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**A Question of Confidence: Parliamentary Scrutiny of the  
*Estimates* of the Government of Canada in Theory and Practice**

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The Canadian Study of Parliament Group (CSPG), as part of its efforts to foster knowledge and understanding of Canadian parliamentary institutions, is sponsoring the annual National Essay Competition. College and university undergraduate and graduate students in any discipline across Canada are invited to submit essays on any subject matter broadly related to Parliament, legislatures or legislators. The winning essays are made available free of charge, in both official languages, on the CSPG Web site. The views and opinions contained in these papers are those of the authors and are not necessarily reflective of those of the CSPG.

## Essay

### **Introduction**

In his seminal treatise *The Parliament of Canada*, C.E.S. Franks asserted that three essential functions of Parliament are to “make a government, that is, to establish a legitimate government through the electoral process; ...to make a government work, that is to give the government the authority, funds, and other resources necessary for governing the country,” and to “make a government behave, that is, to be a watchdog over the government.”<sup>1</sup> Parliament thus forms and enables the government to act through the approval of legislation and spending authority. The government is consequently responsible to Parliament for its actions and its use of financial and non-financial of authority, and Parliament, in turn, acts as a check on the government, and must hold it to account for its actions and inactions.

In their article entitled “Modernizing Government Accountability: A Framework for Reform,” scholars Peter Aucoin and Mark Jarvis noted that the basic architecture of accountability in the Canadian parliamentary system is governed by the convention of responsible government.<sup>2</sup> They argued that accountability under the convention of responsible government in the Canadian system is effectively a “two-sided process,” in which the government is “responsible to the House of Commons for the exercise of the powers of government,”<sup>3</sup> and is required to render an account of its actions and decisions, while Parliament is required to exercise democratic oversight and hold the government to account.<sup>4</sup> As asserted by Aucoin, the “holding to account” part of the accountability process is the most important part of the two-sided process of accountability,” as it ultimately allows the accountability process to be effective.<sup>5</sup>

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<sup>1</sup> C.E.S. Franks, *The Parliament of Canada*

<sup>2</sup> Aucoin, Peter, and Mark Jarvis. *Modernizing Government Accountability: A Framework for Reform*. (Canada School for Public Service, Ottawa, 2005) 8.

<sup>3</sup> Aucoin, Peter, Jennifer Smith, and Geoff Dinsdale, “Responsible Government.” *Responsible Government: Clarifying Essentials, Dispelling Myths, Exploring Change*. (Ottawa: Canadian Centre for Management Development, 2004) 11.

<sup>4</sup> Aucoin, Peter. “Improving Government Accountability. *Canadian Parliamentary Review*. Vol. 29:3 (2006) 25.

<sup>5</sup> Aucoin, 26.

Under the convention of responsible government, the government may govern “only as long as it has the confidence of a majority of elected MPs.” Certain items, such as the *Budget* and *Main Estimates*, are automatically deemed to be confidence issues. If the government fails to maintain the support of Parliament on an item of Confidence, then it must either resign or hold a general election.<sup>6</sup> It is increasingly evident, however, that while the *Estimates* are automatically a matter of confidence in theory, in reality they are not treated as such, as parliamentary scrutiny over matters concerning the Business of Supply is both weak and limited in scope. This was underscored by Robert Marleau, a former Clerk of the House of Commons, when he argued that “House of Commons has two basic roles, and that is to pass legislation and supply. It has, in my view, over-focused on legislation in the last 25 years and almost abandoned its constitutional responsibility on supply.”<sup>7</sup>

Suggested causes of the decline in parliamentary scrutiny over the *Estimates* relate to the exponential growth of government, a history of majority parliaments, the lack of visibility of *Estimates* and committee work, and the changing role of parliamentarians. Notwithstanding these causes, however, is the fact that the accountability architecture under the convention of responsible government demands that the government maintain the confidence of the House of Commons. Indeed, Aucoin and Jarvis argue that responsible government in the Westminster system “depends largely on the robustness of parliamentary scrutiny in holding ministers to account,” and suggest that “without robust parliamentary scrutiny the system can easily slide into what commentators like to label an ‘elected dictatorship.’”<sup>8</sup> The lack of parliamentary scrutiny over government expenditures thus raises serious concerns about Parliament’s ability to ascertain whether the government deserves the confidence of the House under the convention of responsible government.

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<sup>6</sup> Aucoin, Smith, and Dinsdale, 13.

<sup>7</sup> Curry, Bill. “The Legislative Process,” *The Hill Times*. No. 625, February 18, 2002. Robert Marleau was Clerk of the House of Commons from 1987 to January 2001.

<sup>8</sup> Aucoin and Jarvis, 72.

In order to ensure the effectiveness of the convention of responsible government in Canada, the basic architecture of accountability must be strengthened so that Parliament may properly exercise democratic oversight under the convention of responsible government. As such, modifications to current parliamentary procedures and additional support to parliamentary committees are necessary in order to enhance Parliament's capacity to hold the government to account. In light of this, it is recommended that the current review of departmental *Estimates* by the Committee of the Whole be on a cyclical basis, and that it follow a Question Period format. Secondly, it is recommended that parliamentary committees receive enhanced support from both the Library of Parliament and the Auditor General, and that committees be required to report their findings to Parliament in a substantive manner.

