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CHAPTER SIX

STRENGTHENING THE CHAIN OF ACCOUNTABILITY

The Commission's findings on management and accountability for the Sponsorship Program parallel those reached by the Royal Commission on Financial Management and Accountability (Lambert Commission) in 1979, which said:

[W]e have reached the deeply held conviction that the serious malaise pervading the management of government stems fundamentally from a grave weakening, and in some cases an almost total breakdown, in the chain of accountability, first within government, and second in the accountability of government to Parliament and ultimately to the Canadian people.”¹

The fact that problems occurred and continued for so long in the Sponsorship Program is cause for grave concern. The chain of accountability was broken.

Chapters 4 and 5 in this Report have concentrated on two aspects of accountability: the role of Parliament in relation to the Government, and the responsibilities and accountabilities of the public service. The core recommendations already made focus on the role of Deputy Ministers and on the Public Accounts Committee: the Deputy Ministers as the responsible managers on the Government side, and the Public Accounts Committee as the body that holds the Government to account for financial administration on behalf of Parliament and the people of Canada.

Two other organizations play essential roles in financial administration and accountability. First, the Treasury Board, the “management board” of the Government, oversees the Estimates process and the performance of government departments. The Board is the principal employer of the public service. Second, the Office of the Auditor General audits federal government operations and provides Parliament with independent information, advice and assurance to assist it in holding the Government to account for its stewardship of public funds.

The Deputy Ministers, the Public Accounts Committee, the Treasury Board, and the Office of the Auditor General should together provide a coherent system for the control of public expenditures. The system should begin with a clear allocation of resources and powers to government by Parliament, continue through management by public servants who are clearly and unquestionably responsible for the conscientious and careful use of funds, and conclude with a process of accountability to Parliament that permits and encourages a thoughtful review which exposes problems and leads to remedies. The system should work in such a way that the roles and actions of the participants complement and reinforce each other.

The assignment of the powers of administration to Deputy Ministers is an appropriate allocation of responsibilities. The responsibilities and duties of the public service do not lie in making policy decisions, nor in formulating decisions on the broad approach of government to its management of the public sector. Both of these areas are, and should be, the responsibility of elected Ministers. Public servants such as Deputy Ministers may offer advice to Ministers in these areas, but they do not make the decisions, nor do they bear the responsibility. Responsibility and power in these areas belong to Ministers, and their accountability for their use of their powers is political, on the floor of the House of Commons and, ultimately, to the people of Canada in general elections.

The problems and deviations from these principles which this Commission found in the Sponsorship Program are uncommon, and they constitute exceptional deviations on the part of the Canadian public service from an admirable record of attention to duty and to the public interest. That these problems occurred at all, and that, once begun, they remained uncorrected for far too long, has led the Commission to conclude, first, that the processes for financial control and accountability did not work together in a collaborative way, and, second, that the system did not work as a coherent whole. Accountability and trust in government suffered as a result.

Deputy Ministers

Deputy Ministers have statutory responsibility for financial administration and are managers of departments. A fundamental source of the errors and mismanagement associated with the Sponsorship Program was the failure, at the deputy ministerial level, to fulfill assigned management responsibilities and duties. In fact, several of the research studies prepared for the Commission show that Deputy Ministers in general devote only a modest amount of their time and attention to their responsibilities as departmental managers.²

The Commission believes that a major cause of the weakness of the Canadian system for accountability in financial administration lies in the failure of the system to ensure that Deputy Ministers place a sufficiently high priority on their management roles and responsibilities. It comes to this conclusion knowing that its concerns repeat those of many informed observers over the past four decades, since the Glassco Commission examined management in government.

The Commission's recommendation that Deputy Ministers appear before the Public Accounts Committee in their own right to explain and defend their use of their statutory powers and responsibilities for administration is intended to ensure that accountability attaches to the officials who are responsible. It has the additional purpose of requiring Deputy Ministers to take their administrative responsibilities more seriously. At present, some Deputy Ministers think so little of their accountability that they send subordinates to answer for them before the Public Accounts Committee. This delegation shows a lack of respect not only for Parliament and the Public Accounts Committee but also for the responsibilities that Parliament has assigned to Deputy Ministers.

