

Do the legislative actions of MPs matter?

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On February 14, 2007, the Canadian House of Commons passed Bill C-288, *An Act to ensure Canada meets its global climate change obligations under the Kyoto Protocol*, by a substantial majority. The Private Members' Bill, first introduced by Pablo Rodriguez of the opposition Liberal Party in May 2006, calls for the Conservative government to introduce a plan in Parliament outlining how it will meet targets of the Kyoto Protocol on climate change, an international agreement to which Canada became a signatory under a previous Liberal government. What is so striking about the passing of this bill, beside the fact that Private Members' Bills rarely pass third reading in the House, is that it directly contradicts the current government's stated policy of not meeting Kyoto requirements. What this event signifies is that MPs, through the use of Private Members' Bills, are not necessarily limited to simply questioning government policies and proposing new ideas – they may now, with enough support, pass legislation that can potentially affect government policy.

MP participation in Private Members' Business (PMB) is substantial. The average number of introduced bills by MPs has averaged about 279 per parliamentary session since the start of the 37th Parliament in 2001, while the number of motions has averaged about 497 per session.¹ On average, 88 MPs introduce bills each session, while about 87 MPs introduce motions. Five hours are set aside each week for the House of Commons to debate and vote upon Private members Business. Nevertheless, the question remains: Does any of this matter?

¹ This calculation combines the 2nd and 3rd sessions of the 37th Parliament as a single session, because all items introduced in the 2nd session were carried over into the 3rd session. If the sessions are split and the average is calculated based on all introduced items, the average for bill is 277 and 497 (same) for motions. If the average is calculated with split sessions and only newly introduced items in the 3rd session, the average per session for bills is 223 and 397 for motions.

The potential impact of PMB, especially given recent rule changes and minority parliaments, suggests that perhaps it does matter. Despite having received little scholarly attention in the past, PMB may have a small but increasingly significant role to play both in helping issues to get on the parliamentary agenda and in affecting actual policy outputs. In short, PMB may be important to take notice of because it has some impact on what the Parliament of Canada accomplishes.

What follows is a cursory look at one possible role of PMB in Canada's parliament. The question to be answered is: *Does PMB appear to have an impact on policy outputs in Canada?* The focus, more specifically, is upon the impact that PMB may have even when it doesn't actually pass – what is referred to here as its *indirect* impact. While this paper marks a first step in exploring this topic, and is therefore meant to be exploratory in nature, it will nevertheless be suggestive about whether the impact of PMB on Government policy is apparent and if that impact is substantial.

Private Members' Business

Not long after reforms based on the *Report of the Special Committee on the Reform of the House of Commons* (Canada 1985) were implemented during the 33rd Parliament, Nora Lever, then principle secretary of PMB for the Canadian Parliament, stated:

Lynn McDonald's anti-smoking bill was given Royal Assent on June 28, 1988, and has created new interest in the work of Private Members in the Canadian House of Commons. Lobbyists are revising their tactics; bureaucrats are reviewing their practices. Indeed, political scientists will be questioning their assumptions about influence in the policy-making process (1988).

The idea that PMB may be gaining in terms of relative impact on policymaking is also evident in the words of one MP who has observed the process for a long time. Bill Blaikie, (NDP: Elmwood-Transcona) first elected in 1979, stated:

... the Private Members culture has changed, or culture around voting on PMB has changed over the last 10 years. So it is more likely now, even in a majority context, that something might pass without the support of the Cabinet, whereas in my first decade here, if the government didn't want it to happen, it just didn't happen.

... I think the conventional wisdom that Private Members' Business doesn't mean anything is a mistake. Even when it was less influential than it is now. There are a lot of things that are a reality in the country that started out as Private Members' Business (Interviewed November 2, 2006).

In the past, specific items of Private Member's Business have seemed to have some influence on significant policy matters. Barry Mather (NDP – New Westminster) introduced Canada's first Access to Information legislation (C-39)², which was given first reading in the House of Commons in 1965. Mather continued to introduce bills without success, and Gerald Baldwin (PC – Peace River) later introduced similar bills, beginning in 1971, and finally withdrew one such bill in 1974 following the government's publication of guidelines for public access to government documents. This was followed by the production of a government Green Paper on the topic in 1977. The first Government Bill (C-15) was introduced in 1979 during the Clark minority Progressive Conservative government, though it was not until a similar bill (C-43) received Royal Assent during the following parliament that Canada's Access to Information Act came to be. Mather and Baldwin are both credited with having

² The current system for numbering Private Members' Bills, which begins with C-201, was not implemented until the 1970s.

pressured the government, through the use of Private Members' Bills, in a report by the Access to Information Review Task Force (Stephens 2001).

The above example of Mather and Baldwin indicates how PMB may have an *indirect* impact on policy outcomes, by prompting government action, as opposed to PMB having a *direct* impact, by actually passing into law (which occurs when bills receive Royal Assent³). But the concern lingers that PMB's policy impact has actually been, and continues to be, negligible to overall policymaking. This *indirect* impact that PMB may have is the subject of focus here.

