsibility in the Constitution." Chapter.1, p. 2.

Kenneth Kernaghan cites one former Speaker of the House who claimed that it was not the place of a Speaker to compel a minister to ‘answer’, it is “public opinion which compels an answer.”⁵⁴

It is also important to note that despite the fact that the public service is anonymous, departmental officials are not necessarily protected from sanctions; albeit such sanctions are often private or more subtle. Senior officials vigorously support the capacity of their political masters to meet their requirements to be answerable before Parliament. Consequently, Kernaghan suggests that “the reputation and career prospects of public servants tend to prosper or suffer along with those of their minister.”⁵⁵ From a legal standpoint, a public servant is just as culpable as any other minister or private citizen for illegal activity, civil or criminal.

Regardless of what consequences that may exist, a ministers’ accountability is centered around fixing problems of administration and providing answers to Parliament about the nature of the problems and how they are being addressed. The Tait Report takes to task those who think otherwise and who seek to sensationalize lapses in government and scream for the heads of ministers. Such people consider accountability to be dead in Parliament, because ministers are not forced to resign for administrative errors conducted by their departments. The Tait report suggests that this is a dangerous oversimplification of the understanding of what ministerial accountability means. The constant call for resignations threatens the democratic process and draws attention away

⁵⁴ “Power, Parliament and Public Servants in Canada,” p. 389.

⁵⁵ Ibid., p. 388.

from the ongoing, but less discernible, positive ways that political accountability assists the maintenance of good government:

Ministerial accountability involves the daily provision of information and explanations to Parliament and to the public, about the activities of the minister's department, and conversely a daily sensitization of the department to the views and concerns of Parliament and the people. It involves day-to-day direction to departments and the correction of problems that may arise.⁵⁶

⁵⁶ *A Strong Foundation*, p. 11.

CHAPTER 3: CANADIAN SYSTEM OF MINISTERIAL ACCOUNTABILITY

Moving forward with an appreciation of what it means for a minister to be accountable from a theoretical perspective, it is helpful to further an understanding of ministerial accountability by reviewing the specific responsibilities and accountabilities of ministers and deputy ministers. It is also necessary to review some of the key vehicles that exist to support Parliament's capacity to hold government and its ministers accountable. These fundamental components of Canada's system of accountability include Parliament, Question Period, the Public Accounts Committee, the Auditor General, and the media.

Key Accountability Actors

In order to understand Canada's system of ministerial accountability, one must first understand the specific roles and responsibilities that ministers in this country are accountable for, and how that accountability is supported by various mechanisms. Attention should also be paid to the vital role that deputy ministers play in supporting the responsibilities and accountabilities of their ministers, and to how deputies are themselves accountable for that support function.

Ministers

While they are accountable to many bodies, first and foremost, ministers are accountable to the Prime Minister. Savoie states that the Prime Minister is the "boss". He contends that the ministers are primarily motivated to retain their Cabinet appointments, and that it is the Prime Minister who has the power to appoint or to dismiss ministers. This power is not insignificant, as was suggested by a former deputy minister

who underscored that the Prime Minister has "...in his hands the minister's car, his chauffeur, his office, his job, his ego, and so on."⁵⁷ The Prime Minister is the one who decides if ministers are successful in fulfilling their roles. Savoie states that the key to the success of a minister is two-fold: "stay out of trouble with the media; and handle question period with dexterity."⁵⁸

To make clear what is expected of his cabinet ministers, in late 2003 Prime Minister Paul Martin released the publication *Governing Responsibly: A guide for Ministers and Ministers of State*. Intended as a guide to new ministers, this document lists a number of principles that ministers are expected to use as guides in the performance of their official duties. These include:

- Upholding high ethical standards in their personal and professional conduct;
- Managing and operating their departments in accordance with law and convention;
- Ensuring answerability before Parliament, by being available to respond accurately to the questions of fellow Parliamentarians;
- Supporting Cabinet colleagues by maintaining the confidentiality of all Cabinet decisions, and by sharing equally the collective responsibility for those decisions; and
- Respecting the non-partisan nature of the public service.

There is no question that the expectations placed on a minister are demanding. *Governing Responsibly* summarizes a number of the more-specific requirements expected of a minister. Enabling legislation of government departments include provisions that

⁵⁷ *Breaking the Bargain*, p. 194.

⁵⁸ *Ibid.*

call for the appointment of a minister, and “set out the powers duties and functions for which the minister will be responsible, and give him or her the management and direction (control and supervision) of the financial and public service resources deployed in the department.”⁵⁹ Ministers are responsible for the proper and effective management of their departmental portfolios, and to be answerable before Parliament. This includes proactively ensuring that Parliament is informed of departmental policy priorities, spending plans, and management challenges.”⁶⁰ The Prime Minister expects that where incidences of departmental mismanagement occur, that ministers be prepared to explain the problem to Parliament, to take necessary corrective measures, and to report back to Parliament on the measures taken and their effectiveness in correcting the issue. Because ministers operate within a political theatre populated by the media and opposing political parties ready to exploit any governmental error, they are highly motivated to see that their departments are properly managed.

Ministers are assessed by how effectively they meet other obligations with respect to supporting the government within Parliament. They are required to attend Question Period, or to arrange for a suitable replacement, in order to ensure that the government is ready to respond sufficiently to any specific questions posed by Opposition parties regarding issues falling within the umbrella of certain departmental portfolios. Ministers must attend any other parliamentary function (such as Opposition days, or certain key

⁵⁹ “Responsibility in the Constitution.” Chapter. 6, p. 1.

⁶⁰ Privy Council Office, *Governing Responsibly: A guide for Ministers and Ministers of State*, (Privy Council Office: Ottawa, 2003, p. 15.

votes) as set out in a schedule determined by the Leader of the Government in the House of Commons.

Ministers are also required to ‘pilot’ their own legislative proposals, which may require soliciting the support of fellow parliamentarians the proposal. There is also the requirement for ministers to explain to the House and to the parliamentary committees considering the policy rationale underpinning any proposed legislation.

As part of the government, a minister is also expected to vote with Cabinet colleagues in favour of legislation endorsed by the government in power as a whole. Where a private members’ bill is before the House, a minister with responsibility for a government policy that the bill addresses, must ensure that all members of parliament are “informed of the government’s position, and should seek the support of caucus members for the government’s position.”⁶¹

In addition to advancing legislation through the parliamentary committee process, a minister must also work well with House of Commons and Senate committees in a variety of other capacities. Ministers are expected to appear regularly before committees to seek parliamentarians’ input into policy development, planned future spending, and to report on departmental performance and results. On an ongoing basis, ministers report to Parliament regarding their departmental portfolios in a variety of ways, such as the provision of the Main Estimates, the Reports on Plans and Priorities, Departmental Performance Reports, Annual Reports, *inter alia*.

⁶¹ Ibid., p. 17.

Added to the above-mentioned expectations, there are a number of other activities that vie for a minister's time and attention. They attend to their departmental duties, which includes meeting with their senior governmental officials on a regular basis to be briefed on the important policy issues of the day, sponsoring legislation in Parliament, promoting departmental projects, lobbying to secure funding, among other activities. Often, ministers must travel regularly on behalf of the government or on behalf of their own political party. As elected members of parliament, ministers must still pay close attention to issues affecting their constituents, and act as lobbyists on their behalf. While they may be accountable to the Prime Minister for their governmental postings, ministers are very much accountable to their constituents who, by way of election, allow for ministers to meet the first qualification necessary for any candidate who wants to be considered to head a department: that is, to be an elected member of parliament.

In addition to being accountable to the Prime Minister and Parliament for their duties and functions, as has been stated previously, ministers are also accountable to their Cabinet colleagues. C.E.S. Franks notes that accountability to Cabinet is probably a greater preoccupation for a minister than accountability to parliamentarians as a whole, due to the larger amount of time that ministers spend working with their colleagues in Cabinet than they spend performing their parliamentary duties.⁶² A minister's prestige and importance is measured by how he or she represents a department in Cabinet. Since most ministers are often the head of a given department for less than two years, and are thus unable to sufficiently come into their own as policy innovators and administrative

⁶² Parliament in Canada, p. 230.

leaders, their prestige in Parliament is usually measured by how well they function as spokespersons for their department. How well they perform that spokesperson role determines their status within their department, among their colleagues and among the bureaucracy. Franks also suggest that ministers are also judged by their Cabinet colleagues in how well they deal with administrative issues (most of which they know nothing about), and in how adept they are with managing pressure groups and influential interests.

Overall, ministers are responsible for a number of functions, and are accountable for many things, all of which compete for the minister's attention. Savoie cites one statistic that ministers work up to eighty hours a week, yet are only able to meet with their deputy ministers three hours a week if they chose to do so.⁶³

Deputy Ministers

Deputy ministers play a vital and necessary role in supporting the individual and collective responsibilities of their ministers, as they relate to the management of ministerial portfolios. This is accomplished primarily by the provision of high quality policy advice on all issues touching upon the department. This advice must take into consideration not only the impacts that certain policy initiatives may have upon a department but, more widely, the views from the public, other levels of government (i.e. municipal, provincial, international, etc.), and private stakeholders.

Perhaps more important from the minister's perspective, is the absolute necessity for a deputy minister to ensure interdepartmental coordination of policy initiatives

⁶³ Breaking the Bargain, p. 195.

emanating from their own departments. By conferring with other departments, deputy ministers make certain that policy proposals take into account government-wide priorities, as well as the impacts that those same proposals may have on the operations of other ministerial portfolios. This ensures that there are no surprises or outstanding issues that will surface when the Cabinet meets to approve departmental initiatives. Moreover, ministers often need the support of certain Cabinet colleagues to advance their proposals. Effective interdepartmental coordination goes a long way in securing such support.

The policy support function of deputy ministers is best summarized in *Governing Responsibly: A guide for Ministers and Ministers of State*:

The deputy minister, as the minister's principal source of public service support and policy advice, will be expected to advise the minister on all matters under the Minister's responsibility and authority. He or she will have a key role in promoting appropriate policy coordination, and building coherence in the activities and reporting of the portfolio bodies. Deputies can provide advice to ministers on the appropriate means to ensure integration in the undertakings of their portfolio, while respecting any accountability requirements and mandates set out by legislation.⁶⁴

In addition to this policy function, deputy ministers play a supportive role by exercising the powers conferred in relevant statutes on behalf of their respective

⁶⁴ *Governing Responsibly*, p.p. 7-8.

ministers. While most departmental statutes only imply this delegation of responsibility, the *Interpretation Act* underscores that deputy ministers may exercise the power of a “minister of the Crown to do an act or thing.”⁶⁵ The 2003 *Guidance for Deputy Ministers* sets out a myriad of other activities that deputy ministers are responsible for in support of their ministers.

With respect to the financial management of the department, ministers delegate spending authority to their deputies. The Treasury Board plays a strong role in this respect (through the power it is given under the *Financial Administration Act*) by establishing the policies and directives that control and place certain parameters and limitations on how deputy ministers manage public funds and property.⁶⁶ A deputy has specific responsibilities set out under the *Financial Administration Act*, including the creation of an effective system of internal audit, record keeping and spending controls.

As the person responsible for the management of human resources, a deputy is conferred responsibilities directly by Treasury Board, the Public Service Commission and the *Public Service Employment Act*, with respect to personnel management, employee relations, and ensuring the adherence of prescribed public service standards and requirements (including values and ethics).

In addition to the authorities delegated by their ministers, deputy ministers have certain direct powers assigned to them under specific pieces of legislation, by Orders in Council, or under requirements set out by Treasury Board.

⁶⁵ “Responsibility in the Constitution”, Chapter 6.

⁶⁶ In addition to the prescriptive policies of the Treasury Board, there are certain other limitations to what deputies can do on behalf of their ministers. For example, deputy ministers do not have regulation making powers, and they cannot sign Memoranda to Cabinet nor Treasury Board Submissions seeking new monies. *Guidance for Deputy Ministers*, p. 7.

There is no question that deputy ministers have many responsibilities for a variety of duties and functions conferred on them from numerous sources. As such, it is not surprising that accountabilities of deputies for the areas for which they are responsible are numerous and complex. A strong deputy minister must be adept at balancing these multiple accountability relationships.

While the doctrine of ministerial accountability suggest that deputy ministers are only accountable to their minister, Franks notes that, in reality, a deputy has “many masters and many accountability relationships.”⁶⁷ Langford points out that there have been strong arguments for deputies, in addition to being accountable to a minister, to also “recognize a duty of direct accountability to the Prime Minister..and the Cabinet - a sort of deputy minister’s version of collective ministerial responsibility.”⁶⁸ In fact, it is the Prime Minister who, on the recommendation of the Privy Council Office, appoints and dismisses deputy ministers. Ministers do not have this capacity to mete out rewards and punishments.

Deputy ministers are expected to support the accountability requirements of their own minister. As noted earlier, this can include appearing before parliamentary committees either in support of, or on behalf of, a minister. Also, there is the necessity for the provision of timely advice and information in support of a ministers answerability at meetings with Cabinet colleagues, before other parliamentarians at Question Period, and when being grilled by the media.

⁶⁷ Parliament of Canada, p. 232.

⁶⁸ “Responsibility in the Public Service,” p. 520.

Since ministers are answerable to parliamentarians and the public for administrative errors that occur within their departments, deputy ministers play a vital support role to their ministers by ensuring that departments are managed effectively with a minimum of errors. Where problems do occur, ministers rely on their deputies to provide timely information on the underlying causes, and to suggest and implement appropriate corrective measures. Deputy ministers play critical roles as the ‘on-the-ground’ representatives of their ministers; working to create a departmental environment hostile to future administrative problems. As stated in the *Guidance for Deputy Ministers*, it is the duty of a deputy minister to “confront problems openly and directly, and to improve the management practices within his or her department by creating conditions which will foster an environment of continuous learning in which public servants strive for excellence in management.”⁶⁹

While ministerial responsibility suggests that ministers, and not deputy ministers, be held to account for the management of their portfolios, it is important to underscore that this does not insulate deputy ministers from providing direct answers to Parliament on behalf of their respective ministers with regard to the administrative actions of a particular department being scrutinized. However, this answerability must be restricted to departmental administration issues and not matters of policy or controversy, as “political answerability on the part of officials would inevitably draw them into controversy, destroy their permanent utility in the system, and, indeed, undermine the

⁶⁹ Ibid., p. 26.

authority and responsibility of their ministers”.⁷⁰ Deputy ministers may be called to appear before the Public Accounts Committee (PAC) or other parliamentary committees to respond to questions delving into departmental management. Regardless, deputies are accountable *before* Parliament, and not *to* Parliament.⁷¹ While Parliament may scrutinize and demand answers from deputy ministers through a number of vehicles, ministerial responsibility remains intact: that is, Parliament cannot dismiss deputy ministers nor recommend their dismissal. It is up to the Prime Minister, and the minister of a respective deputy minister, to act as the final judges of findings stemming from such parliamentary scrutiny.

Overall, PCO plays a vital role ensuring that deputy ministers properly carry out their responsibilities to the Prime Minister and to their respective ministers. Kroeger states that it is the role of the Clerk of the PCO, as the Prime Minister’s own deputy minister, to apply to other deputies the accountability they hold to the Prime Minister, the Clerk, and to the collective system of government.

In support of its oversight function, PCO undertakes assessments of the performance of deputies annually. Such assessments are based, of course, on how effective deputy ministers are in delivering on all duties and functions for which they are responsible. However, the performance reviews are guided strongly by the performance agreements that exist between the Clerk and individual deputy ministers, which list a number of agreed-upon “key commitments related to business plans and government

⁷⁰ “Responsibility in the Constitution”, Chapter .7.

