
RESPONSIBILITY, ACCOUNTABILITY AND THE ROLE OF DEPUTY MINISTERS IN THE GOVERNMENT OF CANADA

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1 Purpose and Scope

This study will examine the issues of responsibility and accountability in Canada's system of responsible parliamentary government, with a particular emphasis on the role Deputy Ministers play in the Government of Canada. In pursuing this matter, the British institution of Accounting Officer (an ancillary function assigned by Treasury regulation and, since 2002, by law to the persons fulfilling the role of Deputy Minister in the Government of the United Kingdom) will be reviewed and the advisability, or not, of adopting it in Canada will be assessed.

The study will begin with a review of the fundamental principles underlying responsible parliamentary government in Canada. Although

these principles have remained constant for over 150 years, the nature of government in Canada has evolved and a number of those changes—and their implications for responsible government—will be noted. While recognizing that there is a lack of consensus on the precise meaning to give to certain key words in any given context, definitions—for the purposes of this study—will be provided for the terms “responsibility,” “accountability” and “answerability.”

A distinction will be made between political actors (Ministers and their political exempt staff) and professional actors (Deputy Ministers and members of the public service): they are subject to different rules and constraints and to different sanctions for poor or improper behaviour. The role of Deputy Ministers in the Government of Canada will then be set out, including the multiple responsibilities and accountabilities. The mechanisms in Canada for political and professional financial accountability will be reviewed, including the issue of sanctions for poor or improper behaviour.

The British institution of Accounting Officer will be examined and an assessment made as to whether it would be appropriate to adopt it in Canada.

The study will conclude with a number of recommendations.

2 The Fundamental Principles Underlying Responsible Parliamentary Government in Canada

The preamble to Canada’s *Constitution Act, 1867* states that the federating provinces had expressed their desire to have “a Constitution similar in principle to that of the United Kingdom.” On this basis, the constitutional conventions of Britain’s unwritten Constitution were transferred to Canada, although a few of the conventions were partially clarified in the text of the 1867 Act (for example, sections 53-57, dealing with money votes and royal assent).

Britain's system of responsible parliamentary government involves the melding or fusion of the executive and the legislative branches of the state in a single institution—Parliament (or, as some would say, the Crown in Parliament). The British Parliament consists of three elements: the Crown, the House of Lords and the House of Commons. In Canada, Parliament consists of the Crown, represented by the Governor General; the Senate; and the House of Commons.

The fundamental principles underlying responsible parliamentary government in Canada are as follows:

- the executive powers of the state are vested in the Queen (represented by the Governor General);
- the Governor General almost invariably acts on the advice of the Prime Minister and the other Ministers who form the Cabinet;
- the Governor General appoints as Prime Minister the leader of the party that enjoys the confidence of the House of Commons (although an incumbent Prime Minister who is defeated in an election has the right to meet the new House and test whether he or she has its confidence);
- the Prime Minister chooses the persons who will be Ministers in the Cabinet;
- the Prime Minister and the other members of Cabinet must have seats in Parliament (or get them within a reasonable time frame);
- most members of Cabinet must be Members of the House of Commons (but at least one Senator must be named to Cabinet to represent the Government in that House);
- the House of Commons is the confidence chamber: if the Prime Minister or the Government loses the confidence of the House of Commons, the Prime Minister must resign or recommend to the Governor General that Parliament be dissolved and a general election held;

- the resignation of the Prime Minister results in the resignation of Cabinet;
- the House of Commons holds the power of the purse: no taxation can be imposed without the consent of the Commons, and the Commons must consent to all expenditures of money;
- only members of Cabinet may introduce in the House of Commons a bill to raise revenue (such bills cannot be initiated in the Senate);
- only members of Cabinet may introduce in the House of Commons a bill to spend money (such bills cannot be initiated in the Senate);
- only members of Cabinet may introduce in the Commons amendments to increase the expenditure of money (such amendments cannot be initiated in the Senate);
- all members of Cabinet are collectively responsible for the Cabinet decision-making process and accountable to the House of Commons for the policies of the Government (Ministers must resign or be dismissed if they disagree with the Government's policies);
- Ministers are individually accountable to the Commons for their personal conduct;
- Ministers with portfolios are individually accountable to the Commons for the management of their departments;
- the Cabinet is supported by the public service in the management and administration of the Government of Canada;
- public servants are, through a hierarchical organization, accountable to Deputy Ministers, who, in turn, are accountable to Ministers;
- one function of Cabinet is to manage the public service and to be held accountable to the House of Commons; and
- one function of the Commons is to hold the Cabinet to account for the management of the public service, but not to manage the public service.

Because the House of Commons holds the power of the purse, it follows that the House must not only consent to all taxation and all expenditures but also have the means of satisfying itself that all items of expenditure and all receipts are dealt with in accordance with the legislation authorizing them. The House must be able to check that expenditures and receipts are dealt with in accordance with Parliament's intentions and the principles of parliamentary control, with due regard to economy, efficiency and effectiveness. This matter will be examined in the section of this study dealing with the mechanisms of political and professional financial accountability.

3 The Evolving Nature of Government in Canada

In 1846, Earl Grey became responsible for the Colonial Office in the United Kingdom. He sent dispatches to the able and liberal-minded governors of Nova Scotia (Sir John Harvey) and the Union of the Canadas (Lord Elgin), laying down the lines on which he felt the change to responsible self-government should be made. The first test came in Nova Scotia in January 1848, when, following an election, the Government lost a vote of confidence and J.B. Uniacke was asked to form a new government. Under similar circumstances, Baldwin and LaFontaine were asked to form a government in the Union of the Canadas in March of that year. New Brunswick, Prince Edward Island and Newfoundland followed suit shortly thereafter.¹

Oddly enough, the Canadian practice of responsible government appears to have been based on British theory rather than British practice: D.L. Keir points out that Queen Victoria was partisan; she meddled in Cabinet-making from 1885 to 1894 (she refused to have Sir Charles Dilke as a Cabinet Minister and personally chose Roseberry as Prime Minister in 1894); she held—and expressed—strong views on public policy; and she believed that dissolution was a personal appeal to the electorate by the sovereign (as late as 1892 she had to be dissuaded from compelling a dissolution against her Ministers' advice).² Factors that

may have encouraged British Governors or Governors General to respect the principles of responsible parliamentary government in British North America include the precedent of the revolt of the American colonies and the fact that property ownership in the British North American colonies (unlike Britain) was widespread, so most adult men could vote.³

The fundamental principles underlying responsible parliamentary government in Canada have remained remarkably constant since 1848, although there have been some limited qualifications. For example, it used to be thought that the defeat of the Government on a tax measure was tantamount to a vote of no confidence, but in 1968, following the defeat of a tax bill at third reading, the Government introduced a motion of confidence that was adopted and made clear that the Government did not have to resign.⁴

Notwithstanding the resilience of the fundamental principles of responsible parliamentary government in Canada, the context and the nature of government and governance have evolved significantly over the past 150 years, and it would be useful to review those changes briefly and to note their importance for the operation of responsible parliamentary government.

