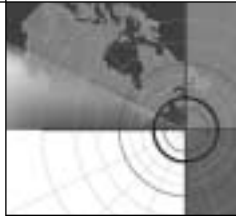


# Policy Matters



Douglas L. Bland  
and Roy Rempel

**A Vigilant Parliament:  
Building Competence  
for Effective  
Parliamentary  
Oversight of National  
Defence and the  
Canadian Armed  
Forces**



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Policy Matters

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## Summary

Parliament has rarely played a very significant role in foreign or defence policy in Canada. In the Westminster system, almost all power and authority over foreign and defence policies is assigned to the Crown, thereby greatly restricting the role of Parliament, and modern Canadian parliaments have tended to surrender even those limited powers they have by custom and tradition.

While the international security order changed after 1989, Parliament remained largely irrelevant to the making of Canadian policy. Crises of the post-Cold War era, of which there proved to be many, were essentially managed by ad hoc committees within government made up of officials from various departments, hastily thrown together to address the many security problems which emerged. While Canada became engaged in one crisis after another, there were no serious debates in Parliament to establish clear priorities and a consensus on what the national interest was in making policy choices. For the first time since Korea, Canadian Forces were deployed on active operations. Even though some two dozen Canadian troops were killed and well over one hundred wounded in action in various deployments, Parliament for the most part showed no more than an ill-informed, casual interest in them.

This limited level of parliamentary engagement should no longer be acceptable. The Canadian Forces consume some \$12 billion annually; senior military officers have the lives of citizens in their hands and the power to compel them to take life-threatening risks; the decisions of ministers, officials and officers may well determine the very well-being of Canada. These are the types of issues and policies that Parliament has a right and duty to oversee. Parliamentarians have a duty also to question and hold to account governments and ministers who exercise control over officers and officials who have discretion over how the Canadian Forces are prepared and deployed and how officers use deadly force. These are topics that matter and which should, but very often do not, occupy parliamentarians charged with the oversight of Canada's national defence.

Of the various instruments available to Parliament, the committees of the Senate and the House of Commons seem best suited to provide effective parliamentary oversight of national defence and the Canadian Forces. These committees, however, cannot reach their full potential as presently conceived and structured. Chief among the reforms needed are those which would reduce partisanship and party discipline in committee deliberations and recommendations; emphasize the importance of examining the annual estimates in detail; increase the experience and knowledge of committee members, perhaps by regulating their periods of appointment to committees; and provide expert staffs and other support to committee work.

In December 2003, the Martin government proposed what may be the most sweeping changes in the government's national security structure since the start of the Cold War. Time will tell whether the new structure itself will stimulate closer scrutiny of national security and defence issues by Parliament or whether the changes will make the task even more complex. A robust Parliament called into session in early 2004 would as a first priority assemble committees to examine the details of the new structure to discover, at least, who is responsible for what policies. From there it is incumbent upon MPs to pick up the challenge and push the envelope by insisting on real autonomy to review the estimates in detail, demanding real answers to questions and, most importantly, reducing their own partisanship and developing their own knowledge and expertise.

It would be a great irony if the changes intended to safeguard Canada in the age of global terrorism instead discourage Parliament because the new structure is too complex to readily understand, thus making it impossible to erase the "democratic deficit" and make Parliament the centre of Canadian political life.

## Résumé

Le Parlement canadien a rarement joué un rôle vraiment significatif en politique étrangère ou militaire. Selon le régime parlementaire de Westminster, presque tous les pouvoirs à ce chapitre reviennent à la Couronne, ce qui réduit considérablement le rôle du Parlement lequel ne dispose que de pouvoirs limités en la matière. Or les parlements canadiens de l'ère moderne ont eu tendance à abdiquer même les quelques pouvoirs qui, par tradition, lui reviennent.

Alors que d'importants changements sont survenus depuis 1989 en matière de sécurité internationale, le Parlement n'a guère participé à l'élaboration des politiques du pays. Fort nombreuses, les crises qui ont succédé à la guerre froide ont été gérées par des comités formés de délégués issus de ministères variés, hâtivement mis sur pied pour résoudre les problèmes de sécurité à mesure qu'ils se présentaient. Le Canada s'est ainsi engagé dans une série de conflits à l'étranger sans qu'il n'y ait au Parlement de réel débat visant à établir des priorités claires et à dégager un consensus sur les intérêts nationaux à privilégier. Pour la première fois depuis la guerre de Corée, les forces canadiennes ont participé à plusieurs opérations militaires au cours desquelles environ 25 soldats ont perdu la vie et plus d'une centaine ont été blessés, sans que le Parlement ne manifeste à leur égard beaucoup plus qu'un intérêt passager fondé sur de vagues informations.

La faiblesse de cet engagement parlementaire est devenue inacceptable : le budget des forces armées canadiennes est de 12 milliards de dollars par année; les chefs militaires ont entre leurs mains le sort de citoyens qu'ils peuvent contraindre à risquer leur vie; une poignée de ministres, fonctionnaires et officiers prennent des décisions où se joue le bien-être même du pays. Et ces considérations ne donnent qu'un aperçu des enjeux et politiques que le Parlement a le droit et le devoir de superviser. Les députés ont aussi le devoir de tenir imputables de leurs décisions les gouvernements et ministres dont relèvent les fonctionnaires et officiers responsables de la préparation et du déploiement des forces canadiennes, y compris quand elles font usage d'une force mortelle. Autant de questions majeures qui devraient, comme c'est trop rarement le cas, occuper les parlementaires chargés de superviser notre défense nationale et nos forces armées.

Parmi les instruments dont dispose le Parlement pour assurer une supervision efficace, les comités du Sénat et de la Chambre des communes semblent les mieux indiqués. Mais ils ne peuvent jouer pleinement ce rôle tels qu'ils sont présentement conçus et structurés. Certaines réformes s'imposent donc, notamment pour réduire la partisanerie et la discipline de parti dans leurs discussions et recommandations; pour permettre l'examen détaillé des estimations annuelles; pour renforcer l'expérience et les connaissances de leurs membres, possiblement

en régularisant leurs mandats; et pour leur adjoindre un personnel spécialisé et des ressources de soutien.

En décembre 2003, le gouvernement Martin proposait d'apporter à la sécurité nationale des changements d'une profondeur sans doute jamais vue depuis le début de la guerre froide. Le temps dira si cette nouvelle structure incitera le Parlement à scruter de plus près les questions de défense et de sécurité, ou si elle lui rendra la tâche encore plus complexe. Pour affirmer sa détermination dès la première session de 2004, le Parlement gagnerait à privilégier sans délai la création de comités chargés d'examiner cette nouvelle structure pour départager à tout le moins les responsables des diverses politiques. Il appartiendra dès lors aux députés de réclamer l'autonomie dont ils ont besoin pour passer en revue les estimations, exiger des réponses et, surtout, renoncer à leur esprit partisan tout en développant leurs connaissances et leur expertise.

Il serait tristement ironique que les changements destinés à protéger le Canada à l'heure du terrorisme international viennent décourager les parlementaires, submergés par la complexité de la nouvelle structure, et rendent impossible l'effacement du « déficit démocratique » et le recentrage du Parlement au cœur de la vie politique du pays.

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## Where Have We Come From?

Parliament has rarely played a very significant role in foreign and defence policies in Canada. In the Westminster system, almost all power and authority over foreign and defence policies is assigned to the Crown, thereby greatly restricting the role of Parliament, and modern Canadian parliaments have tended to surrender even those limited powers they have by custom and tradition. This habit means that Parliament has played a secondary role even during periods of crisis when, for instance, Prime Minister Sir Robert Borden in 1914 simply “informed” Parliament that Canada was at war. Parliament had no influence and, what is more telling, took little interest in determining Canadian foreign and defence policies in the period leading up to the Second World War. Although as war again neared in 1939 Prime Minister Mackenzie King declared “that Parliament will decide what is to be done,” a decision that was for all practical purposes *fait accompli* once the cabinet (meaning Mackenzie King) decided what was to be done.<sup>1</sup>

Parliament was also largely irrelevant in determining the nature of Canadian involvement in foreign and defence policies and commitments in the early years of the Cold War. Some have argued that limited oversight of policy by Parliament had its advantages. Louis St. Laurent, for instance, never struggled to secure legislative approval for his foreign policy initiatives — they were always guaranteed by the governing party. This so-called advantage enabled Canada to make substantial contributions rather quickly in Korea, to NATO and in 1956 to United Nations operations in the Middle East. “Efficient” policy processes founded on the prerogatives and powers of government by the cabinet and writs overrode the putative principle of Parliament’s duty and right to decide. Throughout the Cold War period and afterwards the pattern of excluding Parliament from policy decisions continued. Decisions about what was to be done in fact fell to a small group of key ministers and politicians led by the prime minister supported by experienced and respected senior officials. The felt little obligation to take into account potentially challenging views from outside this inner circle. Moreover, except for the brief period when Prime Minister John Diefenbaker led the government, politicians and officials saw the early years of the Cold War as the “golden age” of Canadian diplomacy and military competence and they were reinforced in this view by the evident success, as they saw it, of Canadian policies.

After 1970 and at the beginning of the Trudeau era, Canadian policy took several abrupt turns. Trudeau was determined to reshape Canadian foreign policy to conform mostly to his personal ideological predispositions. His foreign policy initiatives, to reduce Canada’s association with NATO and to downplay Lester Pearson’s peacekeeping legacy, for instance, dismayed many of the older, more experienced

cabinet ministers. His major defence policy decisions were taken without much regard even for the views of senior military officers and Leo Cadieux, the minister of national defence.<sup>2</sup> Parliament was hardly consulted during the so-called 1968-69 defence and foreign policy reviews. As Mitchell Sharp records in his memoirs,

*The mishandling of the NATO decision had unfortunate repercussions for years on relations between Canada and our allies in Europe and the United States. The prime minister himself discovered this when he sought to establish a contractual link with the European Economic Community...From what I heard from contacts in Europe and the United States, the mishandling of the NATO decision in the early 1970s was one of the things that affected adversely the reception in the Western world of Trudeau's peace initiative in the early 1980s, 10 years later.<sup>3</sup>*

During the Mulroney period, while building stronger capabilities for defence commitments (closing “the commitments/capabilities gap”) was a nominal priority, little was actually done to achieve this objective. As a result, defence capabilities dwindled and priorities were continually changing. The House of Commons paid little attention to national defence although the Senate of Canada did produce in the mid-1980s several valuable reports on defence policy. These reports had no effect on defence decisions and the Senate’s committee simply faded away. After the end of the Cold War the Mulroney government first publicly promised Canada’s allies — on two occasions, June and November 1991 — that it would retain a European-based military commitment to NATO’s rapid-reaction forces. But only four months later, in February 1992, that promise was broken, again for budgetary reasons.

Parliament was mostly on the sidelines throughout these events. One could argue that Parliament should not and need not be at the centre of all operational decisions on national defence. But it is harder to make the case that Parliament has no duty to investigate defence budgets, how allocations are shared among defence missions, and the relations between the armed forces and the civil authority, among other matters. The fact is that at no time since at least the mid-1960s has Parliament ever seriously reviewed the government’s proposed expenditures for foreign affairs or defence policies or how they might be used or whether the leaders of the Canadian Forces are adequately prepared to meet the demands the government’s policies place on them.<sup>4</sup>

Parliament’s lack of vigilance follows from several causes, not least of which is deference to the royal prerogative over national defence and foreign policy. Another reason, and one that may be very difficult to overcome, can be attributed to the fact that few senators, members of Parliament or senior bureaucrats outside

the departments of foreign policy and national defence have any useful experience or education in the fields. Politicians, odd as it may seem, were generally ill-equipped to join the defence debate in 1989. For many years, ordinary members of Parliament had paid scant attention to defence and foreign policies. These areas were considered by most as too esoteric and too far removed from their constituents' interests to merit the time and effort needed to become well enough informed to have any influence on policy. While some experts might complain about the lack of attention members of Parliament pay to national security issues, it would be remarkable if they did otherwise. Why would one expect politicians drawn from a society which pays little heed to international affairs generally to make these issues central to their (usually) brief time in office? When the great upheaval of 1989-90 occurred, politicians were for the most part the least prepared of any public figures to play a role in finding a new defence policy for Canada.

In 1992 the Liberal government-in-the-shadows was in an odd situation, though its leaders may not have noticed. Every previous post-war government on coming into office included in its ranks senior politicians with experience and credible reputations in defence policy and foreign affairs. The Chrétien Liberals had no one at all, save perhaps Lloyd Axworthy. Axworthy, beyond encouraging the peace movement from the opposition benches in the 1980s with his iconoclastic and ideological views, had no practical experience in managing national security or foreign policy.

The 1992-93 election marked a significant and perhaps permanent change in the structure of Canadian cabinets, from those which always included guardians of the post-Second World War and Cold War eras, arguably, to those with no guardians at all. Henceforth, Canada's expertise in defence and foreign policies and experience in the practicalities of international security relations resided solely in the departments with senior ambassadors, defence officials and military officers, and outside government with a small cadre of scholars. Political leadership of the bureaucracy from respected people like Brooke Claxton, Lester Pearson, Michael Sharpe, George Hees, Barnie Danson, Leo Cadieux, Paul Hellyer and many others simply did not exist. Neither could they be created immediately from the newly elected Liberal members of Parliament now about to take charge of the "higher direction of national defence and foreign policy."

To make matters more complicated, the new government could not reach very far into the public service for assistance. The post-Second World War generation of senior leaders with wartime experience was long gone. The central role and respect once enjoyed by the then department of external affairs and the leadership in national as well as international policies once provided by the elites of that department has evaporated, replaced by mere managers trained in law, accounting and public administration. The fact that Canada never developed any

coherent national security response to the end of the Cold War can be attributed to the observation that no clerk of the privy council since 1989 rose to high office on the basis of expertise in (or some would say interest in) national security.

Scholars today always speak of the golden age of Canadian diplomacy and military leadership in international affairs in the past tense. It is a habit that ought to alarm present and future political and public service leaders, but it probably will not. A new golden age would require Canada's political community and the federal public service to become informed, spontaneously one supposes, about their primary responsibility to defend Canada when there are no leaders to point to this duty. A leaderless Parliament, consequently, can hardly be blamed for its inattention to serious matters of national concern, at least until some catastrophic event interferes with its repose.

