

Ministerial responsibility

The concept of Ministerial responsibility has evolved with the Westminster system of government. Lord Buckingham, who was a Minister during the reign of Charles I was impeached by Parliament for implementing the policies of the King rather than that of the Parliament. Gradually, the concept of Ministerial responsibility developed into one where a Minister in the Westminster system became answerable to Parliament rather than to the Monarch. The method of holding a Minister accountable to Parliament was that of impeachment. That in turn gave rise to the expectation that a Minister who had failed in his or her duty to Parliament would resign.

In a wider sense, this concept of Ministerial responsibility arises from the fact that the Parliament of which the Minister is a member is responsible to the electorate but separate from other branches of government being the executive and the judicial. In a recent article published by the Victorian Chapter of the Institute of Public Administration, Professor Greg Melleuish¹ identified a number of critical features of the Westminster system:

“There are several key features of responsible government and the Westminster system. The first is that government is responsible to those who elect it through the Parliament and it has to account for its actions and justify its expenditure to Parliament. The second is that it rests on a trustee as opposed to a delegate understanding of representation, by which I mean that the Parliamentarians are elected as trustees, they are not given instructions. They don't carry out the instructions that the electorate sends to them. There is thirdly an opposition party that can be understood as the alternative government and its role is to scrutinise the actions of the government”

This concept of Parliamentary responsibility to the electorate carries over into the process by which Parliament responds to the electorate and it does this in a number of ways, none the least of which is to appoint Ministers with specific areas of responsibility. The appointment of Ministers of course has been a tradition of English governance but only gradually did the tradition become formalised through the removal of authority from the Monarch to Parliament and hence to the Ministers of the Crown. In our Australian development of the Westminster system, Ministers are answerable to Parliament which in turn is answerable to the electorate and acts as Trustees of the electorate's civic ambitions.

Out of this structure emerged a tradition that that when a Minister failed the Parliament and the electorate in a manner which went to the heart of the responsibility of Parliament to be accountable to the electorate, the Minister would resign. This sense of Ministerial responsibility came to be understood as the “Westminster system” of responsibility.

¹ Associate Professor of History and Politics, University of Wollongong “The Westminster System; An unchallengeable liberal democratic tradition or a system at risk?”

The beauty of the concept was that it identified a point of responsibility for governmental action. The Minister is the final and critical element in the chain of responsibility summarised in the enduring quip of President Truman "The buck stops here".

Regrettably, the last episode of a Minister assuming complete responsibility for a governmental misstep was Lord Carrington in 1982. Lord Carrington resigned as Foreign Secretary in the British Parliament on the 17th April 1982 after the invasion of the Falklands by Argentinian forces. The circumstances leading up to that resignation are documented in a recent book by D. George Bryce². Negotiations had been under way for over a year between Britain and the Argentine government in relation to the historic ownership of the Falklands. Lord Carrington had not anticipated that Argentina would invade the Falklands although there were equivocal asides made from time to time by Argentinian authorities and there was also evidence that they had surreptitiously invaded South Georgia. The Parliamentary debate that ensued focused on Lord Carrington's responsibility as Foreign Secretary in the crisis. Because of this, and because of his inability to foresee the crisis and to take steps for its avoidance, Lord Carrington resigned. It was reported³ that

"In a statement, Lord Carrington said that British Policy over the Falkland islands had attracted a great deal of criticism and while he believed much of this was unjustified, he thought it right to take responsibility and to resign as the Minister principally responsible"

He refused the pressure by the Prime Minister to withdraw his resignation.

In a different governmental structure, Willy Brandt, the most popular Chancellor of West Germany while the country was divided into East and West, returned from a trip to Cairo on the 24th April 1974 to be greeted with the news that one of his Chancellery advisers had been arrested as an East German spy. Brandt deals briefly with the incident in his book⁴. He took advice which presumably was that he should not take responsibility for this development. However, he resigned on the 6th May 1974 at the height of his popularity. He observes in his book

"Throughout these days, my decision to resign matured without undue haste. It was finally taken on the 6th May.....There is no doubt that I took advice which, looking back, I should not have taken. I was right to shoulder the political responsibility. What is more, I have been confirmed in what I surmised at the beginning of May 1974, namely, that I could not have soldiered on with an easy mind".

² "Falklands War" by D. George Bryce Palgrave MacMillan 2005.

³ The Melbourne "Age" 18th April 1982

⁴ "People and Politics" Collins 1976 at page 450.