The development of highly disciplined political parties since Confederation has led to greater stability and predictability in Canadian politics. There were 13 Ministries during the 26 years of operation of the Union of the Canadas; there have been only 27 in the 138 years since Confederation. In 1919, the Liberal Party of Canada decided to choose its leader in a national convention, and all other parties have followed suit: this tradition means that the tenure and authority of national party leaders derives from the national convention, not from the caucus. These developments also mean that it is unlikely that a majority government could be undermined by the defection of “loose fish,” as

happened to Prime Minister John A. Macdonald in 1873, or that the Cabinet and caucus could unseat the Prime Minister, as happened to Prime Minister Mackenzie Bowell in 1896.

The Government and Parliament of Canada have become increasingly interventionist in the areas of social and economic policy since the Depression and the Second World War: this involvement has led to an increased legislative workload for Parliament and to a greatly expanded public service. Nowhere was the shift in priorities of government more ironically underlined than in the new Parliament Building built during the 1920s to replace the original, which was destroyed by fire in 1916: the largest and most centrally located committee room in the new structure was (and is still) called the Railway Committee Room.

Many factors have affected and altered the nature of government and governance in Canada over the last 100 years, including the following:

- The recruitment of public servants on the basis of patronage or nepotism during the first half century of Confederation gradually gave way to recruitment and promotion on the basis of merit, to securing tenure and to the creation of a non-partisan public service. In the three years following the defeat of the Laurier Government in 1911, for example, some 11,000 public servants resigned or were removed from office, largely on the basis of political partisanship.⁵ During the last 40 years, other factors have been introduced into the process of recruitment and promotion, such as language requirements, the objective of equity and a “representative Public Service,” and changes in legislation that confer on Deputy Ministers discretion in defining merit.
- Over the last half century, public servants have gained the right to form unions, to strike and to participate in political activity. These rights present challenges to Ministers, and the right to engage in political activity becomes especially problematic at the most senior levels of the public service, where officials must provide non-

partisan support to current and future Ministers. The right of a Deputy Minister to participate in political activity is limited to the right to vote in an election.

- In the interest of managerial autonomy and freedom from partisan pressure, a number of state activities have been separated from the public service and placed under public corporations or agencies. Ministers normally are not directly responsible and accountable to Parliament for such corporations or agencies. The tabling of annual reports by such agencies and their annual appropriations do, however, provide an opportunity for parliamentary debate and scrutiny. Peter Aucoin has noted that public monies are given as endowments to independent foundations to invest and use over several years in ways that require no further ministerial approval after the initial transfer of funds, and he concludes: “Ministers have no executive authority over the foundations once they are established and funded; Parliament can hold neither Ministers nor foundations to account; and, therefore, the public has no democratic recourse.”⁶ The privatization of some services—such as Air Canada—has removed them from parliamentary review.
- The increased complexity of governmental activity often requires horizontal decision-making, where several departments and agencies have to collaborate and interact (in the area of national security, for example). This joint action challenges the traditional concept of Ministers being solely responsible for their own department. As Donald Savoie notes: “Because public policies and even many program decisions are now the product of many hands, we . . . need to think in terms of shared or co-accountability.”⁷
- A large number of constitutional and legal constraints restrict the capacity of Ministers and officials to act, including the *Charter of Rights and Freedoms*, accumulated legal decisions, and legislation respecting official languages, access to information and privacy.
- The arrival of e-government is making vast quantities of information available to citizens, interest groups, think-tanks and research

institutes, and citizens, in turn, can send messages to the Government and to MPs. Communication is no longer a one-way street.⁸

- MPs are concerned that two processes are calling traditional assumptions into question: on the one hand, the resort of the Government to consultations with financial and business interests before the preparation of the budget or to focus groups of Canadians before the preparation of legislation challenges the role of MPs as the interlocutors between the Canadian public and the Government; on the other hand, the practice of the Government to negotiate detailed agreements with the provinces and to present bills or constitutional resolutions to the House that cannot be amended, for fear of cancelling the federal-provincial agreement, puts in doubt the role of the House to dispose of its business as it sees fit and raises questions about ministerial responsibility and accountability.⁹
- Institutional changes, most notably the expansion and altered functions of the Privy Council Office since 1940 and the creation of the Prime Minister's Office, have reinforced the powers of the Prime Minister in Canada's system of parliamentary government; Members of Parliament and even Ministers, on occasion, have been critical of what is perceived to be an extraordinary centralization of power.
- The traditional "public administration" perspective on government has been challenged by the "new public management." Public administration begins with democratic and political processes and pays particular attention to institutions, decision-making processes, the relationship of senior public servants with Ministers and Parliament, and questions of responsibility and accountability, among other things. Public management seeks to understand or improve features of public organizations, such as leadership, strategic management, organizational climate, service quality, innovation, the measurement of outputs, performance and "client satisfaction," without reference necessarily to the political environment.¹⁰ Debate

over the relative merits of each approach has been vigorous.¹¹ The two approaches are not necessarily mutually exclusive, but as long as Canada has a system of responsible parliamentary government, the contribution of public management must occur within the overarching political perspective of public administration. As Savoie said, “I can hardly overstate the fact that public administration begins and ends with political institutions, notably Parliament and Cabinet.”¹²

- The enormous impact of governmental spending on the Canadian economy has led to vigorous activity by lobby groups that seek to influence Cabinet, Parliament and public servants. This lobbying has led to a heightened awareness of the need for probity on the part of elected and non-elected officials and the development of guidelines for ethical behaviour. It also highlights the need to clarify issues related to responsibility and accountability.

This review of factors affecting and altering the nature of government and governance is broad-brush in nature and by no means exhaustive. Rather, it is intended to indicate that while the fundamental principles of responsible parliamentary government in Canada have remained essentially unchanged for over 150 years, the environment in which they operate has altered significantly. These changed circumstances pose challenges for actors in public life, both elected and non-elected.

4 Defining Terms

Contemporary languages tend to be flexible: the meaning of words can change or a word may have multiple meanings, depending on the context or the intent of the speaker. As Paul Thomas said, “Politicians, public servants, the media and even academics use terms like responsibility, accountability, answerability and responsiveness loosely and often synonymously.”¹³

Peter Aucoin made a similar point: “Perhaps the most elusive dimension of the new public management is its effect on accountability. Public management reformers in each of the four Westminster systems have

spoken of the need to improve accountability of Government and Ministers to the legislature; of public servants to Ministers; of public servants to their public service superiors; and, in certain respects, of public servants to legislators and even citizens directly. The several meanings attached to accountability derive from different understandings of the purposes of accountability and how they relate to one another.”¹⁴

Publications by the Government of Canada have not always been precise in the use of these key words. In *Responsibility in the Constitution*, a document submitted to the Lambert Commission in 1977, the meaning of the term “responsible” is not clearly defined but rather implied. The document notes that “Ministers are *constitutionally responsible* for the provision and conduct of government.”¹⁵ Does this sentence mean that Ministers are empowered to conduct government or that they must give an account of how they have exercised their powers? Another sentence suggests the latter: “Parliament may focus responsibility for the conduct of government on those of its members who hold ministerial office and who in the ultimate must personally answer to Parliament and thence to the electorate for their actions and the actions of their subordinates.”¹⁶ Furthermore, the document seems to use the words “answer” and “answerable” in the way others would use the words “account” and “accountable.”