### Parliamentary Oversight in the Post-Cold War Era

While the international security order changed after 1989, Parliament remained largely irrelevant to the making of Canadian policy. Crises of the post-Cold War era, of which there proved to be many, were essentially managed by ad hoc committees within government made up of officials from various departments, hastily thrown together to address the many security problems which emerged. While Canada became engaged in one crisis after another, there were no serious debates in Parliament to establish clear priorities and a consensus on what the national interest was in making policy choices. Varied commitments were made in places like the Persian Gulf, Croatia, Bosnia, Somalia, Haiti, Zaire, Kosovo and East Timor. For the first time since Korea, Canadian forces were deployed on active operations. However, even though some two dozen Canadian troops were killed and well over one hundred wounded in action in these various deployments, for the most part Parliament showed no more than an ill-informed, casual interest in them.

#### *The Gulf War, 1990-91*

The first major crisis of the post-Cold War period was in the Gulf in 1990-91. There is little question that the Canadian Forces were ill-prepared for this mission. The naval contingent deployed with obsolescent ships which, while performing a relevant rear echelon role, were restricted to operations that were well out of harm's way. The air contingent in turn was kept out of any air-to-ground role until the very last days of the war, partly because it had not been permitted to deploy to the region with any bombs. The deployment of a combat-ready ground force was judged simply to be unachievable for want of resources.

Neglect of defence capabilities over the previous two decades had necessitated this limited role and the government seemed content simply to show the flag. Canada's two opposition parties of the day, the Liberals and the NDP, ignored

defence preparedness during and after the war. Instead, they limited their criticisms to the nature of the military role Canada was assuming (which they judged to be too active) and argued that the UN had not approved offensive military operations. As the crisis developed in September and October of 1990, few questions were posed during question period. Even when the crisis escalated and war became likely, only one question focusing directly on the operational readiness of the Canadian Forces was asked over a several month period. That question, posed by NDP MP Jack Whittaker on October 30, noted the auditor general's own critique of the readiness of the Canadian Forces and especially the military's inability to handle major casualties. But Defence Minister Bill McKnight simply dismissed the auditor general and his experts as "not qualified military strategists."<sup>5</sup>

Essentially, the Mulroney government viewed Parliament as merely a means to try to legitimize political and military actions that it was already undertaking. On October 23 parliamentarians voted 170 to 33 (with the NDP opposed) to support Canada's actions in the Security Council and to dispatch Canadian military units in the Gulf region. That vote was followed by a similar debate and vote on November 29, in which Parliament again voted to support the UN's actions. This time the Liberals joined the NDP in opposing the motion. However, these debates tended to ignore the practical limitations on Canadian military capabilities.

Parliament adjourned on December 19 and was only recalled on January 15 when hostilities appeared imminent. Unlike the Chrétien government in subsequent years, the Mulroney government was willing to allow Parliament a debate and a vote. But the matter proved to be largely stillborn by the time the vote was held on January 22 because Canadian personnel had already been at war for five full days. Thereafter, Parliament adjourned for most of the rest of the war, though parliamentary committees did meet in the interim. When Parliament resumed sitting (three days before the war ended) the frenzy of interest that had characterized discussions in January had all but disappeared. After very limited questioning of the government during question period by NDP leader Audrey McLaughlin and Liberal foreign affairs spokesman Lloyd Axworthy, on February 25 and 26 the issue was swept off the parliamentary agenda by the federal budget. This budget completely ignored the capabilities problems within the Canadian Forces, and the matter was not an issue of parliamentary discussion.

Some might say that while war plans were being put into action was not the right time for Parliament to debate the future state of the Canadian Forces, but it was entirely the right time to debate whether the force to be deployed could be effective and secure in its mission. But even these immediate and serious matters were not addressed, except perhaps abstractly before a near empty House of Commons with little understanding of their import.

The failure to seriously address defence policy problems, even in the aftermath of a war, contributed to the resignation of the vice-chief of the defence staff, Admiral Chuck Thomas, in April 1991. In his statement of resignation Admiral Thomas criticized the government for failing to encourage and facilitate public participation on the future of the Canadian military.<sup>6</sup> But Parliament showed little interest. Admiral Thomas would later comment, “When I resigned as the vice-chief of the defence staff because I didn’t think that the advice that was being put forward was valid or affordable...I was never called before the parliamentary committee on defence to explain myself. Never. That wouldn’t have happened in the United States.”<sup>7</sup>

#### *Yugoslavia, 1992-95*

Between 1993 and 1999 Canadian defence spending was cut by 30 percent in real terms and troop numbers reduced from about 78,000 to below 60,000. Even so, overseas, in dangerous places and situations for which they were not well prepared, multiple commitments were placed on the Canadian Forces. Prior to the decision to send Canadian troops to the former Yugoslavia in 1992, consultation with Parliament was limited to one late night discussion in the House of Commons in November of 1991. At that point, however, the deployment of Canadian troops was not yet under active consideration. Thereafter, decisions related to the deployment of Canadian troops occurred without any parliamentary input.

This result was not unusual because Parliament had not been seriously engaged in any of the peacekeeping deployments that had been undertaken by the Canadian Forces during the Cold War. In the first six months of 1992, however, it should have become readily apparent that the mission being performed by Canadian troops in the former Yugoslavia was anything but “normal” peacekeeping. Yet parliamentary engagement did not expand. There was no sense that the nature of the mission in Yugoslavia required a different level of parliamentary engagement. Indeed, from the outbreak of fighting in Bosnia in March/April 1992 to the entry of Canadian troops into that province, only four questions on that matter were asked of the government during question period. None of these questions focused on potential problems likely to be encountered.<sup>8</sup> It was only on September 15, 1992, ten weeks after Canadian troops were first deployed to Bosnia, that the House of Commons Foreign Affairs Committee even considered the issue of Bosnia — and then for only 90 minutes.

This pattern of limited parliamentary interest continued for much of the conflict even as Canadian casualties mounted. Parliament was generally only engaged at moments of high drama, such as when Canadian soldiers were being held hostage in front of the world television cameras in the spring of 1995 or when there were major escalations in the fighting. Members of Parliament, of course,

remained irrelevant to the actual making of Canadian policy, despite the best efforts of some to bring attention to the funding crisis that afflicted the Canadian Forces.

Certainly the best place for detailed consideration of the complex situation in Bosnia was in either the foreign affairs or the defence committee of the Commons. But there were no special hearings on the situation in Bosnia in either 1994 or 1995, and on those rare occasions when the minister of foreign affairs or national defence appeared before committees to discuss the estimates or other general matters, only a few questions were asked about the situation in the Balkans. In April 1995, for instance, as the crisis in the Balkans was escalating, Defence Minister Collette appeared before the defence committee. Only one MP, Jim Hart of Reform, asked any question at all on Yugoslavia. The Bloc's defence critic asked a number of questions on bilingualism in the Canadian Forces, but showed no interest at all in the situation confronting Canadian troops in Yugoslavia.<sup>9</sup>

#### *Parliament and the Zaire mission, 1996*

In 1996 the Chrétien government decided that Canada would lead a military mission to end a refugee crisis in eastern Zaire. The decision to engage in this operation was made by the prime minister in limited consultation with three government ministers and with his nephew, the ambassador to the UN, Raymond Chrétien. An ad hoc inter-departmental committee was hurriedly created to try to manage the operation but it was soon overwhelmed. Throughout the mission the political and military situation in eastern Zaire was constantly changing. As other countries, in particular the United States, reduced their involvement, Canada found that it could not continue on its own. While "victory" was quickly declared by the government, the war in eastern Zaire continued and escalated, and it is probable that hundreds of thousands of refugees were left in the jungle.<sup>10</sup>

From the beginning, the shortcomings in Canada's military capabilities became starkly obvious. Those capabilities were limited to a very modest deployment of medium-lift CC-130 and Airbus A-310 transport aircraft. Canadian Forces airlift capability, moreover, was limited by normal maintenance, with the result that about 25 percent of these aircraft were not available for the mission, thus reducing overall numbers even further. Canada had no overseas bases in the region to provide support to an intervention operation. It had no national intelligence capability and little useful diplomatic or military expertise of any kind on central Africa, and no special knowledge of the military conflict in northern Zaire. It had no strategic or tactical reconnaissance capability to adequately assess the situation on the ground at any time before or during the operation.

The conflict region itself was well over 1,000 kilometres from the closest ocean. Even if the Canadian navy had possessed a credible offshore support capa-

bility, which it did not, it would have been impossible to support Canadian troops from the sea. Even had the logistics situation been different, the Canadian army had no rapid deployment force suited for jungle/tropical operations. Canadian operations in that region of Africa would have required good tactical mobility, but the army had neither heavy-lift transport helicopters nor any attack helicopters.

These military problems should have raised serious questions in the House of Commons. For the most part, however, all parties in Parliament were anxious to demonstrate their support for humanitarian intervention overseas, regardless of military realities. Indeed, the official opposition, at the time the Bloc Québécois, was in the forefront, even prior to the announcement of a Canadian mission, calling on the government to “do something” and “show leadership.”<sup>11</sup> Only the Reform Party’s defence critic, Jim Hart, raised a caution flag. He quoted public comments of the former chief of defence staff, General Jean Boyle, who only a few months previously had said, “If the government asked me to go into a high-intensity theatre with the equipment I have today, I would have to say I can’t do it.”<sup>12</sup> Certainly the basic capabilities shortcomings of the Canadian Forces should have been well known to all members of the Commons defence committee. Yet after the crisis, there was no interest in addressing these matters.

Parliament has a duty to ask the hard questions and to demand answers. Its unwillingness, failure or inability to do so during the Zaire crisis is all the more glaring because this mission occurred only three years after an earlier mission had gone wrong in Somalia. One of the key lessons of the Somalia mission was that the hurried deployment of forces to a country about which Canadians knew very little was fraught with difficulty and dangers. Later the Commission of Inquiry into the Deployment of Canadian Forces to Somalia would report:

*The quintessential condition of control of the military and all aspects of national defence is a vigilant Parliament...Parliament must exercise greater diligence in critically monitoring the terms agreed to or set by the government for the employment of Canadian Forces overseas and safeguarding members of the Armed Forces from unreasonable risks; it must also monitor the operations of commanders and troops in the field.<sup>13</sup>*

But a “vigilant Parliament” did not exist at any time or in relation to any mission in which the Canadian Forces became engaged during the post-Cold War period. Arguably, it does not exist even in 2003.

#### *The Kosovo crisis and war, 1998-99*

In 1995 NATO’s intervention in the Bosnian civil war had finally ended that conflict and established a measure of peace enforced by a peacekeeping force

from alliance member states. Simultaneously, however, fighting in the Yugoslav province of Kosovo escalated. By 1998 NATO intervention there appeared increasingly likely, and Canada began to prepare to join a coalition effort.

There were myriad issues and problems associated with NATO's planned intervention in Kosovo. Was intervention in the affairs of a sovereign state justified under international law? What were the implications for NATO's future role in international conflicts? Was NATO correct in identifying the Serbian government as largely to blame for the conflict in Kosovo? What were Canada's interests in this conflict and what role should Canada play? How could the Canadian Forces participate effectively in any military action given the continuous cuts which had been imposed upon them through the 1990s? Were the Canadian Forces prepared to effectively perform the role that was being asked of them by the government? Should Canada join a war without UN sanction?

When the Liberal government was elected in 1993, it promised to bring international issues to the House of Commons for discussion and debate on a more regular basis than had been the case under the previous Progressive Conservative government. Parliamentary debates during the Bosnian war, however, as well as during the Zaire crisis and the other conflicts in which Canada became engaged, were just as superficial under the Liberal government. Decisions about Canadian policy were made and announced — there was no voting on any debate initiated by the Chrétien government.

As Canada moved toward participation in the Kosovo war in 1999, oversight by Parliament was essentially carried out through three means: questions posed during question period, "take-note debates" in the House of Commons, and consideration of issues by parliamentary committees. Between October 7, 1998, the date of the first take-note debate on the Kosovo crisis, and the outbreak of the war on March 24, 1999, only eight questions related to the burgeoning crisis were asked of the government during question period. Three of these were asked by government backbenchers and were obviously planted to allow the government to highlight Canadian policy. Of the remaining questions, only Bob Mills and Jim Hart of Reform asked about the potential dangers which might be faced by Canadian troops. Even if one had been watching question period continuously in the five months leading up to the war, it might have been difficult to realize that the country was on the verge of going to a war.

Only after the war broke out did the issue become prominent in question period, and then only when it became apparent that the war would not end overnight. For the first two days of the war, the parties mostly devoted secondary attention to the Kosovo issue.<sup>14</sup> The Kosovo war figured in question period only so long as media interest in the issue remained strong. Once that attention weakened,

so too did the enthusiasm of the parties to ask questions about it. Of the questions asked, only a few focused on the difficulties facing the Canadian Forces in mounting the operation. These significant issues included rapidly depleting bomb stocks; inadequate airlift resources; a major pilot shortage; and ground forces totally inadequate, initially, to the task at hand. Questions also generally missed the reality of Canada's limited influence over allied policy-making and instead unrealistically demanded that the government "show leadership" in ending the war.

While consideration of the Kosovo situation in question period prior to the outbreak of the war was virtually non-existent or largely sensationalistic, the government did hold three take-note debates — two prior to the outbreak of the war, on October 7, 1998, and the other on February 17, 1999. But these debates never involved more than ten percent of the members of the House of Commons. Moreover, many government members seemed speechless and simply read text prepared for them by bureaucrats.

The process of drafting such speeches for government members begins well in advance of scheduled debates and involves officials at all rank levels in numerous divisions within the departments of foreign affairs and national defence. Speeches are carefully crafted to reflect government opinion and policy in every respect. Members of Parliament reading bureaucratic speeches may know next to nothing about the issue at hand but, nevertheless, they pass off these speeches as their own views. The opposition, on the other hand, may receive as little as twenty-four to forty-eight hours notice of an impending debate, and it usually only has time to draft hasty talking points for its participating MPs. Initial positions taken by a party on an emerging crisis may at times be ill-considered and force a complete revision later on. The NDP position on Kosovo, for instance, shifted drastically once the war erupted, from at first advocating military action to later demanding that it be halted.