### **The Business of Supply**

Under the Westminster system of government in Canada, the authority to tax and spend money rests not with the government, but with Parliament. In accordance with the *Constitution Act* and *Financial Administration Act*, the Government must ask "Parliament to appropriate the funds required to meet its financial obligations and to implement programs already approved by Parliament."<sup>9</sup> Parliament has an immensely important role in enabling the government to act, as it is only upon the expressed permission from Parliament that the government may spend or invest funds.

In support of its request for funds from Parliament, the government is required to submit its "projected annual expenditures for parliamentary approval," known as the *Estimates*.<sup>10</sup> In other jurisdictions, a government's budget and detailed projected annual expenditures may be considered as one

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<sup>9</sup> Parliament of Canada. *House of Commons Procedure and Practice*. Edited by Robert Marleau and Camille Montpetit. (Ottawa: Chenelière McGraw-Hill, 2000) 714.

<sup>10</sup> Dupuis, Jean. "Appropriations and the Business of Supply." PRB 05-05E. Parliamentary Information and Research Service, Library of Parliament, 1 May 2004. <http://www.parl.gc.ca/information/library/PRBpubs/prb0405-e.htm>.

document.<sup>11</sup> In Canada, however, the *Budget* and the *Estimates* are separate documents with distinct parliamentary processes. The *Budget* is typically tabled in February, and identifies how the federal government plans to collect and invest taxpayer's money. It is held as a matter of confidence in both theory and practice. The *Estimates* detail the projected annual expenditures for both the government as a whole and individual departments and agencies. Although the *Estimates* are theoretically considered to be matters of confidence and scrutinized accordingly, in practice, scrutiny has been limited.

The *Estimates* are supporting documents that inform Parliament of the intentions of the government, and provide the basis of the annual appropriation act. As noted in the Second Report of the Gomery Commission, the purpose of the *Estimates* is effectively two-fold, as “they are major policy documents” which outline the financial priorities of the government, and specifically detail the “emphasis it has chosen to place on different programs, and how it has decided to respond to the needs and challenges facing Canada and the Canadian people.”<sup>12</sup> Parts I and II of the *Estimates* are combined into one document and include the *Government Expenditure Plan* and the *Main Estimates* of Departments and Agencies. They must be tabled annually in Parliament on or before March 1 in accordance with Standing Order 81 (4).<sup>13</sup> Part I of the *Estimates* outlines the total expenditures of the government for the upcoming fiscal year, and highlights at a whole-of-government level how elements of the *Estimates* relate to the expenditure plan established in the *Budget*. Part II of the *Estimates* directly supports the annual appropriation act and outlines the proposed “budgetary and statutory expenditures for all government ministries and agencies.”<sup>14</sup>

Known as the *Main Estimates*, Part II identifies the budgetary and non-budgetary spending authorities (Votes) and amounts that will be a line item in the appropriation act. The purpose of a Vote is

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<sup>11</sup> Government of Australia. “Budget 2006-07.” Department of Finance and Administration: Australia, 2006.

<sup>12</sup> Gomery, John. Commission of Inquiry into the Sponsorship Program and Advertising Activities. “Restoring Accountability.” (Government of Canada: Ottawa, 2006) 55.

<sup>13</sup> House of Commons. “Standing Order 81 (4)” Standing Orders of the House of Commons. Ottawa: House of Commons, 2005.

<sup>14</sup> Marleau and Montpetit, 728.

two-fold, as it defines the purpose and area in which a department is seeking authority to spend, and establishes a spending limit for each department in that specific area. In contrast to other jurisdictions, Votes may be considered individually in committees and in the House. As such, when an appropriation act is passed in Parliament, each Vote is effectively a “short statute authorizing a department or agency to spend money for a specific purpose,” and “the limit for payments to be charged.”<sup>15</sup> Given that each Vote authorized is effectively a contract between Parliament and the government, the government is unable to transfer money between Votes or to exceed the approved amount without seeking approval from Parliament through the *Supplementary Estimates* process, which enables departments to ask for either additional funds, or the reallocation of funds to meet specific program needs. Since each Vote acts as a limit to the government’s spending authority in a certain area, there is no requirement for the government to exhaust approved spending authorities.

Parts I and II of the *Estimates* are complemented by Part III, which include results-based background information about the priorities, plans and performance of departments. Part III of the *Estimates* was split into two sections in 1997, and includes both *Departmental Reports on Plans and Priorities* and *Departmental Performance Reports*. In these reports, departments identify the allocation of Votes to programs and expected and actual results. *Reports on Plans and Priorities* are produced by all departments, and detail their mandate, mission, strategic outcomes, and program activity statements. They must be tabled in the House of Commons on or before March 31<sup>st</sup>. In October, each department is required to produce a *Departmental Performance Report* detailing the department’s performance against their expressed plans and priorities.

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<sup>15</sup> Dupuis, Jean. “Appropriations and the Business of Supply.”