In another publication, *Guidance for Deputy Ministers*, a definition is provided: “Responsibility identifies the field within which a public office holder (whether elected or unelected) can act: it is defined by the specific authority given to an office holder (by law or delegation).”¹⁷ This sentence would suggest that responsibility refers to empowerment. The same publication also provides definitions of “accountability” and “answerability.” “Accountability is the means of enforcing or explaining responsibility. It involves rendering an account of how responsibilities have been carried out and problems corrected and, depending on the circumstances, accepting personal consequences for problems the office holder caused or problems that could have been avoided or

corrected if the office holder had acted appropriately.” This definition suggests that accountability is the concomitant of empowerment: the obligation to explain how power was exercised and to accept the consequences for problems, including the possibility of sanctions. Answerability would appear to be a reporting function, without the possibility of sanctions in the event of problems being reported.¹⁸

A more recent publication is perhaps less helpful. Among other things, *Governing Responsibly* states: “In providing good government for the people of Canada, Ministers are responsible and *accountable to Parliament* for the use of those powers vested in them by statute. Ministers must be present in Parliament to respond to questions on the use of those powers, as well as to accept responsibility and account for that use.”¹⁹ This sentence suggests that “responsible” or “responsibility” refers to an obligation to accept possible blame—and sanctions—for the unacceptable exercise of power (which may, rather, be the definition of “accountability”). The publication is more helpful in dealing with the concept of “answerability”: “Ministers are also required to *answer to Parliament* by providing information for Parliament on the use of powers by bodies that report to Parliament through them.”²⁰ There is no suggestion of personal blame or sanctions against the Minister in the case of answerability.

While trying to clarify terms, John Tait’s *A Strong Foundation* acknowledges the overlap in common usage between responsibility and accountability. “[Responsibility] is most often used in respect to the authority of Ministers under a system of parliamentary government and to the duties and obligations that come with this authority: ministerial responsibility. In most circumstances, accountability can be thought of as enforcing or explaining responsibility. It is often used as a synonym for ‘responsibility’ because both are defined by the office holder’s authority; they cover the same ground. Accountability involves rendering an account to someone, such as Parliament or a superior, on how and

how well one's responsibilities are being met, on actions taken to correct problems and to ensure they do not recur. It also involves accepting personal consequences, such as discipline, for problems that could have been avoided had the individual acted appropriately."²¹ The Tait publication uses answerability "as a term to describe a key aspect of accountability, the duty to inform and explain. Thus answerability does not include the personal consequences that are a part of accountability. The concept of answerability sometimes is also used in circumstances where full and direct accountability is not an issue. For example, public servants are answerable before parliamentary committees, not accountable to them. Ministers are answerable to Parliament for independent tribunals, not accountable for their decisions."²²

Clearly, opinions will vary about the precise meaning to be attached to key words or concepts. However, to avoid ambiguity, confusion or talking at cross-purposes, it will be necessary to provide—for the purpose of this study—a specific definition of each of three concepts: responsibility, accountability and answerability.

Responsibility means empowerment and identifies the field of activity over which an elected or unelected official has the authority to act (or to direct that action be taken). Collective ministerial responsibility refers to the power or authority of Cabinet over all matters falling under the jurisdiction of the Government of Canada, and such power or authority is conferred on Cabinet by the conventions of the Constitution. The most significant responsibilities of the Prime Minister are also conferred by the conventions of the Constitution. Individual ministerial responsibility is assigned to a Minister either by statute or by the Prime Minister. The responsibility of a Deputy Minister is assigned by statute (most notably by the *Interpretation Act*). The responsibility of other unelected officials in departments is assigned by instrument of delegation.

Accountability is the concomitant of responsibility and requires an office holder to inform and explain how and how well responsibilities or powers or authority

have been exercised; it also involves accepting personal consequences or sanctions for problems that could have been avoided or were not corrected in a timely fashion. In the case of collective ministerial accountability, sanction takes the form of a vote of no confidence: if carried, the Government must resign or recommend a general election (in the three cases of a defeat of the Government on a no-confidence motion since the Second World War—in 1963, 1974 and 1979—the Prime Minister recommended a general election). In the case of individual ministerial responsibility, Ministers culpable of personal misconduct or negligence or wrongdoing in their area of responsibility will normally resign or be dismissed by the Prime Minister: the sanction is political. In the case of unelected officials, negligence, improper behaviour or wrongdoing is subject to sanctions, including dismissal, but such sanctions are applied within the Government of Canada and not by Parliament.

Answerability is the duty to inform and explain, but without personal consequences (such as discipline or sanctions). Ministers are answerable to Parliament for arm's-length corporations and agencies, but are not accountable for their decisions. Public servants are answerable to parliamentary committees, but not accountable and subject to discipline or sanctions by such committees. A function of the Government is to manage the public service, including the imposition of discipline or sanctions, and to be accountable to Parliament for such management. A function of Parliament and, in particular, of the House of Commons is to hold the Government accountable for the management of the public service, but not to manage the public service itself.

5 Political Actors Versus Professional Actors

The Prime Minister and the Ministers have two agencies to support them in the discharge of their functions. First, each has a political office staffed with partisan supporters who are exempted from the rules and regulations of the public service: they do not have to compete for positions on the basis of merit, and they do not have tenure of

employment—they can be dismissed at will and lose tenure on the resignation of the Prime Minister or the Minister. Longer-term exempt staff, however, have privileged access to positions in the public service. Those supporting the Prime Minister form the Prime Minister’s Office, and those supporting the Minister form the Minister’s office.

Second, the Prime Minister and the Ministers have public service support to assist them in the management of the Government of Canada. The Privy Council Office, which supports the Prime Minister, and the departments, which support the Ministers, are staffed by public servants who are recruited on the basis of merit, have security of employment and are non-partisan (although a certain degree of political involvement, particularly at the lower levels of the public service, is now permitted).

Gordon Robertson, a former Clerk of the Privy Council and Secretary to Cabinet, commented on the relationship between the exempt staff serving the Prime Minister and the public servants. “One other matter that must be referred to is the relationship between the Privy Council Office and the Prime Minister’s Office. It is one that calls for the greatest harmony. Given the Prime Minister’s functions as leader of a political party, leader of the Government in the House of Commons, and chairman of the Cabinet, the Prime Minister’s own staff are constantly securing information, analyzing and recommending on matters that relate to policies and objectives of the Government. The Prime Minister’s Office is partisan, politically oriented, yet operationally sensitive. The Privy Council Office is non-partisan, operationally oriented yet politically sensitive. It has been established between the Principal Secretary of the Prime Minister and his senior staff on the one hand, and myself and my senior staff on the other, that we share the same fact base but keep out of each other’s affairs. What is known in each office is provided freely and openly to the other if it is relevant or needed for its work, but each acts from a perspective and in a role quite different from the other.”²³

In the years that have passed since Robertson penned those words in 1971, much has changed. The Prime Minister's Office and the Ministers' offices have expanded, and the Privy Council Office and the various departments have also grown. There are increasing relations between political actors (Ministers and their political exempt staff) and professional actors (public servants), and there is a risk of confusing roles, functions and reporting relationships.