⁷¹ Ibid., Chapter 8, p. 2.

objectives and specific performance measures.”⁷². Feeding into these annual reviews, are a series of interviews conducted with ministers, deputy ministerial colleagues, and central agency officials. As Kroeger indicates, based on the conclusions of those interviews, a picture is put together of a deputy ministers’ performance, and as a result a deputy might be promoted or receive an increase in pay.⁷³ If the results are very bad, a deputy might be given a special advisor position. While the Clerk, PCO and the ministerial community are all key functionaries in a deputy minister’s accountability cycle, it is still ultimately the Prime Minister that approves any rewards or punishments.

As has already been mentioned, deputy ministers also have an accountability relationship with Treasury Board for their responsibilities under the *Financial Administration Act* (including the proper management of funds allocated to achieve certain results), and with the Public Service Commission for the requirements under the *Public Service Employment Act*. Donald Savoie notes that deputy ministers must also ‘contend’ with other oversight bodies, such as the Information Commissioner, the Privacy Commissioner, the Commissioner of Official Languages, the Human Rights Commissioner, the Public Service Staff Relations Board, and the Auditor General and, more informally, the media.⁷⁴

It is also important to note that deputy ministers also feel an informal accountability towards the members of a larger senior civil servant community, through which they are informally evaluated. They also have accountabilities as leaders of their

⁷² Privy Council Office, *Guidance for Deputy Ministers*, (Privy Council Office: Ottawa, 2003), p. 24.

⁷³ Personal Interview with Arthur Kroeger (2003).

⁷⁴ *Breaking the Bargain*, p.p. 160-161.

departments, managers and employees. As senior public servants, they can also be influenced by their own feelings of accountability to the Canadian public.

Key Accountability Support Mechanisms

Turning now from discussing ministers and deputy ministers and their statutory responsibilities and specified accountability relationships, it is important to explore some of the key mechanisms necessary for the achievement and maintenance of effective ministerial accountability in Canada.

Parliament

Parliament plays a fundamental role as a check on the executive power of the government in power. Savoie explains that the role of Parliament is to “subject political power to certain controls, to provide legitimacy to government action and activities, and to hold the executive to account.”⁷⁵

The political parties that comprise the Official Opposition desire to become the next administration, and so they take great efforts to study, monitor and criticize the actions of the government in power. The presence of an effective Opposition in Parliament inclines the government to put forward new policy or legislative initiatives that it feels are defensible before the public onslaught often wreaked by the opposing parties from across the floor of the House. It is a check on ill-considered or capricious initiatives. As stated by the Right Honorable John Diefenbaker in a 1949 speech to the Empire Club of Canada, the Opposition serves Canada in its role to:

⁷⁵ Breaking the Bargain, p. 179.

supervise all expenditures and prevent over-expenditure by exposing to the light of public opinion wasteful expenditures or worse. It finds fault; it suggests amendments it asks questions and elicits information; it arouses, educates and molds public opinion by voice and vote. It must scrutinize every action by the government and in doing so prevents the short-cuts through democratic procedure that governments like to make.⁷⁶

In Question Period and in committees, Opposition members demand answers from ministers for the conduct of their departments. The Opposition also engages in the important debates following throne speeches and budgets; it draws attention to the findings of audits conducted by the Auditor General; and it plays an important role within the various parliamentary committees which study proposed legislation as well as the policies and programs of government.

Within the parliamentary sphere, Committee reports, the to and fro of Question Period, and debates all influence the lens through which a government is publicly judged. If an Opposition is effective in its mode of attack, the government in power will lose the support of the electorate. This is most effective in a two-party Parliament, where there is a government in power, as well as one clear adversary that is seen as a government-in-waiting and that "has every incentive to mount a clearly thought-out, sustained attack on the government."⁷⁷

⁷⁶ Schmitz, Gerald, "The Opposition in a Parliamentary System," (Library of Parliament: Ottawa, December 1988), p. 6.

⁷⁷ "Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth," p. 53.

Question Period

Question Period is a core feature of Canada's system of stewardship and accountability, as it requires that ministers be available on a regular basis to answer the questions that get asked in Parliament, and to provide any additional information required. David Good points out that the three *participants* to Question Period are the Opposition, the government, and the media, and that the two *observers* are the public and the public service.⁷⁸ Opposition parties use Question Period to expose problems in government and to demand answers in order to embarrass the governing party and to position themselves publicly as a better political alternative. Outside its normal capacity to control political agendas, the governing party's role is a responsive one; where their role is reduced to answering difficult and sometimes unanticipated questions as a means of deflecting criticism and to presenting themselves to Canadians as an error-free government. The media closely scrutinizes and faithfully reports on the key goings on of Question Period, and thus serves as a source of information greedily consumed by both parliamentarians and members of the public alike.

Alan Winberg, a senior government official, contends that Question Period is misunderstood by those who think it is nothing more than political theater, with no real capacity to hold government accountable and answerable.⁷⁹ According to him, Question Period contributes to the healthy functioning of Canada's democratic system, as it makes ministers, deputy ministers and the wider government public service responsive to

⁷⁸ Good, David A., The Politics of Public Management: The HRDC Audit of Grants and Contributions (University of Toronto Press: Toronto, 2003), p. 161.

⁷⁹ Personal Interview with Alan Winberg (2003).

administrative issues as they arise. If the media or some constituent or organization highlights an issue to a member of parliament, that same elected representative can stand up in the House and question the party in power. If the issue is sufficiently of concern, it can be expected that the media and the electorate will also want further information.

Through Question Period, any issue can be brought out into the open and become the subject of significant public scrutiny. As observers to Question Period, the public service follows the House proceedings and resulting media coverage in anticipation of preparing ministers to respond to any questions posed. In some cases, public servants must expend significant effort to quickly cull together information that allows their ministers to respond to questions raised in the House that were not expected.

In short, Question Period requires that ministers and their departments play close attention to details, both to address emerging problems that may be brought out into the public eye by way of the House of Commons, as well as to adequately track and properly manage information that may need to be easily accessed for the purposes of responding to the questions of MPs, the media and the public.

Public Accounts Committee and the Auditor General

The Public Accounts Committee (PAC) and the Auditor General of Canada (AG) play symbiotic and prominent roles in the accountability process.

As discussed previously, MPs are able to hold governments to account through their involvement in parliamentary committees. The PAC is the most important of those committees, as its sole mandate is to hold government to account.⁸⁰ Chaired by a

⁸⁰ Malloy, Jonathan, "An auditor's best friend? Standing committees on public accounts," Canadian Public

member of the Official Opposition, the role of the PAC is “to examine whether public money was spent for the approved purposes and with due regard to efficiency, economy and effectiveness”.⁸¹

To fulfill its mandate, the PAC relies heavily upon the findings of the Auditor General reports. As an officer of Parliament, the Auditor General conducts an independent review of planned spending by departments (i.e. Main Estimates), as well as the government’s financial statements (i.e. Public Accounts). These reviews are conducted within the scope of the following questions:

- 1) Is the government keeping proper accounts and records and presenting its financial information accurately?
- 2) Did the government collect or spend the authorized amount of money and for the purposes intended by Parliament?
- 3) Were programs run economically and efficiently? And does the government have the means to measure their effectiveness?⁸²

The Auditor General can have access to any information required to perform its departmental reviews. In the past, the Office of the Auditor General (OAG) traditionally conducted financial compliance audits of government departments and agencies for consideration by Parliament and the Public Accounts Committee. However, with the passage of the *Auditor General Act* in 1977, the scope of those audits expanded to include

Administration 47:2 (Summer 2004), p. 3.

⁸¹ Office of the Auditor General of Canada, “What Do We Do”, www.oag-bvg.gc.ca/domino/other.nsf/html/bodye.html.

⁸² Ibid.

‘value for money’ pronouncements on how effectively the government is implementing and maintaining its various policies and programs. The Auditor General is well-resourced to conduct its auditing activities. For the 2003-2004 fiscal year, the Office of the Auditor General used \$71.8 million of its \$74.4 million parliamentary appropriations, employing 558 full-time equivalent employees.⁸³

The AG can report up to three times a year directly to Parliament, through the Speaker of the House of Commons. The PAC then selects from the audit results the issues it wishes to submit to further parliamentary examination. While the PAC benefits directly from the existence of the Auditor General, the reverse is also true. The work of the PAC allows for the deeper examination of often-complex issues raised within OAG reports long after the hype of the media coverage, stemming from the initial release of the report findings, has died down.

Deputy ministers of audited departments must appear before the PAC during its review of the audit findings. Based on those hearings, the PAC may make recommendations to the House of Commons on ways to address trouble areas identified by an OAG audit. Audited departments must then report back to the committee as to what they have done to address those recommendations.⁸⁴ In addition to appearing personally before the PAC or other committees, deputy ministers can also play a supporting role for a minister appearing before the committee.

⁸³ Office of the Auditor General, *2003-2004 Departmental Performance Report* (Ottawa, 2004).

⁸⁴ Committees other than the PAC may also conduct their own reviews of relevant chapters of an Auditor General report.

Jonathan Malloy lists three ways in which the very public examination function of the PAC assists to ensure accountability for administration and management within government:

First, PACs can draw further attention and notice to issues raised by the legislative auditor...Second, committees offer a venue for auditors and public servants alike, both to fairly present their perspectives and to hear the other side in a public forum...Third, committees provide additional public and visible pressure on governments to change or account for their actions.”⁸⁵

Parliamentary committee reports, such as the final reports of PAC hearings, coalesce with other parliamentary processes (i.e. question period and debates) to create a ‘climate’ through which the electorate will judge the activities of the government. If the Opposition uses these available tools well and “are effective in their criticisms, the government will ultimately pay a price in loss of support.”⁸⁶

Role of the Media

As suggested earlier in this paper, members of the media are also very much linked to discussions of accountability within government. Investigative journalism covering the workings of Parliament and the government has raised the status of the media from mere observers to active participants in the Canadian accountability cycle. David Good asserts that the media is seen by many to be “an important independent critic

⁸⁵ “An auditor’s best friend? Standing committees on public accounts,” p. 14.

⁸⁶ Parliament of Canada, p. 230.

of government, on occasion casting itself as the Opposition...putting government under more intense and critical scrutiny.”⁸⁷

For many people, the media is seen as the sole source of accountability-related information. For most members of the public, sensationalized media coverage of the proceedings of Question period and certain other parliamentary events, such as the tabling of Auditor General reports and public inquiries, is a primary source of information from which they derive their opinions about the effectiveness of the government in power and the alternative policies offered by the political parties in opposition. Indeed, the media greatly influences the public understanding of accountability mechanisms. For example, the media’s reflex of extracting sound bites from Question Period to illustrate stories on the evening news has led many Canadian to view Question Period as one of the only effective vehicles by which governments are held to account.

It would be unfair to suggest that the media’s accountability role is only limited to superficial coverage of Question period, press conferences and scrums. Quite often, journalists will focus their efforts in conducting a thorough investigation of some significant, or sometimes previously unknown, issue. In this regard, the *Access to Information Act* has been an important tool employed by the media to request a large breadth of government-held information from any government department or agency. Aimed at increasing the transparency of government, this legislation serves as an accountability mechanism, as it enables the media, as well as the public and Opposition

⁸⁷ The Politics of Public Management, p. 162.

parties, to understand government thinking and decision making on important issues, and to identify mistakes in administration.

As previously suggested, parliamentarians follow media reporting of major issues very closely when preparing for Question Period. Press front-page stories serve as a great source of fodder for Opposition MPs when crafting their questions. Those members of the public service responsible for preparing ministers for Question Period and media scrums, use media reporting to anticipate those 'hot button' issues that will require the development of communications lines and Housebook cards.

In sum, the media acts as both a source of information and as an agent of influence on the perceptions and actions of parliamentarians, the public service and, most importantly, those who have the power to select and dismiss successive governments: the public.

CHAPTER 4: SOME CHALLENGES TO ENSURING ACCOUNTABILITY

There is no question that a number of vehicles exist in Canada to hold the governments' ministers to account for the responsibilities conferred to them by Parliament to administer their departmental portfolios. However, there are a number of concerns and criticisms that have been expressed as to how effective those accountability mechanisms actually function in practice. Such concerns foster beliefs that it is increasingly difficult to hold ministers accountable for their departments.

Complexity of Government

The sheer size and complexity of government is commonly raised as a significant obstacle in ensuring adequate accountability. In his book *Breaking the Bargain*, Savoie bemoans what he calls the 'thickening of government', and its adverse effect on maintaining clear focal points of accountability. Savoie explains that traditionally ministers and their departments officials were responsible and accountable for distinct spaces of policy and administration. However, more recently, departmental officials have had to share their functions and responsibilities with officials from other departments and with various non-governmental organizations.

It is a widely known fact that governmental decision-making has become increasingly horizontal, with many departments responsible for development and delivery of the same, shared policy sphere. To provide an example, Savoie presents an estimate that there are sixteen federal departments and over forty-five programs that deal with issues related to children.⁸⁸ The situation becomes even more complex with the inclusion

⁸⁸ Breaking the Bargain, p. 243.

of provincial and municipal levels of government in horizontal structures and decision making processes. One former Auditor General summed up these complexities:

I was also struck by the complexity of managing in the federal government.

Many activities involved more than one department as well as provincial and municipal governments. Duplication in services and problems in coordination marked the management of agriculture, the environment, and fisheries.

Devolution of responsibilities to First Nations added to the complexity of their relationship with government.⁸⁹

This problem is further exacerbated by the growing trend for government officials to also share responsibilities with entities external to government. Increasingly, public servants have seen some of their policy functions delegated by their ministers to non-governmental bodies, such as research institutes, policy think tanks, and consulting firms. Savoie states that similar to horizontal initiatives involving multiple departments and other levels of government, these private sector organizations “occupy no clearly defined place on the vertical line of accountability of Westminster-style government.”⁹⁰ The distinct hierarchical arrangements of traditional government break down, replacing the ‘department-deputy minister-minister’ accountability relationship with broad and somewhat obscure relationships.

⁸⁹ The Politics of Public Management, p. 195.

⁹⁰ Breaking the Bargain, p.251.

Savoie admits that horizontal coordination is not a new concept for government, but he contends that in the past such relationships existed primarily at the ministerial and deputy minister levels of government. Conversely, the present reality sees mid to junior level officials stepping outside of traditional departmental structures to build relationships with various external stakeholders from the public and private sector. Responsibilities and, consequently, accountabilities for policy and program development and delivery become spread across multiple actors and institutions. Effective coordination across departments and levels of government is now “more important to ministers than their departmental policy or management issues.”⁹¹ In this environment, ministers and public service officials feel less responsibility for their work.

The overall result is “thicker government – more manager layers, more networks, more processes, more shared positions...Information can get distorted on the way up as it goes through the various layers and networks, and political guidance can get lost on its way down.”⁹² Savoie attests that this governmental ‘thickening’ undermines accountability. Horizontal initiatives shared by multiple policy actors make it difficult to ascertain or to hold a single, specific “government unit responsible for poor analysis, lack of action, problems not solved, or lack of creativity.”⁹³ Those that scrutinize the effectiveness of government (from private citizens to parliamentarians) are at a loss to find a focal point for directing enquiries and securing answers. Where problems do occur and are brought to the public’s attention, ministers and their officials can deflect

⁹¹ Ibid., p. 266.

⁹² Ibid., p. 254.