The matters for which Deputy Ministers will be accountable before the Public Accounts Committee are those for which they and they alone have responsibility. Ministers do not have these responsibilities. Deputy Ministers owe a duty to the law, to Parliament and to the people of Canada. They should give as much emphasis to this duty as they give to their loyalty to their Ministers. The Commission is not satisfied that the present procedures for the accountability of Deputy Ministers ensure that they place sufficient emphasis on their obligations and duties, apart from their loyalty to their Ministers and the Government of the day. The accountability of Deputy Ministers before the Public Accounts Committee would not only encourage but demand that they pay more attention, in the public interest, to their duties, to the law and to Parliament.

The administrative culture of the Deputy Minister community will have to change. Clear assignment to Deputy Ministers of personal responsibility and accountability in the open forum of the Public Accounts Committee would lead to such a change. A British official has described the prospect of his first appearance before the British Public Accounts Committee as frightening.³ The knowledge that one's errors and misdeeds will be found out and exposed is a powerful encouragement to better performance and behaviour.

Accountability is not simply a matter of officials giving an account of how they have used their powers and performed their duties or of allotting blame when something goes wrong. Accountability has an internal or personal dimension, a knowledge that there are proper and improper ways to act, and that a responsible public office holder should choose the proper ways and avoid the improper. An effective system for accountability would instill that sort of internal awareness into all officials. If there is any question whether a proposed course of action meets acceptable standards, officials should apply one final test by asking themselves: *Could I satisfactorily defend this before the Public Accounts Committee?* Alternatively, since accountability is ultimately to the public, the test could be worded: *Could I satisfactorily defend this course of action in public?* These changes in the responsibility and accountability of Deputy Ministers should contribute to rebalancing the relationship between Parliament and the Government. They should also give Parliament an enhanced role in holding the Government to account.

The Public Accounts Committee

Just as the great temptation facing Deputy Ministers is to pay less attention than they should to their management duties, so the temptation facing the Public Accounts Committee is to pursue issues in a partisan way. The Commission encourages the Public Accounts Committee to perform its essential role without any overly partisan behaviour. It makes two recommendations to this end.

The Committee should recognize that it has a special duty to ensure that the financial administration of the Government is not conducted in a partisan manner. It can fulfill this duty only if its own work is done in a non-partisan manner. Concerns with propriety, economy and efficiency should be directed to the responsibilities and actions of Deputy Ministers, not Ministers or other political actors. The Public Accounts Committee should concentrate on the non-partisan querying of Deputy Ministers and other senior officials.

The accumulation of experience during successive sessions of Parliament would give members of the Committee greater ability to perform their duties well, efficiently and objectively. For that reason, the Commission is of the opinion that the Committee needs continuity in membership throughout the life of a Parliament in order to pursue its investigations with rigour, consistency and objectivity.

Recommendation 7: The members of the Public Accounts Committee should be appointed with the expectation that they will serve on the Committee for the duration of a Parliament.

Although the Public Accounts Committee often operates in a non-partisan way, the informed public tends to believe the opposite. Unfortunately, on the occasions when the media follow the work of the Public Accounts Committee, they tend to report only the sensational and partisan exchanges. The Committee's extremely partisan and chaotic investigation into the Sponsorship Program was well covered by the media. Its important and useful subsequent investigation and report on ministerial and deputy ministerial responsibility and accountability, which was conducted in a non-partisan manner, received little media attention.⁴

The Government has made an admirable commitment that "ministers will attend more parliamentary committee meetings to explain and

account for management performance.”⁵ However, the Commission is not of the view that Ministers should be witnesses before the Public Accounts Committee, which is concerned only with the responsibilities and actions of Deputy Ministers. The presence of Ministers before the Committee creates a real danger that it will lose sight of its essential function of overseeing the non-partisan tasks of administration and, to the detriment of its accountability to Parliament, will engage in partisan excesses.

Recommendation 8: The Public Accounts Committee should ensure that Deputy Ministers, other heads of agencies and senior officials are the witnesses called to testify before it. As a general principle, Ministers should not be witnesses before the Committee.

The Treasury Board

The Treasury Board is a committee of the Cabinet established under the *Financial Administration Act*.⁶ The Board’s operational arm is the Treasury Board Secretariat, headed by the Secretary of the Treasury Board, a senior public servant of deputy ministerial status. As the general manager and employer of the Government, the Treasury Board has many functions, including preparation of the Government’s spending plans and oversight of financial administration in the departments and agencies of government. The Treasury Board oversees the performance of Deputy Ministers for financial administration.