Arthur Kroeger, a former prominent Deputy Minister, commented on the interface between political actors and professional actors when he appeared before the Standing Committee on Public Accounts on February 21, 2005. "If you're a Deputy Minister you don't want to create a bottleneck, saying nothing is going to go near the Minister unless it comes through me and my office. What you normally do establish is to say, look, it's fine for some of the other senior officials to have direct dealings with the Minister's office, and sometimes with the Minister, but I always want my office to know what's going on. That's the important thing. You can track what's happening so that if things start to go wrong, you can take corrective action. It's not necessarily a bad thing for an Assistant Deputy Minister to deal with a Minister on a particular issue if the Assistant Deputy Minister is extremely expert, perhaps on a scientific matter, for example. You always want to keep an eye on what is happening to make sure it does stay within the bounds of what is normal and proper."²⁴

Kroeger was referring to contacts between senior professional actors and Ministers or other political actors seeking information. Another—and serious—issue arises when mid-level or junior political actors in the Prime Minister's Office or a Minister's office, faced with limited resources and knowing which mid-level or junior professional actors in the Privy Council Office or the department have the requisite expertise, contact those professional actors directly and demand the production of papers on an urgent basis. This kind of communication

can lead to a confusion of roles and functions, one that can disrupt the normal performance of duties by professional actors who are accountable to their public service superiors. While a certain degree of flexibility is useful, particularly in dealing with urgent situations, a blurring of the roles of political and professional actors should be avoided: political actors and professional actors are subject to different rules and constraints and to different sanctions for poor or improper behaviour.

The Deputy Minister's office acts as a bridge between the Minister and the political staff, on the one hand, and, on the other, the professional officers in the department. The Deputy Minister, normally through the executive assistant, has a role as gate-keeper or buffer between the political and the professional actors. Requests by the staff of Ministers for the production of papers should normally be channelled through the office of the Deputy Minister.

There is a reason why the Prime Minister and the Ministers are served by both political actors and professional actors: they wish to have public policy issues analyzed from two different points of view, with the attendant recommendations. If, for example, the Prime Minister has to make a foreign policy decision, his political advisors will analyze options in the light of the party platform, the views within caucus and the potential impact on chances for re-election. The professional (public service) advisors will look at options in the light of the national interest and Canada's foreign commitments. If the recommendations diverge, it is the Prime Minister who adjudicates and makes the final decision. If political and professional actors negotiated a single set of recommendations, the Prime Minister—as head of a political party and as leader of the Government of Canada—would not be well served.

6 The Multiple Responsibilities and Accountabilities of Deputy Ministers

Deputy Ministers in Canada have multiple responsibilities—powers and authorities—and those responsibilities arise from a number of statutes enacted by Parliament.

The executive government of Canada is organized into departments, which are created by Parliament through the adoption of various departmental Acts. A departmental Act assigns to the Minister the powers, duties and functions relating to the subject area as well as the management and direction of the department. The departmental Act also creates the office of Deputy Minister: by law, a Deputy Minister acts under the management and direction of the Minister. The *Interpretation Act* provides that, where a Minister is empowered or directed to carry out administrative, legislative or judicial acts, the Deputy Minister may carry out those acts, subject to certain limitations: the Deputy Minister cannot exercise the Minister's legal authority to make regulations, answer in the House of Commons on the Minister's behalf, and sign Memoranda to Cabinet on the Minister's behalf or submissions to Treasury Board involving new money or new policies.

Under the *Financial Administration Act*, Deputy Ministers are assigned specific responsibilities for the prudent management of allocated resources, including the preparation of a division of an appropriation for inclusion in the Estimates (subsection 31(1)), ensuring by an adequate system of internal control and audit that allotments are not exceeded (subsection 31(3)), establishing procedures and maintaining records respecting the control of financial commitments chargeable to each appropriation or item (subsection 32(2)), providing the required certification to authorize any payment to be made (section 34), maintaining adequate records in relation to public property for which the department is responsible, and complying with regulations of the Treasury Board governing the custody and control of public property (section 62).

Responsibilities respecting human resources management, including appointment, personnel management, employer/employee relations and the internal organization of the department, are assigned to the Deputy Minister directly, not through the Minister, by the Treasury Board, the Public Service Commission and the *Public Service Employment Act*. The Treasury Board also delegates powers to Deputy Ministers respecting the implementation of the *Official Languages Act* and the *Charter of Rights and Freedoms* relative to the provision of services to the public and the use of languages in the workplace: it is the Deputy Minister, as the departmental manager, who must find remedies to problems that have been reported. Deputy Ministers also have defined responsibilities under the *Access to Information Act* and the *Privacy Act*.

The issue of the accountability of Deputy Ministers for the exercise of their responsibilities is complex and begins with the method of appointing them. Deputy Ministers are chosen by the Prime Minister and appointed by Order in Council to hold office during pleasure. This system reflects the principle of collective ministerial responsibility and accountability: Deputy Ministers are responsible for managing their departments, but they must bear in mind the overall policies and orientations of the Government. The method of appointment indicates that, ultimately, Deputy Ministers are accountable to the Prime Minister. This accountability is reinforced by the conclusion of a performance agreement between the Clerk of the Privy Council and Secretary to the Cabinet (who is also Head of the Public Service) and the Deputy Minister.

On a day-to-day basis, a Deputy Minister's accountability is to the Minister: they work together as an inseparable team, and it is important that they build a strong personal and professional relationship. Gordon Osbaldeston noted: "Both Ministers and Deputy Ministers describe their working relationship as something akin to a marriage, where both partners work toward developing a trusting relationship with open communication. However, in this marriage it is always clear who is the

leading partner. The Minister establishes the political direction for the Department, and the Deputy Minister advises, supports and assists the Minister.”²⁵ The frequency with which Ministers and Deputy Ministers change portfolios in recent years represents a challenge in developing the necessary relationship.

The Deputy Minister is also accountable to the Treasury Board for delegated responsibilities and those assigned directly by statute (e.g., the *Financial Administration Act* and the *Official Languages Act*). In practice, the Deputy Minister’s accountability to the Treasury Board is often carried out through the Secretary of the Treasury Board and through reports to and working with its Secretariat.

The Deputy Minister, finally, is accountable to the Public Service Commission for the exercise of responsibilities delegated or assigned by the *Public Service Employment Act*.

The effective management of a department in Canada’s system of responsible parliamentary government requires that a Deputy Minister demonstrate considerable policy, leadership and administrative abilities and a firm commitment to ethics and values. If, in the exercise of responsibilities that are subject to the accountabilities set out above, the performance of a Deputy Minister is found to be wanting through negligence or wrongdoing, sanctions can be applied. The chief instrument for measuring the performance of these multiple responsibilities is the Performance Management Program, which is administered by the Clerk of the Privy Council: it is the Clerk of the Privy Council and Secretary to the Cabinet who would seek remedies or, if need be, advise the Prime Minister on appropriate action.

If a Deputy Minister (or, indeed, a Minister) acts illegally, recourse may be had to the judicial system.

In addition, Deputy Ministers are answerable to committees of the House of Commons. It is their duty to inform and explain. They cannot be drawn into a discussion of political options or policy advice offered to Ministers: to get involved in such issues would run the risk of undermining the political neutrality of Deputy Ministers and the relationship of trust they must nurture with Ministers. If a committee finds the testimony of a Deputy Minister to be wanting, it may make note of the fact, but it cannot impose sanctions. Poor performance before a committee will not go unnoticed within the public service, however, and it could have an impact on the Deputy Minister's performance review.