⁹³ Ibid., p. 214.

responsibility or simply hide altogether behind the vast complexity of horizontal governmental decision-making.

More troubling than the spreading of accountabilities within government, are the cases where governmental policy and administrative functions are being shifted holus bolus outside of the realm of government ministerial responsibility and accountability. A number of functions traditionally housed within government departments are now being devolved to Crown corporations, foundations and arm's length agencies. Examples of these institutions include the Canadian Foundation for Innovation and the Canada Millennium Scholarship Foundation, both of which are self-governing organizations with multi-billion dollar endowments of public funds, but yet are not subject to governmental, parliamentary or ministerial controls or accountability relationships.

Franks see it as a real challenge for Parliament, as an overseer of government, to wrestle with the size and diversity of public service, and to handle "the variety of rapid policy changes, and confusing multiplicity of objectives that policies try to accomplish."⁹⁴ The theory of responsible government suggests that Parliament approves a mandate for the government (i.e. statutes and budgets), and the public service "executes the mandate under the control and direction of ministers,"⁹⁵ who are accountable to Parliament for their stewardship. However, Franks contends that budgets and statutes are loose frameworks that act more as permits for activity, as opposed to guides for

⁹⁴Ibid., p. 228.

⁹⁵Ibid., p. 230.

appropriate implementation. As such, both ministers and the public service are seen as having substantial autonomy in determining policy directions.

Performance Measurement

Given the complexities of government policy and administration, coupled with its sometimes bewildering technical aspects, it is not surprising that performance measurement of departmental activities is becoming an increasingly difficult task. Former Treasury Board Secretary, Frank Claydon noted that measuring accountability in the private sector is easier than the public sector because you can focus on clear measures of financial performance.⁹⁶ Chief Executive Officers are aware of both to whom they are accountable (i.e. the shareholders) and to how their performance will be measured (e.g. high return for investment). In a complex governmental setting it is difficult to measure performance. As Savoie notes, not all activities lend themselves well to measurement, such as crime prevention and diplomatic initiatives. Moreover, in a horizontal environment it is difficult to isolate the contribution of individual departments towards furthering a particular initiative.

Despite the challenges that exist, there are vehicles to aid parliamentary review of departmental performance. Parliamentary government originally came into existence in England to ensure proper oversight of taxation and spending. In Canada, a number of initiatives have been implemented over the past thirty years to improve reporting to Parliament on planned governmental spending and, more particularly, results achieved.

⁹⁶ Personal Interview with Frank Claydon (2003).

As part of their review of the Estimates, parliamentary committees are now provided with individual departmental Reports on Plans and Priorities, which detail the resources required annually by individual departments and agencies to deliver the programs for which they are responsible. This allows MPs to review and provide input on planned departmental spending. Those committees also receive the follow-up Departmental Performance Reports that provide performance results flowing from the approved spending.

Herb Gray attests that past practices in reviewing the departmental Estimates improved accountability within government through the provision of important departmental information to ministers and, ultimately, to Parliament. Traditionally this process was considered a major test of every minister, particularly since the minister could be questioned on a number of issues that were not strictly in the Estimates. In preparation for an appearance, the minister would take a few days to review briefing books and engage in meetings with their officials on each item of the Estimates and on other issues that might arise.

In recent years, there is growing skepticism with ability of performance measurement to serve as an effective tool for ensuring accountability. For example, ministers are now appearing less and less before committees to defend their Estimates. A minister may make one appearance, but then their officials are expected to provide the bulk of the information. However, providing any detailed information is seldom required. Quite often, Opposition MPs do not take the time to subject the Estimates to any form of detailed study. Some of the reasons for this are that: 1) the documents are

viewed as being quite complex and cumbersome to understand; 2) there is limited time available to review them; and 3) they are difficult for parliamentarians to amend, particularly in a majority government situation. It has also been suggested that parliamentarians are so focused on ferreting out scandals that they become distracted from what may seem like the more tedious and mundane task of reviewing Estimates. A former deputy minister and Secretary to the Treasury Board indicated that he could only remember one time in his career where a parliamentary committee member asked a specific question regarding Part III Estimates.⁹⁷ These developments are a cause for concern given that one of the central accountability functions of Parliament is its review of governmental spending.

While public servants play a central role in providing overall performance information to their ministers and to Parliament, it has been suggested that this task is executed grudgingly without any belief in the efficacy of the process. A former Auditor General claimed that public servants do not see the capture and provision of performance measurement information “as being at all relevant to the day-to-day job.”⁹⁸ Performance evaluation is seen as a threat; a means through which central agencies, the Auditor General and Parliament seek to criticize departments and their ministers. It is not seen as an effective mechanism for outside input as to how to improve departmental spending and performance.

⁹⁷ Breaking the Bargain, p. 189.

⁹⁸ Ibid., p. 162.

Auditor General Activities

Overall, David Good suggests that performance measurement and evaluation will never be a central feature of ensuring ministerial accountability, as “public servants don’t publish it [performance information] for fear of embarrassing their ministers, and Parliamentary Committees don’t use what is published because it cannot embarrass ministers.”⁹⁹ An exception to this situation are the ‘value for money’ audits conducted by the Office of the Auditor General, which focus on how well policies and programs are managed. Parliamentarians embrace these audits for a number of reasons. First of all, these audits are qualitative in nature; not sharing the same level of tedium and complexity that can be found in financial audits. As well, these audits often make pronouncements about policy and program effectiveness. Indeed the audit findings seem to focus on providing provocative information for the media, as results are first provided in press conferences as opposed to Parliament. These audit findings can often catch the government off-guard, while giving MPs much ammunition to make allegations of scandal and mismanagement.

It is not surprising that such audits can be a source of stress and concern for some public servants. This is particularly the case when the underlying audit methodologies are ill-defined and poorly understood. Audit results are also not considered to have the same rigor and objectivity as financial compliance audits, which focus on efficiency and probity in the use of resources. Despite these misgivings, the audit findings are often received by external audiences as the results of an objective and scientific exercise. This

⁹⁹ The Politics of Public Management, p. 175.

is of great concern for departments when such findings often highlight controversial issues that fall within the realm of criticizing policy choices and implementation.

Sutherland takes great exception to the current role of the Auditor General. In the past, the OAG housed accountants, who conducted financial compliance audits and reported their results to an audit committee.¹⁰⁰ In the present day, more than half of the OAG budget is directed to value for money audits. The role of conducting financial audits is increasingly being relegated to departmental internal audit bureaus.

According to Sutherland, internal audit offices are doing a much better job than the OAG in catching problems. The OAG review of the sponsorship program was conducted ten years after an internal audit identified problems with the program. As will be discussed in the later chapter regarding the HRDC grants and contributions program, administrative problems were also identified first by an internal audit.

Sutherland calls for more investments into internal audit programs, as opposed to investing in OAG value for money audits, which she views as management reviews, that use unreliable methods, and whose results are “skimpy on facts and loaded with judgments.” The argument is that financial audits can achieve what the OAG seems unable to do very often: catch problems at earlier stages before they become full-blown scandals. Gilles Paquet argues that financial audits, as opposed to value for money audits, have traditionally been there to ensure the government was “doing things right” instead of whether the government is “doing the right thing.”¹⁰¹

¹⁰⁰ All references to Sutherland in this particular section are drawn from May Kathryn, “The Woman who enraged voters,” (*Ottawa Citizen*: Ottawa, June 9, 2004), p. B4.

¹⁰¹ May Kathryn, “Fraser wants audit reports ‘depoliticized’,” (*Ottawa Citizen*: Ottawa, June 13, 2004), p. A4.

Instead of the traditional method of reporting to an audit committee, today the OAG results are now provided directly to the public and the media. The language used in press conferences has been feeding the perception that the focus of the OAG is on rooting out scandals. During the recent press conference on the sponsorship program, Auditor General Sheila Fraser used language such as “shocking,” “appalled and angry,” and “disturbed.” Paquet has expressed concern that by focusing on scandal and using inflammatory language, the AG may end up further breeding “public cynicism and to weakening of the democratic process.”¹⁰²

Taking a different view, Franks supports the role that the OAG plays in ensuring government accountability. He disagrees with the notion that value for money audits are unduly broad or unfocussed. He indicates that the OAG has stayed within the scope of its statutory power, which precludes audits from commenting on “how well programmes have achieved their goals, but only on instances where the government has not established methods for discovering whether programmes are effective.”¹⁰³ Franks argues that MPs are often overwhelmed with numerous and complex performance information (e.g. Estimates, annual reports, etc.), and so the large and professional Office of the Auditor General can provide a useful service to parliamentarians by “pursuing issues and digesting information to the point where it is where it is understandable and handleable [sic] by the Public Accounts Committee.”¹⁰⁴ Franks suggests that the weak link in the accountability chain is not the Auditor General but, rather, Parliament’s myopic focus on

¹⁰² “The Woman who enraged voters,” p. B1

¹⁰³ Parliament of Canada, p. 242.

¹⁰⁴ *Ibid.*, p. 255.

seeking out scandals, instead of directing efforts at conducting fulsome reviews of spending.

To address some of the controversy concerning the view that the OAG is a scandal-monger, Sheila Fraser, the current AG, has recently announced that she will attempt to somewhat de-politicize her role by renaming 'value for money' audits as 'performance audits'. However, staff of the OAG did confirm that these new audits will use the same methodology and approach as value for money audits. Ms. Fraser counters that her office cannot control interpretations of audit findings, "but we can ensure that they are analytically sound and rely on information that is researched professionally."¹⁰⁵ Ms. Fraser has also underscored that her office has conducted numerous reviews that have found very positive results, but that such results do not get as much attention as negative findings.¹⁰⁶

The Media

Mr. Kroeger asserts that the media has seldom been a source of thoughtful commentary on accountability issues.¹⁰⁷ He suggests that so-called 'scandals' have appeared much worse than they are because media outlets compete with one another to be the most spectacular or sensational.

Winberg is a little more forgiving of the media.¹⁰⁸ He states that the media is part of the accountability system to provide needed information to the public and that, for the most part, they do their best in aiding accountability. However, it is recognized that

¹⁰⁵ "Fraser wants audit reports 'depoliticized'," p. A4.

¹⁰⁶ Canadian Broadcasting Corporation, *An Interview with Sheila Fraser*, CBC Sunday www.cbc.ca/sunday/coverstory_fraser.html (June 20, 2004).

¹⁰⁷ Personal Interview.

¹⁰⁸ Personal Interview.

media organizations have their own issues that make it difficult for them to provide that public service. Journalists are required to understand complex issues very fast, and to meet short deadlines to publish or to broadcast. Given the tight timelines to amass information and to have it verified, some of the information the media provides is incomplete or incorrect.

The information provided by the media is regularly in the form of short, dramatic sound bites drawn from Question Period or press scrums. The use of this reporting method results in the public receiving accountability-related information as sensationalized news “with the stories played out in terms of the clash of personalities and not content of the issues.”¹⁰⁹ Mr. Winberg does note that the general public may not always understand that it may take a number of days for the media to fully understand the details surrounding an issue. In some cases, the public does not want to wait to receive the full and complete story. For example, during the Walkerton water crisis, residents wanted to know immediately what was happening, and whether the water was safe to drink.

Role of Parliament

While it is common knowledge that Opposition MPs prefer to focus on scandals, there is a concern that this undermines the role of the Opposition to hold government to account. Arthur Kroeger explains that the problem with issues of accountability, especially political issues, is that when a problem comes to light the objective of the Opposition parties is not seek to clarify the matter or to observe strict rules of political

¹⁰⁹ The Politics of Public Management, p. 165.

science. Their objective is to “draw blood”, and the result is that parties draw conclusions that may be completely unwarranted. Often the Opposition demands that ministers resign their posts, even when there are no grounds for resignation, because it is politically expedient for them to make such demands.¹¹⁰

As David Good states, the goal of the Opposition, as the government-in-waiting, is “embarrassing and criticizing the government to ensure its defeat.”¹¹¹ MPs focus on political issues, and may understand little about the workings and constraints of public administration. Good asserts that a typical MP’s knowledge of public management is largely construed from Auditor General reports critical of public service management. Such public administration issues are of interest to an MP because they can be exploited toward political ends. Franks underscores that there are political rewards for those parliamentarians that seek to pursue scandals, while there are few incentives such as “prestige or improving the assurance of election” for political parties to focus their activities on the “unglamorous processes of financial management and accountability.”¹¹² Parliamentarians also have difficulty in finding the time required to sufficiently engage in such activities, given that a large portion of their activities are often devoted to issues related to their ridings and constituents.

One of the other challenges of the current Canadian parliamentary situation is that the ability to hold the government to account has been weakened by the presence of a multiplicity of political parties in the House of Commons. In a two-party political

¹¹⁰ Interview with Arthur Kroeger.

¹¹¹ The Politics of Public Management, p. 201.

¹¹² Parliament of Canada, p. 256.

system, the Opposition is viewed clearly as the government-in-waiting and has more political muscle and ability to hold the government to account. Aucoin et al, explain that a single party, strong Opposition “lends clarity and cohesiveness to the opposition’s criticisms by enabling the opposition to strike clear, carefully orchestrated notes in its efforts to check the government.”¹¹³ For most of the last twelve years, there was a strong majority government with a fractured collection of political parties in opposition. The common result of such a condition is that attacks on government by the Opposition parties do little to damage a powerful government or to force it to change its policies. Nevertheless, an unfortunate by-product of constant barrages by the Opposition during times of scandal is that the public service has developed an “unhealthy and excessively high level of aversion to risk.”¹¹⁴

Regardless of some of the challenges placed upon the role of Parliament in fulfilling its accountability function, Question Period and parliamentary committees continue to be highlighted as the primary vehicles it uses to keep government accountable. As discussed previously, these institutions exist to make a democracy work by ensuring that everybody, ministers and public servants alike, remain responsive to issues as they arise. When a question is raised in Question Period and a minister commits to providing an answer the next day, his/her department must align its efforts to finding the answer and furnishing the minister, and ultimately Parliament, with that information. The need for such responsiveness encourages public servants to have good stewardship

¹¹³ “Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth,” p. 54.

¹¹⁴ The Politics of Public Management, p. 161.

practices and to be accountable for the different initiatives for which they have responsibility.

One of the key benefits of the existence of Question Period is that ministers and their departments must constantly assess whether departmental activities will be defensible. As a result of this reflex, Question period:

..speaks to the core function of the House of Commons, which is first to uncover and then magnify the complaints of the electorate so that government hears the signals from the political market and positions itself to respond in such a way as to keep the loyalty of that market. The state of political and administrative readiness, so central to the democratic effectiveness of our system, depends on ministers attending closely to the small and great events.¹¹⁵

Parliamentary Committees

There are some specific concerns with how effective parliamentary committees are in holding government to account. Parliamentary committees are sometimes viewed as an ineffectual component of Canada's accountability system, due to "problems of government control, partisanship, lack of clear function, poor methods of inquiry, and inexperienced members."¹¹⁶

¹¹⁵ Breaking the Bargain, p.p. 45-46.

