
The Parliamentary Budget Officer Two Years Later: A Progress Report

Brooke Jeffrey

In March 2008 Canada's newest watchdog, the Parliamentary Budget Officer, was appointed with considerable fanfare and widespread support. Two years later the record of achievements is considerable – five economic and fiscal updates and more than twenty research reports, all of which have been widely praised – but both the post and its first incumbent, Kevin Page, have also proven highly controversial. This article explores the development of the office and the problems that have surfaced since the Parliamentary Budget Officer was appointed.

The proposal for a Parliamentary Budget Officer was first put forward by the Conservatives in their 2006 election platform, but the original motivation to create such a post can be traced to the fiscal legacy of the Mulroney Progressive Conservatives more than a decade earlier. The Mulroney government had made deficit reduction a focal point of its policy agenda but ultimately presided over a period of exponential growth in the federal debt and deficit. Meanwhile forecasts by the Finance Department consistently underestimated the extent of the problem and served to heighten the concerns of economists and opposition politicians about the state of the nation's finances.

With the election of the Chrétien Liberals in 1993 a new approach was implemented by Finance Minister Paul Martin, who stressed the need for credibility at all costs. Finance forecasters were urged to err on the side of caution. Ironically, as the government's deficit reduction measures took effect and the fiscal situation improved, these cautionary measures themselves became the source of criticism. Although the so-called "surprise surplus" phenomenon was defended by many economists as the normal consequence of prudent fiscal management, it was also criticized by others as an indication that Finance Department projections once again could not be trusted.¹

When he became Prime Minister in 2004, Mr. Martin responded to these concerns by commissioning economist and former Bank of Montreal executive Dr. Tim O'Neill to review the federal government's fiscal forecasting practices. The O'Neill report, tabled in June 2005, identified Mr. Martin's own 1998 introduction of a no-deficit rule as "the major cause of the persistent upside surplus surprises at the end of each fiscal year."² However the report also stressed there were no real technical problems with the Finance Department's forecasting procedures, and reiterated that the surplus phenomenon was a predictable result of prudence. At the same time, the report acknowledged the existence of a growing concern with a public interest issue that goes beyond any technical weaknesses, namely, that the unexpected surpluses could distort the decision-making process.³ This concern was reinforced by opposition criticism that the surprise surplus was a back door way of allocating funds for political purposes, and/or avoiding debate on policy priorities. A small but vocal group argued the surpluses were "deliberate manipulation by the government...designed to limit public pressure for higher spending and/or lower taxes. This view raised serious credibility issues with the Department of Finance projections."⁴

It was in this context, and with the backdrop of the Sponsorship Scandal providing additional incentive, that the Conservatives promised "truth in budgeting" as a key component of their 2006 election platform. They called for the creation of "an independent Parliamentary Budget Authority to provide objective analysis directly to Parliament about the state of the

Brooke Jeffrey teaches Political Science at Concordia University. This is a revised version of a paper presented to the Canadian Political Science Association Annual Meeting in June 2010.

nation's finances and trends in the national economy."⁵ Once elected, the Conservatives wasted no time in implementing this commitment. Bill C-2, the *Federal Accountability Act*, (FAA) was tabled in April 2006 as their first act of business. It was accompanied by an Action Plan that announced the government:

would ensure truth in budgeting by creating the position of Parliamentary Budget Officer to provide objective analysis to Members of Parliament and parliamentary committees concerning the state of the nation's finances, trends in the national economy and the financial cost of proposals under consideration by either House.

While many aspects of the FAA were controversial, the PBO initially was not. The creation of a new parliamentary watchdog to provide an alternative set of fiscal projections was widely supported, at least in theory. Yet, despite original all-party support for the new post, it soon became apparent during hearings on the proposed enabling legislation, (amendments to the *Parliament of Canada Act*), that the actual implementation of this promise would not be as straightforward as originally thought. Indeed, as outlined in earlier studies on the PBO, there were already three major areas of concern being raised by parliamentarians before and shortly after the post had been filled, namely the independence of the PBO, the mandate of the post and its workload.

The Independence and Mandate of the PBO

Confusion reigned over the mandate of the PBO from its inception. First and foremost, there was debate about the nature of his "independence". From whom, and to what degree, was he independent? It was clear that the PBO was intended to work for parliamentarians, but it was also clear that he was not an "officer of Parliament" and therefore did not report directly to Parliament in the same way as the Commissioner of Official Languages, the Ethics Commissioner or the Auditor General. Yet several other prominent watchdog posts – such as the Chair of the Canadian Human Rights Commission – were not established as officers of parliament either, but their "independence" did not become a source of contention. Why was the PBO different?