Perhaps the most significant recent change regarding PMB is that all items are now deemed votable by default, whereas all items used to be considered for debate only. Unless deemed votable by the sub-committee on Private Members' Business, bills and motions were simply dropped after debate with no vote by the House. This first changed in the 33rd Parliament, at which point the sub-committee on Private Members' Business was charged with selecting 3 bills and 3 motions which would receive a vote in the House, while all others items were deemed non-votable by default. During the 34th Parliament this was changed to 5 bills and 5 motions, and then to simply 10 items in the 36th Parliament (Marleau and Montpetit 2000).⁴ During the 37th Parliament, the current rule of making all items votable was adopted.⁵

³ Motions do not become statutes as bills do, though motions can be "adopted" by the House.

⁴ A number of criteria were used to select votable items, among these being that: 1.) items chosen as votable not be the same as those being dealt with by way of Government Business; and 2.) items which transcend local matters, and which are not stated in partisan terms, be given higher priority (see Marleau and Montpetit 2000).

⁵ The Sub-committee on Private Members' Business, following the rules of the Standing Committee on Procedure and House Affairs, can still determine that a particular item should not be votable, and reports this to the House. Members can choose to appeal such a ruling by the sub-committee, otherwise the recommendation of making an item non-votable is simply deemed adopted by the House. Such an appeal is made to the Standing Committee, and if this committee agrees with the appeal, then such a report is also simply adopted by the House. Should this appeal be unsuccessful, the member can, with the support of at

What should also be noted with regard to PMB is that it is primarily an individual exercise. The list system, by which MPs are chosen by lottery to have PMB items debated, ensures that no MP is permitted a role that is above any other MP based on party or position. Perhaps most importantly for establishing the independence of MPs in this venue, every MP interviewed for this project who had previously participated in PMB clearly indicated that their party was not instrumental in their choice of topic. While many MPs choose to introduce only one PMB item, other MPs introduce numerous pieces of legislation per session⁶.

Private Members' Business and Public Policy

Why might we expect PMB to have an indirect impact on policy outcomes? The answer to this question lies in the fact that PMB presents ideas for policy and puts them in the public domain. While this may not be the primary motivation for all MPs who participate in PMB, many MPs may act as “policy entrepreneurs” (Kingdon 1995), or “legislative entrepreneurs” (Wawro 2000)⁷; attempting to change existing policies or initiate new ones through the presentation of ideas. Searing (1994) similarly describes some MPs in the U.K. as being “policy advocates”. These members may pursue this role not only by introducing legislation, but also by promoting their proposals and getting support from like-minded MPs.

least 5 other MPs representing a majority of the parties in the House, make an appeal to the Speaker. If this is successful, then the House as a whole may vote by secret ballot on whether or not to deem the item votable. Members can also choose to make their own submissions non-votable by simply notifying the Private Members' Business office. Such items can still be placed on the Order of Preference and debated.

⁶ In the period studied, the highest number of bills introduced by a single MP in a parliament is 96 and the highest number of motions introduced by a single MP in a parliament is 135. Some of these items would likely have been replicated from session to session within the parliament, as members often introduce the same bill or motion in more than one session during a given parliament.

⁷ Wawro's “legislative entrepreneurs” is specific to legislators, while Kingdon's term is meant to be inclusive of all potential policy actors.

PMB also becomes a matter of public record, and in many cases also receives media attention. In other words, MPs efforts may impact the policy agenda (Kingdon 1995; Baumgartner and Jones 1993; Soroka 2002). The impact of any given PMB item may increase the more that attention is given to the particular item, either by the media, or by the item getting past certain steps in the PMB process. Where items are actually debated, members of the government may be expected to answer the question: ‘Why *not* adopt this policy?’ And, of course, in cases where items seem likely to pass if voted upon, the government may choose to act on its own to avoid having the legislature tell it what to do, or to avoid having an opposition MP (or party) receive credit for a good idea.

Beside the forum of Question Period, where Opposition MPs (and occasionally Government MPs) can question government policies, PMB allows the introduction of new or alternative policy ideas. Question Period very closely fits the “adversarial” nature of the House of Commons, and promotes the institutional function of “The Opposition” (Hockin 1966; Stewart 1977, Martin 2002). PMB may be used in an adversarial manner, but it does not necessarily need to be viewed in this light, though certain cases such as that of C-288 (Kyoto Protocol) noted above may very well seem adversarial in relation to government policy. But positions taken do not need to attack the government’s position on a given topic; they may propose topics which are simply not being addressed, or which may be addressed in tandem with government proposals. In the case of bills, a committee can study the particular proposal, and make amendments if necessary. Motions can introduce new ideas by calling for policy changes on more general level, for a Government Bill to be introduced, or for a committee to study a particular topic (Marleau and Montpetit 2000). Grant Deachman (Liberal MP from 1963 to 1972)

observed this notion of PMB as a means of proposing new ideas for policy change, though without a sense of adversarialism, stating: “We should look carefully at the very great value there is to be had from exploring, in private members’ hours, new ideas, new ideas in social legislation, new ideas that need testing in the House before they become law” (quoted in Cordeau 1979: 64).

As is suggested by another MP in Cordeau’s study (who does imply a sense of adversarialism), it is not simply the fact that these ideas can be adopted by the House, but that by being placed on the agenda, they are in an arena where they can affect policy without necessarily becoming law directly.