¹¹⁶ Franks, C.E.S., "Constraints on the Operations and Reform of Parliamentary Committees in Canada," Working Papers on Comparative Legislative Studies II: The Changing Roles of Parliamentary Committees, Lawrence D. Longley and Ahila Agh (eds.) (Research Committee of Legislative Specialists, International

Senior public servant Ralph Heintzman underscores the of all the Westminster countries, Canadian members of parliament have the shortest amount of experience, which has a significant impact on the effectiveness of parliamentary committees.¹¹⁷ A review of parliamentary history has shown that the average Canadian MP has less than five years of parliamentary experience. Following a general election, often more than fifty percent of the House of Commons are serving as MPs for their first time.¹¹⁸

In Britain, parliamentary committees in general, and the Public Accounts Committee in particular, usually have members with significant parliamentary or governmental experience, including former ministers and parliamentary secretaries. British committees also have a cultural tradition of a more professional kind of approach with respect to matters of government administration, as compared to most Canadian committees. That Canada MPs lack such experience has led to parliamentary committees comprised of members who have little knowledge applicable to the review functions for which they are responsible.

As noted by Frank Claydon, the parliamentary process to hold ministers accountable is only as effective as the people engaged in that process. As such, Mr. Claydon suggests that all parliamentary committee members should feel a strong sense of accountability for the kinds of questions they pose to witnesses. However, the unfortunate trend at present is for some committees to behave on a partisan basis; seeking to score political points rather than to conduct an objective review of government

Political Science: Wisconsin, 1997), p.p. 206-207.

¹¹⁷ Personal interview with Ralph Heintzman (2003).

¹¹⁸ "Constraints on the Operations and Reform of Parliamentary Committees in Canada," p. 201.

spending on behalf of their constituents. This partisanship is not limited to parties in opposition. With a long history of majority governments, Canada has also seen many situations where the party in power uses its strength to dominate and control the activities and processes of committees.

As has been stated, committees also tend to be more interested in media headlines than in issues of accountability. Mr. Claydon asserts that even the Public Accounts Committee can act this way, at the expense of conducting a proper review of audit plans. Also discussed previously, the review of the government Estimates and audit documents are considered to be a difficult task. Such complex review functions require a level of knowledge that is not always shared by all committee members. To compensate for these shortcomings, the media can be seen by some committee members as a very effective source for highlighting issues that the committee can choose to pursue for further scrutiny. Of course, the risks associated with this approach include the distraction of a committees' focus and efforts toward unduly sensationalized, bad news stories.

Savoie contends that public servants are very aware of the politicized environment of the parliamentary committees. As a result, government officials who appear as witnesses before committees seek to provide as little information as is absolutely necessary to answer the questions posed to them. The answers provided rarely include any information that will be seen as controversial or embarrassing to the government. No deputy minister or senior official wishes to be cited as a source reference for a scandalous media story or for an attack by the Opposition during Question Period.

It is important to note that parliamentarians have few resources available to support their review functions. The Estimates and other performance-related documents are large and difficult for most people to understand readily, especially for inexperienced MPs with very few staffers that have the necessary subject-matter expertise to help them sift through and process the information. The Privy Council Office and the Department of Finance combined have 1600 employees to draw from for advice, while all of the members of the House and Senate have only eight non-partisan policy advisers to support their accountability activities.¹¹⁹ In short, MPs, at best are usually only in a position to have a basic understanding of the issues before them and to pose the most basic of questions. Those same questions are only answered in a very concise manner by public officials. Committee members have little ability to pursue the matters beyond those basic responses. According to Savoie, committees “ask obvious questions and receive obvious answers. More substantive issues go unattended.”¹²⁰

Savoie paints a picture of two opposing forces that confound accountability in Canada. On the one hand is a large, professional and expert public service, which produces complex information for parliamentarians to use in ensuring accountability, and which seeks to withhold or minimize any information that would embarrass their political masters. On the other side is a small collection of inexperienced parliamentarians and staffers, who often do not have the knowledge, time or resources to thoroughly review the government’s activities. The same parliamentarians are also more interested in political issues, while public servants seek to provide and explain non-politicized, and somewhat

¹¹⁹ Breaking the Bargain, p.p. 270-271.

¹²⁰ *Ibid.*, p. 203

dry, performance information. Savoie quotes one public official who summarizes this predicament in the following way: “We pretend to provide full information to Parliament and MPs pretend to hold us accountable.”¹²¹

Public Accounts Committee

Some question the centrality of the role played by the Public Accounts Committee in ensuring accountability. Franks states categorically that the PAC “has not had an important influence on methods and processes of accountability and financial management.”¹²² He lists several reasons for this, which he applies to other committees as well:

...shortages of competent long-term members; frequent changes in membership and chairmanship; excessive competing demands on members’ time and energy; unsatisfactory work procedures; and a tradition of weakness and lack of influence. Nor, despite its opposition chairman, is the committee always non-partisan.¹²³

In his study of the role of public accounts committees in Canadian legislatures, Jonathan Malloy concedes that, in general, the effectiveness of the investigations and resulting recommendations of these committees can be undermined by the inexperience and partisan tendencies of committee members, coupled with an often-limited committee research capacity that inhibits a deeper exploration of problems raised by witnesses in hearings, or those identified within Auditor General reports. Further, the reports and

¹²¹ Ibid., p. 233.

¹²² Franks, C.E.S., “Not Anonymous: Ministerial Responsibility and the British Accounting Officers,” Canadian Public Administration 40:4 (Winter 1997), p. 639.

¹²³ Parliament of Canada, p. 244.

recommendations stemming from a Public Accounts Committee cannot force the government to take any prescribed actions to remedy any specified problems.

Nevertheless, Malloy suggests it is not the paper-bound final report of the committee that is vital to its role in ensuring accountability in government. On the contrary, it is the very existence of such committees, and their capacity to summon and question public servants on a range of issues, that lends credence to the necessity of their continued functioning.

For the public service, appearing before the Public Accounts Committee is no small undertaking. Indeed, the public service monitors closely the audits and reports that the Auditor General conducts on behalf of the PAC. Government officials prepare in advance to speak to or to remedy issues raised in the AG reports, as it is known that the Public Accounts Committee will call senior departmental officials to explain problems and to show progress in implementing solutions.

When a senior official appears before the committee, the questioning can be quite stressful, either because of the sensitivity of the issues, or due to the erratic nature of questions posed by members, some of who may be less-experienced, partisan, and/or vaguely engaged in the complexity of the issue at hand. Of course, the public nature of the proceedings, viewed closely by the media and government colleagues, can be very intimidating for a witness who wishes to look both adept and prepared for questioning, and who seeks to portray their respective department in a positive light. Malloy quotes one PAC member who states his view of the committees' *raison d'être* in the following way: "If a public servant says 'I don't want to go there again [before the public accounts

committee],’ I think ‘job done.’”¹²⁴ Buttressing the public release and media coverage of problems identified in an Auditor General, the threat of being called before a Public Accounts Committee provides a powerful incentive for the public service to take measures to address problems, and to be prepared to explain it publicly and the remedies undertaken.

¹²⁴ “An auditor’s best friend? Standing committees on public accounts,” p. 17.

CHAPTER 5: SPLITTING ACCOUNTABILITIES BETWEEN MINISTERS AND DEPUTY MINISTERS

The previous chapter raised some of the challenges with respect to ensuring the accountability of government ministers and their departments within the contexts of government complexity, performance measurement, and the roles of the Auditor General, the media, parliamentarians and parliamentary committees. In the conclusion to this paper, a number of suggested reforms will be highlighted that address some of the noted challenges. Nevertheless, Chapter 6 on the HRDC grants and contributions affair will show that despite some of the current difficulties with Canada's accountability mechanisms, they remain as an effective means of supporting the doctrine of ministerial accountability.

Before turning to those discussions, some attention needs to be given to one particular issue that is continually raised by politicians, political scientists and other critics in discussions surrounding the reformation of ministerial accountability. More specifically, the question is raised as to whether ministers should be held accountable for all problems occurring within their portfolio (both policy and administrative), or whether it is more effective and fair that deputy ministers, as the senior managers of departments, should be made separately accountable before parliament for administrative errors that occur. Pursuing a course of action that would see a splitting of accountability, with deputy ministers becoming directly accountable to Parliament, would have significant and detrimental ramifications for two of the fundamental underpinnings of *ministerial*

accountability; that is: 1) the individual responsibility of ministers to account and to answer for the administration of their portfolios; and 2) the anonymity of the public service.

Past Efforts to Make Public Servants Directly Accountable to Parliament

The debate on splitting accountability between ministers and deputy ministers dates back to the 1979 Royal Commission on Financial Management and Accountability (the Lambert Commission), which called for deputy ministers to be separately accountable to parliamentary committees for the administration of government departments. The traditional concept of ministerial responsibility calls for ministers to be solely responsible for their departmental portfolios from a legal, political and administrative standpoint. The Commission challenged that definition when it suggested a separation between the administrative responsibilities of deputy ministers and the political responsibilities of their ministers. The Lambert report recommended that “deputy ministers be liable to be called to account directly for their assigned and delegated responsibilities before...the Public Accounts Committee.”¹²⁵ In this scenario, a deputy minister would be held accountable to parliament “for legality of expenditures, the economy and efficiency by which programs are run, and their effectiveness in achieving policy goals.”¹²⁶ The Commission did not support ministers being held

¹²⁵Royal Commission on Financial Management and Accountability, *Final Report* (Ministry of Supply and Services: Hull, 1979), p. 189.

¹²⁶Parliament of Canada, p. 244.

accountable for the mistakes of their departmental officials unless they knew of the errors, ignored the mistakes, or should have known of their existence.

This challenge posed by the Lambert Commission was further strengthened through the House of Commons' adoption of the recommendations contained in the 1985 *Report of the Special Committee on Reform of the House of Commons* (McGrath Report). The McGrath report indicated that the "doctrine of ministerial accountability undermines the potential for genuine accountability on the part of the person that ought to be accountable - the senior officer of the department."¹²⁷ The report outlines a system through which testifying before parliamentary committees would be an "everyday occurrence." The McGrath report recommended that a deputy minister be responsible for almost all accountability within a departmental portfolio.¹²⁸ It was believed that increased contact between members of parliament and deputies, through the forum of the PAC, would lead to a more realistic understanding of administrative practices and more precise pinpointing of accountability."¹²⁹

Even to the present day, concerns have been raised that public servants are not being properly identified and sanctioned for administrative errors. The sense is that a ministers' sole accountability for departmental mistakes, coupled with the requirement for an anonymous public service, has allowed for government officials to escape

¹²⁷Special Committee on Reform of the House of Commons, *Report of the Special Committee on Reform of the House of Commons* (Ministry of Supply and Services: Ottawa, 1985), p. 21.

¹²⁸"Responsible Government and Ministerial Responsibility," p. 109.

¹²⁹*Report of the Special Committee on Reform of the House of Commons*, p. 21.

consequences when they have played a direct role in allowing an administrative error to occur. This has been of particular concern where there have been errors involving significant misadministration. As Aucoin et al state, when errors occur parliamentarians are no longer satisfied with “ministerial assurances that public servants have been held responsible by the application of internal government sanctions.”¹³⁰ Of course, one must consider that such views may not be rooted in moral outrage, given the significant political benefits an Opposition MP has when there is an opportunity to target public officials as part of a ‘divide and conquer’ strategy against the government in power.

Following these past developments, parliamentarians began to take an active interest in holding public servants to account for administrative matters, particularly through the parliamentary committee process. Indeed, the committee system was reformed to allow for parliamentarians’ review of departmental administration, and now public servants appear before parliamentary committees to speak to administrative issues much more frequently than their own ministers. It is quite possible that the sheer frequency of these appearances has provided MPs with the false impression that public servants are directly accountable to them in ways that the government’s ministers are not.

The media, as one of the primary sources of information used by parliamentarians, has also played a powerful role in encouraging efforts to hold government officials personally accountable for their functions. As mentioned earlier in this paper, in attacking the political party in power, Opposition parliamentarians often rely on the scandals exposed by the media, a number of which often shed light on the

¹³⁰ “Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth,” p. 41.

roles of department officials involved in the reported incidences. Kernaghan suggests that the media focus on the 'identities and activities' of public servants stems from journalists being "knowledgeable about the nature and magnitude of the influence of officials in private government offices."¹³¹

As well, the expansion of the role of the Auditor General in the 1970's to conduct 'value for money audits' provided good source material on departmental management performance for those journalists and MPs interested in holding government officials accountable. Sutherland is of the view that the Office of the Auditor General has long fought to make officials directly and personally accountable for all "administrative control systems, programme quality and policy advice."¹³² Sutherland's reading of the remarks the Auditor General's 1982 report suggests that the OAG would focus on the quality of the policy advice provided to a minister with respect to financial and social impacts. The 1986 Auditor General's report went further in attacking the traditional doctrine of ministerial accountability by stating that it "only serves to cloud the real accountability of those who are in charge of day-to-day operations."¹³³ The assertion here is that public servants are the real actors in charge of departments and that the role of a minister is reduced to that of an occasional intervener in departmental activities and processes.

Access to information legislation was introduced in 1985, which allowed for the public, and especially the media and the Opposition, to gain access to government-held

¹³¹ "Power, Parliament and Public Servants in Canada," p. 391.

¹³² "Responsible Government and Ministerial Responsibility," p. 110.

¹³³ Ibid., p. 112.

information and to more readily identify administrative missteps and the officials implicated. There has been much discussion regarding the fact that such legislation has transformed an anonymous public service that is supposed to feel protected enough to provide fearless advice to their political leaders, into a cautious, risk adverse work force that is loath to "...commit their views and recommendations to paper [for] fear that this could well appear in the media and force officials to support or defend them in public."¹³⁴ As a result of being reticent in providing fearless advice out concern of personal or political embarrassment, the quality of the information and advice provided in writing by government officials to their ministers could be rendered somewhat neutered and ineffectual. As well, much of the information that is necessary for ensuring corporate memory of departments will not be placed on written record, which may lead to long-term repercussions for the government in general.

In short, public servants have become much less anonymous than they once were. This is the result of increased exposure from frequent appearances before parliamentary committees, and the capacity for the media, the OAG, and access to information legislation, to identify individual public servants and their involvement in various departmental administrative issues. Some parliamentary committees have taken advantage of this increased exposure in a way that threatens traditional notions of ministerial responsibility and the anonymity of the public service. In the words of the report entitled *A Strong Foundation: Report of the Task Force on Public Service Values and Ethics* (also known as the "Tait Report"), parliamentary committees have dismissed

¹³⁴ Breaking the Bargain, p. 50.

these principles and have “sought to make public servants take responsibility for government actions or, increasingly, have invited them to comment on government actions or policy in their personal capacity rather than as officials accountable to a responsible minister.”¹³⁵

As discussed previously, appearing before a parliamentary committee is no small affair for a public servant, who may be subjected to partisan and erratic questioning, coupled with the threat of public criticism and resulting media coverage. What is even more troubling is the increased sense among public servants that their ministers are becoming less and less willing to protect their anonymity. In some cases of particular controversy, public servants have been openly identified by their ministers as a means of sharing or transferring blame; the most notorious example of this being the Al-Mashat affair.

Sutherland does an excellent overview of the events surrounding the 1991 incident where an Iraqi Ambassador, Mohammed Al-Mashat, had been admitted as an immigrant to Canada under unusual and preferential circumstances, particularly with respect to the very short time frame under which his immigration status approval had been granted.¹³⁶ As a way of deflecting public criticism on the matter, the government denied its direct involvement in the matter by claiming that the processing of Mr. Mashat had been conducted solely by public servants, without any minister having been expressly consulted on the matter. Based on a preliminary examination into the matter, it was determined that the responsible minister, Joe Clark (then Secretary of State for

¹³⁵ *A Strong Foundation*, p. 8.

¹³⁶ “The Al-Mashat Affair.”

External Affairs) had not been briefed by two of his officials, David Daubney, the minister's Chief of Staff, and Raymond Chretien, Associate Under-Secretary of State for External Affairs.