At least three major differences between the PBO's situation as "an independent officer of the Library of Parliament" and the unambiguous status of officers such as the Human Rights Commissioner can be identified. First and foremost, there is no specific enabling legislation, such as an *Access to Information Act* or *Official Languages Act*. Instead, the post was created through amendments to the *Parliament of Canada Act*, itself an arcane piece of legislation with little relevance

to modern practices, procedures or institutions, and one in which the Library of Parliament and the role of the Librarian is only briefly discussed.

Second, there is a lack of clarity in the legislation concerning the PBO's reporting relationship. The confusion was heightened by the unusual appointment procedure. Although a more transparent process than might otherwise have been the case, the use of a hiring committee led by the Parliamentary Librarian to select the PBO, coupled with his appointment by the prime minister as an order-in-council appointment rather than appointment by Parliament, made for an unprecedented situation in which it was unclear to whom the incumbent would be responsible. This issue was further complicated by the fact that the PBO would be located within the Library of Parliament. This led to an obvious question. Did the PBO report to the Speakers, and hence Parliament, or to the Parliamentary Librarian? This was an intensely debated issue because it was inextricably linked to the nature of his independence.

Interestingly, this debate took place despite the fact that the Parliamentary Librarian had intervened with drafters in an attempt to clarify the issue in the legislation. It also occurred despite House Leader Peter van Loan's press release announcing the appointment of Kevin Page as Canada's first PBO, which stated "the PBO is an independent officer of the Library of Parliament who reports to both Speakers."⁶ Mr. Van Loan's view was reinforced by Conservative Senator Donald Oliver, a lawyer and member of the Senate's Committee on the Rules and Rights of Parliament, only a few days later. Referring to the appointment of Kevin Page as "the most important one flowing from Bill C-2", Oliver stated that the FAA "can almost be called the empowerment of parliamentary committees act" and noted "Mr. Page will be an independent officer of the Library of Parliament who reports to both Speakers..."⁷

Their interpretation was subsequently confirmed by the Prime Minister, who responded to a question about whether he supported the release of a PBO report on the costs of the Afghan mission by saying "the budget officer is an independent officer. He can make his own decisions."⁸ Mr. Harper repeated this view in response to a question in the House of Commons two months later, but this time his response also revealed the complexity of the problem. "Mr. Speaker, we created an independent position. But this position was approved by Parliament, which is responsible for managing it."⁹

In the months following his appointment Kevin Page interpreted these statements to support his view

that, as an “officer of the Library,” he reported to the Speakers, not the Parliamentary Librarian. He also argued he was independent not only in his ability to accept requests from parliamentarians and to initiate his own studies, but in his ability to hire staff and operate at arms’ length from the day-to-day operation of the Library of Parliament. In fact, based on section 79.2 of the enabling legislation, he argued that it was the responsibility of the Parliamentary Librarian to provide him with the appropriate resources to fulfil his mandate.

Perhaps most importantly, Mr. Page disputed the position of the Parliamentary Librarian on the mandate of the PBO. In a letter to opposition party leaders of January 17, 2009, he stated:

In discussions with the PL, it has been communicated to me that the role of the PBO is not to provide analysis and opinion to parliamentarians such that it could be seen to challenge the government of the day. This view may be consistent with the operating model of the Library of Parliament but, to me and other observers, it is in stark contrast to the legislated mandate and the wishes of consulted parliamentarians. Such an approach would also contrast sharply with the government’s 2006 campaign pledge for an independent parliamentary budget authority...

As subsequent testimony by both the Librarian and consultant Allan Darling before the Joint Committee on the Library of Parliament made clear, their interpretation of the legislation found the PBO to be “independent” in the sense that he was working for Parliament and not the government of the day, but certainly not “independent” of the Parliamentary Librarian, to whom they believed he reported.

The third major difference between the PBO and other oversight officers such as the Human Rights Commissioner is that the legislation creating the PBO was not accompanied by any provision for a separate office. Instead the PBO was to be physically housed within the Library of Parliament. Both William Young and Allan Darling were of the view that many of the PBO’s actions required the approval of the Librarian and/or needed to be in compliance with Library procedures. They also noted the PBO’s budget, personnel and other facilities would be drawn from the Library’s budget. Rejecting Mr. Page’s interpretation of section 79.2, they argued instead that the level of support for the PBO was the Librarian’s decision and therefore the PBO would be in direct competition with other aspects of the Library’s operation for scarce funds. As Mr. Darling put it, “Is there a potential for conflict in the allocation of staff? There could be. But at

the moment, Mr. Page has not asked for any staff from the library. He has insisted on hiring only staff who report directly to him.”¹⁰