During the war itself, Parliament held three debates, one initiated by the government and two by opposition parties. In one of these latter debates, held on April 19 on a Bloc motion calling for a parliamentary vote on Canadian involvement in the war, officials from the Department of Foreign Affairs and International Trade (DFAIT) went to extensive lengths in an effort to carefully choreograph the words of government members. Three of the speeches written by DFAIT officials for the debate on April 19 were written in sequence. The speeches were mutually supporting, in that speeches two and three in the series contained remarks designed to support the comments made in speech one. For instance, speech two contained the line, "I wish to support the point made by the Member of Parliament for [insert the riding of the other MP speaking on humanitarian assistance]." Although these particular speeches were not used by government members for the debate on April 19,

what is revealing is the willingness of officials to draft what amounts to a script for government members to follow in a highly political debate.<sup>15</sup>

The debates had no influence on government policy, which had already been set prior to the outbreak of the war. None of the five party leaders, including the prime minister, participated in the Kosovo debates prior to the eruption of the war, and for the most part the lead government ministers from foreign affairs and defence were not in the Commons to hear the views of those few members who did participate. The media characteristically paid little attention to the debates or the debaters.

Discussions in Commons committees on Kosovo prior to the war were also limited. A briefing was arranged for the House of Commons foreign affairs committee on February 18, 1999, but the committee itself played no real role in the determination of Canadian policy. Once the war erupted, regular briefings by officials of DFAIT and the DND were also arranged for a parliamentary committee. While this was a positive step, most of the information provided to that committee was superficial and readily available in most newspapers. To be fair to officers and officials, they were restricted in their remarks by the fact that members of committees are not security cleared to receive classified information. It is this type of information, however, that really drives policy decisions in departments.

Once the war was well underway, members of Parliament appeared, on the surface at least, to become actively engaged in asking questions, holding debates and monitoring developments through its committees. But the Commons' seemingly active role was a mere shadow. Since they had not been effectively engaged in the details of Canadian foreign or defence policy as it developed in the months, and indeed years, preceding the war, MPs were mostly too ill-informed to probe the details of government and CF decisions. Once the shooting starts is not the time to discover that one's powder is wet.

What is particularly damning is that at the war's end Parliament largely returned to playing its traditional role — disengaged from the details and specifics of Canadian foreign and defence policies. Thus, Parliament was again badly positioned to confront the new crises of the war on terror that erupted just two years later.

### **Tools of Parliamentary Oversight in Canada**

Nominally, the Senate and House of Commons have various means to oversee the conduct of Canadian foreign and defence policies, including:

- Questions posed by members of Parliament and senators to the government on a daily basis
- Review of legislation and policy issues by parliamentary committees
- Debates on policy issues held in the House and/or the Senate
- Annual review of the "estimates" or government spending proposals

*Question period: Where is the news?*

“Where is the news?” was in 2000 a phrase that was prominently displayed for all Canadian Alliance members of Parliament to view when they arrived for their daily question period practice session. It was the first criteria listed on a wall poster that reminded members of points to remember when asking questions that day. “Where is the news?” effectively summarizes the entire raison d’être for question period in the Canadian House of Commons. The sad irony is that politicians play to the press gallery whose members are, for the most part, even less well informed on policy issues than are members of Parliament.

Ideally, question period stands at the centre of Canada’s system of legislative oversight. Ronald Landes argues:

*Although the government is rarely defeated in the legislature, it is, nonetheless, kept from doing everything its little heart desires. Probably the best check against government pigheadedness, incompetence or downright malfeasance is the oral Question Period in the Commons. When the House is in session, the opposition members, or once in a while a brave government backbencher, can challenge the government over its past, present or projected behaviour. Since the government ministers do not know what the questions will be, the opposition attempts to embarrass them over policy, patronage or corruption.<sup>16</sup>*

Questions, however, are almost always geared to pursue the politics of the issue, or “the angle” of the issue which most interests the media. This tactic means a focus, particularly in first questions, on issues the media regards as having high dramatic value. Questions that do not produce an immediate media “hit” in the next day’s papers or on television are most often dropped. Most members in all parties believe that the parliamentary press corps has little interest in defence and, therefore, such issues only infrequently make the lineup. When they do, they are usually on a familiar matter (Sea King helicopters) or perhaps during a time of heightened media interest in security issues, such as when major military operations are being initiated.

The opposition nearly always uses questions to embarrass the government. Opposition members ask themselves “Is this a question a Liberal would ask?” which illustrates the overarching partisan nature of question period. Similarly, government responses are designed not to answer the question posed but to capture the five- or ten-second sound bites on television. With questions and answers strictly limited to 35 seconds each, there is in fact little opportunity for anything else. The strict time limit set for questions and answers encourages superficiality and melodrama. Question period does not allow for nuanced discussion. Rather, issues are simplified and the tone is artificially confrontational.

The intense competition between political parties for positive media attention also discourages cooperation between parties and, thus, the flow of questions and answers is interrupted as question time moves from party to party.

Members in opposition parties are only able to ask questions that are approved by party House leaders. Members who go “off message” during questioning are usually punished by being dropped from future lineups unless they agree to follow the party line. While questions asked without notice would seem to force ministers to know their brief, in fact it has little utility in compelling ministers to really understand the complexity of issues facing their particular departments. Indeed, thirty-five second answers often consist of simply repeating the same basic message over and over again in different ways. Former defence minister Art Eggleton was famous for repeatedly referring to the “state-of-the art” Coyote reconnaissance vehicle whenever he was asked any question about any piece of outdated military equipment.

As Peter Dobell and Martin Ulrich have noted, “[question period] rarely focuses on budgetary decisions and implementation.”<sup>17</sup> Indeed, questioning only rarely gets into any policy details. Therefore, ministers usually only have to be familiar with their basic question period talking points prepared daily by their officials. Because questions are usually based on the previous day’s newspaper headlines, only the dullest minister is surprised by any question.

When the House of Commons is sitting, preparation for question period consumes at least half of the parliamentary day. Newspaper headlines from the previous day are scanned and summarized early in the morning. A “question period group,” headed by an MP designated by the party leader, then meets to go over the headlines and determine which issues should be up for questions that day and which member should ask them. Questions are then drafted and revised right up until a question period practice session, usually one hour prior to question period itself. Last minute revisions might then be made based on the comments of other members at the practice session.

Question period, as presently structured, is a laborious routine of limited value in producing credible answers to serious questions or in forcing the government to rethink major, or even minor, aspects of policy. The very nature of question period limits its utility as a means for the serious oversight of defence policy, military activities or the Canadian Forces.

#### *The role of parliamentary committees*

Two committees, the House of Commons Standing Committee on National Defence and Veterans Affairs and the Senate Committee on National Security and Defence, are responsible for parliamentary oversight of defence policy and the armed forces. Members of committees are chosen pursuant to each federal elec-

tion by the House leadership of each political party. Members on the Commons defence committee usually do not remain as members of that committee for the life of Parliament and are often shuffled to other duties.

On the government side, and sometimes on the opposition side as well, retaining a position on a preferred committee usually requires members to toe the party line. According to former Liberal MP Ted McWhinney, the Standing Committee on Foreign Affairs and International Trade is a preferred assignment: "Foreign Affairs is prized because it has a lot of money for travel...and you will end up in interesting and not unpleasant places in the spring before the snow has melted in Ottawa, so there's intense lobbying to get there."<sup>18</sup> The Standing Committee on National Defence also travels on occasion and thus has added appeal for some members.

Until November 2002, the prime minister appointed all chairs of committees and all were government members with the exception of the chair of the public accounts committee. Now the chairs and vice-chairs of all committees of the House of Commons are nominally elected by the secret ballot of committee members, a reform that was forced by the Canadian Alliance in the fall of 2002 when divisions between the Paul Martin and Jean Chrétien camps in the Liberal party were strong. On the surface, the election of committee chairs was designed to enhance the independence of the chairs from the influence of the prime minister's office. But whether it will have this effect remains to be seen. In practice, committee chairs may still be chosen by the prime minister in advance of elections through backroom deals within the governing caucus. Indeed, the selection process remained highly partisan after November 2002 as Canadian Alliance vice-chairs were removed from their positions in several committees (including defence) in retaliation for having forced the committee chair election issue on the governing Liberals, against Chrétien's express wishes.

While some committees are tightly controlled to ensure particular results in support of government policy, others may be given greater latitude, either to allow members to vent steam or perhaps because of government indifference to committee debates. In recent years, members on the House of Commons defence committee have taken more independent positions from those of the government. The revived Senate Committee on National Security and Defence has played an important role by highlighting the broader security agenda and bringing deficiencies to public attention. However, neither the Commons committee nor the Senate reports have ever been particularly successful in decisively influencing the government's defence policy. Defence policy is ultimately made not by Parliament but by the prime minister and senior members of the cabinet, with input from the Treasury Board and relevant government departments. Parliament stands outside of this central power loop.

Again, ideally, parliamentary committees in Canada could be used to test the waters for government policy initiatives. Two noted experts on Canadian government, Richard Van Loon and Michael Whittington, argue, for instance, that “it is becoming more common in Canada for House committees to be used as investigatory bodies to examine policy proposals before the legislative stage. In this way, the committees may be able to have some influence at both the priority-setting and the formulation stages of the policy process.”<sup>19</sup> However, “consultations” initiated by the government through parliamentary committees are usually carefully managed to ensure a pre-determined result. For instance, the quality-of-life study carried out by the House of Commons defence committee in 1998 is often hailed as a major inquiry by Parliament that forced the government to take action on conditions affecting soldiers and their families. In reality, this study simply mirrored work that was already being done within the DND. The committee was largely conscripted to play a public relations role and prepare the ground for increased appropriations that government had already decided to give to the DND to fund its quality-of-life programs. Nevertheless, the ability of the committee to highlight in public a serious policy matter greatly assisted efforts by the minister of national defence to pry funds from a reluctant prime minister. Such uses of committees ought not to be dismissed lightly.

In another case, in the fall of 1998, the Commons standing foreign affairs committee produced a report on NATO’s nuclear policy. In drafting that report, the committee and its chair Bill Graham ensured that dominant witness input corresponded closely to the policy approach that then foreign minister Lloyd Axworthy had already decided to pursue. As such, the committee, entirely as expected, recommended that Canada work for the “elimination of nuclear weapons” and for an alteration in NATO nuclear strategy, recommendations which, though entirely unrealistic, were in accord with the minister’s personal preferences.

In general, parliamentary committees are used by government not as a source of new ideas but usually to legitimize policy decisions that the prime minister and the cabinet have already taken. Former Canadian ambassador to Yugoslavia, Joe Bissett, commented on the highly political character of committees in recollecting his testimony on the situation in the Balkans before the Commons foreign affairs committee:

*It wasn't a committee that was interested in hearing a former ambassador's views. It wasn't a committee that seemed really intent on getting at the facts and coping with some of these issues. It was obviously a committee that was nervous about my appearance because I might say something that would embarrass Lloyd Axworthy or [defence minister] Eggleton and the government.<sup>20</sup>*

Because committees have only a limited tangible purpose, some members attempt to avoid attending altogether; when members are forced to show up, they often arrive inadequately prepared for critical debates. But many members feel there is simply no political mileage to be gained from expending a lot of effort on committee preparation in any circumstances. Consequently, questions are often simplistic, and time, of which there is precious little in committee, is wasted.

The limited political importance of committees in the Canadian Parliament, and the scattered attention that many MPs pay to committee work, means that their utility as a way to hold government to account in matters of national defence and as an instrument for overseeing the Canadian Forces is very low indeed. While the committees, particularly in the Senate, on occasion do good work, their actual track record for influencing policy is not impressive.

### *Debates*

In most instances, government policy or the general direction of that policy is decided before debates take place in the House of Commons. For instance, in the last debate prior to the Kosovo war in 1999, the parliamentary secretary to the minister of foreign affairs, Julian Reed, told the House, "I remind the House that this debate is not about whether we bomb anybody..It has nothing to do with bombing."<sup>21</sup> That proved to be a false assertion and the matter had in fact already been decided. In de facto and practical terms, Canada was already committed to supporting NATO in whatever action it took. A similar reality prevails in most instances by the time take-note debates are held in Parliament.

Moreover, there is never any voting associated with a take-note debate, mainly because voting requires a precise motion in which the specifics of government policy would be thoroughly explored. Motions in take-note debates are usually vague so as to minimize any chance of polarization over wording. Moreover, governments simply are not interested in having the Commons vote on most issues. The firm belief, supported in custom, is that the decision over whether Canada should engage in a given conflict is one that should be left to the prime minister and senior ministers alone.

Take-note debates, purposefully perhaps, do not make for exciting television and so the media has little interest in them. And most foreign policy debates are scheduled for late in the day when most journalists have gone home. As there is no time to include excerpts from the debates in the next day's papers, the public effect is that the debates never take place. Journalists are also well aware that the positions of members on issues of foreign and defence policies will have no real impact on policy.

The Canadian public is also not generally aware that many backbench members of the governing party often simply read speeches that have been written for

them by the very government officials whom they are supposed to hold to account. The speech-writing process may involve dozens of officials in line departments. For instance, the government's preparation for the March 24, 2003 debate on Iraq required the services of some eighty people across several divisions in the department of foreign affairs. These public servants were part of a special "network of contact persons" created within DFAIT for the sole purpose of responding to potential opposition motions on foreign affairs issues in Parliament.<sup>22</sup>

Certainly on some occasions backbench members have challenged the government during debates. In 2002, during the initial debates on the war on terror, for example, several Liberal members took issue with aspects of the decision to deploy Canadian troops to serve under U.S. command in Afghanistan. On high profile issues like these, the government cannot prevent its members from venting steam, and in this case the views of backbench Liberal members may have played a role in shaping the prime minister's decision not to support American military action in Iraq in 2003. On the other hand, the prime minister was not reluctant to be "forced to follow party democracy" in this situation for it relieved him of the need to act arbitrarily. Such instances are rare.

The more familiar pattern in these debates is one of the government and its departments attempting to carefully choreograph what backbench members say. This tactic, too, undermines oversight and largely eliminates the need for members to inform themselves on a given issue.

