
Parliament and Public Money: Players and Police

by David A. Good

This paper begins from the premise that until Parliament increases its ability to influence the Estimates and the supply process, real scrutiny and accountability of government will be impossible. It reviews the record of frustration for parliamentarians in the scrutiny of the Estimates and suggests some reforms that might allow parliamentarians a greater role in this area.

The Estimates are, of course, about public money. And public money talks. It speaks to the great public purposes of society and the way governments pursue them. It also speaks to the concerns – both real and fabricated – of citizens, taxpayers, Members of Parliament, agents of Parliament, and the media about the way public money is spent or misspent. Matters of public money are filled with great promises and fraught with deep disappointments.

Most parliamentarians, expert observers, and other Canadians believe that Parliament is not effective in holding governments accountable for how they spend taxpayers' money. The former House of Commons Clerk Robert Marleau has observed that the Commons has "almost abandoned its constitutional responsibility of supply".¹

Parliamentarians however, have not been sitting on their hands waiting for the accountability police to round up the local suspects. Quite the contrary, over the last few years Parliamentarians have produced some very important, but not widely read reports. They include:

- *The Business of Supply: Completing the Circle of Control*, 1998

- *Meaningful Scrutiny: Practical Improvements to the Estimates Process*, 2003
- *The Parliament We Want: Parliamentarians' Views on Parliamentary Reform*, 2003.

These reports have and are sparking discussion and debate for change. But the problems are longstanding and appear to be getting worse. Let me briefly review some history.

A Record of Frustration

Years ago a royal commissioner on the public service observed: "Supplies are duly voted in the customary course, often at the end of the session in the small hours of the night by jaded members in a tired House...". The resulting royal commission report concluded that parliamentary control over the government's proposals for expenditure was "negligible".² This was 1908.

One Member of Parliament, while fully engaged in debate on supply put the matter rather eloquently:

There is no adequate procedure by which we may put ourselves in a position to deal intelligently with the amounts submitted to us for our approval. Year after year, and this year again, I have heard criticism of the government for having the estimates dealt with so late in the session and in such large amounts. But no matter at what time they are dealt with, the weakness I suggest would still be there. I am going to vote that this item before us be approved by the committee, but I am not in a position to judge whether or not the amount asked for, or

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an amount somewhat less, might be sufficient to carry on adequately and properly the work of the department.³

That was 1943.

A leading student of Parliament summarized the criticisms of Parliamentarians: "There is no part of procedure in the Canadian House of Commons which is so universally acknowledged to be inadequate to modern needs as the control of the House over public expenditure".⁴ That was 1962 and that was W. F. Dawson. "...the record of the Canadian House of Commons in the scrutiny of executive expenditures is not good".⁵ That was 1962 and that was Norman Ward in his classic book, *The Public Purse*.

Parliamentarians have described the process of supply as "time consuming, repetitive, and archaic" with claims that it does not permit effective scrutiny of the Estimates, does not provide the House with the means of organizing meaningful debate, and fails to preserve effective parliamentary control over expenditure.⁶ That was 1968, before the supply procedures were substantially amended for the first time in over a century.

Twenty-five years after the procedures were amended, the chairpersons of all standing committees lamented that, "...MPs in a majority Parliament have effectively lost the power to reduce government expenditure." They went on to explain that, "Members are therefore making the very rational calculation that there is no point devoting time and effort to an exercise over which they can have no influence".⁷ That was 1993 and since that time the pace of criticism has quickened.

Two years later in 1995, the situation as reflected by J. R. Mallory was that "from all sides the view is the same: the review of the Estimates is often meaningless".⁸ Members of Parliament reflected a profound degree of dissatisfaction about the Estimates, describing it as: "futile attempts to bring about change", "not a particularly useful procedure", and "a total waste of time".⁹

More recently, Parliamentarians have said that "the supply process is not taken seriously, is overly politicized, and Members of Parliament do not devote sufficient time and attention to the expenditure of public funds".¹⁰ That was in 1998. Some Parliamentarians have admitted that "they are simply overwhelmed" and that "the traditional notion of 'holding government to account' is no longer feasible". In their words "there are too many expenditures, too many reports and too many departmental programs to review...."¹¹ That was 2003.

