

Fusion of Powers? Building Connections Between the Public Service and the Legislative Branch

As a former legislative intern, the author has had the opportunity to employ the knowledge of the legislative process he gained through his internship to great effect in his current role as a policy analyst with the federal public service. In this article he suggests this type of experience, if more widely available to public servants, could reinforce a sense of appreciation for the principle of parliamentary review, provide insight into how the legislative process can impact policy development, and allow them to develop their political acuity.

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From January to June of 2014, I had the unique opportunity to be part of the British Columbia Legislative Internship Program (BCLIP). This six-month program included five weeks working in a Ministry in the British Columbia (BC) Public Service, one week working in the constituency office of a Member of the Legislative Assembly (MLA), and over four months working within the Legislative Assembly performing research and analysis for MLAs during the spring legislative session. As a result, I was able to observe the inner workings of the legislature, including Question Period, legislative committee hearings, and debates on legislation.

The stated objectives of the BCLIP are to provide recent university graduates with real-world exposure to the legislative process with the long-term goal that participants will be able to contribute to a greater public understanding and appreciation for the parliamentary system of government. While former interns have gone on to pursue a wide variety of different career paths, many continue to work in public policy in

the non-partisan, professional public service.¹ In my experience, the knowledge of the legislative process that I gained as a legislative intern has provided significant value in my career as a policy analyst in the public service. The purpose of this article is to identify why and how knowledge of the legislative branch can be beneficial to public servants, and to identify opportunities in which current and aspiring public servants can increase their understanding of it.

First, I outline the institutional relationship that the legislative and executive branches of government have in Westminster systems of government. Given this background, the next section describes the benefits that a more robust understanding of the legislative process can have for public servants. In a final section, I identify ways in which Canada's various legislatures and public services can help increase that knowledge and build connections between the two.

Responsible Government in Canada

The fusion of the executive and legislative branches of government is perhaps the defining component of the Westminster parliamentary system – it is the basis for representative government in which members of cabinet are drawn from the democratically elected legislature or parliament and are collectively dependent on that body's support. Thus, ministers of the Crown are constantly subjected to scrutiny at the hands of their fellow parliamentarians or legislators.

Despite being such an integral component of our

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parliamentary system, the rules and principles of responsible government cannot be found in our written constitution. Instead, responsible government has developed slowly through time as a series of unwritten constitutional conventions.

Like most aspects of our parliamentary system, responsible government was originally developed in Britain.² Beginning in the 13th century, power slowly began to shift from the Crown to Parliament. The Crown still formally wields the executive powers of government, but Parliament gained responsibility for making laws and raising taxes. By the 19th century, the Crown began appointing ministers drawn from Parliament to the Privy Council, led by a prime minister, to assist in securing funds for initiatives and coordinating the administration of government. As party politics emerged in the House of Commons, it became increasingly complicated for the Crown to simply appoint Members of Parliament that agreed with its proposals to the Privy Council. By 1835, following the passage of the *Reform Act of 1832*, it became custom for the Crown to only appoint a prime minister that could command the confidence of the majority of the House of Commons. In turn, the prime minister would appoint cabinet ministers from among the party's parliamentary caucus, each of whom would be given responsibility for the administration of a government department. Thus, responsible government, in which the *de facto* government decision-making authority is vested in the prime minister and cabinet as opposed to the Crown, began to emerge.

In Canada, responsible government initially emerged in the British colonies. Prior to Confederation, these colonies essentially followed a strict separation of powers system: all laws were required to be passed through the democratically legislative assemblies, but executive governing authority was held exclusively by the colonial governors who were appointed by the British government. This situation led, in part, to rebellions against the colonial governments in Upper and Lower Canada in 1837-38. The rebellions prompted Lord Durham's *Report on the Affairs of British North America* in 1840, which, among other things, recommended the establishment of responsible government. However, it was not until 1848 that the British government agreed to implement responsible government in Nova Scotia, followed by the other colonies. By the time of Confederation in 1867, responsible government was considered a fundamental principle of the Canadian governing system.

This history had created a fundamental link – often referred to as a ‘fusion of powers’ – between the legislative and executive branches of government in Canada. Thus, cabinet ministers are both members of and fully accountable to the legislative branch. Given this reality, public servants can benefit greatly from a deeper understanding of the legislative branch to which their minister is accountable.

Benefits to Public Servants

Despite the key role the fusion of legislative and executive branches plays in our system of government, there is a growing risk for the public service (which provides ministers with non-partisan policy advice and implements government decisions) and the legislative branch (which debates and scrutinizes those decisions) to operate in silos and without a strong grasp of how the two branches relate to and interact with one another.