## Parliamentary Consideration of Supply - *A Priori* and *A Posteriori* Mechanisms

In her article entitled “Federal Government Spending: *A Priori* and *A Posteriori* Control Mechanisms,” Odette Madore identified methods through which Parliament is able to both scrutinize and control government spending before funds had been committed to in an appropriation act, while ensuring “propriety and the proper use of public funds” after the fact.<sup>16</sup> Madore indicated that *a priori* parliamentary control may be exercised through the review of the *Main and Supplementary Estimates* by Parliament and Parliamentary committees in both the House of Commons and the Senate, and through the approval of expenditure plans with the adoption of an appropriation act. *A posteriori* control, on the other hand, may be exercised through parliamentary review of the *Public Accounts of Canada, Departmental Performance Reports* and reports of the Auditor General.

Parliament exercises *a priori* control over public expenditures through the consideration of the Business of Supply on allotted days in the House of Commons and through consideration of the *Estimates* in parliamentary committees and the Committee of the Whole. The importance of this form of *a priori* control over public expenditures was affirmed by Justice Gomery in his Second Report, when he stated that the “*Estimates* are essential documents for control of the public purse” as the government may only spend what has been approved by Parliament through the *Estimates* process.<sup>17</sup> This control underscores the accountability relationship between Parliament and the government, as Parliament must expressly approve of the government’s financial intentions before it may withdraw money from the Consolidated Revenue Fund.

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<sup>16</sup> Madore, Odette. “Federal Government Spending: *A Priori* and *A Posteriori* Control Mechanisms.” PRB 05-50E. Parliamentary Information and Research Service, Library of Parliament, 7 February 2006. <http://www.parl.gc.ca/information/library/PRBpubs/prb0550-e.html>.

<sup>17</sup> Gomery, 55.

The House of Commons has a firm financial calendar under the Standing Orders of the House of Commons, which dictates tabling deadlines for certain reports such as the *Main Estimates*, and wherein a specific number of days are allotted for the consideration of the Business of Supply. These allotted days are designated as Supply days by the government, and are intended to be a key forum for *a priori* control of government expenditures, as they are derived from the tradition that “Parliament does not grant Supply until the opposition has had an opportunity to demonstrate why it should be refused.”<sup>18</sup> These Supply days are especially important in the accountability process, as “members of Parliament have an opportunity to question members, and to draw the attention of the public and the media to a range of financial issues and some of the government’s contested actions or decisions.”<sup>19</sup>

In addition to Supply Days, parliamentary Standing Committees and the House of Commons’s Committee of the Whole function as an *a priori* control mechanism over government spending. Once the *Main Estimates* have been tabled, they are automatically referred to standing committees of the House of Commons and the Senate Standing Committee on National Finance. Standing committees of the House of Commons have a mandate to consider the *Estimates* in detail, and may report back to the House or are deemed to have reported by May 31<sup>st</sup>. The value of parliamentary committee review of the *Estimates* should not be underestimated within the accountability structure of Parliament, as it allows parliamentarians to directly question and hold ministers and departmental officials to account for the plans, policies and performance of their department. Aucoin and Jarvis highlighted the importance of this review when they stated that “transparency, audit, review and questioning are central to accountability.”<sup>20</sup>

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<sup>18</sup> Marleau and Montpetit, 722.

<sup>19</sup> Madore, Odette. “Federal Government Spending: A Priori and A Posteriori Control Mechanisms.”

<sup>20</sup> Aucoin and Jarvis, 22.

In addition, parliamentary committee review of departmental Votes within the *Main* and *Supplementary Estimates* is a key point in which direct control over the public purse is exercised, as the approval of a departmental Vote authorizes the government to spend allotted funds in a particular area. Justice Gomery acknowledged the importance of *Estimates* review and approval when he stated that “each Vote in the appropriation acts forms the starting point for parliamentary control of the public purse. The government can spend funds only for the purposes and in the amounts approved by Parliament for each Vote.”<sup>21</sup> The House of Commons is also able to consider the *Main Estimates* of two departments or agencies in the Committee of the Whole in two four-hour sessions. As noted by Madore, “this in-depth review of the *Estimates* of two departments, in the presence of all members of Parliament and the ministers responsible, results in greater transparency and greater visibility of the *Estimates* review process.”<sup>22</sup> In theory, parliamentarians may exercise *a priori* control over the expenditure plans of the government through the consideration of the Estimates, in parliamentary committee sessions and the Committee of the Whole.

In addition to *a priori* control over the expenditure plans of the government, Madore indicated that *a posteriori* control may be exercised through parliamentary review of the *Public Accounts of Canada*, *Departmental Performance Reports* and reports of the Auditor General before both parliamentary committees and the House of Commons as a whole. *The Public Accounts of Canada* identify how the government has spent funds appropriated by Parliament through the *Estimates*, and whether the government has lapsed spending authorities. *Departmental Performance Reports* move beyond the traditional line-item consideration of government spending, include both financial and results-based performance information for each department for the previous fiscal year. Through *a posteriori*

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<sup>21</sup> Gomery, 54-55.

<sup>22</sup> Madore, Odette. “Federal Government Spending: A Priori and A Posteriori Control Mechanisms.”

consideration of the above-mentioned documents, parliamentarians may consider and hold the government to account for both the proper use of public funds and the effectiveness of spending decisions.