As one Member put it, private Members’ hour is one aspect of a multi-faceted attack on the government to get it to adopt new ideas. If it is successful, that is what is important. The passage of legislation requires thorough planning and research, maintained another one, and the private Member does not have such resources. It seems, then, that private Members’ hours are thought to be a good vehicle through which an individual can try to catch the ear of the government (1979: 65).

Catching the ear of the government, then, is a form of having influence. While the influence of individual MPs in Canada has received some attention (Kornberg and Mishler 1976), the focus has been mainly on the perception of influence by other MPs. While the current paper does not look at the particular reasons for individual influence in the same detailed and systematic manner that Kornberg and Mishler’s extensive study did, it does take a step in exploring whether meaningful influence by individual MPs exists, and if it results in outputs, not only perceptions of influence.

If PMB is to have an indirect impact on policy outcomes in Canada, then, it should result either from ideas that the government finds acceptable, or from pressure that

causes the government to act on an item that it would not have otherwise, or some combination involving both of these.

Method

The possibility that PMB affects policy outcomes can be tested systematically. In order to examine the possibility that PMB has an indirect policy impact – that is, through government action as opposed to directly passing into law – it is necessary to look at what links exist between PMB items that are introduced and Government Bills that follow. While Government Bills alone are only part of what makes up ‘Government policy’, they are one clear indicator of items that are not only supported by, but also initiated by, the government in the House of Commons.

The method used here includes a number of steps. I first conducted a search of all news sources available in Canadian Newsstand and searched the terms “private member* bill*” and “private member* motion*” while excluding terms to help minimize articles about provincial legislatures (MLA and MPP). The search was conducted to include stories published since the beginning of the 37th Parliament (2001). The number of stories was very large, so headlines were scanned visually in order to help establish which stories might be informative about actual PMB items in the Canadian House of Commons. An article was only read if the headline indicated that it was appropriate for the purpose of the study. Articles in which a source or the journalist themselves seemed to be making a link between a PMB item and a Government Bill or policy were used as indicators to further investigate the link between the items noted. Only where these stories are used as actual evidence of a particular link are they sourced in the analysis to follow.

The next step was to visually familiarize myself with the titles of both Government and PMB items. The process involved first scanning each title across sets of Government and Private Members' Bills and Motions, as well as noting particular bills that were suspected of having similar purposes and using search terms to identify other items of a similar nature. Where similarities in topic were found, I read the legislative summaries or the bills themselves (available on the Canadian Parliament's website) to see if the proposals were closely related. The final step was to ensure that the date of introduction of the PMB item preceded that of the Government Bill.

These data are used in two separate methods of analysis. The first is a quantitative approach that presents the cumulative results of all identified PMB and related Government Bills. This analysis indicates the potential *size* of PMB's indirect impact, at least with regard to Government legislation specifically. The second is a more qualitative approach that briefly describes a number of cases, highlighting specific links and evidence suggesting PMB had influence in a particular Government Bill or policy. This second analysis is not an effective measure of the overall size of impact, but as it takes in other elements of policy including executive statements and actions, and committee amendments, it is suggestive of the potential *scope* of PMB impact while providing a second, deeper level of evidence that complements the quantitative analysis. This second analysis relies as well upon face-to-face interviews with MPs, conducted in November and December 2006. Part of each interview was used to ask the MP for specific cases where PMB was effective in changing a policy or bringing about a Government Bill. Some of the responses provided are included in the discussion below.

Results: Step 1

In the case of the Private Members' Bills introduced by Mather and Baldwin referred to earlier, the Government's published reports give credit to these MPs. Similarly, the role of a Private Member's Bill or Motion is occasionally mentioned as influential in the history of Government legislation by the Legislative Summaries⁸ produced by House of Commons staff. Nevertheless, this is not the only means of determining whether PMB has or has not been influential in a given policy outcome. Legislative summaries that mention PMB are rare, and often exclude PMB items that, based on other evidence, still appear to have led to Government legislation. These summaries are not even produced for about a half of all Government bills. Nevertheless, Table 1 provides a number of examples in which direct evidence was provided in the legislative summary itself. The time frame considered is for all Government bills introduced in the 37th Parliament (2001) and after, and the PMB is recorded from the beginning of the previous Parliament (1997).

⁸ Legislative Summaries are available for about half of all introduced Government Bills. See, on the World Wide Web: <http://www.parl.gc.ca/common/bills.asp?Language=E> . Links to particular Parliaments and bills are available from this point.