This debate over the mandate of the PBO quickly escalated. In September 2008, after a federal election was called, the Parliamentary Librarian declared that he feared some of the actions of the PBO, such as his proposed release of a document costing the Afghan mission, would give the appearance of partisanship and bring the reputation of the Library into disrepute. The PBO argued that he had received the approval of all parties to release the material and that, in any event, his mandate required him to make documents public, unlike the mandate of the Library’s Research Service which was based on confidentiality. If he were to provide research findings to individual parliamentarians on a confidential basis, he argued, what would prevent that material from being released selectively and/or for partisan purposes? And would this not be a clear violation of his mandate to provide parliamentarians with fully transparent and impartial advice?

In short this aspect of the issue was framed by the parliamentary librarian as one of “control over and ownership of the content of research materials,”¹¹ but was seen by the PBO as one of “independence, authority and transparency”, as well as impinging on his obligation to provide parliamentarians with access to materials “in a relevant and timely manner.”¹²

Mr. Page then conducted an in depth “stakeholder consultation” with MPs and Senators over the summer, in which “parliamentarians were nearly unanimous in their support for an open, transparent office that publicly publishes all its research and reports.”¹³ Further claims by Mr. Page that he reported directly to the Speakers, including references on the PBO website and in the stakeholder consultation submitted to them in mid-August 2008, led the Parliamentary Librarian to communicate his dissenting view in a briefing note to the Speakers. In it, he “expressed concern about the role and mandate (of the PBO) which Mr. Page is promoting...” and sought “...clarification from the Speakers with respect to the authority of the Officer and his relationship to the Library.”¹⁴

The Speakers responded with a formal letter to the Parliamentary Librarian outlining their views on the PBO’s relationship to the Library and to the Speakers. Their position reflected the views of the Parliamentary Librarian and directly contradicted the statements of both House Leaders about the PBO. In summary, the Speakers concluded that the PBO had exceeded his mandate, and insisted:

The Library exists to serve Parliament and

parliamentarians, and the role and function of the PBO is an extension and evolution of the services that the Library already offers. Therefore, in our consideration of the relevant statutory provisions, it is the will of Parliament that the Officer shall not report directly to the Speakers, but rather shall report to the Parliamentary Librarian, in a manner consistent with the reporting relationships of other senior executive officers within the Library, such as the Assistant Parliamentary Librarian...¹⁵

The Speakers' letter was made public by the PBO and almost immediately became a new source of controversy. Conservative Senator Hugh Segal denounced their position as "defying understanding. I disagree 100 per cent ... and I couldn't be angrier." Senator Segal argued "Any effort to limit the freedom and operation of the parliamentary budget office dilutes the principle of his appointment and purpose of the office." Highlighting the fundamental conflict between accountability and authority, he continued, "Both speakers are getting caught up in the bureaucracy of Parliament rather than defending the principles, like they should, of the *Magna Carta*, which says parliamentarians deserve information on how the Crown spends people's money ... Mr. Page was not hired as a servant of the librarian of Parliament. He was hired as the servant of Parliament. To reduce (Mr. Page) to that of just another researcher in the Library of Parliament is a travesty of the idea behind the office and the government's intent."¹⁶

The dispute over the PBO's independence and mandate led both sides to seek legal opinions. Unfortunately those opinions did little to clarify the situation. An opinion prepared by the firm of Gowling, Lafleur, Henderson for the Library supported the view that the PBO's independence was from the executive, and declared that the Librarian "has the responsibility for the control and management of the Library, and has the authority...to adopt policies, rules or orders for the parliamentary library and its staff that bind" the PBO.¹⁷ However the opinion also demonstrated the complexity of the problem when it argued:

The provisions of the Act conferring authority to the PBO in certain matters do not change the status of the PBO as a member and officer of the Library of Parliament. As such, he comes under the management authority of the Parliamentary Librarian and, ultimately, the direction and control of the two Speakers.¹⁸

For his part the PBO maintained that he did not dispute the managerial role of the Parliamentary Librarian in providing funding and services for the PBO, and his need to be accountable for those activities. He did, however, insist that the Librarian's "management

control" did not extend to determining the nature of his research, his methods of handling requests or of making them publicly available, all of which he argued were part of his clearly spelled out mandate to serve parliamentarians in as open, transparent and timely a fashion as possible. The legal opinion prepared at his request by the firm of McCarthy Tétrault agreed wholeheartedly. This opinion concluded that "there is nothing to be found in the legislative provisions of the *Parliament of Canada Act* that would prevent you from exercising your mandate in the manner that you propose."¹⁹