The Auditor General of Canada exercises *a posteriori* control over government spending and financial and non-financial reporting, as it conducts independent audits of the financial statements in the *Public Accounts*, attests to and audits the quality of select *Departmental Performance Reports*, and “conducts management audits on value for money, which often help identify areas where government systems and practices can be improved.” Reports of the Auditor General are referred to the Public Accounts Committee for scrutiny, and often receive a great deal of attention in the House of Commons and the media. In addition, the Auditor-General is often called to testify before parliamentary committees.<sup>23</sup>

*A priori* and *a posteriori* consideration of and control over government spending and financial and non-financial reports to Parliament may also be exercised through traditional accountability mechanisms and forums such Question Period and debates in Parliament. Aucoin and Jarvis have argued that an important aspect of Question Period as an accountability mechanism is that the government cannot control what occurs.<sup>24</sup> Theoretically a strong accountability relationship can exist between Parliament and the government, as there are several *a priori* and *a posteriori* mechanisms through which parliamentarians are able to consider and scrutinize the government’s proposed and actual expenditure and performance information.

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<sup>23</sup> Dupuis, Jean. “Appropriations and the Business of Supply.”

<sup>24</sup> Aucoin and Jarvis, 73.

## Parliamentary Consideration of Supply – Effectiveness and Reform

An historical review of the effectiveness of parliamentary consideration and *a priori* and *a posteriori* control over the *Estimates* reveals that there has been considerable dissatisfaction with the parliamentary scrutiny of Government expenditures since the early twentieth century. As explained below, part of this dissatisfaction with the *Estimates* process has stemmed from the exponential growth of government, procedural restrictions, the lack of visibility of *Estimates* and committee work, majority parliaments, and the changing role of parliamentarians. This has resulted in the adoption of several reforms in the *Estimates* process, including the referral of the *Estimates* to committees for review.

As noted in Marleau and Montpetit's treatise *House of Commons Procedure and Practice*, during the first century following Confederation the House of Commons was the main forum in which the Business of Supply was considered "in a Committee of the Whole House, called the Committee of Supply."<sup>25</sup> Until 1955 parliamentarians would consider and debate the *Estimates* collectively. Each *Estimate* was considered as a separate motion, and the introduction of each motion was considered an opportunity for a general and wide-ranging discussion of government and departmental policies. The limited size and scope of government operations in the early years after Confederation allowed all Parliamentarians to consider each *Estimate* (Vote) in great detail.

Detailed scrutiny became progressively difficult with the rapid growth and increased complexity of government operations after World War I, however. As noted by Library of Parliament analysts, "by 1950, a parliamentary process that remained in many ways essentially unchanged from that of 1867 was resulting in decisions about government spending levels that were 300 times greater than those of the 1860s, relating to a vastly more complex structure of programs and activities."<sup>26</sup> The 1968 Special Committee on Procedure and Organization described the pre-1968 Supply procedures in increasingly

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<sup>25</sup> Marleau and Montpetit, 714.

<sup>26</sup> Dewing, Michael, Alex Smith and Jack Stilborn. "Committees and Estimates: Powers, Performance and Possible Strategies." PRB 05-78E. Parliamentary Information and Research Service, Library of Parliament, 22 March 2006. <http://www.parl.gc.ca/information/library/PRBpubs/prb0578-e.htm>.

grave terms, arguing that they were “time-consuming, repetitive and archaic.” Moreover, as noted by Marleau and Montpetit, the committee argued that the

Procedures did not permit an effective scrutiny of the *Estimates*, did not provide the House with the means of organizing meaningful debate on pre-arranged subjects, had failed to preserve effective parliamentary control over expenditures and had failed to guarantee an expeditious decision on appropriation bills. The Committee found that the traditional Supply procedures were irrelevant to the realities of government in the present day.<sup>27</sup>

It is evident that significant reforms were necessary in order to allow Parliamentarians to fulfill their duty of democratic oversight.

Scholar Thomas Hockin observed that the history of parliamentary procedure in the House of Commons is a “chronicle of accommodations made by the standing orders and other regulations to continuing tension between the Government’s right to govern and the Opposition’s right to oppose, criticize and scrutinize.”<sup>28</sup> This sentiment is reflected in the major reforms to parliamentary procedure that occurred in 1968, as they sought to address the increasingly complex structure of government and the inability of Parliamentarians to consider the *Estimates*. Two objectives fueled the adoption of this reform: specifically, it was felt that substantive oversight of government spending would be improved when considered by Standing Committees, and debate within the House of Commons would be streamlined, as it was largely relieved of the time-consuming burden that the Business of Supply imposed.

These reforms to the procedures governing the consideration of the Business of Supply have not been without their consequences, however. While the intent was that Standing

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<sup>27</sup> Marleau and Montpetit, 718.