The government agreed to aid a parliamentary committee investigation into the Al-Mashat affair that would skirt around requiring a responsible minister to answer or to apologize for the matter under scrutiny and, instead, would directly query government officials for their roles in Mr. Al-Mashat's processing. During the course of the investigation, it was determined that certain officials had failed to make their minister personally aware of the issue. A memo on Mr. Al-Mashat's immigration had been sent from Mr. Chretien to Mr. Daubney, but Mr. Daubney had not informed the minister on the contents of the memorandum. Discussions then took place on issues such as who authored the memo, did the memo sufficiently communicate the gravity of the issue, should Mr. Daubney have been reasonably aware of the importance of sharing this information with Mr. Clark, who was responsible for what, etc.

The major issue with the Al-Mashat affair is that the government moved to deflect its accountability in the matter by opting to name and offer up certain officials to a parliamentary committee investigation to force them to answer for their individual administrative actions. The officials were attacked for failing to keep their minister apprised of an important issue. Mr. Clark summed up the government's attitude on why it felt no need to take responsibility or blame for the matter: "a minister cannot be held responsible for matters that concern him if he was not informed."¹³⁷ Public servants of

¹³⁷ Ibid., p. 588.

the time could look on in fear as these government officials were being subjected to a very public and politically-charged investigation that failed to meet standards of natural justice: documentation was suppressed from the hearings, witnesses were manipulated and maligned by partisan committee members, and “the two individuals blamed could not speak fully in their own defence,” nor call any witnesses of their own.¹³⁸

The Al-Mashat affair resulted in an attack on the principles of ministerial accountability and an anonymous public service, as two government officials were personally named and held to account by Parliament for an administrative matter that occurred within a department, for which a minister was responsible and accountable. These officials were held accountable because it was politically expedient for the government to allow it.

Reasons Posed for Splitting Accountabilities

The desire to reform ministerial accountability by splitting accountabilities between ministers and deputy ministers stems, in part, from these past efforts to hold public servants more accountable to Parliament.

Addressing the Realities of a Complex Government

Sutherland indicates that the push over the last twenty years to replace the doctrine of ministerial accountability for the doctrine of direct administrative accountability of public servants flows from the standpoint that government departments are viewed as too large and complex to be properly understood and managed effectively by one person (i.e. the minister). She also states that critics of the traditional doctrine see

¹³⁸Ibid., p.596.

“an unbridgeable qualitative difference between politics and administration, and therefore by extension the capacities of politicians and administrators.”¹³⁹ In short, the doctrine of ministerial accountability is seen by some as being outmoded and unworkable: a simplistic convention that belies the complexity that exists in reality.

As the most recognized proponent for splitting accountabilities between ministers and their deputies, Franks, in his book *The Parliament of Canada*, indicates that the realities of a modern-day government are too complex for the ‘simple’ theory of ministerial responsibility to have any legitimacy. Some of these ‘realities’ include the growth of the public service into a powerful, semi-autonomous branch of government. This growth of government is seen as leading to problems in ensuring the accountability of a huge complex public service where discretion is exercised at many levels, and where ministers make very few decisions, and are unaware of many of the inner workings of departments. Cabinet ministers are required to direct and be accountable for their respective departments, but are few in number, hold their portfolios for only a few years, are inexperienced amateurs in the work of their departments, and have short political careers. The public service, on the other hand, is comprised of hundreds of thousands of professional experts who are likely to spend their entire career in one department.

Ministers are not seen as having the sufficient technical and managerial knowledge to properly control their portfolios. This situation is compounded by the heavy time demands and severe workloads that do not allow ministers to devote enough attention to their departments and to gain a detailed enough knowledge of their

¹³⁹ Ibid., p. 582.

operations. In addition, the frequent turnover of ministers threatens their ability to exert real influence within their departments, thus hampering their responsibility and accountability within the parliamentary system.

Franks also argues that issues of individual accountability of ministers can be hampered by the role of central agencies and the doctrine of collective ministerial responsibility. While strong cabinets and party discipline can shelter ministers from too much political pressure in Parliament, there is a concern that there has been a corresponding drainage of the individual power and autonomy of ministers. The strengthening of central agencies is regarded as having limited the power of ministers to act on their own without cabinet approval. It has also allegedly reduced the ability of ministers to control their departments, as their deputies have their own separate controls and relationships with central agencies.¹⁴⁰

Proponents of splitting accountability contend that ministers should only be accountable for that which they have direct knowledge of, or have provided direction on. Given that ministers are seen as being unable to control or to have sufficient knowledge of the administration of their departments, it is suggested that the responsibilities of ministers should be restricted to deciding, and being accountable for, setting policy priorities. On the other hand, the public service (as the departmental administrators) would be responsible for applying “their expertise within the resources supplied, seeking only to maximize efficiency.”¹⁴¹ When departmental officials are seen failing in their

¹⁴⁰Parliament of Canada, p. 249.

¹⁴¹“The Al-Mashat Affair,” p. 583.

duties, they would be publicly censured and/or dismissed for those errors. According to Sutherland, some of the reforms that have already been implemented in deference to this philosophy include the expanded role for standing committees to oversee a department's policy and program implementation, as well as the broader 'value-for-money' mandate of the Auditor General.¹⁴²

Addressing the Realities of the Minister-Deputy Minister Relationship

Franks suggests that the current theoretical concept of ministerial responsibility does not sufficiently account for the actual nature of the minister-deputy minister relationship; citing the complex accountability relationships that exist for deputy ministers.¹⁴³ He asserts that while a minister's accountability is external to the electorate, public opinion and Parliament, deputy ministers have a less-public, internal accountability to central agencies, their ministers, and the Prime Minister, among others.¹⁴⁴

Franks suggests those multiple relationships clash with the doctrine of ministerial accountability, where accountability is defined as a linear master-servant relationship between ministers and deputies. He contends that deputy ministers are powerful governmental entities in their own right, who have a sense of accountability to a number of bodies other than the minister. As a result, the minister-deputy minister relationship is more of a "two-way street between equals with differing concerns and responsibilities

¹⁴²Ibid., 585.

¹⁴³Parliament of Canada, p.p. 230-233.

¹⁴⁴ Chapter 4 of this paper explored the multiple accountability relationships of deputy ministers.

than a formal master-servant relationship.”¹⁴⁵ The concern is that significant political and bureaucratic power meshes within the departmental management function of deputy ministers, but those same deputy ministers are not held externally accountable to Parliament for that power. Parliament is not regarded as an important source of control for a deputy minister, as they only appear before parliamentary committees to provide factual information on behalf of their ministers, but are not there to be held individually accountable to Parliament.

Akin to the typical career of a minister, Franks takes issue with the fact that deputies rarely stay in their office long enough for their past errors to catch up with them. This is viewed as having created an environment where the reputations of deputy ministers are made by having departmental policy proposals accepted (not necessarily implemented), rather than by ensuring the good management of their departments.

Protecting Public Servants

For Franks, the time is overdue for the theory of ministerial responsibility and accountability to come to terms with reality, and for a clear line to be drawn between the political responsibilities of ministers and the administrative responsibilities of deputy ministers. He sees no constitutional obstacle for reforming the Canadian accountability system, however, he notes that one major obstacle is the lack of a clear division between the political and the non-political in Canada. To underscore this point, Franks argues that political patronage affects many administrative decisions, such as government appointments, contracting, and the purchases of goods and services.

¹⁴⁵ Parliament of Canada, p. 232.

It is apparent in Question Period and in the committee system that Parliament does not always separate political and administrative matters. Franks indicates that, as a result, the use of ministerial responsibility to protect government from attack on matters of administration and policy has not worked (he cites the Al-Mashat affair as an example of this). More and more, public servants, as opposed to ministers, have been held accountable and punished for policy choices. As such, Franks rejects the notion that ministerial responsibility protects public servants, and he calls for the formal delegation of responsibility to public servants, with corresponding rules and arrangements, so that when further incidences occur officials will be held accountable for activities for which they are responsible, through a defined and fair process. According to him, a division between the bureaucratic and the political would “give an identity to the public service as something beyond the short-term whims of politicians.”¹⁴⁶

Why Accountabilities should not be Split

Arthur Kroeger contends that Canada already has effective institutions and processes to hold both ministers and deputy ministers accountable, and that splitting a ministers' accountability is a long standing suggested reform without any merit.

Mr. Kroeger asserts that the most confused treatment of the subject of splitting accountability was found in the McGrath Report's suggestion that ministers cannot possibly know everything that occurs within their department and so should not be responsible or accountable for everything. According to the report, it should be the

¹⁴⁶Franks, C.E.S., “Not Anonymous: Ministerial Responsibility and the British Accounting Officers,” Canadian Public Administration 40:4 (Winter 1997), p.649.

deputy minister who is made accountable. This is a specious argument, since for the same reason that a minister in charge of a department of 20,000 people cannot know everything that happens in the day-to-day, the deputy minister in charge of a department of 20,000 people also cannot know everything. Sutherland picks up this argument when stating that “if it is not meaningful to hold the minister responsible for work delegated to officials, how can it be meaningful to hold deputy heads strictly to account for administrative tasks that they delegate.”¹⁴⁷ Indeed, neither the minister nor the deputy are to blame for everything that happens within a department, but they are accountable in the sense that the deputy is accountable to the minister, and the minister is accountable to Parliament.

Using his boss-employee analogy, Kroeger underscores that in an accountability relationship a person is accountable to a boss, who can impose sanctions and rewards. In that respect, deputy ministers are ultimately accountable to the Prime Minister, who is the person who can appoint or dismiss them. However, it is important to underscore that it is the first expectation of the Prime Minister that a deputy minister exhibit “supreme loyalty is to his (or her) minister”.¹⁴⁸ The concern here with making deputies separately accountable to Parliament, is that a person cannot have two or more bosses. To the extent that a deputy minister could be made separately accountable to a parliamentary committee, that same deputy would not be accountable to a minister.

In addition, to the extent that a deputy is separately accountable to Parliament, he or she would also have an independent power to refuse to do certain things for a minister. A deputy could choose not to do various things for a minister if he/she viewed a certain

¹⁴⁷ “Responsible Government and Ministerial Responsibility,” p. 108.

¹⁴⁸ “Responsibility in the Constitution,” Chapter 7.

parliamentary committee as a 'boss'. Conversely, at the behest of a committee, a deputy could do certain things for which his/her minister does not approve. There are also other obvious problems with setting up a system that sees a deputy accountable to a parliamentary committee that is divided into four political parties.

Kroeger, of course, agrees that deputy ministers should remain answerable to Parliament. However, unlike a minister, a parliamentary committee is not the optimal body that will instruct deputies or impose sanctions on them. Splitting accountabilities would produce a much more confused reality where a deputy is working for several bosses.

Picking up on the theme of multiple 'bosses', J.R. Mitchell counters Franks' concerns that the unique relationship between deputy ministers and the Prime Minister, as well as central agencies, undermines the concept of ministerial accountability. It is practical and understandable that a deputy would have a "multi-faceted" accountability relationship in a system comprised of both individual and collective ministerial accountability. They are accountable to their minister for their counsel and management of the department. As a senior public official appointed by the Prime Minister, a deputy is accountable to "serving both the minister and the government as a whole."¹⁴⁹ Deputy ministers aid the Prime Minister in his/her important role in bringing unity and direction to government.

Kroeger also takes issue with those who contend that senior departmental officials support maintaining the doctrine of ministerial accountability because it saves them from

¹⁴⁹ Ibid.

ever having to pay for their mistakes. The existence of ministerial accountability does not shelter public officials from the consequences of their errors. For example, in the year following the HRDC affair, every executive in the whole department was denied a performance bonus.¹⁵⁰ As another example, when it was found that in the 1981 Budget that the Department of Finance made some mistakes in their calculations, the Deputy Minister of Finance, Ian Stewart, resigned because he felt personally to blame. It is important to note here that in addition to the sanctions for poor performance that can be meted out to deputy ministers by the Prime Minister, deputies are also civilly liable “for the custody and accounting of public money” and criminally liable “for embezzlement and the taking of bribes.”¹⁵¹

The public service supports the doctrine of ministerial accountability in order to support the authority of their ministers. If accountabilities become separated, deputy ministers would be in a position to second guess their ministers in public and provide parliamentary committees with excessive authority. The Tait Report underscored that the doctrine of ministerial responsibility serves a fundamental democratic function of preserving the authority of ministers. As the report states “if Parliament were, for example, to hold public servants more directly accountable, and to direct future actions, this would undercut the authority and responsibility of ministers.”¹⁵² Such a course of action would undermine the principle “that government should be carried on by elected representatives, not by unelected officials”.¹⁵³

¹⁵⁰ Personal interview with Arthur Kroeger.

¹⁵¹ “Responsibility in the Constitution,” Chapter 7, p. 4.

¹⁵² *A Strong Foundation*, p. 11.

¹⁵³ *Ibid.*

In its submission to the Lambert Commission, the Privy Council Office disagreed with adopting a separation of accountability. It supported the concept that ministers be held responsible and accountable to Parliament for all aspects of policy and administration with no acceptance of the allocation of responsibility to public servants, as “responsibility shared is responsibility shirked”.¹⁵⁴

Sutherland is quick to point out the difficulty in differentiating between the minister’s work and the work of the administration. There should be no such differentiation:

if we wish to retain the possibility of routinely reviewing the substance of files that any large organization might hope to see closed forever, which is one of the benefits of our traditional system of government, we must act as though the minister, by act or default, had the final word. Ministers must do their best to arrange the work of the department such that they get to see most of the files they need to see, as well as most they want to see.¹⁵⁵

PCO suggested to the Commission that it would be very difficult to split accountability between ministers and deputy ministers, as in many cases it is nigh impossible to clearly divide those many gray areas within a ministry portfolio into spheres that are purely administrative or purely policy. To attempt such a categorization

¹⁵⁴ “Responsibility in the Constitution,” Chapter 7, p. 5.

¹⁵⁵ “The Al-Mashat Affair,” p. 602.

would be fruitless and might only contribute to a “further blurring of the lines of accountability, weakening the ability of the House to hold a minister responsible when it chooses for matters falling under his or her authority”.¹⁵⁶

Ministers need to be the ones that Parliament and the electorate expect to speak to problems in government and to undertake the needed actions to make the necessary correction and ensure that the same issues do not reoccur. Savoie explains that administrative errors are often blown out of proportion on the public stage and, as a result, become very political issues: once again, the separation of the administrative from the political becomes murky. In these charged political circumstances deputy ministers, if they are made directly accountable to Parliament for administrative matters, will want to defend their reputations. This will lead to a number of very public and embarrassing conflicts between deputy ministers and their ministers. When grilled by Parliament and the media, a number of deputies will be wont to claim that controversial issues are political and not their responsibility, while ministers will dodge by stating that the issues are administrative for which the deputy ministers are accountable. In such a situation, neither the public nor Parliament has a clear focal point for expecting answers and corrective action for the problem at hand; to a degree no one would be accountable.