TABLE 1: PMB influence as indicated by Legislative Summary

<u>Government Bill</u>	<u>Parliament-Session of Private Members' Bill(s)</u>						<u>Total # MPs</u>
	39-1	38-1	37-2,3	37-1	36-2	36-1	
39th Parliament							
C-16	An Act to amend the Canada Elections Act (Date of General Election)	C-353	C-512	C-421			6 ⁹
C-19 (C-65 prev.)	An Act to amend the Criminal Code (street racing)	C-230	C-338				1
38th Parliament							
C-11 (C-25 prev.)	An Act to establish a procedure for the disclosure of wrongdoings in the public sector including the protection of persons who disclose the wrongdoings			C-201 C-241 S-6	C-201 C-351	C-239 C-508 C-499	5 ¹⁰
C-64	An Act to amend the Criminal Code (vehicle identification number)	C-287	C-413				1
37th Parliament							
C-14 (Session 2)	An Act providing for controls on the export import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process				C-402		1
C-45 (Session 2)	An Act to amend the Criminal Code (criminal liability of organizations)				C-284	C-259 C-468	2

The above table indicates that the Legislative Summaries for two Government Bills in each of the current and previous two Parliaments (6 Government Bills in total) made reference to previously introduced Private Members' Bills. Though this number is not high, it is the first step in providing evidence that indeed the proposals of private

⁹ These date back at least to 1970, when Bill C-206 was introduced by Doug Rowland (NDP) whose bill was worded very similarly to the recommendation of the Special Joint Committee, of which he was a member. Ron Stewart (PC) tabled Bill C-483 in 1980. Elwin Hermanson (Reform) introduced Bill C-250 in 1996; unlike previous bills, this bill was debated and voted on at second reading, but was defeated. Jim Pankiw (Reform/CA) introduced various bills between 1998 and 2004. Stephen Harper (Cons), then Leader of the Opposition, introduced Bill C-512 on 1 April 2004. These items are referred to in the Legislative Summary of the Senate Bill listed (S-6). The Senate Bill, in turn, is referred to in the Legislative Summary for the Government Bill as listing the items that led to the current bill.

¹⁰ These date back to 1993, when Joy Langan (NDP) in the 34th Parliament introduced a Private Members' Bill on this topic, followed by Paul de Savoye (BQ) in the 35th Parliament.

members (along with that of a Senator in one case) can be recognized as having influenced government legislation.

Beyond these cases, however, are many others where the link between PMB and the Government Bills that follow seems convincingly apparent, though no official documentation of this link exists. In some of these cases, there is clear language indicating that particular ideas were taken directly from the previously introduced bill or motion, while in other cases media reports indicate a causal link.

Table 2: PMB influence as indicated by language and purpose of Gov't Bill

<u>Government Bill</u>		<u>Parliament-Session of</u>						<u>Total #</u>
		<u>Private Members' Bill(s) and Motion(s)</u>						
39th Parliament		39-1	38-1	37-23	37-1	36-2	36-1	
C-9	An Act to amend the Criminal Code (conditional sentence of imprisonment)	C-235	C-400	C-347	C-470	C-302	C-513	5
C-10	An Act to amend the Criminal Code (minimum penalties for offences involving firearms)		C-393	C-343	C-398		C-484 C-516	2
C-13 (Budget)	An Act to implement certain provisions of the budget tabled in Parliament on May 2 2006	C-209 C-233 C-256 C-260	C-218 C-252 C-253 C-306	C-262 C-305 C-400 C-407	C-209 C-222 C-461 C-477	C-205 C-289 C-338	C-366 C-505 C-507	12
C-22	An Act to amend the Criminal Code (age of protection)		C-267 C-313 M-221					3
C-26	An Act to amend the Criminal Code (criminal interest rate)		C-361					1
C-43	An Act to provide for consultations with electors on their preferences for appointments to the Senate						C-382	1
C-52 (Budget)	An Act to implement certain provisions of the budget tabled in Parliament on March 19 2007					C-285		1
38th Parliament								
C-2 (C-12 in 37-3, C-20 in 37-2)	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act				C-208 C-396			2
C-37	An Act to amend the Telecommunications Act			C-301 C-520		C-419		3
C-38	An Act respecting certain aspects of legal capacity for marriage for civil purposes						C-309 C-385 C-386	2
C-43 (Budget)	An Act to implement certain provisions of the budget tabled in Parliament on February 23 2005			C-246 C-277 C-333 C-368 C-405	C-209			5
C-46	An Act to amend the Corrections and Conditional Release Act and the Criminal Code			C-273 C-315	C-405 C-459			2
C-53	An Act to Amend the Criminal Code (proceeds of crime)		C-242					1
C-55	An Act to establish the Wage Earner Protection Program Act to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act			C-223 C-236 C-281	C-253 C-203 C-329	C-203 C-274	C-439	3

Table 2 (Continued from previous page)

<u>Government Bill</u>		<u>Parliament-Session of</u>						<u>Total #</u>
		<u>Private Members' Bill(s) and Motion(s)</u>						
37th Parliament		39-1	38-1	37-23	37-1	36-2	36-1	
C-10 (C-38 prev.)	An Act to amend the Contraventions Act and the Controlled Drugs and Substances Act			C-327	C-344	C-266		1
C-12 (C-20 prev.)	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act				C-208			1
C-16 (C-24 prev.)	An Act respecting the registration of information relating to sex offenders to amend the Criminal Code			C-399	C-333	M-87	M-514	3
(2nd Session)								
C-5 (C-5 prev.)	An Act respecting the protection of wildlife species at risk in Canada				C-295 C-346	C-300	C-441	2
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests				C-267	C-388 M-235	M-289	2
(1st Session)								
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts				C-235	C-297		1
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)						C-266	1

Table 2, similar to Table 1, provides an equal number of bills in each Parliament (7 – 21 Government Bills in total) that appear to have been influenced in part by previously introduced PMB. It is notable for both Tables 1 and 2 that, as the 37th Parliament had three sessions and lasted approximately 3.5 years, the portion of total Government Bills is much lower than the 38th and 39th Parliaments.