Moreover the McCarthy opinion disagreed with the letter from the Speakers on several points of law, notably by declaring that their direction to the PBO to report to the Parliamentary Librarian in the same manner as other senior executives of the Library "may not be consistent with the (PBO) legislation. The PBO is not just another senior executive officer within the Library." Likewise the opinion challenged several of the assertions in the Parliamentary Librarian's letter. Pointing out that no other executive position in the Library was appointed by order in council, the letter concluded "To the extent that the Librarian is suggesting that the PBO is equivalent to the Library's service heads, he is failing to recognize the unique statutory obligations of the PBO or the unique statutory rights of the PBO."²⁰

Perhaps the legal opinion's most significant conclusion was that the dispute over the PBO's mandate was not surprising, given that "the provisions of the *Parliament of Canada Act* are not at all clear as to the mandate of the Library or the Librarian."²¹ This view was actually echoed in the Gowlings opinion, which concluded "the *Parliament of Canada Act* does not spell out in any detail how the authority of the Parliamentary Librarian and the authority of the PBO are to be reconciled and harmonized" although the author suggested "In my view this could be done by the adoption of policies, orders or regulations of the Parliamentary Librarian in consultation...with the PBO."²²

This disagreement over reporting relationships served to obscure a more significant difference of opinion over the mandate of the PBO which had come to light earlier in testimony before the Senate committee reviewing the enabling legislation. On the one hand, the Parliamentary Librarian believed the principal role of the PBO should be to assist parliamentarians to better understand and utilize documents such as Treasury Board estimates. In his testimony before the House Finance committee, the Librarian indicated:

I do not think the PBO should provide an alternative fiscal forecast to the one provided

by the Department of Finance ... I foresee the PBO taking a lead role with parliamentarians to provide a more strategic approach that would enhance their understanding of the underlying factors affecting fiscal fore-casting ...²³

Instead he foresaw the PBO working closely – and perhaps supervising -- the Library's existing special "estimates cluster" unit. Meanwhile the PBO viewed such matters as the legitimate role of the Library, and argued that his primary role was to provide alternative fiscal forecasts and estimates of the cost of major new program initiatives.

Several parliamentarians were unhappy with the Librarian's interpretation of the PBO's role. Liberal MP John Mackay stressed that it was precisely because parliamentarians were frustrated by the lack of "independent" figures that they had supported the creation of the PBO position across party lines. "And now we find out that we're not going to get an alternative voice, we're simply going to get a rehash of the numbers that are already in the public domain!"²⁴

As the first year of the PBO's mandate demonstrated, in a very real sense the PBO had become a sort of Trojan Horse for the Library of Parliament. As the Speakers noted, it had put the PBO, and by extension the Library, at the centre of a very public debate over accountability and authority which no previous watchdog position had engendered. Political scientist Sharon Sutherland had predicted from the outset that positioning the PBO within the Library would "divert the Library's attention" and tarnish its "gold-standard" reputation for non-partisan advice.²⁵

Moreover it could be argued that this debate was predictable, not only because of the legal issues outlined above related to the PBO's mandate, but because of the unrealistic expectation that such a watchdog position, (and a Governor in Council position) could be housed within another organization which itself was led by an individual appointed by Governor in Council. Indeed, former Parliamentary Centre Director Peter Dobell told the Senate Justice and Legal Affairs Committee examining the issue of the PBO's legislative mandate, in *advance* of Page's appointment, "The situation is certainly curious where an order-in-council appointment in a sense is made subordinate to another order-in-council appointment. I see it as a difficult, intense relationship."²⁶

Problems with the PBO Structure and Operation

In many respects the unfolding drama of the PBO can be seen to mirror the problems that arose with the appointment of a Commissioner of the Environment housed within the Office of the Auditor General.

Faced with this dilemma, the Parliamentary Librarian asserted his administrative role in "managing and controlling" the PBO's resources. By early 2009 the PBO was informed by the Librarian that the budget allocation for his office for the coming fiscal year – the first full year of operation of the PBO --would not be the \$2.8 million that had been pledged at the time he took the job. Instead, the PBO budget for 2009-10 would be only slightly higher (at \$1.9 million) than the start-up budget of \$1.8 million under which he had been operating to date.