At times as well, ministers may use a particular member as a mouthpiece to attack the opposition in a way in which no departmental official could openly do, and the minister might not wish to do publicly. For example, in his January 28, 2002 speech on Afghanistan, Liberal MP David Pratt described the views of the opposition on lack of Canadian preparedness for the Afghan mission as "completely bogus and completely fraudulent." He condemned the opposition for having "watched too many war movies" and for being "prepared to second guess our generals." He concluded by rejecting the opposition's criticism of Canada's lack of strategic airlift, noting that "the troops are to be in Afghanistan in mid-February, just as the minister said in early January. That is some scandal."<sup>23</sup>

The speech of January 28, 2002, was written in the Department of National Defence. Mr. Pratt is one of the better-informed members of the House on national defence. He chairs the House of Commons defence committee, where he works hard to draw attention to military problems. He too, however, has relied heavily on national defence officials to guide what he says in the House of Commons.<sup>24</sup> Most of the speech on January 28 was highly political. Indeed, it represents the politicization of national defence officials. Moreover, the department's willingness to condemn opposition criticisms about Canada's lack of strategic airlift is especially surprising given the

fact that almost every piece of equipment sent by Canada to Afghanistan was airlifted by the U.S. Air Force,<sup>25</sup> and given the fact that the chief of the air staff was then lobbying hard for the very strategic airlift that the speech asserted was not really needed.<sup>26</sup>

Parliamentary researcher James Robertson has commented that “participation in debates [is] ineffective as a method for influencing opinion in the House.”<sup>27</sup> Debates are also usually ineffective as a means for influencing government policy. They are only a tool, and a very limited one at that, for trying to bring issues to the attention of the media, and through the media to Canadians.

### *Control of spending*

The most fundamental duty of Parliament is to hold governments to account for the expenditure of public funds. Annually, the federal government introduces a budget involving the expenditure of nearly \$200 billion. Despite continual cuts, the defence portion of that budget, at about \$12 billion, remains the largest discretionary item of government expenditures. Given these massive expenditure levels, it is surprising to some, probably shocking to many more, that Parliament simply rubber stamps them with barely a cursory examination.

The government's total control of the entire budget process has been cemented as the size of government itself has grown. While there was already some considerable frustration with the generally poor level of accountability by the 1960s, strong pressure, particularly from within the executive, sought to make the annual estimates process more “efficient.” Prior to 1968, the estimates were reviewed by a “committee of the whole” and any member could, theoretically, withhold supply if a particular grievance was not satisfied. However, with the reforms of 1968, even that limited central control was lost. While standing committees were now charged with examining the estimates on an annual basis, they were given only a few weeks to do so, after which the estimates were simply “deemed to be passed.” The process had certainly been streamlined, but serious review and accountability had lost as a result.

What this fact means with respect to the defence estimates today is that annual parliamentary review is a pure formality. The House of Commons defence committee could review the spending priorities of the DND and, say, vote to strike funds for some proposed acquisition. It might also review the defence budget line by line and demand that the defence minister answer for every item. However, it would be remarkable if the government majority on the committee ever permitted that kind of review. Indeed, government members who showed themselves too zealous with regard to reviewing the estimates would likely find themselves in some other committee.

Rather, the estimates are tabled in committee and the minister of national defence appears for about 90 to 120 minutes and answers questions. While ques-

tions must be loosely based on the estimates, sometimes that may only involve mention of the word “estimates” in the question. Ministerial statements usually take between ten and twenty minutes of the allotted time while party questioning is limited to between five and ten minutes in each of the two or three rounds. The details of proposed defence spending are rarely explored. As Paul Martin commented in May of 2003, “I appeared in front of parliamentary committees as minister of finance a number of times and got asked every question in the world except what was my department spending on.”<sup>28</sup>

Although the resources available to parliamentary committees to examine government spending are very limited, the Library of Parliament provides researchers to support committees with their inquiries. The House of Commons defence committee usually has no more than one or two junior researchers and the opposition leader’s offices may assign one to examine defence issues. In practice, however, resources are so limited that all parties usually assign their defence researchers a variety of other research tasks. Members assigned as defence policy critics for their parties or to the Commons defence committee also have their own research or legislative assistants. However, these assistants usually are not expert in defence issues and have other duties besides.

In recent years, the work of the auditor general has been of considerable importance in informing parliamentary committees of how defence dollars are spent. The Office of the Auditor General issues regular reports on defence expenditures and analyzes through “policy audits” the extent to which particular programs have, or are likely to, come in on budget and the extent to which proposed defence projects and systems are meeting policy and military requirements. Like the reports of parliamentary committees, however, reports of the auditor general are only advisory, leaving the government free to respond to reports in whatever manner it chooses. At times, the auditor general and his or her officials have been subject to personal political attacks by government members on the House of Commons defence committee for reports or testimony.<sup>29</sup> Usually, however, the government responds respectfully to reports of the auditor general, whether it accepts particular recommendations or not.

The defence committees of the House and Senate usually do not review estimates in detail, but they do issue reports containing recommendations concerning defence expenditures. In the spring of 2001, for example, the House of Commons defence committee issued a report on the estimates calling on the government to “re-examine its spending plans for the next two fiscal years with a view to increasing the budget for the Department of National Defence.”<sup>30</sup> But the committee report had no direct effect on the defence budget, and after the report was issued the government’s defence spending proposals were passed unchanged by the House of Commons a

few days later. All government MPs on the defence committee, who had recommended increased defence spending only a few days before, dutifully voted for the budget as they were obligated to do on pain of severe sanctions from their party.

Committees sometimes become involved in pre-budget “consultations” initiated by the government in advance of an annual budget. In November 2001, for instance, the defence committee issued a report again recommending that the government devote more resources to national defence. The report was supported by the House of Commons finance committee in its own pre-budget report, and later by the Senate security and defence committee. In December 2001, the auditor general confirmed that the Canadian Forces faced a \$1 to \$2 billion annual shortfall in their equipment and operations budgets.<sup>31</sup> In an extraordinary comment, the auditor general said that government claims that the Canadian Forces are combat-capable should be “taken with a grain of salt.”<sup>32</sup> Despite these criticisms, the government chose not to increase significantly the resources devoted to national defence — much to the intense disappointment of many of the members of the Commons defence committee.

The government’s general inclination to exclude Parliament from all aspects of budgetary policy-making frustrates members in all parties and is a habit that contributes directly to pressure for parliamentary reform. Under new rules introduced in 2002, for instance, the leader of the opposition is allowed annually to designate two ministers to appear before the whole House for up to five hours to discuss their planned budgets, a practice dormant since 1960. The minister of national defence was the first to be called before the House for that purpose, to the surprise of many government members. It was not, however, a glorious start.

The House was largely empty when it met on the evening of May 7, 2002, with perhaps only ten percent of members present. The media again showed no interest in an evening debate and especially, one suspects, a debate into the details of the DND’s budget. Questions from Liberal MPs proved largely to be “softballs” related to the Canadian Rangers, the cadet program, private-public sector partnerships in military housing, and so on. There were no probing questions from government members and none at all from Liberal members of the defence committee. The experience illustrated that simply providing a means for oversight does not necessarily mean that it will be utilized effectively. Deeper procedural and ethical reform will be necessary if Parliament is to properly fulfill its responsibilities.

Pressure for change, however, continues. In March 2002, sufficient numbers of government MPs voted against the wishes of their party leaders and supported a motion forcing the establishment of a permanent committee to review extant non-statutory spending programs.<sup>33</sup> The “operations and estimates committee,” which was formed after that vote, showed its teeth in the spring of 2003,

forcing the resignation of Privacy Commissioner George Radwanski over alleged, serious personal spending irregularities. More changes were announced by Paul Martin in late 2003. Whether the committee can expand its effectiveness to provide real oversight over most government spending depends on both the resources it is ultimately able to command and the willingness of MPs from all parties to work together in a non-partisan fashion. Most importantly, success will depend on the willingness of the government to allow its own backbenchers to delve into the details of departmental spending programs.

## The Role of Parliament in the War on Terror and Thinking about Reform

It has been argued that the post-Cold War period ended on September 11, 2001. Since then, Canada and the Canadian Forces, with its allies, have been engaged in an ongoing, but in Canada undeclared, war on terrorism at home and abroad. The navy was for months on station in the Indian Ocean-Persian Gulf region as part of Operation Apollo. The army has deployed to Afghanistan twice. And the role of the special operations forces (JTF-2) has taken on new importance. More operations beyond 2004 are under consideration, in support of humanitarian rebuilding in Afghanistan, for instance, but Parliament sits, as usual, awaiting the event rather than anticipating it.

Parliaments remained out of the loop on all decisions made with regard to the equipment and deployment of Canadian Forces, unable to effectively monitor or oversee actions undertaken by the government in relation to the war on terror. In 2001, for instance, even as Canada was preparing to deploy forces to Afghanistan for the first time, internal reports revealed that much of the Canadian air force's air transport fleet had been grounded because of age. Yet Parliament did not and arguably could not take the government to task over this situation. Question period was simply inadequate for the task, since the format of 35-second questions and answers did not allow for a serious or sustained examination of the matter. The point is not that the deployment ought to have been stopped because of the apparent lack of adequate air transport support, but that the government should have been required to explain to Parliament what measures it would take to compensate for this obvious and long-acknowledged weakness in defence capabilities.

The House of Commons appears to be completely unprepared to oversee questions critical to Canada's national defence. Indeed, after September 11, not a single question on military readiness issues was asked in the House by Liberal, NDP or Bloc Québécois members. Their questioning instead focused on the pre-

tence that Canada could press the United States to “stop the bombing” during its intervention in Afghanistan or even to change the types of weapons the Americans were using. “Will the prime minister intervene and call on the Americans to stop dropping cluster bombs on Afghanistan?” the Bloc’s Gilles Duceppe asked in the House on November 8.<sup>34</sup>

In 2003, the Commons proved equally ineffective when it was announced that a Canadian army battle group and brigade headquarters would be deploying to Afghanistan for a year-long mission. For all intents and purposes, this deployment was allegedly initiated despite strong concerns from within the armed forces’ command that such a deployment would have a serious and negative long-term impact on future army operations. By some reports, Major-General Cameron Ross, director general of international security policy, resigned in frustration because sound military warnings against the mission had been ignored.

The details of the options provided to government and the reasons why the government decided for the “not recommended” option, the International Security Assistance Forces in Afghanistan, are not known at this time. Apparently, the military recommendation was for a small force built around the naval units already in the Gulf region, sufficient to show the flag. The chief of the defence staff was not about to offer any larger mission anywhere simply because the Canadian Forces did not have the capability, or especially the people, to do much more without risking the country’s few remaining reserves, which might have been needed for domestic security missions or the support of forces already committed elsewhere.

Despite the suggested discomfort of much of the senior military leadership with the mission and the public controversy surrounding Ross’s loud resignation, Parliament made no serious inquiries into the decision to deploy the force. There were no special committee hearings in advance of the mission, no effort to call General Ross to ask him to explain why he had resigned, no investigation as to whether the army was properly ready to carry out this mission, no study as to what the long-term impact on the army might be, and of course no ability for Parliament to ask “What do you need for this mission and what can we do to ensure that you are provided with the resources you require?”

Similarly, in 2003, much of the navy was all but recalled to home waters due to the fact it could no longer sustain the deployment of multiple ships in the Indian Ocean region.<sup>35</sup> Yet Parliament did not undertake any effort to examine the conditions that led to this, to seriously investigate how stretched personnel and equipment resources were, and to ask what level of investment would have to be made simply to sustain existing naval capabilities.

The war on terror relies heavily on covert operations. Canada is clearly engaged in these operations and the size of the army’s special forces unit, Joint Task

Force 2 (JTF-2), is to be doubled. Yet there is no effective outside oversight of operations or of whether existing resources for such operations are adequate. Based on evidence presented to the procedure and House affairs committee in 2002, which was investigating contradictory statements made in the House of Commons by then defence minister Art Eggleton over JTF-2 operations, even the prime minister may have no direct role in, or indeed knowledge of, particular JTF-2 operations. It is a serious affront to liberal democracy if indeed the Canadian Forces are engaged in operations outside the purview of the civil authority. For some time it has been clear that parliamentary oversight of defence policy is completely inadequate in Canada. With Canada at war (in all but name) and with Canadian lives now constantly put at risk, it is imperative that oversight mechanisms be modernized.

### Options for Parliamentary Reform

There are, generally, three schools of thought with respect to parliamentary reform. These are:

- No major reform is required, though improvements in parliamentary efficiency are perhaps desirable.
- Reform must occur, but should be limited to changing parliamentary rules and procedures in order to improve accountability.
- There is a need to change parliamentary convention in order to give Parliament real power over the public purse.

#### *Major reform is not required*

Some argue that Parliament functions reasonably well as presently structured and that one must properly understand the role Parliament has traditionally been expected to play in Canada's constitutional system. As Paul Thomas has written, from this perspective Parliament is:

*[A]n important participant in [the] wider discussion process within society. Parliamentary influence is difficult to identify and to measure empirically because it takes different forms, often operates in private, has an impact in an indirect, subtle, and long-term way, and operates amidst a variety of forces swirling around legislation...Obvious "indicators" of the influence of Parliament, such as the number of bills defeated, delayed, amended or withdrawn as a result of parliamentary pressure, are not a reliable or comprehensive measure of the institution's contribution to the legislative process.<sup>36</sup>*

Under this view, just because Senate or House committee studies on defence policy may appear to have limited influence on government policy does not con-

firm that these studies have had no influence on the government's policies. Instead, one must ask, might government have devoted even fewer resources to defence had parliamentary committees not pressured so strongly for increased resources?

Parliament remains the voice of public opinion, and governments usually take that opinion into account. If parliamentary committees appear not to have much influence on defence policy, it is not (according to this view) because governments believe the Canadian public is not much interested in the policy. This seems to have been the view of Prime Minister Chrétien, who stated many times that defence policy and the state of the Canadian Forces are, at least, satisfactory and that Parliament functions well as currently structured. Governments, therefore, have entertained certain improvements, such as providing greater resources to the Library of Parliament or MPs, but rejected more substantive changes which might impede the government's ability to manage all aspects of policy closely.

*Procedural changes are required to improve accountability*

In March 2001, members of Parliament held a rare debate on parliamentary reform, which exposed a strong consensus among members from all parties that the government and the bureaucracy had to be more accountable to Parliament. Indeed, certainly since the 2000 election, support for the reform of parliamentary procedure to improve accountability has steadily gained momentum. Although proponents of procedural change might accept many of the arguments that Parliament exercises its most effective role behind the scenes, they also believe that the mechanisms facilitating such a role are inadequate.

