

Canadian Group
Inter-Parliamentary Union



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**Report of the Canadian Parliamentary Delegation
to the Eighth Workshop of Parliamentary Scholars and
Parliamentarians**

Canadian Group of the Inter-Parliamentary Union (IPU)

**Wroxton, United Kingdom
26-27 July 2008**

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Organized jointly by the Centre for Legislative Studies (Wroxton College, Oxfordshire), the Inter-Parliamentary Union and the Research Committee of Legislative Specialists of the International Political Science Association

1. Background

The Centre for Legislative Studies at Wroxton College in the United Kingdom has since 1994 been holding conferences dedicated to the study of parliaments.

The first workshop was held in Berlin in 1994, where legislative scholars discussed practical research findings with members of parliaments from around the world. Since then, workshops have been held every two years. Workshops are co-sponsored by the Inter-Parliamentary Union (IPU) and the Research Committee of Legislative Specialists of the International Political Science Association.

2. Agenda

The Eighth Workshop of Parliamentary Scholars and Parliamentarians was held from 26-27 July 2008 at Wroxton College in Oxfordshire. The workshop included the following panel sessions:

- Holding Government to Account
- Enhancing Accountability
- Parliaments and the Internet
- Consequences of Devolution in the UK
- Gendered Ceremony and Ritual in Parliament
- Legislative Developments in the EU and the USA
- Parliamentary Behaviour in the U.K.
- Understanding Legislatures
- Members Entering Parliament
- The Role of Judicial Review
- Presentations by parliamentarians

3. Contribution made by the Canadian Delegate

The Honourable Donald H. Oliver, Senator, Q.C., was Canada's representative at this workshop. During the session entitled Enhancing Accountability, he presented a paper that examined the adoption of the accounting officer model in Canada.

Senator Oliver's paper is reproduced in the appendix attached to this report.

Respectfully submitted,

The Honourable Donald H. Oliver, Q.C., Senator
President, Canadian Group IPU

Appendix

Adopting the U.K. Accounting Officer Model in Canada⁽¹⁾

Paper presented by Hon. Senator Donald H. Oliver, Q.C.
at the Eighth Workshop of Parliamentary Scholars
and Parliamentarians

Wroxton College, Oxfordshire, United Kingdom
July 26-27, 2008

INTRODUCTION

Senior public servants have been designated “accounting officers” in the United Kingdom since 1872, and as such, they have specific, personal responsibility for financial administration in their departments. Canada, on the other hand, has had vigorous debates over whether to adopt the accounting officer model. There have been concerns that it runs contrary to the doctrine of ministerial responsibility and that it risks turning public servants into political actors. Notwithstanding these concerns, Canada has recently passed legislation which puts into place a Canadian version of the accounting officer model. Consequently, it is worth examining the Canadian version to see how it compares to the United Kingdom’s model and to examine how it addresses the concerns raised in the debates. More importantly, as the accounting officer model fundamentally changes the accountability relationship between senior public servants and Parliament, it is worth examining the implications for accountability of the model and how it affects the ability of Parliament to hold the government to account for proper financial administration.

This paper begins with a summary of the various recommendations for changing the accountability relationship between Parliament and deputy ministers in Canada over the last 30 years, and reasons why the government has resisted change. It then briefly outlines the accounting officer model currently in place in the United Kingdom and the requirements of the *Federal Accountability Act*, which recently introduced the accounting officer model to Canada. There are several important differences between the Canadian and United Kingdom models, and these differences are examined. Next, competing interpretations by a Canadian parliamentary committee and the government of the requirements of the legislation for accounting officers are explored. The paper concludes with a discussion of the implications of the accounting officer model for parliamentary accountability.

(1) Dr. Alex Smith from the Library of Parliament is gratefully acknowledged for his assistance in drafting this paper.

HISTORY

The issue of the accountability relationship between deputy ministers,⁽²⁾ the senior public servant in a department, and Parliament has been debated for a number of years in Canada, and there have been several recommendations for change.