Ministerial accountability supports parliamentarians by giving them a single target (i.e. the minister) to hold to account. As such, any attempt by MPs to hold public servants directly accountable to Parliament would only serve to undermine their own capacity to hold ministers accountable. It is also apparent that spectacles of deputy

¹⁵⁶ “Responsibility in the Constitution,” Chapter 7, p. 5.

ministers and ministers pointing fingers at one another in the public and political arenas, in order to deflect criticism and salvage personal reputations, would be extremely detrimental to the convention of the public service being seen as an impartial, non-partisan.¹⁵⁷

There are other reasons for which public servants may not wish to see a weakening of ministerial accountability. For example, if accountabilities were to become separated, there could be ramifications for the public service that would detract from the functioning of government. There is a concern that the effort to make government officials accountable for their administrative actions might actually decrease, as opposed to increase, efficiency within government, as well as impede efforts to ensure democratic control. Future occurrences of cases like the Al-Mashat affair would likely discourage officials from taking risks. Inefficiencies would occur, as deputies would start micro-managing their departments and cringing from taking responsibility for their own actions. Government officials would be encouraged to overload their ministers with information and requests for decisions.

Is the British 'Accounting Officer' Model Applicable?

As part of his proposal to split accountability within Canada, Franks lauds the British practice of separating between ministerial political responsibility and the administrative responsibility of the civil service. Franks indicates that Canada has a similar division that exists in law, but not in practice. He cites that in Britain, accounting officers (i.e. permanent secretaries of departments) are held full and personally

¹⁵⁷ Breaking the Bargain, p.p. 258-269.

responsible and accountable before the Public Accounts Committee for their financial administration of their departments. These responsibilities include ensuring that proper financial procedures are followed, that public funds are well managed, and “in the consideration of policy proposals..ensure that all financial considerations, including any issues of propriety, regularity, or value for money, are taken into account, and where necessary brought to the attention of ministers.”¹⁵⁸ Franks supports the adoption of the British system in Canada as good management sense, seeing it as giving identity to the public service as a unique corporate body that is directly accountable to Parliament, independent of ministerial responsibility. He deplores that unlike Britain, “Canada is at the extreme end of parliamentary systems..in professing an absolute and hard doctrine of anonymity of the public servant.”¹⁵⁹

The history of the British accounting officer model dates back to the mid1800s. At that time, permanent secretaries were personally responsible for all public funds spent by the department and were required to sign for the accounts of the department. If the department overspent what it had been allocated, the permanent secretary was required to pay that amount back to the government out of his personal finances. Later, the concept was broadened to the point that as part of their financial stewardship accountability function, accounting officers must have the necessary management process in place to ensure good financial management.

¹⁵⁸“Not Anonymous: Ministerial Responsibility and the British Accounting Officers,” p. 631.

¹⁵⁹ Ibid., p. 627.

As the accounting officer of a department, the permanent secretary is explicitly responsible for giving an account of human resources management and a number of other broad management responsibilities. In other words, being designated as the accounting officer carries with it the responsibility of being the manager of the department and being prepared to give a public accounting of that management. As required in the British Government's guidance to accounting officers, "the essence of an accounting officer's role is a personal responsibility for the propriety and regularity of the public finances for which he or she is *answerable*; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all available resources."¹⁶⁰

When considering whether it is necessary for Canada to adopt the 'accounting officer' model, it is important to note that in Britain a very clear distinction is made between the accountability of the minister, which remains intact, and the personal responsibility of the accounting officer to render an account for the good management of a government department. Contrary to what Franks suggests, the responsibility of the accounting officer does not necessarily mean being 'accountable' in the normal sense, but it does mean being answerable to the minister, and to Parliament. The accounting officer is required to be a witness *before* the Committee of Public Accounts and to answer questions regarding their department's accounts and for the findings of any reports submitted to Parliament by the Comptroller and Auditor General.

¹⁶⁰ H.M. Treasury, *Government Accounting 2000*, www.government-accounting.gov.uk/current/content/periphery/info.htm. (H.M. Treasury: London, 2000), Annex 4.1, p.2.

The British reconcile the accountability of ministers and accounting officers in a variety of ways. Similar to Canadian deputy ministers, British accounting officers are answerable to Parliament for their activities, but are not the conduit through which parliamentary committees can render criticisms or recommendations. As result, it is not the responsibility of the Public Accounts Committee to demand that a permanent secretary fix a problem, since that person is accountable to their minister and not to the committee. It is only for the minister to receive Committee criticisms and to correct problems.

There are five principles that the British system uses to reconcile the role of accounting officers with the doctrine of ministerial accountability¹⁶¹:

1. It is incumbent on accounting officers to combine their financial management duties with their duty to serve the minister in charge of their department, to whom they are responsible and from whom they derive their authority. The minister, in turn, is responsible to Parliament, in respect of the policies, actions, and conduct of the department.
2. The accounting officers must comply with the minister's instructions even where there is a disagreement.
3. In accordance with the principles of ministerial accountability, officials are not to entertain questions from any select committee directed to the conduct of individual officials with the implication of allocating individual criticism or

¹⁶¹ Personal interview with Ralph Heintzman.

blame. It is for the minister to look into the matter and, if necessary, institute a formal inquiry.

4. Departmental advice provided to a minister is to be disclosed to the Public Accounts Committee only in cases involving differences of view on regularity and propriety, not in cases involving efficiency and effectiveness.
5. In describing the relationship between the accounting officer and the Public Accounts Committee, the language of 'giving evidence', 'answering questions', and 'being a witness', is used rather than the language commonly used in describing accountability relationships.

It appears that in his biased estimation of the British system of ministerial accountability, Franks has failed to take into account that the Canadian system does not deviate too far from the British practice of differentiating between political and administrative accountability. Similar to their counterparts in Britain, Canadian deputy ministers appear before our own Public Accounts Committee for review of their financial and administrative activities. There they must show that funds were effectively and properly administered. J.R. Mitchell points out that, akin to the U.K., "this can be an arduous experience for a deputy, as can be seen in a number of cases in recent years, where the Canadian PAC has taken a strong interest in administrative practice and alleged mismanagement."¹⁶²

¹⁶²Mitchell, J.R., "Reply to C.E.S. Franks," Canadian Public Administration 40:4 (Winter 1997)., p. 654.

There is a strong sense of answerability, not accountability, for deputies in both countries. The British model does not imply a separate accountability for accounting officers. The British PAC cannot provide direction to deputies or reward them. The only sanction that the PAC can engender is public disapproval, which is minimal when compared to the harsher sanctions that can be imposed by those to whom the deputy is actually directly accountable, their minister and the Prime Minister.

In both Canada and Britain, ministers (not deputy ministers) are held accountable by the electorate and Parliament for departmental mismanagement, and are expected to take steps to correct such problems. Mitchell indicates that both he and Sutherland feel that “this self-correcting feature of Westminster government is one of its most valuable attributes [serving] as a mechanism to constantly improve the quality of governance and administration generally.”¹⁶³ Deputies in both countries appear before their respective PACs because both Parliaments have made ministers accountable for public funds. They are called before committees because Parliaments and ministers believe that this is the best process to hold the government “accountable to parliament for what is done by ministers with the authority and the funds that parliament has entrusted to them.”¹⁶⁴

The concept of the accounting officer is also used in Australia, except there the deputy minister is called the Chief Executive Officer of the department. It is the deputy who answers for the management of the department. Nevertheless, Australia has exactly the same conventions of responsible government as Canada does, so if there is a problem

¹⁶³Ibid., p. 655.

¹⁶⁴Ibid.

it is the minister that answers in the House and who is responsible for assuring the House that issues under question are being rectified.

Ministerial Instruction: An Option for Reform

During a personal interview, Ralph Heintzman explored the possibility of Canada adopting one aspect of the British accounting officer model, that is: the ability of a deputy minister to secure ministerial instruction in writing for certain contentious proposals.¹⁶⁵

According to Mr. Heintzman, Canada's accountability system does not sufficiently capture the person realistically accountable for the management of a department (i.e. the deputy minister). It is unreasonable to suggest that because a minister is constitutionally responsible for a department no government officials have any direct accountability for anything. While ministers are constitutionally responsible for departments and accountable in answering for, and setting aright, any problems that occur, they cannot reasonably answer for the management of a department, as in reality they do not run the department. A minister cannot go before a parliamentary committee and give a detailed account of the stewardship of the department, because the management of that department is not in practice his/her function. Mr. Heintzman suggests that this situation has led to a system where there is a lack of clarity about who is in charge: deputy ministers (who actually do manage departments, but are not constitutionally accountable for departmental administration) do not think of themselves as being in charge of departments, while ministers (who are responsible to Parliament for the departments they do not manage) are, in fact, not in charge of running departments.

¹⁶⁵ This section of the chapter is based almost completely on the remarks and views expressed by Mr. Heintzman.

According to Mr. Heintzman, this situation harms the relations between ministers and the public service, because there is ambiguity about who is in charge, and there is a vague feeling that nobody is in charge. One of the ways in which this undermines relations involves a scenario where ministers want to do something in their department that the public service would not normally recommend (either from a legal, procedural, or value-for-money perspective). When such a thing transpires, a deputy minister, because he or she has no formal accountability or responsibility, has few tools with which to deal with that situation, other than completely informal tools of influence. As a result, the deputy minister lacks adequate tools to clarify his/her own area of answerability; and yet if a problem occurs and there is a public and/or political outcry, that same deputy will be just as beleaguered and vilified as their minister.

To have good management in Canada, there is a need to make explicit the deputy minister's role as the manager of the department and the responsibilities and the obligations that go with that, including being answerable. As part of that, Heintzman feels that Canada needs to adopt an analogous practice of the British 'ministerial instruction' in order to clarify our current "gray zone of accountability".

In Britain, there is formal requirement in the Treasury department's guidance to accounting officers that if a minister provides an instruction to implement something that does not meet the normal public service management criteria of regularity and propriety and value-for-money, the accounting officer must do two things:

- 1) inform the minister in writing that as accounting officer for the department, they are not prepared to take personal responsibility for that action; and
- 2) if the minister persists the deputy is under instruction to require the minister to give formal instruction in writing that that they want that action to happen.

Once these two conditions are met, the accountability for the proposed action passes from the permanent secretary to the minister. The letter of instruction from the minister is immediately filed both with the Auditor General and with the Treasury department. When appearing before the Committee of Public Accounts (the only parliamentary body to which the accounting officer is answerable), the committee will recognize that the accounting officer is not answerable for the transaction under question.

To Heintzman, the accounting officer model helps support the good management of the department by making clear the personal responsibility of the deputy minister and by clarifying both the requirements and the limits of that responsibility. If a ministerial direction is not consistent with what the public service, using its own management criteria, should normally recommend, responsibility for that is clearly assigned to the minister through the written instruction requirement.

Heintzman's contends that the accepted fiction in Canada is that a minister runs the department, when in reality it is that the deputy does. According to him, the accounting officer concept makes deputy ministers realize that they are more than just there as policy advisors to their ministers. On the contrary, they are the chief executive

officers of their departments, and if a department is not well managed then the responsibility for that rests with them. They need to clearly understand that they are going to be responsible to the Treasury Board for the good management of their departments and to make sure that they have the right systems, processes, and people in place. However, as noted earlier, in the British system the minister is still, in constitutional terms, the person in charge of the department.

In Heintzman's view, the proposal by Franks for a division of responsibility between ministers and deputy ministers will not work in Canada's constitutional system. To him, ministers should still be in charge of their entire portfolios, however, the roles and responsibilities of a deputy, as manager of the department, should be clarified. Transplanting the device of written instruction into the Canadian system would retain both the fiction and the reality that the minister is ultimately in charge. If the minister wants something to be done, it will be done, and he/she will also have to accept responsibility for it.

To address concerns that the introduction of ministerial instruction in Canada may be an overbearing measure that will disrupt the functioning of government by adversely affecting minister-deputy minister relationships, Heintzman points to the fact that ministerial direction in Britain is used in a very measured way. The UK Treasury recently indicated to Heintzman that they were able to count sixteen cases in the last five years where it was used. Most of the ministerial directions were not used for things that were questionable or evoked malpractice. It can be a matter of routine, where a deputy has wanted to confirm what they are being asked to do, especially where instruction goes

beyond what the public service, using its own professional criteria, could or should normally recommend.

In the Canadian system this often happens informally. Heintzman asserts that there have been occasions where deputies have said to a minister “I don’t think that sounds very right, if you really want me to do that, send me a letter.” Very often such a statement puts an end to the issue. In this sense, not having the clarity that goes with ministerial instruction sometimes allows ambiguity as to who is actually in charge or is answerable for actions taken. The *Guidance for Deputy Ministers* does indicate that where there is an unresolved disagreement between a deputy minister and a minister, that deputy can take the matter up with the Clerk of the PCO and, if necessary, the Prime Minister (however, there is no formalized structure or process contained defined in the document to guide how this should be done).

The problem with an informal process is that it requires a deputy who has had enough experience to take this course of action. Where action is taken, there is a very high risk that an element of friction will be created in the minister/deputy minister relationship. There is little friction in the British system, because the instruction process is simply a requirement of the Treasury, as opposed to being done on the individual initiative of a deputy. In Britain, the deputy can indicate to a minister that the Treasury department requires that in a hypothetical circumstance ministerial direction is required. The minister knows the deputy does not have any choice, and the deputy has the protection of having the explicit formal instruction from the Treasury department as to how he or she is supposed to behave in such circumstances. As a result, the requirement

actually improves the relationship with the minister, because ministers know that they cannot do anything that their permanent secretaries are not prepared to support without a formal directive. As a routine matter, if anything comes to the minister, he/she will say: “Well, does the accounting officer agree?” If the accounting officer does not, the minister is unlikely to consider the matter any further.

Summary

In summary, despite the realities and complexities of modern government, it is still wise to hold a minister solely accountable for his/her department’s policy and administrative functions. Ministers should not be in a position to assign blame to public servants as a means of avoiding political controversy. Moreover, reforms should not be made that would create a framework for direct accountability of departmental officials to Parliament. Both parliamentarians and citizens alike are better served by an accountability system that provides a clear conduit for addressing and answering to problems of administration. Sharing accountabilities with their deputies would only weaken the accountability and the authority of ministers, and going forward would create greater confusion as to who is responsible for future errors.

Regardless of claims to the contrary, the doctrine of ministerial accountability does not enable deputy ministers to escape accountability for the significant powers conferred to them. Deputy ministers are already held accountable through a variety of effective processes that do not shift ultimate portfolio responsibility and accountability away from their respective ministers. Such processes include the scrutiny of Treasury

Board; the OAG; the Public Accounts Committee; the respective cabinet minister; the Prime Minister; Privy Council Office; the deputy ministerial community; and the public.

Any transferring of accountability away from ministers to deputy ministers will only exacerbate existing complexities within government. Separating policy and administrative accountabilities is a theoretical suggestion that has little basis in reality, as seen in numerous examples where parliamentarians have exploited incidences of government mismanagement for their own political ends: the administrative can always become political, especially when errors are discovered. If senior public officials become subjected to the threat of direct accountability processes and the political quagmires that often accompany them, then the important work undertaken in ministry portfolios may become atrophied, as deputy ministers begin to overwhelm their respective ministers with every piece of information and menial decision in order to protect themselves from becoming the parliamentary targets for any possible future departmental lapses.

CHAPTER 6: THE HRDC GRANTS AND CONTRIBUTIONS AFFAIR: A CASE FOR MINISTERIAL ACCOUNTABILITY

As has been shown in this paper, the essence of accountability for a minister is that when an administrative problem comes to light, that same minister takes complete ownership for that error by ensuring that effective action is taken to understand the problem (i.e. the symptoms and root causes) and then fix the problem, if it requires fixing. When there is any question about the proper management of publicly funded government programs, Canadians should be able to know what went wrong as opposed to just securing a Cabinet minister's resignation.