Finally, Deputy Ministers must be prepared to provide information on the administration of programs and policies to several bodies that make reports to Parliament on the activities of the Government of Canada, including the Canadian Human Rights Commission, the Auditor General, the Commissioner of Official Languages and the Information and Privacy Commissioners.

7 Mechanisms for Political and Professional Financial Accountability

The House of Commons provides the mechanism for ensuring the financial accountability of the Government: Ministers must account for the financial management of the Government to the House of Commons. If negligent, poor or improper behaviour in financial management is revealed, Ministers of departments may face sanctions, subject to the following observations:

- Ministers are answerable but not accountable for the financial management of independent, arm's-length agencies and Crown corporations (i.e., Ministers are not subject to sanctions), although they have residual responsibilities (e.g., presenting statutory amendments and making or revoking Order-in-Council appointments).

- Ministers cannot be aware of all the operations in their departments: if it is not reasonable to assume that Ministers knew about negligent, poor or improper behaviour in their individual departments, they will not be subject to sanctions, provided they take steps in a timely fashion to correct the situation once they are informed of it.
- Even though Parliament has conferred direct responsibility (and, therefore, personal accountability) on Deputy Ministers for preparing Estimates and managing public finances and property, the accountability of a Deputy Minister is to the Minister. The Minister retains the right to direct the Deputy Minister on how to act: therefore, ultimately, it is the Minister who must account to the House for the Deputy Minister's actions and, where appropriate, face possible sanctions.

The sanctions faced by a Minister in the event of poor or improper behaviour are political and could include demotion in Cabinet by the Prime Minister or resignation/dismissal from Cabinet. Grievous misconduct could lead to a motion of no confidence in the Government.

Even though responsibility may have been conferred directly on individual public servants (on immigration or customs officials, for example, or on Deputy Ministers under the terms of the *Financial Administration Act*), thereby creating personal professional accountability, the professional accountability of public servants is to their superiors and, in the case of Deputy Ministers, to their Ministers and, ultimately, to the Prime Minister. Public servants are answerable to parliamentary committees—with a duty to inform and explain—but they are not accountable to parliamentary committees. They cannot be dragged into a political discussion of the relative merits of policy options, for to do so would undermine their political neutrality and their capacity to retain the confidence of their Ministers. Similarly, Deputy Ministers cannot be asked to divulge the advice they gave to their Ministers, for to do so would jeopardize the relationship of trust between Deputy Ministers and Ministers.

Arthur Kroeger told the Public Accounts Committee in 2005: “A claim that is sometimes heard is that the real purpose of the convention of ministerial responsibility is to safeguard officials from being tagged for their own mistakes. In fact, however, the truth is the exact opposite. The purpose of the convention of ministerial responsibility is to preserve the authority of Ministers. The convention is a standing reminder to officials of who is in charge. It is a reminder that I would be wary of dispensing with.”²⁶

Sanctions for poor or improper behaviour by public servants can and do occur within the Government’s mandate to manage the public service. As John Tait observed, “Sanctions can be and regularly are brought to bear, just as they are in the private sector. In both the public and private sectors, however, such actions are normally taken in private. In most cases, no purpose is served, and much damage can be done, by public hangings.”²⁷ This view was echoed by Kroeger: “During my years in government I knew a substantial number of Deputies, Assistant Deputy Ministers and other officials whose careers were damaged or ended because of mistakes they had made. The fact that public executions are not the norm in the Public Service does not mean that the sanctions are not effective.”²⁸

Of course, the professional accountability of public servants leads not only to sanctions for bad behaviour but also to rewards for superior or excellent performance. The Performance Management Program provides an instrument for measuring behaviour on the basis of the performance agreement established as a mutual understanding between a Deputy Minister and the Clerk of the Privy Council. At the end of the annual cycle, the Clerk seeks input on the performance of the Deputy Minister from a variety of sources, including Ministers, the Committee of Senior Officials, the Treasury Board Secretariat and senior management of the Privy Council Office. A performance rating is assigned and, where appropriate, a performance award is approved by the Governor in Council.

Deputy Ministers have many complex responsibilities. On the issue of financial administration, they are supported by a Chief Financial Officer, who has a specific mandate to ensure that there is an adequate system of internal control and audit, including procedures and records, certification to authorize payments and adequate records respecting public property. In 2003, the Treasury Board developed the *Management Accountability Framework*, which sets out management expectations respecting Deputy Ministers. It is a relatively new tool, and it seeks to provide a vision of sound public management and managerial accountability, to enhance the monitoring and oversight of departments and to determine the consequences of management performance. To strengthen financial controls, monitoring and enforcement mechanisms to reinforce the sound stewardship of public funds, the Office of the Comptroller General was re-established at the Treasury Board Secretariat in December 2003.

These measures are designed to strengthen the internal audit and control of financial management within a department. A separate issue arises when a Minister directs a Deputy Minister to employ funds in a way the Deputy deems inappropriate. The informal but well-established procedure in Canada is for the Deputy Minister to have a frank and firm discussion with the Minister on why he or she should not proceed as directed. If the Minister insists, the Deputy can communicate with the Clerk of the Privy Council, who could talk to the Prime Minister about it. As Kroeger said, “if your Minister wants to do something that’s completely contrary to Government policy, or your Minister wants to do something which is going to cause the Government serious embarrassment, in a situation like that a Deputy would go and have a talk with the Clerk of the Privy Council. If the Clerk was fully informed, the Clerk could make a judgement, the Clerk could talk to the Prime Minister about it, and the Prime Minister could make a judgement about it. As long as it’s not illegal, it doesn’t contravene a regulation or a law,

if it is a normal exercise of political discretion, then at the end of the day the Prime Minister or the Minister has the right to make the decision and to be held accountable for it.”²⁹ If the Minister’s directive is upheld, the Deputy Minister has a choice: implement it or resign.

The Canadian procedure has the following merits:

- It recognizes that both the Minister and the Deputy Minister are appointed by the Prime Minister, to whom both are accountable for the management of the department and the implementation of the collective policies of the Government, and it allows the Prime Minister to adjudicate.
- It has the potential to avert a problem before any action is taken.
- It respects the confidential nature of advice offered by the Deputy Minister to the Minister, advice that will not become public.
- It clearly ascribes responsibility to Ministers for the final decision.

As in most institutions, the effective operation of procedures depends on the personal qualities of the relevant actors. Deputy Ministers must be firmly committed to their responsibilities and prepared to speak the truth to those in power when dealing with their Ministers.

In addition to the internal procedures for financial accountability, Parliament has provided for an external mechanism of financial accountability. The *Auditor General Act* provides that the Governor in Council may appoint a qualified auditor to the office of Auditor General of Canada, to hold office during good behaviour for a term of ten years, subject to removal by the Governor in Council on address of the Senate and the House of Commons. The independence of the Auditor General, who is an officer of Parliament and not of the Government, is strengthened by the statutory requirement that the salary be equal to that of a puisne judge of the Supreme Court of Canada. The Auditor

General must examine the *Public Accounts of Canada*, and any other statement the President of the Treasury Board or the Minister of Finance may present for audit, and express an opinion as to whether they present, fairly, information that is in accordance with stated accounting policies. The Auditor General must make an annual report to the House of Commons by December 31, and may make up to three additional reports in any year. Each report calls attention to anything of significance that should be brought to the attention of the House of Commons, including accounts that have not been faithfully and properly maintained; records, rules and procedures that are insufficient to safeguard and control public property; money that had been expended for purposes other than those for which it was appropriated by Parliament or expended without due regard to economy or efficiency; the absence of procedures to measure and report the effectiveness of programs; and money that has been expended without due regard to its environmental effects.