In its 1979 report, the Royal Commission on Financial Management and Accountability (Lambert Commission) observed “deputy heads are not regularly held accountable in a systematic or coherent way for program management and departmental administration.”⁽³⁾ The Commission recommended that “the deputy minister as chief administrative officer account for his performance of specific delegated or assigned duties before the parliamentary committee responsible for the scrutiny of government expenditures, the Public Accounts Committee.”⁽⁴⁾

In 1985, the Special Committee on Reform of the House of Commons (McGrath Committee) stated that “The doctrine of ministerial accountability undermines the potential for genuine accountability on the part of the person that ought to be accountable – the senior officer of the department.”⁽⁵⁾ This Committee called for deputy ministers to be accountable before parliamentary committees for the administration of their departments.

In May 2005, the House of Commons Standing Committee on Public Accounts recommended: “that deputy ministers be designated as accounting officers with responsibilities similar to those held by accounting officers in the United Kingdom.” As such, deputy ministers could be held to account before the Committee.⁽⁶⁾

The Commission of Inquiry into the Sponsorship Program and Advertising Activities (the Gomery Commission) recommended that the government should declare that deputy ministers are accountable in their own right for their statutory and delegated responsibilities before the Public Accounts Committee.⁽⁷⁾

Despite these recommendations, the government steadfastly resisted change, stating: “The attempt ... to identify discrete areas of official accountability to Parliament would likely result in the further blurring of lines of accountability, weakening the ability of the House to hold the minister responsible when it chooses for matters falling under his or her authority.”⁽⁸⁾

Some observers agree with the government. One scholar argues that altering the accountability of deputy ministers is based on an unrealistic assumption about the

(2) For the sake of consistency the term “deputy minister” will be used in this paper, but the more appropriate term is “deputy head” because it encompasses the heads of departments and agencies. Canadian deputy ministers are the equivalent to permanent secretaries in the United Kingdom,

(3) Royal Commission on Financial Management and Accountability (Allen Thomas Lambert, Commissioner), Final Report, Ottawa, March 1979, p. 189.

(4) Ibid., p. 374.

(5) Special Committee on Reform of the House of Commons (the Honourable James McGrath, Chairman), Third Report, Ottawa, 1985, p. 21.

(6) House of Commons Standing Committee on Public Accounts, Governance in the Public Service of Canada: Ministerial and Deputy Ministerial Accountability, 10th Report, Ottawa, May 2005.

(7) Commission of Inquiry into the Sponsorship Program and Advertising Activities, Restoring Accountability – Recommendations, February 2006, p. 200.

(8) Privy Council Office, Responsibility in the Constitution, 1977, reissued in 1993, Chapter VII.

possibility of separating policy from administration.⁽⁹⁾ Another often repeated concern is that the accountability of public servants before parliamentary committees would remove the anonymity of senior officials by exposing them to potentially partisan attacks, and thereby politicizing the public service.⁽¹⁰⁾

On the other side, scholars who support adopting the accounting officer model argue that it would merely be a formalization of current practice and that it would clarify who is responsible for what, as parliamentary committees already try to hold deputy ministers to account.⁽¹¹⁾ Also, since certain powers are specifically delegated to deputy ministers, through instruments such as Canada's *Financial Administration Act*, deputy ministers should be accountable before parliamentary committees in their own right for those powers, rather than only appearing on behalf of their minister.⁽¹²⁾

ACCOUNTING OFFICERS IN THE UNITED KINGDOM

In 2005, the Standing Senate Committee on National Finance, of which I was the then Chair, conducted a study on improving deputy ministerial accountability before parliamentary committees. As part of this study, we travelled to the United Kingdom and Ireland to learn more about how accounting officers function in those countries. We met with a number of government officials, such as, John Purcell, the Comptroller and Auditor General of Ireland; Tim Burr, the Deputy Comptroller and Auditor General of the United Kingdom; Dame Mavis MacDonald, former Permanent Secretary, Office of the Deputy Prime Minister; and Brian Glicksman, the former Treasury Officer of Accounts, HM Treasury; scholars, such as professors Peter Hennessy and Vernon Bogdanor; Lord Butler of Brockwell, Master of University College, Oxford; and Sir Tim Lankester, President of Corpus Christi College, Oxford; and the then Chairs of their respective Public Accounts Committees, Michael Noonan in Ireland and Edward Leigh in the United Kingdom (who is still the Chair of committee). The Committee was very impressed with the system, which has operated for over 100 years.