On January 17, 2009 Mr. Page wrote a memo to the leaders of the three opposition parties in which he attached the PBO work plan and the McCarthy Tétrault legal opinion. Arguing that he had been seeking "a measure of functional independence" from the Library, and not complete autonomy, the PBO argued the kind of limitations on his staffing and budgeting proposed by the Parliamentary Librarian constituted interference with his independent research mandate, since there would be no certainty or security of any kind for his employees. He stressed:

As a consequence of the continued turmoil, the core of my senior analytical staff is still on secondment from the executive branch ... I have had to turn away assignments due to a lack of resources and am at serious risk of losing the employees that I have ...

The response of parliamentarians to the PBO's situation was mixed. Many opposition MPs called for an immediate restoration of the promised funding. With the return of Parliament in February, Liberal Finance critic John McCallum introduced a motion supporting the PBO's position and asking the House to declare that the PBO "is an independent officer of the Library of Parliament who reports to the Speakers of both Chambers." Referring to section 79.2, Mr. McCallum also moved that "the Parliamentary Librarian must ensure that the overall control and management of the Library of Parliament facilitates the ability of the Parliamentary Budget Officer to fulfill his mandate and obligations ..." This was quickly followed by a motion supporting the PBO's independence tabled in the Public Accounts committee by NDP MP David Christopherson, who ultimately agreed to drop his resolution if the entire matter was referred to the Joint Committee on the Library of Parliament. However Conservative Senate House Leader Marjorie LeBreton responded by declaring the issue "is a matter between Mr. Page, the Parliamentary Librarian and the two Speakers," while Conservative Senator Terry Stratton stated that the PBO had "crossed the line" and "should respect the conditions under which he was

hired.”²⁷

Soon after, the two Speakers wrote to the Joint Committee at the request of the Parliamentary Librarian, asking the committee to examine the issue. The committee, chaired by Liberal Senator Sharon Carstairs and Conservative MP Peter Goldring, held hearings throughout March and April 2009. It heard from witnesses from the Privy Council Office and Treasury Board, consultant Allan Darling and several former parliamentarians as well as the two principals, Kevin Page and William Young. The Committee’s recommendations accepted almost all of Mr. Young’s arguments and instructed the PBO to undertake a number of activities to comply with various human resource and procedural directives. In addition, the committee expressed concern about the PBO’s publication of all research and reports, and concluded that a distinction needed to be made between those initiated by the PBO, and those prepared by the PBO at the request of a parliamentarian or parliamentary committees. In the latter case, the Joint Committee concluded that the PBO response should “remain confidential until the confidentiality is lifted by the parliamentarian or the parliamentary committee making the request.” The committee also concluded no PBO reports should be made public during an election period.²⁸

More generally, the report’s third recommendation requested the PBO to provide “an action plan describing how he (intends) to carry out the duties mandated under the Act” and to submit this plan to the Joint Committee. Although the committee did recommend that the scheduled PBO budget of \$2.8 million be approved, *it was on the condition that the PBO comply with all of their other recommendations.* The resulting 23-page Action Plan prepared by the PBO dealt in detail with each of the committee’s recommendations, indicating how the PBO intended to meet the requirements, the proposed timeline for implementation and what action had been taken to date. First, however, the plan positioned virtually all of the committee’s recommendations, and the PBO’s responses, within a broader context which again highlighted the fundamental conflict between the PBO’s legislative mandate and his organizational arrangements. The committee’s recommendation to have the \$2.8 million budget reinstated – and the PBO’s inability to implement many committee recommendations without that extra \$1 million – was underscored on no fewer than four separate occasions, as was the need for the Librarian to resolve the staffing impasse. In addition, several sections of the Plan highlighted the Librarian’s lack of ability to assist the PBO, either structurally, (“the Library does

not currently have an automated request tracking system...” or with personnel, (“given the different skill sets and experience in PBO [economic, fiscal and financial methodologies estimation and analysis] and the Parliamentary Information and Research Service (PIRS) [public policy analysis]...”)²⁹

In response to the Committee’s recommendation that the PBO collaborate with the Librarian’s PIRS in the provision of assistance to parliamentary committees on the Estimates, the PBO response noted bluntly that its “resources are limited”. Declaring that the expertise of his personnel was better devoted to major analyses of budgets and proposed legislation, and that the Librarian had already acquired new personnel for an “Estimates Cluster” within the PIRS, the PBO plan concluded “pending the re-instatement of the PBO planned budget and the confirmation of outstanding human resource issues, the PBO is not in a position to provide a direct contribution to the analysis of the estimates.”³⁰