In most cases, influence upon Government Bills appears to result from Private Members' *Bill* introductions, not *motion* introductions, though there are incidences where the latter appear to have had some effect. Nevertheless, many motion titles are vague, and the detail available in written bills (where the connection is made between the content of each) is not available with motions. This may have led to some motions on

similar topics being overlooked simply because there was not enough detail to suggest a clear link.

The analysis above is admittedly imperfect. Private Members' Bills have had differing impacts in each case above – likely ranging from near coincidence where the actual impact is relatively low, to cases where the MP's bill itself appears to have been the single most important factor (along with support from other MPs for the bill) in prompting Government action. Nevertheless, from the cursory view provided by both tables above, there appear to have been 27 cases of Government Bills in the current and previous two parliaments (2001 to March 2007) which may have been influenced by Private Members' Business. Counting all Government Bills that have been introduced over the period (not including requests for money for the public service, or riding name changes), Private Members' Business (bills mostly) appears to have been potentially influential in approximately 13.2% of cases (35 out of 266 Government Bills introduced). Approximately the same portion (12.7%) of bills receiving Royal Assent appears to have been influenced by PMB (17 out of 134 bills). It is important to keep in mind that the above tables only indicate PMB's *indirect* impact. Bills may also pass and become law which, in some cases, will be reflected in Government Bills as well.¹¹

Another point that should be made regarding the above tables concerns the amount of influence that government MPs, or MPs from previous parliaments that are either members of the same party or have a close association with the current governing

¹¹ C-259 *An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)*, introduced by John Duncan (Conservative), and C-331 *An Act to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event*, introduced by Inky Mark (Conservative) were also included in the budget bill (C-43) during the 38th Parliament, but both had previously received Royal Assent in the same Parliament.

party¹², have on Government Bills as opposed to opposition party MPs. In the 39th Parliament, 3 of the 4 MPs whose bills were noted as influential by legislative summaries since the 36th Parliament were members closely associated with, or currently sitting as members of, the governing party. During the previous 2 Liberal governments, only 1 of 9 bill sponsors were MPs associated with the governing party. A similar trend can be found in the table where the links between legislation are not documented in legislative summaries. In the 39th Parliament, 15 of 25 are MPs affiliated with the governing party (10 of 12 excluding the budget bills). In the previous parliament, only 3 of 20 MPs were from the governing party (2 of 15 excluding the budget bill), and in the 37th, only 3 of 11 were government MPs. Of course, the Liberal party governed during the previous 2 parliaments (35th and 36th), and it is possible that over this period of time, the party became more receptive to the ideas of outsiders. It is also possible, as the Liberal party can be considered closer to the political “centre”, that it found common ground with a larger number of MPs (or at least MPs’ ideas) than is the case with the current Conservative government. With regard to actually having bills pass or motions adopted since the 35th Parliament, MPs from the governing party tend to have a success rate that is about double the rate for all MPs combined with regard to items that reach debate stage.¹³ It may be the case, with regard to the political affiliations of MPs having an influence through PMB, that the previous Liberal government was more likely to let its own members take credit for good ideas, but to adopt the ‘good ideas’ of opposition MPs as its own. It may also be true that, should the current Conservative government maintain

¹² MPs with a close association to the current Conservative government include MPs that have sat previously as members of the Progressive Conservative, Reform, or Canadian Alliance caucuses.

¹³ The overall success rate for Private Members’ Bills since the 35th Parliament is about 10.6% compared to 20.6% for government MPs alone. The overall success rate over the same period for debated motions is 15.5%, though for government MPs it is 31.9%. These rates are for items that reach debate only.

power for an extended period of time, a similar trend of adopting opposition items into government policy will emerge.

Paul Zed (Liberal – Saint John), when interviewed, suggested that: “...if you look at the evolution of public policy, I think you’ll find that Private [Members’] Bills are the genesis of it. Sometimes if a subject area gets raised enough by private members, it becomes part of the DNA of a political party, or a policy” (Interviewed December 12, 2006). In the case of the Conservative Party, the policy proposals from past years by affiliated MPs likely provided a view into some of the policies that the party would implement if given a chance to govern.

Results: Step 2

It is not always clear from looking at the text of bills alone whether there is indeed a causal link between PMB and Government policies. This section will go further in providing evidence that such a link does exist. In doing so, it will provide detail on particular cases, some of which are included in the tables in the previous section.

Perhaps the clearest example of PMB leading to a Government Bill without evidence from a legislative summary is that of Bill C-242, *An Act to amend the Criminal Code (proceeds of crime)* introduced by Richard Marceau (BQ) in the 38th Parliament (in Table 2 above). Interestingly, shortly after the bill was introduced, a spokesperson for then Liberal Justice Minister Irwin Cotler indicated that the government was not familiar with the legislation and had no intention of dealing with the proposed topic (Tibbetts 2004). Three days after this report, which indicated that the bill may pass if voted upon based on the number of MPs supporting the idea, another report quoted Mr. Cotler

himself expressing interest in the topic (Thompson 2004)¹⁴. C-53, a Government Bill serving the same purpose, was introduced approximately seven months later.