The reports of the Auditor General provide essential material to the Standing Committee on Public Accounts to enable it to hold the Government publicly to account for its management of public finances. To emphasize the independent and critical role to be played by the Committee, its chair has been an Opposition MP since 1958.

8 The British Accounting Officers

The description of the Accounting Officer's functions which follows is drawn from British sources and uses the British terminology, which on occasion uses "responsible" to indicate "accountable," and "accountable" to indicate "answerable," according to the definitions set out in the third section of this study.

In the United Kingdom, the permanent head of a department (the British equivalent of a Deputy Minister), at the time of appointment, is separately appointed by the Treasury as Accounting Officer for that department.³⁰ If additional accounting officers are needed, the permanent head is appointed as Principal Accounting Officer.

The appointment carries with it the “responsibility for accounting to Parliament” for the amounts voted to meet the department’s annual Supply Estimates, according to the summary prepared by the United Kingdom Government. Upon appointment, each permanent head receives a copy of the Treasury’s document “The Responsibilities of an Accounting Officer,” which sets out, among other things, the procedure to be followed where a Minister overrules an Accounting Officer’s advice on an issue of propriety or regularity or relating to the Accounting Officer’s wider responsibilities for economy, efficiency and effectiveness.

Accounting Officers should ensure that:

- the resources available to their department are organized to deliver departmental objectives in the most economic, efficient and effective way, with full regard to regularity (i.e., in accordance with the legislation authorizing expenditures and receipts) and propriety (i.e., expenditures and receipts should be dealt with in accordance with Parliament’s intentions);
- a sound system of internal control is maintained that supports the achievement of the department’s policies, aims and objectives, with independent assurance provided by internal audit established and organized in accordance with the provisions of Government Internal Audit Standards;
- proper financial procedures are followed and suitable accounting records are maintained; and
- the public funds for which they are individually responsible are properly managed and safeguarded.

These functions do not seem to differ significantly from those attributed to Deputy Ministers in Canada by the *Financial Administration Act*. However, the British established a very formal—and often public—procedure for handling a ministerial override of advice from the permanent head. If the Minister in charge of the department is

contemplating a course of action involving a transaction that the Accounting Officer considers would infringe the requirements of propriety or regularity, the Accounting Officer should set out in writing his or her objections to the proposal, the reasons for those objections, and his or her duty to notify the Comptroller and Auditor General should the advice be overruled. If the Minister decides, nonetheless, to proceed, the Accounting Officer should seek a written instruction from the Minister to take the action in question. Having received such an instruction, he or she must comply with it, but should then inform the Treasury of what has occurred and should also communicate the papers to the Comptroller and Auditor General without undue delay. Provided that this procedure has been followed, the Public Accounts Committee can be expected to recognize that the Accounting Officer bears no personal responsibility for the transaction.³¹

If a course of action contemplated by the Minister raises an issue not of formal propriety or regularity, but relating to the Accounting Officer's wider responsibilities for economy, efficiency and effectiveness, the Accounting Officer has the duty to draw relevant factors to the attention of the Minister—such as an assessment of the risks involved and the impact on value for money—and to advise in consequence. If the Accounting Officer's advice is overruled and the proposal is not one he or she would feel able to defend to the Public Accounts Committee as representing value for money, he or she should seek a written instruction from the Minister before proceeding (perhaps referring to the probability of a Public Accounts Committee investigation). The Accounting Officer must then comply with the instruction, but should inform the Treasury and communicate the request for the instruction and the instruction itself to the Comptroller and Auditor General without due delay.³² In cases of extreme urgency, the advice and the instruction are recorded in writing immediately afterwards.

The Treasury description of the functions of the Accounting Officer notes: "In general, the rules and conventions governing appearances of officials

before parliamentary committees apply to the Public Accounts Committee, including the general convention that civil servants do not disclose the advice given to Ministers. Nevertheless, in a case . . . concerning a matter of propriety or regularity, the Accounting Officer's advice, and its overruling by the Minister, would be disclosed to the Public Accounts Committee. In a case . . . where the advice of an Accounting Officer has been overruled in a matter not of propriety or regularity, but of prudent and economical administration, efficiency and effectiveness, the Comptroller and Auditor General will have made clear in the report to the Public Accounts Committee that the Accounting Officer was overruled. The Accounting Officer should, however, avoid disclosure of the terms of the advice given to the Minister, or dissociation from the Minister's decision. Subject where appropriate to the Minister's agreement, the Accounting Officer should be ready to explain the reasons for such a decision and may be called on to satisfy the Committee that all relevant financial considerations were brought to the Minister's attention before the decision was taken. It will then be for the Committee to pursue the matter further with the Minister if they so wish."³³

It should be noted that British "ministerial directions" (the overruling of a permanent head by the Minister) are relatively rare. From 1981 to 2003 inclusive, there were only 37 of them (an average of 1.6 per year): most dealt with relatively minor matters and were not investigated by the British Public Accounts Committee.³⁴

So, in cases of propriety and regularity—which are fairly objective criteria—the reasons given by the Accounting Officer, but overruled by the Minister, are made public. In the case of value for money—which is fairly subjective—the Committee may, in certain circumstances, be assured that all relevant considerations were brought to the Minister's attention. In both cases, it would appear that the objective is to determine whether the Minister had properly weighed the relevant considerations before deciding on action. In neither case is the permanent head—the

Accounting Officer—held accountable to the Public Accounts Committee according to the definition in the third section of this study: that is to say, the Accounting Officer cannot be instructed or directed by the Committee, nor can the Committee sanction or reward the Accounting Officer. Rather, the Accounting Officer is answerable, with a duty to inform and explain, but not to get embroiled in political debate or discussion that could undermine his or her neutrality.

This system seems to be straightforward, clear, neat and tidy, but perhaps it is not. A report of the Hansard Society Commission on parliamentary scrutiny in the United Kingdom reveals differences of interpretation about the precise meaning of “responsible” and “accountable.”³⁵ The creation of the Commission itself indicates dissatisfaction with the capacity of Parliament to hold the Government to account: only 26.8% of British MPs, the Commission learned, thought that Parliament was quite or very effective at holding the Government to account for its actions.³⁶ Furthermore, the enormous scope of governmental activity means that the Public Accounts Committee can deal with only the tip of the iceberg: “The existence of the Public Accounts Committee and National Audit Office provides permanent oversight and has a deterrent effect on ministerial activity. However, the Public Accounts Committee has limitations. Even though the Public Accounts Committee already works at maximum capacity, publishes about 50 reports a year and meets twice a week for 25 weeks a year, it is only able to take a limited look at government expenditure, and pick up only a proportion of the National Audit Office’s work. The enormous scope of government means that even with the resources of the National Audit Office, the Public Accounts Committee is necessarily highly selective in the inquiries it undertakes. The range of government activity means that neither the National Audit Office nor Public Accounts Committee can track all the money spent by Government.”³⁷ However, anything is open to be scrutinized: this possibility, not the certainty of investigation, should incite political and professional actors to act properly.

