

Parliament and the Political Executive

Notes for Remarks
by
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to
New Members of Parliament

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Introduction

- Professor Dockerty, Members of Parliament.
- I will begin by telling you how flattered I was to be asked to speak to you today. For me, this is a rare opportunity to talk about a subject that has long been dear to my heart – the relationship between Parliament and the political executive. (By the term ‘political executive’, I mean Ministers and the officials who support them.)
- As new MPs, you will soon find yourselves engaged in the work of House committees, the key forum – more so even than the House itself – where the business of Parliament intersects the business of government.
- Of course, as Parliamentarians you know that government is not just the responsibility of Ministers and their officials – it is *your* business too.
- But it is your business in a fundamentally different way than it is theirs.
 - Ministers hold their offices to *run* the business of government.
 - You hold elected office to hold them *accountable* – publicly accountable – for how they have done it; for what they have done with the money you voted for the doing of public business.
 - You are there to ask Ministers and officials about what they have *done* (that’s operations), and precisely *why* they have done it (that’s policy).
 - You are there to satisfy yourselves that what is being done with public money is what you as MPs intended *should* be done, and not something else.
 - You are there to ask about what has been accomplished with the money that has been spent – what *results* have been achieved.
 - In a nutshell, you are there to ensure that public money is being spent efficiently and to good effect, in accordance with the rules laid down by Parliament in the law, or by the government in its rules and policies.
- What you do as Members of Parliament in holding the government to account is fundamental to the functioning of our democracy.
- Our democracy needs a tune-up. In terms of accountability, it doesn’t work nearly as well as it should work. Or could work.
- That’s what I want to talk about today. I want to talk about:
 - What Members of Parliament can do, in committee, to strengthen democratic accountability through their dealings with officials.
 - And, what Ministers and officials can do to support a more effective accountability relationship to Parliament

Accountability

- This is a subject on which some very distinguished Canadians have strong views. In May of this year, for example, the Public Accounts Committee heard testimony from Patrick Boyer and Ned Franks.

- Mr. Boyer is a highly-respected former MP who has written widely on the subject of accountability.
- Professor Franks is from Queen's University. He is considered by many to be the authority on the Canadian Parliament.
- You can find their testimony on the web (May 6, 2004).
- Professor Franks holds the view that Parliament and Canadians would be better served if we were to acknowledge in our theory and our practice the idea that senior officials are directly accountable to Parliament for administration.
- Mr. Boyer holds a more traditional view of accountability – he does not favour direct accountability of officials to Parliament – but he is equally concerned over the huge gap between theory and practice in our system on matters of accountability.
- My own views on accountability are not entirely the same as these two experts, but our differences are more at the level of theory than day-to-day practice.
 - Certainly we agree that when officials come before committee, they are there to answer questions about the management of the programs for which they are responsible in the departments and agencies for which they work.
 - We also agree that, for a number of reasons, this fundamental relationship of question-and-answer in committee does not work effectively for Parliament and for Canadians. Indeed, it doesn't even work very well for officials.
- My key message for you today is that I think there are ways to make committees work better as a forum for democratic accountability.

What's wrong with Committees?

- You are entering a new Parliament in which the role of the Opposition and of individual Members will be as important as at any time in our history.
 - Obviously, the country is in a minority situation, with all that implies for the strong position of the Opposition on everything from House rules to voting on legislation.
 - In committees, the Opposition parties will have the majority, which opens the possibility of a number of Opposition Chairs of those committees, and generally of committee sessions where the Opposition, and not the Government, dominates the proceedings.
 - And the Government has made a public commitment to addressing what the Prime Minister has called the "democratic deficit".
- It's too soon to tell what all this will mean in practice, but the yardsticks have been moved, and the Opposition Parties will no doubt be interested in exploring how far they can go with their new circumstances and, perhaps, some new powers.
- The point is, it has never been a more interesting time to be a new MP – whichever side of the House you are on!
- I want now to focus my remarks on committees, the forum where all of you will be spending a good deal of your time over the next few years.

- As some of you may know, in recent years Committees have not worked as well as many Members would have liked:
 - Most MPs would say that committees have not functioned as useful forums for finding out about government policies and programs.
 - Most would say that committees have not been effective forums for holding Ministers accountable for what they have done with the money voted to them.
 - Most would say that committees have at best done a passable job of developing recommendations for change to government policy and legislation.
 - And many MPs would like more professional staff to support House committees. (The problem is not with the quality of the support you receive from the Research Branch of the Library of Parliament. Those people are excellent; in fact, many of them are experts in their fields. But there aren't enough of them.)

A Witness's Perspective

- I'm a former PCO official who has appeared perhaps a dozen times before committees of the House and Senate. In my present life as a consultant, I have also worked for, and appeared before, committees.
- People like me want Parliament to work well, and we are disappointed when it doesn't work as well, or as effectively, as it could. Let me describe some of the problems that I have observed with committees.
- First, and this is a point made by many commentators (including Professor Franks), the committee rules that limit the time allotted to individual Members for questions mean that, effectively, there can be almost no sustained questioning of witnesses; no digging deeper into issues raised in previous questions; no time to explore a Member's particular concerns in any real depth.
- Second, with some notable exceptions, too few MPs appear to have done their homework on the issues under examination in the committee. Most Members simply don't know the issues, and they don't appear to understand the larger governmental context for either the issue under examination or the witness's response.
 - One consequence is that too much time is spent in committee in a half-hearted 'education' of committee Members on how government works and the meaning of particular terms, or the history of this or that program.
 - Too much time is spent by committee members in "playing to the riding", and too little in serious inquiry into how an actual program is working, or what results have been achieved, or why a program is not working as well as may have been intended.
 - MPs are busy people. But some do find time to master program or policy areas. In general, the effectiveness of MPs as committee members increases in direct proportion to what they know and how well they are able to apply their knowledge to the work of the committee.
 - It is more work for the officials when they face a Member like that, but –

believe me – it is also *much* more satisfying for officials. It is more satisfying because you can feel the relationship of democratic accountability between Parliament and the government working.