This is not a happy state of affairs. Underlying these criticisms by MPs, there are also historical reasons and traditions to explain why, in parliamentary systems of government, legislatures have played very limited roles in influencing the budget and the Estimates. There are at

least three reasons for this.¹² First, dating back to the Magna Carta in 1215, the King's own income was co-mingled with public tax revenue. To separate the King's money from the public's money and to ensure that it was spent only on authorized purposes, Parliament devised the tactic of voting appropriations near the end of the session after the King had already spent some of his money.

Overtime with appropriations being voted after the fiscal year was underway, Parliament came to merely endorse spending that had already occurred.

Second, the adoption of a standing order in the British Parliament in 1706 codified a practice that exists to this day, namely, "the House shall not accept any petition for any sum of money ... unless upon recommendation of the Crown."¹³ The purpose of appropriations was to restrain the Crown and it made no sense for the Commons to vote money that had not been requested. Parliament was therefore barred by the standing order from initiating expenditure and by the reality of politics from denying requested funds. Its power over the public purse was greatly reduced.

Third, the formalization and institution in eighteenth century England of what today we know as the budget – a comprehensive statement of revenue and expenditure – altered the balance of financial power between government and legislatures. Ministries of Finance became responsible for developing the government's budget through a reach and a process that extended to all government departments. The result, the government knows a great deal about what is in and behind a budget and the legislature knows very little, with the consequence that legislators rarely acquire a deep understanding about how public money is spent or the implications of appropriating more or less.

What do we draw from all this? Even if we were to assume that MPs are only half right in their self-criticisms and that our historical perspective has been distorted through the dust and clutter of time, it is clear that the system is crying out for change. What then can be done?

Incentives for Change

The occasion of a minority Parliamentary in Ottawa could provide an opportunity to bring about change. Indeed, some view minority government as "the best accountability control mechanism ever devised on

paper.”¹⁴ Many of the liberal MPs, who just over a year ago were most vocal as backbenchers about the need to improve the supply process now occupy important positions in Cabinet. Experienced opposition members are very active in Parliamentary Committees, which they now control. Indeed the Estimates and the supply process in the context of minority government provide the opportunity for creating both “political mischief” and substantive change. The mischief can be expected to take many forms – cutting the salary of the head of a crown corporation, scaling back the operating expenditures of a government agency or commission, reducing the expenditures of a departmental program that has been drawn into question by the Auditor General. Some mischief cannot be avoided. The trick however will be to harness the mischief to bring about real change and not simply to score debating points and create political embarrassment.

When it comes to accountability, the most fundamental point to remember is this: the accountability process under our form of responsible parliamentary government is, by design, partisan and adversarial. It assumes that there is no technical substitute for democratic politics. In other words, public accountability cannot simply be turned into a professional management process of audits and performance reports of public money that simply speak to technical, objective matters.¹⁵

The keys to reforming the Estimates and the supply process do not singularly lie in more reports and documents (which has been the approach over the past several decades).

The simple truth, that many find too shameful to admit is this: departments do not prepare performance reports that will embarrass their ministers and opposition MPs do not use departmental performance reports because they do not embarrass the ministers.

Some argue that if independent agents produced independent performance reports, Parliament and its Committees would more fully and responsibly use them. Perhaps, but this begs the more fundamental question of what is the incentive for Parliamentarians to use performance and budget information to actually affect the contents of the Estimates. The answer, to date, is very little. The objective therefore should not be to strengthen the

role of the independent agent of Parliament. The Auditor General, with value for money auditing is already quite powerful. Rather it should be to give Parliamentarians an incentive to use performance and budget information to actually influence the contents of the Estimates.

Currently when standing committees deal with the Estimates they can reject the Estimate, reduce it, or they can simply approve it. In majority government, the first two options are highly unlikely. Even in minority government, reductions in proposed expenditures have been rare and minuscule.¹⁶ As explained earlier, Committees’ ability to influence the Estimates is further constrained by constitutional provisions stipulating that only the Government can introduce or recommend the appropriation of money out of public revenues.

I believe that Committees and their members would have greater incentive to focus on the Estimates if they could propose modest reallocations, that is, reductions to an expenditure in one area coupled with an increase in another. How might this work? It could be accomplished through one of two ways. One way would be for the Government to indicate with the tabling of Estimates that it is prepared to accept, under certain conditions, limited reallocations proposed by committees. Another way to facilitate reallocation would be for the government to move to a single vote in the Estimates.¹⁷

A number of conditions would be important to ensure sufficient incentive for some substantive consideration of the Estimates while avoiding excessive political gamesmanship. I would suggest the following. The committee would have to explain its substantive reasons and provide clear evidence for reducing one area of expenditure and increasing another. The size of the proposed reallocations should be limited (for example, 3% of the voted expenditure). Committees would be restricted to reallocations within the Estimates of the departments under their scrutiny. And finally, should the government not wish to follow the recommendations of a Standing Committee it would be required to provide substantive justification that matched the committee’s own recommendations and to table a motion in the House restoring the reduction. Some will no doubt be sceptical of this change in the handling of the Estimates since it is a significant departure from current practice. Therefore, it should be instituted for a time limited period and reviewed thereafter.