In the United Kingdom, the Treasury appoints accounting officers and sets out their roles and responsibilities.⁽¹³⁾ The accounting officer personally signs the resource accounts, the annual report, and the statement of internal control. The accounting officer also has personal responsibility for regularity and propriety, selection and appraisal of programmes and projects, value for money, management of opportunity and risk, learning from experience, and accounting accurately for the organization's financial position and transactions.⁽¹⁴⁾

If a minister decides to pursue a course of action that the accounting officer has advised against on the basis of regularity, propriety, or value for money, the accounting officer

(9) Sharon L. Sutherland, "Responsible Government and Ministerial Responsibility: Every Reform Is Its Own Problem," *Canadian Journal of Political Science*, March 1991, pp. 91-120.

(10) Gordon Osbaldeston, *Keeping Deputy Ministers Accountable*, McGraw-Hill Ryerson, Toronto, 1989.

(11) Peter Aucoin and Mark D. Jarvis, *Modernizing Government Accountability: A Framework for Reform*, Canada School for Public Service, Ottawa, 2005.

(12) C. E. S. Franks, "Responsibility, Accountability, and the Sponsorship Affair," *Canadian Parliamentary Review*, Vol. 27, No. 3, Autumn 2004, pp. 16-18.

(13) HM Treasury, *Managing Public Money*, October 2007, Chapter 3. This can be found at: http://documents.treasury.gov.uk/mpm/mpm_ch3.pdf.

(14) *Ibid.*, section 3.3.3.

should ask for formal, written direction to proceed. The accounting officer would proceed to follow the minister's direction, and the relevant papers would then be sent to the Comptroller and Auditor General.⁽¹⁵⁾

The United Kingdom Public Accounts Committee normally invites the accounting officer of the relevant institution to attend as a witness. When answering questions, the accounting officer is expected to take responsibility for the organization's business. If an accounting officer had received written direction from a minister, the committee would attach no blame to the accounting officer for any resulting problems.⁽¹⁶⁾

According to Brian Glicksman, a former Treasury Office of Accounts in the United Kingdom, there is little debate in the United Kingdom over the roles and responsibilities of accounting officers, possibly because the system has been in place for so long that everyone has become used to it.⁽¹⁷⁾ The accounting officer model clarifies the personal responsibility of the heads of departments for proper financial management. This does not dilute the minister's responsibility, but rather assures the minister that the accounting officer is ensuring that the department complies with the requirements of regularity, propriety, and value for money. With respect to Parliament, "Accounting Officers are accountable to the [Public Accounts] committee in the sense of being required to give an account to the committee of the way in which their departments have used their resources."⁽¹⁸⁾ Accounting officers accept their responsibilities because they "feel that the existence of this memorandum from the Treasury, spelling out their responsibilities, strengthens their position in the department and thus supports the maintenance of good financial management."⁽¹⁹⁾

THE FEDERAL ACCOUNTABILITY ACT

Accountability was a key issue in Canada's most recent federal election campaign. The Conservative Party of Canada promised during the 2006 campaign to introduce comprehensive accountability legislation to address concerns that the federal government had lost touch with Canadians with respect to openness, transparency, and accountability.

After its election in January 2006, the new Conservative government pursued a proposed accountability package as its highest legislative priority.⁽²⁰⁾ As soon as possible after the election, the government introduced the *Federal Accountability Act*, which was proclaimed into law in December of 2006.⁽²¹⁾ This Act made substantial improvements to governance arrangements concerning political financing, lobbying,

(15) Ibid., section 3.4.

(16) Ibid., section 3.5 and 3.4.4.

(17) Brian Glicksman, "The Role of Accounting Officers: A Perspective from the United Kingdom," *Canadian Parliamentary Review*, Vol. 30, No. 3, Autumn 2007, pp. 22-26.

(18) Ibid., p. 25.

(19) Ibid., p. 24.

(20) General information about the Government of Canada's Accountability Action Plan can be found at: <http://www.faa-ffi.gc.ca/index-eng.asp>.

