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# Reflections on the Gomery Report and Accountability

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by Hon. Warren Allmand

*The report of the Commission of Inquiry into the Sponsorship Programme headed by Justice John Gomery and the Accountability Act introduced by the Conservative Government in April 2006 have reshaped discussion of public administration in Canada. This article looks at some of the proposals in these two documents and suggests that even more is needed to redress the imbalance between Parliament and Government.*

In his second report Justice Gomery asked where was Parliament when the corruption uncovered by the Auditor General in relation to the sponsorship programme was taking place. Why were MPs not able to spot this and stop it at an early stage. "Where were the MPs when sponsorships were swallowing hundreds of millions of dollars. Do they not have the right and duty to watch over government spending of public funds in all circumstances."

He then examined Parliament's ability to hold governments accountable and in particular he looked at the committee system, the process for examining the estimates, the budget process, question period. Generally he found them all wanting.

But he only made a few recommendations to resolve the problems he found. He said we must redress the imbalance between the resources available to government and those available to parliament by substantially increasing funds for parliamentary committees so they can be more effective in holding governments accountable. He said this was particularly important for the Public Accounts Committee. He recommended that members of

that committee be appointed for the entire Parliament to provide stability and increased expertise. He said the Public Accounts Committee should require deputy ministers and agency heads to testify before the committee. He said that the Register of lobbyist should report directly to Parliament. He said the *Parliament of Canada Act* should be amended to create a parliamentary budget office under the Library of Parliament similar to the American Congressional Budget office. It would provide objective analyses of the nations finances and economy as well as cost estimates of private members' bills.

In my view what was proposed is an improvement but it does not do not do very much to redress the imbalance and to give parliament some clout in demanding accountability.

Let us look at the estimates or supply process. Each spring they are prepared by the government in three large books which are supposed to contain all the governments spending proposals with separate votes for all departments and agencies. Too often the description of the votes are so general that it is difficult to know what they specifically cover. For example Justice Gomery noted that the Sponsorship Programme was never specifically mentioned in the estimates so it was probably funded under some obscure heading such as national unity or federal provincial relations. It was never identified as a new programme and there was no information on what the programme was supposed to do.

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When I first came to Parliament in 1965 estimates were dealt with in the House of Commons by a committee of the Whole House. The minister would come into the chamber with his officials and they could be grilled by any member of the government or opposition. They had to listen to speeches on their various spending proposals or lack of spending and had to deal with motions to delete items of spending. All of this went on under the eyes of the national press gallery. There was no time limit on this process and the opposition could and did hold up the spending for months until they got satisfactory answers. Very often Parliament sat into the summer with extended hours until the estimates were approved. So in a way the Commons effectively controlled the public purse thus maintaining the old dictum that there could be no supply without addressing grievances.

This system was not perfect but it gave Parliament some real power vis a vis the government. All this ended in 1969 when the rules were revised and Parliament sent all estimates to the appropriate standing committees. The Government submitted the estimates to committees by March 1 with the provision that they had to be returned by May 31 or else they were deemed approved on that date. It was argued this would provide for more effective scrutiny of government spending but in fact it did not.

While standing committees could and did call Ministers, officials and experts to testify on the estimates there were problems. For example the Committee often had to deal with important legislation at the same time and, as a result, the estimates were ignored. When I was chair of the Justice Committee we were dealing with gun control, reform of the correctional institutions and major amendments to the *Criminal Code*. There was not much time to look at the estimates. Other committees were in the midst of high profile inquiries when the estimates were sent to them.

Even when there was no legislation or inquiries, the estimates are very complex and without expertise the members could miss some important spending issues. On estimates there is a tendency to concentrate on high profile and immediate issues in the department rather than to dig for ways to bring changes to long term spending directions or find spending hidden in various places. Sometimes we were helped by research carried out by trade unions, bar associations, farm groups, academics or church groups. But usually May 31 arrives and little or nothing has been done to examine the estimates. They are deemed adopted.

In return for this new procedure the opposition was given a certain number of opposition or supply days in the House of Commons to be used to examine any topic

they choose. But in my view these have proved inadequate as a way of reviewing the estimates or providing proper accountability.

