

Annex 1

Inquiry into Strengthening Government and Parliamentary Accountability in
Victoria

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We have recently had in Canada, two corruption scandals, with three investigations which have added some substance to the powers of parliament in Canada.

The following provides a short synopsis of some of the outcomes of these investigations.

The first and most serious scandal happened during my tenure as Chair of the Public Accounts Committee of the House of Commons. The Auditor General of Canada had reported that she could find little or no value for \$100 million spent on advertising and sponsorships paid for by the Government of Canada. This exploded upon the nation and the Public Accounts Committee was immediately seized with the issue. The ensuing two inquiries into the scandal, one by the Public Accounts Committee of Parliament and the other, a judicial inquiry set up by the government, ultimately led to the defeat of the Liberal Party as the government.

In a complex political alignment, where the governing Liberal Party was split between allegiance to the former Prime Minister, Jean Chrétien, under whose leadership the scandal had taken place, and his successor as Prime Minister, Paul Martin who wanted to be seen as addressing the issue, the Public Accounts Committee was able to pass a motion calling for cabinet documents on the subject. Given the desire of the new Prime Minister to be seen as proactive, cabinet authorized the delivery of the documents to the Public Accounts Committee. This marked, I believe, the first time in Canadian history where secret cabinet documents were delivered to Parliament and made public.

While some argue that it was a voluntary gesture and not constitutionally required, I believe that it proves my point that Government is accountable to Parliament without constraint. It also intuitively states however that Parliament has to be judicious in the exercise of its significant powers. Should my thesis that government is accountable to parliament without constraint be wrong, then our democratic capacity to hold government accountable is seriously limited if not altogether flawed. It would also beg the question; if parliament cannot demand answers and hold the government accountable then who can?

The second outcome of the investigation was that the Public Accounts Committee summoned (subpoenaed) witnesses to the committee to account for themselves. By doing so, the Public Accounts Committee refreshed the power to summon witnesses under potential threat of arrest which had not been used for nearly one hundred years.

The third outcome was the affirmation of the independence of parliament by virtue of an Act of Parliament (UK) passed in 1689. Our Constitution, granted to Canada by an Act of Parliament of the UK in 1867, stated that it would be similar to that of the UK, thereby bringing the Bill of Rights of 1689 into Canada's constitution.

The testimony during the investigation by the Public Accounts Committee was taken under oath. The government which had also set up a Judicial Inquiry to determine the facts of the scandal also took evidence under oath from some of the same witnesses. There appeared to be discrepancies in answers given at the Public Accounts Committee and answers given by the same people to similar questions at the Judicial Inquiry. This raised the possibility of perjury, either at the Public Accounts Committee or at the Inquiry.

The Judge initially granted permission to introduce the testimony given at the Public Accounts Committee before the Judicial Inquiry. Fortunately the House of Commons had legal counsel at proceedings who objected to the motion. When the judge was apprised that he could not obtain access to the Public Accounts testimony since it was protected by Parliamentary Privilege, he was more than a little miffed and mused in the media about justice not being able to be done. He therefore sent a request to Parliament for the testimony.

The Public Accounts Committee deliberated seriously on whether or not to release to testimony. The advice we received from the Law Clerk was very informative and the committee decided on recommending to the House

that privilege be upheld. The House concurred after hearing from the Procedure and House Affairs Committee which also recommended that privilege be upheld. The proceedings of the Public Accounts Committee and its report tabled in the House are I believe of historical interest and are attached (attachment 4).

In a final footnote, because the Judge at the Inquiry was concerned that justice would not be done, I had the Public Accounts Committee instruct the Library of Parliament to compare the testimony before the Public Accounts Committee with evidence at the judicial inquiry for 'discrepancies' in testimony. If the Library identified 'discrepancies' and we believed that they were of a serious nature and could not be properly explained, i.e. the Committee thought that the witnesses had lied in their testimony, the committee could proceed with Contempt of Parliament charges.

At this time of writing, we have examined two witnesses on the discrepancies with little likelihood that we will hear from others and the committee will not likely proceed with Contempt of Parliament charges.

However I mentioned a second corruption scandal which is ongoing as I write. In the greater scheme of things it is a fairly minor corruption affair but appears to have caught senior officers including the former Commissioner and others in the commissioned ranks of the Royal Canadian Mounted Police (RCMP), our revered national police force, in what appears to be negligence, incompetence and some have said, even a cover up.

From evidence given under oath to the committee and supporting documentation supplied, there appears (yet to be proven) to be a fairly flagrant case of lying to the committee under oath by one or more senior police officers. Contempt of Parliament charges are being considered.

In an interesting twist, very soon after a Deputy Commissioner had given evidence under oath to the Public Accounts Committee, the RCMP commenced disciplinary action and a criminal investigation against her, based on her testimony before the Public Accounts Committee.

The Deputy Commissioner sought relief from the Federal Court, which ruled in her favour and ordered cessation of disciplinary action stating that the RCMP had no access to the testimony since it was protected by Parliamentary Privilege. The court declined to rule on the criminal investigation stating that it did not have jurisdiction over criminal investigations and that relief should be sought in another venue (Superior Court of Ontario).

The farce of the RCMP being caught in a corruption scandal; being unable to investigate themselves properly; meddling in an investigation of themselves by the Ottawa Police Service; having the whistle blown by their own members including a Chief Superintendent, was all capped by another Chief Superintendent writing to the Speaker of the House of Commons asking for the testimony of the Public Accounts Committee to allow him to conclude his criminal investigation into the Deputy Commissioner's testimony before the committee. The farce was compounded by his statement in the letter that he fully understood Parliamentary Privilege and

that he believed the Deputy Commissioner was guilty even before he wrapped up his investigation.

The Public Accounts Committee has been concerned that even the threat of criminal proceedings based on testimony before the committee was tantamount to intimidation of witnesses. Parliament expects witnesses before committees to be full and frank in their testimony, safe in the knowledge that it cannot be introduced in another venue. The committee sought to assert Parliamentary Privilege and reported the same to the House. The House has concurred in the report and the RCMP advised accordingly. The report of the committee is attached (attachment 5).

My rationale for including a discussion on these two issues is to demonstrate the need for vigilance in upholding the powers of Parliament, the first line of democratic accountability.