The key officer in the Treasury Board for oversight of departmental financial administration is the Comptroller General of Canada, an official in the Treasury Board Secretariat with deputy ministerial rank. The Comptroller’s duties and functions now include

- overseeing all government spending, including review and sign-off on new spending initiatives;

- setting or reviewing financial, accounting and auditing standards and policies for the Government of Canada; and
- providing leadership to ensure and enforce appropriate financial controls and to cultivate sound resource stewardship at all levels across the federal public service.⁷

These duties demand that the Comptroller General ensure that departments comply with the standards of regularity, propriety, economy and efficiency that the Treasury Board describes as the responsibilities of Deputy Ministers.

The history of Treasury Board oversight of deputy ministerial stewardship has not always been impressive. As already noted, the Auditor General's assertion in 1976 that the Government had lost, or was close to losing, effective control of the public purse was confirmed by the Lambert Commission three years later. In 1989 Gordon Osbaldeston found that Deputy Ministers had concerns "that their accountability to the Treasury Board is not as clear as their accountability to the Public Service Commission" and expressed reservations about the way the Board carried out its role.⁸ In 2005 a study by the Treasury Board itself concluded that these problems had not been resolved: "The recent round of consultations confirmed [Osbaldeston's 1989 findings]. The means by which the Treasury Board identifies how Deputy Ministers have exercised the authority delegated to them are not very precise. In addition, there are no explicit requirements for accountability sessions between the Treasury Board and Deputy Ministers to discuss progress on files and projects."⁹ Something has not been working in the way Treasury Board oversees departments, and it has not worked since responsibilities for financial administration were assigned to Deputy Ministers in 1969.

The present Commission noted in its *Fact Finding Report*:

It appears that similar problems in financial management continually reoccur in the administration of the federal government. . . . The Commission is left with the impression that Treasury Board no longer considers its oversight function to be an important part of its overall responsibilities.¹⁰

The Treasury Board Secretariat seems to reinvent the frameworks for management every few years, though with modest impact. In June 1997 the Prime Minister asked the Treasury Board to play an enhanced role as the Government's management board. The Treasury Board produced a report in 2000, outlining its role "as a catalyst for management change and improved governance."¹¹ It declared that one of its key responsibilities was "to support responsible spending in the government's program base, including actively monitoring control systems and compiling information sufficient to assess program performance and program integrity across the government."¹²

The problem, as the Auditor General and others have observed, is not a lack of rules, processes or approaches to management. Rather, the problem is that the existing rules are not observed and that there are no sanctions in place for non-observance. The Government, through the Treasury Board, has once again committed itself to an ambitious program for the improvement of management.¹³ The problems uncovered by its investigation into the Sponsorship Program will not be solved by adding more rules, more internal oversight bodies, new approaches to management, and more demands on Deputy Ministers for detailed accountability to central agencies. The source of the problems in responsibility and accountability do not lie in regulations. They lie in an administrative culture that has not only failed to encourage senior public servants to fulfill their duties and responsibilities but has failed to impose penalties for non-fulfillment.

The Treasury Board by itself cannot assure Canadians that Deputy Ministers perform their management role effectively. The Board needs to be supported and buttressed at the parliamentary level by the Public Accounts Committee and to work cooperatively with, not against, the Committee.

The Office of the Auditor General

The Office of the Auditor General performs its role as legislative auditor for Parliament with diligence and competence. The reports produced by the Auditor General provide the starting point for investigations by the Public Accounts Committee. They alert Parliament to problems in financial administration and management in government.

The Office of the Auditor General does not investigate or report on all expenditures and activities of government, nor could it, considering the size and complexity of the Government of Canada. Audits by the Office, and investigations by the Public Accounts Committee, are able to examine but a small sample of the activities of the Government, and then only after the event. The audit process is in no way ineffective simply because it deals with past issues. The knowledge that government expenditures and activities are likely to be audited by the Office of the Auditor General, and may subsequently receive attention from the Public Accounts Committee, serves as a caution and a deterrent, and keeps officials on their toes.

However, the Office of the Auditor General is only one link in the chain of accountability. Its effectiveness is increased by the support of the Public Accounts Committee. Ultimately, accountability is to Parliament. The Public Accounts Committee is the body to which Parliament assigns the tasks of examining the reports of the Auditor General.

A Collaborative Effort

A collaborative effort is needed to strengthen the chain of accountability. Some links in the chain are weak, if not broken. The weakness that most

concerns this Commission is that between the Public Accounts Committee and the Treasury Board. These agencies should hold Deputy Ministers accountable for their management responsibilities. The Committee acts on behalf of Parliament, and the Treasury Board on behalf of the executive, but they have common interests in ensuring that financial administration meets acceptable standards. The Treasury Board and the Public Accounts Committee should be, if not amicable, then at least collaborative partners to ensure that they achieve their common goal of probity in financial management.