The existing vehicles of governmental oversight provide an effective and open public process that holds ministers to account for the activities of their portfolios, and serve to enable the public retrospective study of lapses in government administration and to facilitate sufficient corrective policy and administrative changes for the future. The recent example of this can be seen in the federal government's addressing of the Human Resources and Development Canada grants and contributions affair. The handling of that incident exhibits the positive impact of the Canadian processes for ensuring accountability within government, and the fact that the doctrine of ministerial accountability works when it is applied properly.

The Affair

In 1998, Human Resource Development Canada (HRDC) voluntarily initiated an internal audit of eight program areas that utilized some \$1 billion in grants and contributions expenditures. In 1999, the department released to the public results of the

audit, which indicated, among other things, that projects were being managed with incomplete paper work (including applications, forecast cash flows, results expected, etc.), as well as with insufficient ongoing project monitoring on the part of HRDC officials.

The media and the Opposition parties claimed that millions of dollars were lost by the government, and labeled the incident as the so-called “billion dollar boondoggle”. The year 2000 saw intense public and parliamentary scrutiny placed upon HRDC to determine what went wrong, who was responsible, and who should be sanctioned. External studies into the affair were conducted by the Auditor General as well as the parliamentary committee on Human Resources Development and the Status of Persons with Disabilities. As well, the Minister of HRDC, Jane Stewart, and her officials were constantly pressed for further details by the media and parliamentarians.

Alan Winberg, a former Assistant Deputy Minister of HRDC, indicated that one of the key underlying causes for the poor internal audit findings was the government-wide program review in the 1990s to attack the deficit.¹⁶⁶ Client service was underscored as a priority, and cuts were made to the auditing and monitoring of governmental programs. Departments were given more work and were told to cut what was not in the ‘first line of fire’. As such, the decisions of HRDC at that time, to improve client service at the expense of monitoring programs, were made in good faith. Nevertheless, HRDC had decided to delegate authority to satellite offices and front line staff and to require reporting back, but cut the money necessary for the administrative processes needed to

¹⁶⁶ Personal interview with Alan Winberg.

ensure proper stewardship and accountability. The 1995 budget had further exacerbated this situation by cutting approximately 20% of the department's workforce. As Mr. Winberg notes, "such an arrangement can only go on so long before problems begin to emerge."

As the result of a series of OAG and internal audits conducted in the 1990s, which identified problems with the financial control and monitoring of HRDC-related programs, the decision was made by the minister and the deputy minister to commission the 1998 internal audit of its grants and contributions programs. The audit entailed a file review, as opposed to a financial audit, that looked into the 'nature and extent' of documentation found within a random sample of 459 projects from April 1997 to June 1999 across the following eight program areas: Labour Market Training Programs; Transitional Jobs Fund; Youth Programs; Aboriginal Training Programs; Human Resource Partnerships; Social Development Programs; Learning and Literacy; and Labour Programs.

The results of the audit indicated that improvements needed to be made in project monitoring, contracting procedures and financial management practices.¹⁶⁷ Among other audit results, it was found that fifteen percent of the audited projects had no applications on file; seventy-two percent had no cash flow forecasts; twenty five percent had no description of the activities to be supported; eleven percent had no budget proposals or descriptions of results. In addition, eighty percent or more of the files showed no evidence of financial monitoring or any supervision. It is important to note that despite

¹⁶⁷ Human Resources and Development Canada, "Backgrounder: Human Resources Development Canada Internal Audit Report on Grants and Contributions," www.hrdc-drhc.gc.ca/commons/news/dept/000119.shtml (Ottawa, January 19, 2000).

these results, the absence of certain records on file did not necessarily mean that activities such as the processing of applications or financial monitoring had not taken place. However, the findings did confirm that the necessary information required to ensuring the proper delivery and tracking of very costly programs (all funded by public monies allocated by Parliament) was not being collected and properly filed by front-line government officials.

Jane Stewart and her officials accepted the findings of the audit and decided to publicly release the results and to put into place the following six-point action plan to address the deficiencies identified¹⁶⁸:

1. Ensure that payments meet financial program requirements (note: no payments could be made without written confirmation that five critical criteria were met, as developed in accordance with the *Financial Administration Act* and Treasury Board policies).
2. Check and correct problem files, including the 37 identified by the audit of being of potential concern (note: these involved files that were feared to have resulted in overpayments).
3. Equip and support staff with the necessary tools, training and resources (note: training sessions for all staff were rolled out across the country to ensure a common understanding of proper procedures).

¹⁶⁸ Office of the Auditor General of Canada, *October 2000 Report of the Auditor General of Canada* (Ottawa, 2000), p. 18, and Human Resources and Development Canada, "Minister Stewart Reports Significant Progress on Grants and Contributions Action Plan," www.hrdc-drhc.gc.ca/common/news/dept/00-12.shtml (Ottawa, February 24, 2000).

4. Ensure that staff better understand their accountability for grants and contributions (note: a departmental performance tracking unit was created to assist in this regard).
5. Get the best advice available (note: advice during the development stage of the action plan was sought from Treasury Board, private sector experts and the Auditor General).
6. Report progress regularly to public and staff (note: in addition to its regular Estimates reporting, the department committed to quarterly reporting on its progress in implementing the action plan).

HRDC committed significant staff and resources to meeting its action plan commitments, and it created an ADM-led coordination team comprised of national and regional representatives to champion implementation. A further commitment was made to review all of the grants and contributions files to ensure that they were in proper order. Following the review of 16,971 files, representing a total value of \$1.347 billion, it was found that there were only six overpayments made, with a total loss to the government being estimated at \$3,229. A \$2.7 million Performance Tracking Directorate was also created within the department, and \$50 million was reallocated in 2000 to strengthen HRDC's delivery of grants and contributions.

Mr. Winberg confirms that there were enormous innovations and changes within the department's ongoing operations. Training was re-instituted for the regions, delegated authorities were re-examined, and national job descriptions were created. Very

significant measures had to be taken (some that required two and three years to implement), such as training all staff and redeveloping all the manuals, policies and procedures. HRDC also designed a new information tracking system to ensure timely access to performance-related information. All employees and grant and contributions recipients were trained on how to use the system.

According to Winberg, the status quo changed in other ways. In the past, some of the programs had original contracts, but then just continued to run things the same way each year with no new contract or other written agreement. Some of the organizations HRDC dealt with on a regular basis had agreements where they would receive large sum payments at the beginning of each year without needing to interface with HRDC officials. Under the new processes, these same organizations had to be trained to do a cash flow forecast, and to have an invoice, a contract, and to not exceed their authority. Where the authorized value of the contracts were exceeded, the organizations would be more likely to have their contract reviewed by HRDC. While these entailed major adjustments for the organizations (and some resulting allegations of governmental red tape), this more rigorous and proper administrative process led to great improvements in the internal financial systems of many of those same organizations.

Overall, the findings of the October 2000 Auditor General report indicated that “HRDC has initiated corrective action that addresses the deficiencies we found in our audit.”¹⁶⁹ The report praised the department for its significant process in implementing its six-point action plan, as well as other corrective measures, and indicated that the

¹⁶⁹ Office of the Auditor General of Canada, “Management of Grants and Contributions at HRDC,” www.oag-bvg/domino/media.nsf.html/00pr11_e.html (Ottawa, October 17, 2000).

department should continue to maintain its rate of progress. The AG also praised the department for fulfilling its pledge to provide quarterly public reporting on its progress with respect to strengthening the financial control and monitoring of its grants and contributions programs.

The Role of a Minister Who Stood Accountable

The handling of the HRDC affair was about trust, stewardship, accountability, and the proper expenditure of taxpayer money by government. The essence of ministerial accountability is that a minister is accountable when a problem is identified to take action to fix the problem. Attaining the resignation of a minister for an administrative error is not a solution, as the next minister will still need to be accountable for fixing the problem. Winberg notes that a minister is in control of all aspects of expenditure within a department, and that the Canadian accountability system is designed so that over time, where a major government program is determined to be operating outside the bounds of propriety, such excesses will become known to the minister. When such problems become apparent, the deputy minister's role is to give advice and options to the minister on how it should be addressed.

In the case of HRDC there was a wealth of significant problems that needed to be addressed. Despite the resulting intense public and political pressure placed upon her as a result of the HRDC affair, Jane Stewart was a shining example of what it means to be a minister who owns her responsibility and accountability for her departmental portfolio. As the incoming minister of HRDC, she became aware that there might be problems with the department's grants and contributions program. Both she and her deputy minister

were concerned that little was known centrally about the delivery of grants and contributions in the regions. In order to find out, they commissioned the internal audit.

The minister was also determined to release to the public the findings of the internal audit. It is worth noting comments she made in defence of that action:

There's nobody that forced me to do this. This is me and there's a lot of people looking askance and saying you've got to be crazy. But I can't do it any other way. The idea that its standard practice, that it gets swept under the carpet until the Opposition decides its going to make an issue of it, that's not the way I do business...Is the system we've created such that if you identify problems from within, you're a bum, but if you identify them from the outside, you're a hero?...I don't believe that, because if I did I might as well pack up and go.¹⁷⁰

As the head of the department and the minister responsible for ensuring the delivery of the program, Ms. Stewart was determined to restore the integrity of the programs for which she was accountable. Winberg notes that in an early draft of the action plan to address problems identified by the audit, her departmental officials provided her with different advice and options that she viewed as too limited. As a result, she asked for a stronger action plan that could be implemented more quickly. She then referred the new six-point action plan to the Auditor General, prior to its implementation, for confirmation that it would be an effective means of addressing the issues identified in

¹⁷⁰ The Politics of Public Management, p. 68.

the internal audit. Mr. Winberg states that the Minister required this level of rigor, in part, because ultimately within our accountability system she is the one person required to “stand up in Parliament every day in Question Period to answer questions put forward by the opposition.”¹⁷¹

Ms. Stewart, because she was the minister, had to answer for what had occurred and had to oversee the corrective measures. This was despite the fact that she was not personally to blame for any of the problems; she did not authorize the activities or direct people to act inappropriately. The minister made no effort to identify departmental officials responsible for the state of affairs for the purposes of deflecting blame and providing a scapegoat for parliamentarians and the media to target. Deflecting a suggestion that “heads would roll,” the Minister stated “This is not a witch hunt. This is about making sure we improve our administrative practices, that we track, that we train, that we do spot audits, that I measure my officials’ performance reports about how well they make progress in this regard.”¹⁷²

In short, Minister Stewart stood up in Parliament and informed her colleagues and the general public that there was a problem with HRDC, and that she was committed to fixing it. Winberg notes that the Minister required appropriate actions to be taken to address the root causes and the symptoms of the grants and contributions affair. The department gave her advice and support in implementing the very comprehensive set of initiatives put in place to address the significant administrative problems.

¹⁷¹ Interview with Alan Winberg.

¹⁷² The Politics of Public Management, p. 21.

Her officials also supported her requirement to be answerable to for her department through parliamentary committee appearances, technical briefings on the action plan, media interviews, launching internal processes to pull together and make available performance-related information, and providing answers for question period. There is little doubt that the constant barrage of questions in Question Period and the intense media coverage put pressure on HRDC to make information available for Minister Stewart to provide answers to the questions that were asked. As has been cited elsewhere, the affair led to “800 questions to the minister in question period, 17,000 pages of information on the department’s website, [and] 100,000 pages of material released to the media under the Access to Information.”¹⁷³

This intense pressure, in part, encouraged the extensive public dissemination that took place on behalf of the department regarding the grants and contributions program. It also underscored for the department the need to create and/or refine the processes necessary to ensure timely access to performance related information. However, following the good report card from the OAG, questions related to grants and contributions began to dissipate in the House of Commons and in the media. The November federal election then saw the Liberal government and Minister Stewart reinstated.

Summary

The HRDC affair proved that Canada’s accountability system can work well. It included the use of an internal audit, reviews by parliamentary committee and the Auditor

¹⁷³ Breaking the Bargain, p. 147.

General, public progress reporting, Question Period, and ultimately an election. The HRDC minister uncovered and accepted the existence of problems (which sometimes governments do not do) and put in place aggressive actions to solve those problems, which were supported by the Cabinet and Treasury Board. The system of administration within the department provided advice and support to the Minister.

The HRDC problems were significant, and they were identified through the range of oversight systems that exist. Winberg notes that the system worked because Canadians live in a democracy where an Official Opposition can query the Government's ministers on the various government programs. When something becomes an issue (such as the HRDC affair), an enormous amount of corrective activity and decision making takes place. However, while many of the accountability vehicles within Canada figured well within the HRDC affair, not all functioned above reproach. With regard to respecting, let alone exhibiting an understanding of the doctrine of ministerial responsibility and accountability, the Opposition parties and the media failed miserably.

In a speech to the Canadian Club, Kroeger noted that the Opposition members of the parliamentary committee looking into the HRDC affair did not take the opportunity to address key issues relevant to grants and contributions, such as balancing sound financial stewardship with the need for flexibility to serve Canadians. He noted that in the committee's minority reports, comments from Opposition members were mostly limited to "stridently partisan denunciations of the department and the government."¹⁷⁴

¹⁷⁴ Kroeger, Arthur, Speech to the Canadian Club of Ottawa, (Ottawa, December 12, 2000), p. 8.

In its dissenting report to the final parliamentary committee report on the affair, the Canadian Alliance cited the requirement of ministerial accountability when it called for the resignation of Minister Stewart, and for the present and past deputy ministers of HRDC to be held accountable through some form of employment action. Such a suggestion is preposterous given that it flies in the face of several key components of ministerial accountability already discussed in this paper, namely: 1) only ministers are accountable for administrative errors, not deputy ministers; and 2) ministers have never been required to resign for administrative errors, only to correct them. It is also inconsistent to suggest that on one hand Mel Cappe, the past HRDC deputy minister, should be sanctioned because he is personally to blame for not identifying problems that occurred under his broader supervision, while at the same time demanding that the recently-appointed minister, Jane Stewart, should also resign for activities for which she was not personally to blame and had only ever attempted to identify and to correct.

Nevertheless, the partisan calls in Question Period, on the part of all of the political parties, for the ministers' resignation continued unabated during the course of the HRDC affair. Such large-scale and unyielding partisanship led Kroeger to pose the question as to whether Parliament "still has a claim to be regarded as a deliberative forum, or whether it is now merely a political cockpit?"¹⁷⁵

Similar to the Opposition parties, from the first day the internal audit findings were released to the public, the media painted it as a 'scandal' and began to focus less on facts and more on provocative and luring headlines, such as: 'bureaucrats mismanaged \$3

¹⁷⁵ Ibid., p. 9.

billion' and 'department loses track of \$1 billion'.¹⁷⁶ The media also gave the impression that the internal HRDC audit found that all of the grants and contributions money had been *lost* by bungling bureaucrats, as opposed to just poorly documented and tracked (which was the correct story).

Particular controversy centered around the problems associated with the Transitional Jobs Fund (later renamed the Canada Jobs Fund), a \$100 million dollar program designed to stimulate job creation growth in high employment regions of the country through contributions to small and medium sized businesses. In addition to concerns regarding lack of financial controls and monitoring, this particular program was extremely controversial as it was thought to be beset by evidence of political interference on the part of members of parliament. As a result of this controversy, the media began to latch onto the notion that audit findings were not focused on eight different grants and contributions programs but, instead, covered a \$1 billion job fund (even though the actual job creation fund represented one-tenth of the total \$1 billion in grants and contributions). As late as the October 2000 release of the OAG report, CBC claimed the internal audit by HRDC found mismanagement in its "\$1 billion job grants program."¹⁷⁷ One questions whether that CBC journalist even read the executive summary to the OAG report, which clearly notes that the jobs creation program was just one of the four programs covered within the scope of the audit.