Strengthening of the role of parliamentary committees is widely supported. In October 2002, Paul Martin proposed that committees be permitted to examine proposed legislation immediately after first reading in order to make comments and suggest possible changes. Although not specifically mentioned in the Martin proposals, another variant of this plan would allow committees to examine drafts of proposed government policy papers before they are presented to Parliament as final policy documents. This procedure might allow committees more meaningful input on policy formulation in the drafting stage.

Paul Martin also proposed that committees have greater autonomy by electing their own chairs, a measure adopted in November 2002, and being provided with greater resources.<sup>37</sup> Such ideas have generally received substantial cross-party support within Parliament. For instance, in its August 2002 Report on Democratic Reform, the Progressive Conservative Party endorsed these ideas and proposed that committee chairmanships be roughly proportionate to party representation in the House of Commons.<sup>38</sup>

All parties, with the exception of the Liberal party, have also generally agreed that Parliament should have the right to debate and vote on decisions taken by the government to deploy Canadian Forces on combat missions overseas. The Canadian Alliance was the only party to have issued recommendations on parliamentary reform related specifically to national defence. Among the procedural changes it has advocated is giving Parliament the right to review the appointment of the chief of defence staff and providing a legislative mandate for the CDS to report to the defence committee on a regular basis. It has also proposed that MPs be permitted to serve on the defence committee for the life of Parliament.<sup>39</sup> The Progressive Conservatives have made the same recommendation with respect to service on all committees and have suggested that committee appointments be made by the House as a whole, with MPs required to give approval to their own removal from committee.

*Enhance the freedom of MPs; give "power over the purse"*

While there is a substantial consensus on the need to enhance Parliament's role in policy-making and oversight, there is less agreement on the matter of how far parliamentary discipline can be relaxed. However, many politicians argue that some relaxation of party discipline is an essential part of fundamental reforms. Paul Martin, for instance, has suggested that a "three-line whip" system, similar to the practice in the British Parliament, be adopted to reduce the occasions where votes are considered matters of confidence in the government. Other parties have made similar suggestions and the exact effect of this change would ultimately depend both on the extent to which a given government was really willing to surrender policy leadership and on the degree to which MPs really considered themselves free to express and vote their own views.

The key measure in determining whether MPs will really be given a meaningful governing role will be the degree to which any future government is willing to surrender some of the total control it presently exercises over the "power of the purse." In May 2003 Paul Martin declared that "regular parliamentary reviews" of spending were required. He specifically stated:

*If you can hold the government accountable, hold their feet to the fire, then it'll work...The parliamentary committees have got to be mandated at least once a year where a minister appears in front of them and the only issue they can deal with is the spending by those government departments; that they have to do the line-by-line examinations.<sup>40</sup>*

It was not clear in early 2004, however, what Mr. Martin envisaged committees would be allowed to do about specific spending items with which they are in disagreement among themselves or with ministers.

Similar suggestions for improved parliamentary review of spending arrangements have been made by other parties. For example, the Progressive Conservatives have suggested that the Commons rules regarding supply be changed and that a fixed number of hours every year be spent in “committee of the whole.” The estimates of a certain number of departments would be selected by the opposition and examined without time limits. The responsible minister would then be required to explain and defend any item.<sup>41</sup> Again, however, it is unclear whether this examination would extend simply to shedding greater light on the details of particular departmental spending plans or would also include an ability to propose and pass budget amendments.

Of the parties, the Canadian Alliance was willing to go the furthest (again, with specific reference to defence), recommending that the House of Commons standing committee be empowered to review:

*a) the annual spending estimates of DND in a comprehensive fashion with the power to increase or decrease funding for specific programs within the boundaries of the overall defence spending envelope determined by the government; and, b) all major crown projects (valued at more than \$100 million).<sup>42</sup>*

Committee review of major crown projects was already suggested by all MPs on the House of Commons defence committee in June, 2000, but the former proposal, if implemented as suggested, would potentially significantly change the process of estimates review and potentially accord Parliament a very real role.

Finally, several parties have advocated additional reforms concerning the Senate that would greatly change the defence-related role of the upper house. Both the Conservatives and the Alliance had proposed that the Senate be elected, a reform which would certainly revolutionize the legitimacy of Senate committees. The NDP in turn proposes that the Senate be abolished, a step which would obviously terminate the present advisory role the Senate committees now provide in public and in private to government and ministers.

Before considering what reforms would be essential or desirable to establish real defence policy accountability in Canada, it is useful to examine some models of how defence oversight is conducted in other states.

## Defence Oversight Internationally

The nature of legislative defence policy oversight varies greatly among Western countries. Switzerland, for example, probably allows for the most direct popular role in defence policy oversight, holding referenda on the initiative of citizens to

determine the parameters of Swiss foreign and defence policies. Popular votes have been held on matters ranging from Swiss entry into the United Nations (rejected in 1986 but accepted in 2002) to the proposed abolition of the armed forces (rejected) and even related to such detailed questions as the purchase of F-18 fighter aircraft for the air force (accepted). But given Switzerland's long-standing neutral status and limited assets, some might argue that this direct popular role would perhaps not be easy for other countries to emulate.

The United States provides an example from the other end of the spectrum of power and legislative oversight of defence. The American constitution, with its "checks and balances," makes Congress equal to the president and the Supreme Court. While the president is the commander-in-chief of the armed forces, it is Congress that has the power to declare war and make peace, and Congress provides the resources for national defence.

Former Congressman Lee Hamilton, who served as the chairman of both the House foreign relations committee and the House intelligence committee summarized the political interest in rigorous oversight: "It is the constitutional responsibility of Congress to look into all the activities of the executive branch...People know that somebody is looking over their shoulder, and when they know that somebody is looking over their shoulder they behave themselves. If they know somebody is not looking over their shoulder, that's when things go amiss."<sup>43</sup>

While the president takes the lead in setting American defence policy, Congress is charged with appropriating the funds necessary to support the policy objectives, exercising oversight over the actions and decisions of the executive and setting legislative parameters for the president's conduct of foreign policy. Major cabinet, diplomatic and bureaucratic nominations made by the president must be ratified by the Senate, a process which extends to all senior U.S. military appointments. Since it is Congress which ultimately determines the national budget, the legislature has powerful means for influencing executive policy.

The primary means for the exercise of direct congressional oversight over defence policy are the House and Senate armed services committees. Committees are responsible for the direct scrutiny of any and all aspects of U.S. foreign and defence policies. Chairmanships are usually determined on the basis of seniority. To support their work, committees employ about 2,000 congressional staff members in addition to the large personal staffs of the congressmen and senators. Other supporting staff are often hired by committees to serve on particular investigations as needed. By way of example, the House armed services committee alone has about 25 professional staff, with a potential to add up to 700 to 800 staff members from various other congressional offices such as the budget office and the Congressional research service.<sup>44</sup>

In times of crisis, Congress will usually yield to presidential leadership, a tradition which extends back to the American Civil War. However, even when the nation is at war, if the national consensus begins to break down, Congress has very real power to constrain presidential action. During the Vietnam War, for instance, Congress gradually restricted the ability of the president to wage that war, first by limiting appropriations to specific military activities, and ultimately by eliminating funding for any military activities on, over or off the coasts of Southeast Asia.

The presidential/congressional system, of course, creates pitfalls of its own. Congressmen may promote their own interests and those of their constituents ahead of objective national interests as military contracts are awarded; or, at times, they may fail to perform their duties effectively in the oversight process. The presidential/congressional system, nevertheless, establishes two distinct sources of power and authority over foreign and defence policies. Indeed, given likely differences between 435 representatives, 100 senators, and two legislative Houses that may be controlled by different parties, political perspectives related to defence policy issues are usually very diverse.

### Models of Parliamentary Oversight

In parliamentary systems, the legislature's source of power and authority is not usually independent of the executive. However, the authority and roles of legislatures in the area of defence policy can vary greatly between countries.

#### *Westminster parliaments*

Under the Westminster model, Parliament exercises little control or influence over the cabinet in matters of foreign and defence policy. Power and authority in these areas remain a Crown prerogative, since the sovereign is both the commander-in-chief of the armed forces and has formal power to declare war and make peace.

Though Westminster parliaments share the same basic tools of legislative oversight — questioning the government, committee scrutiny, foreign and defence policy debates, and review of spending — control and influence in some are more effective than in others.

In both Britain and Australia, prime ministers and ministers are obliged to answer questions from parliamentarians that may be posed to the ministry. In Britain the process of “question time” in the House of Commons differs quite markedly from the Canadian practice. For one, the prime minister answers questions for only about half an hour once a week. The method of posing questions is also more informal. Unlike in Canada, members do not need to be on the Speaker's list, but instead simply stand to catch the Speaker's eye. Other than the leader of the opposition and the leader of the Liberal Democrats, MPs are not permitted to pose supplementary questions.

The Australian practice more closely resembles the nature of question period in Canada. Question time usually occurs every day in both houses of Parliament, the House of Representatives and the Senate. But again, MPs do not have to be on a list for questions, but simply stand to catch the Speaker's eye. Questions alternate between government and opposition members and the flow of question time (and length of questions and answers) is left to the Speaker's discretion.

Some might argue that the limitations which exist in question time in Britain make the prime minister and the government less accountable because they face opposition questions less frequently than in Canada. However, the somewhat more informal nature of questioning in the British Parliament tends to dampen the staged and melodramatic tone that characterizes question period in Canada. MPs in Britain and Australia are afforded a greater opportunity to ask their own questions rather than simply those that are approved by the party leadership. More importantly, they are allowed greater time to pose their questions rather than the strict 35 seconds that are permitted Canadian MPs. These rules appear to decrease the superficiality of the process quite significantly.

Although question period or question time is a highly partisan activity in any of the Westminster parliaments, it appears to be somewhat less so in Britain. This became evident in the British House of Commons during and after the 2003 Iraq crisis and war where most of the difficult questions posed of the government often came from backbench government MPs rather than from the opposition. In Canada, backbench government MPs rarely challenge the government during question period.

Nevertheless, question period or question time in all cases is primarily designed to attract public and media attention. There is little likelihood that government policy will be altered as a result of anything that occurs during the questioning period. This is perhaps particularly the case in foreign or defence policy matters, which usually only become issues of intense public scrutiny during periods of crisis or war. During most of the rest of a parliamentary session, issues involving the defence budget or other matters rarely generate high degrees of public and media interest. But a stronger, less predictable question period might put the government on the defensive, thus influencing its policy decisions while heightening public interest in the issues.

#### *The role of committees*

In any legislature, committees are designed to explore issues and legislation in greater depth than is possible in the House as a whole. In the British House of Commons, the present system of committees was established in 1979. Since the 1960s, the issue of the effectiveness of parliamentary control over the executive had periodically re-emerged as an issue of concern. Reforms initiated in 1979 were nominally designed to enhance parliamentary scrutiny of the executive.

In the British Parliament, sixteen departmental committees are responsible for the scrutiny of each government department. Their role is to examine “the expenditure, administration and policy” of the department and of “associated public bodies.”<sup>45</sup> The select committee on defence is one of those sixteen committees. As in Canada, members of British committees are chosen after each general election. Unlike in the Canadian House of Commons, however, British MPs normally remain as members of the same committee for the duration of that Parliament. Committee members are formally chosen by a “committee of selection” and then confirmed by the House itself. While the intent of the 1979 reforms was to distance party whips from the process of choosing committee members, in practice the whips have remained involved in choosing replacement members. Even so, while the turnover rate for committee membership in Canada may be as high as 65 percent during the course of a given Parliament, in Britain it is far lower, on the order of about 16 percent.<sup>46</sup>

Moreover, by convention in Britain, some committees (up to half) are usually chaired by opposition members. This stands in marked contrast to Canada where only the public accounts committee is usually chaired by an opposition member. Committees in Britain chose their own subjects of inquiry and usually meet at least once a week. Committees also usually meet in private and in advance of hearing from witnesses so as to discuss the line of questioning for those witnesses. In Canada intense competition between the parties extends into the committees. Only on rare occasions is there any informal coordination with respect to the questioning of witnesses. This undermines the ability to pursue a consistent line of questioning before committee.

In Britain, a committee such as the select committee on defence seeks to address issues in a more non-partisan fashion than is the case in other Commons committees and membership on the defence committee relies heavily on senior members of Parliament. This tends to improve the quality of committee work and may also affect the respect accorded to the committee by the government of the day. The defence committee is supported by a staff of between three and six persons. It may also employ additional specialist staff to assist with inquiries. Committee reports in Britain are often debated on the floor of the House. A committee may also follow up on reports by asking the minister to give oral evidence. Since 2002, the prime minister has appeared before the liaison committee of the House twice a year, thus reviving a practice of prime ministerial appearance before House of Commons committees that had been dormant since the 1930s.

In Australia, the role of committees is probably among the most extensive and significant within the Westminster tradition. This is primarily because the upper house of the Australian Parliament, the Senate, is elected, in contrast to the appointed upper houses in Britain and Canada. While the Senate in Australia is quite partisan — partly because it is elected based on a system of proportional

representation — it also has a greater ability to pursue independent inquiries since the government will not rise or fall based directly on Senate actions or votes. Just prior to the 2003 war in Iraq, for example, the Australian Senate refused to endorse Australian military participation in that conflict. Nevertheless this did not imperil the survival of the government (or Australia's involvement in Iraq).

Two committees address defence issues in the Australian Parliament, a Senate committee on foreign affairs, defence and trade, and a joint Senate-House committee of the same name. The latter committee has played an active role in foreign and defence policy oversight since the war on terror began. In May 2002, the joint standing committee established a "watching brief" on Australia's involvement in the war on terror. This encompassed regular briefings on Australian efforts in the war on terror and the nature of terrorist activity within Australia and abroad. Following Australian involvement in the Iraq war of 2003, the committee also launched an inquiry into Iraq's alleged weapons of mass destruction program. But the more consistent and substantive inquiry into defence issues in Australia occurs in the Senate committee. The Australian Senate's Brief No. 4 leaves little ambiguity about the investigative role intended for Senate committees, noting that their role is to "investigate and to draw attention to what they find." They are intended, it is said, to "throw light in dark corners."<sup>47</sup>

In 1970 the Senate established its present system of standing committees of two types: reference committees and legislation committees. Reference committees "inquire into and report on general matters referred to them by the Senate."<sup>48</sup> Each committee is composed of six members, two from the government party and four from opposition parties and/or independent senators, and they are always chaired by opposition members. Each legislation and reference committee is supported by a secretariat of six or more staff members. Additional staff researchers are usually provided to support major investigative work or during the estimates process.