(21) The complete text of the Federal Accountability Act is available at: http://www2.parl.gc.ca/House/Publications/Publication.aspx?Parl=39&Ses=1&Mode=1&Pub=Bill&Doc=C-2_4&Language=E.

conflict of interest, and public appointments. The Act improves the prospect of parliamentary scrutiny by:

- expanding transparency by bringing more federal organizations, such as officers of Parliament, seven more Crown corporations, and foundations under the requirements of the *Access to Information Act*;
- granting new powers to the Auditor General, who can now examine the recipients of grants and contributions;
- creating a Parliamentary Budget Officer, who will help parliamentarians scrutinize the government's budgetary proposals;
- including a *Public Servants Disclosure Protection Act*, which will protect public servants who report wrongdoings in the federal government and include penalties for those who wilfully impede investigations; and
- creating an independent procurement ombudsman who will ensure that the government has an open and fair competitive bidding process for government contracts.

Most significantly for the purposes of this discussion, the *Federal Accountability Act* instituted the position of the accounting officer.⁽²²⁾ Under the Act, the accounting officer is a department's or agency's deputy head (the senior public servant). Within the framework of ministerial responsibility and accountability to Parliament and subject to the appropriate minister's management and direction, the accounting officer is accountable before the appropriate committees of the Senate and the House of Commons for:

- measures taken to deliver programs in compliance with policies and procedures;
- measures taken to maintain effective systems of internal control;
- signing the accounts prepared as part of the Public Accounts; and
- other specific duties assigned to him or her by legislation.

The accounting officer is obligated to appear before the appropriate committees of the Senate and the House of Commons to answer questions with respect to carrying out these responsibilities.

In the case of a disagreement with the appropriate minister over the interpretation or application of a policy, directive or standard issued by the Treasury Board (a Cabinet committee that provides overall policy direction on management and administration), the accounting officer shall seek written guidance from the Secretary to the Treasury Board. If the matter remains unresolved, the minister shall refer the issue to the Treasury Board for a decision, which will be provided to the Auditor General.

COMPARING THE UNITED KINGDOM AND CANADIAN MODELS

The accounting officer model recently adopted in Canada differs from the model in place in the United Kingdom in several crucial respects. Firstly, the duties of Canadian

(22) Clause 259 of the *Federal Accountability Act* (formally known as *An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability*) added sections 16.3 to 16.5 to the *Financial Administration Act*. The *Federal Accountability Act* was proclaimed on 12 December 2006.

accounting officers are spelled out in legislation, rather than in a memorandum from the Treasury. Secondly, accounting officers in the United Kingdom have a responsibility to ensure value for money, and the Canadian legislation is silent on this issue. Thirdly, the scope of issues for dispute resolution is much narrower in Canada, and the Canadian dispute resolution method refers the matter to other ministers for a decision. Lastly, the United Kingdom Treasury's guidance makes it quite clear that the responsibilities of the accounting officer are held personally; whereas, this is much less clear in Canada. These differences are discussed in turn below.

The fact that Canada has employed legislation to put in place the accounting officer model means that it is given potentially greater force than guidance from a central government organization. The power of legislation is difficult to avoid, while guidance is sometimes ignored. On the other hand, legislation is very difficult to put into place and change. Should the Government of Canada wish to alter any aspects of its accounting officer model, it will have to go through the cumbersome legislative process. On the other hand, the UK Treasury has recently updated its governing document on financial administration without having to amend legislation,⁽²³⁾ and regularly issues "dear accounting officer" letters to outline updated expectations for accounting officers.⁽²⁴⁾

The concept of "value-for-money," or economy, efficiency, and effectiveness, in government administration has been discussed for a number of years, and auditors general have incorporated that terminology into their audit practice. However, what counts as good value for money is often a matter for debate because it depends upon what is valued, which can be highly political.⁽²⁵⁾ While it may be possible to reach a broad consensus on the implications of economy and efficiency, effectiveness is more difficult to assess objectively because it depends upon the goals one intends to achieve, and those are often unclear and contested for government programs. This has led auditors general to move to the term "performance audit" in place of value-for-money audits.⁽²⁶⁾ The decision not to incorporate value-for-money into the Canadian accounting officer model may be related to the contested nature of the concept, although there do not appear to have been significant problems with it in the United Kingdom accounting officer system. Brian Glicksman writes, "Value for money decisions require an element of judgment and it is not surprising if, from time to time, a Minister takes a different view from the Accounting Officer on the balance of the arguments."⁽²⁷⁾

(23) The new document is entitled, *Managing Public Money*, and can be found at:

http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_managing_publicmoney_index.cfm.