<sup>28</sup> Hockin, Thomas A. “Reforming Canada’s Parliament: The 1965 Reforms and beyond.” *The University of Toronto Law Journal*. Vol 6: 2. (1966): 328-329

Committees would be able to consider the *Estimates* in detail and hold the government to account, in truth, the actual attention to *Estimates* documents has been quite limited. In fact, as the Government Operations and Estimates committee noted in their report entitled “*Meaningful Scrutiny: Practical Improvements to the Estimates Process*,” parliamentary committees give “relatively cursory attention” to the *Estimates* and explanatory reports provided by the government each year. The report notes that

Each year, some 87 departments and other government organizations provide parliamentary committees with separate spending estimates and related reports, and many of these receive no formal attention in committee meetings... Consideration of the supplementary estimates... has been even less satisfactory.<sup>29</sup>

The lack of parliamentary attention to the Parts I and II of the *Estimates* is compounded by the fact that *Report on Plans and Priorities* and *Departmental Performance Reports* are only considered referred to standing committees for consideration, as opposed to actually being referred.<sup>30</sup> If parliamentarians are failing or are unable to fully utilize and scrutinize the *Estimates* documents in any detail, then a key element of the accountability relationship between Parliament and the government is undermined, as the government may not be fully held to account for expenditure plans. Moreover, the effectiveness of the confidence principle under the convention of responsible government is diminished, as parliamentarians are ultimately limited in their ability to hold the government to account for its expenditure plans and performance and to ascertain whether the government deserves the confidence of the House.

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<sup>29</sup> House of Commons, *Meaningful Scrutiny: Practical Improvements to the Estimates Process*. Report of the Standing Committee on Government Operations and Estimates, September 2003.

<sup>30</sup> House of Commons. “Financial Procedures: Estimates Documents” *Compendium of Procedure*. House of Commons: Ottawa, 2005. [http://www.parl.gc.ca/compendium/web-content/c\\_g\\_financialprocedures-e.htm#2](http://www.parl.gc.ca/compendium/web-content/c_g_financialprocedures-e.htm#2).

The limited attention given to *Estimates* documents is further compounded by the fact that parliamentary committees have become an ineffective *a priori* and *a posteriori* mechanism through which the government is held to account. In fact, a myriad of scholars have suggested that “with few exceptions, committees have not been effective in holding ministers or public servants to account,” as ministers rarely appear before committees, and when they do, “they are seldom pressured to render accounts.”<sup>31</sup> This too, points to a weakening of the accountability relationship between Parliament and the government, as parliamentarians have been unable to successfully utilize a key mechanism through which the government may be scrutinized and held to account for decisions. These issues raise serious questions regarding state of responsible government in Canada, as it is unclear whether Parliament is able to ascertain whether the government deserves the confidence of the House under the convention of responsible government.

As explored below, it has been suggested that the actual power and capacity of committees to scrutinize the government have been relatively limited for several reasons. Potential causes for the lack of scrutiny over the *Estimates* have included procedural and political constraints on the powers of committees, the need for greater resources to assist parliamentarians, and the high turnover and dearth of subject-area expertise among parliamentarians.

Under the *Constitution Act*, there are several procedural restrictions that restrict the ability of parliamentary committees to exercise *a priori* control over the *Estimates*. Specifically, under the principle of royal recommendation, only the Crown may initiate or recommend public expenditures, while Parliament may consider the recommended expenditure and may “either

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<sup>31</sup> Aucoin and Jarvis, 27.

authorize them or withhold authorization.”<sup>32</sup> This principle extends to the parliamentary committees, as they may “only approve, reduce or reject the *Main Estimates* that are referred to them – they may not increase them,”<sup>33</sup> and may not recommend that money be transferred from one Vote to another.<sup>34</sup> In fact, evidence from parliamentary committee sessions has indicated that many parliamentary committees are not considering *Estimates* Votes individually at all, but are considering the schedule of Votes as a whole. This recently occurred in a meeting of the Government Operations and Estimates Committee, when the Chair said “Do you want me to read through all of the votes? There are about five of them. I won't do them one by one. I'll do them by group.” The committee then proceeded to approve the Votes of six departments, totaling roughly five billion dollars, in less than three minutes.<sup>35</sup> Occurrences such as these must have been on the mind of parliamentarian Marlene Catterall, when she stated that “superficial consideration of spending estimates is really quite concerning.”<sup>36</sup>

The inability to recommend an increase or a transfer to an *Estimates* Vote has made it profoundly difficult for parliamentarians to have a meaningful impact upon the budgetary expenditures of the government in a committee setting. While parliamentarians are theoretically authorizing spending authorities through an appropriation act, in reality opposition members are often unable, especially in a majority Parliament, to force the government to be responsive to their concerns through either a reduction or rejection of a Vote. Thus, while the objectives of referring the *Estimates* to committees appeared “sound in principle, the actual results remain

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<sup>32</sup> Dewing, Michael, Alex Smith and Jack Stilborn. “Committees and Estimates: Powers, Performance and Possible Strategies.”

<sup>33</sup> Madore, Odette. “Federal Government Spending: A Priori and A Posteriori Control Mechanisms.”

<sup>34</sup> Dewing, Michael, Alex Smith and Jack Stilborn. “Committees and Estimates: Powers, Performance and Possible Strategies.”

<sup>35</sup> House of Commons. Government Operations and Estimates meeting, September 28, 2006.