Legislation committees scrutinize legislation, the budget and government administration, including annual reports of departments; they are also composed of six members, three from the government party and three from opposition parties and/or independent senators. They are always chaired by government members. Senators interested in the work of a committee of which they are not members may attend that committee and participate in discussions, though they are not allowed to vote in that committee.

Between the committees of the Senate and the House, the legislation committee of the standing senate committee on foreign affairs, defence and trade, is usually the more important of the two. That committee has the specific mandate to monitor the performance of the Australian department of

defence. Annual reports of the department are automatically referred for consideration to the committee, which determines whether the report is satisfactory. The committee also investigates matters requiring closer scrutiny and considers all legislation affecting the defence department and the Australian Defence Forces. The defence budget is reviewed by the legislation committee on an annual basis (see below).

Senators are nominated to serve on committees by their political parties and then confirmed by the Senate as a whole. Normally senators remain committee members for the life of a given Parliament. Senators who resign from committees must seek the permission of the Senate as a whole in order to be discharged from attendance at that committee. Witnesses before Senate committees are granted important rights and protections to ensure that they give evidence freely. For example, witnesses cannot be prosecuted or sued on the basis of what they say in committee. Public servants are expected to give full and accurate information to committees, but are also expected to remain politically neutral and not express opinions on government policies.

In Britain and particularly in Australia, parliamentary committees are accorded greater weight and credibility. Parliamentarians serving on defence committees in Britain and Australia tend to be more senior individuals who, partly because of the fact that they usually serve on those committees for longer periods of time, are usually better informed on strategic and military issues.

#### *Foreign policy debates as a means of oversight*

The essence of debate is to seek, by the force of argument, to influence and change the views of others. In Britain, there have been occasions when government backbenchers have challenged the government on key foreign or defence policy issues. At times this allowance has introduced a considerable degree of legislative accountability through the debate process. The 2003 debates on war with Iraq is a notable case in point. Several debates (and votes) were held in the British Parliament prior to the initiation of hostilities on the issue of British participation and on the rationales for going to war. In each of these debates the government faced significant opposition from its own back benches. Some backbenchers demanded that the government seek prior consent from Parliament prior to military action.

Although the government rejected surrendering Crown prerogative in this area, several votes in advance of the war did take place.<sup>49</sup> On February 26, for instance, 121 Labour backbenchers voted against the government on the matter of taking military action against Iraq.<sup>50</sup> Several weeks later as many as 139 Labour MPs took a similar stand in another vote.<sup>51</sup> The government won both votes easily but only because it had the support of the Conservative opposition.

In this instance, the debates in the British Parliament on the matter of Iraq were actually about convincing House members (regardless of party) to support a particular line of action on a major foreign policy question being proposed by the government. While such debates and votes on foreign policy issues may be rare in Britain, they have not occurred in Canada at all in the past decade even though the Canadian Forces have been committed to perhaps a dozen or more military conflicts in that same period of time. However, such a fundamental and high profile clash between the government and its backbenchers is a rare event. In most cases it is the positions of party leaders that usually determine how most individual MPs will vote on any matter regarded as important to the government.

In all the Westminster parliaments, the opposition has various means to try to bring major issues, including foreign or defence policy questions, before parliament, and potentially, the public and the media. "Opposition Days" are subjects for debate chosen by the opposition parties. In Britain, for instance, of twenty days available for such debates, seventeen are at the disposal of the leader of the opposition and three to the leader of the second largest party. Some of these days might be devoted to foreign or defence policy issues.

#### *Reviewing spending*

Monitoring and controlling the spending of public tax dollars lies at the heart of legislative oversight. Over the past several decades parliamentarians in every Westminster parliament have been concerned and frustrated by their inability to effectively monitor public spending. In 1976 in Britain a select committee was established "to consider the practice and procedure of the House in relation to public business and to make recommendations for the more effective performance of its functions." This review led to the replacement of the previous "expenditure committee" of the House with 12 subject committees responsible for the scrutiny of government departments.<sup>52</sup> While this reform was designed to enhance knowledgeable scrutiny of public expenditure, committees in practice have only the most limited ability to monitor departmental spending.

In 2000, British Member of Parliament Edward Davey released a study of Parliament's scrutiny of the annual estimates.

*Budget scrutiny is a total charade: MPs are only allowed to debate these estimates, detailing billions of pounds, for three days in the whole year. Moreover, MPs are restricted on amendments to these estimates and the convention has grown up that an amendment to an estimate is tantamount to a vote of no confidence. As a result, debates on estimates almost entirely ignore the expenditure figures and there are rarely any amendments, let alone votes.<sup>53</sup>*

Budgetary votes in the Westminster system are governed by the strictest of party discipline. In practice this means that in Britain, for instance, the defence budget is determined exclusively by the government with little effective parliamentary examination of the details of that spending.

In Australia, government also dominates the budgetary process. However, the process of annual scrutiny is intense and open to the public eye. Again the Australian Senate plays a significant role in scrutinizing annual expenditures. The annual federal budget is normally introduced in the Australian House of Representatives in May. Although formal consideration of the budget by the Senate cannot occur until the budget has passed the House, informal consideration by Senate committees actually begins immediately. As soon as the budget is introduced, legislation committees of the Senate receive documentation which reproduces the particulars of the proposed expenditures. The Senate committees then undertake and complete much of their detailed work on the budget by the time the formal budget arrives on the Senate floor.

On an annual basis, the defence estimates in Australia are referred to the foreign affairs, defence and trade committee for examination and report. The committee holds an initial round of public hearings normally lasting two days, followed by supplementary hearings a few weeks later. Public servants normally testify at these hearings. The committee reviews accompanying departmental "portfolio budget statements" which break down proposed expenditures in detail by program, sub-program and individual components. The committee will frequently consult other documents such as reports of the auditor general in this review. After the committee completes its review it presents a report to the Senate. Any member may also produce a minority report highlighting his or her views on the budget. This budgetary process does not envisage the Senate changing government spending priorities. Instead, it is designed to fully open the books of government departments to public scrutiny. It thus requires the government and government officials potentially to explain any spending proposals.

Although the theory inherent in the Westminster system of parliamentary oversight is based on the concept of responsible government, in practice parliaments within this model have few effective tools to directly hold governments to account, to alter government policies or to directly change spending priorities. The main purpose of legislative oversight in the Westminster model is to draw public attention to potentially controversial issues and exercise behind-the-scenes influence. In this regard, the Australian Parliament appears to be the best equipped and the work of the Senate in that country is of pivotal importance. It alone has the means to scrutinize the details of government policies and spend-

ing priorities. Governments in Australia must also reckon with the fact that they must face the electorate at least once every three years (versus five in Britain and Canada). Therefore specific controversial matters which may be raised through parliamentary scrutiny may be more likely to be remembered by the public come election time.

## Pushing the Oversight Envelope: Two European Models

In looking at parliamentary models where the national legislature plays a greater role in exercising executive oversight, several national legislatures in continental Europe are equipped with much greater oversight powers than Westminster parliaments.

Two models in this regard are the German and Norwegian parliamentary systems. Major differences between these parliamentary systems and the Westminster model include the following:

- Governments in these systems either cannot be forced from office between elections (as in Norway) or high hurdles exist with regard to forcing new national elections or changing the government based on a legislative vote (as in Germany<sup>54</sup>).
- Both legislatures are elected either entirely based on a system of proportional representation (as in Norway) or on a system of partial proportional representation (as in Germany).
- Absolute majorities in national elections are rare (in Germany, for instance, this last occurred more than forty years ago) and national policies are usually based on compromises between parties of the governing coalition and between government and opposition parties.
- The national legislatures, and in particular the component committees, are much more independent of the government and have extensive resources; they are thus able to exercise much closer oversight of the policies and actions of the executive.

This means that in the area of defence policy-making and oversight, parliaments in Germany and Norway are directly engaged and play a significant role in the formulation of defence policy. In both countries defence policy positions adopted are more closely based on a national consensus that is shaped in the legislature and thus is more consistently implemented over time.

*The nature of question period*

Questioning of the government forms an integral element in public accountability in both Germany and Norway. However, in both countries, the questioning process avoids the melodrama and sensationalism characteristic of question period in Canada.

Question time takes place in the German Bundestag (the lower house of Parliament) just once per week (on Wednesdays). It does not exceed three hours and usually lasts only one hour. As well, questions must be submitted in advance, by 10 a.m. on the preceding Friday. It is also the case that usually one federal department is the focus of a given question period. Nearly the same process is followed in the Norwegian "Storting," with questions submitted in advance and only one question session held per week.

Both the Bundestag and the Storting also make provision for more detailed questioning through interpellations that often lead to debates on the issue at hand. (Interpellations are essentially written questions from a certain number of members of Parliament — 31 members from a parliamentary *fraktion*, or party, in Germany.) Since debates based on such written questions are usually held about one month after being requested, they are not a means to produce immediate answers but rather to probe more deeply into a given issue.

*Committee oversight*

Under the German and Norwegian models, committees are powerful tools of the legislature. Indeed, committees are described by a Norwegian parliamentary publication as "the forum in which the real decisions on most matters of business are made."<sup>55</sup> Committees in both countries are directly involved not only in overseeing the activities of the executive but also in actually formulating national policy.

There are several sources of committee independence in both legislatures. The first stems from the means of appointment. Committees are created in the Bundestag at the beginning of each electoral term. Membership on committees is determined by a council of elders which represents each of the parties in proportion to their strength in the Bundestag. Each of the *fraktionen* nominates members to serve on committees (and those *fraktionen* can also remove members). Members usually sit on only one committee during any particular electoral term, thus limiting their focus and workload. Chairs and deputy chairs of committees are selected in proportion to the strength of each party in the Bundestag.

In Norway members are chosen for standing committees by an election committee (itself elected by Parliament) after each election in proportion to the seats earned by parties during that election. Chairmanship of committees (as well

as vice-chair and secretary positions) is also determined on the basis of the proportion of seats earned by parties during the previous election.

Due to the political balance on committees, compromise and cooperation becomes a necessity for effective committee action. In Norway after the 2001 election, for example, the ten members of the defence committee represented six different political parties, while in Germany no party holds an outright majority on the defence committee. An added feature of proportional representation is that often policy experts in given areas are placed on party lists for elections. Most political parties in Germany and Norway have at least some individuals who are experts or very well informed on international security issues — some members have direct foreign or defence policy experience that extends back, five, ten or even more years. Since both Germany and Norway maintain compulsory military service, many male members of the German and Norwegian defence committees have served in the armed forces at one time. Indeed, several reserve force officers are often serving on these committees.

In both countries the standing committees play a central role in both legislative and budgetary matters. Committees generally correspond to the government departments and are responsible for their direct oversight. The outcome of a measure in committee usually determines how that issue will be dealt with by Parliament as a whole.

In Germany, some of the source of committee power stems from the fact that committees do not generally meet in public and instead almost always holds sessions behind closed doors (the defence committee usually meets in this way on Wednesday every week). Committees thus become engaged in the details of policy outside of the public eye. This means that all parties often become implicated in policy decisions, making it more difficult for the opposition to criticize the government for certain policy decisions in which it too may have been involved. The Bundestag also has particular constitutionally based powers with respect to national defence. For instance, all overseas missions of the armed forces must be approved by a parliamentary vote. In this regard, the defence committee continually gives in-depth consideration to all international missions of the armed forces.

Lastly, in both legislatures the resources available to the defence committees are extensive. In Norway, for example, the Storting is assisted in its oversight of government spending by the Office of the Auditor General. This office has about 440 staff, many of whom are experts in a particular area such as national defence. And Parliament itself appoints five national auditors who jointly head that office. In Germany, the “parliamentary commissioner for the armed forces” is elected by the Bundestag for a five-year term and reports directly to it. The office of the parliamentary commissioner is responsible for assisting the

Bundestag, and in particular the defence committee, in ensuring effective legislative oversight of the armed forces and all its activities. Nominees are proposed by each of the parliamentary parties and election takes place by secret ballot. The German minister of defence himself has no right to issue instructions to the parliamentary commissioner, who instead reports directly to Parliament.

#### *Parliamentary debates and constitutional roles*

In both legislatures, interpellations (noted above) give rise to debates and thus are an important tool for opposition parties to force debates on key issues. Between 1990 and 2002 in Germany, 141 debates were held as a result of opposition action.<sup>56</sup>

Parliament is also obligated to establish a committee of inquiry on any matter pursuant to a request from one-quarter of Bundestag members. Since the approval of the Bundestag is constitutionally required prior to committing German forces to operational missions overseas, parliamentary debates on defence issues can take on a position of critical importance. In Norway, parliamentary approval is required to ratify treaties. This necessarily compels the government to involve Parliament specifically in determining the parameters of Norway's position in international negotiations and more generally in most matters of international policy.

Germany also maintains an upper house of Parliament, the Bundesrat, which represents the state governments at the federal level. While the Bundesrat is more concerned with domestic policy issues and in how they may affect the states, it can also play a role in defence policy through its defence committee, the chairmanship of which is usually in the hands of the opposition party. Moreover, its approval is specifically required both to establish a "state of defence" (emergency) and to ratify treaties.

#### *Monitoring and controlling spending*

Both the German and Norwegian Parliaments play a central role in the annual budget process. The most important body in the German Bundestag is the budget committee. While the budget committee reviews the entire federal budget, its sub-committee, the auditing committee, is responsible for ensuring parliamentary control of budgetary and financial management. The sub-committee operates closely with the federal audit office. The federal audit office not only monitors past spending programs but also the implementation of existing programs and projects.

At the beginning of each German parliamentary term, the budget committee appoints rapporteurs responsible for each budget area. Rapporteurs liaise closely with the standing committees (such as defence) and must acquire in-depth knowledge of the aims and financial plans of their ministry.