In some cases, a PMB item can appear to provide an added push alongside other events in prompting a policy change. In 2003, a Senate committee recommended that the 10-year ban on declaring bankruptcy on student loans (implemented in the 1998 budget) be reduced to 5 years. During the 38th Parliament, an expert panel for then Liberal Industry Minister David Emerson made the same recommendation. Not long after, C-236 by Alexa McDonough (NDP), which proposed to reduce the ban to 2 years, received a vote in the House. 17 backbench Liberal MPs voted in favour of the bill, which the Liberal government itself was opposed to (Schmidt 2005). The bill, however, did not pass. Mr. Emerson tabled proposed amendments just 3 months later (part of C-55 in Table 2 above), which decreased the ban to 7 years, and also implemented changes called for in other PM Bills. It seems likely that the support given to Ms. McDonough's bill by Liberal MPs placed additional pressure on the government to act on this matter.

There remain other cases of policy change that are not included in the above tables simply because no Government Bill was introduced. These are additional cases where PMB items still have a policy impact, though such cases are more difficult to uncover. The cases described below are based upon interviews with MPs, and are not the result of a more exhaustive process as that carried out with regard to the tables above. As such, there is no means to determining how often such cases occur, or measuring the portion of policies that are likely affected. Nevertheless, they remain indicative of other avenues by which MPs affect government policy through introducing PMB items.

¹⁴ Note that the item had only been introduced and was not placed on the Order of Precedence to be debated.

One such case is Karen Redman's (Liberal – Kitchener Centre) C-229 (36th Parliament, 2nd Session) *An Act to amend the Canada Post Corporation Act (letter that cannot be transmitted by post)*, the purpose of which was to halt a form of mail fraud. The proposal was taken up by a committee considering changes to the Competition Act, and Ms. Redman's objectives were met by the committee's proposed amendments to the Act, which the House subsequently passed. According to Ms. Redman: "It was the substance of the bill, so it wasn't quite as glorious. But my judgment call was that it was far more important to get this loop-hole plugged than it was to have my name on it" (Interviewed November 12, 2006).

Similarly, Roy Cullen (Liberal – Etobicoke North) spoke about how the proposal in one of his Private Members' Bills, C-221 (36th Parliament, 1st Session), *An Act to amend the Canada Business Corporations Act* was implemented. He approached then Liberal Industry Minister John Manley about his proposed amendment.

I said: 'Look I know you are looking at the Canada Business Corporation Act. If you incorporate these provisions into your bill, I'll drop my Private Members' Bill in a heartbeat.' I'm not here to get glory, I just want solutions, and he eventually did and I withdrew my bill (Interviewed December 7, 2006).

Mr. Cullen's proposal was ultimately included in a Senate Government Bill (S-19, 36th Parliament, 2nd session), and later passed into law when the same bill was re-introduced during the following Parliament (S-11, 37th Parliament, 1st session).

A Conservative MP suggested that his own bill was being acted upon by the current government because the government likely felt pressure to avoid having the topic raised and debated in the House of Commons. Due to the MP wishing not be identified, the case itself is vague, though his statement is informative.

No government wants to deal with [this issue] in the crucible of the House of Commons where we're protected by privilege and it can go any way. ... they don't want a sledge hammer running around in a China shop. So a number of the things that were envisioned in [the bill] are actually being acted on as a result of the influence of it from outside the Parliamentary process (Interviewed December 12, 2006).

Private Members' Motions may also impact government policy, but even when motions are adopted, governments do not have to take any particular action as is the case with bills that become statutes, so they are not expected to have as large a role as bills, either directly or indirectly. There are, of course, some motions in the tables above that appear to have been influential, but far fewer than bills. On the topic of same sex marriage (C-38, 38th Parliament) 2 motions promoting the position taken by the government in the 38th Parliament arose during the 35th Parliament, though many motions opposing the government position have also been introduced.

There have also been cases, however, where policies have changed as a result of motions passing, though without the introduction of a Government Bill. An example is that of Private Members' Motion M-380 in the 37th Parliament, 3rd session (Madeleine Dalphond-Guiral, BQ – Laval Centre) which was adopted in April 2004, though not supported by the Cabinet of the majority Liberal government. Then Liberal Prime Minister Paul Martin did not act on the motion which called on the House to recognize the "Armenian genocide" that occurred in Turkey in 1915.¹⁵ In the current parliament, Conservative Prime Minister Stephen Harper did act to recognize the motion by issuing a statement of agreement concerning the "genocide", prompting a response from the

¹⁵ The reference used here is meant to describe the terminology used in the motion that passed the House of Commons. It is meant neither to accept nor to deny its applicability to historical events.

government of Turkey (Moore 2006). Mr. Harper's official statement on the matter affirmed that the House itself had voted to adopt the motion.