In addition, there is the important matter of the confidence convention in our Parliamentary government – for the government to continue it must enjoy the support of a majority in the House. Some observers have emphasized that the lack of interest in the Estimates is rooted in the confidence convention which, as currently interpreted

makes any motion to change a vote as a potential test of the House's confidence in the government.¹⁸ There is, of course, good reason to treat the government's budgetary and expenditure policy and the process of supply as matters of confidence. However, it should be possible for some relaxation of the confidence convention as it applies to individual parts of the larger budget and Estimates. For example, the government could announce in advance that it would not consider a defeat of a particular vote to constitute a loss of confidence. Alternatively, the government retains the discretion to identify the elements of their expenditure proposals they consider to be crucial and therefore requiring confidence.

Some will argue that Parliamentary committees lack the fundamental expertise to shift money from one program to another. Others will argue that the limited time for committee review of the Estimates is insufficient to develop an adequate understanding of the implications of transferring resources within a department's budget. Information of all sorts can and is provided to Parliamentary Committees if the demand for it is there. From my experience nothing produces higher quality and more relevant program and budget information, than the threat that an expenditure level might be changed. Without the ability to actually change the expenditure of a department there is little or no incentive for Parliamentarians to systematically demand expenditure and program information.

Experience has indicated that when it comes to matters of the Estimates the time worn cliché "if we build it, they will come" is wrong. Building edifices of more information is not a necessary and sufficient condition for improving Parliamentary scrutiny of the government's expenditures. Rather the new cliché should become "if they can play, they will come".

The ability to change proposed expenditures, even in a small way, is what is required for Parliamentarians to have incentive to more meaningfully scrutinize departmental expenditures.

Incentive itself however may not be enough. Indeed there are two further reasons why Parliamentarians may not spend much time on the Estimates even with the prospects of making some modest changes. One argument centres on the complexity of the expenditure budget and the other on whether reallocation could ever be undertaken by a committee of members with divergent political interests.

There is much evidence to support the view that the complexity of the expenditure budget drives Parliamentarians even as Ministers to avoid regular in depth scrutiny of the Estimates. A highly respected, former Deputy Minister observes:

When I was Deputy Secretary, Program Branch of the Treasury Board the spring review of departmental program forecasts was a huge undertaking. After staff of the branch had completed their analyses, I would sit down with them for weeks of briefings during the course of which we made decisions about hundreds of millions of dollars - this was a legitimate 'A budget', that was not, and so on. At one point I became uncomfortable about Ministers playing no role in what we were doing, so I organized a presentation about how we had handled the submission of a particular department. After Treasury Board Ministers had listened for perhaps half an hour the President said, 'Well this all sounds pretty sensible. Now lets move to the next item on our agenda.' He was quite right; there was other business that had to be attended to, and it was out of the question that Ministers would spend weeks reviewing submissions that we had already reviewed. If Treasury Board Ministers do not have time to get very far into the expenditure budget, how much can we expect of Parliamentary committees?¹⁹

Twenty years later when I was Assistant Secretary in the Program Branch, I had a near identical experience with Treasury Board Ministers.

Whether Parliamentary Committees, consisting of diverse interests would ever be able to reach agreement on what to cut and where to allocate it to is a good question. Experience within government is instructive. Recall the 14 expenditure reduction exercises that took place in the Mulroney years. Before that the Liberals ran many "X budgets" as well. What virtually all of these exercises had in common was an emphasis on avoiding political controversy, so the cuts made were those that would be least visible: cut the capital budget, defer maintenance, temporarily freeze hiring, and so on. The 1995 "Program Review" budget was the exception that proves the rule. It was prepared in an atmosphere of impending financial crisis, which made politically possible the elimination of expenditures that had previously been regarded as too sensitive. No such atmosphere prevails today. And even if it did, it is difficult to imagine that a Parliamentary committee composed of four parties with very divergent interests would be able to agree on serious reallocation from one program to another. What they might more likely agree upon would be minor, symbolic reallocations, politically designed to bring attention to an area of particular public concern such as gun registry or the dealings of a particular crown corporation.