Despite the submission of the plan, and various other documents requested by the Librarian, neither the additional funding nor the normalization of his staffing situation materialized over the remainder of 2009. The Joint Committee’s report continued to be a source of controversy in itself. Former Ontario Deputy Minister and Canada Post CEO Michael Warren drafted a highly critical opinion piece in June which noted that the PBO’s “track record of economic forecasting has been outstanding – more accurate than the government, the opposition, the Bank of Canada and most private sector economists.” Despite this, in Mr. Warren’s view all parliamentarians appeared to feel threatened by the PBO. He concluded the Committee’s report “is a thinly veiled attempt to force Mr. Page out and bury the PBO” because “he has done his job too well... We are not yet ready for transparency and openness in the financial workings of the federal government.”³¹

Responding to this and other criticisms of the committee’s recommendations, and notably their requirements for confidentiality of reports and reporting to the parliamentary librarian, Senator Sharon Carstairs wrote a letter to the editor of the *Hill Times* in which she defended those recommendations and declared “we believe (Kevin Page) should respect the law and the job description under which he was hired.” Putting her finger on what by this point had become the real issue, she concluded “It may well be that in future the PBO should be an Officer of Parliament, but that is not the present mandate.”³²

When the PBO’s funding had not been restored by October 2009, Liberal Leader Michael Ignatieff accused

the government of creating the PBO and then promptly trying to bury him. In Question Period, he demanded the government “unshackle” the PBO and “provide him with the resources he needs.”³³ By early November, when there still had been no sign of the extra funding, the PBO appeared before the House of Commons Finance Committee and delivered a blunt assessment of his situation. “We need a critical mass to do our work”, he declared. “If we don’t have that critical mass it’s my recommendation as Parliamentary Budget Officer that the Office be shut down.”³⁴ In response, House of Commons Speaker Peter Milliken said he expected the funds to be provided by the Parliamentary Librarian as per the recommendations of the Joint Committee,³⁵ through a request for supplemental estimates. Several months later, William Young confirmed that he had submitted a request for \$2.8 million for the PBO for the next fiscal year, (2010-11) and that the PBO would receive an additional pro-rated amount of roughly \$425,000 for the current fiscal year.

The announcement brought to a conclusion more than 11 months of debate over the financing of the PBO, but did little to resolve other outstanding issues, including the independence of the PBO to hire staff and release reports.

Analysis and Reaction

A number of observations can be drawn from the experience to date with this new federal watchdog:

(1) The mandate of the PBO is different from most other parliamentary watchdogs in terms of the potential impact of his findings, and this has been the source of much of the underlying ambivalence about the post. Most other reports focus principally on technical or implementation problems related to the administration of government. These problems involve specific activities, programs or individuals in the bureaucracy and, as such, the government of the day is not usually implicated in the findings or blamed. Even the reports of the Auditor General are generally viewed as a critique of public servants rather than politicians. It was precisely because of the exceptional alleged involvement of politicians following the AG’s report on the sponsorship scandal that it became such a focus for political debate. In addition, most other watchdog reports examine government activities after the fact, while the PBO provides alternative fiscal forecasts and costs proposed new initiatives. In this context the negative impact of PBO reports are unique in that they potentially can have significant political consequences, up to and including derailing a government’s policy agenda, as evidenced by the impact of the PBO reports on the government’s deficit projections and on the cost

of the Afghan mission.

(2) In addition, and again quite exceptionally, the role of the PBO is one that has the potential to threaten some of the most important vested interests and departments of the federal government, namely Finance, Treasury Board and Privy Council. Certainly this new watchdog can be seen as a direct challenge to their hegemony. Given the early determination of the Harper government to introduce this new post, which many senior bureaucrats in central agencies opposed as an unnecessary complication and expense, it should hardly be surprising that there was considerable support among them for the Parliamentary Librarian’s proposal to locate the PBO within an institution outside of government, and one with limited visibility. This support came through clearly in the testimony of various officials before several parliamentary committees, and in their subsequent reluctance to assist the PBO in the provision of information.

(3) This in turn raises the role of political will as a factor in the efficacy of any parliamentary watchdog, or indeed of any government program. When Prime Minister Pierre Trudeau made clear his deep-seated commitment to official bilingualism, the public service fell into line almost immediately. But Mr. Trudeau’s less than enthusiastic (and well-known) commitment to Access to Information legislation produced a much less rigorous response on the part of the bureaucracy. Then too, there is the problem of whether a party is governing or in the opposition. Given these political realities it is perhaps not surprising that the minor opposition parties with no chance of forming a government – the NDP and the Bloc – have been the most vocal supporters of the PBO while the Liberals – who have a firm grasp on the machinery of government and expect to form a government again in future – have been ambivalent about the PBO and have only recently felt obliged to actively defend his role. In minority government situations the importance of these issues can only be magnified.