<sup>36</sup> Boyer, J. Patrick. “Can Parliamentarians Become Real Players” *Canadian Parliamentary Review*. Vol. 27:3 (2004) 5.

disappointing,” as the impact of an opposition parliamentarian during the consideration and approval of the *Estimates* are limited under current parliamentary procedures.<sup>37</sup>

In his article “Parliament and Public Money: Players and Police,” David Good noted that committees are unlikely to reduce or reject an *Estimates* item in a majority situation, and “even in minority government, reductions in proposed expenditures have been rare and miniscule.”<sup>38</sup> Consequently, it is difficult for parliamentarians and parliamentary committees to express displeasure over the actions or policy of the government through alterations in spending authorities. In fact, during the 38<sup>th</sup> Parliament, reductions were only recommended for four Votes in the *Estimates*, as the Standing Committee on Government Operations and Estimates Committee reduced the Vote for the Governor General by \$417, 000, and the Vote for the Privy Council by \$127, 223. In addition, the Standing Committee on Foreign Affairs reduced the amount for Foreign Affairs by \$1, and the Standing Committee on Sustainable Development reduced the amount for the Privy Council by \$40,000. Each of these reductions was symbolic, and intended to express Parliament’s displeasure over certain actions of the government. Although the government intended to defeat these motions, they were each concurred in the House.<sup>39</sup> In light of the fact that the House of Commons is asked to consider roughly 200 Voted items on an annual basis, it is clear that if parliamentarians are displeased with the proposed *Estimates*, then they are either hesitant or unable to challenge them by suggesting a reduction in spending authority under the committee structure rubric.

The limited ability of parliamentary committees to influence the *Estimates* is further compounded by the fact that standing committees are “deemed” to have reported back to the

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<sup>37</sup> Dupuis, Jean. “Appropriations and the Business of Supply.”

<sup>38</sup> Good, page 19.

<sup>39</sup> Dewing, Michael, Alex Smith and Jack Stilborn. “Committees and Estimates: Powers, Performance and Possible Strategies.”

House of Commons by May 31, regardless of whether they have considered the *Estimates* or not. During the 38<sup>th</sup> Parliament only 30 reports were presented on the *Estimates*, representing only 11% of the 266 reports presented. This is exacerbated by the fact that “substantive recommendations or explanations are not accepted” within a report to Parliament on the *Estimates*, as such reports simply consist of the *Estimates*, whether amended or not.<sup>40</sup> If a committee does wish to make substantive comments, then they may present them in a separate report.

The procedural and political construct of the existing committee structure offers little room and few incentives for parliamentarians to engage with and “become real players”<sup>41</sup> in the scrutiny of the *Estimates*, as many are unable to have a meaningful impact on the Votes, and it is difficult to report on the documents in a manner that would resonate in Parliament and with the government. As such, Parliament lost a significant lever of control when the *Main Estimates* of departments were referred to committees, as it could no longer influence government’s priorities to the same extent, and many Parliamentarians lost the ability to voice their opposition to Parliament as a whole, and to reduce or alter government expenditures. Indeed, when the *Estimates* were referred to Standing Committees, “concerns were raised that, because the government was assured of eventually receiving the funds it requested, it would become unresponsive to opposition requests.”<sup>42</sup> It could be argued that this loss, combined with the lack of resources and a consistent membership, limited visibility of committee work, and the increasing demands on the time of parliamentarians have resulted in diminished attention to the

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<sup>40</sup> Dewing, Michael, Alex Smith and Jack Stilborn. “Committees and Estimates: Powers, Performance and Possible Strategies.”

<sup>41</sup> Boyer, 4.

<sup>42</sup> Dupuis, Jean. “Appropriations and the Business of Supply.”

*Estimates* as there are too few incentives for parliamentarians to engage in the “daunting”<sup>43</sup> and thankless task of scrutinizing the *Estimates*.

Parliamentarians and scholars of Canadian politics and public administration have asserted that the effectiveness of parliamentary committees is further reduced due to a lack of resources and the high turnover of parliamentarians on committees. Unlike other jurisdictions, parliamentary committees in Canada do not receive assistance from the Auditor General in examining expenditure plans, and only one or two analysts from the Library of Parliament are assigned to each committee for support.<sup>44</sup> This has an impact on the ability of parliamentarians to scrutinize the *Estimates* and the government effectively, as many lack the time and expertise to scrutinize the lengthy and complex documents, and must rely upon such assistance. Odette Madore highlighted the impact of well-resourced parliamentary committees on the level of parliamentary scrutiny and control over government expenditures when she asserted that “the extent of budgetary control exercised by Parliament depends on the analysis and research capacities available to parliamentary committees.”<sup>45</sup> This was reaffirmed in the recommendations by Justice Gomery in the Second Report of the Gomery Commission, when he praised the hiring of additional Library of Parliament analysts to assist in the scrutiny of the *Estimates*, and argued that the funding for committees should be increased.<sup>46</sup>

The changing role of parliamentarians has also impacted *Estimates* scrutiny, as many parliamentarians simply do not have the time for committee work when they could be fulfilling their representative responsibilities for constituents in a more visible forum. J.R. Mallory indicated that a parliamentarian may actually risk their political career if devote too much of

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<sup>43</sup> Dupuis, Jean. “Appropriations and the Business of Supply.”