In the current parliament, a motion by Liberal MP Andy Scott calling for a national autism strategy also caught the attention of the government before being passed in the House, and led to program announcements for research and public awareness by Conservative Health Minister Tony Clement in November 2006 (*New Brunswick Telegraph Journal* 2006; Weeks 2006). The motion itself was adopted by the House in December 2006, shortly after the government made these announcements.

In short, then, it is clear that there are cases where individual MPs have made proposals that appear to have had a reasonable *indirect* policy impact, while with motions, there are cases where an adopted (or soon-to-be-adopted) motion can bring about a change in policy as well. This is not to say that in each case examined above a particular PMB item was the primary reason or even among the key reasons why a particular policy was adopted, but it does suggest that PMB is likely playing a notable causal role, and that there are cases where it may well be among the primary reasons for certain policy outcomes.

In separate but related research, I have suggested that MPs use PMB as a tool for constituency representation and electoral purposes (Blidook N.d.). However, the policy impact of PMB is probably greater when the issue is one that appears to have some national significance. That is, if a topic has little salience outside of a particular region, it is unlikely to catch the attention of the government. In some cases, however, circumstances change this. During the 38th Parliament, Chuck Cadman (Independent –

Surrey North)¹⁶ died. Liberal Prime Minister Paul Martin was asked by Cadman's widow, Dona, to enact some of the bills that Cadman had introduced (*The Now* 2005). The government subsequently introduced bills to make the altering of a vehicle identification number a criminal offense (C-64)¹⁷ and toughening criminal law on street racing (C-65), both topics previously introduced by Mr. Cadman and of importance to his constituency and surrounding region.¹⁸ In this case, two bills that appear to be a clear case of "dyadic" constituency representation were adopted by the federal government.¹⁹

There are other examples of MPs acting to represent constituents and having their proposals adopted at the national level. Bill Blaikey introduced a motion calling for recognition for Dieppe veterans (Motion 143, Parliament 35, Session 1). The motion was adopted by the House only after being amended by the Liberal government at the time, which then took actions to enact the proposal. In an interview, Blaikey noted the constituency, as well as the personal, connection: "In Winnipeg, there are lots of Dieppe veterans. It was a Winnipeg regiment that was at Dieppe, Cameron Highlanders, and I happened to serve in that regiment myself as a reserve" (Interviewed November 2, 2006).

Karen Redman similarly had a local connection that played a role in her choice to pursue the issue of mail fraud based on a particular company's actions. She noted: "The shell corporation that was perpetrating this horrible scam actually was situated in Waterloo, Ontario. So it wasn't my constituency, but it was my community."

¹⁶ Mr. Cadman represented the Surrey North riding for the Reform Party, Canadian Alliance Party and Conservative Party in 36th and 37th Parliaments.

¹⁷ This proposal is designed to combat car theft.

¹⁸ According to an article in *The Vancouver Sun* (2005), Surrey is the: "No. 1 municipality in North America for car theft". While there is no statistic indicating the trends regarding street racing, there is ample evidence of concern regarding street racing in newspapers from B.C.'s Lower Mainland region. One source noted "street- racing crashes ... have killed more than 100 people in the Lower Mainland over the past three years" (McCullough 2003).

¹⁹ This bill did not pass in the 38th Parliament but was given Royal Assent in the 39th Parliament after being introduced by the current Conservative government (C-19 in Table X.x above).

On the other hand, in some cases, perhaps even most cases, PMB that gains a national profile may have little to do with dyadic representation, outside of generalized topics that are simply more popular in certain constituencies than others. Pablo Rodriguez' recent effort to have his bill C-288 regarding the Kyoto Protocol passed in the House doesn't appear to have been a constituency-focused effort, though his website does list the environment as a local concern.²⁰ What is striking is that this individual effort has become very much a party effort – even a multi-party effort – in the current Parliament where the 3 opposition parties appear to support enacting the Kyoto Protocol while the minority government does not. On the individual level, one would expect Mr. Rodriguez to advertise his efforts to his constituents. While this may have happened through other channels, Mr. Rodriguez' website, where one would expect an announcement regarding the bill, did not appear to have been updated since prior to the 2006 federal election – his home page, as of Feb. 23, 2007 (9 days after the House voted to pass his bill C-288 on 3rd reading), still thanked constituents for electing him in 2004 and encouraged them to do the same in January 2006. No press release regarding the introduction, much less the passing, of bill C-288 had been posted there. In Mr. Rodriguez' case, this bill likely had little to do with boosting his standing in his constituency, and the topic of the bill is clearly one that is a national, as well as highly a partisan, issue.