Since those days, there has been a profound shift in the underlying understanding of Parliamentary democracy and Ministerial responsibility. In a recent article by Professor Mulgan⁵ the point is made that structural changes to the process of government have enabled Ministers to shift responsibility to non elected bodies such as the heads of Departments. More seriously is the creation of corporate entities which have the façade of being removed from government such as governmental corporations that further distance activity and responsibility from Ministers.

The regrettable trend has been to shift responsibility so that there is no accountability to the electorate. In a whole series of egregious events, Ministers have deferred criticism and refused to accept public accountability by transferring that responsibility to the executive branch. The children over board, the weapons of mass destruction which resulted in the commitment of our soldiers to battle in a war of dubious legality; the extraordinary failures of the Department of Immigration and the dumfounding mess involving the Australian Wheat Board are the more grotesque examples of governmental conduct for which no one has taken responsibility. More recently the revelation that members of the Victorian Parliamentary majority are taking free holidays at ski resorts without anyone stepping in and saying "I am sorry, that is a serious breach of the public confidence" buttresses the belief that there is no need to be accountable. Sadly, there are many recent examples in Victoria of the transferring of responsibility to the executive of the obfuscation of Ministers to avoid responsibility ("I didn't read the entire document").

The danger in all of this is that with the shift of blame to non elected executives, most of whom remain nameless, there is developing something totally inconsistent with our Westminster traditions. If Ministers maintain that they are not responsible for missteps of a serious nature, it means that the process of democracy is at risk, if it has not already suffered a fatal attack. If the explanation of politicians these days is "I didn't know" or "I wasn't told" or "It was the fault of a member of the executive branch of government" then the entire concept of Ministerial responsibility and hence the Westminster system has been abandoned. We are then at risk as a society.

This is not to suggest that every misstep of government requires the resignation of a Minister. However, when profound cultural and systemic faults are discovered in a department which results in serious abuses of human rights; when information is manufactured and conveyed to the electorate so as to gain political advantage; when fabulously erroneous data (and known to be) are used to justify going to war with little legal justification and when it is discovered that a major governmental organization is trading with an enemy with which our soldiers are engaged, without any Minister being called to account, we should be alarmed. These events are evidence that we have jettisoned the Westminster system; that democracy is not working; that responsibility for government has been passed to non elected executives and that Ministers are not responsible no matter how serious the missteps of their department.

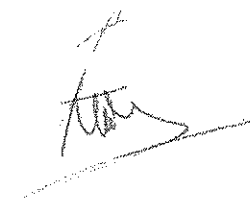
⁵ "Westminster Accountabilities; Holding Power to account in modern democracies" Professor Mulgan; Crawford School of Economics and Government, ANU. Published by IPAA Victoria 15th September 2006

In short, the accountability of Parliament to the electorate is not only being ignored. It can be argued that the electoral process is sufficient to right the ship. However, history suggests otherwise. Each small step in the pathway from innocence to lost innocence is almost always irreversible. Innocence lost is rarely regained. The fact that it was a tradition for Ministers to resign when confronted with an inexplicable failure of their Department to meet some standards of public expectation was never a law that could be enforced. Modern politics now recognises this and understands that governments can undertake unpopular adventures without being accountable and then the heat is on, responsibility can be deflected to the faulty non elected executive.

The beauty about the tradition of Westminster is that there is no legal obligation on a Minister to resign but when people such as Lord Carrington and Willy Brandt do so they reaffirm the social contract and send a message to everyone, including non elected executives, that there truly is accountability that is founded in a moral and civic tradition. People are not legally required to resign but they do so to reaffirm the strength of traditions that secure our democratic process. When members of the executive realise that their conduct can bring about the resignation of a Minister, hopefully, it would introduce to their activities a level a greater consciousness of their civic and moral responsibility. At the moment, the opposite is happening in that one of the functions of the executive appears to be to shield Ministers from such responsibilities in such a way as to totally remove accountability.

We are in new and dangerous waters.

Regrettably, a modern trend, when inadequacies of government or public behaviour are detected, is to call for legislation. Generally speaking, legislation catches the honest while the dishonest finds a new way of circumventing public policy. Legislation to impose a greater sense of accountability of Parliamentarians will never change a culture that has become endemic. This culture is the belief that blame can be transferred to some nameless executive. The culture ought to be that irrespective of who causes the problem, the Minister and hence Parliament is the face of government to the electorate with the result that the Minister ought to accept responsibility without being required by any law to do so. Sadly, we are a long way from that culture and it will require strong leadership to consistently make Ministers (and Prime Ministers and Premiers) aware that the "buck stops with them"



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Thursday, 21 June 2007