(24) These letters can be found at: http://www.hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_governance_dao_letters.cfm.

(25) For a discussion see Sharon Sutherland, "The Politics of Audit: The Federal Office of the Auditor General in Comparative Perspective," *Canadian Public Administration*, vol. 29, pp. 118-148, Spring 1986.

(26) The Office of the Auditor General of Canada describes its audit practices at: http://www.oag-bvg.gc.ca/internet/English/oag-bvg_e_9362.html. The United Kingdom's National Audit Office continues to use the term "value-for-money audit." See: <http://www.nao.org.uk/about/role.htm#Value>.

(27) Glicksman, p. 25.

The dispute resolution process between accounting officers and ministers outlined in the Act is not new. Deputy ministers could previously ask for clarification from the Treasury Board Secretariat, but the Act now enshrines this process into law.⁽²⁸⁾ The scope of issues available for this process though, is narrower than in the United Kingdom, where the Treasury provides examples of irregularity, impropriety, and poor value for money as possible areas concerning which accounting officers should seek written direction from their ministers. The more significant difference is that the Canadian process involves a decision of a Cabinet committee, which would then be regarded as a confidence of the Queen's Privy Council. This means that Parliament would not know when an accounting officer had raised concerns about directions from a minister and the Treasury Board had made a decision interpreting and articulating its administrative policies. In the United Kingdom, on the other hand, the accounting officer is directed to send the relevant papers to the Comptroller and Auditor General who would normally draw the matter to the attention of the Public Accounts Committee.⁽²⁹⁾

The issue of whether or not the responsibilities of accounting officers are held personally is discussed in more detail in the next section, as it is the subject of disagreement in Canada between the government and a parliamentary committee. The issue is much clearer in the United Kingdom because the guidance from the Treasury specifically refers to the "personal responsibilities" accounting officers.⁽³⁰⁾

INTERPRETING THE ACT

Shortly after the *Federal Accountability Act* became law, the Privy Council Office, which is the public service arm of Cabinet and the Prime Minister, and the House of Commons Standing Committee on Public Accounts released their own documents setting out how they believe the accounting officer model should work in Canada. Their interpretations of the requirements of the Act agree in many respects, but there are some fundamental differences.

The Privy Council Office's guidance document provides a description of the various responsibilities of accounting officers noted above.⁽³¹⁾ It notes that the Act does not create new management responsibilities, as deputies have long had these responsibilities. Instead, the Act codifies the long-standing practice of deputy ministers

(28) The wording in the legislation is very similar to that found in document published by the Government of Canada in October 2005. According to *Management in the Government of Canada: A Commitment to Continuous Improvement*, "Should unresolved questions arise on the interpretation of standards and policies, departments should ask the Secretariat for an advance interpretation in order to clarify the matter. ... Should the issue remain unresolved, the minister may seek a Treasury Board decision on the interpretation and application of the standard or policy." (This document can be found at: http://www.tbs-sct.gc.ca/spsm-rgsp/cci-acg/cci-acg_e.asp.) Section 259 of the *Federal Accountability Act* (amending section 16.5 of the *Financial Administration Act*) reads, "Where the appropriate minister and the accounting officer ... are unable to agree on the interpretation or application of a policy, directive or standard issued by the Treasury Board, the accounting officer shall seek guidance in writing on the matter from the Secretary of the Treasury Board. Where guidance is provided ... and the matter remains unresolved, the appropriate minister shall refer the matter to the Treasury Board for a decision."

(29) See UK Treasury, *Managing Public Money*, section 3.4.4

(30) Chapter 3 of *Managing Public Money* begins as follows: "This chapter sets out the personal responsibilities of all Accounting Officers, both in government departments and in other parts of central government."

(31) Government of Canada, Privy Council Office, "Accounting Officers: Guidance on Roles, Responsibilities and Appearances Before Parliamentary Committees," 2007.

appearing before parliamentary committees to provide information and explanations regarding departmental management.