<sup>44</sup> Madore, Odette. “Parliamentary Committee Review of Estimates Documents and Auditor General’s Reports in Australia, New Zealand and the United Kingdom.” PRB 05-27E. Parliamentary Information and Research Service, Library of Parliament, 24 August 2005. <http://www.parl.gc.ca/information/library/PRBpubs/prb0527-e.htm>.

<sup>45</sup> Good, David A. “Parliament and Public Money: Players and Police.” *Canadian Parliamentary Review*. Vol. 28:1 (2005)

<sup>46</sup> Gomery, 61.

their time to committee work while neglecting “more highly visible work on the floor of the House and in his constituency. As a consequence, there are never enough members available to become expert committee men.”<sup>47</sup> Madore reaffirmed how precious time is for parliamentarians when she indicated that many parliamentarians are divided between their oversight, law and policy-making and representative functions. Consequently, time-consuming committee work scrutinizing the *Estimates* does not rank very high on the radar of many parliamentarians, as they receive very little visibility or recognition for scrutinizing documents over which they can have little impact. As such, a primary function of Parliament and item of confidence is held as a subservient task in the eyes of many parliamentarians, as scrutiny of the *Estimates* does not directly address constituent concerns or contribute to developing a relationship between constituent and their Member of Parliament.

The lack of attention accorded to parliamentary scrutiny of the *Estimates* ultimately reveals a paradox present within our parliamentary system: Canadians want accountability, but “have little confidence that Parliament itself is able to secure that accountability,” as parliamentarians are so busy dealing with the concerns of constituents.<sup>48</sup> This paradox raises serious questions regarding Parliament’s ability to ascertain whether the government deserves the confidence of the House under the convention of responsible government, as “the scrutiny function of accountability is far down on their list of priorities, well behind playing a role in policy formulation and service their constituents in their contacts with government.”<sup>49</sup> If Canadians are unable to have full confidence in the ability of Parliament itself to hold the government to account for its expenditures under the convention of responsible government, then

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<sup>47</sup> Mallory, J.R. “Can Parliament Control the Regulatory Process.” *Canadian Parliamentary Review*. Vol. 6:3 (1983). <http://www.parl.gc.ca/infoparl/english/issue.htm?param=106&art=541>.

<sup>48</sup> Aucoin and Jarvis, 78.

<sup>49</sup> Aucoin and Jarvis, 26.

it may be argued that a key tenet of democratic legitimacy under the Westminster system is in jeopardy.

### **Renewed Calls for Reform to the *Estimates* Process**

Although many have argued that Parliament is not effective in holding the government accountable for proposed expenditures, there have been repeated and renewed calls for reform, and parliamentarians have offered suggestions on how to improve the content and scrutiny of *Estimates* documents. Indeed, as noted in *Meaningful Scrutiny: Practical Improvements to the Estimates Process*, “a great deal of work has been done in recent years in order to make Parliament’s traditional ‘power of the purse,’ or capacity to control government spending, more effective.”<sup>50</sup> In particular, the recommendations suggested by the 1998 report entitled *The Business of Supply: Completing the Circle of Control*, and the 2003 *Meaningful Scrutiny* report focussed on improvements to the level of support and incentives available to review the *Estimates* documents, and improvements to the committee structure and *Estimates* documents themselves. Some of these suggestions have been adopted through Phases I and II of the Improved Reporting to Parliament Project, which sought to improve both the content and timeliness of reports to Parliament.<sup>51</sup>

In spite of these improvements, however, parliamentarians and scholars have made persistent calls for additional reform.<sup>52</sup> Notably, recommendations from the *Business of Supply* report that dealt with committee reallocation of funds and the confidence convention have been reiterated, as scholars such as David Good sought to identify ways in which parliamentarians might participate in a more meaningful manner in the *Estimates* process. In the recommendations from the *Business of Supply* report, it was

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<sup>50</sup> House of Commons, *Meaningful Scrutiny: Practical Improvements to the Estimates Process*. Report of the Standing Committee on Government Operations and Estimates, September 2003.

<sup>51</sup> Government of Canada. “History of Improving Reporting to Parliament – Key Projects and Reports,” Treasury Board of Canada, Secretariat: Ottawa, 2006. [http://www.tbs-sct.gc.ca/rma/eppi-ibdrp/irp-arp/hist-hist\\_e.asp](http://www.tbs-sct.gc.ca/rma/eppi-ibdrp/irp-arp/hist-hist_e.asp)

<sup>52</sup> Good, 17-18.

suggested that parliamentarians should have the ability to reallocate without violating the confidence convention. In addition, it was recommended that the “standing committees studying the *Estimates* be permitted to report to the House proposing the reallocation of up to a maximum of 5 percent within each of the *Estimates* referred to them,” and that they “justify their proposals with evidence that is clear and supportable.” Moreover, it was suggested that the “Government invoke confidence sparingly with respect to Supply, and in particular, on allotted days when motions before the House are not directly related to supply and instances in which standing committees proposed reductions to their *Estimates*.”<sup>53</sup> While the ability to reallocate funds does at first glance appear attractive, it ultimately raises several concerns from both a budgeting and accountability perspective. From a budgeting perspective, the government could find that relatively uninformed and inexperienced parliamentarians are altering their expenditure plans in an erratic manner. This could ultimately limit the ability of the government to develop comprehensive and effective spending plans.