A key strength of the federal and provincial public services is in their diverse workforces. Policy advice is generated by professionals with expertise in economics, science, sociology, health, and numerous other disciplines. However, these backgrounds do not necessarily include a deep understanding of the parliamentary system of government and the important role it plays in Canadian society. Even those with degrees in political science may not have sophisticated knowledge of parliamentary procedure beyond the steps needed for a bill to become law. In my personal experience, if I am not working on a file that is directly affected by one of the handful of pieces of legislation that are passed in the legislative session, it is completely possible to work day-to-day without knowing that the legislature is even sitting.

It is ironic that in the United States, which has a very strict separation between the executive and legislative branches, public servants seem to move between these two branches much more freely than they do in Canada. While some have argued that this leads to an increased politicization of the US bureaucracy, it does provide public servants with useful insight into the legislative branch. While I am a staunch supporter of Canada's professional, non-partisan public service, I do believe that the public service and individual public servants themselves would be well-served by a more complete perspective of the parliamentary system.

The first major benefit of a more robust understanding of the legislative process and

history of our parliamentary institutions is that it will reinforce the appreciation for the principle of parliamentary review which is so critical to a democratic society. The opportunity to observe the daily ins and outs of the legislature and to see first-hand the role that elected officials play in representing their constituents can have a strong impact on a public servant. It illustrates how public policies impact different components of the public in various regions of a territory, province or the country.

I believe that building up greater institutional knowledge of and appreciation for the legislative branch within the public service can empower legislative assemblies to better review government proposals. For instance, it may prompt public servants to make greater efforts to ensure that their analysis and findings are more accessible to legislators and the broader public.

The second major benefit for public servants is that knowledge of the legislative process will provide insight into how parliamentary debate and committees can influence the policy process and particular policy issues. As explained by David Good in his insightful book *The Politics of Public Money*, legislators can play a variety of different roles in the policy process, including helping to set priorities, guarding public funds, advocating for spending, or scrutinizing past government performance.³ In particular, legislative committees have an enormous opportunity to study public policy issues or amend proposed legislation. First, committees offer an air of democratic legitimacy to the policy review process by subjecting proposals to scrutiny by opposition parties, which is more reflective of the ideological diversity in a particular jurisdiction. Second, committees have the ability to call witnesses to provide expert testimony, and to perform additional consultative efforts with members of the public. The culmination of these activities could have very important impacts on both legislation and public policy.

Consequently, public servants who are familiar with the legislative process and the committee system may be better able to anticipate how the policies that they are responsible for will be affected once they reach the legislature. As a result, an analyst could engage relevant stakeholders who may be present at committee hearings or conduct additional research that legislators may need before it ever reaches the legislature. This practice would have the dual

benefit of providing legislators with the information they require earlier and possibly lead to a smoother path through the legislative process.

The third major benefit of familiarity with the legislative branch is that it can help public servants gain political acuity, an increasingly valuable core competency in the public service. An article in the *Canadian Government Executive* defines political acuity as “a capacity to analyze situations, devise strategies and employ nuanced knowledge, behaviours, and tactics related to social astuteness, influence, power, and relationships – both formal and informal – in pursuit of a personal agenda or to attain organizational goals and objectives.”⁴ While this is an admittedly intricate definition, the article goes on to unpack its many components. Chief among these components is a need to understand formal structures and processes and to be aware of political factors, both individual and organizational. Political acuity requires a public servant to understand who the key decision-makers are, what motivates them, and the institutional context in which they operate. Unless one works closely with the minister’s office, it can often be easy for public servants to forget that their minister is simultaneously a member of cabinet and of the legislature.

A recent op-ed by former partisan political advisor Geoff Norquay argued that we should reduce the barriers between working for the public service and ministers’ political offices and, for some cases, re-implement the policy providing former political advisors with preference for positions in the public service.⁵ His rationale was that too often these two sides suffer from breakdowns in communication and an inability to understand one another; he explained that people with experience in both environments would be able to act effectively as a bridge between the two. While providing political advisors with preferential access certainly goes a step or two beyond the argument being made in this article, I do agree with his argument that experience in different environments can be beneficial in making connections. However, as I discuss in the next section, one can gain this new perspective without necessarily working in a partisan role. Increased exposure to the legislative branch will allow public servants to witness the hyper-political environment in which ministers operate. This exposure will undoubtedly develop one’s political acuity and allow public servants to work more effectively at the nexus of the bureaucracy and the political arena where decisions are made.