The Privy Council Office emphasizes that the accountability of accounting officers before parliamentary committees operates within the framework of the minister's responsibility and accountability to Parliament. Thus, accounting officers appear in support of their minister's accountability, and it remains entirely appropriate for ministers to appear before parliamentary committees with respect to matters of departmental management. The guidance document is careful to note that accounting officers are accountable before committees and not to them. This means that:

The accounting officer is not accounting to the committee for his or her personal performance and is not subject to personal consequences that parliamentarians might mete out – i.e., it is not appropriate for committee members to censure the accounting officer, seek to diminish his or her reputation or use the appearance of the accounting officer to advance partisan interests.⁽³²⁾

Additionally, the accounting officer is the incumbent deputy minister, as “The responsibilities of an accounting officer belong to the office and not the individual.”⁽³³⁾ This means that it is appropriate for the current accounting officer to answer questions about what took place prior to his or her tenure.

The guidance document also outlines the general principles of public servants before committees, such as not disclosing confidential information or engaging in policy discussion. It concludes with comments on the appropriate conduct of committee members towards officials, such as the importance of non-partisanship.

The House of Commons Standing Committee on Public Accounts, which had earlier recommended the adoption of the accounting officer model, released its own expectations for the appearances of accounting officers before the Committee in a “Protocol,” in which the House of Commons subsequently concurred.⁽³⁴⁾ In a number of respects the Public Accounts Committee agrees with the Privy Council Office. The Committee agrees that no new statutory or other powers have been given to deputies through the Act; the fundamental accountability of ministers remains undiminished; accounting officers have a duty to appear and should be properly briefed and prepared; accounting officers are accountable before and not to the Committee, as the Committee cannot reward, punish, or instruct accounting officers; and accounting officers should not be asked to present their views on matters of policy.

However, the Public Accounts Committee believes that the accounting officer does not appear only in support of the minister's accountability. As accounting officers in Canada have statutory authority in several areas related to financial management, responsibility and accountability lies with the accounting officer. This means that, “The

(32) Ibid., p. 11.

(33) Ibid., p. 15.

(34) House of Commons Standing Committee on Public Accounts, Report 13, 1st Session, 39th Parliament, “Protocol for the appearance of Accounting Officers before the Standing Committee on Public Accounts,” March 2007. The House of Commons concurred with the Public Accounts Committee's report on 15 May 2007.

responsibilities of Deputy Ministers and heads of agencies as accounting officers are personal and belong to them in their own right.”⁽³⁵⁾ The Committee believes that accounting officers have a special responsibility and leadership role in ensuring that the principles of compliance, prudence, and probity are observed in administration. The Committee will seek to satisfy itself that the actions and behaviour of accounting officers set a high standard for their organization and that their staff acts in accordance with these standards. The Committee may call former accounting officers to appear. While they appear as individuals, the Committee believes that “the personal responsibility of accounting officers represented by their signing of the accounts does not end when they leave office.”⁽³⁶⁾

The main difference, then, between the Privy Council Office and the Public Accounts Committee is whether accounting officers appear in support of their ministers to answer questions in certain areas or whether accounting officers appear to answer questions as holders of responsibilities in their own right. This difference in interpretation has clear implications for how and for what accounting officers will be accountable before parliamentary committees.

IMPLICATIONS FOR ACCOUNTABILITY

As noted earlier, various commissions and committees that have examined financial management and accountability in the Canadian federal government have recommended that the accountability of the senior public servant, the deputy minister, be clarified. These recommendations stem from the view that the deputy minister is responsible for departmental administration and thus must be accountable for that administration. The fact that Canadian deputy ministers have authorities delegated to them through statute makes it all the more imperative to clarify their accountability in the context of ministerial responsibility and accountability.

The need for this clarification quickly becomes evident in cases of controversy over departmental administration, such as took place in Canada during the recent scandal over the Sponsorship Program.⁽³⁷⁾ (This Program attempted to raise the profile of the Government of Canada by sponsoring cultural and sporting events in the province of Quebec. Through the course of an audit, the Auditor General found that payments were made to advertising firms for work of little or no value. The subsequent public inquiry discovered that these firms then made kickbacks to officials in the then governing Liberal party. Several individuals have since been convicted of criminal offences.) Ministers insisted that they had no responsibility for administration and thus were not accountable, and in turn senior public servants said they were merely implementing the wishes of ministers. In this instance, it was very difficult to identify who was accountable for ensuring that public funds were spent appropriately and thereby preventing the abuses that took place.