To the detriment of effective accountability, the Public Accounts Committee and the Treasury Board have not had a close working relationship. The Board's attitude to the Public Accounts Committee does not help. Its allegation that all Parliament's mechanisms for holding the Government accountable are "political and partisan"¹⁴ expresses a one-sided view of a complex reality. The Board's uncompromising rejection of the recommendations of the Committee's May 2005 report on ministerial and deputy ministerial accountability did not offer a reasoned critique of the Committee's arguments or suggest the possibility of a compromise. It offered no prospect for dialogue and mutual accommodation. The Government's claim that Parliament has no role in overseeing compliance with laws is not only wrong but denies the Public Accounts Committee its essential role in oversight and accountability for financial administration.

The Treasury Board, by itself, cannot assure probity in financial administration. The pressures to bend the rules and to respond to urgent problems without due regard to regularity and propriety are too powerful to allow the Board, a part of the executive branch of the Government, to resist. More rules, more internal controls and more new approaches to management have not resolved this problem. The Treasury Board needs the support of the Public Accounts Committee to ensure that these pressures are dealt with appropriately.

As long as the Treasury Board does not regard the Public Accounts Committee as a partner in a common quest, it will have no allies in its efforts to improve oversight and accountability. By itself, the Board cannot give Parliament and the people of Canada assurance that the financial administration of the Government meets the standards demanded in a modern democracy. The Committee, in turn, cannot ensure that its concerns are taken into account by the Government, or that its recommendations are taken seriously, unless it has the Treasury Board as an ally. The Treasury Board and the Public Accounts Committee must engage in dialogue, not confrontation. This necessity, too, speaks to the need to rebalance the relationship between Parliament and Government.

Endnotes to Chapter 6

- ¹ Canada, Royal Commission on Financial Management & Accountability, *Final Report* (Ottawa: Minister of Supply and Services, 1979), p. 21.
- ² Jacques Bourgault, "The Deputy Minister's Role in the Government of Canada, His Responsibility and His Accountability," Peter Aucoin, "The Staffing and Evaluation of Deputy Ministers in Comparative Westminster Perspective: A Proposal for Reform," Commission of Inquiry into Sponsorship Program and Advertising Activities, Research Studies, vol. I; C.E.S. Franks, "The Respective Responsibilities and Accountabilities of Ministers and Public Servants: A Study of the British Accounting Officer System and Its Relevance for Canada," Research Studies, vol. III.
- ³ Franks, "The Respective Responsibilities and Accountabilities of Ministers and Public Servants," under heading "Misunderstandings of the British System."
- ⁴ Canada, House of Commons Standing Committee on Public Accounts, *Governance in the Public Service of Canada: Ministerial and Deputy Ministerial Accountability*, 10th Report, 38th Parliament, 1st Session, May 2005.
- ⁵ Canada, President of the Treasury Board, *Management in the Government of Canada: A Commitment to Continuous Improvement* (October 2005), p. 8.
- ⁶ RSC 1985, c. F-11.
- ⁷ Canada, President of the Treasury Board and Minister of Finance, News Release—Ministers Welcome Appointment of New Comptroller General, 6 May 2004.
- ⁸ Gordon Osbaldeston, *Keeping Deputy Ministers Accountable* (Toronto: McGraw-Hill Ryerson, 1989), p. 67.
- ⁹ Canada, Treasury Board of Canada Secretariat, *Meeting the Expectations of Canadians: Review of the Responsibilities and Accountabilities of Ministers and Senior Officials—Report to Parliament* (2005), p. 47.
- ¹⁰ Canada, Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Who Is Responsible? Fact Finding Report* (2005), pp. 44 and 47.
- ¹¹ Canada, Treasury Board of Canada Secretariat, *Results for Canadians: A Management Framework for the Government of Canada* (2000), p. 1.
- ¹² *Ibid.*, p. 21.
- ¹³ President of the Treasury Board, *Management in the Government of Canada* (October 2005).
- ¹⁴ Treasury Board of Canada Secretariat, *Meeting the Expectations of Canadians: Review of the Responsibilities and Accountabilities of Ministers and Senior Officials—Report to Parliament* (2005), p. 5.