Moreover, while it would be convenient for many parliamentarians to modify the royal recommendation and relax the confidence convention in the area of the *Estimates*, the fact remains that the ability to reallocate a limited amount of funds may not in fact improve parliamentary scrutiny of the *Estimates*, but could have implications for the confidence convention under the convention of responsible government. Although Good is in support of the principle of reallocation, he does acknowledge that there is “good reason to treat the government’s budgetary and expenditure policy and the process of supply as matters of confidence,” but argues that “it should be possible for some relaxation of the confidence convention as it applies to individual parts of the larger budget and *Estimates*,” so that parliamentarians would be willing participate in the process.<sup>54</sup> While this is understandable, it may be worth exploring

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<sup>53</sup> House of Commons, *The Business of Supply: Completing the Circle of Control*, Report of the Standing Committee on Procedure and House Affairs, December 1998.

<sup>54</sup> Good, 20.

whether other methods of improving the visibility of *Estimates* review without setting the precedent of compromising the confidence principle.

In his article entitled “Accountability, Committees and Parliament,” Jean-Paul Gauthier argued that “Parliament's role of scrutiny of the financial cycle is on auto pilot,” and indicated that “More visible and effective accountability could go a long way” to improving this.<sup>55</sup> Although Gauthier was asserting that a culture of mutual respect needed to develop between parliamentarians and senior civil servants, his focus on “visible and effective accountability” is important, as it highlights the need for parliamentarians to appear as though they are participating in the accountability process in a meaningful manner.

It could be argued that the recent procedural adoption of the motion to consider the *Estimates* of two departments in the Committee of the Whole offers a visible forum in which parliamentarians are currently able to scrutinize the *Estimates*, and presents a valuable window within which reform could be achieved with little controversy. If the *Estimates* of a department were considered by the Committee of the Whole in an hour and a half long sitting in a format similar to that of Question Period, then parliamentarians would have a truly dynamic environment in which to grill the relevant Minister on the activities and performance of the department. In addition, if this review were cyclical, then the Minister of each department would ultimately be held to account before Parliament. Given that this reform would allow for increased visibility of parliamentarians in the *Estimates* process, and would avoid serious changes to the confidence convention, it is recommended that Parliament consider such a procedure.

Secondly, there have been renewed calls for enhanced support for parliamentary committees within the Gomery Inquiry, parliamentary committee testimonies before the Senate on the proposed *Financial Accountability Act*, and parliamentary information sessions on the *Estimates*. As noted by Peter Aucoin and Mark Jarvis, meaningful accountability in a parliamentary system is dependent on both the

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<sup>55</sup> Gauthier, Jean-Robert. “Accountability, Committees and Parliament.” *Canadian Parliamentary Review*. Vol. 16:2 (1993) <http://www.parl.gc.ca/infoparl/english/issue.htm?param=145&art=962>.

competence of Opposition in extracting account from ministers, and in the “robustness of the structures and processes of parliamentary scrutiny in the House and its committees.”<sup>56</sup> In order to support parliamentarians in extracting an account from ministers, it is recommended that parliamentarians and parliamentary committees receive significant amounts of additional support from the Library of Parliament and the Auditor General, so that they may effectively conduct their review of the *Estimates* within the limited time available to them. Finally, it is suggested that each committee be required to submit a brief commentary to Parliament detailing why it chose to pass, reject, or reduce the Votes in question. It is hoped that this would allow parliamentarians to contribute in a more meaningful way to the *Estimates* process, without providing the undue burden of conducting a full-fledged study.

## Conclusion

As previously noted, the fundamental genius of responsible government in the Westminster parliamentary system “depends largely on the robustness of parliamentary scrutiny in holding ministers to account.”<sup>57</sup> The current lack of parliamentary scrutiny over government expenditures raises serious questions regarding Parliament’s ability to ascertain whether the government deserves the confidence of the House under the convention of responsible government. If Parliament fails to fulfill its role as a watchdog over the government for matters of confidence, then an essential strength of the Westminster system of government in Canada is compromised, as Parliament would have failed to adequately maintain control over the “power of the purse.”

In order to ensure the effectiveness of the convention of responsible government in Canada, the basic architecture of accountability must be strengthened so that Parliament may properly fulfill its function of democratic oversight. In his recent testimony before the Legal and Constitutional Committee

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<sup>56</sup> Aucoin and Jarvis, 24.

<sup>57</sup> Aucoin and Jarvis, 72.

of the Senate in September 2006, Peter Aucoin asserted that there are no effective substitutes for Parliament in the accountability process, “while the media are essential, they are unable to act in an official capacity to undertake scrutiny of government.”<sup>58</sup> In order to ensure the sustainability of the convention of responsible government in Canada, modifications to current parliamentary procedures and parliamentary committee support systems are necessary in order to enhance Parliament’s capacity to hold the government to account and exercise control over the “power of the purse.”

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<sup>58</sup> Aucoin, Peter. Testimony to the Standing Senate Committee on Legal and Constitutional Affairs, September 5, 2006. [http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/lega-e/04evb-e.htm?Language=E&Parl=39&Ses=1&comm\\_id=11](http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/lega-e/04evb-e.htm?Language=E&Parl=39&Ses=1&comm_id=11)

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