(35) Ibid., p. 7.

(36) Ibid., p. 12.

(37) See Office of the Auditor General of Canada, November 2003 Report, Chapter 3, “Sponsorship Program.”

Presumably, the adoption of the accounting officer model would clarify accountability by specifying that deputy ministers are indeed accountable for a few select areas, such as ensuring that an effective system of internal control is in place and signing the accounts of their organization. Making deputy ministers the accounting officers for their organization gives them a clear fiduciary responsibility for ensuring the prudent management of public funds in compliance with the approvals granted by Parliament. It should make deputy ministers devote more attention to their management responsibilities, and it would provide deputy ministers with an incentive to say no to inappropriate political interference in departmental administration. It does this by making them aware that their actions could be potentially the subject of parliamentary inquiry.

Parliament is the key institution of democratic accountability in our system of government. As the government, the executive, must maintain the confidence of Parliament in order to govern, the government must answer to Parliament for the way it uses public authority. The government sets its policy direction, proposes legislation and presents expenditure plans to Parliament for debate and approval, and it is Parliament's role to closely question and scrutinize the actions of the government, particularly through study in parliamentary committees. For example, in Canada the House of Commons Public Accounts Committee performs this role by examining reports of the Office of the Auditor General, and the Senate National Finance Committee scrutinizes the government's spending plans, or Estimates.

In fulfilling its role as an institution of accountability, Parliament has an interest in assuring itself that the government is ensuring appropriate financial management, that funds have been handled in compliance with authorities granted by Parliament and with prudence. The *Federal Accountability Act* significantly improves the ability of the Canadian Parliament to hold the government to account for financial management because it clearly obligates the accounting officer to appear before parliamentary committees to answer questions about departmental administration. By identifying a senior public servant, the accounting officer, as accountable before parliamentary committees, parliamentarians can better scrutinize government management by inquiring as to how accounting officers have ensured that their organizations are properly managing public funds. The purpose of the accounting officer model, though, is not to have parliamentary committees imposing sanctions on public servants, but to enable committees to study government management. When controversy arises, parliamentarians should be able to obtain clear answers about what has gone wrong and why, rather than having to deal with various parties trying to focus responsibility and the accompanying accountability elsewhere.

The accounting officer model and its benefits are almost taken for granted in the United Kingdom, perhaps because it has been in place for over 100 years. It has taken a lot of work, struggle, and debate to bring this model to Canada. From the disagreement between the Public Accounts Committee and the Privy Council Office, it is evident that these debates continue. While it is not possible to settle this debate here, it is worth noting that if the Privy Council Office is correct in its interpretation of the requirements of accounting officers, then the only change brought by the *Federal Accountability Act* is the legal obligation of accounting officers to appear before parliamentary committees.

Consequently, on this interpretation the specification of responsibilities in the Act has little real meaning because they are not held personally, and the responsibility of the accounting officer is simply to answer questions in these areas. On the other hand, as Parliament sets its own procedures and practices, it will be hard for senior public servants appearing before parliamentary committees to deny those committees their interpretation of the Act.

In order to avoid potential misunderstanding and even conflict due to these competing interpretations, it would be very useful for the executive, represented by the Privy Council Office, to work with parliamentary committees to develop a common understanding of requirements of the *Federal Accountability Act* for accounting officers and the expectations of parliamentarians for the appearance of accounting officers before committees.⁽³⁸⁾ Doing so could help to protect accounting officers from undue partisan attacks on their integrity and competence and at the same time provide parliamentarians a framework to evaluate whether accounting officers have met their responsibilities.