Finally, all political and bureaucratic institutions operate through the agency of human beings, and, in the real world, “to err is human.” There is no reason to believe that British public servants, including permanent heads, are not human and that, on occasion, they may err through inadvertence, negligence or even, on rare occasions, a hesitation to speak truth to those in authority, perhaps on issues dealing with economy, efficiency and effectiveness which may be subject to judgment.

9 Comparing the British and Canadian Practices

J.R. Mitchell has pointed out that the roles and accountabilities of permanent heads/Accounting Officers in the United Kingdom and Deputy Ministers in Canada are essentially the same.³⁸ In both systems:

- Ministers alone are accountable to the House of Commons for policy and the administration of government;
- public servants are accountable to their superiors, and permanent heads or Deputy Ministers are accountable to their respective Minister, whether for matters that have been delegated to them or that have been assigned to them directly by statute;
- permanent heads and Deputy Ministers must keep confidential the advice they provide to Ministers, with the sole exception that the report filed by a permanent head/Accounting Officer in the United Kingdom on a disagreement with the Minister on a matter of propriety or regularity may be made public if included in a report by the Auditor General;
- public servants, including permanent heads/Accounting Officers and Deputy Ministers, are answerable to parliamentary committees, but are not accountable to them (i.e., they are not subject to instruction, punishment or reward by the committees); and
- because officials, including permanent heads or Deputy Ministers, appear before parliamentary committees, they are not anonymous as physical human beings, but their role in the Government’s

decision-making process remains anonymous and, therefore, not accountable (although the Accounting Officer's reasons for disagreeing with a Minister's instruction in the area of propriety or regularity may be made public if included in a report of the Auditor General).

There are, however, some very important operational differences in the two countries: the British institution of the Accounting Officer has been operating for over 100 years, and in an institutional environment that is significantly different from that which obtains in Canada.

First, the British Public Accounts Committee enjoys great prestige and is composed of able and long-serving members, which encourages expertise and stability.³⁹ The Canadian Committee has frequent changes of personnel.

Second, the British Committee tends to adopt a non-partisan attitude in its work and seeks to reach dispassionate findings and recommendations whatever Government is in power.⁴⁰ Indeed, the Treasury Officer of Accounts, a governmental official, sits at the table during meetings of the Committee (as does the Auditor General) and can be called upon to answer questions in support of the Committee's investigation.⁴¹ The British Committee seeks to clarify issues, not to apportion blame. The Canadian Committee, in contrast, is highly partisan.

While Britain has tended to enjoy majority governments over the last half century, the kind that normally allow the Government to have predictable support in the House of Commons and in its committees, Canada has had seven minority governments during the same period. Minority government makes legislative management less predictable.

The major difference, of course, is the way in which differences in the area of financial administration between a Minister and a permanent head or Deputy Minister are handled. In Britain, if, after discussion between the permanent head and the Minister, the Minister directs the

permanent head to act in a manner that he or she has advised against doing, the permanent head—as Accounting Officer—must comply, while transmitting to the Treasury and the Auditor General the written instruction and the contrary advice. The principal difficulty with this approach is that the Minister—who is, naturally, accountable—secures immediate action on something that may be questionable or improper. The Accounting Officer’s report is an *ex post facto* explanation of advice offered, but it does not avoid the action. The second difficulty is that, while the Accounting Officer’s report may become public in matters involving propriety or regularity, it does not appear to have any impact on the Minister’s accountability: How many Ministers in the United Kingdom have been punished following the examination of an Accounting Officer’s report advising against action that violated the principles of propriety or regularity? The Public Accounts Committee tends to recommend corrective action or improved behaviour.

The Canadian approach is more immediate and has the potential for avoiding improper action before it can be taken. If, in discussions between the Minister and the Deputy Minister, the Deputy Minister becomes aware that the Minister is contemplating action that would offend against propriety, regularity, value for money or the general policies of the Government, the Deputy Minister can communicate immediately with the Clerk of the Privy Council, who can intervene on behalf of the Prime Minister or ask the Prime Minister to speak with the Minister with a view to ensuring that improper action does not occur. This informal and private procedure has the added advantage of ensuring that the advice of the Deputy Minister does not take the form of a written document (as in Britain), which, if made public, the highly partisan Canadian Public Accounts Committee could use to envenom the relations between the Minister and the Deputy Minister and undermine, thereby, the relationship of trust Gordon Osbaldeston said was so important to nurture. If, in the Canadian case, the Deputy Minister’s

advice is ultimately overridden, he or she has the option of resigning rather than implementing the decision of the Minister.

Of course, the Canadian system also works in reverse. There is nothing to prevent a Minister who is unhappy, for whatever reason, with the performance of his or her Deputy Minister from speaking to the Prime Minister or the Clerk of the Privy Council. It is the Prime Minister who appoints both the Minister and the Deputy Minister, and it is wholly appropriate that the Prime Minister should be the ultimate arbiter.

10 Conclusion

It is important to be clear: the Government is responsible for the executive government of Canada and is accountable to the House of Commons for it. The role of the House of Commons is to hold the Government to account for its management, not to manage.

In both the United Kingdom and Canada, permanent heads/Accounting Officers and Deputy Ministers are answerable to parliamentary committees, but they are not accountable to them (not even for responsibilities for financial management which have been conferred on them directly by legislation). An apparent aberration in the United Kingdom—the publication of an Accounting Officer’s report on why a Minister was advised not to act in a manner that offended propriety or regularity—is not intended to hold the Accounting Officer to account, but rather to determine whether the Minister was fully aware of the pertinent concerns when he or she took the decision.

The British Accounting Officer operates in a very different environment from that which prevails in Canada: the British Public Accounts Committee has a highly stable membership and a non-partisan approach to its work, and it seeks to clarify issues, not to apportion blame; the Canadian Committee has frequent changes in membership, is highly partisan and often seems concerned with apportioning blame. In the

United Kingdom, the Accounting Officer's report merely records advice after the decision has been taken and the damage done; the Canadian practice of seeking the intervention of the Clerk of the Privy Council or the Prime Minister has the potential for averting action before any damage can be done.

Adoption of the British institution of Accounting Officer in Canada appears to be problematic. First of all, it would involve the abolition of the current Canadian practice of allowing the Deputy Minister to seek the intervention of the Clerk of the Privy Council or the Prime Minister and, perhaps, avert improper action. Otherwise, if the Deputy Minister were unsuccessful in convincing the Minister not to take a certain action, would it have to be assumed that the Deputy Minister had also been unsuccessful in convincing the Clerk of the Privy Council and, perhaps, the Prime Minister when, as Accounting Officer, he or she filed an *ex post facto* report with the Auditor General? If the two systems worked in tandem, there would be enormous—and unacceptable—confusion about roles, Cabinet confidences and the operation of Cabinet government; in addition, how does one “abolish” a procedure which, while publicly acknowledged, is conventional, informal and not subject to public scrutiny? Furthermore, adopting the Accounting Officer in Canada without completely reforming the environment in which the Canadian Public Accounts Committee operates (less stable membership and highly partisan attitudes) would be to adopt only half of the institutional arrangements in Britain and would be problematic (particularly if a partisan Committee used an Accounting Officer's report to envenom his or her relations with the Minister). It seems unlikely in the foreseeable future that the environment in which the Canadian Committee operates will change radically.