¹⁷⁶ *The Politics of Public Management*, p. 23.

¹⁷⁷ Canadian Broadcasting Corporation, "Auditor General delivers stinging rebuke to Ottawa," www.cbc.ca (October 22, 2000).

David Good notes that in the overall media treatment of the affair, first impressions became lasting impressions and that the public and parliamentary deliberations became framed by misinformation and journalistic efforts to undermine the anonymity of public servants by ferreting out “who knew what, when and where...and whose head should roll.”¹⁷⁸ In retrospect, the intense media coverage seems to have been pointedly ludicrous when considering that the ‘billion-dollar boondoggle’ narrowed down to less than \$4,000 in overpayments by the government, and every other dollar was accounted for. Good sums it up best:

It seems unimaginable that what started as ‘the biggest scandal in Canadian history,’ and preoccupied the government and the Opposition for six months until June 2000, did not become an issue in the November general election and did not affect the election outcome.¹⁷⁹

In the end, the problems at HRDC were addressed largely to the satisfaction of the government and Parliament. Perhaps it is a testament to Canada’s system of accountability that if a minister and the government work within the bounds of the doctrine of ministerial accountability and the vehicles in place to support it, administrative errors can be addressed and undue political pressure outlasted, despite the

¹⁷⁸ The Politics of Public Management, p. 24.

¹⁷⁹ *Ibid.*, p. 60.

hyperbole and misinformation that can be found in political rhetoric and media headlines.¹⁸⁰

¹⁸⁰ Nevertheless, there should be no minimization of the effect of such a sustained and pointed attack by MPs and the media on the morale of public servants, all of whom seemed to be cast as incompetent and in some cases criminal.

CONCLUSION A WAY FORWARD FOR MINISTERIAL ACCOUNTABILITY

Reforming Supporting Mechanisms

Where a minister manages to survive politically a massive controversy, many members of the public see that as further proof that the current system of accountability does not work. The HRDC affair underscored the important role that a number of Canada's accountability vehicles can play in support of ministerial accountability. Nevertheless, it would be incorrect to suggest that all of those mechanisms are not in need of improvement. It has been noted in this paper that a number of challenges exist regarding Canada's system of ensuring this accountability, some of which suggest the need for implementing some necessary reforms.

Regarding the use of internal audit, Frank Claydon notes that ministers need to have the assurance that their departments are being managed well.¹⁸¹ One way to provide that assurance would be for ministers and deputy ministers to have an agreed upon checklist of audit plans based on programs assessed from a risk management perspective. Through the use of such a checklist, ministers could have some level of confidence that administrative problems would surface through such reviews, and deputy ministers would be able to assure ministers that the proper audits and administrative processes were in place and functioning well.

David Good suggests that due to the increasing reliance on internal audit bureaus and the Auditor General to measure performance, certain changes will need to take place with respect to the traditional functions of auditors. Fundamentally, Good calls for a

¹⁸¹ Personal interview with Frank Claydon.

curtailment of the inflated ‘audit rhetoric’ that has been often seen in the public release of audit findings, such as those found in Auditor General press releases. As well, Good suggests that use of the term ‘audit’ be altogether limited to traditional financial audits. He suggests that auditors abandon the terms ‘management audit’ and ‘performance audit’ to describe non-financial auditing activities, and to call such reviews for what they are: ‘management studies or reviews’. Based on social science principles, and not financial accounting standards, such reviews do not have the same level of objectivity, completeness and accuracy as financial audits. Good states that such audits are not without merit, but need to be strengthened by removing any public confusion about the capacity of such audits by being “more explicit and realistic” about what they are and how they are limited.¹⁸² As noted previously in this paper, Sutherland also suggests that internal audit offices are much more effective in identifying administrative problems than the Office of the Auditor General, and she calls for more investments into internal, as opposed to external, audit programs.

With respect to the ability for parliamentarians to hold government accountable, it is generally accepted that members of parliament require further advisory and resource support to aid their efforts to adequately assess departmental spending plans and performance information. To assist this, Savoie recommends the creation of an Office of Public Administrators to support a new House parliamentary committee on public administration. Savoie notes that one of the necessary activities for the new committee would be to hold parliamentary officers accountable for their activities, noting that the

¹⁸² The Politics of Public Management, p. 194.

Office of the Auditor General has “yet to be subjected to a comprehensive audit, although it is the office that aggressively promoted its application throughout government.”¹⁸³

It has been discussed in this paper that a number of MPs are often too busy, inexperienced and uninterested (for partisan reasons) to evaluate often-complex information related to departmental performance. While Savoie suggests that increasing the policy and research capacity of parliament will address this to some degree, he further calls for the establishment of a learning center for parliamentarians, along the lines of the Canadian Centre for Management Development, now available to senior governmental executives. His view is that such a learning center will aid in increasing “MPs’ ability to participate, to ask the right questions, to interpret research, and to understand the policy process and government operations.”¹⁸⁴

Other options that could aid the capacity of MPs to hold government to account could include electoral reforms aimed at lengthening the careers of MPs.¹⁸⁵ When looking at the role of the public accounts committees, Malloy notes that:

Long serving members will presumably become more familiar and knowledgeable about issues of administration and accountability, developing good working relationships with legislative auditors [i.e. the Auditor General] and their staff and hopefully becoming more committed to long-term improvements rather than more sensational, short-term issues. Stable and deft chairpersons are

¹⁸³ *Breaking the Bargain*, p. 274.

¹⁸⁴ *Ibid.*, p. 275.

¹⁸⁵ Institute on Governance, *The Exercise of Power: A Roundtable Series on Accountability*, (Institute on Governance: Ottawa, 1998), p. 4.

particularly important for committee success, as they can influence committees' abilities to work consensually...and pursue the most appropriate and worthwhile avenues of investigation.¹⁸⁶

While some efforts could be made to lessen the partisanship seen in parliamentary committees, such as loosening parliamentary discipline, it is unlikely that any reforms will completely eliminate partisanship in Parliament as long as administrative errors allow for parties in opposition to score political points.

In this environment of partisan committees and increasing appearances by government officials to answer questions related to departmental administration, reforms have also been suggested to protect public servants, particularly where committee members seek to determine the personal conduct of individual officials for the purposes of publicly chastising them for that conduct. In this regard, the suggested areas for reform include "the right to counsel, clarification of the conditions under which public servants could refuse to answer a question and the possibility of providing information in private or in secret."¹⁸⁷ Heintzman's suggestion for the introduction of ministerial instruction in Canada could also assist in clarifying for committee members some of the financial transactions for which deputy ministers, as opposed to ministers, are responsible and ultimately accountable.

It has been noted that the 'thickening' of government has presented some challenges for parliamentarians. There is a need to address the sharing of policy spaces

¹⁸⁶ "An auditor's best friend? Standing committees on public accounts," p. 22.

¹⁸⁷ "Responsible Government: Clarifying Essentials, Dispelling Myths and Exploring Truth," p. 79.

between multiple departments, levels of government, and with non-government bodies (e.g., policy think tanks), by devoting some attention to “removing layers and simplifying, if not eliminating, parts of the porous policy-making process.”¹⁸⁸ Savoie suggests that where the chains of accountabilities cannot be simplified, horizontal and diffuse programs and policies will need to be increasingly viewed through the lens of co-accountability or shared accountability.

In recent years, the government has undertaken a number of actions aimed at refining and improving accountability. This includes the aforementioned guidance documents compiled to clarify the responsibilities and accountabilities of ministers and deputy ministers. In addition to the *Guidance for Deputy Ministers*, a management accountability framework, as well as the injection of results-based criteria into the PCO-led performance management program of deputy ministers, has expanded the capacity for ministers and central agencies to hold deputies accountable.

The government went even further in its 2004 Budget to announce a slate of reforms aimed at improving accountability and transparency.¹⁸⁹ It announced the creation of an Office of the Comptroller General, as well as separate comptrollers for individual departments, to oversee all proposed government spending. The internal audit capacities of departments were also to be expanded to allow for greater risk analysis of departmental programs. A further commitment was made to implement new financial and human resource-related management systems to ensure timely tracking of

¹⁸⁸ *Breaking the Bargain*, p. 266.

¹⁸⁹ All succeeding information and quotation related to the Budget 2004 reforms are drawn from Treasury Board Secretariat, *Strengthening Public Sector Management*, www.tbs-sct.gc.ca (Treasury Board Secretariat: Ottawa, 2004).

governmental spending and “to provide appropriate tools for effective scrutiny and decision making.”

Government commitments were also made to ensure auditing of annual departmental financial statements within a five year period, as well as regularly disclosing all government contracts over \$10,000 to the public. Efforts were also undertaken to realign Treasury Board Secretariat resources to conduct more rigorous oversight of governmental expenditures. A new Cabinet committee, the Expenditure Review Committee (ERC), was also created to conduct ongoing reviews of all federal spending and to “ensure that government spending remains under control [and] is accountable.” As part of its review function, the ERC was also mandated to assess certain horizontal policies and programs “to determine their management, delivery, accountability, reporting.”

The government also announced that it would conduct a series of reviews aimed at “assuring accountability, transparency, good governance and an enhanced role for Parliament.” A review was to be conducted of the *Financial Administration Act* to determine ways to: 1) set in place new mechanisms to deter departmental mismanagement; 2) update criminal sanctions under the *Act*; 3) hold former public servants accountable for past offences under the *Act*; and 4) facilitate recouping of lost public funds resulting from mismanagement. Options for strengthening the governance and accountability of Crown corporations were to also be reviewed.

It is clear that the areas covered in the 2004 Budget announcement touch upon or address a number of the issues raised in this paper with respect to challenges in ensuring

accountability in Canada and some of the resulting suggestions for reform. While progress has been made by the government in meeting its Budget commitments, not all of the announced initiatives have been completed. Full implementation, and subsequent analysis, of these initiatives will tell as to whether they will further strengthen the accountability of government and ministers to Parliament. Nevertheless, it does appear that the government is certainly aware of a number of the relevant issues to ensuring good accountability as well as some of the areas that are in need of closer scrutiny, if not outright reform.

As one cautionary note, Kroeger highlights the risks associated with the current momentum to implement stricter financial controls and monitoring of government programs and spending. The increased bureaucratization that naturally accompanies such reforms can threaten a healthy level of risk taking on the part of public servants to deliver sometimes necessarily flexible government services. Kroeger warns against creating a mood of “audit chill” within government circles and against shifting too far from “seeking partnerships and innovation to a rules-based approach,” noting that the private sector and the general public already feel frustration with the red tape and the lagged responsiveness sometimes associated with government.¹⁹⁰ Kroeger does not oppose proper financial controls and monitoring, but he does underscore that when looking to introduce new reforms consideration must always be given to balancing between

¹⁹⁰ Speech to the Canadian Club of Ottawa, p. 6.

“flexibility and responsiveness in serving the public on one hand, and the dictates of financial management on the other.”¹⁹¹

The Need to Maintain the Doctrine

Ministerial accountability is more than just than assigning blame for government mismanagement and seeking revenge against cabinet ministers by effecting their resignations, or against senior public servants by making them directly accountable to Parliament through ill-defined and ad hoc parliamentary inquiry and disciplinary processes. If the doctrine was limited to finger pointing and public hangings then would-be reformers would have the justification to suggest that ministerial accountability is ineffective. However, accountability is not about naming and shaming. On the contrary, the doctrine of ministerial accountability provides a focused target (in the role of a minister) for parliamentarians and the general public to look to for identifying and solving administrative errors of a particular department, and to providing timely and accurate information related to the problems under scrutiny and the corrective measures undertaken. The corrective measures taken by HRDC to improve its management of grants and contributions testifies to the strength of the current accountability regime to facilitate the identification and correction of administrative errors. The HRDC affair also points to the futility of attempts to separate the political from the administrative in order to split accountabilities between ministers and their officials. The grants and contributions scandal was primarily the result of poor record keeping and yet, as was glaringly apparent, that administrative issue became extremely political.

¹⁹¹ Ibid., p.7.

Sutherland notes that if critics are correct that the “role of ideas” in the Canadian system of traditional ministerial accountability is weak, this problem “should be addressed by strengthening the role of political ideas rather than by the haphazard implementation of an irresponsible and unverifiable system of direct accountability [of public servants to Parliament].”¹⁹² A uniform understanding and approach to applying the doctrine of ministerial accountability is a fundamental starting point to ensuring the proper accountability of government to Parliament and to the electorate. Ministerial accountability and its supporting vehicles and processes face many challenges in the present age and must be clarified and strengthened, as well as sufficiently communicated, if it they are to survive.

To assist in this regard, Arthur Kroeger notes that it is very important that the two guidance documents released by the Prime Minister, *Governing Responsibly: A guide for Ministers* and *Ministers of State* and *Guidance for Deputy Ministers*, are adhered to within government.¹⁹³ These documents were compiled in direct response to calls for greater clarity on the roles and accountability expectations placed upon ministers and deputy ministers. Ministers and their deputies need to read and understand these documents. Since no minister has ever resigned because of an administrative error in his or her department, if some future minister misunderstood his/her accountability requirements and resigned for some future error, it would then create public and political confusion.

¹⁹² “Responsible Government and Ministerial Responsibility,” p. 120.

¹⁹³ Personal Interview with Arthur Kroeger.

In further support of clarifying the roles, responsibilities and accountabilities of ministers and senior public servants, the government announced in its 2004 Budget the creation of a panel of experts to examine the following questions¹⁹⁴:

1. Who is accountable for what and to whom?
2. How well are accountabilities and responsibilities understood by ministers, political staff and senior public servants?
3. What changes are needed to strengthen the accountability of ministers and/or public servants?

At a broader level of communicating the doctrine to the general public, Alan Winberg suggests that education programs at the secondary and post-secondary levels could include some form of ‘civic awareness’ programming to help improve public understanding of accountability issues.¹⁹⁵ This could encompass information about the different levels of government, how they operate, what the political parties are, and what the elections are about. Winberg posits the strengthening of faculties of public administration in universities and some greater degree of civics awareness training for high school teachers.

In summary, while it is fair to suggest that some reforms are required to further improve and modernize the capacities of the accountability vehicles within Canada, the traditional doctrine of ministerial accountability is in no sense ‘broken’. The handling of

¹⁹⁴ This panel of experts includes Donald Savoie, Denis Desautels, and the former Clerk and Deputy Clerk of the House of Commons, Robert Marleau and Camille Montpetit.

¹⁹⁵ Personal interview with Alan Winberg.

the HRDC affair suggests that very few changes need to be made in Canada to support the doctrine of ministerial accountability; and that the doctrine itself only needs to be understood clearly and applied more stringently and consistently than it has in recent years (e.g., the Al-Mashat affair). The fault for any imperfect application of the doctrine in Canada lies not in its lack of utility but, instead, in the imperfect understanding or use of the doctrine amongst some parliamentarians, public servants, journalists and members of the electorate. Creating processes that would enshrine past efforts to hold public servants directly accountable to Parliament, as opposed to their ministers, would only serve to further exacerbate and undermine an already complex accountability system. It would also distract focus away from debate surrounding reforms necessary for improving government accountability.

Instead of championing reform initiatives that weaken the concept of ministerial accountability, such as the splitting of accountabilities between ministers and their deputies, efforts are required to further build upon and clarify what ministerial accountability is and how it aids in the proper functioning of government within a Westminster-style system such as Canada's. It is hoped that this paper will aid that effort, along with other efforts currently underway to clarify and communicate the responsibilities and accountabilities of cabinet ministers and their officials.

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