(4) From an administrative perspective, placing the PBO within the Library of Parliament rather than providing the post with its own office, resources and legislative mandate was doomed to failure. The managerial conflict between the PBO and the Parliamentary Librarian could surely have been predicted regardless of the personalities involved, given the earlier problems with the placement of the Environment Commissioner within the Auditor General’s office. Moreover the difficulties in reconciling the authority and accountability relationships between two Governor in Council positions within the same

organization should have been self-evident.

(5) Conversely, the effective operation of the PBO to date, despite the many constraints outlined above, has arguably demonstrated that such an office can indeed function within a Westminster model parliament. Indeed, a study prepared by the OECD on the experience with legislative budget offices elsewhere provides considerable evidence to suggest that the post can be adopted to a wide variety of legislative conditions.³⁶

A number of academics have expressed their support for the PBO. In July 2009, for example, some 129 economists including 15 past presidents of the Canadian Economics Association and 7 current Canada Research Chairs published an open letter calling on “parliamentarians of every party to pursue the following actions in support of the PBO”, namely ensuring adequate funding to carry out the mandate, making the PBO a full officer of Parliament and permitting the public reporting of all analyses.³⁷ The group gave three reasons for their defence of the PBO: the PBO is in a unique position to produce independent and credible reports; its material can contribute to “elevating democratic debate in Canada” and “the OPBO in its short existence has a commendable record of success.”³⁸

That “record of success” is another significant aspect of the PBO’s unique situation. The annual reports of the human rights and official languages commissioners are largely based on complaints, which again cast no blame on the government or departments as a whole; their coverage of broader issues are generally one-day wonders. In this context only the Auditor General’s role could be seen as coming close to that of the PBO, but the latter’s findings are more timely. Instead of locating problems after the fact as the AG does, the PBO’s reports provide information – often contradicting the government or individual ministers – before legislation is passed or budgets adopted. Moreover it is often possible to verify the credibility of PBO reports in a very short space of time, and the credibility of the office has increased with each verifiable prediction. Hence the PBO’s frequent challenges to the figures used by the government in its budget forecasts and economic updates, or to predict the depth of the recession, have served to lend credence to subsequent PBO analyses of the cost of proposed EI reforms, changes to the pension system or the implementation of the government’s latest crime bills proposing the construction of additional correctional facilities.

The “record of success” is also something which has given Kevin Page considerable shelter from the

vicissitudes of the political debate. Virtually no one has disputed the fact that the PBO has produced an impressive number of highly competent studies and analyses. Indeed, many consider the accomplishments of the PBO and his team to be nothing short of astonishing, given the endless jurisdictional disputes, lack of resources and refusal to comply with his requests on the part of some key government departments.³⁹

Nevertheless there have been some experts who have been vocal in their opposition in principle to the role of the PBO. Political scientist Donald Savoie, for example, has argued there are too many watchdog posts in existence already, all of whom take away from the supremacy of parliamentarians.⁴⁰ Economist William Watson, meanwhile, has argued that the initial premise on which the creation of the PBO was based – that the Finance Department cannot be trusted – is simply wrong, and hence the post is unnecessary.⁴¹ Sharon Sutherland has specifically questioned the role of the PBO in the context of her broader criticism of the FAA, but her solution is to make him an Officer of Parliament.

Conclusion

The debate over the proper role and mandate of the PBO is one that reflects a lack of understanding of the potential impact of such a watchdog post when it was created. The combination of unusual appointment process, lack of clear direction in the enabling legislation and decision to situate the post within another organization have all led to an impasse which is unlikely to be resolved without a re-examination of the underlying purpose of the post and new or more specific amendments to the legislation.

Assuming that an independent parliamentary budget officer is the will of parliament, on balance it would appear that the most appropriate and practical solution to the current situation would be to sever the PBO’s connection with the Library of Parliament and provide it with both a proper legislative base and a stand alone office. Whether the PBO then should become a fully independent Officer of Parliament remains to be determined.

The recent platform-style commitment of Opposition Leader Michael Ignatieff to strengthen a variety of watchdog posts as part of a larger plan to limit the powers of the PMO suggests, at a minimum, that the mandate of the PBO should and likely will be clarified as a priority when the three-year review takes place next year.⁴²

In September 2010 Mr. Page, a former senior bureaucrat in Finance, Treasury Board and the Privy

Council Office, announced that he would not seek reappointment when his term of office expires in March 2013. While some parliamentarians greeted the announcement with relief, arguing that Mr. Page has “politicized” the office and that his calls for a more independent post are incompatible with a Westminster parliamentary model⁴³, others reacted with dismay, suggesting that when his term ends it will be impossible to fill the post and the date “will mark the end of an experiment in accountability and transparency that was doomed from the beginning.”⁴⁴