On balance, it is not recommended that the British institution of Accounting Officer be adopted in Canada.

Canada's system of government and of accountability has, on the whole, worked well over the past half century. It has, on occasion, broken down, most flagrantly in the case of the Sponsorship program and advertising activities. It may well be that human factors were at issue: a belief that political requests are to be acted upon without question, a failure to speak truth to those in power, negligence, a lack of respect for the hierarchical chain of command within the public service, and an improper grasp of the centrality of values and ethics to the Canadian system of government. In such circumstances, there is no reason to believe that the existence of Accounting Officers in the Government of Canada would have changed the outcome.

A useful and pressing response to the Sponsorship issue would be to ensure, on the one hand, that Ministers, on appointment, and their exempt staff are properly briefed on the respective roles and responsibilities of political and professional actors and the need to respect the office of the Deputy Minister as the bridge between them; on the need for propriety, regularity and value for money in public expenditures; and on the centrality of values and ethics in the operation of Canada's system of responsible parliamentary government. On the other hand, Deputy Ministers (in their performance agreements) and public service managers, through instructions, courses or training, should be impressed with the centrality of values and ethics in the operation of Canada's system of responsible parliamentary government, the need to speak truth to those in power, and the importance of propriety, regularity and value for money in the public finances; these issues should be key components in the Performance Management Program for Deputy Ministers and in the performance evaluation of public service managers.

In the last analysis, public servants are answerable to parliamentary committees, but they are accountable for the exercise of their responsibilities to their superiors, and the Deputy Minister is accountable

to the Minister. The Minister is responsible for the department and is accountable to the House of Commons for the exercise of that responsibility. If it is not reasonable to suppose that the Minister was aware of unacceptable action (or inaction) taken by public servants, the Minister must direct that corrective measures be taken in a timely fashion: thus, ultimately, accountability (and, potentially, blame) lies with the Minister, and sanctions for unacceptable performance are political and public. When unacceptable behaviour by a public servant has been identified, sanctions are applied within the Public Service and are normally private.

Endnotes

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- * The author was a professor of political science at the University of Ottawa, 1967-75, the founding Director of the Parliamentary Internship Program in the Canadian House of Commons, 1969-75, and a constitutional advisor in the Privy Council Office, 1975-2001. When quotations are used in this study, the author has taken the liberty of ensuring that spelling, the use of capital letters and the absence of acronyms is consistent with the rest of the study.
- ¹ R. MacGregor Dawson, *The Government of Canada* (Toronto: University of Toronto Press, 1964), pp. 18-19.
 - ² D.L. Keir., *The Constitutional History of Modern Britain Since 1485* (London: Adam and Charles Black, 1961), pp. 487-90.
 - ³ Christopher Moore, *1867—How the Fathers Made a Deal* (Toronto: McClelland & Stewart, 1997), p. 7.
 - ⁴ James Ross Hurley, *Amending Canada's Constitution* (Ottawa: Minister of Supply and Services Canada, 1996), p. 14.
 - ⁵ Dawson, *The Government of Canada*, p. 273.
 - ⁶ Peter Aucoin, "Independent Foundations, Public Money and Public Accountability: Whither Ministerial Responsibility as Democratic Governance?" *Canadian Public Administration* 46 (1) (2003): 24.
 - ⁷ Donald Savoie, "Searching for Accountability in a Government Without Boundaries," *Canadian Public Administration* 47 (1) (2004): 20.
 - ⁸ *Ibid.*, p. 12.
 - ⁹ James Ross Hurley, "Le parlementarisme canadien et le fédéralisme exécutif", in Manon Tremblay et al., dir., *Le parlementarisme canadien* (Québec : Les Presses de l'Université Laval, 2000), p. 309.
 - ¹⁰ John C. Tait, chair, *A Strong Foundation: Report of the Task Force on Public Service Values and Ethics* (Ottawa: Canadian Centre for Management Development, 2000), p. 29.
 - ¹¹ See the exchange between Donald J. Savoie and Sandford Borins in *Canadian Public Administration* 38 (1) (1995): 112-38.
 - ¹² *Ibid.*, p. 118.
 - ¹³ Paul Thomas, "Ministerial Responsibility and Administrative Accountability," in Mohamed Charih and Arthur Daniels, *New Public Management and Public Administration in Canada* (Toronto: The Institute of Public Administration of Canada, 1997), p. 143.
 - ¹⁴ Peter Aucoin, *The New Public Management: Canada in Comparative Perspective* (Montreal: Institute for Research on Public Policy, 1995), p. 217.
 - ¹⁵ Privy Council Office, *Responsibility in the Constitution* (Ottawa: Minister of Supply and Services, 1993), p. 3.
 - ¹⁶ *Ibid.*
 - ¹⁷ Canada, *Guidance for Deputy Ministers* (Ottawa: Privy Council Office, 2003), p. 1.
 - ¹⁸ *Ibid.*, p. 3.
 - ¹⁹ Canada, *Governing Responsibly* (Ottawa: Privy Council Office, 2004), p. 3.
 - ²⁰ *Ibid.*
 - ²¹ Tait, *A Strong Foundation*, p. 9.
 - ²² *Ibid.*

- ²³ Gordon Robertson, *The Changing Role of the Privy Council Office* (Ottawa: Information Canada, 1971), p. 20.
- ²⁴ Arthur Kroeger, "Unedited Copy of Evidence of the Standing Committee on Public Accounts," February 21, 2005, pp. 13-14.
- ²⁵ Gordon Osbaldeston, "Job Description for DMs," in *Policy Options Politiques*, January/janvier 1988, p. 33. See also Gordon F. Osbaldeston, *Keeping Deputy Ministers Accountable* (Toronto: McGraw-Hill Ryerson, 1989).
- ²⁶ Arthur Kroeger, "Statement Provided to the Public Accounts Committee of the House of Commons," February 21, 2005, p. 2.
- ²⁷ Tait, *A Strong Foundation*, p. 10.
- ²⁸ Kroeger, "Statement," p. 2.
- ²⁹ Kroeger, "Unedited Copy," p. 15.
- ³⁰ The description of the role and responsibilities of the Accounting Officer are set out in http://www.government-accounting.gov.uk/current/content/ga_04_1.htm (and [_04_4.htm](http://www.government-accounting.gov.uk/current/content/ga_04_4.htm)).
- ³¹ *Ibid.*, 4.htm, para. 16.
- ³² *Ibid.*, para. 17.
- ³³ *Ibid.*, para. 30.
- ³⁴ C.E.S. Franks, "Responsibility and Accountability: The Accounting Officer Approach," submission to the Senate Committee on National Finance, June 7, 2005, p. 8.
- ³⁵ Rt. Hon. Lord Newton of Braintree, chair, *The Challenge for Parliament: Making Government Accountable* (London: Vacher Dod Publishing, 2001); see pp. 118-20, for example.
- ³⁶ *Ibid.*, p. 10.
- ³⁷ *Ibid.*, p. 65.
- ³⁸ J.R. Mitchell, "Reply to C.E.S. Franks," *Canadian Public Administration* 40 (4) (1997): pp. 653-57.
- ³⁹ C.E.S. Franks, "Accountability to Parliament for Financial Matters in the British System," December 8, 2004.
- ⁴⁰ *Ibid.*, p. 21.
- ⁴¹ *Ibid.*, pp. 20-21.

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