The Bundestag defence committee is directly involved in all aspects of the budget process. All procurement projects that involve the expenditure of more than DM50 million (now the equivalent euro amount) must be brought before the defence committee. Such projects are not implemented until approved by the defence committee. In recent years, for instance, the defence committee has continually held up and deliberated on the numbers of A400M heavy-lift transport aircraft to be ordered by the German air force. In 2003, the committee finally agreed to support the order of 60 such aircraft. With thirteen Social Democrat, twelve Christian Democrat/Socialist, three Greens/Alliance 90, and two Free Democrat members on that committee after the 2002 federal elections, matters such as determining specific budgetary spending items usually require compromise between the parties.

In Norway, the Storting has not only the obligation to review and approve government spending proposals but also the option of ordering expenditures on its own. After a budget is presented, the working procedures committee assigns various chapters of the budget to the standing committees. Working in coordination with the standing committees, the committee on finance and economic affairs then issues a recommendation concerning spending for the coming year in addition to tax and duty levels. It is then the duty of the standing committees to fix their own departmental spending programs within the limits set by the finance and economic affairs committee. These committees can only operate within the overall spending limit set by the finance and expenditure committee. If expenditures are increased in one program area, they must then be reduced in another area.

According to Norwegian parliamentary documents, Parliament usually does not alter the government's spending proposals significantly. Government and parliamentary budget totals usually differ by less than one percent. While government spending proposals and those eventually agreed to by Parliament usually do not differ by large overall amounts, this does not mean that differences do not arise over specific spending proposals. In 2001, for instance, the Storting completely rejected the Norwegian government's defence budget proposals. Therefore, over the next year the defence plans of the Norwegian government had to be redrafted to accommodate an increase in overall spending for the next fiscal year.<sup>57</sup>

The parliamentary systems of Germany and Norway are not directly modelled on the American concept of checks and balances; the executive is not outside of the legislature as in the United States. Yet, both systems are clearly based on a recognition of the importance of a significant measure of independent legislative oversight over the actions of the executive.

In the Westminster system, policy-making in foreign policy and defence is largely reserved to the executive alone with varying degrees of limited oversight. However, in many continental European legislatures, with Germany and Norway

serving as examples here, a determined effort has been made not to leave such policy-making exclusively to the government. In the Norwegian and German cases this is partly based on national histories, which have taught the lesson that issues of foreign policy, defence and national security are too important to be left to a small circle of policy-makers (Norway's poor defence preparedness in advance of the Second World War may have reinforced this notion).

However, despite the unique historic and other factors which have shaped particular legislative systems, we can draw on different parliamentary models to ensure that legislative oversight balances the need for executive leadership in foreign and defence policies with the need to ensure broader input on policy.

## Building Competence for Effective Parliamentary Oversight of National Defence and the Canadian Forces

Of the various instruments available to Parliament, the committees of the Senate and the House of Commons seem best suited to provide effective parliamentary oversight of national defence and the Canadian Forces. These committees, however, cannot reach their full potential as presently conceived and structured. As this study and many others have noted, several mechanical and procedural reforms and changes must be accepted and advanced by the political community before a truly competent and vigilant Parliament can emerge.

Chief among these reforms are those intended to reduce party discipline and partisanship in committee deliberations and recommendations; increase emphasis on the examination of estimates, funding allocations by the cabinet and spending in departments, especially as they relate to policy aims; increase the experience and knowledge of committee members, perhaps by regulating their periods of appointment to committees; and provide expert staffs and other support to committee work. However, providing committees of the House of Commons specific and standing direction from Parliament and greater autonomy from ministers over what subjects would be examined is a central issue overriding most other recommendations. These central ideas for standing authority and greater autonomy in committees are particularly relevant to efforts to enhance parliamentary oversight of national security and defence policies and establishments.

The cabinet has responsibility for policy and for the civil control of the Canadian Forces. Indeed, some have argued that national security and national

defence are the sole province of the cabinet derived from the Crown's prerogative to defend the realm. From this perspective, Parliament, acting through its committees, ought to address issues outside this boundary while emphasizing its traditional responsibilities to hold the government to account for its actions and decisions. Nevertheless, national defence and military affairs and operations are complex matters which could easily overwhelm any committee. Besides, inquiries by committees into the posting of every corporal's guard may not provide the type of information Parliament needs to fulfill its customary obligations. There are, however, critical subjects at the centre of policy, administration and operations which must be investigated and the policies of which must be tested by interrogation if governments are to be held to account. These issues should be designated specifically as a fixed agenda to be routinely reviewed by standing committees of the Senate and House of Commons.

#### *Estimates and expenditures*

In the parliamentary systems examined in this paper, "power over the public purse" ranges from the in-depth public review of defence estimates (as in Australia), to the active parliamentary role in determining the specific nature of the budget (as in Norway or Germany). Any reforms of the budgetary process in Canada would likely tend more toward the Australian parliamentary model than toward the continental European models. As in Australia, detailed committee reviews of the annual defence estimates must begin from the assumption that the defence minister could be asked to explain any item of expenditure in the budget and to relate it to the government's defence policy. If the Minister cannot explain and justify a particular budgetary item to the satisfaction of the committee, that body must have the power and political leverage to insist that the matter be corrected. Committees should also be charged with the oversight of departmental expenditures to help determine if they match the estimates and priorities and plans put before Parliament in the estimates. It is important in this regard that committee staffs — if not the committee members themselves — have early access to defence audit information and databases and other assistance from the Office of the Auditor General of Canada whenever committees' staffs are researching matters on behalf of parliamentary committees. Finally, close cooperation, and in some cases joint investigations by related committees, as, for instance, between the defence and public accounts committees of the House of Commons, might provide fuller and more useful reports to Parliament than those constructed by committees working from more narrow perspectives.

#### *Personnel*

"People," defence department literature avows, "are our most important resource." Members of the Canadian Forces are the sharp point of defence poli-

cy and they are obliged by law to accept the risks that arise whenever governments contemplate spending lives to achieve policy goals. In return members of the Canadian Forces trust in an undeclared social contract: we will dutifully take the risks but society will not unnecessarily or carelessly place us in harm's way; moreover, society will provide for our future needs should duty cause us harm or injury. Parliament, acting for Canadians, is the custodian of this social contract and, therefore, liable for upholding and honouring its provisions. This responsibility demands that Parliament must set the conditions under which members of the Canadian Forces will be employed, oversee their employment, and be informed of any risks, difficulties and any other matter that affects the quality of life of members during and after their service in the Canadian Forces.

While the government must be free to establish the strength, rank structure, composition, and unit organization of the Canadian Forces, Parliament has a duty to ensure that these policies are prudent, properly considered and in keeping with the needs of national defence policy and the welfare of members of the Canadian Forces generally. Committees of the Senate and the House of Commons should make annual reviews of personnel management policies and direct particular attention to military pay and benefits, operational demands, quality-of-life issues, and assessments of the present and long-term "population profile" of the armed forces, among other matters. In this regard, the ombudsman of the Canadian Forces ought to be made an officer of Parliament and routinely work with, advise, and report to parliamentary committees on national defence.

#### *Matériel acquisition*

The development and sustainment of adequate and reasonable military capabilities for the defence of Canada and Canadian interests is a primary responsibility of government. Parliament, therefore, must be aware and interested in how this responsibility is met, not just in present circumstances but as an ongoing duty overlapping any one government's period in office. Committees of Parliament must be charged with overseeing military force development procedures and plans and they should investigate routinely the state of the present force and the anticipated condition of the future force over an extended period.

Military capabilities are expensive to develop, acquire and maintain. Moreover, mistakes in acquisition decisions or procedures may result in death or injury to members of the Canadian Forces and military failure thereby threatening Canada's security and defence. For these reasons alone, committees of Parliament must be designated and charged with the duty to investigate defence acquisitions at every stage of the process from conceptualization, development, contracting and life-cycle management to final disposal. Acknowledgment of these complex duties

and responsibilities reinforces the earlier observation that committees must be properly established and supported or no reliable oversight of the government, the public service establishment or the Canadian Forces will be possible.

### *Senior appointments*

People, not bureaus, make decisions, and in government the influence of senior public servants and senior military officers in the policy process is widely acknowledged. These officials and officers may not decide policy, but the authority and discretion vested in their positions provides (and some would argue demands) that they set out for ministers the “choice of choices.” By doing so they may direct policy toward institutional, not national, interests. General and flag officers have in law and custom responsibility for the development of armed forces, the command of forces in all situations, and considerable control over expensive resources including the lives and safety of thousands of Canadian citizens in uniform. They are also the professional advisors to governments on grave matters of national security, defence and critical aspects of international relations. Canadians have a right to know who these people are and what qualifications they bring to these important duties.

Although parliamentary reform does not necessarily demand that the governor-in-council must relinquish the prerogative to promote and appoint senior public servants and military officers, it is not unreasonable to suggest that Parliament acting on behalf of Canadians might play a role in this process. Specifically, Parliament should be familiar with individuals who might rise to high responsibilities and high command, an objective best achieved by allowing officers to meet senators and members of Parliament informally during routine committee business and especially by having committee members visit military units. Encouraging a free and open exchange of views on national defence issues between officers and members of the committees would make them better informed. Parliament, moreover, might gain confidence in those who lead the Canadian Forces. Senators and members of Parliament would thus be better prepared to advise Parliament and the government on who might in the circumstances best fill senior military appointments.

After an individual is appointed by order-in-council to a senior rank or position, then the Senate and the House of Commons ought to be allowed to review with the appointee central issues of defence policy and management that are of particular concern to Parliament. There is here no suggestion that committees might confirm appointments, but rather reforms should aim to facilitate the development of a consensus on national issues between senior members of the defence establishment and the political leaders who must oversee how these issues

are addressed and supervised. Of course, the suspicion that some committee members might be tempted to interrogate new appointees in public or even in camera might prompt governments to take extra care in its senior appointments and promotions, an eventuality that prudent ministers ought to welcome.

Even if allowing committee reviews of senior defence department and military appointments were too radical for Canadian politicians, one could still make a reasonable plea for committees to interview officers appointed to command important military commands and operations. The explicit objective of such encounters would be to allow Parliament opportunities to ensure itself that Canadians deployed on demanding and dangerous missions understood what they were to do and that they had the resources to do what was asked of them. The unstated (but perhaps obvious) purpose of such conversations would be to stimulate cabinets and senior public servants and military officers to consider these missions very carefully before deciding to deploy them, a caution that today is not too deeply ingrained in Canada's civil-military culture.

#### *Readiness and the conduct of operations*

Readiness is the degree to which units are prepared to undertake missions assigned to them, an essential measure of national defence policy. Parliament, having assigned missions to and provided resources for specific military activities, would want to assure itself that these missions can in fact be met within the time frame and conditions it has specified. Once operations begin and as they continue, Parliament would likewise wish to assess and judge the effectiveness and efficiency of these operations and to anticipate future demands that might be placed on Canada and other policies and programs. These related objectives can be met only when senators and members of Parliament probe them critically in Ottawa and in the field.

#### *Autonomous inquiry*

Parliament's direction to committees to oversee particular and specific areas of national security and national defence policies and management does not imply that these are the only areas that committees might examine. On the contrary, although Parliament would insist on regular, routine and formal reports from committees on standing issue areas, committees must be free to inquire into any area or issue of interest to Parliament. This licence already exists, more or less, in the Senate of Canada, subject only to the availability of resources controlled by the Senate. The national defence committee of the House of Commons has in recent years exhibited considerable autonomy as well, but only at the pleasure of ministers, a tolerance that might be withdrawn at anytime. A more mature and respect-

ed relationship will develop only when members of Parliament gain a freedom to look closely over ministers' shoulders in the interest of all Canadians. Cabinet ministers tend, however, to shy away from this concept, fearing perhaps that it would become too partisan and too adversarial. Yet this worry is not supported by behaviour in Commons defence committees in recent years. As Mackenzie King might have said, one should approach this reform under the assumption that it will be "adversarial if necessary, but not necessarily adversarial."

### **The Requisite Conditions for Reform**

Parliamentary committees which oversee security and defence policy and management require, as noted earlier in this paper, new mechanisms, practices, attitudes and resources if they are to become more useful participants in helping Parliament in its duties and responsibilities. For the most part, they are reforms that could be applied in common to all committees and all issue areas. Security and defence committees, however, are set aside from most others by the very nature of the information, subjects and national importance of the matters they should review. National security and defence touch on many other policies and programs: foreign policy, internal security and policy, international alliances and treaties, finance, and fisheries and industry, for instance. From these reasons and because the subject is complex, security and defence committees require additional fundamental reforms.

#### *Security clearances*

Committees of Parliament must have unfettered access to government documents, plans and programs and individuals employed by the government. Otherwise, they will serve little purpose except to raise suspicion that governments cannot be trusted. Nevertheless, many aspects of national security and defence policy, plans and programs are cloaked in confidences. Officials and officers are understandably reluctant to share (in most case proscribed from sharing) classified information with parliamentarians who have not been cleared to receive such information. As a necessary condition for parliamentary reform in these policy areas, senators and members of Parliament assigned to oversight committees must agree to undergo security clearance procedures as stringent as those placed on government employees and members of the Canadian Forces. Any parliamentarian who might not wish to submit to this detailed examination should be excused from service on these types of sensitive committees.

#### *Military secondment*

In other states, in Germany, for instance, military officers are routinely appointed by the armed forces to political party offices and to parliamentary committees to assist members in their duties. Some politicians and some senior officers

in Canada reject this idea and resent or treat with suspicion officers who are assigned to such positions, regarding them on the one hand as “spies” and on the other as “political toadies.” Unfortunately, the simple fact is that Canadian politicians, including experienced cabinet ministers, arrive in Ottawa with little or no understanding of military or foreign policy matters. They are then thrown into serious committees and expected to oversee and debate complicated policies with officials and officers who have a lifetime of experience in the field and in Ottawa doing not much else.

One easy and tried way to relieve some of this stress would be to appoint qualified officers of suitable rank to parliamentary security and defence committees. Officers so selected should work for a committee as a whole and assist them and the committee’s other civilian staff in research projects related to standing issues and other subjects before the committee. They should be truly free from their parent establishment, work on a condition of committee confidentiality and hold these positions at least through the life of a parliament. After this type of duty, Parliament should follow these officers’ careers to ensure that they progress within normal parameters and provide a locus for redress if they do not because of factors attributed to their service for Parliament.