Notes

1. See for example Michael Mendelson, “Ottawa’s Annual Fiscal Follies”, Caledon Institute of Social Policy, March 2004.
2. Tim O’Neill. *Review of Canadian Federal Fiscal Processes and Systems*, June 2005, section 2.1.
3. *Ibid.*
4. Guy Beaumier. “The Accountability Act and the Parliamentary Budget Officer”, Library of Parliament, PRB 06-03E, June 29, 2006. p. 6.
5. Conservative Party of Canada. “Stand Up for Canada”, June 2006. p. 11.
6. “Government House Leader Announces Appointment of Canada’s First Parliamentary Budget Officer”. *Press Release*. March 14, 2008. Ottawa.
7. Senate of Canada. *Debates*. 2nd Session, 39th Parliament, Volume 144, Issue 44. April 1, 2008.
8. Global TV. *Global National*, September 16, 2008. 5:30 pm.
9. House of Commons. *Debates*. November 20, 2008.
10. Joint Committee on the Library of Parliament. *Evidence*, March 26, 2009.
11. Parliamentary Librarian. “PBO Chronology of Key Events”, Background Document provided to the Joint Committee on the Library, April 2010.
12. PBO. Memo to Opposition Party Leaders, January 17, 2009.
13. Kathryn May, “Speaker Moves to Handcuff Budget Officer”. *Ottawa Citizen*. November 4, 2008.
14. Chronology of key events, *op.cit.*
15. Speakers of the House of Commons and the Senate. Letter to the Parliamentary Librarian, October 28, 2008. p. 2.
16. Kathryn May. “Speakers move to handcuff budget officer.”
17. Roger Tassé, QC. Letter to William Young, November 11, 2008.
18. *Ibid.*
19. Barbara McIsaac, QC. Letter to Kevin Page, November 18, 2008.
20. *Ibid.*
21. *Ibid.*
22. Tassé, *op. cit.*
23. House of Commons, Finance Committee, *Evidence*, February 13, 2008.
24. *Ibid.*
25. Quoted in Gary Levy, “A Parliamentary Budget Officer for Canada”, *Canadian Parliamentary Review*, Vol. 31, No. 2, p. 44.
26. Senate Committee on Legal and Constitutional Affairs, *Evidence*, October 19, 2006.
27. C. Munster, “Page Pushes Battle for Clear Independence”, *Hill Times*, January 26, 2009.
28. Standing Joint Committee on the Library of Parliament. Report on the Operations of the Parliamentary Budget Officer within the Library of Parliament. June 2009. p. 15.
29. PBO. “Implementation of the Recommendations of the Joint Committee of the Library of Parliament on the Operations of the PBO within the Library of Parliament”, Action Plan. p. 9.
30. *Ibid.* p.14.
31. Michael Warren. “Why is Kevin Page Left Twisting in the Wind?” *Globe and Mail*, June 29, 2009.
32. Hon. Sharon Carstairs. “PBO’s Page Should Respect Accountability Act”, *Hill Times*, July 20, 2009.
33. House of Commons *Debates*, October 5, 2009.
34. House of Commons, Finance Committee, *Evidence*, November 3, 2009.
35. Steven Chase. “Fund us or shut us Down : Parliamentary Watchdog ”, *Globe and Mail*, November 4, 2009.
36. Barry Anderson. “Experiences with Legislative Budget Offices”, OECD, Paris. September 5, 2007.
37. Open Letter: “Economists Support Ottawa’s Budget Officer” July 17, 2009, <http://supportheopbo.blogspot.com>
38. *Ibid.*
39. See for example C. Scott Clark and Peter DeVries, “A Sad Farewell to the Parliamentary Budget Officer”, *Globe and Mail*, September 15, 2010.
40. Donald Savoie. “The Broken Chain of Answerability”, *Globe and Mail*, update of March 30, 2009, <http://www.theglobeandmail.com/news/opinions/article686967.ece>>..
41. William Watson. “The Deification of Kevin Page”, *National Post*, July 9, 2009.
42. Daniel LeBlanc. “Liberal Leader Pledges to Give Federal Watchdogs More Bite”, *Globe and Mail*, January 27, 2010.
43. Bea Vongdouangchanh, Jessica Bruno, “Page Still Lobbies for PBO’s Real Independence”, *Hill Times*, September 20, 2010, 39.
44. C. Scott Clark and Peter DeVries, “A Sad Farewell to the Parliamentary Budget Officer”, *Globe and Mail*, September 14, 2010.