It is easy to see how unbalanced the system is. The government spends at least a whole year with many departments and thousands of civil servants preparing the estimates but Parliament has only a few months and a few experts to challenge and analyze the spending proposals. This was made worse when Parliament shortened its hours first by eliminating night sittings and then providing for a week off every month for constituency work. There are also now fixed dates for Christmas, Easter and summer adjournments. The result is that more time is spent on constituency work and less time is available for parliamentary work in general and on the estimates in particular. When I first came to Parliament we sat three nights a week, Monday, Tuesday and Thursday and there were no fixed dates of adjournment. There was no week off every month to go back to the constituency.

The Gomery recommendations for more resources are good ones both for the examination of estimates by committees before their approval and for the public accounts committee to audit the actual spending after the fact. But it is not enough. Nor is the proposal for a parliamentary budget office. Why should this office not be able to cost government bills? Why only private members bills? There is no official estimate of the cost of the *Accountability Act* itself although there have been private estimates that the access provisions alone could cost 120 million dollars. In my view we will not get proper scrutiny of government spending by Parliament unless the following additional changes are made.

- First, the May 31 deadline should be dropped or substantially extended.
- Second, any new spending programme should be specifically listed and highlighted.
- Third, the standing committees should have wider powers to call witnesses and obtain documents including the right to call deputy ministers and senior civil servants whether the minister likes it or not.
- Fourth, Committees should consistently sit when the house is not sitting and MPs should be paid extra for doing these sittings.
- Fifth, there should be wider power to move concurrence in committee reports in the House of Commons.
- Sixth, caucus research budgets should be spent on legislation and estimates research and not on communications or political promotion.

It is especially important that government caucus resources be controlled by backbenchers and not by the

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PMO and the whip. A government caucus should critically examine proposed spending and legislation internally behind caucus doors and thereby keep the government out of potentially hot water by bringing critical issues to light before the opposition gets hold of them.

That is how it was in the late 1960s and 1970s. When I came to Ottawa in 1965 Prime Minister Pearson appointed the caucus chairman but this changed in 1967 with the election of the Caucus executive by secret ballot. Thus the executive represented the backbench and not the ministry. In the 1970s when it was decided that the caucus would be given research funds those resources were controlled by the caucus executive not by the PMO and the whip. But this changed when the Liberals came back to power in 1993 and the PMO began exercising more control over the government backbench. This was unfortunate for it reversed the trend of having a government caucus challenge its own ministers and get second opinions on certain issues.

Of course there have been other measures that have given greater powers to the PMO. For example you cannot get nominated as a candidate unless the leader signs your nomination papers. The submission of screened lists to the Speaker for question period and debate gives more power to the whips and party leaders. And of course changing committee chairs and members to get rid of those who seriously question the governments programme is a tried and true practice as is the setting up of special or legislative committees to by-pass standing

committees which might have more expertise and might challenge the government more effectively. All of this was to give more control to the government and prevent greater scrutiny.

Let me conclude with an issue that is raised by both Justice Gomery and in the federal *Accountability Act* – the need for appointments to be made on the basis of merit rather than for partisan reasons. Of course appointments should not be made on the basis of party loyalty or partisanship. Of course merit and expertise are paramount. But there is also a need for concern, commitment and enthusiasm for certain policy goals. As Solicitor General I would not have wanted a Deputy Minister who favoured the death penalty or who opposed gun control. As Minister of Indian Affairs I would not have wanted a Deputy who did not believe in a aboriginal rights. Governments are elected to implement certain policies and you want senior civil servants who have some passion and enthusiasm for these policies. The bureaucracy should give you the pros and cons on policy proposals but they should not surreptitiously delay or try to bury your goals and projects.

It is easy to agree with the goals in the *Accountability Act* but I hope we do not think that by adopting it we have done all that needs to be done to redress the imbalance between Parliament and government. It is important not to rush such an important and voluminous bill through Parliament. These are complex and difficult issues. They deserve our attention and that of all parliamentarians and students of parliamentary government.