As noted earlier, there are a number of concerns about the adoption of the accounting officer model in Canada. Some of these concerns may be alleviated by the model put in place. For example, the Act does not rely upon a distinction between policy and administration, but instead it identifies a specific set of obligations for accounting officers. It also does not turn public servants into political actors, but asks them to answer questions before parliamentary committees about non-partisan matters of departmental administration. The Act is quite clear that the accounting officer operates within the context of ministerial accountability. However, increasing the visibility of senior public servants could lead to a more risk adverse public service, as they seek to avoid public criticism and censure. The “blame culture” encouraged by the media and some opposition parliamentarians could discourage risk taking and innovation. Despite these concerns, the accounting officer model should substantially clarify and improve accountability in Canada.

CONCLUSION

As was noted at the outset of this paper, it has long been recognized in Canada that accountability needs to be updated, or modernized, to take into account the new realities of public administration. The traditional doctrine of ministerial accountability can be used to evade accountability, especially when controversy arises over administrative mismanagement, because the size of government bureaucracy means that ministers are rarely personally involved in administrative matters. Additionally, many of the most important decisions are increasingly being made by a small group of political and bureaucratic individuals close to the Prime Minister, leading to what some

(38) Thomas Axworthy calls for a task force to develop an accountability code to provide standards to guide ministers, parliamentarians, and public servants in the operation of the accounting officer system. He makes this point in, “Everything Old is New Again: Observations on Parliamentary Reform,” Centre for the Study of Democracy, April 2008, p. 63. It should be noted that the Public Accounts Committee did attempt to work with the Treasury Board Secretariat, but it did not receive much cooperation. This is noted by Donald Savoie in *Court Government and the Collapse of Accountability in Canada and the United Kingdom* (Toronto: University of Toronto Press, 2008), p. 58.

might call “court government.”⁽³⁹⁾ When controversy over administrative mismanagement occurs, Parliament is unable to ascertain accountability because both ministers and senior public servants appeal to the ambiguity between their respective authorities and responsibilities.

The accounting officer model improves accountability by giving public servants an administrative space that they can occupy free from political interference. In return, senior public servants would be subject to a form of external accountability before parliamentary committees. Ministers are still able to make the final decision about administrative matters, but there is greater clarity in the responsibility for decisions. While this model has been in place in the United Kingdom for many years, it will take some time for Canadian public servants and parliamentarians to move beyond the notion that only ministers can have an accountability relationship with Parliament.

While Canada has begun the process of rethinking accountability, as the competing interpretations between the Privy Council Office and the Public Accounts Committee make clear, the discussion is far from over. Additionally, at some future point, Canada may wish to improve its model by making the dispute resolution procedure more transparent by allowing parliamentarians to know when ministers have decided to overrule the advice of their deputy ministers with respect to administrative matters, as is currently the case in the United Kingdom. At the same time, the United Kingdom may wish to put some of the responsibilities of accounting officers into legislation, which would place authority over the system into the hands of Parliament, rather than the executive.

Having accounting officers appear before parliamentary committees should improve the dialogue between Parliament and the professional public service, and strengthen the position of senior public servants over financial management within the government. At the same time, parliamentarians must be reasonable in their expectations and not seek to turn senior public servants into political actors. With time, this system should refocus the accountability arrangement between senior public servants, ministers, and Parliament in positive ways. Of course, we shall see what happens when the next controversy in government administration arrives and we find out who, if anyone, accepts responsibility and accountability, and what further improvements might be needed.

(39) This is the argument of Donald Savoie in *Court Government and the Collapse of Accountability in Canada and the United Kingdom*. Savoie outlines an ambitious reform agenda that includes both defining the role of the prime minister and establishing a distinct personality for the civil service in statute (p. 338).

Travel Costs

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|-----------------------|---|
| ASSOCIATION | Canadian Group of the Inter-Parliamentary Union (IPU) |
| ACTIVITY | Eighth Workshop of Parliamentary Scholars and Parliamentarians |
| DESTINATION | Wroxton, United Kingdom |
| DATES | 26-27 July, 2008 |
| DELEGATION | |
| SENATE | The Hon. Donald H. Oliver, Q.C. |
| HOUSE OF COMMONS | |
| STAFF | |
| TRANSPORTATION | \$4,127.98 |
| ACCOMMODATION | \$ 814.68 |
| HOSPITALITY | |
| PER DIEMS | \$ 266.54 |
| OFFICIAL GIFTS | |
| MISCELLANEOUS | \$ 190.13 |
| TOTAL | \$5,399.33 |