The recent recommendation of the Standing Committee on Government Operations and Estimates and the subsequent decision by Parliament to reduce the budget

of the Governor General by 10% in the first quarter of fiscal year 2004-05 indicates that Members of Parliament with divergent political interests can reach agreement. There can be little doubt that the impetus for this \$400,000 cut was politically motivated. It was to send a signal from a group of seemingly beleaguered MPs to the Governor General that she should be more prudent in her public expenditures in the aftermath of extensive publicity about her international tours and, just as important, to indicate to the government that Parliamentarians on all sides of the House can come together to change an expenditure level when they perceive the groundwork of public support has been sufficiently prepared. Similarly there is little doubt that the reduction will have an effect on the programs and operations of the office of the Governor General. The Office of the Secretary of the Governor General announced that it was attempting to "minimize the impact ... on Canadians" through the cancellation of a program to encourage Canadians to nominate citizens for national honours, the cancellation of research for an educational exhibit, the cancellation of professional training courses for staff, the postponement of plans to modernize office equipment and facilities, and in an ironic twist, the cancellation of the annual winter celebration for Parliamentarians, the diplomatic corps, and the media.²⁰

To Conclude

Allowing Parliamentary Committees to propose limited reallocations to expenditures within the Estimates is hardly a solution to all that inflicts Parliament. In the business of accountability and scrutiny of democratic government there can be no single easy solutions. To be sure politics will be an important force behind "the play" of Parliamentarians on expenditure reallocations. In some occasions, probably most, politics will override performance. It cannot be otherwise. But as Parliamentarians have greater incentive and tools to affect expenditure allocations, there should be more real scrutiny of the Estimates by Committees and hence greater effective accountability of government expenditures. By the same token as Parliamentarians become players and not just police they might take on a new measure of accountability and responsibility for their own actions and inactions.

Notes

1. *The Hill Times*. No. 625, "Legislative Process", February 18, 2002. Robert Marleau was Clerk of the House of Commons from 1987 to January 2001.
2. *Report of the Royal Commission on the Civil Service*, Sessional Paper No. 29a, 1908, p. 2.
3. *Debates*, 1943, pp. 5382-3.
4. W. F. Dawson, *Procedure in the Canadian House of Commons* (Toronto: University of Toronto Press, 1962) p. 211.
5. Norman Ward, *The Public Purse: A Study in Canadian Democracy* (Toronto: University of Toronto Press, 1962) p. 275.
6. See *Journals*, December 6, 1968, pp. 429-31.
7. Report of the Liaison Committee on Committee Effectiveness, *Parliamentary Government*, No. 43, June 1993, p. 4.
8. Comments from J. R. Mallory citing a passage from the Lambert Commission Report in *First Sessional Report*, Meeting No. 8, November 30, 1995, p. 8:2.
9. House of Commons, *The Business of Supply: Completing the Circle of Control*, Report of the Standing Committee on Procedure and House Affairs, December 1998, p. 16.
10. *Ibid.*
11. Carolyn Bennett, Deborah Gray and Yves Morin, *The Parliament We Want: Parliamentarians' Views on Parliamentary Reform*, (Ottawa. Library of Parliament, December 2003) p.13.
12. See Allen Schick, "Can National Legislatures Regain an Effective Voice in Budget Policy?" *OECD Journal of Budgeting*, Vol. 2, No. 3, 2002, pp. 15-43.
13. *Ibid.*
14. Speech by Robert Marleau to the *Symposium of the Association of Professional Executives of the Public Service of Canada*, Ottawa: October 6-7, 2004.
15. See Peter Aucoin and Mark D. Jarvis, *Accountability in Democratic Governance and Public Management: A Framework for Understanding the Canadian System*, Draft paper prepared for the Canada School of Public Service, August 2004.
16. In 1972-74, with a minority government, Parliament made two reductions in expenditure amounting to only \$20,000, a minuscule amount compared to the overall budget. See *The Business of Supply: Completing the Circle of Control*, p. 29.
17. See *The Business of Supply: Completing the Circle of Control*, p. 30.
18. See for example, Auditor General of Canada, *Annual Report to the House of Commons*, 1993, p.19.
19. Arthur Kroeger. E-mail letter to the author, November 16, 2004.
20. Office of the Secretary to the Governor General. *News Release*, December 24, 2004.