*Political cooperation in the national interest*

To suggest that reform of the parliamentary oversight mechanism for national security and national defence must be based fundamentally on political cooperation or non-partisanship appears in the eyes of many experienced politicians to condemn the entire effort. Yet, a close review of political party attitudes toward these areas, especially after September 11, 2001 and in the midst of the war on terrorism, suggests that the lack of cooperation is mostly for show or merely an unreflective habit. Ask in a quiet period and most politicians would readily agree that political leaders of all ranks have a duty to protect the nation that at least supercedes a duty to any political party or partisan interest and that party platforms are not overly distant from each other.

Members of Parliament may from time to time jab parliamentarians from “that other place,” but they know and admire most senators, and some remember the impressive results the Senate and the House of Commons produced when in 1993-94 they met together as the Special Joint Committee on Canada’s Defence Policy. The committees of the Senate and the House of Commons on national security and defence are convened at least to inform the Senate, the Commons and the cabinet of serious issues affecting the nation. They serve also to test policy ideas, examine ends and means, and to inform and condition public opinion on the risks, dangers and choices that sit before them. They meet also to inspire the “Ottawa men” (today of both genders in and out of uniform) and promote due

diligence in government. The best parliamentary committees provide a release for new ideas and reforms resident in the public service and military establishments but are too often pent up by timorous politicians and partisan interests.

These positive effects may flow from the work of a Senate or Commons committee working in isolation or competition. However, they arise more strongly and stand on steadier feet when they reflect a parliamentary consensus on what Canada needs, and they present an example to Canadians of what can be achieved when Parliament works together. Academics and others can write and talk and make proposals, but parliamentarians can act. And now is the time for them to act together and with purpose to build a sound national defence in an ever more dangerous world.

### **Does Parliamentary Oversight Matter in Canada?**

Would Canada be any safer if Parliament took a more active role in defence decisions and the oversight of military affairs generally? Does the issue matter in Canada? The questions are not trivial and go to the heart of Canada's international situation and its "way in warfare." The suggestion implied by the questions — questions that would not be asked in Washington, London or Canberra, for instance — is that even if Canadian parliamentarians took serious note of defence issues, their efforts would have few important consequences for Canada's national defence. It is commonly (and at times unreflectively) observed that Canada has no defence problem because there is no threat, but if there were one, the Americans would solve it in their own interests. Not much said in Parliament could change this common feeling. The second suggestion is that a vigilant Parliament hot on the heels of governments about to decide to commit the Canadian Forces to warlike operations might only confound such decisions without in fact adding any value to defence outcomes.

The response to these general questions and others framed by the details of particular situations — would parliamentary debates have changed the decision not to join the coalition against Saddam Hussein in 2003 — is that the issue matters first in principle. If any concept defines liberal democracy, the civil control of the military is surely near the top of any list. Civil control of the military, control by civilians elected to Parliament, involves more than keeping the military out of politics; it demands the control of governments that have authority over national armed forces. "Civil control of the military may be a defining characteristic of liberal democracies," as the Somalia inquiry commissioners so clearly stated, "but it does not occur invariably"<sup>58</sup> or, one might add, inevitably. Managing this double problem of civil-military relations provides the principled reason why building an effective parliamentary oversight of national defence and the Canadian Forces is not merely important but necessary.

When scholars and public commentators and parliamentarians concentrate their attention on civil-military relations and Parliament's role in it in Canada, main-

ly on whether the government ought to deploy the Canadian Forces here or there, then they miss other equally important subjects. This paper may be as much at fault in this regard as any other and for the same reason. A deployment is an obvious, usually serious exercise of governmental power and discretion begging for explanations and, from the opposition's point of view, criticism. Certainly, governments must be held to account for their deployment decisions, but the oversight by Parliament of the government's policies and the Canadian Forces must be deeper and continuous if the principle of civil control is to be, in fact, effective and more than rhetoric.

The Canadian Forces consumes some \$12 billion annually; its members are all armed; the chief of the defence staff has vested rights in law that give the incumbent significant powers that might surprise most parliamentarians; senior military officers have the lives of citizens in their hands and the power to compel them to take life-threatening risks; the decisions of ministers, officials and officers may well determine the very well-being of Canada; and so on. These are the types of issues and policies that Parliament has a right and duty to oversee. Moreover, parliamentarians also have a duty to question and hold to account governments and ministers who exercise control over officers and officials who have discretion over how the Canadian Forces are prepared and deployed and how officers use deadly force. These are topics that matter and which should, but very often do not, occupy parliamentarians charged with the oversight of Canada's national defence.

Does parliamentary oversight matter in Canada? Perhaps it does not in the day-to-day lives of most Canadians, but it should matter to their representatives. And it should matter to them for reasons more fundamental than and above gaining any political advantage it may or may not bring to ordinary senators, members of Parliament, or political parties. Perhaps as Canada matures as a liberal democracy free from "democratic deficits," then the question — Does parliamentary oversight matter? — will not longer need to be asked.

The Martin government introduced in December 2003 the most sweeping changes in the government's national security structure since the start of the Cold War. Time will tell whether the new structure itself will stimulate closer scrutiny of national security and defence issues by Parliament or whether the changes will make the task even more complex. A robust Parliament called into session in early 2004 would as a first priority assemble committees to examine the details of the new structure to discover, at least, who is responsible for what policies. It would be a great irony if the changes intended to safeguard Canada in the age of global terrorism instead discouraged Parliament because they are too complex to readily understand, thus inhibiting the government's other major initiative, merely erasing the "democratic deficit" and making Parliament the centre of Canadian political life.

- 1 The Right Honourable W.L. Mackenzie King, in the Canadian House of Commons, May 24, 1938.
- 2 See, for example, Douglas L. Bland, *Chiefs of Defence: Government and the Unified Command of the Canadian Armed Forces* (Toronto: Brown Book Co., 1995); and J.L. Granatstein and Robert Bothwell, *Pirouette: Pierre Trudeau and Canadian Foreign Policy* (Toronto: University of Toronto Press, 1990).
- 3 Former External Affairs Minister Mitchell Sharpe. Quoted in Kim Richard Nossal, "The PM and the SSEA in Canada's Foreign Policy: Dividing the Territory, 1968–1994," *International Journal* (winter 1994–95), p. 207.
- 4 A further discussion of the historic exclusion of Parliament from Canadian foreign and defence policy decision-making is found in Roy Rempel, *The Chatter Box: An Insider's Account of the Irrelevance of Parliament in the Making of Canadian Foreign and Defence Policy* (Toronto: Breakout Educational Network/Dundurn Press, 2002), chaps. 5 and 6.
- 5 House of Commons. Debates, Vol. 11 (October 30, 1990), p. 14881.
- 6 David Leyton Brown, ed., *Canadian Annual Review of Politics and Public Affairs, 1991* (Toronto: University of Toronto Press, 1991), p. 122.
- 7 Admiral Chuck Thomas, interviewed by Kitson Vincent and Rob Roy of Stornoway Productions, October 1994.
- 8 The four occasions were May 12, May 13, May 21 and June 2, 1992.
- 9 House of Commons. Standing Committee on National Defence and Veterans Affairs, "Minutes of Proceedings and Evidence, Meeting 21" (April 25, 1995), p. 20.
- 10 See discussion in Rempel, *The Chatter Box*, pp. 163-173.
- 11 See, for example, questions asked by the Bloc in the House of Commons. House of Commons, *Debates*, Vol. 5 (November 5, 6 and 8, 1996), pp. 6130, 6184, 6311.
- 12 House of Commons, *Debates*, Vol. 5 (November 18, 1996), p. 6382.
- 13 Commission of Inquiry into the Deployment of Canadian Forces to Somalia. *Dishonoured Legacy: The Lessons of the Somalia Affair. Final Report of the Commission*, executive summary (Ottawa: Minister of Public Works and Government Services Canada, 1997) p. ES-46.
- 14 For example, the Bloc's first question on the day the war broke out was about the decision to award a contract to build a new Canadian embassy in Berlin to a consortium that included a company based in Foreign Minister Lloyd Axworthy's home riding.
- 15 For further discussion of the role of Parliament during the Kosovo crisis and war, see Rempel, *The Chatter Box*, chaps. 2 to 4.
- 16 Ronald Landes, *The Canadian Polity* (Scarborough: Prentice Hall, 1998), pp. 172–73.
- 17 Peter Dobell and Martin Ulrich, "Parliament's Performance in the Budget Process: A Case Study," *Policy Matters* (IRPP, Vol. 3, no. 5, May 2002), p. 17.
- 18 Ted McWhinney, interviewed by Robert Roy of Stornoway Productions, October 2001.
- 19 Richard Van Loon and Michael Whittington, *The Canadian Political System* (Toronto: McGraw Hill-Ryerson, 1987), p. 622.
- 20 Ambassador Joe Bissett, interviewed by Robert Roy of Stornoway Productions, September 2001.
- 21 House of Commons, *Debates*, Vol. 14 (February 17, 1999), p. 12072.
- 22 Department of Foreign Affairs response to Access to Information request.
- 23 House of Commons, *Debates*, Vol. 137 (January 28, 2002; time of speech: 2145), p. 8382.
- 24 Mr. Pratt's February 17, 1999 speech on another crisis, in Kosovo, was also written in the Department of National Defence. Rempel, *The Chatter Box*, pp. 222-228.

- 25 Testimony of Colonel Patrick Dowsett. House of Commons Standing Committee on National Defence and Veterans Affairs proceedings (February 19, 2002); time of testimony: 15:45.
- 26 A May 2002 briefing note from Anne Blades of the Strategic Airlift Project Office noted: "The status quo and current strategic airlift deficiency will continue for a further ten years...Although the Hercules is not a strategic lifter, it has been relied on for this role in the past... By 2010, [E model Hercules] will be 45 years old further increasing the risk of mission failure...The impact of delaying the implementation of the Future Strategic Airlift Project would result in significant risks to Operations, Schedule, Cost as well as negatively impacting CF credibility." Department of National Defence, Briefing Note for the Chief of the Air Staff by Anne Blades, Procurement Finance Officer for the Strategic Airlift Project (May 2, 2002).
- 27 James Robertson, "House of Commons Procedure: Its Reform," Library of Parliament, Research Branch (February 21, 2002), p. 6.
- 28 Paul Martin Times.ca (the prime minister's Web site). "Regular parliamentary spending reviews amongst the measures needed, says Liberal candidate," May 12, 2003 (<http://www.paulmartintimes.ca>).
- 29 In December 1999, for example, the auditor general complained in writing to the chair of the House of Commons defence committee over personal attacks launched by MP John O'Reilly against witnesses from the auditor general's office who had testified before committee in relation to previous reports by the auditor general on the state of Canada's defence preparedness.
- 30 Standing Committee on National Defence and Veterans Affairs, "Report on Plans and Priorities" (June 11, 2001). Report tabled in Parliament.
- 31 Auditor General of Canada. "National Defence — In-Service Equipment" (chap. 10), Auditor General's Report (Ottawa: Office of the Auditor General, December 2001) paragraphs 10.11 and 10.12.
- 32 "National Defence In-Service Equipment" (news release), Office of the Auditor General, December 4, 2001.
- 33 The positive vote in favour of the 2002 Canadian Alliance motion finally implemented a report which had first been tabled in 1997. That report was drafted by a special subcommittee on the business of supply, which itself had been created in 1995 as a result of Canadian Alliance procedural tactics in the House of Commons.
- 34 House of Commons, *Debates*, Vol. 137, no. 112 (November 8, 2001) p. 7160.
- 35 Between 2001 and 2003 some 97 per cent of the navy's seagoing sailors were deployed to the Indian Ocean region at least once, as well as sixteen of seventeen active major warships.
- 36 Paul Thomas, "Comparing the Lawmaking Roles of the Senate and the House of Commons," in Serge Joyal, ed., *Protecting Canadian Democracy: The Senate You Never Knew* (Canadian Centre for Management Development, 2003), p. 195.
- 37 Paul Martin Times.ca (the prime minister's Web site). "Paul Martin Takes on 'Democratic Deficit'," October 21, 2002 (<http://www.paulmartintimes.ca>).
- 38 Progressive Conservative Party of Canada. "Report on Democratic Reform" (Edmonton: August 2002).
- 39 Canadian Alliance, "The New North — Strong and Free" (spring 2003), p. 24.
- 40 Paul Martin Times.ca (the prime minister's Web site). "Regular parliamentary spending reviews amongst the measures needed, says Liberal candidate," May 12, 2002 (<http://www.paulmartintimes.ca>).
- 41 Progressive Conservative Party of Canada, "Report on Democratic Reform" (Edmonton: August 2002).
- 42 Canadian Alliance, "The New North — Strong and Free" (spring 2003), p. 24.

- 43 Lee Hamilton, interviewed by Robert Roy of Stornoway Productions, August 2001.
- 44 John Hamre, interviewed by Robert Roy of Stornoway Productions, September 2001.
- 45 British House of Commons. "HC Factsheets — Procedure Series No 2. Departmental Select Committees"
- 46 Peter Dobell, "Reforming Parliamentary Practice," *Policy Options* (IRPP, December 2000), pp. 13-14.
- 47 Australian Parliament, "Senate Brief No. 4."
- 48 Australian Parliament, "Senate Brief No. 4."
- 49 Paul Bowers. "Parliament and the Use of Force," International Affairs and Defence Section, House of Commons Library, British Parliament (February, 25, 2003).
- 50 *The Times* (London), February 27, 2003 (online edition).
- 51 *The Telegraph* (London), March 19, 2003 (online edition).
- 52 British House of Commons, "HC Factsheets — Procedure Series No 2. Departmental Select Committees," p. 44.
- 53 Edward Davey, *Making MPs Work for Our Money: Reforming Parliament's Role in Budget Scrutiny* (London: Centre for Reform, 2000).
- 54 In the German Federal Republic, the last government to be forced from office as the result of a legislative vote was the Social Democratic government of Helmut Schmidt in 1982. It was forced from office during the debate over the deployment of Pershing II and cruise missiles on German territory and the resulting defection of its junior coalition partners (the Liberal Democrats) to instead form a coalition with the opposition Christian Democrats.
- 55 Norway Storting, "The Standing Committees," 2000.
- 56 German Bundestag, "Plenary Sitings of the Bundestag: Debates."
- 57 John Berg, "Row over Norwegian Defence Cuts," *Jane's Defence Weekly*, July 25, 2001, p. 13; Norwegian Ministry of Defence, "Implementation Proposition — Norwegian Defence Reform" (April 5, 2002).
- 58 Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Vol. 5, p. 1453.

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