Opportunities for Collaboration

As this article has hopefully demonstrated, greater knowledge integration between the legislative and executive branches can have some important benefits, both at the individual and institutional levels. As a result, I believe that legislatures and public services across the country should explore opportunities to facilitate this knowledge transfer, a few of which are outlined below.

First, there should be continued support for legislative internships targeted at current or recently graduated university students with an interest in public affairs. At the time of writing this article, the federal Parliament, seven out of 10 provincial legislatures, and one territorial legislature had some sort of internship program, several of which have been established for over 40 years. Over time, each of these programs has developed unique characteristics reflective of the political context in which they operate and the history of the programs themselves. For instance, BC is the only program which includes a placement in the public service while other programs include placements with both government and opposition parties. However, the one thing that each legislative internship program has in common is that each provides a unique opportunity for interns to gain valuable experience working in the legislative branch with elected officials and other staff. Potential activities include providing research and analysis of public policy issues before the legislature, drafting correspondence and speeches, or working in members' constituency offices. While legislative interns go on to pursue a wide variety of different career paths, many continue on within the public sector, either as political advisors or as non-partisan public servants. As a result, former interns are able to bring valuable knowledge and experience that will serve them well should they pursue a career in the public service.

While legislative internships are targeted at those at the beginning of their careers, opportunities also exist for mid-career public servants as well. A good example is the Parliamentary Procedure Workshops run by the Legislative Assembly of BC. These one-day workshops are designed to provide provincial public servants with a greater understanding of parliamentary procedure through sessions with a variety of different speakers. Topics covered include: an overview of the parliamentary system of government; the legislative process; the passage of Orders-in-Council; and the annual budget and

estimates process. As a result, participants in these workshops are able to gain a deeper understanding of how the activities in the legislative branch inform and impact their work in the public service. The development of similar programs across the country would offer public servants a very useful addition to their professional development plans.

A final recommendation would be for legislatures and public services to collaborate with one another and facilitate secondment or interchange opportunities between positions in the public service and non-partisan positions in the legislative branch, such as in committee research departments or the legislative libraries. Many public organizations already recognize the positive effects that temporary assignments can have by allowing employees to gain additional knowledge and skills. For instance, the Interchange Canada Program operated by the Treasury Board of Canada Secretariat facilitates temporary assignments from the federal public service to other sectors to fulfill a number of goals, including to "support the acquisition and transfer of knowledge and expertise, contribute to an enriched understanding of how the core public administration functions, understand the business of other sectors, [and] foster the professional and leadership development of participants."⁶ As the third section of this article illustrates, temporary assignments in the legislative branch could certainly fulfill the goals outlined in the Interchange Canada Program and provide public servants with significant professional development opportunities. While Interchange Canada is an example from the federal public service, the concept holds true for provincial public services as well.

I believe that each of these examples offers an opportunity to build linkages between the legislative and executive branches of government in Canada. However, this list of opportunities is by no means intended to be exhaustive and support for innovative ideas to facilitate further linkages should be strongly encouraged.

Conclusion

As a former student of both political science and history, perhaps I am predisposed to seeing the value in understanding the parliamentary process and its development over the centuries. That being said, in this article I have outlined several benefits that knowledge of our parliamentary system has beyond historical appreciation for both the public service and individual public servants: it reinforces a sense

of appreciation for the principle of parliamentary review and strengthens our democracy, it provides insight into how the legislative process can impact policy development, and it allows public servants to develop their political acuity. As a result, I believe the various legislatures and public services across the country should continue to support existing programs and develop new opportunities that allow public servants and prospective public servants to gain experience and knowledge so that they may build deeper connections with the legislative branch.

Notes

1 For the purposes of this article, the term “public service” is defined as the professional, non-partisan institution that advises on and implements government decisions and is composed of various departments, ministries, agencies, and other organizations that report to a

government minister. The term “public servants” is narrowly defined to include those who work in the public service.

- 2 A comprehensive history of responsible government can be found in *Democratizing the Constitution: Reforming Responsible Government* (2011) by Peter Aucoin, Mark D. Jarvis, and Lori Turnbull.
- 3 David A. Good, *The Politics of Public Money* (University of Toronto Press: Toronto: , 2014), 242.
- 4 “Political acuity: the elusive competency,” *Canadian Government Executive*, June 16, 2015.
- 5 Geoff Norquay, “Trudeau’s blurring the line between ministries and the public service. Good for him,” *iPolitics*, March 4, 2016.
- 6 Treasury Board Secretariat of Canada, *Interchange Canada*, Ottawa: Treasury Board Secretariat of Canada, 2012. <http://www.tbs-sct.gc.ca/psm-fpfm/learning-apprentissage/pdps-ppfp/ic-ec/index-eng.asp/>.