While a broader, national focus is likely an important factor for MPs hoping to have their policies adopted, other factors certainly affect the amount of success and who it successful. What cannot be effectively determined from the above analysis, however,

²⁰ Pablo Rodriguez' website is available on the World Wide Web at: <http://rodriguez.lpcq.ca/>. It was accessed for this project on February 23, 2007, and again on May 6, 2007, though at neither of these times did it indicate having been updated since prior to the 2006 federal election, nor was any information regarding Mr. Rodriguez' bill C-288 available there.

is what specific institutional factors appear to account for differences in the overall policy impact of PMB. There are many variables at work over the approximately 6.5 years from the beginning of the 37th Parliament to the spring of 2007 in the current 39th Parliament, and it is not possible to isolate them all. The first variable of importance is whether the government is a majority or minority. While it is clear from the above tables that PMB had some impact during the 37th parliament when a majority government sat, the total impact seems smaller than for the following minority parliaments. A second variable regards the rules of procedure in PMB. Seemingly important rule changes came into effect during the 3rd (and relatively short) session of the 37th Parliament. These seem to be the two biggest factors affecting PMB influence, though there is no means of separating minority government status from rule changes. A third variable is leadership. Liberal Prime Minister Paul Martin, who took over leadership of the governing Liberal party before the third session of the 37th Parliament, seemed to take a more positive view toward empowering MPs than did his predecessor (Martin 2002). Current Conservative Prime Minister Stephen Harper may also have a more favourable disposition toward individual MP empowerment than that of Jean Chrétien, owing in part to his Reform Party roots, though there is little recent evidence that indicates his position on the matter. A fourth variable is party in power – and how long it has been in, or out of, power. During the 39th Parliament, the overall impact of PMB does not appear measurably different from the 38th, but the partisan affiliation of MPs having an impact is clearly more one-sided, as already noted. This may be due in part both to the fact that Conservatives are a new party in government, and also to the fact that they take up a more “right-leaning” position than the previously governing Liberals. In sum, while it is

possible to suggest that PMB appears to have a greater impact on policy in the 38th and 39th Parliaments than in the 37th Parliament, it is not possible to effectively determine which factors affect the nature of its impact. In short, there are too many variables (minority vs. majority, rule changes, leadership, governing party) and not enough cases.

It does seem apparent, however, that the policy impact of Private Members' Business could be substantial, and it does seem that various factors may have combined to increase this impact since the 37th Parliament. Indeed, the indirect impact suggested here may occur through various channels, and appears to affect a substantial number of policy outcomes. This may be in part because the ideas expressed through this avenue affect the policy agenda, and because increased pressure to act upon items results from the prospect of a bill or motion being debated or possibly passed. The latter may, in some cases, cause backbench government MPs to indicate support for a new policy, which may in turn increase pressure on the government to counter with its own proposal.

Conclusion

This paper suggests that, on the whole, PMB warrants attention for what it may be able to tell us about the influence of individual MPs regarding public policy outcomes. As this paper is part of a larger project looking at the factors that drive individual action by MPs, this finding enhances the prospect that MPs do engage in this activity (in most cases, introducing bills specifically) in order to have a policy impact, though this work alone does not suggest that it is necessarily a primary motivating factor, nor what other motivations might exist. Further research on this topic should shed further light in this area of motivations specifically.

As there is evidence that actions may have influence in governance, this too requires further study using a more systematic approach to understanding how and why this may be. The work of Kornberg and Mishler (1976) is informative here, as greater attention to MP positions and participation may help explain how it is that influence occurs, and who is more likely to have it.

If indeed MPs are influential regarding policy outcomes with their legislative actions, this suggests that Atkinson and Thomas' (1993) statement that "Parliament's role in lawmaking is restricted to refining, ratifying, and legitimating decisions" (425) is an overstatement. Rather it seems – from the cursory exploration provided above – more accurate to suggest that there is space, however small, for Parliament's role in initiating legislation and in influencing public policy both directly and indirectly through the legislative process. This space likely increases when a minority government sits, and is likely also related to the rules governing the introduction and voting procedures of legislation by individual MPs. If PMB receives more time on Parliament's agenda, and if more items receive votes, then each MP's potential influence as a "legislator" likely increases.

What does this suggest about the power of the executive? In reality, very little. Two brief points should help to make this clear. The first is simply that legislation is a small part of what the executive does overall, and the grounds upon which the legislature may *call upon* the executive to act are not entirely clear, especially as the question of what will transpire once that Bill C-288 receives Royal Assent looms. Motions that pass, regardless of majority or minority government status, will continue to affect government policy only when the government decides they should, and even bills may, at times, be

treated in a similar manner – prompting minimal executive action even if changes are implemented to Acts or Codes. A government that does not act on the legislature’s direction may run the risk of looking as though it is acting in an ‘undemocratic’ fashion, but the grounds regarding legality in this area are not entirely clear.

The second reason why this likely has little bearing on the executive’s power is that the government’s ability to pass its own legislation is not dependent upon PMB. The two factors that substantially affect the passing of Government Bills is primarily whether the government is a majority and secondarily whether the Senate has a partisan majority that is favourable to the government. The rules regarding PMB do nothing to change this. Certainly the idea that MPs might increase their opportunities or ability to call upon the executive to act is an important one, but any increase in power for MPs as legislators in this arena does not necessarily lead to an equal decrease in power for the executive.

The result is that, whether or not government policy is affected by individual behaviour, there has been little risk presented by the expansion of opportunities provided to individual MPs through Private Members’ Business since the 1980s. The brunt of PMB’s impact, in its indirect form, suggests the possibility of a more complementary role, rather than a strictly adversarial role. The short term implications suggest that Parliament has made additional room for the MP in his/her role as an individual representative and legislator without significantly jeopardizing the modern role of the executive.

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