- A third problem is that there appears to be no shared understanding among Members as to what they are entitled to expect by way of answers from officials, and when they should look to Ministers or Parliamentary Secretaries for answers.
 - Too often, officials are asked to justify policy rather than to explain it. Too often, they are asked to defend decisions rather than to describe how programs have (or haven't) worked.
 - As a result, committee hearings too often produce frustration for both sides – MPs are frustrated because they aren't getting the answers they're looking for, and officials are frustrated because Members are looking for answers to questions which they as officials cannot answer.
- A fourth problem is that at least some Members see committee hearings not as opportunities to examine Ministers and officials on what they are doing, but as vehicles to expose maladministration or wrongdoing and track down the culprits.
- *That is not at all the purpose of committees.* Indeed, it can't be:
 - Parliamentary committees have limited investigative powers or capacities, and limited capacity to compel testimony.
 - Committees are not bound by the rules of evidence or procedural fairness.
 - Committees have no access to a great deal of government information.
- The proceedings of the Public Accounts and Government Operations Committees over the past year or so on the sponsorship issue showed the limitations of what Parliamentary committees can do to expose and correct wrongdoing.
- And, sadly, these experiences also showed how important opportunities to examine facts and to explore issues of concern to Canadians can be lost. Yet these are the issues on which Canadians expect Parliament to play a role – whether as a forum for debate, or as a mechanism for extracting accountability from the government.
- Even more sadly, the failure of committees to serve as real forums for accountability has meant that Canadians now look to unelected officials like the Auditor General to hold the government to account. This is not the way our system is supposed to work.

What can be done to improve things?

- You are the politicians – I'm not. You are in the public spotlight – I'm not. And most important, you hold public office, while I don't.
- But allow me to tell you what I think can and should be done to make Parliamentary committees more useful to you as Members – regardless of which Party you represent.
- If you can make committees work better, you will not only help yourselves, you will increase the effectiveness and the stature of Parliament in the eyes of Canadians.
- And, believe it or not, you will make appearances before committee more useful for

officials.

- Here is my prescription for improvement:
 1. I would start by recognizing that committees are an opportunity for two main things:
 - one is to really get to know government (including the senior officials in the government – Deputies and ADMs are happy to talk with you about departmental business, though they will always keep the Minister’s office in the loop), and
 - the other purpose is to get officials to answer for what they have achieved with the programs for which they are responsible in the Public Service, and to do this in a professional, non-partisan way.
 2. Second, I would decide on the areas of government activity that are of greatest concern to me as a Member, and I would make a determined effort to get to know how things work in those areas in particular.
 - I would get to know the senior officials responsible for running those programs.
 - Through your caucus liaison, I would arrange for briefings from departmental officials. Or, in cases where this is appropriate, try to arrange for a visit to departmental operations (e.g., military bases, or research stations). Officials are happy to help you better understand what they do.
 - I would get to know the relevant legislation, and the history behind that legislation.
 - And, I would use the services of the Library of Parliament/Research Branch to help me. (Here’s a secret – the more they come to regard you as a knowledgeable MP who is genuinely interested in the program, the readier they will be to work for you.)
 3. Third, when officials appear before you, treat them with respect. They are professionals. They are there to answer your questions about the programs for which they are responsible inside their departments, and in a minority situation they will be especially attentive to the concerns of MPs. They care about good government just as much as you do. And they want effective parliamentary scrutiny of their programs – believe me.
 4. Fourth, when officials come before you on Estimates, don’t try to score political points on their backs – just ask them about how the money is being spent and what has been achieved as a result! The public will give you lots of credit for that.
 5. Fifth, consider in your respective caucuses whether some changes to committee rules might allow committees to function as more effective mechanisms for accountability. Look at how British committees work – there is less partisanship, more sustained questioning (often by the Chair), and a closer, more professional relationship with officials.

6. Sixth, don't forget the importance of committee reports as vehicles for influencing government policy. Reports do matter, and a good report can serve as a lasting point of reference.
7. Seventh, to the extent possible, work with your colleagues on the committee to make committee hearings as useful as possible to all Members. And try to work toward unanimous reports. I know this is not always possible, but if Members treat the business of the committee in as non-partisan a way as possible, it will make it easier to arrive at consensus findings and recommendations. And that will only increase the impact of the resulting report. (Consider how much less impact the recent report of the 9/11 Committee in the U.S. would have had if it had come out as two partisan reports rather than a single consensus document.)
8. Finally, don't expect miracles. It will take time to reform and improve the committee process. But small steps – taken by individual Members – can make a big difference. I think you will see that.

Bottom Line

- As I said at the outset of my remarks, the 38th Parliament promises to be one of the most interesting in 25 years. As new Members in a minority situation, you will have a lot to do with shaping the tone and the utility, both real and perceived, of the new Parliament.
- If you can show Canadians what can be achieved through in-depth scrutiny of the programs and actions of the government, you will bring new legitimacy and dignity to the functions of Parliament and Parliamentarians.
- If committees work better, you will be better informed, and more effective as a result.
- You will also make life much more satisfying for yourselves as MPs.

Thank you.